The Senate met at 9:30 a.m. and was called to order by the Honorable Evan Bayh, a Senator from the State of Indiana.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain, Canon Pastor Lawson Anderson, of Trinity Cathedral in our Little Rock, AR. It is my privilege to notify all those present that Reverend Anderson is the uncle of our colleague, Senator Blanche Lincoln of Arkansas.

PRAYER
The guest Chaplain offered the following prayer:
Gracious God, as we prepare in the week ahead to celebrate the anniversary of the founding of this Republic, we commend this Nation to Your merciful care, and we pray that being guided by Your providence, we may live securely in Your peace.
Grant to the President of the United States, to the Members of this Congress, and to all in authority wisdom and strength to know and to do Your will. Fill them with the love of truth and righteousness and make them ever mindful of their calling to serve this country in Your fear. Guide them as they shape the laws for maintaining a just and effective plan for our Government.
Give to all of us open minds and caring hearts and a firm commitment to the principles of freedom and tolerance established by our Nation's founders and defended by countless patriots throughout our history.
Help us to stamp out hatred and bigotry and to embrace the love and concern for others that You have clearly shown to be Your will for all mankind.
Bring peace in our time, O Lord, and give us the courage to help You do it.
We ask this in Your holy name. Amen.

PLEDGE OF ALLEGIANCE
The Honorable Evan Bayh led the Pledge of Allegiance, as follows:
I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE
The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Byrd).
The legislative clerk read the following letter:

To the Senate:
Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Evan Bayh, a Senator from the State of Indiana, to perform the duties of the Chair.

Robert C. Byrd
President pro tempore

Mr. BAYH thereupon assumed the chair as Acting President pro tempore.
The ACTING PRESIDENT pro tempore, The Senator from Arkansas, I shall take the privilege of the Chair and say that was an especially moving invocation this morning.

Mrs. Lincoln. I thank the Chair.
I thank the Senator from Nevada and all of my colleagues for the opportunity to share with you all this morning a very special individual in my life. I have been very blessed to grow up in a very close-knit family of supportive and encouraging people. My uncle, the Reverend Lawson Anderson, is just one of those wonderful people. I grew up within walking distance of both sets of my grandparents, and on hot summer days I would walk over to his mother's home and in the cool of his house play the organ that she practiced as she was the organist for our church.

One of the most wonderful stories and I think lessons I have learned from my Uncle Lawson I would like to share with my colleagues. He did not get started in ministry. His degree is in forestry. He began as a forester. He then went into banking and figured out, in order to really make it through life, he needed the wisdom and the courage that came from the ministry, which he joined later in life. He did say, however, that one of the best lessons he learned was not necessarily from the ministry but from his time in the forest industry.

He talked about dealing with problems in life, and he said one of the best lessons he learned as a forester was when he was very young and was presented with a forest fire, a difficult problem. He was beating at that fire with a shovel, and one of the older members of the forestry team came up to him and said: What are you doing? He said: I am putting this fire out; I'm putting it out. And the wise forester, who was beyond I guess his years in wisdom, looked at Uncle Lawson and said: That is not how you conquer a problem. The way you conquer a problem and, more importantly, a forest fire is you walk around it; you approach it from the front; you evaluate the circumstances: Which way is the wind blowing? What kind of moisture is there in the area? And then you dig a hole all the way around so that you encircle your problem and you actually take care of the whole thing. You do not just beat at it, but you make sure you get in front of your problems, you assess the situation, and you face them head on.

I am honored and privileged to serve the people of our great State of Arkansas. It has been something that has certainly been incredible in my life. But when I am able to bring to the Senate and share with these individuals, these incredible individuals with whom I serve in this great body, someone who has been a major part of shaping my life and molding me into the person that I am, it is, indeed, my honor and privilege to do that and to have him with us today.
I thank the Chair.

RESERVATION OF LEADER TIME
The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

BIPARTISAN PATIENTS PROTECTION ACT
The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1052 which the clerk will report.
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The senior assistant bill clerk read as follows:

A bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

PENDING:

Frist (for Grassley) motion to commit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions with instructions to report back not later than that date that is 14 days after the date on which this motion is adopted.

Gramm amendment No. 810, to exempt employers from certain causes of action.

Edwards (for McCain-Edwards) amendment No. 812, to express the sense of the Senate with regard to the selection of independent review organizations.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 2 hours of debate in relation to the Grassley motion to commit and the Gramm amendment No. 810, the time to be equally divided in the usual form.

The ACTING PRESIDENT pro tempore, The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, I just want to make a brief statement on behalf of Majority Leader DASCHLE. As has been indicated, the resumption of the Patients’ Bill of Rights will be the order at hand today. As has been announced, there will be approximately 2 hours of closing debate in relation to the Grassley motion to commit—and I understand he wants to modify his motion.

I ask Senator GRASSLEY, it is my understanding the Senator wants to modify his motion to commit; is that right?

Mr. GRASSLEY. Yes, Mr. President, I would not object—and with respect to the Gramm amendment regarding employers. That debate will be ended shortly. There will be two rollcall votes at 11:30 a.m.

I met with Senator DASCHLE early this morning, and he has indicated that without any question we are going to finish the Patients’ Bill of Rights before the Fourth of July break.

Now, I would say to everyone within the sound of my voice, I believe we have been on this bill a week. I think we have fairly well defined what the issues are, and I think it would be in everyone’s best interests if today we would decide what those issues are and have amendments offered. If people want time agreements, fine. If they do not, debate them, complete what they want to say, and move on. Everyone has many things to do during the Fourth of July break. But this is important. This bill has been around for 5 years, and we are going to complete it.

There is also a need to complete the supplemental appropriations bill. As I have indicated before, I think Senator BYRD and Senator STEVENS have done an excellent job in moving that bill along and I think we can do that very quickly. But there are going to be late nights tonight and Thursday. We are going to do our best to make sure everyone is heard, but also in consideration of other people’s schedules, we will do our best to complete action on this legislation as quickly as possible.

I see Senator REGG, the ranking manager of the bill, is here. I did not see him earlier.

Mr. REGG. Mr. President, I would like to ask unanimous consent that Senator ENZI be added as a cosponsor of the Gramm amendment which is pending.

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

Mr. REGG. I thank the Senator.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I hope you will call on the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. GRAMM. Mr. President, I ask unanimous consent that following the vote on the Grassley amendment, each side have a total of 3 minutes to summarize the arguments on the amendment excluding employers from liability.

Mr. REID. No objection.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from Iowa.

MOTION TO COMMIT, AS MODIFIED

Mr. GRASSLEY. Mr. President, before I speak on my motion, I ask unanimous consent that the pending motion to commit be modified to reflect the reference of the bill jointly to the Judiciary and the same 14-day timeframe that affects the Finance Committee and the HELP Committee also apply to the Judiciary Committee.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

The motion to commit, as modified, is as follows:

MOTION TO COMMIT

Mr. Grassley moves to commit the bill S. 1052, as amended, to the Committee on Finance, the Committee on Health, Education, Labor, and Pensions, and the Committee on the Judiciary with instructions to report the same back to the Senate not later than that date that is 14 (fourteen) days after the date on which this motion is adopted.

Mr. GRASSLEY. Mr. President, I thank the majority for permission to modify my motion.

Mr. President, I rise to speak in favor of my motion to commit the Kennedy-McCain bill to the Health, Education, Labor, and Pensions, Judiciary, and Finance Committees with instructions that these committees report the bill out in 14 days.

As a preliminary note, I thank the good counsel of Senators THOMPSON and HATCH. Yesterday, they reminded me that the Kennedy-McCain bill also includes a series of provisions on liability that fall under Judiciary’s jurisdiction and have never been reviewed by that committee either. Thus, I have modified my motion to include the Judiciary Committee along with the HELP and Finance Committees.

I am deeply troubled that the Kennedy-McCain bill has bypassed the relevant committees and has been brought directly to the floor—without one hearing, without one markup, and without public input into this particular bill.

As I have very clear on the floor yesterday, I strongly believe that patient protections are critical to every hard-working American who relies on the managed care system. We need a strong and reliable patients’ rights bill and I am supportive of this effort. 100 percent. What we do not need is a bill, like Kennedy-McCain, that exposes employers to unlimited liability, drives up the cost of health insurance, and ultimately increases the number of Americans without health coverage.

Instead, I believe we should protect patients by ensuring access to needed treatments and specialists, by making sure each patient gets a review of any claim that may be denied, and above all by ensuring that Americans’ who rely on their employers for health care can still get this coverage. I’m confident these goals can be reached.

However, the very fact that our new leadership brought the Kennedy-McCain legislation directly to the floor with improper committee action, violates the core of the Senate process.

I know my colleagues on the other side will waste no time accusing me of delaying this bill, but the truth is, had the relevant committees been given the opportunity to consider the Kennedy-McCain legislation in the first place, I would not be raising these objections.

By bringing this bill directly to the floor, the message seems to me to be loud and clear: that the new chairman under the new Democratic leadership are merely speedbumps on the road to the floor.

I guess, as a former chairman who hopes to be chairman again in the near future, I do not particularly enjoy being a speedbump. But there’s something much more important at stake—process. A flawed process, more often than not, will lead to a flawed legislative product. We are seeing that point illustrated on this legislation.

Does anyone really think that if we had followed regular order and gone through the committee process that the bill before us would be in worse
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shape? Would we still be sitting around wondering where this bill is going? Or would it be up to me to define the employer liability exception with Senator Gramm’s amendment?

I guess I have more confidence in the committees of jurisdiction than the new leadership and sponsors of this bill do. The HELP, Judiciary, and Finance Committees have the experience and expertise to deal with the important issues this bill presents. My motion simply provides these fine committees with an opportunity to do their jobs.

Now let me turn for a moment to my committee, the Finance Committee. The Kennedy-McCain legislation treads on the Finance Committee’s jurisdiction in three ways that are by no means trivial—on trade, Medicare, and tax issues.

In fact, approximately one-third of the nearly $23 billion in revenue loss caused by this bill, is offset by changes in programs within the jurisdiction of the Finance Committee.

First, section 502 extends customs user fees generating $7 billion in revenue over eight years. These fees were authorized by Congress to help finance the costs of Customs commercial operations.

Most of my colleagues know first hand the financial pressures put on the Customs Service. From Montana, to Delaware, Massachusetts, Texas, and California, there is a dire need for funds to modernize the Customs service. Yet, the Kennedy-McCain legislation diverts money intended for Customs and uses it to pay for this bill. This is not what Congress intended. If these fees are to be extended—and I emphasize “if”—they should be done so in the context of a Customs reauthorization bill in the Finance Committee. This gives the Finance Committee the opportunity to carefully review, analyze and debate the implications of any Customs changes on the future of the Customs service and Customs modernization.

Second, section 503 of the Kennedy-McCain bill delays payments to Medicare providers, which generates $235 million to help offset the losses in the bill.

It is ironic that while many of us are spending significant amounts of our time working to improve Medicare’s effectiveness and efficiency—this bill actually takes steps to exacerbate the frustrations so many providers already experience today with delayed payments in Medicare.

Any changes to Medicare need thorough evaluation and consideration in the Finance Committee—where the expertise exists to determine the implications of any changes to the program. For those of us who think we can just tinker with this program, they’re wrong. It is much too important to our Nation’s 40 million seniors and disabled that rely on it. Any change, large or small, can have a sweeping impact on seniors, providers, and taxpayers.

Finally, let me turn to the third Finance Committee policy area implicated in this legislation. I’m talking about health care-related tax incentives.

Now I know there are no tax code changes in this particular bill. However, in years past, tax incentives have been an important part of this legislation. There’s good reason for this. As Senator McCain recognized, tax incentives provide balance to patients’ rights legislation by making health care more affordable and therefore more accessible.

I am a strong believer in health tax policy and have proposed a number of changes along with a number of other health care—including ways to reduce long-term care insurance and expenses, promote better use of medical savings accounts, and improve the affordability of health insurance through refundable tax credits.

But while I might agree with these policies on a substantive level, I will continue to oppose health tax amendments to the Kennedy-McCain legislation simply because the Finance Committee has never been given the opportunity to analyze, review, or discuss the implications of these provisions on the internal revenue code—a code that is the responsibility of the Finance Committee.

My motion provides the Finance Committee with its rightful opportunity to add health tax cut provisions to this legislation. There is no doubt that the Hutchinson-Bond amendment, that the Hutchinson-Bond amendment, has already agreed to consider the opportunity to analyze, review, or discuss the implications of these provisions on the internal revenue code—a code that is the responsibility of the Finance Committee.

On that point, I want to make clear that at my urging, Chairman Baucus has already agreed to consider a package of health care-related tax cuts, would be included in a package before the Finance Committee.

So let us hear no more discussion on this point. There is no justification for bypassing the committee.

What our new leadership has done is violate the rights of the members of three important Senate committees from utilizing their expertise and experience to fully evaluate the Kennedy-McCain legislation—a job these committees were designed to do.

Any member of the Finance Committees that support this process should beware. Supporting this process means that they support disenfranchising their own rights as committee members.

I believe we are at a critical juncture in history. Through a very close election, the American people have instructed those of us who represent them in this town of Washington, DC, to get serious about legislative business.

I believe the Iowans have told me, and what the Iowans have told me, is to get serious about legislative business.

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Thank you.
partisan politics and to be serious legislators.

We have a responsibility to our constituents who have given us the opportunity to represent them. That responsibility is to legislate in a thorough, fair, and constructive fashion. That is not the way the Kennedy-McCain bill has been handled thus far.

If we are to carry out the people’s business in the manner the Senate set forth—through the committee process—then we must utilize this process to produce legislation that will help improve the lives of every American.

After all, is that not what the people really want? A good law that is produced in the proper way.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

MR. KENNEDY. Mr. President, I have been going through the text of this legislation, and I wish to focus on the provisions that would make employers immune from liability when they are responsible for making medical decisions that result in injury or death. If ever there was a duty that employers had to the people they employ, it’s the duty of employers to take care of their employees. Employers are complicit when they do not face serious financial consequences for their misconduct no matter how egregious.

The PRESIDING OFFICER. The Senator from Massachusetts controls 51 minutes on the motion and the amendment.

MR. KENNEDY. Mr. President, I yield myself 15 minutes.

Mr. President, the Senate recently completed major education reform after six weeks of debate focused on accountability. We agreed that in order to persuade schools to live up to high standards, serious consequences were needed for schools that failed to improve. Republicans in particular emphasized the need for tough financial sanctions.

The risk of losing funds, they argued, is an appropriate and necessary incentive to achieve high performance.

This emphasis on accountability is not new. It was also the hallmark of our efforts in America’s Job Center and the family leave program. It is an incentive for employers who retain responsibility for providing medical care.

The consequences can be extremely serious when an HMO or an insurer denies access to killer drugs or indefinitely delays access to essential medical treatment. It can literally be a matter of life and death.

Yet there is overwhelming evidence that access to care is being denied in many cases for financial, not medical, reasons.

And after five years of debating this issue, we’ve finally reached the point where very few Senators will come to the floor and openly claim that HMOs and health insurers should not be held accountable in court when they hurt people. These corporations desperately want to keep the immunity that they currently have, immunity that no other businesses enjoy.

We are working together on a bipartisan compromise that will shield employers from liability when they are not involved in making decisions about medical care. It is a bipartisan compromise that will also protect patients. I believe there is a middle ground. I will be working with my colleagues to find it.

I yield the floor.

The PRESIDING OFFICER (Mr. Cleland). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts controls 51 minutes on the motion and the amendment.

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take advantage of Senator Gramm’s absolute immunity. Other employers would turn to self insurance as an obvious way to avoid accountability for the actions of their health plans.

Health insurance companies would rework their contracts to give employers the final say on benefit determinations in order to take advantage of this shield from accountability.

Today fewer than 5 percent of employers assume direct responsibility for medical decisions on behalf of their employees. But if the Gramm amendment became law, the share of employers taking on these decisions would grow enormously. By providing absolute immunity from accountability, the Gramm amendment creates a strong incentive for employers to intervene in medical decisions, despite the fact that employers are not qualified to do so.

Employers and HMOs are free to negotiate any relationship they want, and that relationship can be detailed in writing, or it can be detailed in informal “understandings” that workers never get to see. What the Gramm amendment does is leave families completely vulnerable to the most unscrupulous HMOs and employers.

For example, an employer could demand that an HMO call it for approval before allowing any treatment that would cost over a certain amount, compromising the patient’s privacy and enabling the employer to make medical decisions based on cost alone. The Gramm amendment would completely shield an employer who causes grave injury or death in this way, and the HMO might also escape liability because it could show that the employer alone made the final decision. Under the language, employers have no liability as long as they do not make decisions about whether a specific beneficiary receives necessary medical care. The only employers who can be brought into court are the very few who step into the shoes of the doctor or the health care provider and make final medical decisions.

Our bill does not authorize suit against an HMO or another plan sponsor unless “there was direct participation by the employer or other plan sponsor.” “Direct participation” is defined as the “actual making of such decision or the actual exercise of control” over the individual patient’s claim for necessary medical treatment. Our bill directly protects employers from liability by stating: “Participation . . . in the selection of the group health plan or health insurance coverage involved or the third party administration will not rise to liability; “Engagement . . . in any cost-benefit analyses undertaken in connection with the selection of, or continued maintenance of, the plan or coverage” will not give rise to liability.

Employers are very well protected by our legislation as it is written. We are pleased to consider other strategies for accomplishing President Bush’s principle on this issue, but the loophole that the Texas Senators propose fundamentally contradicts the President’s principle and ours.

Senator Snowe and others are working on language to codify that principle, and I am looking forward to seeing their ideas.

The Gramm amendment is exactly the wrong medicine for America. It deserves to be soundly defeated for the sake of a level playing field for all employers, and for the good health of employees and their families.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. Bunning. Mr. President, I will take the time Senator Gramm has and yield myself as much time as I may consume.

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

Mr. Bunning. Mr. President, I rise in strong support of the Gramm amendment and ask unanimous consent to be listed as a cosponsor.

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

Mr. Bunning. Today in the United States we do not mandate that any employer or business provide health insurance. We do not force them to buy it for themselves or their employees. We let the employer make this decision. And employers all across the United States do provide health care insurance that covers over 160 million people. These employers do not have to provide that health care. They do this voluntarily for a number of reasons. Some actually do it because they care about their employees, but most do it because it is good business—it helps attract employees to come to work for them. But regardless of why these employers offer health benefits, the important factor is that they do this voluntarily.

There is no employer mandate in America. We had that debate in 1994 during the argument about the Clinton health bill, and it was clear that everyone—the American people and American business—wanted to keep our voluntary system. But if the bill before us today becomes law, that could all change.

In spite of what the Senator from Massachusetts said, businesses—big and small—all over America would stop offering health insurance benefits to their employees. And the reason they would stop can be summed up in one word—lawsuits.

The simple fact is that the Kennedy-McCain bill would expose employers who provide health care insurance coverage to their employees to lawsuits. I have heard some supporters of the bill claim that employers are protected from lawsuits in this bill. We just heard the good Senator from Massachusetts say that. They say that this
bill protects our current system. They point out that on page 144 of the Kennedy-McCain bill that there is a provision in bold lettering that reads: “Exclusion of Employers and Other Plan Sponsors.” But what they don’t tell you is that on the very next page the bill reads, as clear as day: “A Cause of Action May Rise Against an Employer . . . .” After that there are four pages explaining when an employer can be sued.

That means that while this bill does exclude suits against doctors and hospitals and other providers, it does not exempt suits against employers who purchase health insurance. In fact, the bill exposes employers who provide health care insurance to both State and Federal lawsuits. It exposes them to unlimited economic damages, unlimited punitive damages in State court, and $5 million in damages in Federal court.

Ladies and gentlemen, that is an awful lot of lawsuits.

I believe that this exposure to liability in the Kennedy-McCain bill will scare employers away from providing health insurance. Instead of providing coverage, one of two things is going to happen if this bill becomes law. Employers are either going to drop their coverage altogether or they will give their employees cash or some sort of voucher and wish them well in searching for the best deal for themselves and their families they can find in health care. This would turn our entire health care system on its head and would lead to serious problems.

I don’t believe anybody in this Chamber really wants that. Instead, I urge support for the Gramm amendment. This amendment would apply language from the current Texas State law to specifically protect employers that provide health care insurance to employees from facing lawsuits for doing so. It is a clear solution, but it is very clear in its intent.

For years some of my colleagues have been eager to point out that Texas has a Patients’ Bill of Rights, and some of them even talk about this as a model for the Federal legislation. Now we have the opportunity to do just this and to be one of the very tough sticking points. Now we have a chance to fix it, to improve the bill, and to make it signable.

I want to vote for a Patients’ Bill of Rights, a bill of rights that is going to become law—but not today. Today the Gramm amendment is a critical step in that direction. A vote against the amendment means that we will probably just talk about these problems without doing anything to change them. I urge my colleagues to vote to protect employers and employees alike and to think that this is the reason they are opposing it; that it prevents liability, the basic fact is that they may want no health care benefit at all and then force the United States to have a single-payer plan at the end. We will do anything in our power to defeat that.

I urge a vote on the Gramm amendment and yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. THOMPSON. Mr. President, I would like to speak on the Gramm amendment. I see that neither Senators GRASSLEY nor GRASSLEY are present. I understand there is time remaining for Senators GRASSLEY and GRASSLEY to propose the appropriate thing to do would be to ask for 10 minutes of the time on the Gramm amendment.

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

Mr. THOMPSON. Mr. President, we are proceeding to clear the air on this issue, and that is important. It is a very important issue. One of the things Senator GRASSLEY pointed out was that this did not go through the regular committee process. It is a very complicated bill, and we are just now seeing the complications of it; one of those being the extent to which employers are liable, employers can be sued.

Unfortunately, we didn’t have a chance to work all that out in committee. So now we are here in this Chamber arguing about the exposure of employers.

We are making progress because, when we first started this debate, the supporters of the McCain-Kennedy-Edward bill basically said: We were not attempting to go after employers. That is not what this is about. Then in the fine print, yes, well, under certain limited circumstances.

I think we know now that there is, indeed, extreme exposure as far as employers are concerned and that it constitutes a significant part of the effect of this bill. We are making progress.

Now we can talk about the extent to which employers should or should not have exposure and liability.

We have heard statements today that there are a lot of employers out there that will do the wrong thing; that even though they are not required to have health insurance for their employees, apparently there are employers out there that will set up health care plans and then do everything they can to disadvantage their own employees, and that that consideration is driving this provision of the bill. So we are, indeed, refining the issue; the lines are being drawn.

The response to the issue of suing employers has always been: Don’t worry about that. The main thing is we are going after the big bad HMOs. You don’t have to worry about anything else. When times get really tough, we bring out another picture of some poor individual who is used to demonstrate the evilness of managed care.

Our hearts go out to these people. These are people in need. But the average observer in America must be watching this and asking themselves: Why doesn’t the Government just require these people to be covered for anything the time in unlimited amounts? Why doesn’t the Federal Government just take care of the problem? Why are we going after the big bad HMOs if the Government doesn’t want to do it? Why don’t we make some insurance company pay somebody for any claim they make, if it is a real need, at any time for any amount? In fact, why didn’t we pass the Clinton health bill a few years ago? The average person must be asking: If that is the only issue, taking care of sick folks, then why don’t we nationalize this health care system of ours? That is the logical conclusion of all that we have been hearing.

The answer, of course, is that in public policy matters, there are tradeoffs to be considered. There is never just one side of the coin.

We know, for example, that we set up managed care in this country because health care prices were rising up to the point of almost 20 percent a year. We knew that couldn’t be sustained so we put in a managed care system. Some HMOs abused that and did some bad things. Thirty or forty some States passed laws addressing some of these problems. The State of Tennessee has broader coverage than the bill we are considering today. It is not as though the States have been standing still. They are covered. Health care costs are going back up.

So here we come and we are going to lay on another plan that, if passed in the current form, without question, will drive up health care costs again.

My heart goes out to these poor people who are being used in this debate to demonstrate the necessity for the passage of this legislation. But I want to refer to a group of individuals myself. In fact, I want to refer to 1.2 million individuals. I don’t have the space or the time or the resources to bring in pictures of the 1.2 million people who, the most conservative estimates say, will be thrown off of insurance altogether if this bill passes.

The Congressional Budget Office says that at a minimum—and there are other estimates, but that is the lowest one I have seen—1.2 million people will lose insurance altogether. Who is going
to bring their pictures in here to dem-
strate to the American people that they
and the disadvantaged by the bill we
might pass. The question is whether health care
costs up so great that these small em-
ployers that some would like to demon-
ize or large ones, for that matter, that
some would like to demonize don’t have
to provide health care at all?

What is going to keep them from just
saying, as has been pointed out this
morning, that the costs are too great,
the liability is too great? We want to
do the best we can. We are not perfect.
We might make mistakes. But instead of
setting up a system to rectify those
mistakes, we will be opened up to un-
limited lawsuits at any time, anywhere
in the country, in any amount. Why
should we have that aggravation? Why
not just give the employees X number of
dollars a month, and let them take it—
—and they may or may not take care of
it with that money—or if you are a
small employer, to drop insurance cov-
erage altogether. Who is going to speak
for that 1.2 million people who they say
will wind up without any insurance at
all?

There won’t be any arguments with
any HMOs because there won’t be any
insurance at all.

So the lines have been drawn in this
debate. We have people over here need-
ning help, needing assistance. We have
set up a review process to get inde-
pendent people to look to determine
whether or not these employers are
taking advantage of people. So far so
good.

Then the proponents of this bill want
to lay in a system of lawsuits on top of
that. We draw the line in there and say
that, yes, let’s have an administrative
process to see whether or not employ-
ers are taking advantage of folks. Let’s
have an independent doctor look at it.
After that, let’s not lay on unlimited
lawsuits against employers who do not
provide the health care and expose them
to liability, when we say that what we are going after is the big bad
HMOs. Why expose these people who
are providing health insurance? They
are not providing health care, so why
expose them to liability?

The question remains, Do we want to
see employers? Do we want to have the
right to sue employers or not? The pro-
ponents of this bill say yes, but only
with regard to when they directly par-
ticipate in decisionmaking. This gets
a little technical, but it is very impor-
tant. There is a certain resonance of
the proposition that if somebody does
something wrong, they ought to be
held accountable. I have tried a few
cases myself, and I believe in that prin-
ciple. I think that is right. But the
problem in the context of this health care
debate, which we nationalize to a
certain extent with ERISA for a por-
tion of the population, and now we are
going to nationalize the rest of it with
this bill, the problem is we are setting
it up so that, by definition, a large
group of employers are going to be con-
sidered to be directly participating be-
due to the fact that they have employees who are on the front
eend of these claims processes. They tell
me that these self-insured plans are some of the best plans that we have.
They don’t go out and hire an HMO.
They try to do it themselves, in-house,
with their own people, looking out for
their own employees, who they don’t
have to insure if they don’t want to,
but they do. I am told that they pro-
vide more benefits than the other plans. They are some of our better
plans. But by cutting out the middle-
man, so to speak, and doing it them-
selves, they are going to be subject to
liability under this bill.

The second point of exposure has to
do with many of the for-profits, who
have settlement value. What lawyer
worth his salt, if he is going to sue
anybody along the line here in this
process, would not include an employer
as a part of this lawsuit? An employer
has a chance of settling or not to
go to court and stand on principle
because he is not liable and spend sev-
eral thousand dollars defending himself
or settle up front and pay the other
side in order to get out of the lawsuit.
The other side says they don’t want
to sue employers unless they have con-
tr
d. I mentioned direct participation.
The other key words are “or control”—
to exercise control of the health care
plan. The only problem with that is
under ERISA law, by definition, em-
ployers are supposed to have control
over these plans. So if you just look at
the definitional sections of the applica-
able law, on day 1 you have a large num-er of employers that are subject to
this lawsuit. So let’s not kid ourselves
about that.

The first part of this debate was that
most employers are not covered. Most
employers are not covered. Now, we
know that is not true. The issue now is
whether or not they should be. You
say, well, why if they do something
wrong? That is a good point. Why
should they be any different? Why
should they have immunity? We could
ask the same thing about treating doc-
 tors and about treating hospitals and
about all sorts of other things in this
country, in America, including U.S. Senators. Why
do we have protection for anything we
say in this Chamber under the speech
and debate clause? Is it because we are
better than anybody else or because we
don’t ever go over the line and do
something wrong or maybe even out-
rageous? No. It is because of the trade-
offs of public policy because there are
other considerations, just as there are
other considerations when we wash out
and use our own instinctive urge to sue
an employer.

You are going to drive costs up; you
are going to drive people out of the sys-
tem; and you are going to cause more
uninsured. Besides, there is account-
ability. There is a sense of the Senate
pending today that talks about the im-
morality of the bill. We are going to see
that this bill creates. The employer
doesn’t get to make a decision to cut
somebody off under this bill, and that
is the end of it. It goes through an
independent evaluation process. It goes
through an independent evaluation process. Then, if it is a medical decision, it goes
to an independent medical reviewer.

This bill spends pages on pages in
setting up these individual entities,
protecting them, qualifying them, hav-
ing the Federal Government look over
their shoulders. They are the final
word. If the employer is wrong, they
are the final word, and they don’t have
anything to do with the employer.

There might be some hypothetical
where some employer might sneak through the cracks somewhere. All I am saying is it is our obligation
to consider both sides of this coin. If in
trying to do that, if in trying to reach
that hypothetical extreme case we
drive up health care costs and we drive
small employers out of the health care
business and we do wind up with over
a million more people uninsured, we are
making a bad bargain.

I yield the floor.

The PRESIDING OFFICER. The Sen-
ator controls 37½ minutes.

Mr. KENNEDY. I will yield myself 2
minutes. I want to remind my good
friend from Tennessee when he talks
about the issues of cost, that we have
heard this issue raised before by the
Chamber of Commerce regarding fam-
ily leave. They estimated that its cost
would be $27 billion a year. It has been a fraction of that. I
don’t hear Members wanting to repeal
it. We heard about the issue of cost
when we passed Kassebaum-Kennedy,
which permits insurance portability,
and is used particularly by the dis-
abled. We heard that Kassebaum-Ken-
ney was estimated to cost tens of bil-
lions of dollars. That cost has not de-
veloped. Nobody is trying to repeal it.

We heard about costs when we passed
an increase in the minimum wage. We
heard that it would lead to inflation
and lost wages. We have responded to
that. The cost issue has always been
brought up.

I will remind the Senator that we
have put in the RECORD the pay for Wil-
liam McGuire and United Health
Group, the largest HMO in the coun-
try. The total compensation is $54
million and $357 million in stock options for a
total compensation of $411 million per
year. That is $4.25 per premium holder.
The best estimate of ours is $1.19, and
you get the protections. We can go
down the list of the top HMOs they are
making well over $10 million a year

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and are averaging $64 million in stock options. We could encourage some of those who want to do something in terms of the cost to work on this issue, Mr. President.

In the 1970s, we welcomed, as the principal author of the HMO legislation, the opportunity to try to change the financial incentives for decapitation, to keep people healthy. There would be greater profits for HMOs. It is a good concept. To treat people and families holistically is a valid concept and works in the best HMOs.

What happened is that HMOs, and in many instances, employers, started to make decisions that failed to live up to the commitment they made to the patient when the patient signed on and started paying the premiums. That is what this is about. The patient signs on and has a hard time to have coverage if I am in a serious accident. Then we have the illustration of the person who broke their leg and the employer said: Absolutely not. We are cutting off all assistance. That person was left out in the cold. There is no reason to do that. The only people who have to fear these provisions are those employers that make adverse decisions with regard to an employee's health. It seems to me they should not be held free from accountability any more than anyone else should be.

How much time remains? I yield 12 minutes to the Senator from North Carolina and that will leave me how much?

The PRESIDING OFFICER. Twenty-two minutes.

Mr. KENNEDY. I yield the Senator from North Carolina 15 minutes.

The PRESIDING OFFICER. The Senator from North Carolina is recognized. Mr. President, I ask unanimous consent to speak after the Senator from North Carolina.

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

Mr. EDWARDS. Mr. President, I want to speak to some of the concerns and comments that have been made by my friend and colleague from Tennessee with whom I have been working over the course of the last few days on this issue. There are a couple of issues he raised that deserve a response.

First is the general notion that an appeals process, before going to court, is adequate in and of itself. There are two fundamental problems with that logic. Remember, the way the system works under both pieces of legislation is if an HMO denies care to a patient, they can go through an internal appeal. If that is unsuccessful, they can go to an external appeal. If that does not resolve the issue and they are hurt, they can then go to court.

There are two reasons the appeal by itself does not resolve the issue. An HMO says to a family: We are not going to allow your child to have this treatment. The child then suffers an injury as a result, and a week later, or however long it takes to complete the appeals process, the child, the decision is reversed by an appeals board.

An independent review board says: Wait a minute, HMO, you were wrong to start with. Unfortunately, the only thing that independent review board can do is give that child the test they should have had to start with, but the child has already suffered a serious permanent injury as a result. The treatment no longer helps.

The problem is if the HMO decides on the front end they are not going to pay for some care that should be paid for, and the child is hurt as a result, and then 1 week or 2 weeks later the appeals board reverses that decision and says, yes, they are going to order the treatment, and the child has nowhere to go and their family has nowhere to go.

That is the point at which—and I think the Senator and I may agree on this—we believe the HMO should be held accountable. The independent review board cannot fix the problem where the child has been injured for life. The HMO that made the decision, just as every entity in this country, should be held responsible and accountable for what they did. That is what we believe. We believe in personal responsibility.

The second reason the appeals process by itself does not solve the problem: If there is nothing beyond the appeal, it creates an incentive for the HMO, which is what I am talking about, to have a policy of when in doubt, deny the claim because the worst that is ever going to happen is they are going to finish this appeals process and some appeals board is going to order them to pay what they should have paid. If they take 1,000 patients for a particular kind of treatment and deny care to those 1,000 patients, the majority of them are never going to go through an appeal, so they save money. Then they go through the appeal and the worst that can ever happen to them is with 30 or 40 of them, an appeals board orders them to go back and pay what they should have paid.

The problem is fundamental. The appeal process alone does not create an incentive for the HMO to do the right thing.

On the other hand, if the HMO knows if they make an arbitrary wrongful decision and somebody is hurt as a result, injured as a result—if that child suffers a permanent injury as a result—they can be held responsible for that as everybody else who is held responsible, then it creates an enormous incentive for the HMO to do the right thing.

That is what this legislation is about. Senator MCCAIN, Senator KENNEDY, and I structured this legislation to avoid cases having to go to court, to create incentives for the HMO to do the right thing, something they are not doing in many cases around the country now. This problem is, without both the appeals and the possibility of being held responsible down the road, we do not create the incentive for the HMO to do the right thing. We know that today around the country many families are being denied care they ought to be provided by an HMO.

There are fundamental reasons the system is set up the way it is. It is all designed not to get people to court and not even to get people into an appeals process but to get the patient the correct care, to get them the care for which they have been paying premiums.

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

Mr. THOMPSON. I thank the Senator for addressing the issues I raised, and I ask this as a legitimate point of inquiry and not just a debating point.

Mr. President, it occurs to me with regard to the Senator's first point and that is coverage might be denied initially but later overruled, and in the interim—I think he used the example of a small child again—a child might be suffering damage, does not ERISA currently provide injunctive relief? It allows a person under those circumstances to go into Federal court for mandatory injunctive relief, and would that not address the concern the Senator has?

Mr. EDWARDS. I thank the Senator for his question. It is a perfectly fair question. The problem, of course, is that many times it could be a situation where it would take entirely too long to go to court and get injunctive relief. When there is a situation where they are suffering damage, does not ERISA currently provide injunctive relief? It allows a person under those circumstances to go into Federal court for mandatory injunctive relief, and would that not address the concern the Senator has?

Mr. THOMPSON. Excuse me. It is impossible during that period of time to get injunctive relief against an HMO, and I might add, the last thing in the world a family is thinking about when they have a member of their family who is in trouble and needs health care is going to court to get an injunction.

Now I yield.

Mr. THOMPSON. I thank the Senator. I could not agree more with that.
last point. However, my experience has been that injunctive relief is designed by nature for very rapid consideration. You could do that in every case, but you do have to go to court to get it.

My question is, If we are not going to avail ourselves or require claimants to avail themselves of the processes if they believe they have been wronged, does that not necessarily lead to the conclusion that we must grant all claims?

How does a person considering a claim know which one—let’s assume they are dealing in good faith. In every case where there is an injury or potential injury going to occur, is the logical conclusion that we should see to it that all claims are granted regardless of whether or not the person considering the claim is conscious, if we say we do not have time for that, then doesn’t that mean we have to grant all of them?

Mr. EDWARDS. Reclaiming my time, my response to the Senator’s question is simple and common sense. For a family in a bad situation needing medical care immediately, the last thing in the world they are thinking of is hiring a lawyer, going to court and trying to get an injunction. The Senator well knows that process by itself can take enough time for something serious to happen in the interim.

As to the second issue the Senator raises, all we are saying in our legislation, in the structure of our system—internal appeals—are obviously not covered under the agreement?

If we do not go through the processes that are in law for people to avail themselves and to show to an independent arbiter or judge that their claim has merit, if we say we do not have time for that, then doesn’t that mean we have to grant all of them?

Mr. KENNEDY. At the present time, a small number of employers are interfering with medical decisions. If the President’s amendment is enacted, this will put the good employers at a serious disadvantage in competition with others, does he not agree? Would not the others be able to formulate a structure so they could effectively cut back on excessive costs for the health care system for their employees, while the good ones who are playing by the rules would be put at a rather important competitive disadvantage? Does the Senator not agree that for the employers working within the system and playing by the rules this is an invitation to change their whole structure and to be tempted to shortchange the coverage and protection for their employees?

Mr. EDWARDS. In response to the question, the answer is, of course we believe employers, the vast majority of employers, care about their employees and want to do the right thing. Our legislation is specifically designed to protect those employers, just as the President of the United States has suggested needs to be done.

What we have done in this legislation, what the President has suggested, and in the work that continues as we speak on additional compromise language, all is aimed at the same principle, and that is getting a compromise.

This amendment is outside that mainstream—different from our legislation, different from the principle established by the President of the United States, and different from the compromise that is being worked on at this moment. I remain optimistic we will be able to reach a compromise that provides real and meaningful protection to the employers of this country we want to protect. We have said that review process. We stand by it. We want to protect them.

If I may say a couple of things about the issue of costs which was raised a few moments ago, the CBO has not said anybody will become uninsured as a result of this legislation. What the CBO has said is there will be a 4.2-percent increase in premiums over 5 years because of our legislation and a 2.9-percent decrease if the legislation passes, roughly 4 percent versus roughly 3 percent. The difference between these two pieces of legislation on cost is a very minuscule part related to litigation. I think the difference is less than half of 1 percent related to litigation. Rather, the differences are related to quality of care. If people get better access to clinical trials, better access to specialists, better emergency room care, a more enforceable and meaningful independent process, if those things occur, there is a marginal cost associated with it.

We have real models. We don’t have to guess about what will happen. Those models are Texas, California, and Georgia. In those States, the number of uninsured, while the patient protection laws have been in place, has gone down, not up. We have some real, although short term, empirical evidence about what happens when this patient protection enacted.

We have to be careful. A lot of arguments being made are the same arguments that have been made by HMOs for years to avoid any kind of reform, to avoid any kind of patient protection. We are working in this legislation to give real protection to somewhere between 170 and 180 million Americans who are having problems with their HMO. We want to put the law on the ground for the first time in a bad situation needing medical care immediately, the last thing in the world they are thinking of is hiring a lawyer, going to court and trying to get an injunction. The Senator well knows that process by itself can take enough time for something serious to happen in the interim.

The truth is, the Gramm amendment is way outside the mainstream. All the people on the other side of the road are individuals who are doing a good job and are not interfering with medical decisions. If we do not do through the processes that are in law for people to avail themselves and to show to an independent arbiter or judge that their claim has merit, if we say we do not have time for that, then doesn’t that mean we have to grant all of them?

Mr. EDWARDS. Absolutely.

Mr. KENNEDY. At the present time, a small number of employers are interfering with medical decisions. If the President’s amendment is enacted, this will put the good employers at a serious disadvantage in competition with others, does he not agree? Would not the others be able to formulate a structure so they could effectively cut back on excessive costs for the health care system for their employees, while the good ones who are playing by the rules would be put at a rather important competitive disadvantage? Does the Senator not agree that for the employers working within the system and playing by the rules this is an invitation to change their whole structure and to be tempted to shortchange the coverage and protection for their employees?

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What we have done in this legislation, what the President has suggested, and in the work that continues as we speak on additional compromise language, all is aimed at the same principle, and that is getting a compromise.
The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. NICKLES. Madam President, I thank my friend and colleague from Texas, Senator HUTCHISON, for her comments. I also wish to thank the Senator from Texas, Mr. GRAMM, for his leadership on the amendment, as well as Senator THOMPSON.

Mr. NICKLES. Madam President, I thank you. The Breaux-Frist plan would definitely address her concerns because it would give her the care she needs rather than going directly for a lawsuit and possibly delaying the health care she needs—and for other patients.

Madam President, I ask my colleagues to support the Gramm-Hutchison amendment and support the Grassley motion. Let’s get a good bill that will have the effect of increasing coverage in our country and not decreasing it.

Thank you, Madam President. I yield 4 minutes to Senator NICKLES.

The PRESIDING OFFICER (Mrs. CARNAHAN). Under the previous order, the Senator from Texas is recognized.

The Senator from Texas, Senator HUTCHISON, for her comments.

The PRESIDING OFFICER. The Senator from Texas has 9 minutes. Senator GRAMM has 7½.

Mrs. HUTCHISON. Thank you, Madam President.

I ask unanimous consent that I have 6 minutes allocated—4 minutes from Senator GRASSLEY’s time and 2 minutes from Senator GRAMM’s time. It is my intention to yield 4 minutes to Senator NICKLES on behalf of the Grassley motion.

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

Mrs. HUTCHISON. Will the Chair notify me at the end of 2 minutes?

Madam President, I want to speak on behalf of the Grassley motion which would send this bill to committee so that it could be marked up and fully debated because while we have had great debate, bypassing the committee process I think has caused us to have to rewrite the bill in this Chamber. I don’t think that is a good way to pass legislation.

I think we all want to have a Patients’ Bill of Rights that is well ventilated and well debated and that we know will have the intended consequences because the last thing we want to do is have unintended consequences when we are talking about the health care of most Americans.

I hope we can commit the bill to bring it back in a better form. Second, I hope people will support the Gramm-Hutchison amendment because this is the Texas law. Senator HARKIN, on a news program this weekend, said: I would love to have just the Texas law for the entire Nation. The Gramm-Hutchison amendment is the Texas law verbatim when it applies to a person’s employer because what we don’t want to do is put the employer in the position of standing for the insurance company. The employer wants to be able to offer insurance coverage to their employees. But if they are going to be liable for a decision made by the insurance company and the doctors, then they are put in a position that is untenable. What we want is health care coverage where the decisions are made by the doctors and the patients.

The Senator from North Carolina had a picture of a lovely young woman. He said: This is what the debate is about. It is what the debate is about.

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The Senator from North Carolina had a picture of a lovely young woman. He said: This is what the debate is about. It is what the debate is about.
My colleagues, this is not the way to appropriate committees of jurisdiction. Moreover, the liability provisions have been principally involved in drafting these liability provisions and they have done so with their own interest in mind. And believe me, as a former medical malpractice attorney, I know what their tricks are, and I know what they are trying to do. This provisions are simply not in the best interest of the American people.

Accordingly, I urge my colleagues to support his motion to commit. It is incumbent upon us to do this right and to do this in the best interest of patients, not trial attorneys. I am confident that with a little extra time, we can make these provisions legally sound. We have spent far too many years on this issue not to do it right. We have a real opportunity to pass meaningful patients' rights legislation. Let us not squander this opportunity by acting expeditiously without the benefit of more careful and thoughtful review.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Madam President, could you tell me how much time the two sides have?

The PRESIDING OFFICER. You have 4 minutes and a half. The Senator from Massachusetts has almost 12 minutes.

Mr. GRAMM. Madam President, I would like my amendment to close out the debate.

Does Senator GRASSLEY have time?

The PRESIDING OFFICER. He has 5 minutes. You have 9 minutes. The Senator from Massachusetts has 12 minutes.

Mr. GRAMM. Let me just allow the majority to go ahead.

Mr. MCCAIN. I say to the Senator from Texas, I think it is perfectly reasonable for you to have the last 5 minutes.

I ask the President of the Senate that one of us be recognized so that the Senator from Texas has the final 5 minutes.

The Senator from Arizona wants—

Mr. GRASSLEY. Two minutes.

I want to emphasize that these are all critical important, legal issues that must be considered carefully. The regular process of the Senate should not be circumvented for the political expediencies of my friends on the other side. Why rush this important bill through the Senate? According to the Congressional Budget Office, this legislation will cause premiums to increase by at least 4.2 percent. As a result, it is estimated that 1.3 million Americans will lose their health insurance because health premiums will become too expensive. Even worse, employers benefit altogether for fear of more expanded liability exposure under so-called bipartisan Democrat proposal.

Shouldn't we hear from experts and other legal scholars in an open forum before passing such a monumental bill that impacts so many Americans? It is very apparent to everyone in this Chamber that the trial lawyers have been primarily involved in drafting these liability provisions and they have done so with their own interest in mind. And believe me, as a former medical malpractice attorney, I know what
fewer questions asked. I think when people see a product from the Senate, they want to make sure that product is done right.

So I offer to my colleagues the motion and hope that they will vote yes on the motion to commit the legislation to the respective committees—Health, Education, Labor; Judiciary; and Finance—for the fair consideration of this legislation and a final, good product that we know serves the best interests of the people, which obviously is to make sure that everybody is protected with a Patients’ Bill of Rights.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Arizona is now recognized.

Mr. MCCAIN. Mr. President, I think it is important, because of the issue of what is happening or not happening in the State of Texas and Texas State law, that I take a few minutes to quote from a letter I just received from the President of the Texas Medical Association who was a key player in the formulation of the language and the legislation that passed the State of Texas in 1997.

I would like to quote from the letter that Mr. Hancher sent me:

I have been watching the debate over the Patients’ Bill of Rights and can understand the confusion over many of the issues. We, in Texas, debated managed care reforms for over two years culminating in the passage of a package of managed care reforms in Texas in 1997. Because Texas’ laws have become the basis for evaluating certain aspects of proposed federal reforms, I hope I can help to clarify some areas for you. As Texas Medical Association worked closely with the sponsors of these reforms, including the managed care accountability bill, I would like to offer our experiences on this issue....

I will focus on the three areas of primary disagreement—employer immunity, medical necessity and administrative procedures. These decisions were long, sometimes contentious, and ultimately successful. With over 1300 independent reviewers, 52% overturned the plans’ decision and only 17 lawsuits—

I want to emphasize: Only 17 lawsuits.

I am proud of how our laws are working for the people of Texas employed in managed care plans. On behalf of my colleagues and our patients, I ask that you not take any action that would undermine what we have done in our state.

It is signed: Tom Hancher, MD, President of the Texas Medical Association.

I urge all of my colleagues to read this letter from Dr. Hancher. I think it lays out the issues surrounding this particular amendment and remaining areas of discussion that I believe are very important. We need to better clarify, give employers a kind of separate section of our law.

The debate in Texas over patient protections was long, sometimes contentious, and ultimately successful. With over 1300 independent reviewers, 52% overturned the plans’ decision and only 17 lawsuits—

But we cannot, in the interest of greater clarity, give employers a kind of plan.

Mr. President, I cannot support the pending amendment because I believe that employers should be held accountable for medical decisions they have made if those decisions resulted in a patient’s injury or death.

I do not believe employers should be held liable for the decisions made by insurers or doctors. Nor do I believe this legislation would subject employees throughout the country to a tidal wave of litigation as our opponents claim.

But if an employer acts like an insurance company and retains direct responsibility for making medical decisions about their employee’s health care then they should be held accountable if their decisions harm or even kill someone.

If an employer is not making medical decisions, and very few employers do, then they will not be held liable under our legislation.

Let me repeat—employers will not be held liable or exposed to lawsuits if they do not retain responsibility for directly participating in medical decisions.

I keep hearing from opponents of our bipartisan bill that our language is vague and would subject employers to frequent litigation in state and Federal court. I don’t believe this is true.

Our legislation specifically states that direct participation is defined as “the actual making of [the] decision or the actual exercise of control in making [the] decision or in the [wrongful] conduct.” This language clearly exempts businesses from liability for every type of action except specific actions that are the direct cause of harm to a patient.

The sponsors of this legislation are willing, however, we indeed we would welcome an amendment that helps further clarify the employer exemptions provided for in the bill. I know that Senators SOWEDE, DEWINE and others are working on such an amendment.

The debate in Texas over patient protections was long, sometimes contentious, and ultimately successful. With over 1300 independent reviewers, 52% overturned the plans’ decision and only 17 lawsuits—

I want to emphasize: Only 17 lawsuits.

I am proud of how our laws are working for the people of Texas employed in managed care plans. On behalf of my colleagues and our patients, I ask that you not take any action that would undermine what we have done in our state.

Best wishes in your deliberations.

It is signed: Tom Hancher, MD, President of the Texas Medical Association.

I urge all of my colleagues to read this letter from Dr. Hancher. I think it lays out the issues surrounding this particular amendment and remaining areas of discussion that I believe are very important. We need to better clarify, give employers a kind of separate section of our law.

The debate in Texas over patient protections was long, sometimes contentious, and ultimately successful. With over 1300 independent reviewers, 52% overturned the plans’ decision and only 17 lawsuits—

But we cannot, in the interest of greater clarity, give employers a kind of plan.
of blanket immunity when they assume the role of insurers and doctors by making life and death decisions for their patients. This is what the pending amendment would do.

Let’s just step back for a moment and reflect on how the employer based health care system is structured and works. An employer contracts with an insurer to provide health care coverage for their employees. The insurer is then responsible for making the medical decisions that go with managing health insurance. That is how the system typically works and how employers want it to work.

Most businesses simply do not make medical decisions. Hank who runs a local plumbing company does not tell the HMO his company has contracted with, “We have clogged drains and need Joe Smith, Josh2 et al. and we can’t afford for him to be laid up waiting for surgery.” And Hank would not be held liable under our bill because he is not practicing medicine—he is repairing plumbing.

Now admit there are a small group, of mostly very large companies that have chosen to provide insurance to their employees themselves. In these small number of cases, employers have made the decision to sell plumbing and act as an insurer that makes medical decisions.

And if the decisions they make harms or kills someone then why should they have a blanket exemption from liability as this pending amendment would provide them, a blanket exemption that we do not provide doctors or nurses or hospitals?

Mr. President, I yield the floor.

The PRESIDING OFFICER. The PRESIDING OFFICER. Senator McCaIN and Senator Kennedy have 3½ minutes.

Mr. KENNEDY. Mr. President, let me yield myself the time. As I understand, the Senator from Texas is going to close.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this legislation is very simple. The point of the overall Patients’ Bill of Rights is to permit doctors to make the final, ultimate decision on what is in the best interest of the patient. Doctors, nurses, trained health care professionals should be making that judgment. However, we find that the HMOs are overriding them.

Now we have put this into the legislation. If it is demonstrated with internal and external appeals that a HMO has overridden the doctors, they are going to have a responsibility towards the patient. They are going to have to give that person, who might have been irreparably hurt, or the patient’s family. If the doctor has been overridden, there must be an opportunity to have some satisfaction.

What the Gramm amendment says is, if that same judgment is made by the employers, they are somehow going to be free and clear. He can distort, misrepresent and misstate what is in this legislation, but we know what is in the legislation. They hold the employer that is in the place of the HMO accountable. If the employer is making a medical decision that may harm an individual or patient, or may cause that patient’s life or serious illness, they should bear responsibility.

Under the Gramm amendment, they can be free and clear of any kind of responsibility no matter how badly hurt that patient is.

That is absolutely wrong. I can see the case where the HMO is sued. The HMO says: Don’t speak to me; it was the employer that did it. And then the employer says: Look, the Gramm amendment was passed. We are not responsible at all. This amendment is another poison pill. It is a way to basically undermine the whole purpose of the legislation.

Doctors and nurses should be making medical decisions and not the HMO bean counters who are looking out for the profits of the HMO. Employers should not be making these medical decisions either. They may say, every time my employee has some medical procedure that is over $50,000, call me, HMO. I don’t want to pay more than $50,000. Then the HMO calls them up and the employer says, no way, don’t give that kind of medical treatment to my employee. The HMO listens to the employer, the patient does not get that treatment, and dies. Under the Gramm amendment, there will be no accountability.

I hope his amendment is defeated.

The PRESIDING OFFICER. The PRESIDING OFFICER. Senator CARNANAH. Under the previous order, the Senator from Iowa has 2 minutes followed by the Senator from Texas.

Mr. Gramm. Mr. President, from Iowa has spoken. I assume if we add up the time, I have 7 minutes. I would like to take it.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRAMM. Madam President, nothing in this amendment has anything to do with HMOs. Nothing in the amendment that I have offered would in any way exempt any HMO from any liability. Both Senator Kennedy and Senator McCain talked about HMO liability. Senator McCain talked about HMOs standing in the shoes of doctors.

This amendment I have offered is not about HMOs.

Senator Kennedy talks about HMOs escaping liability by blaming it on the employer. Nothing in the amendment I have offered in any way would allow that to happen.

The amendment I have offered has to do with employers. Why is this an issue because, in America, employers are not required to provide health insurance. Employers, large and small, all over America provide health insurance because they care about their employees and because they want to attract and hold good employees. But every employer in America has the right under Federal law to drop their health insurance.

I am concerned, and many are concerned, that employers would be forced to drop their health insurance given the liability provisions in the bill. I have here a number of letters from business organizations endorsing my amendment. I send to the desk and ask unanimous consent that these letters be printed in the RECORD: an NFIB letter designating this a small business vote; a letter from Advancing Business Technology representing the AEA; the National Association of Manufacturers; the National Council of Chain Restaurants; the National Restaurant Association; and the National Association of Wholesalers and Distributors, all letters endorsing the Gramm amendment; and finally, a wonderful letter from the Printing Industry of America talking about the dilemma they would face if this amendment did not pass.

Then, being no objection, the letters were ordered to be printed in the RECORD, as follows:


Hon. Phil Gramm, U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Senator Gramm: Thank you for offering an amendment to the HMOs Employers should not be making these medical decisions either. They may say, every time my employee has some medical procedure that is over $50,000, call me, HMO. I don’t want to pay more than $50,000. Then the HMO calls them up and the employer says, no way, don’t give that kind of medical treatment to my employee. The HMO listens to the employer, the patient does not get that treatment, and dies. Under the Gramm amendment, there will be no accountability.

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their employees and their employees’ families.

There are other serious weaknesses in the McCain-Kennedy bill with which NAW members are concerned; however, adoption of your amendment will at least mitigate one of the worst excesses in that unnecessary McCain-Kennedy bill. Therefore, NAW is pleased to support your amendment, and we thank you for your leadership.

Sincerely,

DIRK VAN DONGEN
President
JAMES A. ANDERSON, Jr.
Vice President-Government Relations.

NATIONAL RESTAURANT ASSOCIATION.
Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: As debate continues on S. 1052, the McCain-Kennedy-Edward patients’ rights bill, the National Restaurant Association sincerely appreciates your support of the Senate. The Senate amendment that employers will not be subject to liability for voluntarily providing health benefits to their employees. A vote in support of the Gramm-Hutchison Amendment will be considered a key vote by the National Restaurant Association.

The majority of America’s 844,000 restaurants are small businesses with average unit sales of $580,000. Rather than risk frivolous lawsuits and unlimited damages authorized under S. 1052, many businesses will be forced to stop offering health benefits to their employees. Even without the effect of litigation risk economists predict at least 4–6 million Americans could lose their employer-sponsored health coverage as a result of the increased costs of S. 1052. We urge you to avert this harmful situation.

By taking language from the Texas patients’ rights bill, your amendment will clearly define that employers would not be subject to liability. This amendment is critical given that S. 1052 currently exposes employers and plans to liability for direct and indirect liability costs for adverse benefit determinations. Whether or not employers actively intervene into a given benefit determination, they are charged with responsibility for all aspects of plan administration under ERISA’s fiduciary responsibility standard (including benefit determinations). Thus, an employer can either actively or passively meet the McCain-Kennedy bill’s standard of “direct participation” (the act of denying benefits or the actual exercise of authority over the act).

The Gramm-Hutchison Amendment is the Texas Health Care Liability Act’s unambiguous exemption of employers as adapted to ERISA. We believe the majority of senators will agree on the need to protect employers from health care liability.

The National Association of Manufacturers will continue to oppose the underlying McCain-Kennedy bill as adding too much additional cost to the existing double-digit (33 percent on average) health-care inflation. The rising cost of health-care coverage, together with the high cost of energy, is exerting a significant drag on the economy. The Senate, however, should be heard on the specific question of health-care liability for employers.

Again, we urgently ask your support for the Gramm-Hutchison Amendment (Senate Amendment #100) which will be considered for designation as a key manufacturing vote in the NAM Voting Record for the 107th Congress.

Sincerely,

MICHAEL ELLIAS BAROODY
Executive Vice President.

NATIONAL RETAIL FEDERATION.
To the Members of the U.S. Senate:

Tomorrow morning, you will have the opportunity to vote on a critically important amendment offered by Senator Gramm to the Kennedy-McCain “Patient Protection Act of 2001” that will exempt employers from new lawsuits under the legislation. On behalf of the National Retail Federation (NRF), I strongly urge you to support this amendment. The vote on the Gramm amendment will be a key vote for NRF’s ability to address their disputes through an independent appeals process, allowing broad new causes of action in state and federal court for virtually uncapped damages would have dire consequences on the employer-based health care system. The costs of open-ended liability on health plans will ultimately be borne by employers and employees alike.

As background, the National Retail Federation (NRF) is the world’s largest retail trade association with membership that comprises all retail formats and channels of distribution including department, discount, catalog, Internet and independent stores. NRF members represent an industry that encompasses more than 1.4 million U.S. retail establishments serving less than one in 5 American workers—and registered 2000 sales of $3.1 trillion.

NRF’s international members operate stores in more than 50 nations. In its role as the retail industry’s umbrella group, NRF also represents 34 national and state associations in the U.S. as well as 30 international associations representing retailers and franchisees in more than 100 countries.

Again, we urge you to support the Gramm amendment, and to support future efforts to remedy the onerous liability provisions in S. 1052.

Sincerely,

Michael Elias Baroody
Executive Vice President.

NATIONAL COUNCIL OF CHAIN RESTAURANTS OF THE NATIONAL RETAIL FEDERATION.
Hon. PHIL GRAMM,
U.S. Senate, Russell Senate Office building, Washington, DC.

DEAR SENATOR GRAMM: On behalf of the National Council of Chain Restaurants, I am writing to thank you for introducing your amendment to protect employers from liability lawsuits authorized by the Kennedy-McCain “Patients’ Bill of Rights” currently being debated by the Senate.

The National Council of Chain Restaurants ("NCCR") is a national trade association representing forty of the nation’s largest multi-unit, multi-state chain restaurant companies. These forty companies own and operate in excess of 50,000 restaurant facilities. Additionally, through franchise and licensing agreements, another 70,000 facilities are operated under their trademarks. In the aggregate, NCCR’s member companies and their franchises employ in excess of 2.8 million individuals. Although most of the nation’s chain restaurant companies offer health care benefits to their employees, these employers have become increasingly concerned with the skyrocketing costs of providing such coverage. In fact, many employers are already being forced to reevaluate whether they can continue to afford the proper health care insurance to their employees. The Kennedy-McCain bill’s imposition of liability on
health plans will exacerbate this problem even further by exposing employers to a number of new liability situations. As costs are driven ever upward, many employers will be forced out of the market, pushing even more working families into the ranks of the uninsured.

The Kennedy-McCain bill threatens to undermine the nation’s employer-sponsored health care system and to remove the only vehicle employers have to assure that their employees in the aggregate are not worse off as a result of passage of S. 1052. Your amendment to the Kennedy-McCain bill is the only way to prevent the nation’s employers from being forced to drop health insurance coverage for their employees. In addition to the immediate costs resulting from health plan liability under the Kennedy-McCain bill, many employers will have no choice but to drop such important employee benefits.

The Kennedy-McCain bill threatens to undermine the nation’s employer-sponsored health care system when companies are likely to be concerned that the ability to make decisions is the other side—turning the next employee. In other words, we could be sued for failing to make a decision. Our organization cannot expose the assets of the organization to that liability potential.

Our very small employee contribution. Employees share of the benefits will go up. The $50 per month family coverage will likely be increased to $200 per month. Co-pays and deductibles will also rise. Some coverage may have to be dropped altogether.

We have discussed this issue and other related matters related to this legislation with you. We are not alone in the impact this bill would have on our employees. I am aware that we have many self-insured, jointly trusteed union plans in our industry that have many members are concerned that the liability issues are the other side—turning the next employee. In other words, we could be sued for failing to make a decision. Our organization cannot expose the assets of the organization to that liability potential.

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That has been pointed to over and over again to say that employers cannot be sued. The problem is that on line 15, the bill goes on and says:

CIRCUMSTANCES IN WHICH AN EMPLOYER WILL NOT BE SUED.

Then the bill goes on for 7 1⁄2 pages of ifs, ands, and buts about when employers can be sued. They can be sued if they have “a connection with;” they can be sued if they “exercise control,” which is very interesting because under ERISA, which is the Federal statute that governs employee benefits provided by the employer, every employer is deemed to exercise control over every employee benefit.

The bottom line is, despite all the arguments to the contrary, in the bill before us, employers can be sued.

The Texas Legislature faced exactly the same dilemma, and they concluded that they wanted an absolute carve-out of employers. Why? Not that they believed employers were perfect; not that they believed every employer was responsible, but because they couldn’t figure out a way to get at potential employer misbehavior without creating massive loopholes which would produce a situation where employers, large and small, could be dragged into a courtroom and sued because they cared enough about their employees to help them buy health insurance.

The Texas Legislature decided you ought not be able to sue an employer.

Senator MCCAIN read a letter from the Texas Medical Association president, but he did not read the one paragraph in the letter that I was going to read. It is a very important paragraph. Let me explain why. Opponents of this amendment say: You ought to be able to sue employers if employers are making medical decisions. The point is, this bill—and the Texas law and every Patients’ Bill of Rights proposal made by Democrats and Republicans—has an external appeal process that a panel of physicians and specialists, totally independent of the health care plan and totally independent of the employer, that will exercise the final decisionmaking authority.

How would an employer call up this professional panel, independent of the health insurance company or the HMO, and in any way intervene? They couldn’t.

The line from the letter from the Texas Medical Association addresses exactly this point. It points out that the State couldn’t reach into ERISA. But another reason that it wasn’t necessary or advisable to try to sue employers was, from the letter:

[Additional information regarding utilization review]

And this is the review process—agents were making the decisions regarding appropriate medical treatment for employees of these self-funded plans. We contended that these state-licensed utilization review agents would be subject to the managed care accountability statute.

Which is the Texas law.

The same would be true under this bill. Under this bill, no employer can make a final decision. The final decision is made by this independent medical review.

So what is this all about? It all boils down to the following facts: If we leave this provision in the bill, which says employers can be sued and has 7 1⁄2 pages of ifs, ands, and buts about suing them, and then interestingly enough says you can’t sue doctors, you can’t sue hospitals, but you can sue employers in its conclusion, then what is going to happen is all over America businesses are going to call in their employees.

The example I used yesterday, and I will close with it today—is I am out of time?

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

Mr. GRAMM. Let me wrap up by saying, all over America, small businesses are going to call in their employees and say: I want to provide these benefits, but I cannot put my business at risk, which my father, my mother, my family have invested their hearts and souls in; therefore, I am going to have to cancel your health insurance.

I urge my colleagues to vote for this amendment.

I yield the floor.

Mr. KENNEDY. Madam President, I am prepared to yield back the minute on the Grassley motion. As I understand it, Senator GRASSLEY is going to yield back his time.

I ask for the yeas and nays on both the Grassley motion and the Gramm amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

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

The result was announced—yeas 39, nays 61, as follows:

[Rollecall Vote No. 196 Leg.]

YEAS—39

NAYS—61

The motion was rejected.

Mr. KENNEDY. I move to reconsider the vote.

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

The motion was agreed to.

AMENDMENT NO. 810

The PRESIDING OFFICER. Under the previous order, there will now be 6 minutes for closing debate, divided in the usual form, prior to a vote on or in relation to the Gramm amendment No. 810.

Who yields time?

Mr. KENNEDY. I understand there are 3 minutes to a side.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I yield myself a minute and a half and a minute and a half to the Senator from North Carolina.

Madam President, we have just finished the education legislation. In this legislation, we held students accountable, school districts accountable, teachers accountable, and children accountable. Now we are trying to hold the HMOs accountable if they override doctors, nurses and trained professionals regarding the care for injuries of individuals. That is the objective of this legislation.

However, if employers interfere with medical judgments, they ought to be held accountable as well. The Gramm amendment says: No way; even if an employer makes a judgment and decision that seriously harms or injures the patient, there is no way that employer could be held accountable.

We may not have the language right, but at least we are consistent with what the President of the United States has said. We may have differences with the President of the United States and we do on some provisions. However, the Gramm amendment is an extreme amendment that fails to protect the patients in this country and fails to provide that needed protection.

Mr. GRAMM. Madam President, I make a point of order that the Senate is not in order. Senator EDWARDS deserves to be heard.

The PRESIDING OFFICER. The Senate will be in order.
The Senator from North Carolina is recognized.

Mr. EDWARDS. Madam President, this is an issue on which we have consensus. The President of the United States said, "Only employers who retain responsibility for and make vital medical decisions should be subject to suit."

Our bill provides exactly as the President describes. As Senator KENNEDY has indicated, we have consensus not only with the President of the United States but in this body and in the House of Representatives based on the Norwood-Dingell bill which was voted on before. This is an issue about which there is consensus.

We are continuing to work. Senator SNOWE and others are leading that effort. We are working across party lines to get stronger physicians that are settlement language so that employers know that they are protected without completely leaving out the rights of the patients.

I urge my colleagues to vote against the Gramm amendment, which is outside the mainstream, outside our bill, outside our position, outside Norwood-Dingell, and outside what the President of the United States has said.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, throughout this debate, those who are in favor of this bill have said our bill is just like the Texas bill. Look at Texas. No employers have been sued, and there have been a minimum number of lawsuits. Yet when you look at this bill, it says employers can't be sued. Then it says they can be sued. And it has 7 1/2 pages of ifs, ands, and buts.

Are employers connected with the decision? Do they exercise control? ERISA says that in any employee benefit the employer is deemed to exercise control, which would mean that every employer in America is covered. The Texas legislature did not assume that every employer was perfect. They were worried about unintended consequences.

They also concluded that no employer can be the final decisionmaker because this bill, as in our bill, has an external review process that is run by independent physicians that are selected independently of the plan. They make the final decision, not an employer.

The Texas legislature decided what we should decide here; that is, if you get into ifs, ands, and buts, what is going to happen all over America is businesses are going to drop their insurance.

If we should pass the bill without this amendment in it, it is easy to envision that we could have a small business where the business owner calls in his employees and says, Look, we worked hard to provide good health benefits, but my father and my mother worked to build their business. I have worked. My wife has worked. We have invested our whole future in this business, and I do not continue to provide benefits when I might be sued.

Think about the unintended consequences. That is what the Texas legislature did. They concluded that employers should not be liable. They cannot make the final decision under this bill. They cannot make the final decision under Texas law because it is made by an external group of physicians. But when you make it possible to sue them, they are going to drop their health insurance, and you are going to have fancy reviews and stiff penalties, but people aren't going to have health insurance.

I urge my colleagues to look at Texas. If you want to take all the claims of the benefits of Texas, do it the way they have been. They created unintended consequences by letting employers be sued. They knew that employers could not make the final decision because they had external review, just as this bill and every other bill has. By doing an employer carve-out, they guaranteed that every small and large business in the State would know they cannot be sued.

The PRESIDING OFFICER (Mr. CORZINE). The question is on agreeing to amendment No. 810. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 43, nays 57, as follows:

[Roll Call Vote No. 197 Leg.]

YEAS—43

NAYs—57

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The quorum call will be rescinded.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, we were in the process of trying to propound a unanimous consent request, but all the parties are not here. We will do that at 2:15.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period of 30 minutes for the consideration of a pending matter of business for not to exceed 30 minutes with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Wisconsin is recognized to speak for up to 15 minutes.

COLORADO REPUBLICAN CASE

Mr. FEINGOLD. Mr. President, on April 2 of this year, the Senate voted overwhelmingly to pass the McCain-Feingold bill and ban soft money. Even before the roll was called on final passage and 59 Senators voted "aye," the Senate's foremost opponent of reform declared that he relished the opportunity to take a constitutional challenge to the bill. "You're looking at the plaintiff," the Senator from Kentucky announced.

Opponents of reform have consistently expressed confidence that the courts will strike down our efforts to clean up the campaign finance system. They regularly opine that the McCain-Feingold bill is unconstitutional, and, despite clear signs to the contrary in the Court's opinion last term in Nixon v. Shrink Missouri Government PAC, express great certainty that the Supreme Court will never allow our bill to take effect.

Well, in its decision yesterday morning in FEC v. Colorado Republican Federal Campaign Committee, the Court again dumped cold water on that certainty. The court held that the coordinated party spending limits now in the law—the so-called "44a(d) limits"—are constitutional. It ruled that the coordinated spending limits are justified as a way to prevent circumvention of the $1,000 per election limits on contributions to candidates that the Court upheld in the landmark Buckley v. Valeo decision in 1976. In my view, the
Congressional Record—Senate
June 26, 2001

decision makes it even more clear that the soft money ban in the McCain-Feingold bill will withstand a constitutional challenge.

The first thing to note about the Court’s ruling is that it reaffirms the distinction the Court has drawn between contributions and expenditures and the greater latitude that the Court has given Congress in the case of restraints on contributions. The Court noted that the law treats expenditures that are coordinated with candidates as contributions, and the Court has upheld contribution limits in previous cases with that understanding. It agreed with the FEC that spending by a party coordinated with a candidate is functionally equivalent to a contribution to the candidate, and that the right to make unlimited coordinated expenditures would open the door for donors to use contributions to the party to avoid the limits that apply to contributions to candidates.

The Court rejected the Colorado Republican Party’s argument that party spending is due special constitutional protection. Instead, the Court found that the parties are in the same position as other political actors who are subject to contribution limits. Those actors cannot coordinate their spending with candidates. The Court noted that under current law and the Court’s previous decision in the first Colorado case, the parties are better off than other political actors in that they can make independent expenditures and also make significant, but limited, coordinated expenditures. The limits on coordinated expenditures have not prevented the parties from organizing to elect candidates generating large sums of money to efficiently get out their message, the Court noted.

After determining that limits on party coordinated spending should be analyzed under the same standard as contributions limits on other political actors, the Court had little trouble in deciding that there was ample justification for those limits based on the need to avoid circumvention of the contribution limits in the federal election laws. It pointed to substantial evidence of circumvention already in the current system, and the near certainty that removing the 441a(d) limits would lead to additional circumvention. The Court held:

[There is good reason to expect that a party’s right of unlimited coordinated spending would attract increased contributions to parties to finance exactly that kind of spending. Coordinated expenditures of money donated to a party are tailor-made to undermine contribution limits. Therefore, the choice here is not, as in Buckley and Colorado I, between a limit on contributions and pure expenditures. The choice is between limiting contributions and limiting expenditures whose special value as expenditures is also the source of corruption. Congress is entitled to its choice.

So, Mr. President, I am pleased that the Court upheld Congress’s right to limit the coordinated spending of the parties. But even more than that, I am pleased that the Court looked at the constitutional issues in the case and the arguments of the parties. The Court’s analysis demonstrates an understanding of the real world of money and politics that gives me great confidence that it will uphold the soft money ban in the McCain-Feingold bill against an inevitable constitutional challenge.

As my partner and colleague, Senator McCain, pointed out to me prior to my taking the floor, of course this decision was about hard money; but if you really read it, it isn’t so much about hard money or soft money, it is just about money and the corrupting influence it has on our political process.

For example, the Court noted that “the money the parties spend comes from contributors with their own interests. And the Court recognized that those contributions are made to parties in an attempt to influence the actions of candidates. The Court said:

Parties are thus necessarily the instruments of some contributors whose object is not to support the party’s message to elect party candidates across the board, but rather to support a specific candidate for the sake of a position on one, narrow issue, or even to support any candidate who will be obliged to the contributors.

This is precisely the point that we who have fought so hard to ban soft money have been making for years. These contributions are designed to influence the federal officeholders who raise them for the parties, and ultimately, to influence legislation or executive policy. The Court shows that it understands this use of contributions to political parties when it states:

Parties thus purchase a function more complex than simply electing candidates; whether they like it or not, they act as agents for spending on behalf of those who seek to produce officeholders.

The Court also recognized that the party fundraising, even of limited hard money, provides opportunities for large donors to get special access to lawmakers. The Court states:

Even under present law substantial donations turn the parties into matchmakers whose special meetings and receptions give the donors the chance to get their points across to the candidates.

In a footnote, the Court notes evidence in the record of the Democratic Senatorial Campaign Committee establishing exclusive clubs for the most generous donors.

These special clubs and receptions are even more prevalent in the world of soft money fundraising. Both parties sell access to their elected officials for high dollar soft money contributions. This week a Republican fundraiser featuring the President and the Vice President is expected to raise over $20 million.

The corrupting influence of soft money, or at least the appearance of corruption created by the extraordinary sums raised by party leaders and federal officeholders and candidates, is an essential element of the constitutionality of a ban on soft money that those who support the McCain-Feingold bill would have made even if the Colorado II case had come out the other way. But the Court’s decision itself is solid support for another independent reason that the soft money ban is constitutional.

Corporations and unions are prohibited from contributing money in connection with federal elections. And individuals are subject to strict limits on their contributions to candidates and parties. The soft money loophole allows those limits to be evaded. This is not just a theoretical possibility, as in the Colorado case. There is a massive amount of soft money going on today, as there has been for over a decade. The evidence of this is overwhelming. Soft money is being raised by candidates for the parties, and it is being spent in a whole variety of ways to influence federal elections. In recent years, the parties have used soft money to run ads that are virtually indistinguishable from campaign ads run by the candidates. That is what is going on in the real world.

A soft money ban will end the circumvention of these crucial limits in the law, limits that date back to 1907 in the case of corporations, 1947 in the case of unions, and 1974 in the case of individuals. The Supreme Court’s decision yesterday tells us that Congress can constitutionally act to end that evasion.

The remaining question, of course, is whether we will do it. Our vote in this body on April 2 was the first step. When the House returns from the July 4th recess, it will take up campaign finance reform, and I am hopeful that it will act decisively to pass a bill that is largely similar to the McCain-Feingold bill. Then it will be up to the Senate to act quickly and send the bill to President Bush for his signature. We are getting close, Mr. President, to finally cleaning up the corrupt soft money decision. The Supreme Court’s decision yesterday, unexpected as it was to many in the Senate and in the legal community, is a major boost for our efforts. The Court has spoken. Now Congress must act.

I yield the remainder of the time under my control to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. I thank the Chair. Mr. President, I add my thanks and gratitude to my good friend from Wisconsin. He has been a leader on this issue of campaign finance reform for so many years. He started as a young boy, and it has taken most of his life. I think progress is being made from a most unlikely source. I applaud
the continued perseverance and commitment of the Senator.

**HIV/AIDS EPIDEMIC**

Mrs. CLINTON. Mr. President, we are in the midst of this very important debate about a Patients’ Bill of Rights. I am hopeful that before we break for the Fourth of July recess, the doctors, nurses, patients, and families of America will have the relief for which we have all waited for a very long time: making it clear doctors should be making decisions; that nurses, not bookkeepers, should be at our bedside; and that the Patients’ Bill of Rights will be a reality.

I rise today because we have to consider our broad needs for health care not only in our country but around the world. Today we made a few minutes to Patients’ Bill of Rights to make sure that Americans have access to the best health care in the entire world, there are millions of people around the world who do not have that opportunity or that right. As painfully obviously of those who are suffering from HIV/AIDS.

We should be supporting vigorously the United Nations General Assembly on Meeting the Global HIV/AIDS Challenge and urging them to consider creative tools, such as debt relief, in efforts to combat HIV/AIDS.

As the general assembly is meeting in special session in New York to try to come up with a strategic blueprint for fighting HIV/AIDS worldwide, it is imperative that we in America appreciate that this worldwide epidemic has nowhere near crested. Africa is ravaged. It has just begun to affect India, China, and Russia. This is an epidemic of historic proportions, and it needs a response that is only a logically appropriate.

Almost 60 million people worldwide have been affected by HIV/AIDS, and over 20 million men, women, and children have died. If current trends continue, 50 percent or more of all 15-year-olds in certain most severely affected countries will die of AIDS or AIDS-related illnesses.

We are in the middle of summer vacation. We have many families and young people visiting our Capitol. We are always so happy to have them here and for them to take a few minutes to see their Government in action, but it is just chilling to imagine American 15-year-olds facing bleak futures as orphans or victims because they were born to infected mothers.

Every American should be concerned with what is going on beyond our borders. We should also be concerned because when it comes to diseases today, there are no borders. People get on jet planes, people travel all over the world. There is no disease that is confined to any geographic area any longer. We have to recognize that for us to worry about the HIV/AIDS epidemic in Africa and Asia is not only the right thing to do, it is the smart thing to protect our children.

It is also important to recognize that the group of treatments that are keeping people with HIV/AIDS alive today are not available to those who suffer elsewhere. Less than 1 percent of HIV-infected Africans, for example, have access to life-extending antiretroviral medications. The challenges facing us are great, and we should work together to combat this global emergency.

I strongly support the formation of a global fund for infectious diseases such as AIDS, but also including tuberculosis and malaria. We are seeing tuberculosis and malaria in our own country. We are seeing the spread of malaria, which used to be confined to a tropical belt, beginning to move northward. With global warming and desertification, so the mosquitoes can travel further north and find hosts who traditionally have not suffered from malaria.

Tuberculosis is becoming epidemic in many parts of the world. In Russia, drug-resistant tuberculosis is a major killer.

I believe we should have a global fund to combat these infectious diseases, and I am very pleased the United States, private donors, and some other nations have taken steps to address the need for money as articulated by Secretary General Kofi Annan. We need between $7 billion to $10 billion annually. It is my hope that through a public-private partnership we are able to continue to invest in promoting prevention, treatment, and eventually a vaccine to prevent this devastating disease.

I am old enough to remember polio as a scourge in Africa as it is now. I can remember my mother not letting me go swimming in the local swimming pool because of polio. I remember as though it were yesterday when the announcement of a vaccine was made. What a sense of relief that spread through my house and all of our neighbors, and we all lined up to get that shot, we thought would protect us from what had been, up until then, such a serious, overhanging cloud in the lives of young people, as well as older people.

HIV/AIDS exacts a severe economic toll on nations worldwide. The disease spreads so rapidly. No one is immune from it. It has grave consequences for societies, and it threatens the interest of peace and prosperity around the world.

HIV/AIDS alone will reduce the gross domestic product of South Africa by $22 billion, or 17 percent, over the next decade. That is why I believe debt relief must also be part of any conversation about a broader global HIV/AIDS strategy.

While most African countries spend less than $10 per capita on health care, they spend up to five times that amount in debt service to foreign creditors. In fact, the burdens of debt repayment have come into direct conflict with public health efforts in some instances. For example, structural adjustment programs have sometimes required governments to charge user fees for visits to medical clinics, a practice that stands in the way of effective prevention and treatment programs. As discussions of global HIV/AIDS prevention proceeds, consideration should be given to the role of international debt relief in the overall plan to combat HIV/AIDS.

I have written to the U.N. General Assembly President Harri Holkeri to express my support for his efforts and to urge inclusion of debt relief strategies in any effort that comes out of the general assembly.

I also urge our own Government to look more closely at what we can do.

In the last administration, we forgave a lot of our bilateral debt for the poorest of the nations, but we should look at expanding beyond the circle of the poorest to the next poorest of the poor, and we should also look at our bilateral debt.

I am hoping I will find support on both sides of the aisle for a sense-of-the-Senate resolution I will be submitting to express the policy view that debt relief can and should be an important tool.

I have visited African countries. I have visited Asian countries. I have visited HIV/AIDS programs. I have been in places where 12-year-old girls who were sold into prostitution by their families have come home to die in northern Thailand.

I have been in programs in Uganda which have done probably the best job I know of in Africa in trying to spread the message about how to prevent HIV/AIDS. I have listened to the songs that were taken out into villages to tell villagers about this new disease that nobody really knows where it came from or how it arrived, but to warn people about its deadly consequences.

I was fortunate and privileged last year to participate in the United Nations discussion about AIDS, and I sat with AIDS orphans: A young boy from Uganda whose father and then mother died of AIDS, leaving him responsible for his younger brothers and sisters; a young boy from Harlem whose mother died of AIDS; a young boy from Thailand who was also orphaned by this terrible disease.

In some parts of Africa now, one will only find children, and most of them are orphans. The rate of infection ranges from 15 to 35 percent, and I am deeply concerned we are still in some parts of the world in a state of denial about HIV/AIDS.

Certainly, both India and China face tremendous challenges to educate their population about this disease and to avoid practices that might spread it. It
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Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. REID. Madam President, I ask unanimous consent that there be 45 minutes for debate with respect to the McCain amendment No. 812, which is pending, with the time equally divided and controlled in the usual form with no second-degree amendments in order thereon; that upon the use or yielding back of time the amendment be temporarily laid aside, and Senator Gregg or his designee be recognized to offer the next amendment as under a previous order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. REID. Madam President, I ask unanimous consent that the time during the quorum call be equally divided.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KENNEDY. Madam President, the cornerstone of an effective patient protection program is the right to timely, fair and independent review of disputed medical decisions. This amendment reaffirms a critical element of that right—the right to an independent appeal process that is not stacked against patients by giving the HMO the right to select the judge and jury.

This is a critical difference between our approach to that issue and the approach of the alternative legislation before the Senate. Under their bill, the HMO gets to select the independent appeals organization. Under our bill, neither the HMO nor the patient selects the appeals organization. Instead, it must be selected by a neutral and fair appeals process. This amendment puts the Senate on record as supporting that fair and impartial appeal process.

The approach of allowing one party to a dispute—in this case the HMO—to select the judge and jury is so inherently unfair that it has been rejected out of hand by virtually every expert who has considered the issue. It flies in the face of every principle and precedent founded on fair play.

We don’t allow it in our civil court procedures. We don’t allow it in our criminal procedures. Doesn’t a child with cancer whose HMO has overruled her doctor deserve at least the same basic fairness we provide for rapists and murderers?

The unfair approach of allowing one party to the dispute is not only alien to our court system, it is prohibited under the Federal Arbitration Act. It is unacceptable under the standards of the American Arbitration Association. It is rejected by the standards of the American Bar Association. Of the 39 States that have created independent review organizations, 33 do not allow it; neither should the Senate.

Do we understand, in the 39 States that have created independent review organizations, 33 do not allow the HMO to select and pay the independent reviewer; and neither should the Senate.

Under the fair external review approach we have in Medicare and in most States, the reviewer decides the plan is right about half the time and decides the patient is right about half the time. In the financial services industry, the industry gets to select the reviewer in disputes, and the industry wins 99.6 percent of the time. No wonder HMOs want that system: it makes a mockery of the whole idea of independent review. A vote for this amendment is a vote against making this bill a mockery of everything that a true Patients’ Bill of Rights should stand for.

And how ironic it is that the sponsors of the competing proposal are vociferous supporters of the President’s principle that we should preserve good State laws. But under this amendment, the 39 State external appeals systems currently in place would be wiped out. Do we understand? There is one provision in the two major pieces of legislation before us; that is, the McCain-Edward bill and the Breaux-Frist bill. In the Breaux-Frist bill, their appeals provision effectively preempts all of those 39 States. They have to follow what is in their legislation. As I pointed out, that is the process by which the HMO selects the independent reviewer. They
would be null and void, even where they provide greater consumer protections than the Federal standard. In all of these cases, the underlying proposal of the McCain-Edwards bill.

We have heard a lot of tragic examples of HMO abuse during the course of this debate and through the extensive discussions in the press over the last 5 years. We heard of children denied life-saving cancer treatment by their HMO. It is wrong to let that same HMO choose the judge and jury that could decide whether those children live or die. And our amendment says it is wrong.

We have heard of women with terminal breast and cervical cancer denied the opportunity to participate in clinical trials that could restore normal functioning. It is wrong to give the HMO that made that heartless decision the right to choose the judge and jury that could decide whether that woman has a real chance to live to see her children grow up or is guaranteed to be dead within 3 months.

We have heard of a young man whose HMO decided that it was cost-effective to amputate his injured hand instead of providing the surgery that could restore normal functioning. It is wrong to give the HMO that made that heartless decision the right to choose the judge and jury that could decide whether that young man goes through life with one hand or two.

We have heard of a policeman with a broken hip, whose HMO decided it was better to give him a wheelchair than to pay for the operation that would have restored his normal functioning. It is wrong to give the HMO that made that heartless decision the right to choose the judge and jury that could decide whether that man ever walks again.

Last week, in discussing the issue of access to specialty care, I mentioned what had happened to Carley Christie, a 9-year-old little girl who was diagnosed with Wilms Tumor, a rare and aggressive form of kidney cancer. Her family was frightened when they received the diagnosis, but they were relieved to learn that a facility close to their home in Woodside, CA, was world-renowned for its expertise and success in treating this type of cancer—the Lucille Packard Children’s Hospital at Stanford University.

The Christie family’s relief turned to shock when their HMO told them it would not cover Carley’s treatment by the children’s hospital. Instead, they insisted that the treatment be provided by a doctor in their network—an adult urologist with no experience in treating this rare and dangerous childhood cancer. The Christies managed to scrape together the $50,000 they needed to pay for the operation themselves—and today Carley is a cancer-free, healthy and happy teenager. If the Christies had been less tenacious or had the uninsured with the $50,000, there is a good chance that Carley would be dead today.

Under our opponents’ plan, the HMO that passed a possible death sentence on little Carley Christie would have the right to choose the judge and jury to determine whether that possible death sentence should be upheld. No family should have to go through what the Christie’s did.

The PRESIDING OFFICER. The Senator has used 7 minutes.

Mr. KENNEDY. I yield myself 5 more minutes, Madam President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. No HMO should be allowed to choose the right to life of a 9-year-old child. And that HMO should certainly not have the right to choose the external review organization to decide whether Carley should get the care she needed.

Another case that I find particularly shocking is that of Melissa Yazman, right here in Washington. In May, 1997, Melissa Yazman was a second year law student at American University, going to school full-time, living in suburban Virginia, working part-time for an attorney in D.C., and taking care of her two kids while her husband traveled with his job.

In the past 4 years, much has changed for Melissa. Her dreams of law school and a career in the working world are gone, and her new career is focused on healing and living every day to enjoy the time she has with her husband and her two sons—Ben who is 11, and Josh who is 8.

In the spring, in 1997, at the age of 36, she was diagnosed with stage IV pancreatic cancer at the age of 36. Pancreatic cancer is a fairly rare cancer, and, for the majority of patients like Melissa, diagnosis is not possible until the cancer is in an advanced stage.

Melissa was told that she had 3 to 6 months to live. There are no curative treatments for pancreatic cancer. For most pancreatic cancer patients clinical trials are their only hope.

Melissa was referred to a clinical trial at Georgetown University. Her insurer refused to cover the treatment. Melissa and her husband were forced to go through lengthy and time consuming negotiations with the insurer—negotiations that took her husband away from their children for 2 to 3 hours a day—negotiations that ultimately ended in failure. She and her husband ended up paying for these costs themselves because they ran out of time waiting for a decision from her insurer.

Because she and her husband had enough money in their savings account, they were able to pay for her routine costs—costs that her insurer should have covered and would cover for a patient not enrolled in a life-saving clinical trial.

Because of the therapy she received in a clinical trial, Melissa has been able to have 4 extra years with her family and with her young boys. Without the clinical trial, she would have had 3–6 months. Every patient with incurable cancer hopes for enrollment in a clinical trial that can save or extend their life. No patient should have their hopes dashed because their insurer simply says no. And no patient like Melissa should have their right to a fair, impartial appeal voided because the HMO that said “no” gets to choose the organization that will decide the case.

For cancer patients, for women, for children—indeed, for every patient whose HMO denies critically needed care—the right to a speedy, fair, impartial appeal should be a fundamental right. This amendment will put the Senate on record as saying that this appeal should truly be fair and impartial, that it will not load the dice and stack the deck against patients. Every Senator knows that this amendment represents simple justice, and I urge every Senator to vote for what they know to be right.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. STABENOW. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded. How much time is on both sides?

The PRESIDING OFFICER. There is no time remaining on the opponents' side, and there are 14 minutes 44 seconds on the opponents' side.

Mr. REID. I see nobody here of the opponents. If they require more time, I will be happy to give them whatever time I may use here. I ask unanimous consent that I be allowed to speak, and if the opponents of this sense-of-the-Senate amendment desire more time, they can have whatever time I use.

Ms. STABENOW. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.
The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. The Senator from New Hampshire heard that request?

Mr. GREGG. No.

Mr. REID. We have no more time left. You have 14 minutes. I said I would like to speak. If you want more time, whatever time I use, you can have that in addition to the 14 minutes.

Mr. GREGG. I am not aware of any speakers. We are waiting for people to return from the White House before we get really started.

Mr. REID. I want to direct a question to the Senator from Massachusetts. I say to my friend from Massachusetts, we heard a lot of talk about how this legislation has an adverse effect upon the business community. Has the Senator or her constituents?

Mr. KENNEDY. Yes, certainly have.

Mr. REID. I received an e-mail from Michael Marcum of Reno, NV. Here is what he said. I would like the Senator to comment on this communication I received from my constituents:

DEAR SENATOR REID, as a small business owner, and as a citizen I urge you to support the pending bill commonly known as the “Patients’ Bill of Rights.” I also would like to state that I support your and Senator McCain’s version of the bill. If the HMO’s can afford to spend millions on lobbyists and advertisements then they can afford to do their job correctly preventing the lawsuits in the first place . . .

I am willing to pay to know that what I am purchasing from my HMO will be delivered, not withheld until someone is dead then approved post mortem (AKA a day late and a dollar short). While a believer in the market and freedom, I feel that we need a better national approach to health care. As the richest nation in the world, as the only real super-power, why do so many Americans get third world levels of health care, even when they have health insurance?

Thank you for your time—Michael Marcum (Reno, NV).

Will the Senator acknowledge that Michael Marcum is one of the hundreds of thousands of small business people who do not have the money to run these fancy ads; that their only way of communicating with you and me is through e-mails and communicating through the standard means, not through these multimillion-dollar advertising campaigns?

Mr. KENNEDY. I thank the Senator for bringing two matters to the attention of the membership. One is the example the Senator referred to, and the other point is the fact we have heard so much during the course of the debate that if these protections are put in place, it is going to mean millions of insured individuals as a result of this legislation will become uninsured.

Yet it is apparent, as the Senator has pointed out, that the HMOs have millions of dollars to spend on these advertisements—millions of dollars that ought to be spent on either lowering premiums or giving patients the protections they need. Evidently, it is an open wallet for the HMOs because they have been on the national airways and have been distorting and misrepresenting the legislation, as the Senator has just pointed out, distorting what its impact would be on average families in this country.

I am wondering if the Senator is familiar with the Texas Medical Association letter we just received. It confirms that the Texas law mirrors the letter and spirit of the McCain-Edward-Kennedy bill. This is from the Texas Medical Association. They point out that the Texas Medical Association and President Bush agree that any entity making health care decisions should be held accountable for those decisions. This is not only the position of the Texas Medical Association but is exactly what President Bush called for in a Patients’ Bill of Rights.

We received a letter earlier today. The Texas Medical Association believes it is consistent with the intent of the Texas law to hold any entity, whether employer or insurer, accountable if they make a medical decision that harms a patient or results in death. We uphold that today.

The Texas law was never designed to exempt from accountability businesses that made harmful medical decisions.

It was suggested earlier the Senator remembers that it would be, rather, a clarification that the liability provisions did not apply to small- and medium-sized businesses that purchased traditional insurance.

That is interesting to hear because we heard a great deal earlier about where the legislation was. This is a clarification.

The Senator is pointing out we spent a good deal of time trying to catch up with the distortions and misrepresentations, but as the Senator from Nevada knows, what this is really about is doctors and nurses making decisions on health care for their patients and not having them overridden by the HMOs or by employers who put themselves in the place of HMOs.

That is what this legislation is about: letting our doctors and nurses practice their best in medicine. We have so many well-trained medical professionals. They are highly motivated, highly committed, and highly dedicated. What is happening in too many places, as the Senator has pointed out in this debate, too many times those medical decisions are being overruled and overturned by the HMOs, and that is plain wrong. That is what this battle is about. I thank the Senator for his comment.

Mr. REID. I say to my friend from Massachusetts, yes, I am familiar with the letter from the President of the Texas State Medical Association. I believe that is his title.

Mr. KENNEDY. That is correct.

Mr. REID. I heard Senator McCaIN read the letter word for word. I was so impressed because what has happened to the past few years is that doctors, who in the past have been totally non-political, have been drawn into the political field because they are losing their practices, they are losing their ability to practice medicine, their ability to take care of patients they were trained to take care of. They have come into the political field and have joined together with the American Medical Association—all the different specialists and subspecialists—they have joined together saying: We as physicians of America need some help.

If you want us to be the people who make a judgment about how you, the sick wife, husband, mother, father, neighbor, then we need to have the ability to treat patients and give them the medicine they need.

The Senator from Massachusetts joined part of this letter. Senator McCaIN read the full text of the letter earlier today. It confirms this legislation is not being driven by a small group of fanatics but, rather, by the entire medical community. When I say “medical community,” it is more than just doctors. It includes nurses. It includes all the people who help render care to patients.

I say to my friend from Massachusetts, I commend him, Senator McCAIN, and Senator Edwards for their diligence in doing something the American people need. We all have had the experience of having sick people in our families and seeing if care can be rendered. We know how important a physician is. When I loved one of mine is sick, I want the doctor to have unfettered discretion to do whatever that doctor, he or she, believes is best for my loved one. That is what this Patients’ Bill of Rights is all about. When a doctor takes care of a patient, let the doctor take care of the patient.

Mr. KENNEDY. I thank the Senator. He has summarized the purpose of this legislation. As the Senator knows now, we are ensuring there will be remedies for those patients if the HMO is going to make a judgment and overturn that medical decision with internal and external appeals.

Now the matter before the Senate is to make sure that appeal is truly independent and not controlled by the HMO, not paid for by the HMO. As I mentioned earlier in my presentation, 33 States at the present time do not permit the HMOs to make the determination and select the independent reviewer. That is our position. That is in the McCain amendment. We do not want to have an appeals provision that is rigged in favor of the HMO that may be making the wrong decision with regard to the patient’s health in the first
place and then be able to select the judge and jury to get it to reaffirm an earlier decision which is clearly not in the interest of both sides equally.

Mr. REID. I say to my friend from Massachusetts, the manager of this bill, before I came to Congress, I was a judge in the Nevada State Athletic Commission for prize fights. As the Senator from Nevada, Nevada is the prize fight capital of the world. One thing they would not let the fighters do is pick the judges. They thought it would be best if some independent body selected the judges to determine who was going to sit in judgment of those two fighters.

It is the same thing we have here. We simply do not want the participants picking who is going to make the decision. That should be made by an unbiased group of people who have nothing to gain or lose by the decision they make.

This is very simple. This sense-of-the Senate resolution says that if there are going to be people making a decision, they should be unbiased. They should be people who have nothing in the outcome of the case. Is that fair?

Mr. KENNEDY. I agree. Senator, as you may know, the language in the alternative legislation not only permits the HMO to select the reviewer and to pay that, but also it preempts all the other States that have set up their own independent review, and 33 of the 39 that have set up their reviews have chosen a different way from this process, a truly independent review. They would effectively be usurped or wiped off the books.

We hear a great deal about State rights and not all wisdom is in Washington. This is a clear preemption of all of the existing State appeal provisions. It is a way that permits the HMO to be the judge and jury. That is why the McCain amendment—which says there will be an independent selection of review, and we will not preempt the States—makes a good deal of sense.

Mr. REID. If I could refer a question to the Senator from New Hampshire, our time under the agreement is just about out. Are you arriving at a point where you might offer the other amendment?

Mr. GREGG. I hoped we would be. Some of the Senators involved in that amendment are at the White House, so we are waiting for them to return. When they return, we will be ready to proceed.

Mr. REID. I have been told they probably won't return until about 3:30.

Mr. GREGG. I suggest we divide the time between now and 3:30 between the two sides equally.

Mr. KENNEDY. I don't know at this time of the other amendments on this side. We are making good progress dealing with this legislation. We are eager to address these other matters. There are continued conversations on some of the issues. We certainly welcome ideas that can protect the patients. Looking at this realistically we now have several Members of the Senate to address the Senate and have spoken to me several times that they would like to make comments about the legislation. We can use the time productively, but we indicate we are ready to deal with the amendments and we look forward to receiving them. We want to continue business.

We thank the Senator from New Hampshire for his cooperation. I will notify my colleagues who might want to speak.

Mr. REID. We have no objection to the request of the Senator from New Hampshire.

Mr. GREGG. I ask that the time between now and 3:30 be equally divided between myself and Senator KENNEDY, and any quorum calls be divided between each side.

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

Mr. REID. Mr. President, I have been reading into the RECORD names of organizations supporting this legislation, hundreds of names. I begin with the D’s:

Daniel, Inc.; Denver Children’s Home; DelPhelchin Children’s Center in TX; Developmental Disabilities; Digestive Disease National Coalition; Dystonia Medical Research Foundation; Easter Seals; Edgar County Foundation; Facing Our Risk of Cancer Empowerment; Families First, Inc.; Families USA; Family and Children’s Center Counsel; Family & Children’s Center in WI; Family & Counseling Service of Allentown, PA; Family Advocacy Services of Baltimore; Family and Child Services of Washington; Family and Children’s Service in VA; Family and Children Services of San Jose; Family and Children’s Services in Tulsa, OK; Family and Children’s Agency Inc.; Family and Children’s Association of Mineola, NY; Family and Children’s Center of Mishawaka; Family and Children’s Counseling of Louisville, KY; Family and Children’s Counseling of Indianapolis; Family and Children’s Service of Minneapolis, MN; Family and Children’s Service in TN; Family and Children’s Service of Harrisburg, PA; Family and Children’s Service of Niagara Falls, NY; Family and Children’s Services in Elizabeth, NJ; Family and Children’s Services of Central, NJ; Family and Children’s Services of Chattanooga, Inc. in TN; Family and Children’s Services of Fort Wayne; Family and Children’s Services of Indiana; Family and Community Service of West Palm Beach; Family and Children’s Services of Hackensack, NJ; Family and Youth Counseling Agency of Lake Charles, LA; Family Centers, Inc.; Family Counseling Services of Cleveland, OH; Family Counseling & Shelter Service in Monroe, MI; Family Counseling Agency; Family Counseling and Children’s and Children’s Services, Family Counseling Center of Central Georgia, Inc.; Family Counseling Center of Sarasota; Family Counseling of Greater New Haven; Family Counseling Service in Texas; Family Counseling Services of Greater Michigan; Family Counseling Service of Lexington; Family Counseling Service of Northern Nevada; Family Counseling Service, Inc.; Family Guidance Center in Hickory, NC; Family Guidance Center of Alabama; Family Resources, Inc.; Family Service Agency of Arizona; Family Service Agency of Arkansas; Family Service Agency of Clark and Campbell counties in OH; Family Service Agency of Davie in CA; Family Service Agency of Genesse, MI; Family Service Agency of Monterey in CA; Family Service Agency of San Bernardino in CA; Family Service Agency of San Mateo in CA; Family Service Agency of Santa Barbara in CA; Family Service Agency of Santa Cruz in CA; Family Service Agency of Youngstown, OH; Family Service and Children’s Alliance of Jackson, MI; Family Service Association Greater Boston; Family Service Association in Egg Harbor, NJ; Family Service Association of Beloit, WI; Family Service Association of Bucks County in PA; Family Service Association of Central Indiana; Family Service Association of Dayton, OH; Family Service Association of Greater Tampa; Family Service Association of Roanoke County, Inc. Family Service Association of New Jersey; Family Service Association of San Antonio, TX; Family Service Association of Wake County in NC; Family Service Association of Wabash Valley, IN; Family Service Association of Waukesha County in WI; Family Service Council of California; Family Service Council of Ohio; Family Service in Lancaster, PA; Family Service in Lincoln, NE; Family Service in Omaha, NE; Family Service in WI; Family Service Inc. in St. Paul, MN; Family Service of Burlington County in Mount Holly, NJ; Family Service of Caterina Private Bill, Inc.; Family Service of Chester County in PA; Family Service of El Paso, TX; Family Service of Gaston County in Gastonia, NC; Family Service of Greater Bakersfield in CA; Family Service of Greater Boston; Family Service of Greater New Orleans; Family Service of Lackawanna County, in PA; Family Service of Morris County in Morristown, NJ; Family Service of Norfolk County; Family Service of Northwest, OH; Family Service of Racine, WI; Family Service of Roanoke Valley in VA; Family Service of the Cincinnati; OH; Family Service of Piedmont in High Point, NC; Family Service of Waukesha County, WI; Family Service of Westchester, NY; Family Service of York in PA; Family Service of Spokane in WA; Family Service, Inc. in SD; Family Service, Inc. in TX; Family Service, Inc. of Detroit, MI; Family Service, Inc. of Lawrence, MA; Family Service Association, Inc. in Elkhart, MD; Family Service Centers; Family Service in Canton, OH; Family Service of Cedar Rapids; Family Service of Central Massachusetts; Family Service of Charlotte, NC; Family Service of Lexington, NC; Family Service of Delaware Councils; Family Service of Elkhart County; Family Service of King County in WA; Family Service Association, Inc. in Elkhart, MD; Family Service of Muncie, IN; Family Service of Northeast Wisconsin; Family Service of Northwestern in Erie, PA; Family Service of Southeast Texas; Family Service of Summit County; Family Service of the Lower Cape Fear in NC; Family Service of the Mid-South in TN.
Family Service of Tidewater, Inc. in VA; Family Service of PA; Family Serv- ices Woodfield; Family Services, Inc. in SC; Family Services, Inc. of Lafayette; Family Services, Inc. of Winston-Salem, NC; Family Solution, Inc. of Cary; Family Services of Ft. Worth; Family Support Services of Texas; Family Tree Information, Education & Counseling in LA; Family Violence Prevention Fund; Family Means in Stillwater, Minnesota; Psychological & Cognitive Sciences; Federation of Families for Children's Mental Health; FEI Behavioral Health in WI; Florida Families; Friends Committee on National Legislation.

Mr. President, this is a partial list of the hundreds of names of organizations that support this legislation. This is the fourth day that I have read into the RECORd names of hundreds of organizations supporting this legislation. This list was prepared for me more than a week ago. It has grown since.

When I finish this list, I hope we will have completed this legislation. But if we haven’t, I will come back and read the new names.

This is legislation that is supported by virtually every organization in America. It is opposed by one umbrella group—the HMOs. They are the ones paying for these ads. They are the ones that are running the advertisements in newspapers and television and now even radio ads. The reason being that they do not want their members, their clients, and their patients to be able to stop. When I have my income tax done, every year I have an accountant do that. When myself or a member of my family needs to be taken care of, I don’t want an accountant doing that. I want a doctor to do that.

That is what this legislation is all about. I am so happy that we have a bipartisan group that the HMOs are not going to be able to stop.

We are going to pass this legislation, send it over to the House, the conference committee will meet, and we will send a bill to the President that he will sign.

I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Minnesota is recognized.

Mr. DAYTON. Thank you, Mr. President.

Mr. President, I rise today in support of S. 1052, the McCain-Kennedy-Edwards Patients’ Bill of Rights legisla- tion. Minnesota, my home State, has one of the largest concentrations of HMO providers in the country. In fact, 90 percent of Minnesotans who are cov- ered by their employers also receive their health care services through HMOs. Also, historically, the HMO concept originated in Minnesota by a Min- nesota physician who has now re- nounced what HMOs have become.

Originally, HMOs were going to herald in a new age of health care, with greater emphasis on prevention, on pri- mary care, more efficient referrals, co-ordinated and integrated medical care, all leading to a better quality of medical services for patients at lower over- all costs to our health care system.

Integral also to their arguments was their conceit that the private sector ai- costs it better than the public sec- tor, that the large public health sys- tems of Medicare and Medicaid, and other public reimbursement programs, were largely the ones to blame for these skyrocketing health costs, and that private-sector and insur- ance companies could manage health care dollars so much better than Gov- ernment and provide better quality for less quantity of dollars.

However, once they got into the pro- fession, they found that it was not quite that easy, that quality care costs money. There is always some con artist in this country who claims we can have something for nothing, or at least for less. But the reality is, quality health care costs money. Well-quali- fied, highly trained, life-saving doc- tors, nurses, and attendants deserve to be well paid; and that costs money. Ad- vanced lifesaving diagnostic equipment costs money. State-of-the-art, well- staffed hospitals and clinics cost money. And providing enough of all of the above, to take care of all the pa- tients across this Nation, costs money, more money than most of these health care delivery or insurance systems wanted to spend.

So HMOs became what I call them “HNOs”: The way to save money be- came to say no; deny care; deny treat- ments; deny claims. Health care pro- viders became health care deniers. As these HMOs became larger and larger, business operations—whether for-profit or nonprofit—their “no” bureaucracies became bigger and more important. Stalemate in negotiations, retained earnings all became dependent on their ability to grow and to say no, deny patient care to produce profits at cost savings, to grow to produce even more profits.

The PRESIDING OFFICER. The time of the majority has expired.

Under a previous agreement, the time until 3:30 was to be equally di- vided between the majority and minor- ity. The time of the minority has ex- pired.

Mr. GREGG. Mr. President, how much time does the Senator think he needs to make his statement?

Mr. DAYTON. I say to the Senator from New Hampshire, another 10 min- utes. But I will return to speak another time.

Mr. GREGG. No. We have no speakers at this time. I am happy to yield 10 minutes to the Senator from Min- nesota. And I ask unanimous consent for five minutes to be added to our time.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to ob- ject.

The PRESIDING OFFICER. The Sen- ator from West Virginia.

Mr. BYRD. I wonder if I might be able to have the floor to speak.

Mr. GREGG. What amount of time does the Senator from West Virginia need?

Mr. BYRD. Thirty minutes.

Mr. GREGG. I have no problem with that on my side, as long as our side will receive an equal amount.

So that would be 40 minutes; 10 min- utes to Senator from Minnesota, 30 minutes to the Senator from West Vir- ginia; and then 40 additional minutes to be added to our side’s time. And the Senator from West Virginia be recog- nized after the Senator from Min- nesota.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Minnesota.

Mr. DAYTON. I would be happy to yield the floor to the Senator from West Virginia.

The PRESIDING OFFICER. Does the Senator from Minnesota wish to con- clude his remarks?

Mr. DAYTON. I yield to the Senator from West Virginia.

The PRESIDING OFFICER. The Sen- ator from West Virginia is recognized for up to 30 minutes.

Mr. BYRD. Mr. President, I thank both Senators.

(The remarks of Mr. BYRD are located in today’s RECORD under “Morning Business.”)

Mr. DAYTON. Mr. President, I thank the great Senator from West Virginia for his erudite discourse on the trade agreement which gives me remarks as I shall present them to my constituents in Minnesota. I thank the distin- guished Senator.

Mr. BYRD. Mr. President, I thank my colleague. I thank him very much.

Mr. DAYTON. Mr. President, to con- tinue where I left off, a great American once said that a house divided against itself cannot stand. Our Nation’s health care providers unfortunately are fundamentally divided against them- selves. Their avowed purposes are to provide health care to their members, their clients, and their patients. Yet their financial success depends increas- ingly on not providing health care to their members, their clients, and their patients, and their members, clients, and patients are increasingly the vic- tims of their own health care pro- viders.
Why do we even need a Patients’ Bill of Rights to protect us from our own health care providers? The fact we even need this legislation, the fact we are debating it in the Senate today, says how badly our Nation’s health care system has deteriorated. A Patients’ Bill of Rights, even if necessary, should consist of two words: Doctors decide. Doctors decide what diagnostic procedures, what treatments, what surgeries, hospitalizations, and rehabilitation therapies are needed. The health care providers provide them, and the insurer pays for them. It is that simple. It is that sensible. It is that lawsuit-free.

Our distance from it today is a measure of our social insanity. It is the measure of our health care idiocy. But that is where we are today.

There is a story that reports stories these days, trash talking. There is a lot of trash being talked about this legislation: It will explode the costs of health care; it is going to cost employees their health care coverage; it will drive businesses out of bankruptcy. Those are the same smears and scare tactics that were used against Social Security, against Medicare, against workers’ compensation, against unemployment compensation, and against family leave. Is there anything that is good for the American people that is not bad for American business?

I don’t entirely blame them, because those business men and women have been talked trash to, as well, by their partners in these health care enterprises. Many businesses across this country are bedeviled by increasing costs of their health care. They want to do the right thing for their employees, but they are not in the business of administering health care plans. I am sympathetic to this. But I say to those big leaders, if you want to get out of the business of providing health care coverage for your employees, then you need to actively support a better alternative, a separate system of true national health care which is devoted to providing care, not to avoiding costs.

Last Saturday in Minnesota, along with my distinguished colleague from Minnesota, Senator WELSTON, and our majority leader, Senator DASCHELLE, we heard from several families who expressed their support for their legislation and the critical need for it from their life experiences. There was a father who spoke eloquently and powerfully about his 4-year-old daughter named Hope. Hope was born with spina bifida. As part of her treatment, six doctors—six physicians—including one at the Mayo Clinic, prescribed certain physical therapy treatments for her. Yet her HMO was unwilling to provide or pay for those prescribed treatments. It took 8 months of banging their heads against this bureaucratic wall, paying for the treatments that they could afford out of their own pockets, forgoing other treatments that they knew were in the best interests of her young life, until they finally were able to break through the red tape and get needed

A mother spoke of her 21-year-old daughter who died of an eating disorder. As she so powerfully stated last Saturday in St. Paul, MN, young people aren’t supposed to die of eating disorders. But her insurance company refused to pay for the necessary evaluation of her daughter’s illness, it refused to refer her to a specialist who might have made the correct diagnosis, and that young woman is dead today. Her life has been snuffed out, taken away from her family. Her mother set up a foundation just for this purpose, to advocate for the care that should be provided for anyone else in that situation. What a horrible way for a parent to be pulled into their own daughter unnecessarily to a disease, an illness that should not have been fatal except for the lack of proper medical care, medical care that was available in our country and was not made available to her by her insurer.

Finally, we heard from the wife of a husband and father of five children, a healthy, active, middle-aged man who suddenly, over the course of just a few months, was caught with some debilitating disease and confined to a wheelchair. For 8 months she and her husband tried to get their primary physician at an HMO to make a diagnosis that could lead to successful treatment. For 8 months this primary physician at the HMO was unable to make the diagnosis and refused to refer this man to a specialist elsewhere for that evaluation. He finally said to this patient, father of five, devoted husband: “Maybe there is something you need to confess.” Can you believe the absurdity of that? “Maybe there is something you need to confess”—as though there were some religious curse. This was a primary physician at an HMO. They could not escape the vice, the trap of that bureaucracy.

Finally, on their own initiative, the wife was so desperate, they decided to risk their entire life savings and drove to the Mayo Clinic in Rochester, world renowned clinic, and signed papers saying they would pay personally for the costs of whatever treatments were necessary. The physician there made a diagnosis of a viral disease, an invasive disease, prescribed the necessary treatments, medications, and this man is now at least partially recovered. He tires easily and cannot stand for extended periods of time but is out of a wheelchair and hopefully back to a full recovery. It cost this family $25,000.00 out of their own pocket to get the medical care that the HMO refused to provide. The care they finally agreed to pay 80 percent of that cost.

This legislation is about lawsuits, it is about lives. It is not about trial lawyers but people, patients, mothers, fathers, children. I am not interested in lawsuits. I hope there is never a lawsuit as a result of this legislation because that would mean there would never be the need for them. It would mean all Americans were receiving the health care they need, the health care they deserve, the health care for which they paid.

I strongly urge this legislation, and I strongly urge my colleagues to support this as well.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection?

Mr. KENNEDY. Mr. President, we encourage and invite colleagues who have amendments to come to the floor. Having talked with Senator GREEGG and others, I anticipate we will have an active debate on the issue of medical necessity. That is an issue which is of very considerable importance in the legislation. It was the subject of a good deal of debate the last time we debated this legislation. It was the subject of a good deal of debate when we were in the conference. It was actually one of the few issues that were resolved in the conference.

At this time, we have language in the McCain-Edwards legislation, of which I am a cosponsor, as well as in the Breaux-Frist measure, which is virtually identical. There are some small differences in there, but they are effectively very much the same. There will be an amendment to alter and change that. I will take a few moments now to speak about the importance of what we have done with the underlying legislation, and hopefully the importance of the Senate supporting the construct we have achieved.

It is my anticipation that the amendment will probably be offered at about 5 o’clock this evening. We will have debate through the evening on that measure. Hopefully, we will have a chance to address it. There are several other amendments dealing with the issue of the scope of the legislation, as well as on liability. I understand we may very well have the first amendments on liability a little later this evening as well.

This issue on medical necessity is of very considerable importance. I want to outline where we are and the reasons for it for just a few minutes.

The legislation before the Senate closes the door against one of the most serious abuses of the HMOs and other insurance plans, and the ability of a patient to use an unfair, arbitrary, and biased definition of medical necessity to deny patients the care their doctor recommends.

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My concern is that the amendment we are going to see before the Senate is going to take a different approach. We closed it with McCaин-Edward and also with the Breaux-Frist measure. The issue before us is as clear as it was when we started the debate 5 years ago; that is, who is going to make the critical medical decisions—the doctors, the patients, or HMOs? The Senate voted for that approach. I still think it is the right approach. But we heard complaint after complaint from the other side that putting a definition into law would be a straightjacket for health plans, it would prevent them from keeping pace with medical progress, and so on.

So Congressmen John Dingell and Charlie Norwood changed that provision. They removed the definition of medical necessity from the law. Instead, they said, let the plans choose the definition that works best for them. But if a dispute went to an independent medical review, the reviewers would need to consider that definition. But they would not be bound by it in cases involving medical necessity; that is, they would be able to use in the review their own judgment in terms of the medical necessity. They would make the decision based on the kind of factors all of us would want for ourselves and our families—the medical condition of the patient, and the valid, relevant, and competent evidence, including peer-reviewed medical literature, or findings, including expert opinion.

Mr. GREGG. Mr. President, will the Senate yield for a question? Mr. KENNEDY. Yes.

Mr. GREGG. I understand the Senator's time has expired. I ask unanimous consent that whatever time the Senator consumes, an equal amount of time be added to our time.

The PRESIDENT. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, at the time of these appeals, they would make the decision based on the kinds of factors all of us would want for ourselves and our families—the medical condition of the patient, and the valid, relevant, and competent evidence, including peer-reviewed medical literature, or findings, including expert opinion.

Those factors essentially say that the independent medical reviewer should strive to make the same recommendation that the best doctor in the country for that particular condition should make. It is a fair standard. It is a standard all of us hope our health plans do their job well. The Senate should understand that this was not only a bipartisan compromise between Congressmen John Dingell and Charlie Norwood, it was a compromise on which every member of our conference signed off in the last Congress, from Don Nickles and Phil Gramm to John Dingell and myself. In fact, this concept of letting the external reviewer consider but not be bound by the HMO's definition of medical necessity is also included in the Frist-Breaux bill endorsed by the President. On this issue, the legislation before the Senate is clearly the middle ground. It is the fair compromise. But my concern is that the amendment we will face will tilt us away from that compromise, away from the HMO's...

Now the authors of this amendment claim that they have just provided a safe harbor for HMOs that want to be able to maintain a fair definition of medical necessity throughout the entire process. But our list of the factors that must guide the external reviewers' decision is already consistent with every fair definition of medical necessity. The fact is that this amendment may create a safe harbor for HMOs, but it tosses patients over the side into the storm-tossed seas. It would allow HMOs to adopt some of the most abusive definitions ever conceived. It ties the hands of the independent medical reviewers. It puts HMO bureaucrats in the driver's seat—and kicks patients and doctors all the way out of the automobile and is not in the interest of the patient.

Our concern is that the amendment we anticipate will be offered will say that HMOs can define medical necessity as they please, and that the patients are out of luck. There is nothing to appeal, because the plan's definition of "medical necessity" controls what the external reviewers can decide.

Another plan uses different words to reach the same result. It says, medical necessity is "Any service or supply for the prevention, diagnosis or treatment that is (1) consistent with illness, injury or condition of the member; (2) in accordance with the approved and generally accepted medical or surgical practice prevailing in the locality where, and at the time when, the service or supply is ordered." Doesn't sound so bad so far, but here is the kicker. "Determination of 'generally accepted practice' is at the discretion of the Medical Director or the Medical Director's designee." In other words, what is medically necessary is what the HMO says is medically necessary.

Among those who have been most victimized by unfair definitions of medical necessity are the disabled. Definitions that are particularly harmful to them are those that allow treatment only to restore normal functioning or improve functioning, not
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Mr. KERRY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. THOMAS. Mr. President, we have some time to speak on the bill on this side; is that correct?

The PRESIDING OFFICER. The minority controls the next 41 1/2 minutes.

Mr. THOMAS. I thank the Chair.

Mr. President, we have been on this bill now, it seems, for a very long time. It is very important, and indeed we should be on it. On the other hand, we also ought to be making some progress. It appears we are not. We hear all this talk about how we can get together, let’s put it together, and we can agree. But I see nothing of that nature happening. It seems to me we continue to hear the same old things going on. I hear a recitation of a great many people who are opposed to the bill listed off name by name. I suppose we can do that for the rest of the day.

Here is a list of people opposed to the Kennedy bill. There are over 100 names of businesses and organizations. I could do that, but I don’t know that there is great merit in doing that. We have talked about what we are for, and I think, indeed, we Republicans have certain principles, and we have talked about that: Medical decisions should be made by doctors; patients’ rights legislation should make coverage more accessible, not less; coverage disputes should be settled quickly, without resort to excessive and protracted litigation. That is where we have been and what we think, indeed, we Republicans have certain merit in doing that. We have talked about how we can get together, let’s put it together, and we can agree. But I don’t see any evidence of that.

It seems to me if we are going to do that, we ought to do it. Instead, it seems we are in this kind of bait and switch sort of thing that we hear. I think the McCain-Edwards-Kennedy bill, as described by the sponsors, is a far cry from what is written. How many times have we been through that? The sponsors promise it would shield employers from lawsuits, that it would uphold the sanctity of employer health care contracts, and require going through appeals before going to

Mr. KERRY. Mr. President, I ask unanimous consent I be permitted to speak in morning business on the time of the Republicans.

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

Mr. KERRY. Let me begin by thanking my colleague, the senior Senator from Massachusetts, for his extraordinary leadership on this critical issue for our country with respect to the Patients’ Bill of Rights. That is without any question the most important business before the country and the most important business before the Senate. I will return to the floor of the Senate either later today or tomorrow to share some thoughts with respect to that.

(The remarks of Mr. KERRY are located in today’s RECORD under “Morning Business.”)
One of the sponsors says: We actually specifically protect employers; employers cannot be sued under the bill. Yet you find in the bill itself exclusions of employers and other plan sponsors, and it again goes into causes of action. And then, unfortunately, the next provision says certain causes of action are permitted and then it goes forward with how in fact they can be sued. They say, first of all, we specifically protect employers from lawsuits. Then it says in the bill that certain causes of action are permitted to sue them.

So we don’t seem to be making progress and meeting the kinds of agreements we have talked about. What we simply do is continue to get this back and forth on the one hand, which is endless, and it isn’t the same as what is in the bill. I don’t know how long we can continue to do that.

I am hopeful we can come to some agreement. I think people would like to have a Patients’ Bill of Rights that ensures that what is in the contract is provided for the patient. I think we can indeed do some of those things. However, I have to say it seems to me if we intend to do it, we need to get a little more dedicated to the proposition of saying, all right, here is where we need to be on liability and let’s see if we can work out the language to do that. We have been talking about it now for a week and a half. It is not there. All right. We are talking about the opportunity for holding to the contract, not going outside the contract. We need to have that language.

So I think most of us are in favor of getting something done here, but we are getting a little impatient at the idea of coordinating the same things over and over again when in fact the bill does not say that. We ought to be making some propositions to be able to make the changes that indeed need to be made if that is our goal.

Frankly, Mr. President, I hope that it is.

I see other Members in the Chamber. I will be happy to yield the floor.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The bill clerk will call the roll.

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

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

Mr. GREGG. Mr. President, I yield back such time as I might have at this point.

The PRESIDING OFFICER. The Senator’s time is yielded back.

Mr. REID. If the Senator will yield for a brief statement, there are efforts being made now to work out what some deem to be better language on the McCain amendment. If that is not possible, the Senator from New Hampshire and I have said we might be able to voice vote that anyway. I personally do not expect a recorded vote on that, but time will only tell.

I ask unanimous consent that the McCain amendment, be set aside and the Senator from Missouri be recognized to offer his amendment.

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

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

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

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

The amendment is as follows:

(Purpose: to limit the application of the liability provisions of the Act if the General Accounting Office finds that the application of such provisions has increased the number of uninsured individuals)

On page 179, after line 14, add the following:

SEC. 9. ANNUAL REVIEW.
(a) IN GENERAL.—Not later than 24 months after the general effective date referred to in section 401(a)(1), and annually thereafter for each of the succeeding 4 calendar years (or until a repeal is effective under subsection (b)), the Secretary of Health and Human Services shall request that the Institute of Medicine of the National Academy of Sciences prepare and the appropriate committees of Congress a report concerning the impact of this Act, and the amendments made by this Act, on the number of individuals in the United States with health insurance coverage.

(b) LIMITATION WITH RESPECT TO CERTAIN PLANS.—If the Secretary, in any report submitted under subsection (a), determines that more than 1,000,000 individuals in the United States have lost their health insurance coverage as a result of the enactment of this Act, as compared to the number of individuals with health insurance coverage in the 12-month period preceding the date of enactment of this Act, section 302 of this Act shall be repealed effective on the date that is 12 months after the date on which the report is submitted, and the submission of any further reports under subsection (a) shall not be required.

(c) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 2002 and 2004, the Secretary of Health and Human Services shall provide for such funding as the Secretary determines necessary for the conduct of the study of the National Academy of Sciences under this section.

Mr. BOND. Mr. President, it is clear that all of us agree that protection for patients of health care delivery systems is very important. Patients need to get quick, independent second opinions when their insurance company or HMO denies them. Women need unbiased access to obstetricians or gynecologists. Children need pediatric experts making decisions about their care and providing them care. Patients need to go to the closest emergency room and be confident that their insurance company or HMO will pay for the care.

Those things ought to be understood as the basis on which we all agree. To say, as some have, that those of us on this side of the aisle are not concerned about patients is just flat wrong.

I have spoken in the past about patients who are employees of small businesses, who are the families of small business owners. They do not get patient protection because they cannot afford insurance. They cannot even be patients because they do not have the care.

We need to figure out how we can assure patient protections, get more people covered by health care insurance, health care plans, HMOs, and give them the protections they need within those plans.

This bill is about balance. As we provide patient protections, we need to be concerned about how much we increase the cost of care because at some point these costs will start to bite. At some point, employers, particularly small business employers, will not be able to offer coverage to anyone so their employees cannot be patients. In addition, as prices go up, the employees or patients may not be able to afford their share of the insurance costs. The result: Fewer people with care.

It is generally understood that for every percent increase in the cost of health care, we lose about 300,000 people from health care coverage. It is a fact of life. No matter how we try to insulate, no matter how much we expend and gesticulate and obfuscate, we cannot repeal the laws of economics. When something gets more expensive, you are going to get less of it. The question is, How far do you go? How much is too much?

The folks on my side of the aisle have said we need to give patients basic, commonsense protections, such as the ones I mentioned in the beginning: independent second opinions; access to emergency care, access to OB/GYN care, access to pediatric care, and many more. But that is not enough. Some of our friends on the other side have insisted on going forward. In addition to the common provisions, they want to add an expensive new right to sue that poses a huge threat to runaway health care costs.

There are some people who are very interested in the right to sue. Those people are called trial lawyers, and they do really well at bringing lawsuits. They get a lot of fees from winning those lawsuits, particularly if the
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judgment is high and they have a good contingency fee contract. At the same time, these costs ultimately can deny people health care coverage because to pay these judgments, the companies involved have to raise costs.

As we have debated this legislation, I have tried to focus on what patient protections are needed and, on the other crucial questions: What will this bill do to employers’ ability to offer health care insurance to their employees? How many health care patients might lose their coverage? I know that one of this version of the bill do not want to talk about the people across America, the patients, who will lose their health insurance because this bill as a whole, including the new lawsuits, may cost more than a million people their health care coverage. We need to talk about it. We need to focus on it because over 1 million people who have health insurance today—men and women who are getting their annual screenings, mothers-to-be who are receiving prenatal care, and parents whose children are getting well-baby care—will be losing care because of this bill, and how many of them can we afford to lose?

We will be losing health care coverage for seniors who are taking arthritis medicines, men and women who are being treated with chemotherapy or kidney dialysis, families waiting for a loved one to have heart bypass surgery. These are the lives that will be disrupted, even devastated, as a direct result of this bill. Whom will they have a chance to sue then? What good is the right to sue a health plan if I have lost my health plan in the first place? It does not do me much good.

I have said in the past we know there are going to be people who lose their insurance coverage as a result of this bill. In the past several days, I have brought to the Chamber a contract that keeps a running total of the number of patients who will lose their health care coverage because their employers have told us that if the provisions of the current McCain-Kennedy bill with the right to sue employers are enacted into law, they will have no choice but to drop health care. They want to provide health benefits to their employees. They are important benefits, they are attractive benefits and ensure the employees get good work from employees, and they take care of the patients who are the employees and the families of the employees.

These small businesses have told me if they are faced with lawsuits from one or two employees or dependents who do not get the right kind of health care, they cannot afford to take that risk. Health care costs are too much already. Health care costs are going up. They are seeing more and more of the costs burdening their ability to provide health care.

In the past, I have read from letters from small businesses in Missouri that are fearful of losing health care coverage for their employees and their employees’ dependents. These are real life examples of people who have written in, saying they are very worried about the provisions of the McCain-Kennedy bill.

I read yesterday a letter from a fabricator company. Today I have a letter from an accounting group. They are a small business, currently insuring four employees at a cost of $1,935 a month; they pay 100 percent of the premiums. Last year, their health care coverage costs went up 21 percent. They note there has been a steady increase over the past few years. They have had to pass these costs on to clients to cover the charges for their employees. At this rate, providing health insurance to employees in the future may take away one of their employees’ Bill of Rights proposed by Senator KENNEDY expands liability and results in employers being held responsible for medical court cases, they will certainly be forced to cancel this employee benefit.

They go on to say:

I do small business accounting every day. These are small mom-and-pop businesses that cannot exist if they are treated in the same way as large businesses with regard to employee benefits. Sometimes Congress forgets that mom-and-pop businesses of America are employers, not just names in an address book we write to every day, in and out, just to maintain a moderate lifestyle. While they are not poor, they are not employers in the same sense as major corporations.

Please help us keep our businesses and try to provide for our employees.

That is one thing we need to remember. As we look at things on a grand scale and look at large employers, we cannot forget the mom-and-pop businesses providing a living for mom and pop, their families, their employees, and their employees’ families. We want all of them to be able to get good health care coverage. We want them to have rights that they can exercise if the HMO or the insurance company denies them coverage. But we certainly don’t want to throw them out of health care coverage.

Here is another company in Missouri.

They write:

I have been doing business in Missouri for over 15 years and have been providing health insurance to my employees since November of 1993. At that time, counting myself, I insured four employees at an average cost of $73.30 a month. I now insure five at a monthly cost of $390.60, with the same high deductible coverage. My cost has increased over 250 percent, way beyond the rate of inflation and way beyond the growth of my business. I have had to absorb this increased cost in the bottom line. This bill Senator KENNEDY has now in committee looks like a disaster ready to happen. I am not alone as a small business owner wondering if I might be able to continue to offer this benefit to my employees in view of the rising costs of the policies. If I were legally responsible for medical court cases, I just toss in the towel and close my business.

Those are the mom-and-pop operations, the small businesses, the life-blood of our economy, the dynamic, growing engine of our economy that provides the jobs and the well-being and goods that everybody wants to talk about and everybody loves as the small businesses. But we need to be sure we are not pricing them out of business or even costing them the ability to cover their employees’ health care costs.

Right now, our toll is 1,895 Missourians losing their health care coverage from what their employers have told us about the burdens they expect from the McCain-Kennedy bill. One can argue they may be wrong. I can make an argument based on reading the pages I have read before of exceptions under which an employer can be sued. But they would be well advised if they cannot stand the costs of a lawsuit, to give up their health insurance. You can argue about it one way or the other, but 1,895—almost 1,900—employees will be thrown out of work, according to their employers who have communicated directly to us, if this measure is unamended and goes to the floor.

What are we going to do about it? I hope we can work on the liability sections. I have heard people want to compromise. I haven’t seen that compromise yet. So I will offer a very simple proposal. My amendment says one simple thing: At a certain point, enough is enough. If more than one million Americans lose health care coverage because of this bill, the most expensive part of this bill, the right to sue, should be reevaluated.

The beautiful thing about this amendment is, all of the disagreements that exist about how much the McCain-Kennedy bill will increase costs and how many people may lose coverage won’t matter. We will never get an agreement on this floor. We will argue about it one way or the other, but 1,895 employees in a small business may as well just toss in the towel and close their business.

Health economists assure this analysis can be done, they say, over a 2-year period, and we will look at employment patterns, inflation, health regulations, or policy measures other than patient protections and other factors that affect employers and employees’ health care coverage. Economists can estimate how many people lose coverage due to a major piece of health legislation. The Institute of Medicine has more than enough expertise and brain power at its disposal to do this.

The amendment I have proposed says not later than 24 months after the effective date, and thereafter for each of the 4 succeeding years, the Secretary of Health and Human Services shall ask the Institute of Medicine of the National Academy of Sciences to prepare and submit to the appropriate committees of Congress a report concerning the impact of the act on the number of
individuals in the United States with health care insurance.

Then, if the Secretary, in any report submitted, determines more than one million individuals in the United States have lost their health insurance coverage as a result of the enactment of this act as compared to the number of individuals with health insurance coverage in the 12-month period preceding the act, then the liability section shall be repealed, effective on the date 12 months after the date on which the report is submitted. The Department of Health and Human Services is authorized to get funding for the conduct of the study, the National Academy of Sciences.

It is very simple. If it throws more than a million people out of health care coverage, then we repeal the liability section. Then Congress comes back and looks at it and says: Can we do a better job? We don't have to rely on any estimates or predictions. We can find out how many people have lost their coverage. I think a million people is a lot. But if anything we do is going to have a cost. What constitutes too much? I propose that at a starting point we say that 1 million people losing coverage is too much.

The two key issues in this debate are: First, access to care; second, access to coverage.

Patients need access to care without undue managed care interference. Thus, we need a patient protection bill. That is the external appeal. That is the right to see certain specialists, and the very important provisions we have in it. But the patients also need access to coverage. Are we going to get more people covered? Are we going to knock more people out of coverage?

The ability to sue HMOs sounds nice. But at what price? If the ability to sue HMOs and the ability to sue employers is too high, and if the price is 1 million Americans who lose coverage, then that price is too high.

I urge my colleagues to accept this amendment. I believe it is one way to make sure that we have a fail-safe mechanism to make sure that we observe that basic principle of medicine: first do no harm. I think a million individuals losing health care coverage is harm. That is why I suggest that we should agree to the amendment.

Mr. President, I yield the floor. I suggest the quorum. The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GREGG. Mr. President, I rise in support of the excellent idea of the Senator from Missouri.

One of the big concerns that has been heard expressed throughout this entire debate has been the effect especially of the plethora of lawsuits which would be created under the present bill as it is structured on employers, especially small employers, and their willingness to continue to offer health insurance to their employees.

The real issue for most people is, first, do they have health insurance. When someone goes to find a job, one of the key conditions that most people look at is if that job has a decent health insurance package that is coupled with it. This is an extraordinarily big problem for not only people working at high-level jobs but especially people who work at entry-level jobs and in between.

You can take large employers in the retail industry or large employers in the manufacturing industry. In all of these areas, employees see as one of their primary benefits the pay they receive, obviously, but additionally the fact that they have good health insurance from their employers.

Then with the smaller employers, people who run small restaurants or small gas stations, or small mom-and-pop manufacturing businesses, the people who work for those folks also appreciate that fact that they might have a health insurance package that is coupled with their employment. This is especially true for families. I don't think there is anything a family fears more than having a child get sick and not having adequate coverage, and not being able to get that child into a situation where they can be taken care of, or alternatively having their savings wiped out by the need to do something to take care of that child who has been sick, or a member of the family.

Quality insurance is absolutely critical. We should not do anything that undermines the manufactur- ers, of employers, of small businesspeople, of mom and pop operators to offer insurance to their employees. It should almost be a black letter approach. Instead of saying we are going to function in a vacuum in this Chamber, where essentially we throw out ideas that we think are good but don't know what is going to happen, this is essentially saying, all right, if we think we have ideas that are good, we are going to hold those ideas to accountability.

We heard the Senator from Massachusetts talking about accountability in another section of this bill. He brought up the education bill, which we talked about for the last 7 weeks before we got to this bill. And the issue was accountability. Does it work? The education bill we passed has language in it that essentially took a look at what had happened in order to determine what would occur in the future. What Senator Bono has suggested is that we do that under this bill. It is a very practical suggestion. He is saying if a million people lose their insurance, then we will put the liability language in the bill on hold until we can straighten it out. Actually, it would be reversed.

The practical effect of that is, I presume, Congress would come back and say, listen, we didn't intend to have a million people lose their insurance. Our purpose in this bill was to give people more rights, not to give them less rights. You give people less rights if they lose their ability to have insurance.
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So by taking this language we will be in a position of being sure that what we are doing in this Chamber, and what we are doing in the isolation of the legislatie process—although we get input, we never really see the actual events—will have a positive impact. We will know that if it isn’t having a positive impact, there will be a consequence. The consequence is that part of the bill, which has created the negative impact—throwing people out of their insurance—will be held up or stopped or sunsetted until we can correct it.

So the Senator’s concept in this amendment makes a huge amount of common sense. It is truly a commonsense idea. I guess it comes from the “show me” State. Nobody has used that term today on this amendment. I do not think they have it. I think it is right that way. This is a classic “show me” amendment. This says: Show me how the bill works. If the bill does not work, OK, we are going to change it to the idea of having this trigger, which establishes whether or not the bill is positive or whether the bill is negative. If the bill is negative—“negative” meaning over a million people losing their insurance as a result of the effects of this bill—then we sunset the liability language.

I do think it is important to stress that this amendment does not sunset the whole bill. It just focuses on the liability provisions within the bill, which sections I have severe reservations about and have referred to extensively in this Chamber, which I think are going to have unintended consequences which will be extraordinarily negative on employees in this country where a lot of people are going to lose their insurance.

This amendment just goes to that section of the bill. It doesn’t go to the positive sections of the bill that there is general agreement on. It does not even go to those sections of the bill where there isn’t general agreement on, such as the scope issues of States’ rights or the contract sanctity issue, for that matter.

But it does go to this question of, if you have people losing their insurance because their employers are forced to drop their insurance because it has become so expensive as a result of the liability provisions of this bill, then, in that case, where that happens to a million people—a million people, by the way, is essentially the population of the State of New Hampshire. It is not the population of Missouri, but essentially we have 1,250,000 people in New Hampshire, so we are talking about not an inconsequential number of people; it is pretty much the whole State of New Hampshire. So it is a reasonable threshold.

If a million people lose their insurance because employers cannot afford it, because the liability costs have driven them out of the ability to ensure their employees, then we should stop that; we should end that liability language and look at it as a Congress and correct it.

So I congratulate the Senator from Missouri for offering this classic “show me” amendment. It is very appropriate that it has been offered by the Senator from Missouri, from the “show me” State. It makes incredible common sense. I also would say it is a “Yankee commonsense” amendment. So we shall claim it for New England also, I join enthusiastically in supporting this amendment.

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

The PRESIDING OFFICER (Mr. DAVENPORT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. SANTORUM. Mr. President, I rise in support of the Bond amendment. I commend the Senator for standing up and trying to mold patient protection legislation to comply with a fundamental principle that he has repeated many times today: The first order of business in medicine is to do no harm. And building on this principle, as I continue to iterate so many times when I come to this Chamber to speak, we cannot afford to ignore what I believe to be the No. 1 problem in health care today: the fact that we have anywhere between 42 and 44 million people who do not have health insurance.

I will state again for the record—and I am happy for anyone to come forward and tell me different if there is not one thing in this bill that increases the number of uninsured people in America, not one thing. This is a pretty good-sized bill. It has 179 pages to it. Not one page, not one paragraph, not one sentence, not one word will cover one additional person in America.

For many of the people who are the greatest critics of the health care delivery system in this country, the paramount feature of which they are most critical is the number of uninsured in our society, which is increased by people around the world against America’s health care system; it does not have to do with quality of care. I think everyone will agree that America pretty much sets the gold standard in terms of the quality of care delivered to patients. I think most people say, yes, the best health care in the world is available here in the United States. But the critics around the world will say, it may be the best system but you have 42 to 44 million people in this country who are not insured.

Do you think the first health care bill we are considering here in the Senate should consider what most people see as the greatest problem with America’s health care system? Most people in this country who wonder why there is concern are considering. But this bill doesn’t do that. Interestingly enough, what does this bill do? It provides patient protection. That is great. I am for that. There are a group of people in this country who worry that their health insurance plans that are regulated solely by the Federal Government, who have very few patient protections afforded to them because they are not covered under State patient protection laws. So we should pass a Federal Patients’ Bill of Rights to cover those people. I am all for that, and we should have adequate protection.

What does this bill do, what the Senator from Missouri is trying to really focus on, is it does a whole lot of other things that will cause at least one million more Americans to become uninsured. Now, I am pleased that the President of the United States has vowed to veto this legislation should it come to his desk in its present form for signature. But if for some reason it is enacted into law, maybe over the President’s objections, this will result in millions more being uninsured.

You can put all the benefits aside. Let’s assume this is the greatest patient protection bill in the history of the world, that as a result of this bill, patients will be supremely protected, a notion, of course, with which I take issue. I don’t believe that will occur. But let’s assume it does. The result of this bill will be millions more uninsured. In particular, if the liability provisions of this bill are enacted, which allow employers to be sued—and that is really the issue that is at heart of the Bond amendment, if it allows employers to be sued, to practically an unlimited extent—you won’t have a million or 2 million people lose insurance as a result of this bill. You will have tens of millions of people who will lose their insurance. Why? Do I say I am against employer liability because I love employers? No. Employers are nice people. Employees are nice people. They are all nice people. The question is, What is the effect of holding employers liable? The effect of holding employers liable is employers who voluntarily provide health insurance as a benefit, will stop providing that benefit because it will jeopardize their entire business. If they can be sued for a decision that is made with respect to a benefit they voluntarily provide one of their employees, the provision of which they did not set in their business, they are simply going to stop providing that benefit.

That is what the Senator from Missouri is trying to get at. If we cause, as a result of the employer liability provisions, and some of the general liability provisions, and some of the contract provisions, which basically allow outside entities to rewrite contracts in
litigation and in appeals, if we open up this Pandora’s box of problems for employers to continue to provide insurance to their employees, employers will do what employers must do: first, protect the survival of their business. And this will be a direct threat to the survival of their business.

What is now a pleasant benefit that you can provide to your employees and something that you can help to attract employees with by providing good health care insurance will become a serious liability risk that a business simply cannot afford to take.

The Senator from Missouri is saying, very simply: We have a great patient protection bill here, but we have the very real potential of having a tremendous downside, in really hurting people. I am very sympathetic about all the cases being brought forward, about the need for patient protection. I think you will find fairly universal agreement on this side that we want to provide those protections. But the first protection should be the possession of insurance in the first place. If we deny them that protection, all these other protections don’t matter, really, if they lose their insurance. This could be a great bill, but if you don’t have insurance, then this bill doesn’t help you. In fact, it can hurt you because it can cause the loss of your insurance.

What the Senator from Missouri is saying is: Let’s go through, and we will work on some more amendments. We will try to get this thing honed down until we have a good patient protection bill. If we can’t fix the liability provisions, which I don’t know whether we will be able to or not, at least let’s say that if the liability provisions are what we believe they are, in other words, problem is two-fold: first the potential of devastation to millions or at least a million people in losing their insurance, then we should have a trigger.

You are seeing all of these kinds of comments by folks who are supportive of this bill and supportive of the liability provisions in the bill saying: Hey, this isn’t going to hurt anybody. We are not going to cause any problems with this. No, no, no, employers aren’t going to drop their coverage. Health care costs are not going to go up. Millions more won’t be uninsured.

They will make that statement and have made that statement over and over again. Pine. They may be right.

What happens if they are wrong? What happens? What happens if past experience is any guide, if we are right and millions do become uninsured? Should we have to wait for an act of Congress for this body generally to re-allocate that we made a mistake and have to come back and go through this whole legislative process to repeal the problem here? Should we have to wait for that? Or should we just simply have a trigger that says, if we made a mistake, if we made a mistake, then we are going to immediately cancel that portion of the bill that deals with recognition that we have a problem of a million uninsured.

As the Senator from New Hampshire said, a million people is a lot of folks, a lot of children, a lot of families. It is a lot of people who are going to go without health care. If what we really care about is providing good, quality health care, the first thing we should care about is to get them an insurance policy in the first place.

One of the things that strikes me most about this bill is that references as to how we are going to go out and get the HMOs. These HMOs are a bunch of bean counters who don’t care about people. There is all these horrible cases about HMOs.

My understanding is that the liability provision that allows you to sue your employer, that allows you to sue your insurance company, does not just apply to HMOs. It applies to PPOs. It applies to insurance contracts. Obviously, if it is a fee-for-service contract and there is no limitation on what provider you want to go to, that is one thing. But in most insurance plans today that are not HMOs, there is some limitation of some sort, certainly some limitation on procedures that are covered. But that is not what is talked about here, folks. What we talk about, when they talk about this liability provision, they are talking about these nasty HMOs.

What they don’t tell you is that it ain’t just the nasty HMOs that can be sued under this bill, it is any insurance company who provides any insurance product and any employer that provides any insurance product.

Oh, that is a different story, isn’t it? You don’t hear them up there railing against those nasty fee-for-service plans or those nasty PPO plans because they don’t poll as well as going after those nasty HMOs. But this isn’t just about nasty HMOs, this is about all insurance products. There is no way out of this liability provision unless, of course, you just want to say to your employees: We will cover everything. Doesn’t matter what you want, where you want to go, we will just pay for everything you want. Of course, we all know what an exorbitant cost of that would entail, and so this is neither practical or realistic.

The point is, this bill has serious consequences for millions of people who are on the edge, whose employers are sitting there right now saying: Well, I have a 13 to 20 percent increase in my premiums this year. The economy is flattening out a little bit. I am looking forward to it. I will tighten my belt a little bit more, and we will continue to provide health insurance to our employees. Then this bill comes along, which will increase costs more and poten-
Mr. GREGG. If the Senator will yield, I advise Members that it is very possible we will have a vote around 6 o'clock. So Senators should be aware of that.

Mr. SANTORUM. As I was saying, I know there are many people in this Chamber who believe a single-payer health care system is the best way, the most efficient way, the most compassionate way—to use these wonderful, glorious terms—to provide health insurance in this country. Obviously, I disagree, but it is a legitimate point of view. I think we should have that debate.

We had that debate in 1994 with the Clinton health care proposal, and we had a good debate on the floor of the Senate about the kind of health care delivery system we should have. But it was a deliberate debate about how we can change the health care system by a direct act of the Congress. The problem with this legislation is that we are going to severely undermine one health care system, which is a health care system that is principally funded through employees, contributions, and we are not going to replace it with anything.

You see, as many of my colleagues well know, if employers stop providing health insurance, then people are going to have to pay with their aftertax dollars and buy health care, and the costs will be prohibitive. If you don’t believe me, I would ask any of my colleagues to drop their federal health insurance plan today, and to endeavor to purchase health insurance with aftertax dollars. It is very difficult.

One of the things I hope to accomplish—and maybe we can work on this in this bill—is to create refundable tax credits for those who do not have access to employer-provided health insurance by a direct act of the Congress. The government offers for employer-provided health insurance. We give a deduction for the business. In other words, if I am an employer and I provide health insurance to my employees, I get to deduct the cost of that off of my earnings, my income. We also subsidize it on the other end. If you are an employee and you have employer-provided health insurance, you don’t have to pay taxes on the money that your employer uses to purchase that insurance. In other words, let’s say it is a $5,000 family policy. That is a benefit to you. That is compensation to you. It is $5,000 of insurance costs that your employer pays for you, but you don’t have to pay taxes on it. It is tax-free compensation to you. So, in that sense, we subsidize you by not taxing you on that benefit. So the employer gets subsidized, and the employee gets subsidized.

But if you are an individual who does not have access to employer-provided health insurance, you have to take the money that is left after you pay all your taxes—after you pay Social Security taxes, after you pay income taxes, after you pay local taxes, and Medicare taxes—and then you can take your money and try to buy health insurance.

That is a pretty rotten system. If we are going to do anything about the problem with the millions of uninsured in this country, we are going to have to start treating people who don’t have access to employer-provided insurance the at least as well as we do with those who do have it. None of that is in this bill, there is no tax equity.

I will say it again. There isn’t one paragraph in this bill that will increase the number of insured in this country. There are, unfortunately, pages and pages and pages and pages in this bill that will make it more and more and more people losing their insurance. But we can mitigate that—or at least a big part of it—if we adopt the Bond amendment.

The Bond amendment says if we have a problem, let’s not wait for an act of Congress to admit our mistake. I know those who are listening might find this hard to believe, but sometimes Congress is a little slow in admitting we made a mistake. Sometimes we don’t own up to the fact that it was our fault. I know some within the sound of my voice will find that to be almost an incredible proposition on my part—that somehow Congress doesn’t immediately come in and say, yes, we understand we made a mistake; we are sorry America, we blew it. Everything I said the year or two before about how this wasn’t going to cause a problem, you are right; it did. My mistake; we are going to repeal this.

I just ask my colleagues, when was the last time that happened? I know some in this room will remember the last time it happened. My recollection is that it happened back in 1988, when it came to Medicare catastrophic coverage. Congress tried to pass catastrophic prescription drug coverage for seniors, and quickly found out that seniors really didn’t like what Congress did. Seniors rose up and screamed and hollered, and within a year or so—I wasn’t there at the time, but I recall Congress reversed it. That was about 12 years ago. I can’t think of any instance since and, frankly, I can’t think of anything before that.

So let’s just assume—I think it is a pretty safe assumption—that the people who are saying that this liability provision will not cause a problem are wrong. They will be in very good company if they go on to insist that they aren’t wrong in the future—that even though we may have evidence of millions of people saying this liability provision, somehow or another they will avoid blame and will point to something else that caused this problem, not the liability provisions. So it will be some sort of contest here as to whether we even take up this issue again.

The Bond amendment avoids all that. It says, look, if the GAO says this provision, the liability provision, has caused a problem of causing more than million additional uninsured, then that part of the bill sunsets, the rest of the bill stays in place. Patient protections stay in place.

Patient protections stay in place. It affects just the liability provisions. The internal-external reviews stay in place so there is patient protection. What does not stay in place are the provisions that are causing massive damage to millions of American families.

I am hopeful, No. 1, we can fix these liability provisions because we should not pass a bill that is going to cause this kind of severe dislocation, this kind of trouble for millions of American families. We should not consciously do harm to people, particularly when we understand it is the No. 1 problem facing our health care system today, which is the lack of insurance for 42 to 44 million people.

We should not do this. We should not pass flawed liability provisions. I know the Senator from New Hampshire and Senatorators on both sides of the aisle are trying to see if we can get a good provision. But should we not get a good liability provision, the Bond amendment is a very prudent stopgap measure so as to ensure that we do not go down the road of making what is the worst problem facing health care today even worse.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my friend from Pennsylvania for making a very compelling argument. I very much appreciate his support because we are talking about something that should be of concern to every American who wants to be sure that they and their families are covered by health insurance. If you price it out of range and lose your health care, it does not matter how many independent reviews might be provided in the law. If you do not have a plan, they do not do you any good.

The basis for our trigger, our safety valve, is, let’s just see if this bill has a cost. We say that the Institute of Medicine within the National Academy of Sciences can figure it out. It has been indicated they can rely on work that has already been done by the General Accounting Office, CBO, and other congressional bodies. But for constitutional purposes, the ultimate responsibility of this study has to be in the executive branch, and that is why it is in the Institute of Medicine. We know from our work with the GAO and CBO the kind of format, the kind of approach that can be taken. We move
that function into an executive branch area. We say if this bill throws more than 1 million people out of their workplace health care coverage or their own health care coverage, then we sunset the most expensive part, the liability part.

I said earlier that the general rule of thumb is that 300,000 people will lose their health care coverage if health care costs go up 1 percent. I ought to be a little more specific and explain something. As I understand it, when the costs of this bill are calculated, it is impossible to determine how many dollars will be added to the health care costs from the liability provisions themselves. Basically, the additional responsibilities that go into the bill—setting aside the liability questions—the Congressional Budget Office estimated a previous and substantially equivalent form of this bill would raise private health insurance premiums an average of 4.2 percent. That comes from the mandates in coverage, external review, and all those other things. This 4.2 percent would mean that over 1 million people will be thrown out of work. But that does not deal with the number of people who would lose their health care coverage because of the exposure to liability or because of the costs of liability judgments.

We probably will not have liability judgments in the first couple of years. It will take some time for cases to work their way through the court system. But you can bet if a couple of juries come in with the billion-dollar judgments that some juries are coming in with now, those costs are going to have to be factored into the health care premiums for everybody, whether it is an employer, whether it is the employee—paid or unpaid—and there are going to be a lot of people who are not going to be patients because they are going to lose their health care coverage.

Then there are those, such as the small businesses I have referenced from Missouri, who say: I cannot take the chance; I cannot put my business at risk of one of these multimillion-dollar judgments, a tort action or contract action—tort action most likely—brought against me as an employer because I provide health care insurance or health care coverage or a health care plan; I am going to drop the plan. It will take some time for cases to work their way through internal review, and all those other things.

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

The amendment is as follows:

(Purpose: To clarify that independent medical reviewers may not require coverage for excluded benefits and to clarify provisions relating to the independent determinations of the reviewers. Beginning on page 36, strike line 20 and all that follows through line 8 on page 36, and insert the following: (C) No Coverage for Excluded Benefits. Nothing in this paragraph shall be construed to require an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage and that are disclosed under subparagraphs (C) and (D) of section 121(b)(1) and that are not covered regardless of any determination relating to medical necessity and appropriate adjudication of the nature of the treatment, or an evaluation of the medical facts in the case involved."

On page 37, line 16, strike "and".

On page 37, line 25, strike the period and insert "and".

On page 37, after line 25, add the following: 

"(i) the definitions used by the plan or issuer of medically necessary and appropriate, or ‘experimental or investigational’ if such definition is the same as either—

(a) 'medically necessary and appropriate' or 'experimental or investigational' if such definition is the same as either—

(A) ESTABLISHMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR. The amendment is as follows:

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

AMENDMENT NO. 818

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. KYL), for himself, Mr. NELSON of Nebraska, and Mr. NICKLES, proposes an amendment numbered 818.

Mr. KYL. Madam President, I ask unanimous consent reading of the amendment be dispensed with.
Mr. KYL. Madam President, this amendment is offered on behalf of myself and Senator NELSON. It is an amendment that deals with the definition of "medical necessity" under the bill and is intended to provide a safe harbor definition consistent with the plan requirements. I should also say this amendment is also offered on behalf of Senator NICKLES. I apologize to my colleague from Oklahoma.

First, let me offer some general views on S. 1052, the Kennedy-McCain Patient Protection Act, and then I will discuss this amendment.

As you know, President Bush has reiterated his intention to veto this legislation because, in his view, it "would encourage costly and unnecessary litigation that would seriously jeopardize the ability of many Americans to afford health care coverage." None of us wants that result. As a result, we are trying to do our best to work with the sponsors of the bill to make some changes that would make it palatable to both the President and to most of us in this Chamber.

My concerns include the fact that it will undoubtedly raise premium costs due to new lawsuits and increased regulation, that it will undermine the States' traditional role of regulating the health insurance industry, and make employers who voluntarily provide health care coverage to their employees vulnerable to frivolous lawsuits, and that it will violate the terms of the contract between the employer and the health plan. This latter issue is one the Nelson-Kyl-Nickles amendment is intended to address.

Under S. 1052, the external reviewer is "not bound by" the "medical necessity" defined in their plan document. And there is no substitute definition provided, so there is really no standard for review.

Let me put in context what this means. What we have provided for here is a method by which people will actually get the care they believe they have contracted for and deserve. The object is not to create a lawsuit to try to pay the money after the fact for some injury they suffered but, rather, to get the care in advance. That is what this should all be about.

So we have a review process by which first somebody within the company, and then an external reviewer, takes a look at the case and says: All right, this is what the contract means. This is what medical necessity means under this circumstance as called for under the contract, and therefore the patient is entitled, or is not entitled, to this particular procedure.

This review process is supposed to occur quickly so that the patient receives the care he or she has contracted for and deserves under the circumstances.

And for an external reviewer to know whether or not a particular procedure or treatment is called for, there has to be some standard by which to judge that. The Presiding Officer and the other lawyers in this body will know that anytime you ask some reviewer to determine whether or not something has to be provided some standard upon which that reviewer can base a decision.

The bill right now contains no standard, and it needs such a standard. Our amendment supplies that standard. We believe it supplies a very fair and reasonable standard. The language in S. 1052 gives the external reviewer a free hand to disregard the definition of "medical necessity" contained in the contract, and, as I say, supplies no substitute definition.

As in all of the bills, this external review requirement is the last process prior to going to court. But, as I said, the external reviewer is "not bound by" the contract's key definition of "medical necessity" or "experimental and investigational." As a result, the external reviewers can simply make up their own definition of "medical necessity."

Private contracts negotiated between the parties—employers, insurers or, or insurers and individuals—would become virtually meaningless in this circumstance, and the financial obligations of the health plan could become totally unpredictable.

The plan or insurer could become obligated to pay for items or services based on definitions outside the contract, even potentially including contractually excluded items that were deemed to be medically necessary by the reviewer. The "not bound by" provision, therefore, would have the effect of eliminating the ability of the parties to negotiate the key terms and conditions of health insurance contracts.

Madam President, in addition to vitiating legal contracts, the "not bound by" language would have the following negative effects.

First, inconsistent standards: The standards used by reviewers would vary with each review panel and with each case. In most cases, the plans are trying to create some degree of uniformity with this legislation, but under the bill you could have the potential for a wide variety of arbitrary decisions because of the lack of a standard.

Second, quality of care: The mere threat of contract nullification could prompt some plans to pay for all claims regardless of the cost and the impact on the quality of patient care.

Solvency and stability: The use of unpredictable outside definitions of medical necessity will impose costs for unanticipated treatments not reflected in actuarial data used to determine the amount of the health care premium.

And finally, cost increases: Solvency concerns would result in increased cost for employers and increased premiums for employees.

The net result of that, of course, will be to remove more people from the rolls of the insured.

Under S. 1052 as written, these contracts for care between the parties and often approved by State insurance regulators, will be, voidable, not by a judge or a court of law but by an unrelated nonjudicial third-party reviewer.

This will undermine the principles of the contract as well as due process.

So, as I said, to address this problem, we have sponsored an amendment that would allow the plan to adopt a widely accepted safe harbor definition of medical necessity as its contract definition. If a plan utilized this safe harbor definition, then the external reviewer would be bound by it when hearing a patient's appeal of denial of coverage.

Safe harbor definitions contained in legislation are basically at three different levels. First, we take the definition from the Federal Employee Health Benefits Plan that currently covers about 73 percent, as best we can calculate it, of the employees under the Federal Employee Health Benefits Plan. That's 6 million Federal employees and Members of Congress are covered by this definition.

It is important to recognize—I think some of our friends on the other side misunderstood and thought we were offering an amendment that had been offered a couple years ago. I want to make it very clear—this definition is not the FEHBP or Office of Personnel Management definition for managed care plans, or HMO plans.

This definition is the definition for the fee-for-served plans. As a result, it is a more strict definition. The insurance companies are going to have to provide a higher quality of care under this definition than they would under the HMOs that provide some coverage to roughly one-fourth of the people served under the FEHBP program.

So, first of all, we have this definition. I will actually read it in just a moment.

Secondly, there are going to be some States that already have a binding State statutory definition. There are 13 of them. Of course, a legally binding State definition of medical necessity would apply to claims filed in those
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We think it represents a reasonable compromise on the one hand between requiring an external reviewer to be bound by a too narrow definition in a "rogue" plan contract and, on the other hand, affording a majority of the plans that operate in good faith the opportunity to adopt a widely accepted safe harbor definition of medical necessity to which the external reviewer would be bound.

Madam President, we think this is a good compromise. It is clearly important for us to include some kind of definition in the legislation. We had hoped that the sponsors of the legislation would be willing to work with us to include this definition. So far they have declined to do so. But I am hopeful that we can continue to talk with them, and perhaps we can reach some understanding in the bill to substitute this definition for the lack of a definition in the legislation right now.

At this point, I yield time to the co-sponsor of the amendment, Ben Nelson, the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Madam President, I rise today to offer, along with my colleague and friend from Arizona, Senator Jon Kyl, an amendment to protect the sanctity of health insurance contracts, to provide certainty and clarity so that both the issuer and the insured can know what coverage they have.

This amendment will preserve a patient's right to receive the health benefits that they paid for while keeping insurance premiums affordable. In more colloquial terms, this amendment is what is needed to see that the people who work for the Federal employees. It is obviously a good standard to use.

There are three other aspects of it. I will read each of the three. They deal with very specific situations. Not primarily for the personal comfort or convenience of the patient, the family, or the provider; No. 4, not part of or associated with scholastic education or vocational training of the patient; and No. 5, in the case of inpatient care, cannot be provided safely on an outpatient basis. That would enable the treatment to be provided on an outpatient basis if it could be done.

It is a very straightforward definition. It is one that has been used literally hundreds of times. It covers a significant portion of the 6 million people covered, and we think it is a good definition to be included in this legislation.

But before my support for a Patients' Bill of Rights is misconstrued as an "anything goes" approval, I want to be clear that the Senate should approve a Patients' Bill of Rights, I think that some improvements are justifiable. And right now, we have the opportunity to make those much-needed improvements which will ultimately increase the effectiveness of the Patients' Bill of Rights.

I believe the bill needs to carefully consider matters such as the issue addressed by this amendment pertaining to the sanctity of health insurance contracts. And I hope that the sponsors of the legislation will look very favorably on this matter and that we will be able to work out an arrangement or agreement to get it included as part of the bill.

Currently this amendment would ensure that patients receive the care that they are entitled to under the plans to which they subscribe. External reviewers would be required to assess treatment options based on the contract that exists between the patient and the plan.

Patients would be entitled to the care outlined as a provided benefit within the contract that exists. External reviews would not be able to circumvent the contract to force employers to expand coverage for any particular patient unless the patient was entitled to the care as specified by the care contract.

This will help keep down the high cost of health care and, at the same time, will enable employers to continue to provide their employees with the best care possible.

More importantly, this amendment will provide three safe harbors for employers with respect to protecting them against unnecessary litigation over treatment. While patients will have the right to sue under this bill, this amendment will more clearly define the parameters by which treatments can be determined as "medically necessary" and thus will provide a safeguard of medically necessary standards for employers that administer their own health plans.

The McCain-Edwards-Kennedy bill contains something that I think would currently require external reviewers to abide by the standard for the determination of medical necessity included in the bill, but it doesn't bind the reviewers by the insurers' definitions for medical necessity. This is problematic as it relates to the existing contract between patient and provider and provides a great deal of unclarity and uncertainty.

So to remedy this situation, this amendment proposes to identify three separate and distinct sources of definitions that employers could choose to use in the contract by which reviewers will be bound. The three options that we create for the plans are:
One, a definition that plans are required to use by State law. This would provide the previously existing and any newly revised plans to use a definition put forward by the State.

Second, any definition used by a plan which is codified by the language in the fee-for-service agreement that is currently covering maybe 50 to 75 percent of the Federal employees under the FEHBP, or the Federal Employees Health Benefits Program, would be used by the plans covering those who would be covered under these ERISA plans. What that means is, if it was good enough for Members of Congress and Federal employees, this certainly ought to be good enough for everyone else.

Three, a definition that is to be developed through negotiated rulemaking. This option requires the Secretary of Labor to develop a rulemaking committee that will seek public comment to develop a definition of “medical necessity.” In other words, State laws will be recognized and respected. Secondly, there will be a definition that is now included as a fee-for-service definition in the current Federal Employees Health Benefit Program. And in the event that a rulemaking process is negotiated through the Department of Labor, the rulemaking committee will seek public comment to develop a definition of what is “medical necessity.”

The negotiated rulemaking committee, the third item of this three-pronged approach, will consist of at least one individual representing each of the following groups: Health care consumers, small employers, large employers, physicians, hospitals, other health care providers, health insurance issuers, State insurance regulators, health maintenance organizations, third party administrators, the Medicare Program, the Medicaid Program, the Federal Employees Health Benefits Program, the Department of Defense, the Department of Veterans Affairs, and the Agency For Health Care Research and Quality. That is quite a list of individuals for public comment and public input.

This committee would have until 1 year after the general effective date of the bill’s implementation to propose a rule to the Secretary. The Secretary, then, would be required to publish the rule within 30 days of the receipt.

Madam President, our goal is to ensure that all patients have access to all treatment options available under their plans. We need to provide this access without undermining the integrity of the contract between the patient and the provider. Without some standard for “immediate medical necessity,” these objectives would be impossible to obtain. Both parties are entitled to certainty and predictability. This will provide it. Without passage of this amendment, there will be both uncertainty and a lack of predictability and neither party will be benefited.

I ask my friends and colleagues to consider this amendment as one that will improve the McCain-Edwards-Kennedy HMO reform bill. I ask for their support.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, I reluctantly have to rise in order to oppose the amendments of my good friends on the issue of medical necessity. I outlined earlier in the day the basic judgment and basic history of how we reached the language that we have included in our bill.

First, let us look at what will be the standard that is in both the McCain-Edwards bill, as well as in the Frist-Breaux bill. Effectively, both treat this particular issue of medical necessity the same. This is a result of the fact that this issue had been debated 21/2 years ago when we considered the Patients’ Bill of Rights here and in the House. The question is: Did we did to define the test on medical necessity during that period of time. What we resolved is to permit, at the time of the external review, the kind of test that we have included in our language here and in the Frist-Breaux language. This was actually the language which was agreed to in the conference last year, a conference that never resulted in an overall outcome of the legislation. Nonetheless, we had agreed on a handful of different areas of dispute. That was agreed to by my colleagues, Phil Gramm, Don Nickles, myself, and others, after a good deal of negotiation.

It seems wise to continue that particular proposal because basically this is what we are doing. At the time of the appeal of any of these medical necessity issues, we are permitting for the standard of determination in our bill, on page 35: “The condition shall be based on the medical condition of the participant. That is obvious. No. 1, what is wrong with the patient? And then it talks about “valid, relevant, scientific evidence and clinical evidence, including peer-reviewed medical literature and findings, including expert opinion.”

Basically, the reason for that is to allow for the possibility that we find out there are new kinds of discoveries, new kinds of techniques, new kinds of treatments for various health conditions. In order to not use a stagnant kind of proposal, we included that language. This language which was agreed to is supported by the American Medical Association and other medical groups.

So in the legislation that we have here in the McCain-Edwards proposal, which I support, and the Frist-Breaux proposal, which others including the President of the United States support, and in the agreement that was made by Republicans and Democrats alike, we agreed effectively to this language. This agreement occurred after considering the different kinds of proposals. It raises questions of why we are today attempting to alter that particular proposal.

The argument is, first of all, that we can offer three different options. One would be that the administration can propose an administrative commission that can make some recommendations about what that standard would be.

That may work out, but it may not work out very well if we have an administration that is not as sympathetic to the protection of patients’ and consumers’ rights that we are. It is an agreement that we have included in our language here and that was agreed to in the conference last year, a conference that never resulted in an overall outcome of the legislation.

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I understand the basic thrust of this legislation is to establish minimum standards. If States want to have higher protections for consumers, they are welcome to do it. What we are trying to do is ensure that all Americans, all American families are protected.

In the area of scope, all Americans being protected—actually, every Republican proposal that was considered in the House of Representatives included all Americans—we were attempting to ensure that there was going to be a minimum standard. However, we can use another standard, such as the good Federal employee standard to which the Senator just referred.

It is interesting, though, that the Office of Personnel Management does not use the Federal employee standard on their reviews. What we do is something very similar to what we have done. They permit the doctor to make the ultimate decision and not be bound by some definition. The reason for this is because they do not believe that that should be the restrictive definition for all appeals. As the Senator stated, we have all been pressed with the different proposals. I have had a chance to talk to my friend and colleague, Senator NELSON, on a number of different provisions. From personal experience, I can tell that this is a Senator who has spent a good deal of time on this legislation and has been willing to spend a great deal of time visiting.
Mr. EDWARDS. Mr. President, I start by thanking my two colleagues, the Senator from North Carolina, Mr. EDWARDS, Mr. President, I start by thanking my two colleagues, the Senator from Arizona, my good, dear friend from Arizona, for his work on this issue, and now my friend from Nebraska, with whom I have had occasion on this specific bill to work many days and many hours. As the Senator from Massachusetts has suggested, he has great expertise in this area, both in his time as insurance commissioner and his time as Governor. He and I have worked together on a number of issues, such as employer liability which we will be offering an amendment on hopefully tomorrow. We have talked about a number of other issues, such as the scope of the legislation, and medical necessity is another issue in which the Senator has been actively involved.

I specifically thank him for his work on this issue on behalf of the people of Nebraska whom he represents. He has been extremely diligent and involved in this very important issue of the Patients’ Bill of Rights and patient protections. I thank him very much for all of his work and I will continue to work with him. He has had terrific ideas all the way through the discussion.

As to this specific amendment, I announce to my colleagues that we have negotiated during the course of the day with other Senators besides the sponsors of this amendment and have reached an agreement on a compromise that we believe accurately and adequately reflects a balance between recognizing the sanctity of the contract language while at the same time giving medical reviewers the flexibility they need to order care in those cases where the care needs to be ordered.

Tomorrow we anticipate an amendment being offered by Senators BAYH, CARPER, and perhaps others, that will reflect the results of those negotiations. We feel very pleased we were able to reach that issue with some of our colleagues.

For that reason, we will not be able to support this particular amendment, but I believe our amendment goes a long way toward addressing the same issues while trying to address with this amendment. Their work is helpful and productive, and we appreciate it very much.

Tomorrow morning we will be offering the results of the work we have done with Senators BAYH, CARPER, and others which, as I indicated, properly reflects the balance between the importance of the language of the contract and showing deference to that language while at the same time recognizing that in some cases the medical reviewers will need some more flexibility to do what is necessary for a particular family or for a particular patient.

Mr. KENNEDY. Will the Senator yield?

Mr. EDWARDS. Yes.

Mr. KENNEDY. Will the Presiding Officer let us know when we have 5 minutes remaining?

The PRESIDING OFFICER. The Chair will do so.

Mr. KENNEDY. As I understand it, and I can be corrected, under one of the provisions, HHS establishes a board. At some time the board tries to work out the definition, but we do not know how that will work out, what the framework will be, or how many patients, consumers, and HMO personnel will be on the board. That board will have a meeting, and they will work out some definition of “medical necessity” which creates a degree of uncertainty.

Second, we have questions about the States, some of which have adopted various criteria about what is medical necessity.

Third, we have the Federal employees health program, which, as I mentioned, is not the standard which is used in the Office of Personnel Management. They don’t use that. They use a standard much closer to what we have. Even on that standard, many cancer groups are very concerned about possible restrictions on palliative care, care which is enormously important to cancer patients. We have heard from a number of cancer organizations about their serious concern regarding this particular point.

On the other hand, they are in support of the language we have included in the Edwards bill.

First, we know we have something that the American Medical Association, the medical professionals, patients, the doctors, and the health care delivery system have said is a good standard. Our opponents offer a standard that may turn out to be fine in the future but we don’t know. And secondly, as another standard which has serious problems with the cancer community because it raises questions, doesn’t the Senator agree with us, and we ought to use what is now agreed to by Republicans, by Democrats? Most importantly, ought we not use the standard endorsed by those within the medical profession? If this standard does not work, we will have the opportunity to take a look down the road in terms of altering and changing. Is that a preferable way to proceed?

Mr. EDWARDS. I agree with the Senator.

As the Senator knows, the legislation offered by the Senator, myself, and Senator MCCAIN, this specific language is supported by the medical groups from around the country involved with this issue on a daily basis that have a first-hand understanding of what works and what doesn’t work. We have been working with those groups to fashion this language. That is the reason that language exists. We know from the American Medical Association and all the health care groups around the country that they support the language we have in the bill.

That having been said, I say to the Senator in order to try to address some of the concerns raised, my colleagues who are the sponsors of this amendment have been working with a group of Senators today to fashion an alteration to this language that makes it clearer that the contract language will be respected but balances that against the need for flexibility with the review panel. I believe we will have an amendment tomorrow to offer on that subject.

I end by thanking my colleagues from Arizona and Nebraska. While I will not be able to support their amendment, we understand the issue. We believe our bill is adequate on this issue, but we will have an alternative to propose tomorrow. Ultimately the point of this, of course, is to protect patients, make sure patients get the care they need. I think the language in our bill plus the language in the amendment will accomplish that purpose.

I yield the floor.

Mr. NICKLES. Mr. President, I rise in support of the amendment and I...
urge my colleagues to support it. I will make a couple of comments about some of the statements that were made.

I appreciate Senator Edwards' comments saying we are willing to have an amendment tomorrow to try to fix part of the problem. We heard that earlier today when we had an amendment to exempt employers.

There were statements made by many proponents of the language, employers can't be sued under this bill. That is a direct quote. So earlier today we tried to make sure employers couldn't be sued, and people voted against the amendment. But we heard: Well, there is an amendment coming that will protect employers.

We understand this bill language, and there is a section that deals with employers that white-collar workers shall be excluded from liability, and then there is an exception. As a matter of fact, on page 144, causes of action against employers and plan sponsors are precluded, paragraph (A).

Paragraph (B) says:

CERTAIN CAUSES OF ACTION PERMITTED.—
Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor.

We tried to make sure employers would be exempted, and unfortunately that amendment didn't pass. But we did hear assurances from some of the sponsors, we have an amendment and we will protect employers. But, yes, employers can be sued because obviously the Gramm amendment didn't pass. So I just mention that.

We raised the point, and it was raised well by Senator Kyl from Arizona and Senator Nelson of Nebraska, that said we are not bound by contracts, and there is all kinds of language here dealing with contracts. You don't have to have coverage for excluded benefits. That sounds very good, but there is language "except for," language that says you have to cover benefits that are excluded or expressly limited under the plan contract. Then I heard my colleague from North Carolina say we will have an amendment tomorrow to take care of that.

There are several major provisions with this bill that are wrong, one of which is the liability is far too generous and what the contracts don't mean anything. So we are wrestling with the liability.

We tried to exempt employers today and were not successful. Now we are working on contract sanctity. I hope all Democrats and Republicans will look at the language that is in the bill and realize how far it goes and think about what is getting ready to happen. I use for an example President Clinton's appointment of a bipartisan commission to make recommendations on this issue. This is the report:

The right to external appeals does not apply to denials, reductions, or terminations of coverage or denials of payment for services that are specifically excluded from the consumer's coverage as established by contract.

In other words, the report to the President by the Advisory Commission on Consumer Protection and Equality in Health Care says if it is excluded in the contract, you don't have the right to even have an appeal. That is not appealable. In other words, if the contract says don't cover it, it shouldn't be covered.

Yet in the language in the bill, did we adhere to the President's commission? No. If you look at the language on page 35 of the bill:

NO COVERAGE FOR EXCLUDED BENEFITS.—
Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or coverage in the plain language of the plan document.

If it stopped there, it would be great, but it doesn't stop there, if you read the additional language:

and which are disclosed under section 121(b)(1)(C) except to the extent that the application or interpretation of the exclusion or limitation involves a determination described in paragraph (2).

In other words, you don't have to pay for an excluded benefit "except for:"

1. Wait a minute, you have a contract, and a medical provider says, I will provide this list of contracts and I will charge so much per month to provide these contracts, and this bill says we are not going to overturn that exclusion. That is what the first part of the paragraph says. And the second part of the paragraph says "except for:" and you have to ask, well, what do you mean "except for:"? Start reading; except for medically reviewable decisions, and it turns out anything is a medically reviewable decision.

So anyone can say it is medically reviewable if the denial is based on medical necessity and, appropriately, denial based on experimental or otherwise based on evaluation of medical facts. The net result is, bingo, anything is covered. You have a lottery.

I heard my colleague from Massachusetts—and I have great respect for him—say we had an agreement last year and basically Senator Nicklaus from the conference committee agreed to this language.

We did not. I will make a few comments to get specific on the language. We came close in a lot of areas. But I will tell you colleagues, on things we did agree to that do not appear in the bill today.

I have a document, agreed-to elements of the external appeals section, dated April 13, 2000, 6 o'clock. We made an agreement were not in the underlying bill. I don't think you can say we agreed to one provision—whops, we forget to say we agreed on a lot of other things.

We agreed that a patient should have access to independent reviews for any denial of a claim of benefits, No. 1, if the foundation of such item exceeds a significant financial threshold or, No. 2, if there is a significant risk of placing the life, health, or development of the patient in jeopardy.

I see in the bill we have before us that there is no such thing as a financial threshold. This clearly violates the so-called agreement that was entered into last year.

Further, the language regarding the "denial creates a significant risk of placing the life health or development of the patient in jeopardy" is not in the bill before us. It is not in the McCain-Kennedy-Edwards bill.

It is interesting; that language was in the original Senate bill, S. 6. It was also in the President's report on quality. But it is not in the bill that we have before us. It is not in the McCain-Kennedy-Edwards bill. My point is, before we had included some language to try to make sure we would have some protections and that was disregarded.

In addition, last year we agreed to a $50 filing fee to discourage frivolous filings. I see this particular agreement was also absent from today's version. The bill before us has a $25 filing fee. One of the reasons why we had a $50 filing fee was because we did not want frivolous filings. We didn't want people to say:

I will appeal. Maybe I will get lucky; maybe I will have extra benefits, more coverage; maybe I can lay a predicate for lawsuits in the future. What do I have to lose? If you had a little more of a threshold, it may discourage frivolous suits.

We also agreed at one time to consider expert opinion if it was by independent, valid, and reliable scientific and clinical evidence. The language we have before us on page 35 talks about the standard for determination. It says we are going to review:

... valid relevant scientific evidence and clinical evidence, including peer-reviewed medical literature and findings including expert opinion.

But it did not include everything we had agreed to in the past.

What I do recall is last year we did agree that before Clinton maintained there was a goal to maintain the sanctity of the contract and not establish appeals which allowed for the coverage of any excluded benefit. In fact, the very basis for today's debate is ensuring that patients are not denied promised benefits. It is not a debate to create a process to resolve and order unpromised benefits.

I think the language we have before us in the McCain-Kennedy-Edwards bill does just that. It is the legislative process to make sure people could get unpromised benefits, to get items that in some cases are contractually prohibited to be covered benefits.
That is a stretch. Federal employees do not have that; Medicare does not have that. And I don’t have it. There is a list of covered benefits, there is also a list of excluded benefits. I will give an example and I will put this in the RECORD. This is from CHAMPAVA. It has a list of about 25 items that are excluded, specifically, from VA coverage. I will mention a couple of them: acupuncture, air conditioners, humidifiers, exercise equipment, eyeglasses, and contact lenses.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NICKLES. I ask unanimous consent to proceed for another 6 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator may proceed.

Mr. NICKLES. The health club memberships, hearings aids or hearing aid exams, homemaker services, hypnosis, massage therapy, physical therapy consisting of general exercise programs, plastic and other surgical procedures primarily for cosmetic purposes, smocking cessation programs, and several others.

My point is, here is a Government plan for veterans that has specifically excluded items that should not be covered. I will venture to say every private health care plan has excluded items as well. Under the bill we have before us, it says you don’t have to cover excluded items except for—and then it opens the door. That, to me, says do not pay any attention to the contracts. Contracts do not mean anything.

What is the net result of that? If people who have contracts are not bound by the contracts, then the cost of providing health care is going to go way up. There is no legal definitive way of knowing how much the coverage is going to cost because it is not defined coverage. There is nothing you can bank on.

I compliment my friends and colleagues from Arizona and Nebraska for their leadership in putting this amendment together. This amendment is equally as important—maybe not quite as easy to understand but very much as important—for containing the cost of health care as anything we have considered so far. Are we going to allow people to have contracts? Are we going to live by those contracts? Or are we going to take the language in this bill and say: Contracts? We don’t care. Are we going to violate what the President’s Commission on Health Care said? They said you should not cover items that are excluded from contracts. We are just going to ignore it as does the underlying McCain-Kennedy-Edwards bill? Are we going to have a medical necessity definition that is the same thing Federal employees have on their fee-for-service plans, which is a quality plan which most all of us are in and most all of us are happy with? Isn’t that good enough? Can’t we give some assurances that those are things that people can rely on?

Mr. NICKLES. I compliment my colleague from Nebraska, Senator NELSON, for his expertise. He brought this to my attention when I was discussing this legislation. He was exactly right. He said this has to be fixed. We are working to fix it. We can’t just say do not pay any attention to the contracts, ignores contracts, no telling how much it can cost and also, incidentally, have liability?

You could have, under the McCain-Kennedy bill, a situation where somebody doesn’t provide a service that is contractually promised and they can be sued because some expert might determine it is medically necessary. This expert might be a acupuncturist specialist and they might determine that what you need to solve your back problem is acupuncture and you have your contract, as VA’s, says you do not have to cover it, you have to cover it because that is a solution and under the bill it says expert opinion. So maybe it should be covered.

If you think that’s a stretch, it is not a stretch. You can find experts to say almost anything in the medical field and sometimes in the legal field.

My point is this bill undermines contracts in a way in which I think we should be very, very wary. We should not do this. My colleagues from Nebraska and Arizona have come up with a good fix, a good solution. I appreciate that the Senator from North Carolina said he is amenable to fixing this problem. The way to fix it is to pass the Mr. NELSON amendment. I urge my colleagues to vote for this amendment tomorrow morning.

I thank the indulgence of my colleagues I yield the floor, and ask unanimous consent the CHAMPAVA list be printed in the RECORD.

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

OTHER MEDICAL SERVICES . . . WHAT IS NOT COVERED

(Not a.Inclusive—see Specific Exclusions)

Acupuncture.

Air conditioners, humidifiers, dehumidifiers, and purifiers.

Autopsy.

Aversion therapy.

Biolfedback equipment.

Biofeedback treatment of ordinary muscle tension or psychological conditions.

Chiropractic service.

Exercise equipment.

Eyeglasses, contact lenses, and eye refraction exams—except under very limited circumstances, such as corneal lens removal.

Foot care services of a routine nature, such as removal of corns, calusses, trimming of toenails, unless the patient is diagnosed with a systemic medical disease.

Health club memberships.

Hearing aids or hearing aid exams.

Homemaker services.

Hypnosis.

Items that do not require a prescription (except for insulin and other diabetic supplies which are covered).

Massage therapy.

Naturapathic services.

Orthotic shoe devices, such as heel lifts, arch supports, shoe inserts, etc., unless associated with diabetes.

Physical therapy consisting of general exercise programs or gait analysis.

Plastic and other surgical procedures primarily for cosmetic purposes.

Radial Keratotomy.

Sexual dysfunction/inadequacy treatment related to a non-organic cause.

Smoking cessation programs.

Transportation services other than what is described for ambulance service under What Is Covered in this section.

Weight control or weight reduction programs, except for certain surgical procedures (contact HAC).

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 12 1/2 minutes remaining.

Mr. KENNEDY. I yield myself 4 minutes.

Mr. President, we have had a good discussion coming back, once again, to what I think is one of the fundamental aspects of this bill. We have gone through this. I have taken the time to go through this evening what the criteria were going to be for the medical officer at the time of the external appeal. Those criteria have been supported today by the overwhelming majority of the medical profession because they understand that, with those criteria, we are going to get a medical decision that will be in the best interests of the patient. That is really not changed.

What is being suggested are three different options that might be used. The one we offer has the support of the medical community. It has the overwhelming support of the medical community. That is the first point.

With all respect to my friend and colleague from Oklahoma, regarding the provisions, when it comes down to what is and is not going to be permitted, clearly if there is an exclusion in the contract there will not be the right of the medical officer to alter and change that. Let me give an example on the issue of medical necessity under the criteria that we have, where it might very well be interpreted by a medical officer that a particular HMO excluded cosmetic surgery.

The question came down to a child that had a cleft palate, and the medical officer said: Well, they are excluding cosmetic surgery, but a cleft palate for a child is a medical necessity. That medical officer, I believe, ought to be able to make that judgment. Under the language that we have, that medical officer would be able to do it.
If, on the other hand, the HMO had put in the contract that they will not permit a medical procedure for a cleft palate, then clearly that would be outside of the medical judgment, and outside of medical necessity.

That is the example that is really reflected in the language which we have included. But the fact is those are exceptional cases. They are not unimportant. But the most important aspect of the case is that the judgment that is going to be made by the medical officer is going to be based on the medical needs of the particular patient and the best medical information that is available.

That is what has had the broad support. There may very well be a new commission established under HHS made up of a number of different stakeholders which may come up with some recommendation that may be a better one. That might be so. If that is the case down the road, maybe we can have the opportunity to consider it and bring some change to it. But as we have heard earlier, and as we have seen, the Federal employees standard that is used is not permitted to be used in terms of appeals procedure. The reason, evidently, is because they believe the medical officer ought to be able to use the criteria which brings into play the latest information and the latest scientific information that is available, and the best information that would be helpful to that medical profession.

Finally, there is the question. What are we going to do? Are we really going to ultimately let their judgment and decision be made by the medical professional with enough flexibility so that they can bring to bear medical judgments on this, and also consider the best information that is available to them, and only that best medical information available to benefit the patient?

I think we have a good process and a good way of proceeding. That is why I believe that we ought to stay the course with what is included in the legislation and resist the amendment.

Mr. President, I know we have another amendment that we are going to debate this evening. If there are others who want to speak on this, we welcome them.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, if this side has run out of time, I ask unanimous consent to speak for what time I might consume. But I don’t expect it will be over 10 or 12 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I don’t intend to object. Is this in favor of the amendment?

Mr. GRASSLEY. Yes. I am sorry I didn’t say that. I am in favor of the amendment.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I want to address what I believe is a very fundamental, fatal flaw in the legislation as written to how the bill treats health plan contracts, and the precedents that this treatment sets for all contracts, not just those between health plans and employers.

As currently drafted, the bill states that specific definitions and terms in health plan contracts can be entirely thrown out in favor of another definition made up by a third party charged with reviewing a plan’s decision to deny care.

This basically invalidates all contracts between health plans and employers and makes them non-binding.

Putting the terms of health plan contracts on the chopping block undercuts the very purpose of the health plan contract.

If these contracts are not binding, the health plan will have no way of knowing what standard it should follow in making coverage decisions, the employer will have no way of knowing what costs will be, and the patient will have no way of knowing what kinds of items and services are covered.

In short, the contract won’t be worth the paper its printed on.

How do you do business without a contract? Quite frankly it’s almost impossible to imagine doing business at all without a binding agreement.

The Kennedy-McCain bill forces managed care plans to do business in a way that no other industry is forced to do—by that I mean without a binding and valid contract.

Now, let me stop here for a minute and talk about these health plan contracts.

First, contracts between health plans and employers are actually negotiated with all parties involved.

Employers, usually with the help of unions and other worker representatives, bargain for specified coverage in order to meet the unique needs of different employees. Every contract is different.

What’s more, these contracts are typically reviewed and approved by state insurance regulators before they become effective. The whole process is deliberative, time consuming and, all told, is truly a “meeting of the minds.”

The Kennedy-McCain bill says, in effect, to heck with that meeting of the minds. The bill gives unrelated third parties reviewing patient complaints unprecedented authority to take out contract terms that were bargained for in good faith and literally throw them in the trash.

This authority to override contracts at any time and for any reason goes far beyond the authority given even to judges, and the most important instances are obliged to apply the terms of a contract.

And where judges must explain their rationale in opinions and are generally accountable as public officials, these third party reviewers as outlined in the Kennedy-McCain legislation are private citizens and are not accountable to anyone at all.

I do believe that every patient should have a right to an independent, external review of a health plan’s decision to deny care. But that right cannot be without some rationality and accountability.

Third parties charged with reviewing patient complaints should have broad discretion to thoroughly assess, and even overturn, a plan’s decision so long as that authority is exercised within the four corners of the contract.

Kennedy-McCain authorizes third parties to veer far, far away from those four corners, and to tear up the contract altogether.

I encourage my colleagues to think about what it would be like if the contracts that they live by everyday contracts for life insurance, home mortgages, even car leases could be torn up and rewritten by an unaccountable third party at any time.

Moreover, I encourage my colleagues who know small business owners or who were themselves small business owners, to think about doing business without the security of a binding contract.

I believe that those of my colleagues who do think about this will come to understand that the consequences of allowing contract terms to be thrown out could be disastrous, and that all contracts, whether involving a health plan or not, deserve the deference that our laws traditionally give them.

I urge my colleagues to reject the Kennedy-McCain approach to health plan contracts and to support the Kyl-Nelson amendment—which is an approach that honors both the integrity of the contract itself, as well as the intent of the parties to it. In the end, it is the patient who wins under this amendment.

Thank you.

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado is to be recognized to offer an amendment.

AMENDMENT NO. 817

Mr. ALLARD. Mr. President, I call up amendment No. 817.

The PRESIDING OFFICER. The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for himself, Mr. BOND, Mr. SANTORUM, and Mr. NICKLES, proposes an amendment numbered 817.

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

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

The amendment is as follows:

(Purpose: To exempt small employers from causes of action under the Act)

On page 148, between lines 23 and 24, insert the following:
June 26, 2001

CONGRESSIONAL RECORD—SENATE

11859

Mr. ALLARD. Mr. President, I am of-

ferring an amendment to S. 1052 that would prevent frivolous, unnecessary,

and unwarranted lawsuits against small employers. That is what my

amendment is all about. It exempts small employers that have 50 or fewer

employees in their firm. I think this is an important provision. I plan on

sharing with my colleagues in the Senate Chamber some of my experiences as

a small businessman.

I have had the experience of having to start my business from scratch. I

worked with fewer than 50 employees. Believe me, from personal experience, I

know what happens when you are a small employer and you have too many

mandates on your business and you do not have all the staff and accountants

and lawyers in your firm to help you along, and you have to hire an attorney

or accountant outside your business. I know the impact it can have as far

as cost is concerned.

Believe you me, I know what it feels like to have taxes increased on you as

a small businessman because you are in the dollar game; every dollar makes a

difference on what your bottom line is going to be.

Contrary to what many Members of the Senate believe, under S. 1052, does not

exempt small employers from lawsuits. Under S. 1052, employees could sue their employers when an

employer—and I quote—"fails to exercise ordinary care in making a decision." That is from page 140 of the

bill. Mr. President, 72 percent of small employers in the United States provide

health care that Americans need. They do not have to provide that coverage,

but they choose to on their own. The Senate should honor that. The Senate

should respect that. S. 1052, however, undermines that.

Allowing small employers to be liable for health care decisions would un-
duly burden a small employer. It would force the small employer to spend

costs, as I mentioned earlier, by more than 4 percent. This is above and be-

yond the additional 13-percent increase in health care costs that employers expe-

rienced last year. Now, as we move forward into another year, they are look-

ing at somewhere around a 13-percent increase.

I have a recent survey that was jointly put together with the consulting

firm Deloitte & Touche and the industry of business and health that reveals that

health premiums increased more than 12 percent last year and are expected to increase 13 percent in both

2001 and 2002. So this is a burden with which small employers are faced.

With the passage of this bill, the Congressional Budget Office has estimated it would increase premiums another 4

percent. That would have a very adverse impact on small employers. We have heard it is likely we will have an additional 1 million uninsured with the passage of this Patients’ Bill of Rights. I suggest to the Members of the

Senate, a large part of that million is going to come from the very small employers, those with 50 employees or fewer.

S. 1052, as it is currently written, would cause further increases in health

care costs for American families, workers, and businesses across the board. The Congressional Budget Office has estimated that the previous version of S. 1052, which is substantially identical to the current bill under consideration, would increase the Nation’s health care costs, as I mentioned earlier, by more than 4 percent. This is above and be-

yond the additional 13-percent increase in health care costs that employers expe-

rienced this year. Moreover, this year’s increase would be the seventh annual in-

crease in a row.

If S. 1052 passes, many small employers will stop providing health care for

their employees and the number of uninsured Americans will increase. The

country cannot afford this. The small businesses of America cannot afford this. The country cannot afford S. 1052 in its current form.

We should know the costs of providing health care to employees. As I

mentioned earlier, for 20 years I practiced veterinary medicine and provided health care insurance to my em-

ployees. I can speak from personal experience: Providing health care was costly. If I were still practicing veteri-

nary medicine as a private employer, I could not begin to imagine the burden S. 1052 would place on me, my employ-

ees, and everybody’s families involved in my business.

I believe we should pass a Patients’ Bill of Rights, not a lawyers’ right to

sue. Our bill should focus on expanding access to affordable health care for the
I don’t want to see us lose that by moving constantly towards larger businesses and a corporate-type of society. The backbone of small business is important to this country. I hope Members of the Senate will join me in making sure the small employer, those with 50 employees or less, is exempted from the liability provisions in S. 1052. I seek for their support of this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the good Senator for his amendment and his thoughtful explanation of it. I will oppose the amendment. I will state briefly why this evening.

Basically, we have a number of definitions of small business. We are talking about a definition of 50 employees or less. That is about 40 percent of the workforce. It might be as high as 43 percent. So with this amendment, effectively we are undoing 40 to 43 percent coverage for all those employees and employers. If we believe in the protections of this legislation, that is a major exclusion.

What are those protections? Those protections are very simple. They are very basic and fundamental. For example, doctors ought to be making the decisions on medical care and not the HMOs. The employees who work in these businesses and where the HMOs are selling these policies are being hurt just as those who are above the 50. Excluding them from these kinds of protections is unacceptable.

Their children are going to be hurt. Their children should be able to get the kind of specialty care that others can. The wives of those who work in those places and factories ought to be able to get into clinical trials if they have breast cancer. They ought to be able to get the prescription drugs they need. If a drug is not on the formulary, they ought to be able to get the continuity of care they need. This care protects expectant mothers from losing a doctor during the time of their pregnancy, if the employer drops the coverage with an HMO. These are very important kinds of protections we are discussing.

If we accept the Senator’s amendment, we are effectively excluding 40 percent of the population.

The Senator makes a very good point about cost, particularly for small business. I am always amazed in my State of Massachusetts. You go down to 15, 20 employees and still the small businesses are providing health care coverage. What is happening, they are paying an additional 40 percent or more in premiums every single year. This occurs because they are not able to get together with other kinds of groups and get the reductions that come from the ability to contract with large numbers of employers. They are getting shortchanged under circumstances. Many of the firms they work with are in the business one year and out of the business a second year.

The point the Senator makes about the particular challenge for small employers to offset health coverage for their employees is very real. We ought to help them. There have been a number of different proposals which I have supported and others have supported in terms of deductibility and helping those companies. That is an important way of trying to get about it. But the suggestion that is underlying the Senator’s presentation is that the cost of this particular proposal is what is really going to be the straw that breaks the camel’s back.

He talks about a 4-percent increase in premiums. That is a percent a year, as we have learned. The alternative percent is around 3 percent. It is 5 percent over the period of years. The CBO points out that the cost of the various appeals provisions and the liability provisions are eight-tenths of 1 percent over the 5 years. And in the alternative bill, it is four-tenths of 1 percent.

I mentioned earlier in the day that the largest CEO salary of an HMO was $54 million a year, and $350 million in stock options. This constitutes a benefit package of $490 million. This adds $1.25 to every premium holder, small business premium holder, $4.25 a month. Our proposal adds $1.19 a month. That is just one individual. I am sure, in this case, he does a magnificent job. But when you are talking about the cost of this, we have also brought in the fact that the average income for the 10 highest salaried HMO CEOs is $10 million a year. Their stock options are in the tens of millions of dollars a year. The profits are 1 percent. They profit $3.5 billion a year in profits. And still they ratcheted up their premiums 12 percent to maintain their profit margin. They made $3.5 billion.

Yet they cannot make sure that we are going to be able to provide protections for their employees. They cannot make sure that they are not going to overrule doctors in local hospitals and community hospitals, in the urban hospitals and in rural hospitals trying to give the best medical attention to the children and the women and their workers? We can’t say that we want to provide that degree of protection for them?

I just can’t accept that. I would welcome the opportunity to work with the Senator in the area of small business. But that isn’t what we are about this evening. The Senator’s amendment, as I said, would effectively exclude 40 percent, 43 percent of all the employees. It makes the tacit assertion—more than tacit, explicit assertion—that the increased premiums that are going to be
I think that those 40 percent of American workers are entitled to coverage and protection.

(Mr. CORZINE assumed the Chair.)

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

Mr. KENNEDY. Yes.

Mr. DURBIN. I listened to the Senator from Colorado present his amendment on behalf of small businesses and employers. I recall, before my election to Congress, running a law office and buying health insurance for myself and my employees. I recall the experience when I went to one of the larger health insurance companies to cover my employees. So the belief that small businesses only do business with small insurance companies I am not sure is an accurate description. I think that small businesses often do business with larger insurance companies to cover their employees. So the people who are losing are not the small business owners but the small business employees who don’t get the benefit of the same protections that we are trying to guarantee to all Americans. Is that the Senator from Massachusetts sees it?

Mr. KENNEDY. The Senator is quite correct on this. That, of course, raises competitive situations. You are going to have competition on the dumbing down of protections for employees, rather than establishing a standard in competition in terms of the quality of the product. It is a race to the bottom, so to speak.

Mr. DURBIN. So this will, in fact, limit the protections for employees of small businesses across America so that if you go to work for a small business, you just won’t have the right to specialty care, to the drugs your doctor thinks are necessary to cure your disease, the right to a specialist in a critical circumstance, access to emergency rooms—all the things we are trying to guarantee in this bill. What the Senator from Colorado does is say we are not going to provide those protections if you are one of the 40 percent who works for a small business in America. Is that what the Senator understands?

Mr. DURBIN. The Senator is correct. I will make the case tomorrow, but it is my judgment that you will find that there are greater abuses in the areas of these smaller companies, smaller HMOs, appealing to smaller companies, rather than some of the larger HMOs which are tried and tested and have the reputation within a community to try and defend. We have had many that do a credible job, but you are going to find, I believe—and I will get to this more tomorrow morning—that the workers who are the most vulnerable are going to be workers in these plants.

Mr. DURBIN. May I ask another question of the Senator from Massachusetts?

Mr. KENNEDY. Yes.

Mr. DURBIN. While I listened to the Senator from Colorado explain the increase in premiums, he suggested premiums had gone up 12 percent last year, and they anticipated they would come up 13 percent nationwide this year and the following year, which suggested that in a 3-year period of time, the Senator from Colorado tells us, we are going to see a 38-percent increase in health insurance premiums.

Going back to a point earlier, how much would the Kennedy-Edwards-Mc Cain bill increase premiums each year over the next 5 years if we are going to have 38 percent in 3 years, just the natural increase in health insurance, how much will this legislation we are debating add to that bill?

Mr. KENNEDY. Well, according to the Congressional Budget Office and OMB it will be less than 1 percent a year over the next 5 years—much less, closer to 4 percent. So, effectively, it is 4 percent.

As we pointed out earlier in the debate, under the alternative proposal that the President supports, it is effectively 3 percent over 5 years. As the Senator is pointing out, it is somewhat less than 1 percent a year against what we are debating add to this bill.

Mr. DURBIN. I think that really addresses the issues raised by the Senator from Colorado. First, we are saying to employees of small businesses that you are not going to receive the protection of others with health insurance. Secondly, even though the cost is less than 1 percent a year against what the President supports, it is 4 percent.

I thank the Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator for his helpful comments.

Mr. REID. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. REID. I know the Senator is in a rush. I just want to make two brief comments. First of all, to make it plain English so somebody from Searchlight, NV, where I was born, understands it, the Congressional Budget Office says S. 1052 would result in a premium increase of only 4.2 percent over 5 years. The cost of the average employee would be $1.19 per month.
This would be 37 cents per month more than the legislation that really gives no coverage at all on the other side. And as one last thing to my friend. We were here on the floor earlier today. We know one of the things that is trying to be injected into this is that this is a terrible thing for small business. I read to the Senator earlier today—and I am going to take 1 minute to read a communication I got from a small businessman in Nevada today:

As a small business owner—Less than 50 employees—and as a citizen, I urge you to support the upcoming bill commonly known as the “Patient’s Bill of Rights.” I also would like to state that your amended version of the McCain’s version of the bill. If the HMOs can afford to spend millions on lobbyists and advertisements, then they can afford to do their job to prevent the lawsuits in the first place . . . . I am willing to pay to know that what I am purchasing from my HMO will be delivered, not withheld until someone is dead, then approved postmortem.

As a believer in the market and freedom, I feel that we need a better national approach to health care. As the richest nation in the world, as the only real superpower, why do so many Americans get Third World levels of health care, even when they have insurance? Thank you for your time. Michael Marcum, Reno, NV.

This is a small businessperson. He doesn’t have millions of dollars to run TV ads, radio ads, and newspaper ads, but he has the ability to contact me, as hundreds of thousands of other small businesspeople can do. This legislation that you are supporting is good for small business, and this is only one of the other ploys to try to distract from the true legislation.

Mr. KENNEDY. I thank the Senator because in his statement he has really summarized the importance of resisting this amendment. Those 40 percent of workers deserve these kinds of protections. They are not very unique or special kinds of protections.

They are the commonsense protections we have illustrated during the course of this debate—access to emergency room care based upon a prudent layperson standard, protections of specialty care, clinical trials, OB/GYN, continuity of care and point of service. So patients are able to get the best in specialty care and formulary, the new medicines, and making sure their doctors, American doctors, are the best trained in the world. These doctors have committed their lives to benefit patients, and they are trained to do so trained to make the medical judgments.

That is what American families believe they are paying for when they pay the premiums, but we have a group of HMOs that feel they can put the financial bottom line ahead of patient interests and shortchange millions of Americans. We should not let the 40 percent that will be affected by this amendment be shortchanged.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I want to respond to some of the comments that were just made. The fact remains, if you survey employers, half say they will drop employee coverage if exposed to lawsuits. I can understand that having been a small businessman, and I understand how one tries to deal with the bottom line of that business, usually a very marginal business.

Again, I agree with the Senator from Massachusetts when he says we are talking about 40 to 45 percent of the workforce in this country. It points out how important the small business sector is. Those were 50 employees or less. They are a vital part of our economy. We want to make sure they have an ability to attract employees into their business. We want to make sure they can meet the demands they want to make sure they stay in business.

I want to share a quote with the Members of the Senate made by William Spencer, who is with the Associated Builders and Contractors, Inc. We all know many times builders and contractors are small businesspeople, sometimes, at least in my State, frequently 4 and 5-man operations, rarely over 10, particularly in the subcontracting area.

Many of the ABC’s member companies are small businesses, and thus the prospect of facing a $5 million liability cap on civil assessments is daunting. Financial reality is that if faced with such a large claim, many of our members could be forced to drop employee health insurance coverage rather than face the potential liability or possibly even shut their business down.

I think he is right on, and I agree with him. The question is, how do you respond as a small employer when you are faced with an untenable exposure from a lawsuit or costs or regulatory burden? You try to figure out a way you can move out of that liability you are facing. What I did, and I think many small employers will do, is go back to their employees and say: Look, there is no way we can cover your medical insurance. There is no way we can work with a program, whether it is an HMO or whatever, to provide you with medical insurance.

If you are a small employer such as I was—I had part-time employees working for me. Many who came to work for me were part-time employees that it was just a part of their job. They were just out of high school, in many instances, and going to college. I was going to give them their first experience in the workplace.

I had to make a decision as to what we were going to do. In a case where I had increasing costs in my small business. Many of them were as a result of insurance premiums. I decided that I was going to approach my employees and say: I would much rather pay you extra to work in my business and leave it up to you to line up your own health care coverage.

Again, they were part-time employees who we expected, in many cases, to work for us for 3 months, sometimes 2, 3 years, and then they would be moving on.

By taking this approach, I also gave them portability. In other words, when they left my business, they were not faced with the issue of what is going to happen with my insurance when I get to a new employer; what is going to happen, from the employee’s perspective; what am I going to do when I am no longer working for my current employer as far as health coverage is concerned.

That is how I decided to handle it. I think most small employers will view it the same way I did. When they see that untenable exposure, they are going to decide not to have coverage for employees. In order to stay competitive, they might decide to pay them more or some other way to compensate them for that loss in health care coverage.

The fact remains, from my own personal experience, it is not hard for me to believe that many small employers, as many as half, will elect not to provide health care coverage for their employees.

We need to do everything we can to encourage the small business sector to survive. This is not the only place where we draw a bright line, where we recognize how important the small business sector is to us. In other places in the law, we have tried to define what a small business is. In some cases, we drew it at 150 employees or less; in some cases, 100 employees or less; or maybe, in some cases, 50 employees or less. In fact, in some cases, they even tried to define the very small employer of 15 employees or less.

It is not an unusual policy for the Senate in legislation to draw a bright line to define what a small employer would be. In this particular instance, it is entirely appropriate to make that at 50 employees or less, and if you have 50 employees or less, you would be exempted from the provisions of the Senate bill that is before us.

Small businesses are important for the economic growth of this country. Small businesses are important to generate new ideas. When an American has a great idea, many times they go into business for themselves, and they try to develop the very small employer that eventually grow into a large business. If it does not work, they may eventually end up having to work for another employer. But many times they are contributors to their communities. They are contributors to the employee’s leadership within that community and help make that community a better place in which to live.
I believe we need to be sensitive to what small employers can contribute to our economy and the vital role they play. I believe this mandate, this bill will make it much more difficult to stay in business, and consequently we will begin to lose that pool of talent that is so vital to the health of this country.

Presiding Officer. Who yields time?

Mr. Reid. Mr. President, under the order that is now before the Senate, if the Senator from Colorado yields back his time, we will do so and finish this debate in the morning under the time that is scheduled.

Mr. Allard. Is the Senator from Nevada yielding back his time?

Mr. Reid. Yes.

Mr. Allard. I will yield back the remainder of my time.

Mr. Reid. We will complete the debate in the morning. The Senator from Colorado will have an hour in the morning.

Mr. Allard. That is my understanding, there will be an hour.

Mr. Reid. Evenly divided.

I yield back our time and the minority has yielded back their time.

I suggest the absence of a quorum.

Presiding Officer. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Presiding Officer. Without objection, it is so ordered.

Morning Business

Mr. Reid. Mr. President, I ask unanimous consent there be an hour in the morning.

The assistant legislative clerk proceeded to call the roll.

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

Presiding Officer. Without objection, it is so ordered.

Presidential Trade Negotiating Authority

Mr. Byrd. Mr. President, I am very much concerned about our loss of direction with regard to Presidential trade negotiating authority. Many Members of the House, and some of my colleagues here in the Senate, advocate a wholesale surrender—a wholesale surrender—of Congress' constitutional authority over foreign commerce, as well as the evisceration of the normal rules of procedure for the consideration of Presidential trade agreements.

I am talking about what is commonly known as “fast-track.” “Fast-track,” though the administration has chosen the less informative moniker—the highfalutin, high sounding “trade promotion authority.” “Trade promotion authority” sounds good, doesn’t it? “Trade promotion authority,” that is the euphemistic title, I would say—“trade promotion authority.” “The real title is “fast-track.”

What is this fast-track? It means that Congress agrees to consider legislation to implement nontariff trade agreements under a procedure with mandatory deadlines, no amendments, and limited debate. No amendments. Get that. The President claims to need this deviation from the traditional prerogatives of Congress so that other countries will come to the table for future trade negotiations.

Before I discuss this very questionable justification—which ignores almost the entire history of U.S. trade negotiating authority—I think we ought to pause and consider—what?—the Constitution of the United States. And hold it in my hand. And hold it in my hand. That is my Constitution of the United States. That is my contract with America, the Constitution of the United States.

Each of us swears allegiance; we put our hand on that Bible up there. I did, and swore to defend the Constitution of the United States against all enemies, foreign and domestic.

Each of us swears allegiance to this magnificent document. As Justice Davis stated in 1866:

The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government.

Ex Parte Milligan, 71 U.S. 2 (1866). This was the case that refused to uphold the wide-ranging use of martial law during the Civil War.

Thus, Mr. President, let us review that power Congress is given with respect to commerce with foreign nations. Article 1, section 8, says that “The Congress shall have power to . . . regulate commerce with foreign nations, and among the several states, and with the Indian tribes . . . .”

This Constitution also gives Congress the power “to lay and collect . . . Duties, Imposts, and Excises.” The President claims he has these powers. Congress is given these powers. There it is. Read it. The President is not given these powers. These powers have been given to Congress on an exclusive basis.

Is this the extent of Congress’ involvement in matters of foreign trade? It scarcely needs to be pointed out that Congress’ central function, as laid out in the first sentence of the first article of the Constitution, is to make the laws of the land. When it is not for that first sentence in this Constitution, I would not be here; the President would not be here; the Senator from the State of Minnesota, Ohio, Florida, the great States, Alabama, we would not be here. Congress makes the laws of the land. Some people in this town need to be reminded of that.

For example, Congress decides whether a particular trade practice in the U.S. market is unfair. Congress decide whether foreign steel companies can use the U.S. market as a dumping ground, which they have been doing, for their subsidized overcapacity. Are we to give this authority to the President and make Congress nothing more than a rubber stamp in the process of formulating important U.S. laws? As the great Chief Justice of the United States John Marshall might have asked: Are we “mere surplusage”? Is the Senate mere surplusage?

The Founding Fathers’ memories were not short. Those memories were not occluded by real-time television news nor were they occluded by the proliferation of “info-tainment.” The Founding Fathers had a vast reservoir of learning, particularly classical learning, to draw upon and a treasure trove of political experience.

Our Founding Fathers were not enamored with the idea of a President of the United States who would gather authority unto himself, as had been experienced with King George III of England. Most of the administrations that have occurred—there have been at least 10 different Presidents with which I have served; I have never served under any President, nor would any of those framers of the Constitution think well of me if I thought I served under any President. The framers didn’t think too much of handing out executive power.

So this exclusive power to regulate foreign commerce was not centered upon the legislative branch by whim or fancy. There were weighty considerations of a system founded on carefully balanced powers.

The U.S. Congress tried to give away some of its constitutional authority by granting the President line-item veto power a few years back. Fie on a weak-minded Congress that would do that, a Congress that didn’t know enough and didn’t think enough of its constitutional prerogatives and powers and duties to withhold that power over the purse which it did give the President of the United States. Mr. Clinton wanted that power. Most Presidents want that power. Congress was silly enough to give the President of the United States that power. It was giving away constitutional power that had been vested in this body of Government, in the legislative branch.

Thank God, in that instance at least, for the Supreme Court of the United States. It said Congress can’t do that. Congress can’t give away that power that is vested in it, and it alone, by the Constitution of the United States.
lawmaking, would Congress decide that we can do without such fundamentally important procedures when it comes to trade agreements?

The U.S. Senate is the foremost upper house in the world today. Why? There are many reasons. But two of the main reasons are these. The U.S. Senate has the power to amend, and the U.S. Senate is a forum in which men and women are able to debate in an unlimited way—they can limit themselves; otherwise, in this forum, I can stand on my feet as long as my feet will hold me and debate. And nobody—not the President of the United States, not the Chair—can take me off my feet, not in this body. Nobody. And I am not answerable to anybody for what I say here. Our British forebears took care of that when they provided in 1689 that there would be freedom of speech in the House of Commons.

Well, we are doing it to ourselves when we pass fast track. We are saying: No amendments. You just either stamp up or down what the President sends up here.

Again, why, in light of the fact that extensive debate and freedom to offer amendments are essential to effective lawmaking, would Congress decide that we can do without such fundamentally important procedures when it comes to trade agreements?

I submit that, in 1974, we had no idea of what kind of Pandora’s box we were opening. At that time, international agreements tended to be narrowly limited. Consider, for example, the U.S.-Israel Free Trade Agreement of 1985.

The implementing language of that agreement was all of four pages, and it dealt only with tariffs and rules on Government Procurement.

Fast track began to show its true colors with the 1988 U.S.-Canada Free Trade Agreement which, despite its title, extended well beyond traditional trade issues to address farming, banking, food inspection, and other domestic matters.

The U.S.-Canada agreement required substantial changes to U.S. law, addressing everything from local banking rules to telecommunications law, to regulations regarding the weight and the length of American trucks. These changes were bundled aboard a hefty bill and propelled down the fast track before many Members of Congress knew what had hit them.

Most ominously, the U.S.-Canada agreement established the Chapter 19 dispute resolution procedure. This insidious mechanism, which was only supposed to be a stopgap until the U.S. and Canada harmonized their trade laws, gives the so-called trade “experts” from the two countries the authority to interpret the laws of the United States. We are not talking about judges now. We are not talking about persons trained in the laws of the United States. We are talking about trade “experts,” frequently hired hands for the industries whose disputes are under consideration.

Moreover, in our domestic courts, there is no mechanism by which American companies that are adversely affected by Chapter 19 panel decisions might obtain appellate review. The system simply does not work. It goes against fundamental American principles of fairness and due process.

In short, the U.S.-Canada agreement was nothing less than a dagger pointed at the heart of American sovereignty. That agreement—and the process by which it was concluded—undermined both the legislative and judicial authority of the United States.

So where are we now? Today, American trade negotiators are faced with a completely different reality from what it was in 1974. Our trading partners know the game—shut out the people and appeal to the elite conceptions of a smoothly functioning global economy. In 1974, Lane Kirkland, then-president of the AFL-CIO, made an observation about NAFTA that is just as pertinent today as it was then, when I voted against it. Here is what he said:

Make no mistake, NAFTA is an agreement conceived and drafted by and for privileged elites, with little genuine regard for how it will affect ordinary citizens on either side of the Mexican border . . . The agreement’s 2,000 pages are loaded with trade-enforced protections for property, patents, and profits of multinational corporations, but there are no such protections for workers.

In the new world of international trade negotiations, our trading partners, frequently assisted by their American trade lawyers, place on the table their ideas for elaborate changes to U.S. law. For example, our free trade area of the American trading partners propose dozens of pages of changes to our trade laws, modifications that are intended to eviscerate those laws.

The American workers who would be displaced if those modifications were implemented are given no role in this process. None. We, their representa- tives, are given a minimal role, a little teeny-weeny portion. But we are not yet voiceless, not yet drowned out by the elite consensus on the virtues of free trade.

Well, I am for free trade—2000—who would not be—as long as it is fair, fair trade. But that is quite another matter.

Let the free traders come to West Virginia. Come on down, Mr. President, and talk to the steelworkers who are being laid off in Weirton, WV. Don’t go over to Weirton and burn the flag. Those are patriotic citizens over there. But they are losing their jobs. Let the free traders come to West Virginia and talk to the steelworkers, talk to their families, talk to their neighbors. Let them talk to labor leaders from North America and Latin
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America. Let them try to explain why the disintegration of ways of life that give both opportunity and security is good in the long run.

As John Maynard Keynes once wrote, “Long run is a misleading guide to current affairs. In the long run we are all dead.” I will add: dead, dead, dead.

I am getting sick and tired of these administrations, Democratic and Republican, who run to West Virginia and want the votes there and turn around and fail to take a stand for American goods, American industries, and American men and women workers.

John Maynard Keynes also wrote, “Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economist.”

How many Washington Post editorialists would lose their jobs if our trade laws are eviscerated? How many libertarian think tanks will be shut down when the free trade dystopia is established? Shall we take their views—the views of some defunct economist—as gospel, or shall we listen to those who earn their living by the sweat of their brow?

When God evicted Adam and Eve from the Garden of Eden, they were told to earn their bread from the sweat of their brow, and that is why we are still doing it. I say listen to those who earn their living by the sweat of their brow. Go to Weirton to the steel town; go to Wheeling to that steel town, at Wheeling-Pitt with over 4,000 workers. I believe that is right. Go over there. Say to them: Boys, get in touch with your Senator and get in touch with your House Members and tell them to vote for—they do not call it fast track. Tell your Senator to vote for—that I didn’t say that I said it.

I am for expanding international trade. Who wouldn’t be. But let the trade be fair. Let us have a level playing field, and let us not neglect our responsibilities in this Senate to participate meaningfully in the formulation and implementation of U.S. trade policy.

I am not saying the Senate ought to vote on every duty and every tariff on every little toothbrush and every little violin string that is sent into this country. I am saying there are some big questions this Senate ought to be able to speak to and to vote on. At least on 2, 3, 4, 5, or 6, let’s have a vote by this Senate.

One way we can reassert our constitutional role with respect to foreign trade is to create a Congressional Trade Office modeled after the Constitution with respect to foreign trade

My colleagues might recall this was one of the many ideas discussed in the report of the U.S. Trade Deficit Review Commission. Senator Baucus and I are working on legislation that would give us a trade office with the information resources and expertise necessary to permit us to discharge our oversight responsibilities.

That is what we need. We need to exercise our oversight responsibility. We cannot do it if we gag ourselves, if we cannot speak, if we cannot amend. We cannot fulfill our responsibilities under the Constitution. We cannot fulfill our responsibilities to the people who sent us here.

Can anyone guess how many trade agreements have been negotiated without fast track? The President is running around saying: Oh, I have to have this; I have to have this in order to enter into these trade agreements. Can anyone guess how many trade agreements have been negotiated without fast track? Let me be clear: The authority was first granted to the President in 1974? The answer is in the hundreds. We have had fast track on this Senate floor 5 times in the last 27 years, but in the meantime, hundreds of trade agreements have been negotiated, the most recent examples being the U.S.-Jordan agreement and the U.S.-Vietnam agreement.

I think we need an analysis of all the trade agreements concluded over the past 27 years. Let us try to determine if the Founding Fathers were completely off the mark when they gave Congress authority over foreign commerce.

I believe that any impartial study of this history will demonstrate that we can have trade agreements without surrendering our constitutional authority over foreign commerce. If negotiation of trade agreements is in the interests of other nations, they will be at the table. They will be at the table, in my judgment, Congress or no Congress. Is there any serious argument to the contrary?

Let me be clear. I am thinking of a Presidential nominee some years ago who said this. For the moment I have forgotten his name. He said this: I didn’t say that I didn’t say it; I said that I didn’t say that I said it.

And then he said: Let me be clear. I didn’t say that I didn’t say it: I said that I didn’t say that I said it.

He said then: Let me be clear—after the audience had laughed.

Let me be clear. I am not suggesting that we noodle away at a Presidential trade agreement by considering myriad small amendments. No, Congress should not focus on the minutiae. There may, however, be a small number of big issues in such an agreement that go to the root of our constituents’ interests. We must have the authority to subject those issues to full debate and, if necessary, amend.

In closing, I reiterate that we should put our trust in this document which I hold in my hand, the Constitution of the United States—not in fast track but in the Constitution of the United States and in the people for whom it is drafted and ratified: the people of America.

Let us not give away even one piece of our national birthright, the Constitution, without at least demanding and proof of that its tried and true principles must be modified.

Let us preserve our authority as Members of Congress to participate fully in the process of concluding international trade agreements. Let us not permit the globalization bandwagon to roll over us, to weaken our voices, to sap the vigor of our democratic institutions, and to blind us to our national interests and the needs of our communities.

If we cannot uphold this banner—the Constitution of the United States which I hold in my hand—if we cannot uphold this banner, the banner of our more than 200-year-old constitutional Republic, if we cannot play a constructive role in taming the free-trade leviathan, then we are unworthy of our esteemed title.

Mr. President, I yield the floor.

IN RECOGNITION OF RAYMOND BOURQUE

Mr. KERRY. Mr. President, I would like to take a moment that I know my colleague from Massachusetts agrees with me to pay special recognition and tribute, celebrating the career of one of New England’s most beloved sports figures, Raymond Bourque, who announced his retirement today.

Over the course of a 22-year career in the National Hockey League, this future-certain Hall-of-Famer set a standard for all athletes—playing with a special kind of determination and grit and, above all, class that has been recognized by his fellow players and by sports fans all over this country and indeed the world.

He came to us in Boston from Canada as a teenager to play for our beloved Boston Bruins, earning Rookie of the Year honors for that first year in 1979 to 1980.

Many make a large splash with a lot of headlines in the first year, but Ray proved, even as he won Rookie of the Year, to be more marathon than sprint. Through perseverance and a deep dedication to his craft, he played his way into the hearts of sports fans across the region and throughout the league.

For over 20 years, touching literally hundreds of lives throughout those 20 years, he was the foundation on which the Boston Bruins built their teams and chased the dream of bringing the Stanley Cup back to Boston. Alas, that was not to happen.

The statistics, however, of his chase speak for themselves: The highest scoring defenseman in league history; a 19-time All-Star; a five-time Norris Trophy winner as the league’s best
defenseman. But in many ways it was more than goals and assists and legendary defense that won him the tremendous adoration of Boston fans. It was his performance beyond the game itself.

December 3, 1987, is a day that remains indelibly imprinted in the hearts and minds of Boston sports folklore. It is next to Fisk’s homer, Havlicek’s steal, and Orr’s flying goal. That day Bruin Hall-of-Famer Phil Esposito’s No. 7 was retired and raised to the rafters of the old Boston Garden. Ray Bourque also wore No. 7 and most believed he was going to continue to wear his number for the remainder of his career.

That night, Ray touched generations of fans and nonfans by skating over to Esposito, removing his No. 7 jersey to reveal a No. 7 worn by a player that would be his for the rest of his illustrious career. He handed the No. 7 jersey to a stunned and emotional Esposito and said, “This is yours, big fella. It never should have been mine.”

The Stanley Cup was the one thing that was missing during his years in Boston that continued to elude him and his teammates. In fact, Ray had the most games played without winning a Stanley cup—1,625. However, that distinction did not diminish him in the eyes of his fans or his teammates, the teammates who were proud to call him captain. It only made them all want to give him one last opportunity to prevail. With that in mind, Boston gave Ray his leave and he set his sights on that final goal—to win a Stanley Cup—only this time he set out to do it with the Colorado Avalanche.

Even after Ray left the Bruins in the midst of the 2000 season in search of that goal, Boston fans never left him. His new Colorado team immediately recognized his value as a leader and they awarded him the moniker of Hall-of-Famer. But when you take the full measure of the man, he has shown to be one of those few athletes who transcend sports. He could have played a couple of years more. He could have made millions of more dollars. But he chose to go out on top and to return to his family. He felt his family had made enough sacrifices for him, and it was time for him to be there for them.

In Massachusetts, and fans everywhere, I think there is a special sense of gratitude for his success, for his happiness, and we are appreciative of all of his years with the Bruins and proud to have him back home in Massachusetts. We wish him and his family well.

Mr. DASCHLE. Mr. President, I am honored today to present to my colleagues in the Senate an essay by Austin Lammers of Hermosa, SD. Austin is a student at St. Thomas More High School and he is the National Peace Essay Contest winner for South Dakota.

I ask unanimous consent that the essay be printed in the RECORD.

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

FAILURE IN AFRICA

Imagine how horrible living in a third world country could be in a civil war.

The latest civil war in Rwanda started on April 6, 1994, when the plane carrying Rwandan President Habyarimana and the President of Burundi was shot down near Kigali (Freeman 22). That same day the genocide began, first killing the Prime Minister and the Hutus, then the Tutsis (Potter 17). Also bad weather, pests, and the UN ban on the export of livestock to the U.S. and Saudi Arabia have worsened the economic situation in Somalia (Johnston 60). The drop in economy in Somalia has caused lowered employment and increased starvation (Johnston 60).

The UN should not have intervened in Somalia but rather let Somalia deal with their own internal problems. While the UN was in Somalia, they made the war bigger and thus causing more starvation. After the UN was removed, the police force abused citizens, and their economy was crashing further down (Potter 30).

The United Nations should have learned from their mistakes in Somalia and ignored what had happened and tried to help the civil war in Rwanda during 1994. Rwanda’s population is approximately 86% Hutu and 11% Tutsi. The two groups have had bad relations since that 15th century when the Hutus were forced to serve the Tutsi lords in return for Tutsi cattle (Brown 50). Since the 15th century, a number of civil disputes have begun between the Hutus and the Tutsis (Brown 51). The latest civil war has resulted in mass genocide (Prunier 38).

The United Nations began to evacuate when on April 6, 1994, when the plane carrying Rwandan President Habyarimana and the President of Burundi was shot down near Kigali (Freeman 22). That same day the genocide began, first killing the Prime Minister and her ten bodyguards, then all ‘Tutsi’ and political moderates (Freeman 27). This genocide, which has been compared to the Holocaust, lasted from April 6 until the beginning of July (Prunier 57). The Interahamwe militia consisting of radical Hutus, started the genocide killing up to one million Tutsis and political moderates, bragging that in twenty minutes they could kill 1,000 Tutsis (Bronwyn 4). However, milita was not the only faction to lead the genocide. A local Rwandan radio broadcast told ordinary citizens to “Take your spear, guns, clubs, swords, stones, everything—hack them, those enemies, those cowards, those enemies of democracy” (Browyn 13).

The United Nations was in Rwanda before and during the mass genocide, but did not do anything to stop the killings or even to stop the fighting (Benton 67). In 1993, the United Nations Assistance Mission to Rwanda, UNAMIR, oversaw the transition from an overrun government to a multiparty system (Benton 74). As the genocide broke out in 1994, the UN began to panic; and on April 21, just days following Resolution 794 the UN began the United Nations Operation in Somalia (UNOSOM) which monitored the new ceasefire between the rebels and the government forces while delivering humanitarian aid (Johnston 29). The ceasefire did not last long, and soon the fighting began, but this time with UN peacekeepers caught in the middle (Benton 129). As the fighting grew worse the UN soon abandoned UNOSOM (Johnston 29). A U.S. led force; the Unified Task Force (UNITAF) to make a safe environment for delivery of humanitarian aid replaced UNOSOM (Benton 130). In May 1995, UNOSOM II replaced UNITAF; but only starvation was relieved, there was still governmental unrest (Benton 136).

The U.S. decided to leave Somalia on October 3, 1993, a Somalia rebel group shot down a U.S. helicopter, killing eighteen American soldiers (Fox 19). The U.S. was evacuated by 1994, and by 1995 all UN forces had left (Fox 22).

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After the abandonment by UN in 1995, the new police force created by the UN community for the internal war—made up of thousands of mercenaries (Brown 17). Also bad weather, pests, and the UN ban on the export of livestock to the U.S. and Saudi Arabia have worsened the economic situation in Somalia (Johnston 60). The drop in economy in Somalia has caused lowered employment and increased starvation (Johnston 60).

The next civil war erupted between rebel and governmental forces in 1991 (Fox 90). The most recent civil war erupted between rebel and governmental forces in 1991 (Fox 90). The United Nations should have learned from their mistakes in Somalia and ignored what had happened and tried to help the civil war in Rwanda during 1994. Rwanda’s population is approximately 86% Hutu and 11% Tutsi. The two groups have had bad relations since that 15th century when the Hutus were forced to serve the Tutsi lords in return for Tutsi cattle (Brown 50). Since the 15th century, a number of civil disputes have begun between the Hutus and the Tutsis (Brown 51). The latest civil war has resulted in mass genocide (Prunier 38).

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The United Nations was in Rwanda before and during the mass genocide, but did not do anything to stop the killings or even to stop the fighting (Benton 67). In 1993, the United Nations Assistance Mission to Rwanda, UNAMIR, oversaw the transition from an overrun government to a multiparty system (Benton 74). As the genocide broke out in 1994, the UN began to panic; and on April 21, just days
after the genocide started, the UN withdrew all but a handful of UNAMIR soldiers. When the UN saw the gradual increase of the genocide they agreed to send 5,000 troops, but those troops were never deployed due to UN disagreements (Freeman 45). UNAMIR finally withdrew in 1996, having accomplished almost nothing (Prunier 145). Jean Paul Biramvu, a survivor of the massacre, commented on the UN help saying, "We wonder what UNAMIR was doing in Rwanda. They could not even lift a finger to intervene and prevent the deaths of tens of thousands of people who were murdered and raped right under their very noses...the UN protects no one" (Freeman 46).

Again, just as in Somalia, the United Nations failed to bring peace in a civil war. Not only did the UN do almost nothing to stop the genocide, they also knew that there was a plan to start the genocide before it even happened (Brownyk 12). On December 16, 1999, a press conference about the genocide brought to light new information that the United Nations had accurate knowledge of a plan to commit genocide as early as three months before the killings occurred (Brownyk 13). The UN had ample time to stop a large-scale slaughter of almost a million innocent people, and did not even send troops that saved those that have prevented the deaths of thousands of Tutsis (Brownyk 13). Two reasons for the reluctance to do anything in Rwanda was that Rwanda was not of national interest to any major powers, and since the problems in Somalia, the UN did not want to risk being hurt again (Brownyk 18). The United Nations work in Rwanda was another pathetic example of how peace missions should work.

The United Nations and other international communities can intervene and help prevent violent civil conflicts in many ways. The first way to improve intervention is that the International Community needs to keep a consistent stand on how to protect victims in civil disputes. The most important step to take when war is apparent is to protect people's lives. Second, the International Community should enforce laws that form theories of any early signs of war using human right monitors to decide if conditions might worsen. The genocide in Rwanda would have been prevented if the UN had taken notice of the early signs of war, and listened to reports of a genocide. Third, better make the criminal court for genocide, war crimes, and other human rights violations so the criminals are punished right away with a sentence that fits the crime. Many times people who commit war crimes are not punished, or do not get a harsh enough sentence.

Fourth, violent methods by the International community may only be used after non-violent methods have failed, and the government is unwilling to help. The UN in Somalia tried to use military force immediately instead of trying to use non-military force when war broke out and they were in the middle (Benton 107).

Fifth, International Communities need to have immediate troops ready when a war is apparent, and impress on the warring country that if it resists, more troops will be sent in to stop the war. The UN did have troops ready in case of war, but when the war did break out in Somalia, they did not send more troops to secure the situation (Fox 23).

Sixth, every country, no matter how much power or relevance in the world, needs to be interested in helping others. The United Nations during the Rwandan genocide did not worry about helping the victims because Rwanda did not have much international power in the world such as valuable exports or strong economies. The UN cannot be worried how they will benefit but rather how the country warfare will benefit (Brownyk 18).

Third parties such as the United Nations are often not concerned if they try to keep peace in civil conflicts, especially conflicts that have been going on for hundreds of years. In some instance, such as Somalia and Rwanda, the UN hurt the people more than they helped by causing death and famine. The International community needs to come together and create new policies that help the countries that they are trying to keep peace instead of hurting them and sending them deeper into war.

WORKS CITED


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THE REGIONAL IMPORTANCE OF ECUADOR AND PERU

Mr. GRASSLEY. Mr. President, I rise today to highlight the countries of Ecuador and Peru within the context of the Andean Region. The Andean Regional Initiative, ARI, the FY-2002 follow-on strategy to Plan Colombia. Although the ARI encompasses 7 South American counties, I want to focus today on these two important United States allies. Our hemispheric counterdrug efforts must be viewed within a regional context, or else any successes will be short-term and localized, and may produce offsetting or even worse conditions than before we started. Narcotics producers and smugglers have always been dynamic, mobile, innovative, exploitative, and willing to move to areas of less resistance. I am concerned that spillover, displacement, or narcotrafficker shifts, from any successful operations within Colombia, has the real potential to negatively affect Peru and Ecuador. I want the United States actions to help—and not hurt—our allies and this important region of our own hemisphere.

The State Department’s June 2001 country program fact sheet reports that “Ecuador has become a major staging and transshipment area for drugs and precursor chemicals due to its geographical location between two major cocaine source countries, Colombia and Peru. In recent months, the security situation along Ecuador’s northern border—particularly in the Sucumbios province, where most of Ecuador’s oil wealth is located—has deterred sharply due to increased Colombian guerrilla, paramilitary, and criminal violence. The insecurity on Ecuador’s northern border, if not adequately addressed, could have an impact on the country’s political and economic climate. Sucumbios has long served as a resupply and rest/recreation site for Colombian insurgents; and arms and munitions trafficking from Ecuador fuel Colombian violence.”

The Ecuador fact sheet continues “[n]arcotraffickers exploit Ecuador’s porous borders, transporting cocaine and heroin through Ecuador primarily overland by truck on the Pan-American Highway and consolidating the smuggled drugs into larger loads at poorly controlled seaports for bulk shipment to the United States and Europe hidden in containers of legitimate cargo. Precursor chemicals imported by ship into Ecuador are diverted to cocaine-processing laboratories in Colombia. In addition, the Ecuadorian police and army have discovered and destroyed cocaine-refining laboratories on the northern border with Colombia. Although large-scale coca cultivation has not yet spilled over to the border, there are scattered coca-converted plantations of coca in northern Ecuador. As a result, Ecuador could become a drug producer, in addition to its current role as a major drug transit country, unless law enforcement programs are strengthened.” Finally, the State Department concludes that “Ecuador faces an increasing threat to its internal stability due to spillover effects from Colombia at the same time that deteriorating economic conditions have reduced the Ecuadorian government’s ability to combat narcotics. Because the Ecuadorian government is unable to control or reduce illicit drug production, the United States is seeking to consolidate existing aid programs in Ecuador using the Andean Country Program (ACP) to enhance the capacity of Ecuador’s national police and drug enforcement agency to combat drug-related crime and to develop and enforce the rule of law. To further combat narcotics, the United States is working with Ecuador to upgrade the capability of the Ecuadorian military to interdict drug shipments.”

The State Department’s March 2001 country program fact sheet reports that “Peru is now the second largest producer of coca leaf and cocaine base. Peruvian traffickers transport the cocaine base to Colombia and Bolivia where it is converted to cocaine. There is increasing evidence of opium poppy cultivation being established under the direction of Colombian traffickers.”

The fact sheet continues “[f]or the fifth year in a row, Peruvian coca cultivation declined from an estimated 115,300 hectares in 1995 to fewer than an estimated 47,900 hectares in 1999, a decline of 60 percent. The continuing [now-suspended] U.S.-Peruvian interdiction program and manual coca eradication were major factors in reducing coca leaf and base production.”

In addition, “[t]he U.S. Government supported law enforcement efforts are complemented by an aggressive U.S.-funded effort to establish an alternative development program for coca
INCREASES WILL HAVE ON THE REST OF THE
I also urge him to consider carefully
comprehensive review of our military,
feld for undertaking a long-overdue
ment of Defense.
that the Senate may consider later this
being widely reported.
$310 billion appropriation is already
dismay of both parties, but that the
of this request to the Congress, to the
administration has yet to provide the details
bloated fiscal year 2001 spending level
Defense that increases the already
budget request for the Department of
mit to Congress, several months late, a
the Bush Administration plans to sub-
we go again. Late last week, senior Ad-
'simply rearrange the deck chairs.
counterdrug issue. The goal is to make
hurt—Colombia, Ecuador, and Peru, on
United States actions to help—and not
concerned that our current efforts lack
many needed social programs, I remain
quested in the President's FY–2002
increases without making deep cuts in
other parts of the budget. And the top
priorities of the American people, such as
saving Social Security and Medicare
and providing a Medicare prescription
drug benefit, will be that much harder to
accomplish.
But it appears that theAdministra-
tion will propose an increase in defense
spending.
I fear that this pending request, cou-
piled with the massive tax cut that has
already been signed into law, will lead
us down a slippery slope to budget dis-
aster.
A TRIBUTE TO GOLD STAR
MOTHERS
Mr. CAMPBELL. Mr. President, today
I take this opportunity to call to
the attention of our colleagues the na-
tional convention of the American
Gold Star Mothers which began on
Sunday, July 1st, and continues to
row, June 27, 2001, in Knoxville, TN.
The Gold Star Mothers is an organi-
ization made up of American mothers
who lost a son or daughter while in
military service to our country in one
of the wars. The group was founded
shortly after the First World War for
those special mothers to comfort one
another and to help care for hospital-
ized veterans confined in government
hospitals far from home. It was named
after the Gold Star that families hung
in their windows in honor of a deceased
veteran. Gold Star Mothers now has 200
chapters throughout the United States,
and its members continue to perpet-
uate the ideals for which so many of
our sons and daughters died.
Over this past Memorial Day week-
end, I participated in the Rolling Thun-
der rally on the National Mall to honor
our Nation's veterans and remember
those missing in action. During that
time, I personally met some of the
Gold Star mothers and was moved by
their compassion, their commitment
and the sacrifices they and their fami-
lies have made for our country.
I ask my colleagues to join me in rec-
ognizing the Gold Star Mothers for
their many years of dedicated service
and congratulating them on the occa-
sion of their national convention.
OUTSTANDING SCHOOLS HONORED
FOR SERVICE LEARNING
Mr. KENNEDY. Mr. President, I wel-
come this opportunity to recognize a
number of schools that are doing an ex-
cellent job of encouraging community
service by their students. The Nation
has Bray,men and women who look to
their involvement of its citizens to help
meet the challenges we face. Today,
the Corporation for National Service
works with state commissions, non-
profits, schools, and other civic organi-
zations to provide opportunities for
Americans of all ages to serve their
communities.
Learn and Serve America, a program
sponsored by the Corporation for Na-
tional Service, supports service-learn-
ing programs in schools and commu-
nity organizations that help nearly a
million students from kindergarten
through college meet community
needs, while improving their academic
skills and learning the habits of good
citizenship. Learn and Serve grants are
used to create new programs, replicate
existing programs, and provide train-
ing and development for staff, faculty,
and volunteers.
This year the Corporation for Na-
tional Service has recognized a number
of outstanding schools across the coun-
try as National Service-Learning Lead-
er Schools for 2001. The program is an
initiative under Learn and Serve Amer-
ica that recognizes schools for their ex-
cellence in service-learning. These mid-
dle schools and high schools have
created programs that engage students
in actively working to improve their
schools. They serve as models of excel-
ence for their exemplary integration of
service-learning into the curriculum
and the life of the school. I am hopeful
that the well-deserved recognition they
are receiving will encourage and in-
crease service-learning opportunities
for students in many other schools
across the country.
The 2001 National Service Leader
Schools are: Vilonia Middle School,
Vilonia, AR; Chico High School, Chico,
CA; Evergreen Middle School, Cotton-
wood, CA; Telluride Middle School/
High School, Telluride, CO; Seaforth
Senior High School, Seaforth, DE; Space
Coast Middle School, Cocoa, FL; P.K.
Hall Academy, Shelby, GA; Evergreen
Middle School, Gainesville, FL; Doug-
las Anderson School of the Arts, Jackson-
ville, FL; Lakeland High School, Lakel-
and, FL; Dalton High School, Dalton, GA;
Sacred Hearts Academy, Honolulu, HI;
Moanalua High School, Honolulu, HI;
Unity Point School, Carbondale, IL;
Jones Academic Magnet High School,
Chicago, IL; Valparaiso High School,
Valparaiso, IN; Ballard Community
High School, Huxley, IA; Lake Mills
Community High School, Lake Mills,
IA; Glasco Middle School, Glasco, KS;
Spring Hill High School, Spring Hill,
KS; Boyd County High School, Ash-
land, KY; Garrard Middle School, Lan-
caster, KY; Harry M. Hurst Middle
School, Destrehan, LA; Drowne Road
School, Cumberland, ME; Rockland
District High School, Rockland, ME;
Leavitt Area High School, Turner, ME;
Gateway School, Westminster, MD;
Millbury Memorial High School,
Millbury, MA; Garber High School,
Essexville, MI; Onekama Middle
School, Onekama, MI; Tinkham Alter-
native High School, Westland, MI;
Moorhead Junior High School, Moor-
head, MN; Harrisonville Middle School,
Hugh Grundy for his many years of service to the United States. On June 30, 2001, Hugh will be honored by the City of Vashon, WA. The message also announced that the House has passed the following bill, H.R. 658. An act to reauthorize the Rhinoceros and Tiger Conservation Act of 1994.

H. Con. Res. 161. Concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers military housing compound in Dhahran, Saudi Arabia, on June 25, 1996. The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

S. 657. An act to authorize funding for the American Battlefield Protection Program. Enrolled bill signed.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:


The message further announced that the House has passed the following bill, without amendment:

S. 657. An act to authorize funding for the National Endowment for the Arts and Humanities, Individual Artist and Artistic Communities Initiative. Enrolled bill signed.

The message also announced that the Speaker has signed the following enrolled bill:
At 2:22 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2213. An act to respond to the continuing economic crisis adversely affecting American agricultural producers.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:


H.R. 2213. An act to respond to the continuing economic crisis adversely affecting American agricultural producers; to the Committee on Agriculture, Nutrition, and Forestry.

The following concurrent resolutions were read, and referred as indicated:


ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 26, 2001, he had presented to the President of the United States the following enrolled bill:

S. 1029. An act to clarify the authority of the Department of Housing and Urban Development with respect to the use of fees during fiscal year 2001 for the manufactured housing program.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SMITH of Oregon (for himself and Mr. BINGAMAN):

S. 1068. A bill to amend the Food Stamp Act of 1977 to improve food stamp informational activities in those States with the greatest rate of hunger; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SMITH of Oregon (for himself and Mr. LEAHY):

S. 1099. A bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes; to the Committee on the Judiciary.

By Mr. CONRAD (for himself, Mr. CASSIDY, Mr. RUCFTS, Mr. DASCHLE, Mr. MURKOWSKI, Mrs. LINCOLN, and Mr. KERRY):

S. 1100. A bill to amend the Trade Act of 1974 to provide trade adjustment assistance to farmers; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 1101. A bill to name the engineering and management building at Norfolk Naval Shipyard, Portsmouth, Virginia, after Norman Sisisky; to the Committee on Armed Services.

By Mr. WELLSTONE:

S. 1102. A bill to strengthen the rights of workers to associate, organize, and strike, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (for himself, Mr. DORGAN, and Mr. BURNS):

S. 1103. A bill to amend title 49, United States Code, to enhance competition among and between rail carriers in order to ensure efficient rail service and reasonable rail rates in any case in which there is an absence of effective competition, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM (for himself, Mr. MURKOWSKI, Mr. GRAMM, Mr. NICKLES, Mr. THOMPSON, Mr. KYL, Mr. HAGEL, Mr. ROBERTS, and Mr. CHAFEE):

S. 1104. A bill to establish objectives for negotiating and procedures for implementing certain trade agreements; to the Committee on Finance.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1105. A bill to provide for the expedient completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National Park; and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 1106. A bill to provide a tax credit for the production of oil or gas from deposits held in trust for, or held with restrictions against alienation by, Indian tribes and Indian individuals; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. Res. 117. A resolution honoring John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters; to the Committee on the Judiciary.

By Mr. BOND (for himself, Mrs. HUTCHISON, Mr. DEWINE, and Mr. LIEBERMAN):

S. Con. Res. 55. A concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996; to the Committee on Armed Services.

By Ms. SNOWE:

S. Con. Res. 56. A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued by the United States Postal Service honoring the members of the Armed Forces who have been awarded the Purple Heart; to the Committee on Governmental Affairs.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. DASCHLE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 21, a bill to establish an off-budget lockbox to strengthen Social Security and Medicare.

At the request of Mr. THURMOND, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 145, a bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age, and for other purposes.

At the request of Mr. FRIST, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Nebraska (Mr. NELSON) were added as co-sponsors of S. 180, a bill to facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

At the request of Mr. REID, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 49, a bill to amend the Internal Revenue Code of 1986 to expand the credit for electricity produced from certain renewable resources.

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 319, a bill to amend title 49, United States Code, to ensure that air carriers meet their obligations under the Airline Customer Service Agreement, and provide improved passenger service in order to meet public convenience and necessity.

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 43, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

At the request of Mr. DASCHLE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 550, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

At the request of Mrs. LINCOLN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 686, a bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for energy efficient appliances.

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a co-sponsor of S. 706, a bill to amend the Social Security Act to establish programs to alleviate the nursing profession shortage, and for other purposes.
CONGRESSIONAL RECORD—SENATE

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S. 721

At the request of Mr. Hutchison, the name of the Senator from Pennsylvania (Mr. Specter) was added as a cosponsor of S. 721, a bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes.

S. 778

At the request of Mr. Hagel, the names of the Senator from Louisiana (Ms. Landrieu) and the Senator from Connecticut (Mr. Lieberman) were added as cosponsors of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings.

S. 804

At the request of Mrs. Feinstein, the name of the Senator from Washington (Mrs. Murray) was added as a cosponsor of S. 804, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks; to require fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight; to raise the fuel economy of the Federal fleet of vehicles, and for other purposes.

S. 827

At the request of Mr. Rockefeller, the name of the Senator from Michigan (Mr. Levin) was added as a cosponsor of S. 827, a bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2001.

S. 836

At the request of Mr. Craig, the names of the Senator from Indiana (Mr. Bayh) and the Senator from Utah (Mr. Bennett) were added as cosponsors of S. 836, a bill to amend part C of title XI of the Social Security Act to provide for coordination of implementation of administrative simplification standards for health care information.

S. 847

At the request of Mr. Dayton, the names of the Senator from South Dakota (Mr. Johnson), the Senator from North Carolina (Mr. Edwards), and the Senator from Alabama (Mr. Shelby) were added as cosponsors of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 859

At the request of Mr. Thomas, the name of the Senator from Arkansas (Mrs. Lincoln) was added as a cosponsor of S. 859, a bill to amend the Public Health Service Act to establish a mental health community education program, and for other purposes.

S. 871

At the request of Mr. Cleland, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. 871, a bill to amend chapter 83 of title 5, United States Code, to provide for the computation of annuities for air traffic controllers in a similar manner as the computation of annuities for law enforcement officers and firefighters.

S. 913

At the request of Ms. Snowe, the names of the Senator from South Dakota (Mr. Daschle) and the Senator from Connecticut (Mr. Dodd) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 969

At the request of Mr. Dodd, the name of the Senator from Connecticut (Mr. Lieberman) was added as a cosponsor of S. 969, a bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes.

S. 992

At the request of Mr. Conrad, the name of the Senator from Connecticut (Mr. Lieberman) was added as a cosponsor of S. 992, a bill to impose a deduction for TRICARE supplemental premiums.

S. 1067

At the request of Mr. Grassley, the name of the Senator from Tennessee (Mr. Frist) was added as a cosponsor of S. 1067, a bill to amend the Internal Revenue Code of 1986 to expand the availability of Archer medical savings accounts.

S. RES. 71

At the request of Mr. Harkin, the names of the Senator from Delaware (Mr. Biden) and the Senator from Washington (Mrs. Murray) were added as cosponsors of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

S. CON. RES. 24

At the request of Mr. Lieberman, the name of the Senator from Utah (Mr. Hatch) was added as a cosponsor of S. Con. Res. 24, a concurrent resolution expressing support for a National Reflex Sympathetic Dystrophy (RSD) Awareness Month.

AMENDMENT NO. 808

At the request of Mr. Enzi, his name was added as a cosponsor of amendment No. 810 proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. Smith of Oregon (for himself and Mr. Bingaman): S. 1098. A bill to amend the Food Stamp Act of 1977 to improve food stamp informational activities in those States with the greatest rate of hunger; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. Smith of Oregon. Mr. President, I rise today to introduce the State Hunger Assistance in Response to Emergency or SHARE Act of 2001. I introduce this bill because it is a tragedy, that in this land of plenty, people across America go to bed hungry. It is high time that Congress do something to combat this tragedy.

Over the past few years, my home State of Oregon has seen an unprecedented economic boom—as has much of the country. Our silicon forest has grown by leaps and bounds; unemployment has dropped, and our welfare rolls have been reduced by half. But this prosperity has not reached all Oregonians. Oregon has the appalling distinction of having the highest rate of hunger in the nation, according to the USDA. That means that per capita, more people in Oregon go without meals than in any other State. I think that it may surprise some of my colleagues to learn that many of their home States suffer from severe hunger problems as well.

Perhaps the most tragic aspect of America’s hunger problem is that it
can be prevented. Federal programs, like Food Stamps and WIC, can help families fill the gap between the size of their food budget and the size of their check, but too many people don’t know that they qualify for the help available to them through these programs. This is especially true in the rural areas of Oregon, which is also home to most of my State’s hungry citizens. Help exists for hungry people, and I want to make sure every American knows about the resources the Federal Government has already made available to them.

The Food Stamp Act of 1977 authorized the Secretary of Agriculture to provide states with up to 50 percent of the costs of informational activities related to program outreach; however, because the remaining 50 percent of the funds for these limited outreach activities makes it difficult for states, as named by the USDA, to help those in need learn about and sign up for federal food assistance programs. The SHARE bill authorizes the Secretary of Agriculture to make grants available to States with particularly innovative outreach demonstration projects, so that we can find the best ways to combat hunger.

In a society as abundant as ours, no family should go hungry simply because they lack the information they need to get help. When passed, the SHARE Act will allow the Secretary of Agriculture to make grants available to States with particularly innovative outreach demonstration projects, so that we can find the best ways to combat hunger.

In a society as abundant as ours, no family should go hungry simply because they lack the information they need to get help. When passed, the SHARE Act will allow the Secretary of Agriculture to make grants available to States with particularly innovative outreach demonstration projects, so that we can find the best ways to combat hunger.

Food stamp recipients spend their benefits, in the form of paper coupons or electronic benefits on debit cards, to buy food at authorized retail food stores. Food stamp recipients, or those eligible for food stamps, cross the life cycle. They include individuals of all ages, races and ethnicity in both urban and rural settings.

As a result of the National Nutrition Monitoring and Related Research Act of 1990, the nutritional state of the American people has been closely monitored at State and local levels. We know that food insecurity is a complex, multidimensional phenomenon which varies through a continuum of successive stages as the condition becomes more severe. As the stage of food insecurity and hunger progresses, the number of affected individuals decreases. It is important to identify the stages of food insecurity and hunger as early as possible and, thus, continue to avoid the more severe stages of hunger. This means that we will need to focus on a much larger population base with a less severe condition which may be more difficult to identify. Fortunately, current tools to document the extent of poor nutrition and hunger caused by income limitations are sensitive and reliable.

We must continue developing tools to document the extent of poor nutrition attributable to factors other than income limitations, like inadequate consumption of fruits and vegetables and overconsumption of sugar, fat, and empty calories. In the meantime, The State Hunger Assistance in Response to Emergency Act of 2001 (SHARE) would take information which is already being collected by the Department of Agriculture and allow the 10 States with the greatest rate of hunger to accommodate a fund for enhanced outreach activities for the food stamp program.

The goal of the food stamp nutrition education program is to provide educational programs that increase the likelihood of all food stamp recipients making healthy food choices consistent with the most recent dietary advice. States are encouraged to provide nutrition education messages that focus on strengthening and reinforcing the link between food security and a healthy diet. Currently USDA matches the dollars a State is able to spend on its Food Stamp nutrition education program. This nutrition education plan is optional but participation has increased from five State plans in 1992 to 48 State plans in FY 2000.

This bill expands the allowable outreach activities for the States with the worst statistics and would allow up to $1 million per State with 10 percent of the State's food stamp purchases. In exchange for this unmatched money, the State must submit a report that measures the outcomes of food stamp informational activities carried out by the State over the 3 years of the grant. In addition, up to five States with innovative proposals for food stamp outreach could be selected by the Secretary of Agriculture for a demonstration project to receive the same amount of money over 3 years.

I have always been proud to represent my home State of New Mexico in the United States Senate. Unfortunately New Mexico has one of the worst hunger statistics in the nation. I think it is my duty to advocate for the New Mexicans that I represent as well as all Americans who are at risk for experiencing hunger, including those from Oregon, Texas, Arkansas and Washington who share similar statistics.

By Mr. SMITH of Oregon (for himself and Mr. LEAHY): S. 1099. A bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes; to the Committee on the Judiciary.

Mr. SMITH of Oregon. Mr. President, one of the important tasks we have in Congress is to ensure that our laws effectively deter violence and provide protection to those whose careers are dedicated to protecting our families and also our communities.

With this in mind, today I rise to reintroduce the Federal Judiciary Protection Act with my esteemed colleague, Senator LEAHY. This bill will provide greater protection to Federal law enforcement officials and their families. Under current law, a person who assaults, attempts to assault, or who threatens to kidnap or murder a member of the immediate family of a Federal law enforcement official, is subject to a punishment of a fine or imprisonment of up to 5 years, or both. This legislation seeks to expand these penalties in instances of assault with a weapon and a prior criminal history. In such cases, an individual could face up to 20 years in prison.

This legislation would also strengthen the penalties for individuals who communicate threats through the mail. Currently, individuals who knowingly use the U.S. Postal Service to deliver any communication containing any threat are subject to a fine of up to $1,000 or imprisonment of up to 5 years. Under this legislation, anyone who communicates a threat could face imprisonment of up to 10 years.

Briefly, I would like to share several examples illustrating the need for this legislation. In my State of Oregon, Chief Judge Michael Hogan and his family were subjected to frightening, threatening phone calls, letters, and messages from an individual who had been convicted of previous crimes in Judge Hogan’s courtroom. For months, he and his family lived with the fear
that these threats to the lives of his wife and children could become reality, and, equally disturbing, that the individual may strike again in a matter of a few months, or a few years.

Judge Hogan and his family are not alone. In 1995, Mr. Melvin Lee Davis threatened two judges in Oregon, one judge in Nevada, and the Clerk of the Court in Oregon. The threat was carried out to the point that the front door of the residence of a Mr. John Cooney was shot up in a drive-by shooting. Unfortunately for Mr. Cooney, he had the same name as one of the Oregon judges who was threatened.

In September 1996, Lawrence County Judge Dominick Motto was stalked, harassed, and subjected to terrorist threats. In 2002, C. Reiguer, who was upset by a verdict in a case that Judge Motto had heard in his courtroom. After hearing the verdict, Reiguer stated his intention to “point a rifle at his head and get what he wanted.”

These are just several examples of vicious acts focused at our Federal law enforcement officials. As a member of the legislative branch, I believe it is our responsibility to provide adequate protection to all Americans who serve to protect the life and liberty of every citizen in this Nation. I encourage my colleagues to join us in sponsoring this important legislation.

Mr. LEAHY. Mr. President, I am pleased to join my friend from Oregon to introduce the Federal Judiciary Protection Act. In the last two Congresses, I was pleased to cosponsor nearly identical legislation introduced by Senator GORDON SMITH, which unanimously passed the Senate Judiciary Committee and the Full Senate, but was acted upon by the House of Representatives. I commend the Senator from Oregon for his continued leadership in protecting public servants in our Federal Government.

Our bipartisan legislation would provide greater protection to Federal judges, law enforcement officers, and United States officials and their families. United States officials, under our bill, include the President, Vice President, Cabinet Secretaries, and Members of Congress.

Specifically, our legislation would: increase the maximum prison term for forcible assaults, resistance, opposition, intimidation or interference with a Federal judge, law enforcement officer or United States official from 3 years imprisonment to 8 years; increase the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge, law enforcement officer or United States official from 10 years imprisonment to 20 years; and increase the maximum prison term for threatening murder or kidnaping of a member of the immediate family of a Federal judge or law enforcement officer from 5 years imprisonment to 10 years. It has the support of the Department of Justice, the United States Judicial Conference, the United States Sentencing Commission, and the United States Marshal Service.

It is most troubling that the greatest democracy in the world needs this legislation to protect the hard working men and women who serve in our Federal Government. Just last week, I was saddened to read about death threats against my colleague from Vermont after his act of conscience in declaring himself an Independent. Senator JEFFORDS received multiple threats against his life, which forced around-the-clock police protection. These unfortunate threats made a difficult time even more difficult for Senator JEFFORDS and his family.

We are seeing more violence and threats of violence against officials of our Federal Government. For example, a courtroom in Urbana, Illinois was bombarded recently, apparently by a disgruntled litigant. This follows the horrible tragedy of the bombing of the federal office building in Oklahoma City in 1995. In my home state during the summer of 1997, a Vermont border patrol officer, John Pfeiffer, was seriously wounded by Carl Drega, during a shootout with Vermont and New Hampshire law enforcement officers in which Drega lost his life. Earlier that day, Drega shot and killed two state troopers and a local judge in New Hampshire. Apparently, Drega was bent on settling a grudge against the judge who had ruled against him in a land dispute.

I had a chance to visit John Pfeiffer in the hospital and met his wife and young daughter. Thankfully, Agent Pfeiffer has returned to work along the Vermont border. As a Federal law enforcement officer, Agent Pfeiffer and his family will receive greater protection under our bill.

There is, of course, no excuse or justification for someone taking the law into their own hands and attacking or threatening a judge, law enforcement officer or U.S. official. Still, the U.S. Marshal Service is concerned with more and more threats of harm to our judges, law enforcement officers and Federal officials.

The extreme rhetoric that some have used in the past to attack the judiciary only feeds into this hysteria. For example, one of the Republican leaders in the House of Representatives was quoted as saying: “The judges need to be intimidated.” If they do not behave, “we’re going to go after them in a big way.” I know that this official did not intend to encourage violence against any Federal official, but this extreme rhetoric only serves to degrade Federal judges in the eyes of the public.

Let none of us in the Congress contribute to the atmosphere of hate and violence. Let us treat the judicial branch and those who serve within it with the respect that is essential to preserving our liberty. We have the greatest judicial system in the world, the envy of people around the globe who are struggling for freedom. It is the independence of our third, co-equal branch of government that gives it the ability to act fairly and impartially. It is our judiciary that has for so long protected our fundamental rights and freedoms and served as a necessary check on over-reaching by the other two branches, those more susceptible to the gusts of the political winds of the moment.

We are fortunate to have dedicated women and men throughout the Federal Judiciary and Federal Government in this country who do a tremendous job under difficult circumstances. They are examples of the hard-working public servants that make up the Federal Government, who are too often maligned and unfairly disparaged. It is unfortunate that it takes acts or threats of violence to put a human face on the Federal Judiciary, law enforcement officers or U.S. officials, to remind everyone that these are people with children and parents and cousins and friends. They deserve our respect and our protection.

I thank Senator SMITH for his leadership on protecting our Federal judiciary and other public servants in our Federal Government. I urge my colleagues to support the Federal Judiciary Protection Act.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 1101. A bill to name the engineering and management building at the Virginia and Fletcher Sisisky Naval Shipyard, Portsmouth, Virginia, after Norman Sisisky; to the Norfolk Naval Shipyard, Portsmouth, Virginia, after Norman Sisisky; to the Norfolk Naval Shipyard, Portsmouth, Virginia, after Norman Sisisky; to the Committee on Armed Services.

Mr. WARNER. Mr. President, I rise today to introduce a bill that will redesignate Building 1500 at the Norfolk Naval Shipyard, Portsmouth, Virginia, as the Norman Sisisky Engineering and Management Building. I am joined by my Virginia Senate colleague, GEORGE ALLEN.

As a Navy veteran of World War II, Congressman Sisisky was proud to be a part of the greatest generation. The most extraneous chapters in American history, when America was totally united at home in support of our 16 million men and women in uniform on battlefields in Europe and on the high seas in the Pacific, all at home and abroad, fighting to preserve freedom.

During our 18 years serving together, Congressman Sisisky’s goal, our goal, was to provide for the men and women in uniform and their families.

The last 50 years have proven time and again that one of America’s greatest investments was the G.I. Bill of Rights, originated during World War II, which enabled service men and women
tions to farmers; to the Committee has been a true champion of this effort and for and made a reality for today’s soldiers, sailors, airmen, and Marines. His strength in public life was supported by his wonderful family; his lovely wife Rhoda and four accomplished children. They were always by his side offering their love, support, and counsel.

He worked tirelessly throughout Virginia’s 4th District, however, there was always a special bond to the military installations under his charge. As a former sailor, the Norfolk Naval Shipyard was high among his priorities. He knew the workers by name and the monthly workload in the yard. In consultation with his family and delegation members, he chose this building at the shipyard as a most appropriate memorial to our friend and colleague. I waited until the special election was contested, as the entire Virginia delegation could join together on this legislation.

Norman Sisisky was always a leader for the delegation on matters of national security. We are honored to join in this bi-partisan effort to remember Congressman Norman Sisisky and his life’s work; ensuring the nation’s security and the welfare of the men and women in uniform and their families.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1101

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

SECTION 1. DESIGNATION OF ENGINEERING AND MANAGEMENT BUILDING AT NORFOLK NAVAL SHIPYARD, VIRGINIA, AFTER NORMAN SISISKY.

The engineering and management building (also known as Building 1500) at Norfolk Naval Shipyard, Portsmouth, Virginia, shall be known as the Norman Sisisky Engineering and Management Building. Any reference to that building in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Norman Sisisky Engineering and Management Building.

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. BAUCUS, Mr. DASCHLE, Mr. MURkowski, Mrs. LINCOLN, and Mr. KERRY):

S. 1100. A bill to amend the Trade Act of 1974 to make farmers eligible for Trade Adjustment Assistance, TAA, so that they can get assistance similar to that provided to workers in other industries who suffer economic injury as a result of increased imports.

When imports cause layoffs in manufacturing industries, workers become eligible for TAA. Under TAA, a portion of the income these workers lose is restored to them in the form of extended unemployment insurance benefits while they adjust to import competition and seek other employment. When imports of agricultural commodities increase, though, farmers do not lose their jobs. Instead, the increased imports drive down the prices farmers receive for the crops they have grown. This drives in price changes that have an impact that is every bit as devastating to the income of a family farmer as a layoff is to a manufacturing worker. In fact, it can be even more devastating. In many cases, the check that farmers get for all the hard work of growing crops or livestock for the year may not only leave the farmer with no net income, it may not even cover all the input costs associated with producing the commodity, leaving the farmer with thousands of dollars in losses. But, because job loss is a requirement for getting cash assistance under TAA, farmers generally don’t get benefits from TAA when imports cause their income to plummet.

Trade is very important to our overall economy, and trade is especially important to our agricultural economy. For example, we export over half the wheat grown in the United States. That is why, historically, agriculture has been among the leading supporters of trade liberalization. If we today send a strong signal to farmers that they will not be left behind in our trade policy, that agriculture must be a priority.

We need to be sure that we don’t leave American farmers behind. I hope my colleagues will join me in supporting American family farmers as they compete in the global market place.

By Mr. WELLSTONE:

S. 1102. A bill to strengthen the rights of workers to associate, organize and strike, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. WELLSTONE. Mr. President, I rise today to introduce legislation to strengthen the basic rights of workers to organize and to join a union. This legislation, the “Right-to-Organize Act of 2001,” addresses shortcomings in the National Labor Relations Act, NLRA, that, over the years, have eroded the framework of worker empowerment the NLRA was designed to ensure. The NLRA, also known as the Wagner Act, was enacted to “protect the exercise by workers of full freedom of association, self-organization and designation of representatives of their
own choosing for purpose of negotiating the terms and conditions of their employment or other mutual aid or protection for themselves and their families, that the commerce of the Nation would be aided by workplaces that respected and empowered workers’ voices about the terms and conditions of their own employment. Its proponents envisioned that supporting workers’ right to organize would help lay the basic platform for healthy economies, healthy communities, and healthy families.

Grounded in lofty notions of “full freedom of association” and “actual liberty of contract,” the promise of the NLRA was a fundamentally democratic one: participatory processes as a way to guarantee basic protections and to give those affected a role in decision-making about issues of paramount concern to them.

That was the promise of the NLRA. Unfortunately, today that promise is far from being realized. Indeed, today the democratic foundation we have attempted to erect for our workplaces is crumbling all too quickly.

Today, instead of celebrating the participatory voice of workers, we are faced with the stark reality that in too many cases, workers who do participate, workers who choose to organize, workers who choose to voice their concerns about the terms and conditions of their workplace live in fear. They live in fear of being harassed, of losing wages and benefits, of being put on leave without pay, and ultimately fear of losing their jobs. In a country that celebrates democracy and freedom, the land of the free, it is unconscionable that hard working men and women can be placed in fear of losing their livelihood because they choose to exercise their legal rights to associate for the bargaining collectively and participating in decision-making about their workplaces.

Today, as one organizer told me, all too many times you have to be a hero when you try to organize your own workplace. That’s true. The men and women who do this—who step up to take some ownership for what’s going on in their own workplaces—are doing heroic work. But that shouldn’t have to be the case. That wasn’t the promise of democracy and participation—of the associational and liberty of contract values this Nation endorsed in the National Labor Relations Act.

It’s urgent that we take action here. Estimates are that 10,000 working Americans lose their jobs illegally every year just for supporting union organizing campaigns. The 1994 Dunlop Commission found that one in four em-

ployees is fired.

This is unacceptable. This is truly one of the most urgent civil rights and human rights issues of the new millen-

nium. Working Americans are harassed, threatened and fired simply for seeking to have a voice and be represented. According to the Dunlop Commission, the United States is the only major democratic country in which the choice of whether workers are to be represented by a union is subject to such confrontational processes.

As Chair of the Employment, Safety, and Training Subcommittee with jurisdiction over the National Labor Relations Act, NLRA, I am introducing the “Right-to-Organize Act of 2001” to shore up the crumbling foundation of democracy in the workplace that the NLRA was intended to promote. The Act will target some of the most serious abuses of labor law that unfortunately have become all too common in recent years.

First, employers routinely monopolize the debates leading up to certification elections. They distribute written materials in opposition to collective bargaining. They require workers to attend meetings where they present their anti-union views. They talk to employees one-on-one about the dire consequences of unionization, such as the possibility that the individual employee or all employees could lose their jobs. All too often, at the same time that this flagrant coercion, intimidation, and interference is taking place often on a daily basis—union organizers are barred from work sites and even public areas.

Second, as noted above, employers too frequently are firing employees and engaging in other unfair labor prac-

tices to discourage union organizing and union representation. They are doing this sometimes with near impunity because they simply are not strong enough to discourage them from doing so. As the report, Unfair Advantage noted just last year, employers intent on frustrating workers’ efforts to organize can, and do, drag out legal proceedings for years, at the end of which they receive a slap on the wrist in the form of back pay to the worker illegally fired and a requirement that they post a written notice promising not to repeat their illegal behavior. Many employers, according to this report, have gone to court to appeal remedies, like back pay for workers fired because of union activity as a routine cost of doing business, well worth it to get rid of organizing leaders and derail workers’ organizing efforts.

We need to put teeth into our ability to enforce the legal rights that are already on the books.

Third, as part of efforts to discourage organizing, employers are able today to drag out election campaigns, giving themselves more time in some cases to harass workers through methods such as those I have described. Their hope may be that the climate of fear and intimidation will encourage workers to vote against the union seeking certification. While just across our border in Canada, elections take place on average within a week of the filing of a petition, here in the United States, it takes on average 80 days between petition and certification. That is an enormous amount of time for workers to live in fear of casting a vote to empower their voice in the workplace.

Finally, there is a growing problem of employers refusing to bargain with their employees even after a union has been duly certified. Achieving so-called “first contracts” can often be as harrowing as the organizing effort itself.

I want to be clear. Most employers do not take advantage of their workers in this way. Indeed, in tens of thousands of workplaces across the country, employers are working together with employees and their unions, to create safe, healthy, productive, and rewarding work environments. I applaud the efforts these employers and workers are making.

Unfortunately, however, this is not universally the case. All too frequently employers are disempowering workers and undermining their rights to organize, join, and belong to a union. That is why, that I say this is one of the most urgent civil and human rights issues of the new millennium. Civil rights and human rights is fundamentally about protecting the dignity and well-being of the less powerful against excesses of the more powerful.

Nothing could be more important to protecting workers’ rights to advocate for themselves and their families than securing a meaningful right to organize.

The Right-to-Organize Act of 2001 is a first step in tackling some of the most serious barriers to workers’ ability to unionize. In particular, the Act would do the following:

First, it would amend the National Labor Relations Act to provide equal time to labor organizations to provide information about union representation. Under this proposal the employer would trigger the equal time provision by expressing opinions on union representation during work hours or at the work site. Once the triggering actions occur, then the union would be entitled to equal time to use the same media used by the employer to distribute information and be allowed access to the work site to communicate with employees.

Second, it would toughen penalties for wrongful discharge violations. In particular, it would require the National Labor Relations Board to award back pay equal to 3 times the employee’s wages when the Board finds that an employee is discharged as a result of an unfair labor practice. It also would allow employees to file civil actions to recover punitive damages when they have been discharged as a result of an unfair labor practice.
Third, it would require expedited elections in cases where a super majority of workers have signed union recognition cards designating a union as the employee’s labor organizations. In particular, it would require elections within 14 days after receipt of signed union recognition cards from 60 percent of the employees.

Forth, this legislation would put in place mediation and arbitration procedures to help employers and employees reach mutually agreeable first-contract collective bargaining agreements. It would require mediation if the parties cannot reach agreement on their own after 60 days. Should the parties not reach agreement 30 days after a mediator is selected, then either party could call in the Federal Mediation and Conciliation Service for binding arbitration. In this way both parties would have incentives to reach genuine agreement without allowing either side to hold the other hostage indefinitely to unrealistic proposals.

The need for these reforms is urgent, not only for workers who seek to join together and bargain collectively, but for all Americans. Indeed, one of the most important things we can do to raise the standard of living and quality of life for working Americans, raise wages and benefits, improve health and safety in the workplace, and give average Americans more control over their lives is to enforce their right to organize, join, and belong to a union.

When workers join together to fight for job security, for dignity, for economic justice and for a fair share of America’s prosperity, it is not a struggle merely for their own benefit. The gains of unionized workers on basic bread-and-butter issues are key to the economic security of all working families. Ulptra-marketization is a way to advance important social objectives, higher wages, better benefits, more pension coverage, more worker training, more health coverage, and safer work places, for all Americans without drawing on any additional government resources.

The right to organize is one of the most important civil and human rights causes of the new millennium. I urge my colleagues to join me in helping to restore that right to its proper place.

By Mr. ROCKEFELLER (for himself, Mr. DORGAN, and Mr. BURNS).—S. 1103, a bill to amend title 49, United States Code, to enhance competition among and between rail carriers in order to ensure efficient rail service and reasonable rail rates in any case in which there is an absence of effective competition, and for other purposes; to add a new section to Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I am happy today to join with my colleagues Senator DORGAN and Senator BURNS, in introducing the Rail Competition Act of 2001. Very simply, the purpose of this legislation is to encourage a healthy competitive environment among participants in the freight rail industry, which has undergone unprecedented concentration in recent years, to the detriment of virtually all rail customers.

This legislation is a renewed effort on the part of my colleagues and me to address an issue that has amazed and shocked us for years. The monopoly power of the railroads places pervasive burdens on so many industries important to our states and to the national economy. No other industry in this country wields as much power over its customers as the railroad industry, and no other industry has as close an ally in the agency charged with its oversight as the railroads do in the Surface Transportation Board, known by the abbreviation STB. In fact, no other formerly regulated industry in this country continues to maintain this level of market dominance over its customers and essential infrastructure.

Shippers of bulk commodities, like coal from mines in West Virginia and grain from the Plains states, must routinely deal with shipments that move more slowly, and at rates much higher than would normally be charged in a truly competitive market. Every company that ships its product by rail has a trove of horror stories regarding how high prices and poor service attributable to the lack of meaningful competition in the freight rail industry has affected their ability to compete in their own industries. I know this because these companies have been telling me the same types of stories since I came to Congress.

I know that other members of Congress have heard the stories, too. As many of my colleagues will remember, the point was driven home last year when more than 280 CEOs from companies covering the broadest possible spectrum of the American economy wrote to Senators MCCAIN and HOLINGS asking them to do something to insert real competition in the freight rail industry. For the record, the STB has also heard the complaints. However, the Board’s focus has been on the railroads’ still-weak financial health, rather than the continued service problems that are its root cause.

I want to give my colleagues an example from an industry that is very important to my State and the rest of the Nation, the chemical industry. Throughout the country, approximately 80 percent of individual chemical operations are “captive” to one railroad, meaning they are served by only one railroad. By whatever pricing scheme the railroad chooses to use. In my home State of West Virginia, where the chemical industry is one of the pillars of the State’s economy, 100 percent of chemical plants are captive. Some might be reluctant to just write this off as the cost of doing business, but let me impart another view: These plants produce bulk chemicals that other companies buy and turn into countless products in use in every home and business in America.

Make no mistake, while the immediate beneficiary of this legislation will be the Rail Shipper who will have the opportunity to operate with the confidence that they are getting a fair deal the true beneficiary of this legislation is the retail shopper. Every purchase of every product that began its life in a chemical plant will be cheaper when that chemical plant receives competitive rail service because of this bill. Every ingredient in your families’ dinners will go down in price when the shippers of agricultural commodities see their costs go down because this bill has produced efficiencies that benefit both shipper and customer. Every time you flip the switch, and the lights turn on at a lower kilowatt-per-hour rate, it will happen because utilities throughout the nation have a more reliable and inexpensive supply of coal because of the Railroad Competition Act of 2001.

Congress deregulated the railroad industry with the passage of the Staggers Rail Act in 1980. Many of the predicted results of deregulation have come to pass in relatively short order. The major freight railroads, which were in pretty bad financial shape at the end of the 1970’s, put their fiscal houses in order. In the course of these improvements, some weaker railroads were swallowed up by stronger corporations. Our Nation’s rail network, which was extensive but inefficient in some respects, became more streamlined. Unfortunately, some of the benefits of competition that Congress was led to expect most notably improved service at lower cost have simply not materialized for many shippers in several parts of the country.

Indeed, rather than improving over time, the situation has grown steadily worse. The second half of the 1990’s saw an unprecedented spate of railroad mergers, to the point now that the more than 50 Class I railroads in existence when I entered the United States Senate has dwindled to only six with four railroads carrying a staggeringly high percentage of the freight.

STB has considered these mergers to be “in the public interest,” and I will not pretend that the outcome of them may have been. I tend to believe that the notion that fueled many of the mergers was that somehow financially weak corporations with poor track records of service could be transformed overnight into efficient, railroad-like railroads providing good service at lower costs. Meanwhile, rail shippers had to contend with newly merged railroads with monopoly power that did...
not seem to care any more about cus-
tomer service than the separate compan-
ies that succeeded them.

Before I complete my remarks, I want to address what I predict will be some of the rhetoric bandied about by the railroad industry. This bill is not an attempt to re-regulate the industry. When Congress passed the Staggers Rail Act in 1980, it did not do so with only the financial health of the rail-
rails in mind. The Interstate Com-
merce Commission, and its successor 
agency, the STB, were supposed to 
 maintain competition in the rail indus-
try. Both agencies have failed miser-
ably to contain the anti-competitive 
behavior of the railroads. My cospon-
sors and I only seek to require rail-
routes to quote a price for a portion of a route on which they carry a com-
pany’s goods. This bill does not seek 
to give the STB more regulatory au-
tority over the railroads, it only 
serves to remind the Board of the pro-
competitive responsibilities authorized 
by Congress in the Staggers Act.

Likewise, we do not offer this bill to 
hasten the demise of the industry. The 
companies that have come to use time 
and again for help in getting competi-
tive rail service absolutely need a 
strong railroad industry. Their prod-
ucts, for the most part, cannot be 
 moved efficiently via trucks or barges. 
The competition that will be fostered 
 by this legislation is intended to help 
the railroads as much as it is intended 
to help shippers. Some may dispute the 
fundamental economic logic of this, 
to which I respond: Giving the railroads 
relatively unfettered regional mono-
 polies with the right to engage in anti-
competitive behavior has not produced 
the strong railroad industry the Stag-
gers Act sought to produce. At the very 
least, it has failed to give com-
petition a chance to succeed.

Mr. DORGAN. Mr. President, I rise 
today to speak about a bill, the Rail-
road Competition Act of 2001, which, 
along with Senator BURNS and Senator 
ROCKEFELLER, I hope will introduce a 
bit of competition and better service in 
our railroad industry. The truth is that 
our rail system is completely broken.

Since the supposed deregulation of the rail industry in 1980, the number of major Class I railroads has been al-
 lowed to decline from approximately 42 to only four major U.S. railroads 
today. Four mega-railroads over-
whelmingly dominate railroad traffic, generating 95 percent of the gross ton-
 miles and 94 percent of the revenues, 
controlling 90 percent of all U.S. coal 
 movement, 99 percent of all grain 
 movement, and 88 percent of all origi-
nated chemical movement. This drastic 
level of consolidation has left rail cus-
tomers with only two major carriers 
operating in the East and two in the 
West, and has far exceeded the indus-
ty’s need to minimize unit operating 
costs.

But consolidation has not happened 
in a vacuum. Over the years, regulators 
have systematically adopted polices 
that so narrowly interpret the pro-
competitive provisions of the 1980 sta-
tute that railroads are essentially pro-
tected from ever having to compete 
with each other. As a consequence rail 
users have no power to choose among 
carriers either in terminal areas where 
switching infrastructure makes such 
choices feasible, nor can rail users even 
 get a rate quoted to them over a “bot-
tleneck” segment of the monopoly 
system.

The negative results of this approach 
have been astonishing. In North Da-
 kota the price to ship a rail car 
of wheat to Minneapolis (appro. 400 
 miles). Yet for a similar 400 mile move 
 between Minneapolis and Chicago, it 
costs only $310 to deliver that car. 
And move that same car another 600 miles 
to St. Louis, and it costs only 
 $610 per car. Looking at it another 
way—An elevator in Minot, North Da-
 kota pays $2.99 to the farmer for a 
bushel of wheat. The cost to ship that 
wheat to the West coast on the BNSF 
is $1.30 per bushel. At that rate, rail 
transportation consumes 43 percent of 
the value of that wheat. Not only is 
that totally unfair to the captive farm-
er, but in the long run it is 
unsustainable.

How has this happened? Since the de-
 regulation of the railroad industry, it 
has been the responsibility of the 
 Interstate Commerce Commission, 
later renamed, the Surface Transpor-
tation Board, to make sure that the 
STB has to be a more aggres-
sive defender of competition and rea-
sonable rates.

By Mr. GRAHAM (for himself, 
Mr. MUKOWSKI, Mr. GRAMM, 
Mr. NICKLES, Mr. THOMPSON, 
Mr. KYL, Mr. HAGEL, Mr. ROB-
ERTS, and Mr. CHAFEE):

S. 1104. A bill to establish objectives for 
negotiating, and procedures for, im-
plementing certain trade agreements; to 
the Committee on Finance.

Mr. MUKOWSKI. Mr. President, I rise 
today with Senator MURKOWSKI and our 
cosponsors to introduce the Trade Pro-
motion Authority Act of 2001. We have 
stepped forward because we believe 
that international trade is essential 
to increase opportunities for U.S. pro-
ducers, to support U.S. jobs, and to pro-
 vide economic opportunities for trad-
ing partners who need development.

Last month the Administration re-
 leased its 2001 International Trade 
Agenda, which outlined the President’s 
principles for renewed trade promotion 
authority, TPA. At the same time, I 
was working with a group of pro-trade 
Democrats to identify the princi-
 ples. What we discovered is that our 
two sets of principles had much in com-
mon.

Over the last few weeks, Senator 
MURKOWSKI and I have worked together 
to translate those two sets of prin-
ciples into legislative language.

The trade debate has been virtually 
deadlocked for years, with voices from 
the “end zones” taking center-stage. In 
our view, this bill represents the basic 
architecture of a bipartisan bill on 
what we believe is the “90 yard line.” 
We also look forward to the contribu-
tion that others will make before this 
 bill is signed into law.

The fact that we introduced this bill 
with bipartisan support is particularly 
significant because this is not just a 
set of ideas that happened to be pop-
ular with both Democrats and Repub-
licans. This bill took real compromise 
on both sides.

For my part, my contributions to 
this bill were based on the trade prin-
ciples developed by New Democrats led 
by CAL DOOLEY in the House and sev-
 eral of my colleagues in the Senate. 
The New Democrat trade principles we
released in May are fully incorporated into this bill.

What I introduce today is not a trade agreement. Trade promotion authority is an authorization to the President to begin negotiations. Details of a trade bill will be developed through the process established by the grant of TPA. At the end of that process, Congress will review the result of those negotiations and grant approval or disapproval to the result.

Trade promotion authority puts the will of Congress behind our trade negotiator, but it cannot and should not mandate a specific result from negotiations. We must leave it to our negotiators to reach the most favorable agreement they can.

A trade promotion authority bill is a way for Congress to communicate its priorities and its commitment to the priorities we put forward in this bill include: negotiating objectives on labor and environment that receive the same priority as commercial negotiating objectives; a new negotiating objective on information technologies to reduce trade barriers on high technology products, enhance and facilitate barrier-free e-commerce, and provide the same rights and protections for the electronic delivery of products as are offered to products delivered physically; adoption of measures in trade agreements to ensure proper implementation, full compliance and appropriate enforcement mechanisms that are timely and transparent; and a stronger process for continuous Congressional involvement in the process before, during, and at the close of negotiations so that the will of Congress is fully expressed in the final agreement.

I have been concerned by the views expressed by some Members that it may be considered a "major league" mistake to TPA until next year. This would be a "major league" mistake. There is a real price to be paid for delay.

One hundred years ago the U.S. took an isolationist position with respect to our economic relations with Latin America. The result of this was that the Nations of Latin America adopted European technical standards. This has been a handicap to the U.S. economic position in Latin America ever since.

We must learn from this mistake. The best way to avoid doing so is to negotiate and enter trade agreement with nations so that American standards become the norm and American businesses and workers can benefit.

Nothing is likely to occur in the next 12 to 24 months that will make reaching a consensus on trade promotion authority more likely. In fact just the opposite is true.

The best way to move forward is to put TPA in perspective. It seems the debate on this issue moves quickly to being a referendum on whether trade and globalization are good or bad.

That, frankly, is not the question. We can’t walk away from globalization and we can’t shut the door to international commercial opportunities. Without trade, this Nation would simply not be the greatest on earth.

Yet no matter how many times we have learned this lesson, we forget it just as many times. Here we are in 2001, facing the same challenge on trade we have faced on countless occasions in the past. The champions of protectionism have become more sophisticated over the years. Still: their arguments are the same old fear-mongering and disinformation they have been peddling for 200 years.

Does trade lead to winners and losers? Yes, that’s called competition, the bedrock of our society.

Does economic growth put pressures on underdeveloped societies in labor and environmental areas? Yes, it can. It did in this country too.

But do the short-term pains of competition and other pressures on society outweigh the benefits of trade? No, not ever.

The United States can be leaders on trade or we can be followers. We can either shape the global economy or be shaped by it.

There are 134 free trade agreements in the world today. The United States is party to only 2 of those. To my mind, that is a shameful record. We have done a disservice to our farmers, fishermen, businessmen and the working men and women of this country.

I recognize there are those who are concerned about the broader impacts of globalization. To them I say: you can’t influence the outcome unless you are in the game.

Does government have a role in easing the plight of firms and individuals negatively affected by trade? Absolutely. Sound economic policy should ease the transition of individuals and their companies to more competitive areas.

Can the United States help other countries overcome short-term labor and environmental problems resulting from rapid growth? No question at all. Through technology and other means we have many tools to help the developing world.

But the only way to address these problems is for the United States to exercise leadership on trade. Without Trade Promotion Authority, such leadership will be impossible.

Senator GRAHAM and I and our colleagues believe the Graham-Murkowski Trade Promotion Act of 2001 is the right vehicle to provide those leadership tools.

By Mr. THOMAS (for himself and Mr. ENZI):
Park, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. THOMAS. Mr. President, I am pleased to introduce a bill today to authorize the exchange of State lands inside Grand Teton National Park.

Grand Teton National Park was established by Congress on February 29, 1929, to protect the natural resources of the Teton range and recognize the Jackson area’s unique beauty. On March 15, 1943, President Franklin Delano Roosevelt established the Jackson Hole National Monument adjacent to the park. Congress expanded the Park on September 14, 1950, by including a portion of the lands from the Jackson Hole National Monument. The park currently encompasses approximately 310,000 acres of wilderness and has some of the most amazing mountain scenery anywhere in our country. This park has become an extremely important element of the National Park system, attracting almost 2.7 million visitors in 1999.

When Wyoming became a State in 1890, sections of land were set aside for school revenue purposes. All income from these lands—rents, grazing fees, sales of other resources—is placed in a special trust fund for the benefit of students in the State. The establishment of these sections predates the creation of most national parks or monuments within our State boundaries, creating several State inholdings on federal land. The legislation I am introducing today would allow the Federal Government to remove the state school trust lands from Grand Teton National Park and allow the State to capture fair value for this property to benefit Wyoming school children.

This bill, entitled the “Grand Teton National Park Land Exchange Act,” identifies approximately 1,400 acres of State lands and mineral interests within the boundaries of Grand Teton National Park for exchange for Federal assets. These Federal assets could include mineral royalties, appropriated dollars, federal lands or combination of any of these elements.

The bill also identifies an appraisal process for the state and federal government to determine a fair value of the state property located within the park boundaries. Ninety days after the bill is signed into law, the land would be valued by one of the following methods: (1) The Interior Secretary and Governor would mutually agree on a qualified appraiser to conduct the appraisal of the State lands in the park; (2) If there is no agreement, the Interior Secretary and Governor would each designate a qualified appraiser. The two designated appraisers would select a third appraiser to perform the appraisal with the advice and assistance of the designated appraisers.

If the Interior Secretary and Governor cannot agree on the evaluations of the State lands 180 days after the date of enactment, the Governor may petition the U.S. Court of Federal Claims to determine the final value. One-hundred-eighty days after the State land value is determined, the Interior Secretary, in consultation with the Governor, shall exchange Federal assets of equal value for the State lands.

The management of our public lands and natural resources is often complicated and requires the coordination of many individuals to accomplish desired objectives. When western folks discuss Federal land issues, we do not often have an opportunity to identify proposals that capture this type of consensus and enjoy the support from a wide array of interests; however, this land exchange offers just such a unique prospect.

This legislation is needed to improve the management of Grand Teton National Park, by protecting the unique nature of these lands against development pressures and allow the State of Wyoming to access their assets to address public school funding needs. This bill enjoys the support of many different groups including the National Park Service, the Wyoming Governor, State officials, as well as folks from the local community. It is my hope that the Senate will seize this opportunity to improve upon efforts to provide services to the American public.

By Mr. DOMENICI:

S. 1106. A bill to provide a tax credit for the production of oil or gas from deposits held in trust for, or held with restrictions against alienation by, Indian tribes and Indian individuals; to the Committee on Finance.

Mr. DOMENICI. Mr. President, today I am proud to introduce legislation that would provide a Federal tax credit for oil and natural gas produced from Indian lands. This legislation will serve two important purposes. It will provide an immediate boost to tribal economies, and it will provide additional domestic sources of energy to ease our growing energy crisis.

Even though Indian lands offer a fertile source of oil and natural gas, many disincentives to exploration and production exist. For example, the Supreme Court permits the double taxation of oil and natural gas produced from tribal lands, which unfairly subjects producers to both State and tribal taxation. Furthermore, tribal economies are not sufficiently diversified to allow for tribal tax incentives for oil and natural gas production.

Finally, Congress has enacted innumerable incentives for energy development on Federal lands, which have made production from this land far more profitable. As a result, Indian lands are too often overlooked as a source of domestic energy.

This legislation would remedy these disadvantages by providing Federal tax credits for oil and natural gas production on tribal lands. These tax credits would be available to both the tribe as royalty owner and the producer. Tribes would benefit in two ways: they could broaden their tax base from substantially increased oil and gas production; and they could market their share of the tax credit to generate additional revenue. These additional revenues would allow tribes to strengthen their infrastructure and improve the vital services that they provide to their citizens.

Unfortunately, the recent economic prosperity has not been extended to many Indian tribes. This is the reason why these tax incentives are so crucial. They will provide a much-needed shot in the arm to tribal economic development and will compensate for the discriminatory double taxation that hinders energy production. In recent years, many people have criticized the growth of the gaming industry on reservations. However, these critics have failed to suggest viable alternatives for tribal economic development. This legislation would supply strong opportunity for entrepreneurship in a vital national industry and would bring many more tribes into the economic mainstream.

Finally, this legislation would have the added benefit of creating an additional source of domestic energy. In our efforts to craft a comprehensive energy policy for the United States, we have been searching for additional sources of domestic energy. In this search, we must not overlook tribal oil and gas production. America’s energy supply is a patchwork of various domestic and international sources, and the addition of tribal lands will only strengthen the seams of this patchwork and decrease our risky reliance on foreign sources.

Therefore, I am proud today to introduce this legislation to boost the production of oil and natural gas on Indian lands and to strengthen our domestic energy supply.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 117—HONORING JOHN J. DOWNING, BRIAN FAHEY, AND HARRY FORD, WHO LOST THEIR LIVES IN THE COURSE OF DUTY AS FIREFIGHTERS

Mrs. CLINTON (for herself, and Mr. SCHUMER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 117

Whereas on June 17, 2001, 350 firefighters and numerous police officers responded to a 911 call that sent them to Long Island General Supply Company in Queens, New York; Whereas a fire and an explosion in a 2-story building had turned the 128-year-old...
family-owned store into a heap of broken bricks, twisting and bending glass.
Whereas all those who responded to the scene served without reservation and with their personal safety on the line;
Whereas the valiant efforts of these firefighters were injured by the blaze, including firefighters Joseph Vosilla and Brendan Manning who were severely injured;
Whereas John J. Downing of Ladder Company 168, an 11-year veteran of the department and resident of Port Jefferson Station, and a husband and father of 2, lost his life in the fire;
Whereas Brian Fahey of Rescue Company 4, a 14-year veteran of the department and resident of East Rockaway, and a husband and father of 3, lost his life in the fire; and
Whereas Harry Ford of Rescue Company 4, a 27-year veteran of the department from Long Beach, and a husband and father of 3, lost his life in the fire; therefore, be it
Resolved, That the Senate—
(1) honors John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters, and recognizes them for their bravery and sacrifice;
(2) extends its deepest sympathies to the families of these 3 brave heroes; and
(3) pledges its support and to continue to work on behalf of all of the Nation’s firefighters who risk their lives every day to ensure the safety of all Americans.

SENATE CONCURRENT RESOLUTION 55—HONORING THE 19 UNITED STATES SERVICEMEN WHO DIED IN THE TERRORIST BOMBING OF THE KHOBAR TOWERS IN SAUDI ARABIA ON JUNE 25, 1996

Mr. BOND (for himself, Mrs. HUTCHISON, Mr. DEWINE, and Mr. LIEBERMAN) submitted the following concurrent resolution, which was referred to the Committee on Armed Services: S. CON. RES. 55

Whereas June 25, 2001, marks the fifth anniversary of the tragic terrorist bombing of the Khobar Towers in Saudi Arabia;
Whereas this act of senseless violence took the lives of 19 brave United States servicemen, and wounded 50 others;
Whereas these nineteen men killed while serving their country were Captain Christopher Adams, Sergeant Daniel Cafaurek, Sergeant Millard Campbell, Sergeant Earl Carttire, Jr., Sergeant Patrick Fennig, Captain Leland Haun, Sergeant Michael Heiser, Sergeant Kevin Johnson, Sergeant Ronald King, Sergeant Kendall Kitson, Jr., Airman First Class Christopher Lester, Airman First Class Brent Matthew, Airman First Class Brian McVeigh, Airman First Class Peter Morgera, Sergeant Thanh Nguyen, Airman First Class Joseph Rimkus, Senior Airman Jeremy Taylor, Airman First Class Justin Wood, and Airman First Class Joshua Woody;
Whereas those guilty of this attack have yet to be brought to justice;
Whereas the families of these brave servicemen still mourn their loss and await the day when those guilty of this act are brought to justice; and
Whereas terrorism remains a constant and ever-present threat around the world: Now, therefore, be it
Resolved by the Senate (the House of Representatives concurring), That the Congress, on the occasion of the fifth anniversary of the terrorist bombing of the Khobar Towers in Saudi Arabia, recognizes the sacrifice of the 19 servicemen who died in that attack, and calls upon every American to pause and pay tribute to these brave soldiers and to remember ever vigilant the signs which may warn of a terrorist attack.

SENATE CONCURRENT RESOLUTION 56—EXPRESSING THE SENSE OF CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED BY THE UNITED STATES POSTAL SERVICE HONORING THE MEMBERS OF THE ARMED FORCES WHO HAVE BEEN AWARDED THE PURPLE HEART

Ms. SNOWE submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs: S. CON. RES. 56

Whereas the Order of the Purple Heart for Military Merit, commonly known as the Purple Heart, is the oldest military decoration in the world in present use;
Whereas the Purple Heart is awarded in the name of the President of the United States to members of the Armed Forces who are wounded in conflict with an enemy force or while held by an enemy force as a prisoner of war, and posthumously to the next of kin of members of the Armed Forces who are killed in conflict with an enemy force or who die of a wound received in conflict with an enemy force;
Whereas the Purple Heart was established on August 7, 1782, during the Revolutionary War, when General George Washington issued an order establishing the Honorary Badge of Distinction, otherwise known as the Badge of Military Merit or the Decoration of the Purple Heart;
Whereas the award of the Purple Heart ceased with the end of the Revolutionary War, but was reactivated out of respect for the memory and military achievements of George Washington in 1932, the year marking the 200th anniversary of his birth; and
Whereas the issuance of a postage stamp commemorating the members of the Armed Forces who have been awarded the Purple Heart is a fitting tribute both to those members and to the memory of General George Washington: Now, therefore, be it
Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—
(1) the United States Postal Service should issue a postage stamp commemorating the members of the Armed Forces who have been awarded the Purple Heart;
(2) the Citizens’ Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued not later than 1 year after the adoption of this resolution.
Ms. SNOWE. Mr. President. I rise today to submit a concurrent resolution to express the sense of Congress that a commemorative postage stamp should be issued by the United States Postal Service honoring the members of the Armed Forces that have been awarded the Purple Heart.
The Purple Heart, our nation’s oldest military decoration, was originated by General George Washington in 1782 to recognize “instances of unusual gallantry.” Reflected in the Badge of Military Merit, the decoration was awarded only three times during the Revolutionary War.
Following the war, the general order authorizing the “Badge” was misfiled for over 150 years until the War Department reactivated the decoration in 1932. The Army’s then Adjutant General, Douglas MacArthur, succeeded in having the medal re-instituted in its modern form—to recognize the sacrifice our service members make when they go into harm’s way.
Both literally and figuratively, the Purple Heart is the world’s most costly decoration. However, the 19 separate steps necessary to make the medal pale in comparison to the actions and heroics that so often lead to its award. The Department of Defense does not track the number of Purple Hearts awarded, but we do know that just over 500,000 of the veterans and military personnel that have received the medal are still living. And we have also know that every single recipient served this country in one form or another; a good number of the awardees even made the ultimate sacrifice—giving their lives for the liberty and freedoms that we all enjoy and often take for granted.
I am sure you will agree that these sacrifices deserve our respect and remembrance. This resolution, to express the sense of the Congress that a postage stamp honoring Purple Heart recipients should be issued by the U.S. Postal Service, is a fitting place to start. I urge my colleagues to support this effort to recognize those brave service members.

AMENDMENTS SUBMITTED AND PROPOSED

SA 813. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1062, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table.
SA 814. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1062, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table.
SA 815. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1062, supra; which was ordered to lie on the table.
SA 816. Mr. BOND proposed an amendment to the bill S. 1062, supra.
SA 817. Mr. ALLARD (for himself, Mr. BOND, Mr. SANTORUM, and Mr. NICKLES) proposed an amendment to the bill S. 1062, supra.
SA 818. Mr. KYL (for himself, Mr. NELSON of Nebraska, and Mr. NICKLES) proposed an amendment to the bill S. 1062, supra.
by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**TITLE — HUMAN GERMLINE GENE MODIFICATION**

SEC. 01. SHORT TITLE.

This title may be cited as the “Human Germline Gene Modification Protection Act of 2001”.

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) Human Germline gene modification is not needed to save lives, or alleviate suffering, of existing people. Its target population is “prospective people” who have not been conceived.

(2) The cultural impact of treating humans as biologically perfectable is ambiguous and often fatal as the result of only a few people will have been exposed to harm prospectively.

(3) Human germline modifications of themselves those in future generations who are harmed ready exist.

(4) The negative effects of human germline modification are irreversible.

(5) All people have the right to have been conceived and be held as ‘normal’.

SEC. 03. PROHIBITION ON HUMAN GERMLINE GENE MODIFICATION.

(a) IN GENERAL.—Title 18, United States Code, is amended by adding at the end of chapter 15 the following:

"CHAPTER 16—GERMLINE GENE MODIFICATION"

"§ 301. Definitions.

"In this chapter:

(1) HUMAN GERMLINE GENE MODIFICATION.—The term ‘human germline gene modification’ means the introduction of DNA into any human cell (including human eggs, sperm, fetal tissue, (i.e. embryos, or early cells that will differentiate into gametes or can be manipulated to do so) that can result in a change which can be passed on to future individuals, including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA. The term does not include any modification of cells that are not a part of or are not used to construct human embryos.

(2) HUMAN HAPLOID CELL.—The term ‘haploid cell’ that contains only a single copy of each of the human chromosomes, such as eggs, sperm, and their precursors; the haploid number in a human cell is 23.

(3) SOMATIC CELL.—The term ‘somatic cell’ means a diploid cell (having two sets of the chromosomes of almost all body cells) obtained from a human body at any stage of development; its diploid number is 46. Somatic cells are diploid cells that are not precursors of either eggs or sperm. A genetic modification of somatic cells is therefore not germline genetic modification.

"§ 302. Prohibition on germline gene modification.

("(a) IN GENERAL.—It shall be unlawful for any person or entity, public or private, to import the product of human germline gene modification for any purpose.

("(b) IMPORTATION.—It shall be unlawful for any person or entity, public or private, to import the product of human germline gene modification for any purpose.

("(c) PENALTIES—

(1) IN GENERAL.—Any person or entity that is convicted of violating any provision of this section shall be fined under this section or imprisoned not more than 10 years, or both.

(2) CIVIL PENALTY.—Any person or entity that is convicted of violating any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by 2, if that amount is greater than $1,000,000.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following:

'8. ‘Person’, ‘human being’, ‘child’, and ‘individual’ as including born-alive infant.'."
(iii) who does not live apart from such individual's spouse at all times during the taxable year;

the limitation imposed by subparagraph (B) shall be applicable separately between the individual and the individual's spouse unless they agree on a different division.

(3) COVERAGE MONTH.—For purposes of this subsection—

(A) IN GENERAL.—The term 'coverage month' means, with respect to an individual, any month during which the individual is covered by qualified health insurance, and

(ii) the premium for coverage under such insurance for such month is paid by the taxpayer.

(B) EMPLOYER-SUBSIDIZED COVERAGE.—

(i) in general.—Such term shall not include any month for which such individual is eligible to participate in any subsidized health plan (within the meaning of section 162(h)(2)(D)) maintained by any employer of the taxpayer or of the spouse of the taxpayer.

(ii) PREMIUMS TO NONSUBSIDIZED PLANS.—If an employer of the taxpayer or the spouse of the taxpayer maintains a health plan which is not a subsidized health plan (as so defined) and which constitutes qualified health insurance, employee contributions to the plan shall be treated as amounts paid for qualified health insurance.

(C) CAFETERIA PLAN AND FLEXIBLE SPENDING ACCOUNT BENEFICIARIES.—Such term shall not include any month during a taxable year if any amount is not includible in the gross income of the taxpayer for such year under section 106 with respect to—

(i) a benefit chosen under a cafeteria plan (as defined in section 125(d)), or

(ii) a benefit provided under a flexible spending or similar arrangement.

(D) MEDICARE AND MEDICAID.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual—

(i) is entitled to any benefits under title XVIII of the Social Security Act, or

(ii) is a participant in the program under title XIX or XXI of such Act.

(E) COVERAGE BY CONTRACT.—Such term shall not include any month during a taxable year with respect to an individual if, at any time during such year, any benefit is provided to such individual under—

(i) chapter 89 of title 5, United States Code,

(ii) chapter 55 of title 18, United States Code,

(iii) chapter 17 of title 38, United States Code, or

(iv) any medical care program under the Indian Health Care Improvement Act.

(F) PRISONERS.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

(G) INSUFFICIENT PRESENCE IN UNITED STATES.—Such term shall not include any month during a taxable year with respect to an individual if such individual is present in the United States on fewer than 183 days during such year (determined in accordance with section 7701(h)).

(4) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—In the case of a taxpayer who is eligible for an amount under section 162(l)(2) for the taxable year, this section shall apply only if the taxpayer elects not to claim any amount as a deduction under such section for purposes of this section—

(C) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

(I) IN GENERAL.—The term 'qualified health insurance' means insurance which constitutes medical care as defined in section 220(b)(1)(B) without regard to—

(A) paragraph (1)(C) thereof, and

(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

(II) EXCLUSION OF CERTAIN OTHER CONTRACTS.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9822(c)).

(III) ARCHER MSA CONTRIBUTIONS.—

(I) IN GENERAL.—If a deduction would (but for paragraph (2)) be allowed under section 220 to the taxpayer for a payment for the taxable year to the Archer MSA of an individual, subsection (a) shall be applied by treating such payment as a payment for qualified health insurance for such individual.

(II) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under section 220 for that portion of the Archer MSA payments otherwise allowable as a deduction under section 220 for the taxable year which is equal to the amount of credit allowed for such taxable year by reason of this subsection.

(III) SPECIAL RULES.—

(1) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 for the taxable year shall be reduce by the credit (if any) allowed by this section to the taxpayer for such year.

(2) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 220 for the taxable year was allowed under section 220 for the缴款年 for the taxable year to the Archer MSA of an individual.

(4) COORDINATION WITH DEDUCTION FOR QUALIFIED HEALTH INSURANCE.—For purposes of this section, the term 'qualified health insurance' means insurance defined (as so defined) and which constitutes qualified health insurance, employee contributions to which plan shall be treated as amounts paid for qualified health insurance.

(A) I N GENERAL.—The term 'coverage month' means, with respect to an individual if, as of the first day of such month, such individual is covered by qualified health insurance, employee contributions to the plan shall be treated as amounts paid for qualified health insurance.

(B) EMPLOYER-SUBSIDIZED COVERAGE.—

(i) in general.—Such term shall not include any month for which such individual is eligible to participate in any subsidized health plan (within the meaning of section 162(h)(2)(D)) maintained by any employer of the taxpayer or of the spouse of the taxpayer.

(ii) PREMIUMS TO NONSUBSIDIZED PLANS.—If an employer of the taxpayer or the spouse of the taxpayer maintains a health plan which is not a subsidized health plan (as so defined) and which constitutes qualified health insurance, employee contributions to the plan shall be treated as amounts paid for qualified health insurance.

(C) CAFETERIA PLAN AND FLEXIBLE SPENDING ACCOUNT BENEFICIARIES.—Such term shall not include any month during a taxable year if any amount is not includible in the gross income of the taxpayer for such year under section 106 with respect to—

(i) a benefit chosen under a cafeteria plan (as defined in section 125(d)), or

(ii) a benefit provided under a flexible spending or similar arrangement.

(D) MEDICARE AND MEDICAID.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual—

(i) is entitled to any benefits under title XVIII of the Social Security Act, or

(ii) is a participant in the program under title XIX or XXI of such Act.

(E) COVERAGE BY CONTRACT.—Such term shall not include any month during a taxable year with respect to an individual if, at any time during such year, any benefit is provided to such individual under—

(i) chapter 89 of title 5, United States Code,

(ii) chapter 55 of title 18, United States Code,

(iii) chapter 17 of title 38, United States Code, or

(iv) any medical care program under the Indian Health Care Improvement Act.

(F) PRISONERS.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

(G) INSUFFICIENT PRESENCE IN UNITED STATES.—Such term shall not include any month during a taxable year with respect to an individual if such individual is present in the United States on fewer than 183 days during such year (determined in accordance with section 7701(h)).

(H) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—In the case of a taxpayer who is eligible for an amount under section 162(l)(2) for the taxable year, this section shall apply only if the taxpayer elects not to
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SEC. 6050T. Returns relating to payments for qualified health insurance.

(c) CONFORMING AMENDMENTS.—(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "., or section 35 of such Code".

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the last item and inserting the following new item:

"Sec. 35. Health insurance costs."

(3) Section 36. Overpayments of taxes.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 62. ADVANCE PAYMENT OF CREDIT FOR PURCHASERS OF QUALIFIED HEALTH INSURANCE.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. ADVANCE PAYMENT OF HEALTH INSURANCE CREDIT FOR PURCHASERS OF QUALIFIED HEALTH INSURANCE.

"(a) GENERAL RULE.—In the case of an eligible individual, the Secretary shall make payments to the provider of such individual's qualified health insurance credit advance to an eligible individual.

(b) ELIGIBLE INDIVIDUAL.—For purposes of this section, 'eligible individual' means any individual—

(1) who has qualified health insurance (as defined in section 35(c)), and

(2) who is covered by or eligible for the credit provided by such Code.

(c) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, a qualified health insurance credit eligibility certificate is a statement furnished by an individual to the Secretary which—

(1) certifies that the individual will be eligible to receive the credit provided by section 35, and

(2) estimates the amount of such credit for the taxable year, and

(3) provides such other information as the Secretary may require for purposes of this section.

(d) QUALIFIED HEALTH INSURANCE CREDIT ADVANCE PAYMENT.—For purposes of this section, the term 'qualified health insurance credit advance amount' means, with respect to any provider of qualified health insurance, the Secretary's estimate of the amount of credit allowable under section 35 to the individual for the taxable year which is attributable to the insurance provided to the individual by such provider.

(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

"Sec. 7527. Advance payment of health insurance credit for purchasers of qualified health insurance."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

Subtitle B—Assuring Health Insurance Coverage for Uninsurable Individuals

SEC. 11. QUALIFIED HEALTH INSURANCE COVERAGES FOR ELIGIBLE INDIVIDUALS

(a) IN GENERAL.—

(1) REQUIREMENT.—For years beginning with 2002, each qualified health maintenance organization and health service organization shall be a participant in a health insurance safety net in this subtitle referred to as a 'safety net' established by the State in which it operates.

(2) FUNCTIONS.—Any safety net shall assure, in accordance with this subtitle, the availability of qualified health insurance coverage to uninsured individuals.

(3) FUNDING.—Any safety net shall be funded by an assessment against health insurers, health service organizations, and health maintenance organizations on a pro rata basis of premiums collected in the State in which the safety net operates. The costs of the assessment may be added by a health insurer, health service organization, or health maintenance organization to the costs of its health insurance or health coverage provided in the State.

(4) GUARANTEED RENEWABLE.—Coverage under a safety net shall be guaranteed renewable. The nonpayment of premiums, material misrepresentation, fraud, or abandonment of eligibility under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), loss of dependents, or noneligibility for other health insurance coverage.

(5) COMPLIANCE WITH NAIC MODEL ACT.—In the case of a State that has not established, or submit a similar comprehensive health insurance program that assures the availability of qualified health insurance coverage to all eligible individuals residing in the State, a safety net shall be established in accordance with the requirements of the 'Model Health Plan For Uninsurable Individuals Act' (or the successor model Act), as adopted by the National Association of Insurance Commissioners and as in effect in the date of the safety net's establishment.

(b) DEADLINE.—Safety nets required under subsection (a) shall be established not later than January 1, 2002.

(c) WAIVER.—This subtitle shall not apply in the case of insurers and organizations operating in a State if the State has established a similar comprehensive health insurance program that assures the availability of qualified health insurance coverage to all eligible individuals residing in the State.

(d) RECOMMENDATION FOR COMPLIANCE REQUIREMENT.—Not later than January 1, 2003, the Secretary of Health and Human Services shall submit to the Congress a recommendation on appropriate sanctions for States that fail to meet the requirement of subsection (a).

SEC. 12. UNINSURABLE INDIVIDUALS ELIGIBLE FOR COVERAGE.

(a) UNINSURABLE AND ELIGIBLE INDIVIDUAL DEFINED.—In this subtitle:

(1) UNINSURABLE INDIVIDUAL.—The term 'uninsurable individual' means, with respect to a State, an individual who has been refused or denied coverage because of his or her uninsurability for reasons by one insurer; or

(2) E XCEPTION FOR INDIVIDUALS WITH UNINSURABLE CONDITIONS.—The State shall make available benefits to an individual who is not under a safety net plan coverage without applying for health insurance or establishing proof of uninsurability under paragraph (1). An individual who can demonstrate the existence of medical or health conditions on such list shall not be required to provide the proof described in paragraph (1). The list shall be effective on the first day of the operation of the safety net plan and may be amended from time to time as may be appropriate.

(b) ADDITIONAL FUNDING.—A safety net shall provide for additional funding through an assessment on all health insurers, health service organizations, and health maintenance organizations in the State through a nonprofit association consisting of all such insurers and organizations doing business in the State on an equitable basis or pro rata basis consistent with section 11.

SEC. 13. QUALIFIED HEALTH INSURANCE COVERAGE UNDER SAFETY NET.

In this subtitle, the term 'qualified health insurance coverage' means, with respect to a State, health insurance coverage that provides benefits typical of major medical insurance individual health insurance market in such State.

SEC. 14. FUNDING OF SAFETY NET.

(a) LIMITATIONS ON PREMIUMS.—

(1) IN GENERAL.—The premium established under a safety net may not exceed 125 percent of the applicable standard risk rate, except as provided in paragraph (2).

(2) SUBCHARGE FOR AVOIDABLE HEALTH RISKS.—A safety net may impose a surcharge on premiums for individuals with avoidable high risks, such as smoking.

(b) ADDITIONAL FUNDING.—A safety net shall provide for additional funding through an assessment on all health insurers, health service organizations, and health maintenance organizations in the State through a nonprofit association consisting of all such insurers and organizations doing business in the State on an equitable basis or pro rata basis consistent with section 11.

SEC. 15. ADMINISTRATION.

A safety net in a State shall be administered through a contract with 1 or more insurers or third party administrators operating in the State.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to reimburse States for their costs in administering this subtitle.

SA 816. Mr. BOND proposed an amendment to the bill S. 1052, to
amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 179, after line 14, add the following:

SEC. 6. ANNUAL REVIEW.
(a) In General.—Not later than 24 months after the general effective date referred to in section 401(a)(1), and annually thereafter for each of the succeeding 4 calendar years (or until a single employer is effective under subsection (b)), the Secretary of Health and Human Services shall request that the Institute of Medicine, the National Academy of Sciences prepare and submit to the appropriate committees of Congress a report concerning the impact of this Act, and the amendments made by this Act, on the number of individuals in the United States with health insurance coverage.
(b) Limitation With Respect to Certain Plans.—If the Secretary, in any report submitted under subsection (a), determines that more than 1,000,000 individuals in the United States have health insurance coverage as a result of the enactment of this Act, as compared to the number of individuals with health insurance coverage in the 12-month period preceding the date of enactment of this Act, section 302 of this Act shall be repealed effective on the date that is 12 months after the date on which the report is submitted, and the submission of any further reports under subsection (a) shall not be required.
(c) Funding.—From funds appropriated to the Department of Health and Human Services for fiscal years 2003 and 2004, the Secretary of Health and Human Services shall provide for funding as the Secretary determines necessary for the conduct of the study of the National Academy of Sciences under this section.

SA 817. Mr. ALLARD (for himself, Mr. BOND, Mr. SANTORUM, and Mr. NICKLES) proposed an amendment to the bill S. 1652, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 148, between lines 23 and 24, insert the following:

(D) EXCLUSION OF SMALL EMPLOYERS.—

(i) In General.—Notwithstanding any other provision of this paragraph, in addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employee of such an employer acting within the scope of employment).

(ii) Definition.—In clause (i), the term ‘small employer’ means an employer—

(I) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 50 employees on business days; and

(II) maintaining the plan involved that is acting, acting, serving, or functioning as a fiduciary, trustee, or plan administrator, including—

(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

(bb) one or more small employers described in section 3(16)(B)(iii) in the case of a multi-employer plan.

(B) Application of Certain Rules in Determination of Employer Size.—For purposes of this subparagraph:

(I) Application of Aggregation Rule for Employers.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer.

(II) Exclusion of Small Employer.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

(III) Predecessors.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

On page 165, between lines 14 and 15, insert the following:

(D) Exclusion of Small Employers.—

(i) In General.—Notwithstanding any other provision of this paragraph, in addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employee of such an employer acting within the scope of employment).

(ii) Definition.—In clause (i), the term ‘small employer’ means an employer—

(I) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 50 employees on business days; and

(II) maintaining the plan involved that is acting, acting, serving, or functioning as a fiduciary, trustee, or plan administrator, including—

(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

(bb) one or more small employers described in section 3(16)(B)(iii) in the case of a multi-employer plan.

(iii) Application of Certain Rules in Determination of Employer Size.—For purposes of this subparagraph:

(I) Application of Aggregation Rule for Employers.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer.

(II) Exclusion of Small Employer.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

(III) Predecessors.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

SA 818. Mr. KYL (for himself, Mr. NELSON of Nebraska, and Mr. NICKLES) proposed an amendment to the bill S. 1652, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 37, line 25, strike the period and insert the following:

(B) No Coverage for Excluded Benefits.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage and that are disclosed under subparagraphs (C) or (D) of section 121(b)(1) and that are not covered regardless of any determination relating to medical necessity and appropriateness, experimental or investigational nature of the treatment, or an evaluation of the medical facts in the case involved.

On page 37, line 16, strike ‘and’.

On page 37, line 25, strike the period and insert ‘;’.

On page 37, after line 25, add the following:

(III) the definition of such term that is developed through a negotiated rulemaking process pursuant to subsection (i); and

On page 66, between lines 10 and 11, insert the following:

(1) Establishment of Negotiated Rulemaking Safe Harbor.—

(I) In General.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code, standards described in subsection (d)(3)(E)(iii)(IV) (relating to the definition of ‘medically necessary and appropriate’ or ‘experimental or investigational’) that group health plans and health insurance issuers offering health insurance coverage in connection with group health plans may use when making a determination with respect to a claim for benefits.

(II) Publication of Notice.—In carrying out the rulemaking process under paragraph (1), the Secretary shall, not later than November 30, 2002, publish a notice of the establishment of a negotiated rulemaking committee, as provided for under section 564(a) of the United States Code, to develop the standards described in paragraph (1). Such notice shall include a solicitation for public
comment on the committee and description of—

(a) the scope of the committee;

(b) the interests that may be impacted by the standards;

(c) the proposed membership of the committee;

(d) the proposed meeting schedule of the committee; and

(e) the procedure under which an individual may apply for membership on the committee.

(3) TARGET DATE FOR PUBLICATION OF RULE.—After the general effective date referred to in section 566(a)(5) of title 5, United States Code, means May 15, 2003.

(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—Notwithstanding section 566(c) of title 5, United States Code, the Secretary shall provide for a period, beginning on the date on which the notice is published under paragraph (2) and ending on December 14, 2002, for the submission of public comments on the committee under this subsection.

(5) APPOINTMENT OF NEGOTIATED RULE-MAKING COMMITTEE AND FACILITATOR.—The Secretary shall carry out the following:

(A) APPOINTMENT OF COMMITTEE.—Not later than January 10, 2003, appoint the members of the negotiated rulemaking committee under this subsection.

(B) FACILITATOR.—Not later than January 21, 2002, provide for the nomination of a facilitator under section 566(c) of title 5, United States Code, to carry out the activities described in subsection (d) of this section.

(C) MEMBERSHIP.—Ensure that the membership of the negotiated rulemaking committee includes at least one individual representing—

(1) health care consumers;

(ii) small employers;

(iii) large employers;

(iv) physicians;

(v) hospitals;

(vi) other health care providers;

(vii) health insurance issuers;

(viii) State insurance regulators;

(ix) health plans;

(x) third-party administrators;

(xi) the Medicare program under title XVIII of the Social Security Act;

(xii) the Medicaid program under title XIX of the Social Security Act;

(xiii) the Federal Employee Health Benefits Program under chapter 89 of title 5, United States Code;

(xiv) the Department of Defense;

(xv) the Department of Veterans’ Affairs; and

(xvi) the Agency for Healthcare Research and Quality.

(6) FINAL COMMITTEE REPORT.—

(A) IN GENERAL.—Not later than 1 year after the general effective date referred to in section 401, the committee shall submit to the Secretary a report containing a proposed rule.

(B) PUBLICATION OF RULE.—If the Secretary receives a report under subparagraph (A), the Secretary shall provide for the publication in the Federal Register, by not later than the date that is 30 days after the date on which such report is received, of the proposed rule.

(C) DURATION OF REPORT.—If the committee fails to submit a report as provided for in paragraph (6)(A), the Secretary may promulgate a rule to establish the standards described in subsection (d)(3)(E)(iii)(IV) (relating to the definition of medically necessary and appropriate or ‘‘experimental or investigational’’) that group health plans and health insurance issuers offering health insurance coverage in connection with group health plans may use when making a determination with respect to a claim for benefits.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 26, 2001, to conduct a hearing on the nomination of Donald E. Powell, of Texas, to be Chairman of the Board of Directors of the Federal Deposit Insurance Corporation.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 26, 2001, at 9:30 a.m. on the nominations of Sam Bodman (DOC), Allan Rutter (FRA), Kirk Van Tine (DOT), and Ellen Engleman (DOT).

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

COMMITTEE ON INDIAN AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on June 26, 2001, at 10:30 a.m. in room 483 Russell Senate Building to conduct a Hearing to receive testimony on the goals and priorities of the Great Plains Tribes for the 107th session of the Congress.

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

SUBCOMMITTEE ON THE ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on the Constitution be authorized to meet to conduct a hearing on “Should Ideology Matter? Judicial Nominations 2001” on Tuesday, June 26, 2001 at 10:00 a.m. in SD226. No witness list is available yet.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Tuesday, June 26, 2001, at 10:00 a.m. for a hearing entitled “Diabetes: Is Sufficient Funding Being Allocated To Fight This Disease?”

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

COMMITTEE ON FINANCE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, June 26 at 9:30 a.m. to conduct a hearing. The committee will receive testimony on proposed amendments to the Price-Anderson Act (Subtitle A of Title IV of S. 472; Title IX of S. 597) and nuclear energy production and efficiency incentives (Subtitle C of Title IV of S. 388; and Section 124 of S. 472).

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 26, 2001 at 2:30 p.m. to hold a nomination hearing as follows:

Panel 1: The Honorable Margaret Deبارdleben Tutwiler, of Alabama, to be Ambassador to the Kingdom of Morocco.

The Honorable C. David Welch, of Virginia, to be Ambassador to the Arab Republic of Egypt.

The Honorable Daniel C. Kurtzer, of Maryland, to be Ambassador to Israel.

Panel 2: The Honorable Robert D. Blackwell, of Kansas, to be Ambassador to India.

The Honorable Wendy Jean Chamberlin, of Virginia, to be Ambassador to the Islamic Republic of Pakistan.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on June 26, 2001, at 10:30 a.m. in room 483 Russell Senate Building to conduct a Hearing to receive testimony on the goals and priorities of the Great Plains Tribes for the 107th session of the Congress.

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

SUBCOMMITTEE ON THE ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution be authorized to meet to conduct a hearing on “Should Ideology Matter? Judicial Nominations 2001” on Tuesday, June 26, 2001 at 10:00 a.m. in SD226. No witness list is available yet.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Tuesday, June 26, 2001, at 10:00 a.m. for a hearing entitled “Diabetes: Is Sufficient Funding Being Allocated To Fight This Disease?”

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

COMMITTEE ON STRATEGIC

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 26, 2001, at 10:00 a.m., in open session to receive testimony on the Department of Energy’s fiscal year 2002 budget request for the Office of Environmental Management, in review of the Defense Authorization request for fiscal year 2002 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.
PRIVILEGE OF THE FLOOR

Mrs. CLINTON. Mr. President, I ask unanimous consent that Dr. Mary Catherine Beach, a legislative fellow in my office, be granted the privilege of the floor for the duration of the debate on S. 1052, the McCain-Edwards-Kennedy Patients’ Bill of Rights.

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

ORDERS FOR WEDNESDAY, JUNE 27, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Wednesday, June 27. Further, I ask consent that on Wednesday, immediately following the prayer and the pledge, the Journal of Proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Patients’ Bill of Rights.

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

PROGRAM

Mr. REID. Mr. President, the Senate will convene at 9:30 a.m. and resume consideration of the Patients’ Bill of Rights. There is 1 hour of debate on the Allard amendment regarding small employers, followed by a vote in relation to the amendment at approximately 10:30 a.m.

Following the Allard vote, there will be 1 hour of debate on the Nelson-Kyl amendment regarding contracts, followed by a vote in relation to the amendment. Following disposition of the Nelson-Kyl amendment, we expect Senator Edwards or his designee to be recognized to offer an amendment regarding medical necessity.

We are going to conclude consideration of Patients’ Bill of Rights, I have been told on more than one occasion today by the majority leader, this week. We will also complete the supplemental appropriations bill and the good work that has been done preliminarily by Senators Byrd and Stevens. This is something we will be able to do without requiring a lot of time. Then we wish to complete the organizational resolution that has been pending for several weeks.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate at 8:22 p.m., adjourned until Wednesday, June 27, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 26, 2001:

DEPARTMENT OF TRANSPORTATION

JEFFREY WILLIAM RUNGE, OF NORTH CAROLINA, TO BE ADMINISTRATOR OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, VICE SUSAN BAILEY.

DEPARTMENT OF COMMERCE

NANCY VICTORY, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION, VICE GREGORY BORDE, RESIGNED.

DEPARTMENT OF THE TREASURY

ROBERT C. BONNER, OF CALIFORNIA, TO BE COMMISSIONER OF CUSTOMS, VICE RAYMOND W. KELLY, RESIGNED.

Rosario Marin, of California, to be Treasurer of the United States, Vice Mary Ellen Withrow, Resigned.

DEPARTMENT OF STATE

ROGER FRANCISCO NORIEGA, OF KANSAS, TO BE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION OF AMERICAN STATES, WITH THE RANK OF AMBASSADOR, VICE LUIS J. LAURERGO.

JEANNE L. PHILLIPS, OF TEXAS, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, WITH THE RANK OF AMBASSADOR, VICE AMY L. BONDBURANT.

IN THE MARINE CORPS

The following named officer for reappointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under Title 10, U.S.C., Section 601:

To be lieutenant general

LT. GEN. EARL B. HAILSTON, 0000
The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. CULBERSON).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:


I hereby appoint the Honorable JOHN ARNEY CULBERSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore, Pursuant to the order of the House of January 3, 2001, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

PROJECT IMPACT

Mr. BLUMENAUER. Mr. Speaker, numerous natural events of the past few months, including the earthquake in the State of Washington and Tropical Storm Allison of just recent days in Texas and Louisiana, have underscored our need for disaster preparedness.

What we have learned from these events is that we can in fact save lives and money by making investments up front to protect our communities. What we have learned is that what we do in the beginning by hardening the sites, preparing people’s responses, moving out of harm’s way, has an overwhelming payback, a payback not just in money but in lives saved and injury and human misery avoided.

As was pointed out in yesterday’s Washington Post, spending money in disaster mitigation pays off. It has often been cited that in the great flood of 1993, Charles County, Missouri, suffered $26 million in damages. However, the same area, after a significant buyout and a similar flood 2 years later, experienced only $2,000 in damage. Our friends at the Federal Emergency Management Agency believe that in the past 8 years the buyout programs of the Federal government have received a 200 percent rate of return in investment in disaster mitigation.

It is frustrating that, in the wake of these tragedies, the Bush administration and its Office of Management and Budget have proposed cutting funds for several of these Federal mitigation programs, including FEMA’s Project Impact.

Mr. Speaker, I have had significant opportunity to interact with the men and women working with Project Impact. This was one of the creations of former Director James Lee Witt that has in fact earned him international recognition.

I have seen that, contrary to the administration’s assertion that Project Impact has not proven effective, I have seen Project Impact leverage even a modest Federal investment in my own community to be a lynchpin for additional commercial investments, as well as careful planning and consideration by local government.

I had an opportunity last fall to address the Conference of Project Impact Volunteers. One of the most important aspects of this program is the development of the human infrastructure to aid in disaster mitigation. It is hard to imagine a Federal investment doing more than to produce these dedicated volunteers making the difference in making these programs work.

Project Impact is not a grant program. It provides seed money to build disaster-resistant communities. It is a commonsense approach to help communities protect themselves. It offers more than technical assistance. It puts the latest technology and mitigation practices into the hands of local communities, and most important, it brings people together to understand how they can solve their own problems.

Started just 5 years ago with seven pilot projects across the country, there are now 2,500 Project Impact business partners, including Federal agencies like NASA, that are working in 250 Project Impact communities.

Mr. Speaker, Joe Allbaugh, a long-time friend and Bush appointee, the new Director of FEMA, has pointed out that he is deeply impressed by the “swift and tangible results,” his words, of buy-out programs and other efforts to mitigate the cost of disasters before they strike. I know from the news accounts that he has taken his budget concerns to the OMB who need to understand the potential benefits of continuing this program.

I must commend the Bush administration for understanding the potential of using reform in other contexts. I appreciate and applaud their putting money in the budget that signifies reform of the National Flood Insurance Program.

The gentleman from Nebraska (Mr. BERREUTER) and I for the last 2 years have been working to reform the flood insurance program so it is no longer subsidizing people to live in areas where it is repeatedly shown that it is dangerous and inappropriate.

I hope the administration will build on this notion of reform that they are proposing in flood insurance and carry it over in Project Impact. We cannot afford to lose it.

RECESS

The SPEAKER pro tempore, There being no further requests for morning hour debates, pursuant to clause 12, rule I, the House will stand in recess until 10 a.m.

Accordingly (at 9 o’clock and 8 minutes a.m.) the House stood in recess until 10 a.m.

AFTER RECESS

The recess having expired, the House was called to order at 10 a.m.

PRAYER

The Reverend Lawson Anderson, Canon Pastor, Episcopal Diocese of Arkansas, Little Rock, Arkansas, offered the following prayer:

Let us pray. Gracious God, as we prepare in the week ahead to celebrate the anniversary of the founding of this Republic, we commend this Nation to Your merciful care. We pray that being guided by Your providence we may live securely in Your peace.

Grant to the President of the United States, to the Members of this Congress, and to all in authority wisdom and strength to know and to do Your will. Fill them with the love of truth and righteousness and make them ever mindful of their calling to serve this country in Your fear. Guide them as they shape the laws for maintaining a just and effective plan for our government.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

 Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
Give to all of us open minds and caring hearts and a firm commitment to the principles of freedom and tolerance established by our Nation’s founders and defended by countless patriots throughout our history.

Help us to stamp out hatred and bigotry, to embrace the love and concern for others that You have clearly shown to be Your will for all mankind. Bring peace in our time, O Lord, and give us the courage to help You do it.

For we ask this in Your name. Amen.

THE JOURNAL

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

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

Mr. ISAаксON. Mr. Speaker, pursuant to clause 1, I demand a vote on agreeing to the Speaker’s approval of the Journal.

The SPEAKER. The question is on the Speaker’s approval of the Journal.

The question was taken; and the Speaker announced that the ayes had it.

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

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

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

Mr. McNULTY led the Pledge of Allegiance as follows:

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

WELCOME TO REVEREND LAWSON ANDERSON, GUEST CHAPLAIN

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

Mr. HUTCHINSON. Mr. Speaker, it is with great pleasure that I welcome Reverend Lawson Anderson to the floor and thank him for such an encouraging opening prayer.

Reverend Anderson is a lifelong resident of Arkansas and thousands have been blessed with his compassion and support in times of crisis. He is well-known for his wisdom, his wonderful wit, and his easy manner in any situation. After successful careers in forestry and banking, Lawson was called to the ministry and has served Episcopalian congregations in Sprinoble, Newport, and North Little Rock.

In his life, Lawson reflects a true commitment to helping and encouraging others; from prison ministries to respite care for the elderly; from youth services to mental health; from crisis to crime prevention.

After 25 years of ministry, he continues his work. He has provided support and counseling to law enforcement officials, educators, and health professionals following the tragic school shootings in Jonesboro and the tornadoes in Central Arkansas.

He has served his community, his State, and his Nation with honor and compassion. While he reminds me that he is here today not to be praised but to pray, I am honored to have him pray with us today and to recognize the work he has done for the people of Arkansas and thousands have been blessed with his compassion and wonderful heart.

Mr. Speaker, it is with great pleasure that I welcome Reverend Lawson Anderson to the House.

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Mr. FORBES appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are now a Member of the 107th Congress.

WELCOMING THE HONORABLE J. RANDY FORBES TO THE HOUSE OF REPRESENTATIVES

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

Mr. WOLF. Mr. Speaker, it is my pleasure to welcome the newest Member of the House, RANDY FORBES, of Chesapeake, Virginia.

RANDY won a hard-fought battle to represent the Fourth District of Virginia, which was represented by our colleague and very, very good friend, Norman Sisisky, for the last 18 years.

RANDY comes to Congress with a strong legislative background. He has served in the Virginia General Assembly since 1990, first as a member of the House of Delegates, then as a State senator since 1997. He held leadership positions in both bodies.

RANDY also has served as the chairman of the Republican Party of Virginia. He had tremendous success recruiting candidates and is credited with helping Republicans take control of the Virginia House of Delegates for the first time in modern history.

While in the General Assembly, RANDY was a leader in the Commonwealth’s drive to abolish parole and enact truth-in-sentencing laws. He was the chief patron of a bill that allows teachers to enforce discipline in their classrooms without fear of being sued. And he led the effort to create a school construction grants program to assist localities with the skyrocketing costs of building new schools to help reduce classroom overcrowding.

I have known RANDY for a long time. He is good, he is honest, he is ethical, he is decent, he is very, very capable legislator. I know he will be an outstanding addition to the United States Congress. He has a longstanding relationship with a number of other Members, particularly with those of us from the Virginia delegation and we will have no trouble at all adapting to how things are done here in Congress.

RANDY earned his law degree from the University of Virginia and was the valedictorian of his 1974 graduating class at Randolph-Macon College. He and his wife of 22 years, Shirley, live in Chesapeake, Virginia. They have four children.

Mr. Speaker, it is my pleasure to welcome RANDY to the United States Congress. Joining us today are Senator JOHN W. WARNER and Senator GEORGE ALLEN. I, along with my other colleagues from Virginia and across the country, look forward to working with you.

EXPRESSING GRATITUDE ON ELECTION TO CONGRESS

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

Mr. FORBES. Mr. Speaker, I can think of no honor greater than the privilege of joining the men and women of this body for whom I have such great respect. I want to personally thank you, the congressional leadership, and those men and women on both sides of the aisle who have been so gracious in assisting us in our quick transition to this new office.

Mr. Speaker, I am also aware that I will benefit greatly by standing on the shoulders of a great legislator, Norman Sisisky, who worked tirelessly for his constituents for over 18 years. Since he is no longer with us, and I cannot thank him personally, I would like to thank his family and his staff for the service his office has provided over the years.

Mr. Speaker, I also want to thank all the people of the Fourth Congressional District for giving me their trust and confidence. I particularly want to thank my wife, Shirley, my children, family, friends and all the people for all their help. I promise to each of you that I will give all my energy, all my ability, and all my passion to representing the ideals of this Congress and of fulfilling the hopes, dreams and needs of the people of the Fourth Congressional District of Virginia.

Mr. Speaker, last but certainly not least, I am grateful to the Lord for giving me the wonderful gift of living in the greatest Nation on the face of the earth. I will continue to pray that God will give me the wisdom and strength to serve the men and women of the fourth district and that He will continue to bless this great Nation.

REPUBLICANS TRIUMPH IN ANNUAL CONGRESSIONAL BASEBALL GAME

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

Mr. OXLEY. Mr. Speaker, today is the day of bragging rights for the congressional baseball game. I am proud to
There has been no contact with her since she was arrested over 4 months ago. All attempts to locate Gao Zhan have failed. The United States ambassador in China and other United States officials as well as attorneys from both the United States and China have tried to locate the whereabouts of Gao Zhan. The Chinese government has refused to share any information.

I have introduced H.R. 1385, which grants Gao Zhan citizenship in the United States without her being administered the oath of renunciation and allegiance. This bill is critical since Gao Zhan is being held against her will in China and the law provides different treatment to United States citizens than it does to United States lawful permanent residents. Congress needs to confer this citizenship on Gao Zhan. She is one who needs to be reunited with her family.

TIME TO STOP POINTING FINGERS

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

Mr. FOLEY. Mr. Speaker, in the past few weeks Governor Gray Davis has turned up the rhetorical heat while Californians have turned out their lights because of rolling blackouts expected to plague the State all summer long.

The Governor has left no stone unturned in his campaign to point fingers in any direction. He has blamed the Federal Government. He has blamed electric utilities. He has blamed energy companies. He has even blamed President Bush. My God. He is the Energizer bunny of bankrupt ideas.

President Bush recognizes that America faces serious energy shortages, so his administration is putting forward a comprehensive plan to protect consumers from fluctuating fuel costs using 21st-century technology to diversify our clean and affordable energy sources.

But what does Gray Davis do? He hires spin doctors at $30,000 a month paid for by the taxpayers to explain why his State is suffering. I am sure Governor Davis realizes this is an inappropriate use of tax dollars, considering he is sitting on $26 million in campaign cash.

This reminds me of another disaster, Mr. Governor, the Exxon Valdez. That is your administration.

MONUMENT NEEDED FOR SOME OF THE BRAVEST AMERICANS

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

Mr. TRAFICANT. Mr. Speaker, today is the 125th anniversary of Custer's last stand, a sad chapter in American history. To make it even worse, there is only one monument at Little Bighorn, to—General Custer!

Unbelievable. As the story goes, Uncle Sam took the whole Indian Nation and put them on a reservation. He took away their native tongue, taught English to their young, took away their way of life, killed their children and their wife. And even the beads they made by hand were then imported from Japan.

Beam me up. Is it any wonder that these brave warriors joined together massively for one last victory to be remembered throughout all of American history?

Now, Mr. Speaker, their descendants fight along with our soldiers to keep America free.

I yield back the need to build a lasting monument in tribute to some of the bravest Americans who ever lived right here in Washington, D.C.

PRICE CONTROLS MAY BE NICE POLITICS BUT THEY ARE LOUSY POLICY

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

Mrs. BIGGERT. Mr. Speaker, day in and day out I hear calls for price controls on electricity, and I wonder were the 1970s that long ago, or are we just suffering from convenient amnesia? Am I the only one who remembers the gas price controls imposed by President Richard Nixon in an effort to ensure an adequate supply of gasoline at reasonable rates? Am I the only one who remembers that the resulting artificial low prices did not lower consumption, but did lower supply? I guess I am the only one who does not look fondly back on the days of long lines at the local service station and gas rationing. Price controls may be nice politics, but they are lousy policy. The bottom line is that we are trying to meet today's energy needs with yesterday's energy infrastructure, and it is not working.

Our energy demand has increased 47 percent over the last 30 years, and yet we have half as many oil refineries, static pipeline capacity, and 20 times as many mandated gasoline blends. Low energy prices through the 1980s and 1990s have lulled American consumers and producers into believing that low prices will always be there, but now we know that is not true.

Perhaps Ali’s greatest testament was the only fight in which he declined to participate. With the war in Vietnam dragging on, the draft call was expanded, and the heavyweight champion of the world was reclassified as 1A, eligible for military service.

Ali was told the news at a training camp in Miami, and, badgered all day by the press, he came out with the now famous line, “I ain’t got no quarrel with them Viet Cong.”

It may have been a spontaneous remark, but he stuck by his word with courage, conviction and stood out against the conflict in Vietnam. His courage to stand by his belief in the years when the war was still favored by the majority of Americans will stand as a testament to those who protested.

I would encourage, Mr. Speaker, my colleagues in joining, along with the other 40 cosponsors, in awarding Muhammad Ali a Congressional Gold Medal. Please sign up.

CONGRATULATIONS TO CHARLTON “CHEWY” JIMMERSON, THIS YEAR’S OUTSTANDING PLAYER AT UNIVERSITY OF MIAMI

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

Ms. ROS-LEHTINEN. Mr. Speaker, I congratulate the University of Miami baseball team for its exceptional coach Jim Morris for the flawless performance that enabled them to win the College World Series. The Hurricanes celebrated their 12-to-1 win over Stanford, and this victory marks their second annual title in 3 years.

Professional teams have drafted 11 talented Hurricanes, but it is Charlton Jimerson who won this year’s Outstanding Player Award.

Chewy, as he is called by his teammates, survived an unstable childhood. He was raised by his sister Lanette, who inspired confidence so that he would achieve and succeed. By writing a letter, Chewy invited himself to play at the University of Miami, and today this fifth-round draft choice of the Houston Astros is described as the emotional fuse for a dynamite team.

I ask my congressional colleagues to join me in congratulating outstanding player Charles Jimerson, his talented coach Jim Morris, and the amazing University of Miami baseball team for an outstanding victory once again.

PRICE CONTROLS, THE EVIDENCE IS THEY DO NOT WORK

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

Mr. PETERSON of Pennsylvania. Mr. Speaker, wholesale electric price controls do not work. What better example of this than California? Leading energy experts have been saying for months that one major reason California is in its current energy mess is because of price controls. Now we have further evidence that the price controls are not the answer.

Last week the Department of Energy released a report indicating that if Governor Davis gets his way and a cost-plus-$25 price cap is implemented, Californians will be literally in the dark.

The Department of Energy report concludes that Governor Davis’ price caps would result in the delay or abandonment of about 1,300 megawatts of capacity scheduled to be constructed in the State. What does this mean to Californians? It means that 90,000 additional households could be affected.

As Pennsylvania learned, deregulation can be implemented with success, but price caps and unnecessary government regulations result in shortages and higher prices. We in Pennsylvania know that the Department of Energy concurs.

HARD-WORKING AMERICANS DESERVE ANSWERS AND THEY DEMAND A SOUND ENERGY POLICY

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

Mr. GIBBONS. Mr. Speaker, our economy over the last year has showed signs of slowing. Energy prices are already too high, and they are going higher. Much of our country faces either energy shortages, blackouts or both. Major energy shortages are expected throughout the summer for most of the West. Gas prices there top $2.25 a gallon at the pump. Hard-working Americans deserve answers, and they demand a sound energy policy.

Mr. Speaker, our Nation’s energy problems demand multifaceted solutions, including increased supplies of traditional fossil fuels and alternative sources of energy as well as improving energy conservation and efficiency. It will not be easy, and it will not be quick, but we have the technology and the resources to meet our energy needs for decades, even centuries, to come, while ensuring a clean environment as a legacy for our children as well.

We need to work with President Bush to create a balanced, comprehensive national energy policy that meets our energy challenges today and provides for our needs well into the future.
ARTISTIC HOMES. A WAY TO CONSERVE OUR ENERGY RESOURCES

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

Mrs. WILSON. Mr. Speaker, on Saturday afternoon I was on the west side of Albuquerque at Artistic Homes. Artistic managers explained the way they build homes in order to reduce utility bills.

I met a first-time buyer family that is going to buy one of those homes. They were signing the papers that day. They currently pay $160 a month for their electric and gas bill, and they expect that bill will be $20 a month when they move into this new home.

That experience reinforces why conservation must be a part of our energy agenda. We have an energy problem in this country. It is toughest in the West, but it affects us all. There are not going to be any quick fixes. We need a balanced, long-term approach to give us the security and the energy that we need. This is too important to do anything but the right thing.

We need to start with conservation. We have made tremendous progress in this country over the last 20 years. We are not going back, and nobody wants to. We need a balanced mix of new supplies of energy, and we have to bring on the next generation of new supplies of energy. It is time to pull together and lead, to give us real answers for our energy problems.

THE TIME HAS COME TO CHANGE THE OUTDATED DAVIS-BACON ACT

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

Mr. BALLenger. Mr. Speaker, I would like to speak to one of many problems on the outdated Davis-Bacon Act of 1931. As my colleagues know, this law requires the labor that is paid on local construction projects receiving over $2,000 in Federal aid must adhere to the Federal prevailing wage, which on average is 17 to 22 percent higher than the State level. Because of these higher wages, State and local construction projects can cost up to 38 percent more than they would have without the act.

This enormous waste of taxpayers dollars is proof that the Davis-Bacon Act should be modernized. In the 70 years since its introduction, the act has never been adjusted for inflation and has not been amended according to current construction standards. Meanwhile, inflated Davis-Bacon costs continually hinder emergency relief efforts and federally-assisted construction projects because of the additional costs that localities must pay if they receive a mere $2,000 in Federal aid.

Because this $2,000 minimum was set in 1931 and has never been adjusted, the gentleman from North Carolina (Mr. COBLE) and I have introduced H.R. 2094, the Davis-Bacon Modernization Act, which would increase the threshold from $2,000 to $100,000. While many of my colleagues believe this number is not high enough, I believe it is a good start. Let us make this law more reasonable and, above all, helpful. I urge my colleagues to help communities across the country to get more bang for their buck. Cosponsor and support the Davis-Bacon Modernization Act.

THE AGRICULTURAL SUPPLEMENTAL RELIEF ACT

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

Mr. POMEROY. Mr. Speaker, it is another tough year for the farmers of this country. Commodity prices once again are below the cost of producing the crop. Imagine the frustration of investing one's heart and soul and extending virtually everything they own to grow a crop that when it is harvested and it is taken to the elevator, the money that is received does not even cover the costs they had of growing it. That is, of course, if the production season is a good one and a crop is actually gotten. Yesterday I was in fields in North Dakota that have been totally devastation by hail. There will be no crop for these farmers. There will be no income of any kind at the elevator. I raise this to everyone's attention because in a few minutes we are about to consider the Agricultural Supplemental Relief Act. Unfortunately, the Committee on Agriculture brings forward a proposal that reduces by about 15 percent the amount of relief and support we gave to farmers last year.

Now farmers stand again. Now farmers have once again taken to the streets, costing more to grow the crop. The prices are still lowly. It is no time to cut relief for our farmers. Reject this and increase assistance.

NORTH KOREA

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

Mr. PITTS. Mr. Speaker, I recently met with a German doctor, Dr. Norbert Vollertson, and talked to him about his experiences during his 18 months living in North Korea.

The stories of suffering and the photos of starving children and adults were deeply moving. Dr. Vollertson made a strong statement that should spur the international community to action.

When comparing the North Korean prison camps to Nazi concentration camps, Dr. Vollertson said, "No journalist, nobody wanted to believe that Hitler is so cruel, that the German government is so cruel. I think it is my duty as a German to learn from history, to not make the same mistake twice."

He said what is happening in North Korea in the concentration camps, in his opinion, is as bad as what happened during the Second World War. It is the duty of the international community not to make the same mistake again, to ignore the plight of thousands of people in North Korea who are starving and in terrible prison situations where they are beaten and tortured and executed in horrific ways.

Mr. Speaker, I call on this body and the administration to act on behalf of the people of North Korea, to act to ensure that the regime in North Korea is no longer allowed to continue destroying its people.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken later today.

RECOGNIZING OUTSTANDING AND INVALUABLE DISASTER RELIEF ASSISTANCE PROVIDED DURING TROPICAL STORM ALLISON

Mr. COOKSEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 166) recognizing the outstanding and invaluable disaster relief assistance provided by individuals, organizations, businesses, and other entities to the people of Houston, Texas, and surrounding areas during the devastating flooding caused by tropical storm Allison.

The Clerk read as follows:

WHEREAS numerous individuals and entities have selflessly and heroically given of themselves and their resources to aid in the disaster relief efforts; and

WHEREAS this disaster tragically and suddenly took the lives of 21 people; and

WHEREAS this disaster injured countless other people, uprooted families, and devastated businesses and institutions; and

WHEREAS the State of Texas has been declared a Federal disaster area, and individuals and families in 28 Texas counties are eligible for Federal assistance; and

WHEREAS numerous individuals and entities have selflessly and heroically given of themselves and their resources to aid in the disaster relief efforts; and

WHEREAS the catastrophic injury, death, and damage in Houston, Texas, and surrounding areas caused by tropical storm Allison would have been even worse in the absence of local relief efforts: Now, therefore, be it

CONGRESSIONAL RECORD—HOUSE June 26, 2001
Resolved. That the House of Representa-
tives, recognizing the outstanding and inva-
surable service during the devastating flooding
crushed by tropical storm Allison in Houston,
Texas, and surrounding areas, the following:
(1) The American Red Cross, located at the
Sunset Multi-Service Center, Friendswood
Activity Center, Lake Forest Church, and Berean
Seventh Church, the American Red Cross lo-
cated at Salvation Army Community Center,
Arbor Lights Men’s Shelter, the B.L.O.C.K.,
Oak Village Middle School, Kirby Middle
School, and the many other voluntary relief
sites and shelters who rendered outstanding and
invaluable assistance to the victims of the disaster;
(2) the Houston Police Department, the
Houston Fire Department, and the Sheriff’s
Department of Harris County, Texas, who
disbursed with bravery and dedication in
rendering assistance to the people of
Houston, Texas during the disaster;
(3) Houston Mayor Lee Brown, particularly
for his efforts in establishing the Adopt-a-
Family program and for his collaboration in
the disaster relief efforts with Robert
Echols;
(4) Texas Governor Rick Perry and all
other State and local officials, who provided
invaluable support and assistance;
(5) the Federal Emergency Management
Agency, who quickly deployed and responded
to the disaster;
(6) the United States Coast Guard;
(7) the Texas Army National Guard, who
quickly deployed and responded to the dis-
aster;
(8) the employees of Texas Medical Center,
Memorial Hermann Hospital, and Houston
Veteran’s Hospital, who struggled heroically
to perform their jobs amid chaos;
(9) all the volunteers, who are too numer-
ous to name, but who made heroic efforts
and special sacrifices and played a crucial role in the
disaster relief efforts;
(10) the private sector, including major
Corporations, other businesses of all sizes,
and their employees, who rapidly and volun-
tarily donated money and other resources to the
disaster relief efforts;
(11) the many media organizations who
aided the relief effort by keeping the commu-
nity closely and extensively informed, re-
quested information, and providing informa-
tion regarding dangerous roads; and
(12) all the individuals and organizations
who immediately and unselfishly helped the
people of Houston, Texas, and surrounding
areas in their time of need, took quick and
decisive action for the public good, and
demonstrated an ability to work together for a
brighter future.

The SPEAKER pro tempore. Pursu-
ant to the rule, the gentleman from
Louisiana (Mr. COOKSEY) and the gentle-
man from Texas (Mr. LAMPSON) each will
control 20 minutes.

The Chair recognizes the gentleman
from Louisiana (Mr. COOKSEY).
Mr. COOKSEY. Mr. Speaker, I yield
myself 4 minutes.
Mr. Speaker, I rise today in strong
support of this resolution, and I join
the gentleman from Texas (Ms. JACKSON-LEE),
who authored the bill. And while I
could list too many colleagues in
extending my sincere thanks and appreciation to all of
the personnel throughout the two states who
have devoted their lives to disaster relief efforts.

Having walked the streets of Houston,
Texas, and saw the heartache and loss, both fiscal and
emotional, and got a chance to see a lot of
that devastation. The people of Friendswood are a strong and resilient
people, but without the heroics of
dedicated individuals in their
lives to disaster recovery, the casual-
ties and destruction could have been much worse.

This resolution recognizes the in-
valuable disaster relief of various agencies,
organizations, businesses, and indi-
aviduals who assisted the people of
Houston and the surrounding areas
during the devastating floods of
Tropical Storm Allison. The resolution
states that although 21 people died, the
casualties and destruction would have
been even worse, if not for the disaster relief
given by American Red Cross
centers, the voluntary donation of
money and resources from individuals
and private businesses of Texas, the
heroes of the United States Coast
Guard, the Houston police and fire
departments, and the valiant efforts of
many other hospitals and shelters. The
bill also lauds the recovery actions of
Houston Mayor Lee Brown and Texas
Governor Rick Perry.

Looking back to Monday, June 4,
when the reconnaissance aircraft first
reported the development of Allison, I
realized that the main impact of this
storm would not be the wind, but would
be the rain. Rain totals throughout
Harris County in and other portions of the
district exceeded 30 inches during the
period when the remains of Allison brought
relentless flooding to the upper Texas
Gulf Coast.

Of course, no words can adequately
describe the devastation that the
Greater Houston area felt in the wake of the storm. The Texas coast certainly
had not seen flooding of this magnitude
in decades. Clearly, this event was
more than a wake-up call; it was a
starkest reminder of the impressive forces
that still govern the Earth.

In the midst of the disaster and peri-
ods of chaos, there were countless indi-
viduals and organizations who
donated nearly $500 million,
most instantaneously to help the vic-
tims caught by the flood waters. The
plight of one became the concern of
many, and people displayed an enor-
mous humanitarian spirit that tran-
scended all barriers.

The American Red Cross placed its
disaster relief plans into action and
opened numerous service centers
throughout Harris County and the
Ninth Congressional District of Texas.
The police, fire, sheriff, and emergency
response teams worked quickly and
without reservation to minimize inju-
riness and render invaluable assistance.

The disaster tragically claimed the
lives of now 23 individuals from prac-
tically every walk of life and every
part of the city. Deaths would have
been in the hundreds, were it not for
the selflessness, professionalism, and dedi-
cation of all those who responded.
The media broadcast around the clock to keep the public constantly informed of the dangerous situation by disseminating critical information. Volunteers, many of whom were also suffering, responded to the calls for help from the various agencies, who were critical to the response efforts.

Our friends at FEMA also did a phenomenal job in a task that was as sobering as it was frustrating. Thousands of people were affected and the recovery and damage assessments still continue.

I toured the devastation firsthand by helicopter and on the ground. The scenes were tragic: lost homes, lost businesses, lost medical research, and lost lives. Yet the human spirit continues throughout Texas, Louisiana, and across the Gulf Coast States and up the Eastern Seaboard, where Allison ravaged property and tore apart lives. So as I stand here today reflecting on the tragedy, I am forever grateful to all who assisted; and my prayers continue for the suffering and the afflicted. The strength that all have displayed is worthy of our recognition.

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

Mr. COOKSEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. DELAY).

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

Mr. Speaker, we have seen time and time again that the best qualities within the people that we know often emerge when the weight of a tragic event presses down upon us. In Houston, we have learned this lesson all over again. The unending rains from the Tropical Storm Allison overwhelmed our bayous, overflowed our streams, and flooded our streets and buildings and homes; but they did not dampen our Houston spirit.

We Texans pride ourselves on maintaining the spirit of the West. It has passed down from the early generations, who fought the elements, to build a new life in Texas. They were tested, and those that stayed shared a very common quality. They had the resilience and resourcefulness to outlast Mother Nature and overcome the obstacles that she places in our path.

Part of that creed is the understanding that when nature strikes, you pitch in to help your friends and neighbors. We understand that. We understand that when we rally together, no adversity, can keep us down for very long. Houstonians demonstrated that they were up to the task of running their responsibility to aid each other during Allison.

We feel deeply for all our neighbors who lost a loved one or a friend. This tragedy claimed far too many lives. Many others lost belongings and had their homes destroyed by the unrelenting fury of Allison. But we can be certain that far more people would have died if Houstonians had not responded as quickly and as vigorously as they did.

Many, many people deserve to be thanked for their efforts. We are grateful to the Coast Guard and Red Cross, to the National Guard troops, and our local police officers and fire fighters. We say thank you. For every individual citizen who lifted a hand and waded out into the flood waters to bring comfort and assistance, we say thank you so very much. Your efforts make us a great community and a great place to raise a family.

All Houstonians also appreciate the swift response from the Federal Emergency Management Agency and the Bush administration. By reacting quickly, they are helping us get back on our feet.

When I stopped by the Red Cross shelter in Pearland, I saw the best and most incredible of the men and women who pitched in in responding to Allison. Hanging inside the shelter was a little small sign that was written in crayon by a child, and it simply said "God bless you for helping us." When the floodgates opened on Houston, we were ready to respond with charity, sacrifice, hard work and compassion. I hope we always stand ready to react with the same qualities.

Mr. LAMPS, Mr. Speaker, I yield 4½ minutes to the gentleman from Houston, Texas (Ms. JACKSON-LEE), the author of the bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for managing the bill, and I thank him for his support. I thank all of my colleagues for supporting H. Res. 166, and I rise to support the resolution that I introduced on June 14 to recognize the outstanding and invaluable disaster relief assistance that individuals and organizations and businesses and other entities provided to the people of Houston, Texas, and surrounding areas during the devastating flood that was caused by Tropical Storm Allison, one of the worst disasters that Houston has known.

Some people would ask, what is going on in Houston, Texas? I would simply say, the greatest amount of charitable spirit, heroic efforts, friendship, love, and the ability of a community to stand up together and say yes we can. But for the heroic efforts of those invaluable volunteers, the catastrophic death, injury and damage would have been far worse.

I commend my fellow colleagues in the House of Representatives, especially my fellow Members of the Texas delegation, for joining us in encouraging the heroic acts of selflessness and heroism.

I remember within the 24-hour time frame of being out walking in neighborhoods, flying overhead, looking at homes filled to capacity up to the roof with water, and hearing the tragedies of those who may have been stuck overnight, there were the encouraging words that people were saying, yes we can.

While words cannot even begin to describe adequately the destruction that Houston and surrounding areas knew, I hope to paint for you a visual picture.

More than three feet of rain that fell on the Houston area began June 6 and caused approximately 23 deaths. Over 20,000 people have been left at least temporarily homeless during the flooding, many with no immediate hope of returning to their homes. More than 56,000 residents in 30 counties have registered for Federal disaster aid. Over 3,000 homes have been destroyed, over 43,000 damaged. The damage estimates in Harris County, Texas, alone are about $4.8 billion.

Some of the areas that have been hit, universities in my congressional district, like the University of Houston, Texas Southern University, and a little neighborhood known as Kashmere Gardens. You would think a place filled with flowers. It is an enclave that has a high number of senior citizens, many of whom I visited in the last weekend, some still left in their homes, stranded, possessing few resources, yet with a strong spirit.

Other areas such as Sunnyside in southeast Houston, northwest Houston and around Scarborough High School. Additionally, of course, we all know a very important aspect of our community, the Texas Medical Center, has faced a very uphill battle. But I am very pleased that they are going to have the kind of support where all of the delegation members of this particular delegation will be supporting them and helping them with the millions and millions of dollars of damages, maybe in the billions of dollars of damage, to come back and be able to serve not only Texas, but to serve the Nation. Ten million gallons of water have inundated the medical center complex, and we are working to make sure that they get back on their feet.

But let me share the many personal stories, the help that the Red Cross has given, the 46 disaster centers, the Houston Fire Department, the sheriff’s department displayed great bravery and dedication in rendering assistance. Mayor Lee Brown and the Adopt-a-Family program, Judge Robert Eckles, the Texas Governor Rick Perry, all of us gathered together, huddled around the Houston TransCar Center, a center that was supposed to deal with traffic; but we determined that it could be an
June 26, 2001

CONGRESSIONAL RECORD—HOUSE

Mr. Speaker, I rise today to support H. Res. 166, a resolution I introduced on June 14 to recognize the outstanding and invaluable disaster relief assistance that individuals, organizations, businesses, and other entities provided to the people of Houston, Texas and surrounding areas during the devastating flooding caused by Tropical Storm Allison, one of the worst disasters Houston has known. But for the heroic efforts of those invaluable volunteers, the catastrophic death, injury and damage would have been far worse. I commend my fellow colleagues in the House of Representatives, and especially my fellow members of the Texas delegation, for joining me in encouraging these altruistic acts of selflessness and heroism.

Although words cannot even begin to describe adequately the destruction that Houston and its surrounding areas know, I will attempt to paint for you some of the havoc that the storm has wreaked. The more than three feet of rain that fell on the Houston area beginning June 6 has caused at least 23 deaths in the Houston area and as many as fifty deaths in six states. Over 20,000 people have been left at least temporarily homeless during the flooding, many with no immediate hope of returning to their homes. More than 56,000 residents in thirty counties have registered for federal disaster assistance. Over 3000 homes have been destroyed, over 43,000 damaged. The damage estimates in Harris County, Texas alone are $4.88 billion and may yet increase.

Mr. Speaker, I believe that this is an important resolution to be able to acknowledge, as the Houston Chronicle said, most of the countless acts of kindness and compassion, of heroism and self-sacrifice, that will go unseen and the heroes that will remain anonymous, even to those they helped.

I believe it is important to mention some of those personal stories. Time will not allow me to talk about Cora Clay, a sandwich shop employee who fed an entire shelter from funds from her own pocket, or Kathleen Ross who donated two of her rental properties, or the heroic police officers who could not swim, but yet jumped in. C.R. Bean and Mike Lumpkin and Matt May who jumped in to save those who were in their car, floating. The Texas Children's Hospital, the Coast Guard and Texas National Guard. Let me just simply conclude by saying, it gives me a special privilege to be able to thank all of those people who gave of their time, who gave of their heart. We have spirit in Houston and the surrounding areas. We have spirit in Texas, and we will overcome. Mr. Speaker, I rise today to support H. Res. 166, a resolution I introduced on June 14 to recognize the outstanding and invaluable disaster relief assistance that individuals, organizations, businesses, and other entities provided to the people of Houston, Texas and surrounding areas during the devastating flooding caused by Tropical Storm Allison, one of the worst disasters Houston has known. But for the heroic efforts of those invaluable volunteers, the catastrophic death, injury and damage would have been far worse. I commend my fellow colleagues in the House of Representatives, and especially my fellow members of the Texas delegation, for joining me in encouraging these altruistic acts of selflessness and heroism.

Additionally I note the damage which occurred at Texas Medical Center, because what has occurred affects us not just locally, or even in Texas, but nationally. The Texas Medical Center, home to some forty medical institutions, is the largest medical center in the world. Globally, reknown medical care and research takes place here. The flood has decimated these preeminent health institutions. The cost to restore the Center is about $2.04 billion, which is nearly all of the total $2.04 billion in damage at Harris County's public facilities. It serves 4.8 million patients yearly with a local economic impact of $10 billion. More than 52,000 people work within its facilities, which encompass 21 million square feet. The damage includes $300 million to Texas Methodist Hospital and $433 million to Veteran's Hospital.

The impact on the University of Texas Health Science Center at the Texas Medical Center is extensive, impacting medical education, research and the physical structures at this medical community have been affected.

Ten million gallons of water have inundated the medical school complex, and the earliest estimates suggest it will be more than three months before it is possible to restart classes. They run mid-July, including operation of one of the two Level One trauma centers in Houston. The ability of the center to serve the Houston community will be severely compromised for at least two months. In the entire Houston area, a total of 3,000 beds are out of service.

The UT Health Science Center has incurred $52 million in physical damage to the facility and $53 million to the equipment. A total of 400 emergency personnel have been required to assist in the clean up thus far. Moreover, preparation must still also be made for 825 medical students arriving in August, and the floor used for student service functions is estimated to be nine months away from re-opening. Until that point, teaching facilities and services must be dispersed across the city.

Research has been affected, destroying all animal based research due the death of all 4,000 animals. Some of these losses could take as long as three to four years to recoup, and some of the more senior graduate students may have lost their dissertation research, setting back their careers indefinitely. $105 million in sponsored research has been affected.

Yet the storm has not defeated our spirit. The citizens of Houston are facing the tragedy with the spirit of love and have displayed the true meaning of the biblical phrase the "peace of the midst of the storm." Unfolded numbers of individuals and organizations have risen to meet the overwhelming challenges that the storm has presented. Among those who have risen to this challenge is the American Red Cross, which at one time was running 48 disaster relief centers around the city to serve those in need, and who, along with the Salvation Army is serving thousands of meals per day.

The Houston Police Department, the Houston Fire Department, and the Sheriff's Department of Harris County, Texas have displayed great bravery and dedication in rendering assistance to the people of Houston, Texas during the disaster. Houston Mayor Lee Brown, Judge Robert Eckles, Texas Governor Rick Perry and all other State and local officials have provided invaluable support and assistance.

The Federal Emergency Management Agency is once again successfully fulfilling its mission, having quickly deployed and responded to the disaster, and the Small Business Administration has also been on the ground providing much needed disaster assistance to families and small businesses. The United States Coast Guard and the Texas Army National Guard have bravely and rapidly served through this disaster. Houston TransCar Center was an outstanding Storm emergency center where strategy to help the victims was designed.

Many major corporations, other businesses of all sizes, and their employees have who rapidly and voluntarily donated money and other resources to the disaster relief efforts. Many media organizations have aided the relief effort by keeping the community closely informed of the disaster and self-sacrifice, will go unsung and the heroes will remain anonymous, even to those they helped. Those who are known insist there was nothing exceptional about their actions, that they happened to be in the right place at the right time to help someone in need.

Sgt. C.R. Bean is a Houston Police officer who could not swim. Yet the acts of heroism by Mike Lumpkin and Matt May plunged into cold, rapidly rising water to attempt to save the lives of three young men whose vehicle had been swept off the road by the torrential waters. They spent at least an hour and a half and were able to save two. They were unable to save Chad Garren, but without the exceptional bravery of the officers, all three would have been lost. Shelters like Oak Village Elementary School and Kirby Middle School were invaluable in helping the displaced.

There have also been the ultimate sacrifices of people like Sharon Mateja of Warsaw, Missouri. Sharon was a Red Cross volunteer and member of the Board of Directors who was crushed by a van while helping another volunteer move bags of ice to a Red Cross van.

This flood has pushed ordinary people to do extraordinary things. As reported in the Houston Chronicle, "most of the countless acts of kindness and compassion, of heroism and self-sacrifice, will go unsung and the heroes will remain anonymous, even to those they helped. Those who are known insist there was nothing exceptional about their actions, that they happened to be in the right place at the right time to help someone in need."

Mr. Speaker, let me just simply conclude by saying, it gives me a special privilege to be able to thank all of those people who gave of their time, who gave of their heart. We have spirit in Houston and the surrounding areas. We have spirit in Texas, and we will overcome. Mr. Speaker, I rise today to support H. Res. 166, a resolution I introduced on June 14 to recognize the outstanding and invaluable disaster relief assistance that individuals, organizations, businesses, and other entities provided to the people of Houston, Texas and surrounding areas during the devastating flooding caused by Tropical Storm Allison, one of the worst disasters Houston has known. But for the heroic efforts of those invaluable volunteers, the catastrophic death, injury and damage would have been far worse. I commend my fellow colleagues in the House of Representatives, and especially my fellow members of the Texas delegation, for joining me in encouraging these altruistic acts of selflessness and heroism.

Although words cannot even begin to describe adequately the destruction that Houston and its surrounding areas know, I will attempt to paint for you some of the havoc that the storm has wreaked. The more than three feet of rain that fell on the Houston area beginning June 6 has caused at least 23 deaths in the Houston area and as many as fifty deaths in six states. Over 20,000 people have been left at least temporarily homeless during the flooding, many with no immediate hope of returning to their homes. More than 56,000 residents in thirty counties have registered for federal disaster assistance. Over 3000 homes have been destroyed, over 43,000 damaged. The damage estimates in Harris County, Texas alone are $4.88 billion and may yet increase. Some of the most hard hit areas include the University of Houston, Texas Southern University, and the Kashmere Gardens neighborhood, a Houston enclave that has a high number of elderly citizens and possesses the fewest resources needed to bounce back from this once in a lifetime event. Other areas such as Sunnyside and South East Houston—northwest Houston around the Scarborough High School area were also hard hit.

Mr. Speaker, let me just simply conclude by saying, it gives me a special privilege to be able to thank all of those people who gave of their time, who gave of their heart. We have spirit in Houston and the surrounding areas. We have spirit in Texas, and we will overcome.
and without condition to our community in need.

At two hospitals in the Texas Medical Center, the Memorial Hermann Hospital and Memorial Hermann Children’s Hospital, located in the Texas Medical Center, the flooding caused the loss of all utilities. The hard working employees of the hospitals along with Life Flight, the Coast Guard and the Texas National Guard struggled heroically amid chaos to evacuate successfully and safety 540 patients to other hospitals via helicopters and ambulances, some to hospitals as far away as San Antonio and Austin.

Several houses of worship have opened their doors and hearts to the community to give disaster relief assistance, including use of their buildings for FEMA disaster centers and Red Cross Service Centers. Father Enette of St. Peter Claver Church opened his doors, in the midst of his recovery from a stroke. Father Enette told the congregation that the church would incur the substantial increased use of electricity and water as a result of opening its doors. Paster Lewis opened the doors of the BLOCk Church for use as a full time FEMA center to provide relief for those located in the Sunnyside South Post Oak area. There is the kindness of Paster Kirby Caldwell from Windsor Village Church, who made a delivery of clothing and food to one of the shelters within our district. And there is the group known as the Baptist men, who have prepared more than 62,000 meals. Minister Robert Muhammad and Makeba Muhammad from Mosque #45 in Houston, fed over 3,000 families. Lakewood Church opened its doors to over 2,000 people during the early morning hours after the flood.

Each and every effort made to help the flood victims has been done not so for recognition and public glory, but because it is the right thing to do.

Mr. Speaker, this resolution attempts to recognize all the individuals and organizations who immediately and unselphishly helped the people of Houston, Texas, and surrounding areas in their time of need, took quick and decisive action for the public good, and demonstrated an ability to work together for a brighter future.

As much as this disaster has torn apart our city and its surrounding areas, it has also bound us together, neighbors, friends and strangers alike. While we cannot personally thank everyone, may all of you know that your courage, hard work, sacrifice and kindness are recognized. And as we recover from this disaster, let us not forget to help those whose needs are heard, their patients gratefully acknowledged and hopefully prayers answered.

Mr. COOKSEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Houston, Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I want to thank the gentleman from Louisiana (Mr. COOKSEY), who has been such a good friend to Texas in all issues, including his help and response to Tropical Storm Allison. I also want to commend my Democratic colleagues, the gentlewoman from Texas (Ms. JACKSON-LEE), the gentleman from Texas (Mr. BENTSEN), the gentleman from Texas (Mr. GREEN), and the gentleman from Texas (Mr. LAMPSON), for their leadership in this effort as we jointly work together, and to the gentleman from Texas (Mr. DELAY) and the gentleman from Texas (Mr. CULBERSON), who together as a delegation have been working to try to recover and restore some sense of getting back on our feet in our region.

This storm was more than just numbers. For many of us who have lived in the area a long time, we have seen a lot of natural disasters in our part of Texas, but Tropical Storm Allison was stunning. While it caught us a bit, it did not look like it was a tough, difficult storm to start with; but the damage was remarkable. It is more than numbers.

When I look at the reports each day on the number of homes in my area, as I continue to ask for requests, and the numbers continue to go up and up. In 26 of my communities in North Harris County, in Montgomery County, in Waller and Washington County, we see now over 3,000 homes that have been flooded and need help. That is not including all of the businesses, small businesses, all the road and infrastructure damage. I look at all of the help that has been given by FEMA, the Disaster Assistance Center at Greens Point and all around our region, those people are working tirelessly. All of the volunteers, the firefighters, the police, the United Way agencies. We have wonderful emergency assistance directors in our counties that have I think been awake since the storm hit us.

For the families that are hurt so bad, this is so important because being flooded out is a miserable experience. It is so disheartening and disruptive. And the only thing that keeps us going is the prospect of those who are stepping forward to help us through this time of our friends, the community, even FEMA workers who I saw in the centers who had been flooded out themselves in other States, who felt the calling to help in the Houston region. It is because of all of those people that we are recovering today.

Mr. Speaker, our region is very strong. We have strong individuals and strong communities; but the assistance that has been provided, both within and without, is irreplaceable. So to all of the volunteers, to all that are helping and continue to help, I wanted to add my “thank you” and sincere appreciation for all that you do and continue to do. We cannot do enough.

Mr. LAMPSON. Mr. Speaker, I yield 2 minutes to the gentleman from Houston, Texas (Mr. BENTSEN), who suffered probably the largest amount of damage there.

Mr. BENTSEN. Mr. Speaker, I rise in strong support of this resolution, and I commend the gentlewoman from Houston, Texas, for offering it.

The flood waters from Tropical Storm Allison may have receded, but the damage remains. As I tour the damage in my part of Harris County, Texas, I am confronted with the many stories of tragedy and loss; but what shines through is the spirit of the people of Harris County, the sense of community that has neighbors reaching out to one another, unselfishly最好的 the ordinary blessings of compassion to less fortunate friends and neighbors. A citizenry summoned to the call of charity.

As torrential rains fell on Harris County, power outages at the Texas Medical Center meant patients had to be evacuated. Nurses, technicians, doctors, and orderlies came to the rescue and physically carried more than 540 patients down dark, wet stairways to safety. Volunteer organizations guided the volunteers down corridors to awaiting helicopters. Police and firefighters worked double and triple shifts to ensure public safety, even going days without sleep. These men and women who, without concern for their own flooding homes, but the interest of others ahead of their own and are those whom we recognize today.

In the trying times that have followed Allison, the true colors of the ordinary citizens and community leaders have shined. Banks and thrifts have generously offered to waive check-cashing fees and phone companies have donated cellular phones to disaster-relief shelters. More than 600 officials from the Federal Emergency Management Agency have assisted nearly 60,000 victims and the Red Cross has aided thousands more. I applaud the businesses and residents and volunteers for their efforts and commitment to transforming our city into a community.
June 26, 2001

CONGRESSIONAL RECORD—HOUSE 11897

Mr. CULBERSON. Mr. Speaker, the physical boundaries of the district I represent in west Houston, district seven, we were very, very blessed and fortunate to have escaped the flooding, in large part. We had a few very small isolated pockets of flooding, but the businesses of many of the people I represent were affected; and the entire city, of course, suffered a devastating blow as a result of the flood.

I was extraordinarily impressed to have seen firsthand the work of the emergency rescue personnel who were staging their operation out of my district in west Houston, out of Tully. The weekend the flooding began, I spent time there at the headquarters where the search and rescue teams were coordinated, by FEMA, bringing in resources from all over the State of Texas. The Colorado River Authority contributed personnel and equipment; the San Antonio Fire Department contributed personnel and equipment. There were resources from every corner of the State there to help the people of Houston; and it was an extraordinarily impressive operation, to see the ability of these rescue personnel to come in right away, right after the flood, to rescue people from their homes to save them from life-threatening situations. It was also instructive for me to see as a new Member of Congress that there was, immediately after that initial period of rescuing people, a gap in services where the City of Houston, the county was unable in many cases to actually get in to some of these neighborhoods that were so devastated to help people clean up their property, take care of the day-to-day essentials of living, which had all been brought to a screeching halt.

What particularly impressed me is that in that gap, between the time the rescue services came in to pluck people off their roofs and get them to hospitals and the time when the city and the county were able to really come into those neighborhoods and help, that gap, which was largely unfilled by local government, was filled spontaneously and almost immediately by the churches of Houston, by the civic associations, by individuals, by people stepping forward to help their own neighbors and family members.

Therefore, I ask all of my volunteers, all of the people that were gracious enough to help me throughout the last year’s election campaign and the people I know throughout west Houston, to contribute their volunteer time, their money and their efforts through their local churches and civic associations, but in particular through their churches, to help relieve the heroism of the recall the Second Baptist, First Indian Memorial drive of the United Methodist Church, which is stepping forward with volunteers and assistance, to help people tear out carpet, to get their homes restructured, rebuilt, their lives restructured where they do not have insurance.

That final phase of the recovery that is going on now, which will go on for months to come, is where the Federal Government can really step forward to help. That is why I am proud to be a co-sponsor of this resolution. It is a very, very good example of the unity that is so necessary among the members of the Texas delegation, the Houston congressional delegation, and working together, not only through this resolution to say “thank you” to all of the rescue personnel, but, more importantly, for us all to work together to find ways to ensure that the people who have lost their homes to fill the gap between what private insurance covers and what is not covered; that the Federal Government is there to help pay for the reconstruction, the relocation of families, and to do whatever is necessary to provide every available Federal dollar to repair the damage done to homes, to the Texas Medical Center, to all that irreparable research that was damaged as a result of the flood. The Houston area congressional delegation, the congressional delegation from Texas is unified and focused in doing everything that we can to ensure that the damage is repaired as fast as humbly possible.

Mr. Speaker, I want to reassure the people of Houston, the people of Texas that the money will be there to rebuild, to repair, and to, for the long term, plan for and prevent future floods of this type because of the unified and focused approach of the Houston and Texas congressional delegations.

Mr. LAMPSON. Mr. Speaker, I yield 2 minutes to the gentleman from Houston, Texas (Mr. GREEN), who toured the devastation with us.

Mr. GREEN of Texas. Mr. Speaker, like my colleagues, I represent an area that tragically succumbed to Tropical Storm Allison in northeast Harris County. I want to thank my Texas colleagues for putting this resolution together, but mainly to the hundreds and even thousands of volunteers and workers who donated their time to help Houston residents clean up.

At the top of the list would be the men and women of FEMA who literally were on the ground before the waters receded, assessing the damage and getting a head start on setting up the disaster recovery centers, three in our congressional district in the Jacinto City Community Building, Sheldon Intermediate School, and also in the Aldine School District School, the M.O. Campbell Center.

To date, FEMA has received 62,000 applications for assistance, and also their recovery centers have played a role in providing people a deal of comfort visiting the Red Cross Centers in our district, the FEMA neighborhood centers, and walking the streets in north and east Harris County showed the huge loss, but also the response from seeing literally people helping each other, communities pitching in and banding together, seeing people in Jacinto City and Galina Park in Aldine and northeast Houston, working together to help overcome this loss, seeing the loss at North Forest Independent School District, Sheldon ISD and also Houston Independent School District.

To date, we know that FEMA and the Small Business Administration made available millions of dollars through loans and grants to assist Houstonians in replacing their belongings and temporary housing. I urge FEMA to keep these disaster centers open as long as necessary so that individuals can continue to have access to vital services on a personal basis.

I would also like to thank the Coast Guard and our National Guard for their effort and the many employees of the City of Houston and Harris County for their efforts to rescue people and as they go through the cleanup effort now. Mr. Speaker. As Houston and southeast Texas and other areas affected continue the long process of rebuilding, I want to express my thanks to everyone and will continue to work to make sure that the Federal funds are there to help people in disasters.

Mr. LAMPSON. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate people coming together to focus on the heroic efforts that have taken place in Houston in the aftermath of this terrible storm, but I hope we also focus on what we can do to prevent it in the future.

We should as a Congress invest in Project Impact which helps prepare communities before disaster occurs, rather than to cut it, as has been suggested by the administration. We also need to reform the flood insurance program so it no longer subsidizes people to live in places where God repeatedly shows that He does not want them.

It is important that we not ignore global climate change, because the scientist tell us if we are not careful, global climate change is going to make these horrible events that occurred in Houston far more frequent and far worse.

Mr. Speaker, this is an opportunity for us in Congress not only to reflect on the heroism that took place and to mourn the loss, but for us to step forward to take our responsibility to
make sure that we are doing everything possible so that it does not occur in the future.

Mr. LAMPSON. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I commend the gentlewoman from Texas (Ms. JACKSON-LEE), my colleague, and the other Members of the Texas delegation for introducing the resolution to recognize those who have helped the people of Texas during the recent flooding.

It is so important to take time to express gratitude to those who have brought relief to the people of Houston during the flooding and its aftermath. I know that Missourians who have experienced flooding, particularly the devastating floods of 1993 and 1995, understand what it takes to recover from such a disaster.

Mr. Speaker, we must not take the contributions of volunteers for granted, for their selfless efforts often come at a great price. If I can bring to this body's attention the time particular Red Cross volunteer who answered the call to help the victims of Tropical Storm Allison, Mrs. Sherry Mateja of Warsaw, Missouri, who was killed in a tragic accident last week while helping another volunteer move bags of ice from a tractor-trailer to a Red Cross van at a church in Humble, Texas.

A Red Cross volunteer since 1999, Mateja was an active volunteer with the Pettis County Chapter of the American Red Cross in Sedalia, serving in a leadership role on the chapter's board of directors. She was instrumental in providing Red Cross services in her local community, including the chapter's disaster relief and learning to swim programs.

It is essential to help relief efforts for Tropical Storm Allison in Texas was her first national disaster assignment. Mrs. Mateja is survived by her husband, John Mateja; three sons, Marc, Nick, and Eric; two grandchildren; her brother, Charles Maggard; and her mother, Margaret Maggard.

While recognizing the work of all the volunteers helping the Houston community, I ask my colleagues to join me today in paying special tribute to Sharon Mateja, for her contributions to her community and for her selfless efforts to help the people of Texas. I send my sincere condolences to her family and to her friends.

Mr. LAMPSON. Mr. Speaker, I yield 1 minute to the gentleman from East Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, I represent 19 counties in the Second Congressional District in Southeast Texas, all of which were declared a disaster area during the recent tragedy of the Tropical Storm Allison.

I think we all come to the floor today with a deep sense of gratitude for the many who worked so tirelessly to help in that disaster.

Sure I want to mention three organizations that I know were among the private sector organizations that helped the victims of Tropical Storm Allison, that is the Salvation Army, the American Red Cross, and Texas Baptist Men.

Those three private organizations, in addition to literally scores of others, helped so rapidly and so efficiently along with our many State and Federal agencies during that time of crisis.

While the greatest damage was in Harris County, there was significant damage in all of the 19 counties that I represent. There has been over 63,000 contacts made to FEMA just in the last few weeks, so we all express our gratitude at this moment to the many who helped during time of crisis.

Mr. LAMPSON. Mr. Speaker, I yield the balance of my time to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), the author of the bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield to the gentleman from Texas (Mr. LAMPSON) for yielding the time to me and for managing the bill.

Mr. Speaker, I also thank the Committee on Transportation and Infrastructure, for their accomodation in moving this legislation to the floor of the House so quickly.

Let me also thank the House leadership and say, Mr. Speaker, that many times in giving comfort in a religious setting, we will say, this, too, will pass.

I am very grateful to have authored this legislation to not pass over those who have family members, were lost, or to pass over those who sacrificed in helping others.

Mr. Speaker, I again want to mention Sergeant C.R. Bean, a Houston police officer, who, as I indicated earlier, could not swim, and along with officers Mike Lumpkin and Matt May, plunged into cold rapidly rising water to attempt to save three lives. The likes of those individuals who came forward are an expression of the kind of spirit we have in Houston, Texas.

As indicated, many of us were out within 24 hours of the flood, joining the Coast Guard and joining FEMA Director Joe Allbaugh, in surveying the area. I want to you to know that the religious community stood tall.

It is very important to note the Sunnyside Multi-Service Center, the Friendswood Activity Center, Lakeewood Church, the Berean Seventh Day Adventist Church, the American Red Cross Centers, the Salvation Army, the Men's Shelter, the B.L.O.C.K., the Oak Vista Middle School, Super Home Missionary Baptist Church and Lakewood Church that opens it doors to 2,000 people right after the flood.

This was the kind of sacrifice, Mr. Speaker, that was made, Robert Muhammad and Makeba Muhammad from Mosque 45 in Houston who fed over 3,000 families.

Mr. Speaker, I would like to acknowledge the fact that we lost even a Red Cross worker and the name is Sharon Mateja of Warsaw, Missouri. Sharon was a Red Cross volunteer and a member of the board of directors who was crushed by a van when helping another volunteer move bags of ice to a Red Cross van.

Mr. Speaker, we would like to say that this will not happen again, but we are working diligently with the FEMA resources in restoring them back into the budget and being assured, as I was on the floor of the House, as the gentleman from Florida (Mr. YOUNG), Chairman of the Committee on Appropriations, that we would not let Houston and the surrounding areas not have the dollars it needs to be restored.

We will be fighting for those dollars; and to those who are seeking to be rebuilt and to be recovered, we will continue to work with you.

We will also work prospectively to ensure that we put in place the kind of structures that help us not have such incidents occur or prevent such incidents from occurring again.

Today, what we are doing, Mr. Speaker, is simply thanking all of those who are still standing and rising to the occasion. We are thanking the volunteers, the churches, the local officials, because the day still continues where they are recovering and seeking to recover.

It will be a long journey, but when someone asks what is going on in Houston, Texas, and the surrounding areas, I am saying great activities are going on, great people are working with others and we are doing the job to get the job done.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H. Res. 166, recognizing the outstanding and invaluable disaster relief assistance provided by individuals, organizations, and businesses, to the people of Houston, Texas, and surrounding areas during the flooding caused by Tropical Storm Allison.

During the month of June Tropical Storm Allison brought devastating floods and damage from debris to Texas, Louisiana, Florida, and many other states. After the President declared the storm that hit Texas a major disaster, 28 counties became eligible for disaster assistance. Tropical Storm Allison is responsible for 21 deaths, countless injuries, and major damage to homes and businesses. Yet, through it all, many individuals and groups selflessly gave of themselves and
their resources to help in the disaster efforts. From the Red Cross and Salvation Army, to local law enforcement like Harris County Police and Fire Department, to the Texas Medical Center, to the United States Coast Guard, to the dedicated elected officials, to name just a few; they all made special efforts and sacrifices and today, we honor them for their service and dedication to their fellow citizens. The pending resolution calls our attention to our recent failure to ensure that we will be able to aid victims of Allison and future disasters. Just last week, while the Federal Emergency Management Agency (FEMA) was working diligently to help the victims of Tropical Storm Allison, the House passed H.R. 2216, the FY2001 Supplemental Appropriations Act, containing a provision, which many of us strongly opposed, to rescind $389 million in disaster relief funds from FEMA.

Current FEMA data are projecting the impact of Tropical Storm Allison on Texas, Louisiana, and Florida, and it expects to request additional funds to address these pressing needs. More than 25,000 flood insurance claims are expected from that region of the country, and FEMA is projecting the flood insurance claims for Tropical Storm Allison in Texas and Louisiana alone will exceed $350 million.

The proposed rescission could preclude FEMA’s ability to pay these claims and it might limit assistance to future victims of disasters and necessitate another supplemental spending bill. The rescission eliminates much of the funding needed by the agency to provide quick and effective assistance to disaster-stricken communities and victims. The most recent disaster data highlight the fact that these funds could be needed by FEMA to pay for natural disasters occurring in FY2002. They should not be rescinded.

Moreover, with the increases in climate change brought on by global warming, we should be prepared for more natural disasters. According to recent data, in 1999, the United States experienced the warmest January-March period since we began keeping these records 106 years ago. Climate change and these temperature patterns are likely to have a significant impact on major weather events, including droughts, floods, and hurricanes. Over the past decade we have seen a marked increase in natural disasters and this trend is expected to continue. FEMA data show that more frequent and severe weather calamities and other natural phenomena during the past decade required 460 major disaster declarations, nearly double the 237 declarations from the previous ten-year period, and more than any other decade on record. The increased number and severity of natural disasters has huge economic impacts on the United States. Comparing the three-year periods of 1989 through 1991, and 1997 through 1999, the federal cost of severe weather disasters increased 337 percent in less than ten years. Of the $35 billion that FEMA has spent in the last 20 years for disaster relief, $28 billion, or 80 percent, has occurred in the last seven years alone (1993–2000). In addition, the insurance industry has paid more than $7 billion in insured losses in these seven years.

Fortunately, the Senate Appropriations Committee has reported its Supplemental Appropriations bill and it does not contain the $389 million rescission from FEMA’s contingency fund. I am hopeful that the conference report on this bill will not accept the House provision on FEMA’s rescission. We are all aware of the critical and fundamental support that FEMA provides for the victims of natural disasters. It is essential that we do not hinder FEMA’s mission by allowing the unwarranted rescissions or cuts to FEMA’s budget.

Again, I commend the numerous individuals, government agencies, and groups of people in Texas who heroically gave of themselves and assisted their fellow citizens through a major storm. They serve as an inspiration to us all and I pledge to work together with FEMA and other agencies on behalf of these victims to help them rebuild their lives and renew their spirits.

I urge all Members to support H. Res. 166. Mr. CRENSHAW. Mr. Speaker, I rise in support of H. Res. 166, which honors the men and women, community organizations and businesses, and the government entities that provided relief and assistance to the people of Texas in the wake of Tropical Storm Allison. It is truly times like these, when Mother Nature strikes suddenly and strongly, that communities must come together to help people whose homes and businesses are damaged or destroyed and who might have suffered loss of life within their families. It is a true testament to the spirit of community to see neighbors selflessly helping neighbor in these circumstances, and I commend the men and women who lent of their time, energy, money, resources, and friendship to make the flooding in Houston and its suburbs less painful for their neighbors.

While the damage was not nearly so severe, I would be remiss if I did not mention the community spirit of Floridians who helped to reduce the pain and suffering that tropical storm Allison brought to the people of Florida. For instance, local fire and rescue workers attempted to save swimmers who regrettably drowned off of Florida Panhandle beaches in the storm-tossed waters of the Gulf. They also bravely worked to keep people off of the coastal ocean to guard against the flooding in Tallahassee and elsewhere in North Florida. Also, electric company and utility employees worked to keep power, water, and information flowing into people’s homes and businesses as North Florida was pelted with heavy rain, 40–55 mile-per-hour winds, and 15-foot waves.

It is in their honor, as well, that I ask my colleagues to support this resolution.

Ms. PELOSI. Mr. Speaker, I rise to speak in support of H. Res. 166 and applaud Ms. JACKSON-LEE for introducing this resolution. H. Res. 166 commends the many volunteers, public safety officials, agencies, and businesses that rose to the challenge of tropical storm Allison. The storm took 22 lives and caused at least $4.8 billion in property damage.

Living in San Francisco, in an area that is prone to natural disasters, I appreciate the commitment and heroism shown by so many people in the wake of a major natural disaster. Thanks to many brave and generous individuals, Houston and the communities around it pulled through the storm and are on the road to recovery.

I came back this morning from Houston, where I had the great pleasure of meeting my 6th grandchild, who was born on Sunday. While the damage in the area is clearly visible, so are the signs of healing. For my own family and all the people who call Houston home, I was pleased to see the recovery already underway. I urge my colleagues to support this resolution.

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

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Louisiana (Mr. COOKSEY) that the House suspend the rules and agree to the resolution, H. Res. 166.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LAMPSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair’s prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. COOKSEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include therein extraneous material on H. Res. 166.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR ON H.R. 2149

Mr. COMBEST. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2149.

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

There was no objection.

2001 CROP YEAR ECONOMIC ASSISTANCE ACT

Mr. COMBEST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2213) to respond to the continuing economic crisis adversely affecting American agricultural producers, as amended.

The Clerk read as follows:

H.R. 2213

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

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (hereafter in this Act referred to as the “Secretary”) shall, to the maximum extent practicable, use $1,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001.
under a production flexibility contract for the 1995 crop year under section 204(e) of the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(b) Amount.—The amount of assistance made available to owners and producers on a farm is the amount claimed by the owner or producer for the 1995 crop year under section 204(e) of the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b)(6) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of quota peanuts and additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) Supplemental Payment.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of quota peanuts and additional peanuts for the 2000 crop year that previously received a payment under such section.

(b) Special Rule for Georgia.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same rate and the same time as required by section 204(b) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $15,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387) to producers of wool and mohair for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) Base State Grants.—The Secretary shall use $12,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be:

1. $500,000 to each of the several States;

2. $1,000,000 to the Commonwealth of Puerto Rico.

(b) Grants for Value of Production.—The Secretary shall use $153,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production to the total value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.

(2) Florida, $16,860,000.

(3) Michigan, $3,250,000.

(4) Oregon, $3,220,000.

(5) Arizona, $3,430,000.

(6) Washington, $9,610,000.

(7) Idaho, $3,670,000.

(8) Georgia, $2,730,000.

(9) Texas, $2,660,000.

(10) Wisconsin, $1,540,000.

(11) North Carolina, $1,540,000.

(12) Colorado, $1,510,000.

(13) North Dakota, $1,380,000.

(14) Minnesota, $1,250,000.

(15) Hawaii, $1,150,000.

(16) New Jersey, $1,150,000.

(17) Pennsylvania, $980,000.

(18) New Mexico, $900,000.

(19) Maine, $880,000.

(20) Ohio, $800,000.

(21) Indiana, $660,000.

(22) Nebraska, $540,000.

(23) Massachusetts, $610,000.

(24) Virginia, $620,000.

(25) Maryland, $590,000.

(26) Louisiana, $500,000.

(27) South Carolina, $440,000.

(28) Tennessee, $400,000.

(29) Illinois, $400,000.

(30) Alabama, $300,000.

(31) Delaware, $290,000.

(32) Mississippi, $250,000.

(33) Kansas, $210,000.

(34) Arkansas, $210,000.

(35) Missouri, $210,000.

(36) Connecticut, $180,000.

(37) Utah, $130,000.

(38) Montana, $140,000.

(39) New Hampshire, $120,000.

(40) Nevada, $120,000.

(41) Vermont, $120,000.

(42) Kansas, $120,000.

(43) New Hampshire, $120,000.

(44) Iowa, $100,000.

(45) Oklahoma, $80,000.

(46) Kentucky, $60,000.

(47) Rhode Island, $40,000.

(48) Alabama, $40,000.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of agricultural commodities that are used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 1735 note).
June 26, 2001

shall be entitled to receive for one or more contracts and ollseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpended, and the authorizing Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) provisions of section 553 of title 5, United States Code;

(2) the statement of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13894), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. COMBEST) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

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

Mr. Speaker, I rise today to advocate passage of H.R. 2213, a bill to provide economic assistance to farm producers for the 2001 crop year. The current farm recession, in its 4th year, ranks among the deepest in our Nation’s history, along with the Great Depression, the post-World War I and II recessions and the financial ruin of the 1980s.

There are many factors that contribute to this dismal situation. First, energy prices have skyrocketed, pushing up fuel and fertilizer to more than twice last year’s prices. Second, overseas markets continue the slump that started with the Asian financial crisis, and that has been compounded by the steadily increasing strength of the dollar is up to 25 percent relative to our competitors’ currencies, making our farm commodities significantly less marketable in overseas markets. Finally, tariff charges on our agricultural exports remain high, averaging 5 times those levied by the U.S.

Clearly, additional assistance for our farmers is needed. H.R. 2213 makes a good start in providing such assistance. With the help of the Committee on the Budget, the gentleman from Iowa (Chairman NUSSLE), in this year’s budget, Congress made available funding for fiscal year 2001 and fiscal year 2002 specifically to address the need for the assistance in the 2001 crop year.

The legislation before us today makes $5.5 billion available for that purpose. In my opinion, this amount is not sufficient to meet the needs of our producers, and I intend to work further as this bill moves forward through the legislative process to improve that message. But today the important point is to move the process along, because the fiscal year 2001 funds will expire unless congress passes new legislation. Therefore, it is imperative that a bill be sent to the President for signature before the August recess.

To ensure that outcome, the House must move the legislation this week. Despite its current imperfections, farmers need House passage of H.R. 2213 today.

The Committee on Agriculture is now in the process of writing a new multiyear farm bill that will end the need for these annual emergency packages. We expect to bring that bill to the floor before the end of the year and hope to have it in place for next year’s crop. But today we are dealing with the immediate crisis that is in this year’s crop, and that is why I am asking my colleagues to support passage of H.R. 2213.

[1145]

Additionally, Mr. Speaker, it has come to my attention that there are some misconceptions currently being spread about the bill, including one suggesting that H.R. 2213 will extend the Northeast Dairy Compact. This is simply not the case.

First of all, dairy compacts are not within the jurisdiction of the Committee on Agriculture and, therefore, are not authorized under this legislation that our committee would report. Second, there are simply no dairy provisions of any kind in H.R. 2213, as amended.

When I introduced the bill originally, it did include a simple extension of the dairy price support program to expire at the end of this year, but even that provision has been removed from the amended version.

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

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

Mr. Speaker, I support this bill even though I, too, wished we could do more.

At the outset, let me recognize the work of the gentleman from Texas (Chairman COMBEST) and stand for the record that American agriculture is in need of immediate assistance, and that producers of our food and fiber are at risk.

Last year crop prices were at a 27-year low for soybeans, a 25-year low for cotton, a 14-year low for wheat, and an 8-year low for rice. Very little recovery has occurred since that time. The need for the $5.5 billion in assistance provided by this bill is so great that a doubling of this amount could easily be utilized.

Because this is the fourth year in a row that we have provided ad hoc assistance to compensate for low commodity prices, however, I consider it crucial that we provide aid with a view toward the long term.

While the budget should provide us the authority to improve our commodity programs, there are a couple of reasons why the amount made available in the budget will soon appear insufficient. First, as the amounts in the bill before us, the budget provides $73.4 billion to add to our baseline over 10 years. During the course of the Committee on Agriculture’s hearings, however, representatives of agriculture have responsibly argued for several times that amount.

Second, the budget is not ironclad. The Committee on Agriculture has a budget allocation for fiscal year 2002, but not for the succeeding fiscal years. The remaining $66 billion is only available to the extent that the on-budget surplus is greater than the Medicare surplus. Our ability to address agriculture’s long-term need is now very sensitive to any deterioration in the overall budget surplus.

In the reality of the tight budget situation we faced was recently made abundantly clear by a letter from the administration. Prior to the markup of this economic assistance, theOMB Director advised that, if the committee enters into conference with the Senate, he would require the President not sign the bill.

A bare majority of my colleagues on the Committee on Agriculture agreed with the gentleman from Ohio (Mr. Boehner) and me that we needed to save every penny we could to draft a responsible long-term farm bill.

I am proud to say that, by adopting our amendment, the Committee on Agriculture has faced its responsibility to prioritize agriculture’s needs within the budget. Our chairman presided over a full debate with the utmost fairness. For those of us who were strong advocates for agriculture, we arrived at a difficult decision.

The bill before the House today provides a reasonable response to our producers who are suffering from the continued slump in the farm economy. Assistance is provided in a very clear
way. Take the aid provided for the most recent crop and prorate the payments to equal $5.5 billion. I repeat, assistance is provided in a very clear way. Take the aid provided in the most recent crop and prorate the payments to equal $5.5 billion. Funds will be disbursed to producers quickly and simply.

While I would have preferred alternative ways to deliver this assistance, we are constrained in this manner because the assistance must be provided by September 30.

We also need to analyze all fiscal year 2002 options at the same time in order to provide the right long- and short-term policy mix. Many specialty crops that desire additional assistance over that provided in the bill can only be accommodated in fiscal year 2002 money. We can provide such assistance, but it must be provided fairly and consistently in keeping with our long-term strategy.

Mr. Speaker, I cannot disagree with those who say that the $5.5 billion is inadequate; however, this is all we can afford at the moment. As we pass this bill, it is crucial that we immediately move toward an improved and reliable long-term policy that benefits farmers and taxpayers alike. I urge the passage of the bill.

Mr. Speaker, I support this bill even though we wish we could do more.

At the outset, let me recognize the work of Chairman COMBEST and state for the record that I agree with him that American agriculture is in need of immediate assistance and that the producers of our food and fiber are at risk. Last year, crop prices were at a 27-year low for soybeans, a 25-year low for cotton, a 14-year low for wheat and corn and an 8-year low for rice. Very little recovery has occurred since that time. The need for the $5.5 billion in assistance provided by this bill is so great that a doubling of this amount could easily be utilized.

Because this is the fourth year in a row that we have provided ad hoc assistance to compensate for low commodity prices, however, I consider it crucial that we provide aid with a view toward the long term. While the Budget should provide us the authority to improve our commodity programs, there are a couple of reasons why the amount made available will soon appear insufficient:

First, aside from amounts in the bill before us, the Budget provides $73.4 billion to add to our baseline over ten years. During the course of the Agriculture Committee’s hearings, however, representatives of agriculture have responsibly argued for several times that the President not sign the bill. A bare majority of my colleagues on the Agriculture Committee agreed with Mr. Boehner and me that we needed to save every penny we could draft a responsible long-term farm bill. I am proud to say that by adopting our amendment, the Agriculture Committee has faced its responsibility to prioritize agriculture’s needs within the budget. Our Chairman presided over a full debate with the utmost fairness and, for those of us who are strong advocates for agriculture we arrived at a difficult result.

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

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. Nussle), the chairman of the Committee on the Budget.

Mr. NUSSEL. Mr. Speaker, I rise in strong support of H.R. 2213, the Fiscal Year 2001 Economic Assistance Act. It provides $5.5 billion in markets loss payments and other agriculture assistance.

I am pleased that the Committee on the Budget was able to work hand in hand with the Committee on Agriculture to make this bill possible. Recognizing the needs of farmers, the Committee on Budget reported and the House passed a budget resolution that revised the allocations and budgetary totals for the current fiscal year to accommodate $5.5 billion in additional emergency agricultural assistance for the crop year of 2001. We budgeted for this emergency assistance within the budget. It is responsible.

All the Committee on the Budget asked was that the Committee on Agriculture produce a straightforward bill that avoided accounting gimmicks and reserved sufficient funds to meet future crop year needs and permanently revised the agricultural assistance programs so we can move away from this Band-Aid approach of the past 3 years. H.R. 2213 more than up holds the Committee on Agriculture’s part of this bargain.

As the chairman of the Committee on the Budget, I have the privilege of reporting to my colleagues that this bill is within the budget. I commend the gentleman from Texas (Chairman Combest), the gentleman from Georgia (Chairman Chambliss), the gentleman from Texas (Mr. Stenholm), ranking member, for their hard work on this and all the members of the Committee on Agriculture.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. Blumena).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman’s courtesy in allowing me to speak on this bill.

I know it has been hard for the members of the Committee on Agriculture, but I am personally disappointed that there appears to be no funding for the conservation programs in the agricultural supplemental. This is especially troubling in light of the fact that it appears that the Committee on Appropriations plans to sharply reduce funding for our major conservation programs in the next fiscal year, including the Wetlands Reserve Program, the Wildlife Habitat Incentives Program and Farmland Protection Program.

Only 5 percent of the USDA funding rewards voluntary efforts for protecting our drinking water supplies, to provide habitat for wildlife, protect open spaces.

There are many programs where farmers voluntarily want to come forward, but as a result of declining funding levels for conservation programs, three out of four farmers, ranchers and foresters are rejected when they offer to sell development rights to help combat sprawl and protect farmland; half of our farmers and ranchers and foresters are rejected when they seek basic technical assistance. Sadly, we are not stepping forward to help the incredibly productive farmland that surrounds our metropolitan area, the urban-influenced farmland.

Mr. Speaker, as we struggle with declining amounts of money because of some decisions that we have made, that, frankly, I think some of us are hoping that people recognize were inappropriate, we need to make sure that we are dealing with efforts to equip and ensure that we maintain the agricultural base.

This is an opportunity for a win-win to protect the environment, to enhance the vast majority of small farmers that are at risk, and to make sure that we
Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. CHAMBLISS).

Mr. CHAMBLISS. Mr. Speaker, I thank the chairman for the opportunity to speak today, and I thank him for his leadership on this and other matters relative to the agriculture community in our country.

I rise in strong support of this bill. I would say to the gentleman from Oregon (Mr. BLUMENAUER) I share the same concerns that he does about conservation, and I hope we can address that to a greater extent in the farm bill.

But what we are doing today is coming forward with a market assistance package, and I emphasize that because it is not a disaster bill. A market assistance package is necessary for our farmers because, for the fourth year in a row, we are facing low commodity prices all across the spectrum.

This is possible. It addresses the needs of producers. It puts an amount of money in the pocket of producers as quickly as we can do it. Our folks need that relief now. At the same time, if the American people are going to be assured that they are going to continue to have quality food products at low-commodity prices, we need to pass this bill today.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, I rise in support of this measure, but I also want to express some concern about the fact that any type of funding for conservation programs within this farm supplemental bill for 2001.

While there is no doubt that our Nation’s farmers, ranchers and foresters are struggling financially, this measure merely continues the failed economic policies of the current farm bill, directs cash transfers that many of us believe distort the marketplace and drives commodity prices even further down.

The next farm bill, which the House is currently considering, must be more inclusive and provide creative new revenue streams to assist our Nation’s family farmers. It is my hope that voluntary incentive-based conservation programs which provide landowners with much-needed revenue while also assisting them in meeting soil, air and water environmental compliance is a part of the new farm bill.

For instance, programs such as Wetlands Reserve, Wildlife Habitat Incentive Programs and the Farmland Protection Program not only help our farmers to promote preservation of open space, habitat for wildlife and improve water quality, but they also increase farm profitability.

Two-thirds of America’s farmers do not benefit from any traditional income support programs under the current farm bill. Furthermore, more than 90 percent of USDA payments go to only one-third of America’s farmers who produce commodity crops. For example, States such as California and Florida receive less than 3 cents from USDA for every dollar they earn. Conservation payments provide an important source of funding that allows farmers throughout all regions of the country to retain their land while providing benefits to society, including cleaner drinking water and improved recreational opportunities.

Currently, funding levels are insufficient to meet the demands of conservation programs. Three out of every four landowners are turned away when they seek to participate and help protect habitat and improve the quality of drinking water through these land conservation programs.

Mr. Speaker, I hope the conservation funding aspect becomes a major feature of the next farm bill, I look forward to working with the leadership on that.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Speaker, agriculture is Montana’s number one industry, but with the cost of farm production at an all-time high and farm incomes sagging, I am deeply concerned about agriculture’s future in our State.

H.R. 2213 will provide much-needed help to Montana producers, but the bill fails in many ways. The assistance level provided for in this legislation is not sufficient to address needs of many families this year.

H.R. 2213 fails to address the needs of dairy farmers, sugarcane growers, those who graze their wheat, barley, and oats, as well as producers who are denied marketing loan assistance because they do not have an AMTA contract.

Members who supported the $5.5 billion in assistance at the committee level argued that a cut in funds to producers this year was necessary to save funds for the new farm bill, but I fear that many producers in my State will now have to face the reality that they may not make it for the next farm bill.

While this bill is far from perfect, it is a first step in keeping Congress’ commitment to stand by America’s farmers and ranchers until a permanent safety net is in place.

I want to thank the gentleman from Texas (Chairman COMBEST) and the staff for all their hard work on behalf of America’s farmers.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. SHOWS).

Mr. SHOWS. Mr. Speaker, dramatic increases in energy costs have hurt everybody, especially in the agriculture industry. Today, right now, farmers in my district, a lot of them, are going bankrupt, clearly not able to keep up with their energy bills.

We need to encourage more domestic production of oil and gas, but that is for the future. We will not solve the crisis of today.

I am not really not here to point fingers, assign blame for skyrocketing energy prices, but I am here on behalf of family farmers who do seek solutions. They need our help now.

Despite repeated appeals from my colleagues and myself, this Congress, this leadership has ignored the plight of ordinary citizens who are suffering this energy crisis. Let us face the fact that many farmers and ranchers have seen their gas bills double and triple over the last year, and this is through no fault of their own.

Our economy depends on agriculture, and especially Mississippi, because we are still a rural economy.

This may not be a natural disaster like a tornado or flood, but it is a disaster just the same. It is an economic disaster that threatens the very existence of our farms.

If we cannot see fit to address these needs through supplemental funding, I challenge the Congress to take up the issue separately.

I have introduced H.R. 478, the Family Farmers’ Emergency Energy Assistance Act, which will provide immediate and long-term emergency assistance to our farmers and ranchers, including crop and greenhouse growers and dairies and livestock producers.

H.R. 478 will authorize the Secretary of Agriculture to provide grants to help farmers and ranchers to deal immediately with financial pressures caused by this crisis. This bill would also make low-interest loans available to help deal with the energy crisis for the months ahead.

H.R. 478 defines what constitutes an ‘energy emergency’ and lays out a formula that will work. H.R. 478 is a farm energy crisis bill that will ensure that agriculture producers suffering a energy crisis will get assistance.

I am calling upon our leaders in Congress to move this emergency assistance bill quickly to passage. In a world where reliable energy costs are tanta-mount to success or failure, we should remember the pain rural America is enduring while we stand here and debate.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise today to voice my support for the farmers of my home State of Mississippi and for this legislation.
Could we do more? Yes. Should we do more? I hope by the end of the day, by the time the Senate takes this up and it goes to the President, that there will be more. In terms of real dollars, Mississippi farmers are facing their 4th year of prices that have not been this low since the Great Depression.

I look forward to working with the committee and the chairman to look at ways in the farm bill that we can have long-term solutions to crises that come up, not only in our commodities and crops, but for farmers who are in other areas, such as poultry. We need to find ways so that if we do have an energy crisis or spike that we can meet those needs, whether through grants or loans, so that they too can manage their farm income in a way that is predictable and gives them certainty. We need our crop farmers avoid the bankruptcies that we are seeing today in places across my district and in the Southeast.

As we continue to get the emergency assistance and the long-term care, I look forward to working, as chairman of the Congressional Sportmen’s Caucus Waterfowl Task Force, in getting the conservation titles of the farm bill in order for the good it does both for our environment and for our farmers.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman from Texas (Mr. STENHOLM) for yielding me this time, and I want to compliment the chairman of the committee for this supplemental, which goes a long way to preserving the rural legacy of this United States, understanding the fact that every year we lose hundreds of farms all across the Nation. This injection of dollars will go a long way into helping make our farms sustainable and, to a large extent, if we work the right way, making those farms profitable.

I would also ask the Chairman, as we move through the rest of this session, to understand that not only do the crisis or spike that we can meet those needs, whether through grants or loans, so that they too can manage their farm income in a way that is predictable and gives them certainty. We need our crop farmers avoid the bankruptcies that we are seeing today in places across my district and in the Southeast.

Mr. STENHOLM. Mr. Speaker, I have no further speakers at this time, and I reserve the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today for eighth discharge and diligence in bringing assistance to our Nation’s farmers who are in need.

I am supportive of this bill, though I support the $6.5 even more; and I hope it will bring some relief to our farmers plagued by low commodity prices, rising energy costs, drought, and a slow world economy. USDA estimates that the economic productivity of farm producers income could drop to historical lows, so it is imperative we act now.

H.R. 2213 does not provide the same level of assistance as previous years but I urge my colleagues’ support and it is my sincere hope that we can provide more adequate assistance as we move through the legislative process.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to thank him for his hard work and leadership in speeding this crop assistance package to the floor today. Family farmers across Indiana appreciate the gentleman’s aggressiveness.

Mr. Speaker, by providing $5.5 billion in economic assistance, this farm bill represents a much-needed first step in keeping Congress’ promise to America’s farmers and ranchers, but it is our first step.

It is said that the sower sows in expectation, and this farm bill fails to meet the expectation of American farmers in at least two respects. First, the assistance level it provides is not sufficient to address the total needs of farmers and ranchers; and, second, the bill’s scope is too narrow, leaving many needs completely unaddressed.

At a time when real net cash income on the farm is at its lowest level since the Great Depression, it is not the time to cut supplemental aid to farmers. Although I urge my colleagues to support this bill as a first step toward helping our Nation’s farmers, I am deeply disappointed this bill leaves out $1 billion in farm aid for only a few short-term benefits.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, let me congratulate the chairman, the gentleman from Texas (Mr. STENHOLM), and the gentleman from Texas (Mr. STENHOLM) for continuing to move this process along.
We all know that we have great difficulty in ag country. We have low commodity prices, we have higher fuel costs, and the pressure is on farmers across the country and has been. Until we open more markets for our farmers, this pressure will continue to be there because our farmers continue to outproduce their competitors around the world.

There has been a lot said here about the size of this package. As the author of the amendment, along with my good friend, the gentleman from Texas (Mr. STENHOLM), I believe that the $5.5 billion, as allocated by the budget, is a sufficient amount of money for aid now. Would I like to do more? Of course, I would like to do more. But the fact is we just went through a budget process and allocated $5.5 billion for this year’s emergency assistance to farmers. To go back on that now opens the door to the other body to raise the number even higher. I think what we have done here is the fiscal thing to do.

Secondly, we are about to go through the new farm bill. We are going to have a major debate about how to reallocate those resources dedicated in the budget to the new farm bill. Let us not stick our fingers into the pie and take some of next year’s money for this year’s problems.

Mr. COMBEST. Mr. Speaker, how much time is remaining?

The Speaker pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. COMBEST) has 7½ minutes remaining; the gentleman from Texas (Mr. STENHOLM) has 8½ minutes remaining.

Mr. COMBEST. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, American agriculture is in a predicament. Should we go to the free market and accept the survival of the fittest in an international market and price for food and fiber?

It is complicated by a couple of situations. One is the fact that other countries, such as Europe, subsidize their farmers up to five times as much as we subsidize our farmers.

How interested are we in maintaining a vital agricultural economy in the United States? I would suggest to my colleagues that that ability to produce food is even more important than the production of energy for our national security. With our dependency on imported energy, we have seen what can happen when OPEC decides to hold back. Think what might happen with food.

Right now, farmers are faced with low commodity prices. A 27-year low for soybeans, 25-year low for cotton, a 14-year low for wheat and corn, an 8-year low for rice. Over the past 3 years, net cash income fell in real dollars to its lowest point since the depression.

Now is the time that we have to make the decision of standing up for the survival of American agriculture. I would just suggest that farmers need help to survive. In addition to low commodity prices we have seen increased fuel costs of $2.4 billion over the last year because of higher energy prices.

Mr. COMBEST. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. MORAN). Mr. MORAN of Kansas. Mr. Speaker, I thank the chairman for yielding me this time. It is with concern today that I rise on the House floor. This is an important piece of legislation. We have worked hard at making certain that the farmers of Kansas and across the country have access to additional resources this year to tide them over; and yet the actions of our House Committee on Agriculture last week, I think, are inadequate in reaching that goal.

I voted against the passage of this bill from the committee, and yet I know it is important for the process to continue. We have hope that additional dollars will be placed in this legislation before this bill returns from the Senate.

Two weeks ago I spoke on the House floor about the difficulties facing farmers in my State. I talked about corn prices at $1.89 and gasoline at $1.93. That does not work. Combines and custom cutters are working their way across Kansas now. Wheat prices dropped 25 cents last month; and when I looked at the board this morning, in Dodge City wheat was $2.71, down another 4 cents.

Assistance today is important. Many of my farmers will not be able to wait around and see what happens with the farm bill and the improvements that we hope to make in agricultural policy in this Congress unless they have some dollars placed there now. The crisis is real, and the consequences of our failure to act are significant.

I joined the chairman in supporting an increase for assistance for farmers. Our position failed by one vote, 24 to 23. So even within the House Committee on Agriculture, there is disagreement in the best way to help producers. However, I think now is not the time to hold up this bill over our previous disagreements. It is time for those of us concerned about agriculture and rural America to come together and to work on behalf of our Nation’s farmers and ranchers.

I look forward to that process continuing, and I look forward to working with my chairman and the ranking member to see that good things happen in Kansas and American agriculture.

Mr. COMBEST. Mr. Speaker, I yield 1½ minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT of Minnesota. Mr. Speaker, I thank the chairman for yielding me this time; and really for the benefit of some of my colleagues who are not from farm country, I thought I would like to take a minute today to talk about what is happening to agriculture here in the United States and around the world. Because it is easy for some people to say the problem is the farm bill, the problem is freedom to farm.

It may well be true that some of the problems we face in agriculture today were exacerbated by the farm bill. But the truth of the matter is what we are into now is the 4th consecutive year of worldwide record production. 1215

Mr. Speaker, I think against that backdrop with any farm policy in the United States, our farmers would be facing a tough year as it relates to our commodities.

The second thing we have to appreciate, in Europe we see huge subsidies for agriculture. Beyond that, we have permitted, we have allowed our trading competitors to subsidize their exports to the tune of $8 billion while we limit ourselves to $200 million. We have put ourselves and our farmers behind the eight ball relative to our trade policy and relative to our agriculture policy. Ultimately that is all coming together.

There is a desperate need in agriculture today for some kind of help. We are here today, and the Committee on the Budget has responded appropriately. The bill in front of us today is the right answer. Ultimately there will be negotiations between the House and Senate and the White House, and hopefully this can be plussed up. There are serious problems in agriculture, most of which are not controllable by our farmers.

Mr. Speaker, I think this is a good bill, and I hope all of my colleagues on both sides of the aisle will join us in supporting this legislation today.

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

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

Mr. Speaker, I urge my colleagues to support this bill. I associate myself with all of the remarks saying we should do more; but I would also point out that this amount of money today is within the budget that was passed that we have agreed to live under this year. I think that is a significant point. And also, as the chairman pointed out in his opening remarks, time is of the essence.

Mr. Speaker, we must have this bill to the President for his signature by August 1 if we are to have any hope of dealing with the multitude of problems that this bill is designed to help.

Mr. Speaker, I encourage my colleagues to pass this bill today and move the process forward, and encourage the other body to do the same.

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

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

Mr. Speaker, I appreciate the comments of the gentleman from Texas.
Mr. STENHOLM and appreciate the good working relationship that we have. Our committee works on behalf of American agriculture, I think, on a bipartisan basis as well as any committee in the Congress.

It is vitally important, and I strongly urge my colleagues who have any reservation about the level of this funding to move forward with this suspension to allow the House to have completed its action so that we make for certain that the $5.5 billion which was established in the budget resolution is in fact eligible to be paid to farmers by the end of the fiscal year of September 30. I think it also sends a message to farmers that in fact there is some assistance on the way at a very critically needed time.

Mr. Speaker, to the Members who spoke of the committee's action in the next few weeks in reporting a farm bill, I will say that we have heard them and all others. This will be a comprehensive farm bill. It will have a strong conservation title, as some have indicated is needed. It is an area that we are looking at very carefully. It is something that we will be trying to craft to deal with all aspects of American agriculture, and we will be spending a great deal of time on it. It is the intent of our committee to report a bill by the beginning of the August recess so that consideration for a full farm bill in a much-needed sector of the American economy that is suffering tremendously can be moved forward; and that we will be able to send a message to American agriculture that there is help on the way.

Mr. Speaker, I appreciate the interest, the intensity, and passion of all of my colleagues on the committee.

Mr. BISHOP. Mr. Speaker, H.R. 2213 will provide the much-needed help that many farmers in the Second Congressional District need today. The $5.5 billion is not sufficient to address all the farming needs, but it goes a long way in helping our family farmers. Input costs have skyrocketed for every one including our farming community. I hope this supplemental bill moves quickly to help alleviate some of these costs.

I am happy with the way our peanut farmers concerns have been addressed in this bill, $25.83 a ton for quota peanuts and $13.55 for additional peanuts will help ease the burden that our peanut farmers face today.

I am glad that we continue as we should stand by our American farmers. This will provide immediate relief while our Committee continues to work hard on drafting the new Farm bill.

I urge my colleagues to support H.R. 2213 and speedily get these funds to our farmers.

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

The SPEAKER pro tempore. The gentleman from Texas (Mr. COMBEST) that the House suspend the rules and pass the bill, H.R. 2213, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed. A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. COMBEST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2213, the bill just passed. The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 178, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 178

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of H.R. 2299, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered as amended, for the purpose of the five-minute rule. Points of order against provis-ions in the bill for failure to comply with clause 2 of rule XXI are waived except as follows: on page 13, line 24, through “section 40117;” on line 25; beginning with “Provided” on page 14, line 12, through line 20; beginning with “Provided—” on page 15, line 9, through line 14; beginning with “Provided” on page 23, line 20, through page 24, line 2; “notwith-standing any other provision of law” on page 26, line 15, beginning with “together with”; on page 26, line 15, through the closing quotation mark on line 16; page 31, line 9 through “as amended,” on page 10; page 38, line 23, through page 45, line 2; page 50, line 22, through page 51, line 15; page 55, line 6, through line 13; page 56, line 16, through page 57, line 2. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. In consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read at the request of the chair, and consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without out intervening motion except one motion to reconsider with or without instructions.

Mr. COMBEST. Mr. Speaker, pursuant to section 426 of the Congressional Budget and Impoundment Control Act of 1974, I make a point of order against consideration of the rule (H. Res. 178) because it contains an unfunded Federal mandate.

Section 426 of the Budget Act specifically states that the Rules Committee may not waive this point of order.

In the rule of H. Res. 178, and I quote: “The Rules Committee may not waive this point of order.” Therefore, I make a point of order that this bill may not be considered pursuant to section 426.

The SPEAKER pro tempore. The gentleman from Virginia makes a point of order that the resolution violates sections 426(a) of the Congressional Budget Act of 1974. According to section 426(b)(2) of the act, the gentleman must specify language in the resolution that has that effect. Having met this threshold burden to identify the specific language of the resolution under section 426(b)(2), the gentleman from Virginia (Mr. MORAN) and a Member opposed will each control 10 minutes of debate on the question of consideration under section 426(b)(4).

Following the debate, the Chair will put the question of consideration, to wit: Will the House now consider the resolution?

The gentleman from Virginia (Mr. MORAN) is recognized for 10 minutes.

Mr. MORAN of Virginia. Mr. Speaker, I raise a point of order because section 313 of this appropriations act directs the local transit authority to change the name of its transit station at Ronald Reagan Washington National Airport with local funds. The cost to comply with this provision is estimated to be $405,476; but the principle being violated is far more costly.

Mr. Speaker, earlier this year the local jurisdiction which controlled the transit board elected not to change the name of the Metro station at the airport.

The board determined that the estimated cost of these changes would be better spent on other priorities.

In addition to the rule that requires the request to come from the local jurisdiction in which the station is located, the regional transit board has a long-standing policy of not naming their transit stations after people, preference being given to names they are named after the location that they are serving.

At one time many Democrats wanted the RFK Stadium stop to be named
after Robert Kennedy, but that suggestion was rejected because Stadium-Army is more descriptive, and named after a place rather than a person.

In my view, that was a correct use of local taxpayer resources. I have to think that if President Reagan were not tragically suffering from Alzheimer’s disease, he would join the board and the local governments in resisting these heavy-handed tactics of the Federal Government in forcing the local government to act contrary to its best judgment.

In 1964 following the tragic death of President Kennedy, an overzealous Johnson administration by executive fiat renamed Cape Canaveral Cape Kennedy without consulting the local jurisdictions. Had the Johnson administration consulted the local jurisdictions, they would have learned the importance of the name Canaveral dating back to the time of the Spanish explorers and a part of the cape’s identity, culture and heritage for the succeeding 400 years. For the next 10 years, the local communities resisted the Federal action, preferring instead to use the term Canaveral. In the early 1970s, the Florida State legislature showed its defiance by enacting legislation to rename the cape Cape Canaveral. By default and Federal inaction, that name still stands.

In the instance of the airport, the localities were never consulted on the 1998 act to rename the airport. Had Congress conducted hearings and allowed local elected officials to testify, it would have learned that Washington National Airport already had a name in honor of our first President, George Washington, one of our founding fathers, commander in chief of the Continental Army during the War of Independence, a President, a resident of northern Virginia, living just down the very road that runs by the airport. The airport was literally built on land owned by George Washington’s family.

Recognizing the direct relationship and strong historical roots of the property, President Roosevelt asked that the airport’s main terminal, completed in 1946, be designed to resemble Mount Vernon. That resemblance is now a historic landmark.

Like the renaming of Cape Canaveral, resentment of the name change is on the minds of northern Virginia’s local residents. We had a compromise proposal that would have updated the name, not renamed it, except for the name of the airport. President Reagan’s legacy will be defined by what he did as President, not by what we do for him. I am sure he would join me in opposing this provision that mandates the local transit authority rename the transit station.

In referencing the controversy of the Metro station issue in his weekly column, George Will said:

"How many ways are there to show misunderstanding of Reagan’s spirit? Let us count the zealous ways. Political freedom implies freedom from political propaganda—from being incessantly bombarded by faceless symbols and messages intended to shape public consciousness in conformity with a contemporary agenda. Such bombarding is unquestionably the aim of some Reaganites. Monument mongers. They have the mentality that led to the lunatic multiplication of Lenin portraits, busts and statues throughout the Evil Empire."

Let us resist the urge to establish Ronald Reagan’s legacy by renaming everything after the former President, thereby trivializing the principles that he stood for.

I urge that we oppose this unfunded federal mandate.

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

Mr. REYNOLDS. Mr. Speaker, I rise in opposition to the point of order.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from New York is recognized for 10 minutes.

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

I would like to take this opportunity to put on the record this provision would violate the Unfunded Mandates Reform Act. While a review by the Congressional Budget Office determined the requirement to rename the station to be an intergovernmental mandate under the Unfunded Mandates Reform Act, renaming the station falls well below the 2001 threshold of $56 million. In fact, this project is estimated to cost approximately $500,000. I submit CBO’s findings for the RECORD.

Mr. Speaker, the gentleman from Virginia helped craft the Unfunded Mandates Reform Act, and in playing such a key role in that creation, he should know that these thresholds were instilled to prevent time-consuming and unwarranted attacks on House legislation. While I appreciate my colleague’s efforts to uphold the integrity of the Unfunded Mandates Reform Act, this is clearly a dilatory tactic to rewrite the terms of the underlying legislation.

Mr. Speaker, I reserve the balance of my time.
Mr. MORAN of Virginia. Mr. Speaker, I yield myself 15 seconds to share with the gentleman the fact that OSHA is exempt from the unfunded mandates law because it is a civil rights provision, and the Federal Government only considers OSHA an unfunded mandate. And the gentleman from New York (Mr. REYNOLDS) points out.

I request that the Chair rule against this.

Mr. REYNOLDS. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. BARR), the original sponsor of this legislation.

Mr. BARR of Georgia. Mr. Speaker, I thank the distinguished gentleman from New York (Mr. REYNOLDS) for yielding me this time.

I request that the Chair rule against this.
of National Airport, over which this Congress has jurisdiction, was changed by majority vote of the people of the United States, as represented by their representatives, was changed to reflect Ronald Reagan’s name. They lost that vote. Get over it, guys. You lost it.

Not satisfied with that, not satisfied with simply playing by the rules and recognizing that the name change went through the Congress, was signed by none other than President Bill Clinton, what they are doing now is they keep trying to come in the back door. They go to their friends on the Metro board, which has never before had a problem with any name change. They have operated like any other metropolitan transit board. When there is an official name change by law, the signage and the literature is changed to reflect that official name. When there is a name change by law, the signage and the literature is changed to reflect that official name change, and every other transit board in the country has always done, whether it is reflecting the name of John F. Kennedy or former President Eisenhower or anybody else, and simply make the changes and let us move on.

Would the gentleman agree that that makes sense, let us just move on?

Mr. MORAN of Virginia. Mr. Speaker, will the gentleman yield?

Mr. BARR of Georgia. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. No, I do not agree. The gentleman’s recollection of the facts is not accurate.

Mr. BARR of Georgia. Mr. Speaker, I take back my time. That is what I suspected, and I wanted to give the gentleman the benefit of the doubt and get him on record.

The other side is not interested in just moving on. We are, Mr. Speaker. We are not asking for anything out of the ordinary, out of standard operating procedure, but to simply say the name of National Airport has been lawfully changed. It was signed by a Democrat President into law over 3 years ago. It is high time that the Metro board did what they have done in every other situation. Change the name. Let us move on with this rule and move on with the adoption of the appropriations bill for the American people.

Mr. MORAN of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is certainly not in order to force name changes upon local governments when they are opposed to it.

Mr. Speaker, I yield 30 seconds to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, just to correct the record, there have been eight proposals, as I cited in my opening remarks, in which WMATA rejected renaming proposals, some of them equally as strong as this one.

Secondly, the naming of National Airport was flawed in its inception. Some years ago when Senator Dole proposed changing the name of Dulles Airport, his legislation left it up to the airport authority to make the decision; did not shove it down their throats.

As for the gentleman’s comment about get over it, we are not the ones proposing name changes. It is the other side. I say to the gentleman, get over it. Stop acting like a playground bully trying to shove Reagan’s name down the throats of every place in this country.

Mr. MORAN of Virginia. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, I would urge this body not to force Washington’s local governments to pay $400,000 with local funds to make a name change to a transit station. It does not fit in length. It does not fit with the policy of naming stations after places rather than people. In any event, it goes to the point that we are contradicting everything he stood for. I have several quotes that I ought not to have to share with the body where President Reagan urged us to respect local government. This is not respecting local government. What is being said is, we stand by Reagan’s principles as long as it suits our politics. That is not right. The principle of deference to local government is correct, and in this case it is being violated not only with the naming of the airport, but certainly with the naming of the transit station.

I would urge my colleagues to read George Will. I would urge them to read President Reagan’s statements, and I would encourage my colleagues the gentleman from Georgia (Mr. BARR) and the gentleman from Kansas (Mr. TAHERT), have pointed out in their opposition to this point of order.

Most important, I have also cited in my opening that on page 111 of the report, which we are going to consider as the rule is hopefully passed and the legislation is before the House, where $30 million under section 9 in the formula for funding will go to the District of Columbia’s Metro system. That money is eligible for signs and other important aspects of how this legislation has been created within the appropriations bill.

The gentleman from Virginia (Mr. MORAN) has raised the possibility that H.R. 2299 may contain an unfunded mandate. I urge that we proceed forward so that we may continue consideration of this important legislation.

Mr. Speaker, an aye vote is a vote for the continuation of the consideration of the resolution. I urge an aye vote as we move forward from the point of order on the rule and then to the legislation.

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

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate has expired. The question is, Will the House now consider the resolution?

The question was taken; and the ayes appeared to have it.
202, not voting 12, as follows:

YEAS—219

Messrs. BERRY, STARK, TAYLOR of Mississippi and Ms. KILPATRICK changed their vote from "yea" to "nay."

Mr. LINDER changed his vote from "nay" to "yea." So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

So the motion to reconsider was laid on the table.

States:

Ms. WATSON of California, Mr. Speaker, on rollcall No. 190, I was delayed because of constituents in my office, hence I would have voted "no" on the question of consideration.

The SPEAKER pro tempore (Mrs. WILSON). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

The rule provides that the bill shall be considered for amendment by paragraph.

In addition, the rule waives clauses 2 of rule XXI (prohibiting unauthorized or legislative provisions in an appropriations bill) against provisions in the bill, except as otherwise specified in the rule.

Further, the rule authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the Congressional Record.

Finally, the rule provides one motion to recommit, with or without instructions.

Madam Speaker, the Committee on Appropriations has worked diligently to produce legislation that meets the Nation’s transportation priorities. As more and more Americans hit the airways in the high season this year, Congress can take pride in the fact that the underlying legislation represents an increase in safety measures and resources in every area of our transportation system.

With all of the travel we do back and forth to our home districts, I am sure my colleagues can relate to the frustration of airline delays. That frustration is tenfold for countless Americans who rely on air travel for work and for pleasure each and every day.

This bill includes several provisions to address the problem of airline delays such as fully funding the “Free Flight” program and raising funding for the “Safe Flight 21” programs. These programs develop technologies to aid in the improvement of airway capacity both responsibly and prudently.

Moreover, the bill meets the funding obligation limitation in the transportation legislation known as TEA 21, the Transportation Equity Act for the 21st Century, by providing $31.7 billion in highway program obligation limitations, a 4 percent increase over the current fiscal year’s level. Continuing our commitment toward investments in
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the Nation’s infrastructure, this bill provides nearly $59.1 billion in total budgetary resources, a responsible 2 percent increase over the current fiscal year.

This bill, much like last year’s, continues to improve and enhance motor carrier safety by providing $206 million for motor carrier safety grants, an increase of $30 million that is consistent with truck safety reforms enacted as part of the Motor Carrier Safety Improvement Act of 1999.

This body recently passed the Coast Guard authorization for fiscal year 2002. The Coast Guard’s duties include promoting the safety of life and property at sea, enforcing all applicable Federal laws on the high seas, maintaining navigation aids, protecting the marine environment, and securing the safety and security of vessels, ports, and waterways.

The legislation before us today appropriates in the amount of $5 billion, including $300 million available to initiate the “Deepwater” program, which will fight the scourge of illicit drugs, provide support for offshore search and rescue, and work to protect Americans and American shores.

In addition, the bill provides $521 million for Amtrak’s capital needs. This funding will cover capital expenses and preventive maintenance. This bill sustains the Federal commitment to continue in partnership with Amtrak and to help it reach its goal of self-sufficiency.

These, along with other modest increases within the bill, will allow the Department of Transportation to have greater flexibility and oversight control for both large and small projects alike. Ensuring proper funding levels ensures the ability of the Department of Transportation to do its job, making travel safer and easier for us all.

Safety should remain the Federal Government’s highest responsibility in the transportation area. Clearly, whether by land, by sea, or by air, this bill addresses those needs and concerns, while maintaining the fiscal discipline that has been the hallmark of this Congress.

Madam Speaker, I would like to commend the gentleman from Florida (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) for all of their hard work in bringing this bill to the floor. The ranking member of the Committee on Appropriations Sub-committee on Transportation have brought us a good bill that funds a number of vital transportation projects, including one important to my congressional district in the Dallas-Fort Worth area.

I am pleased that the bill will provide $70 million to the North Central Light Rail Transit Extension. A bipartisan group of North Texas members worked very hard to get this funding that will more than double DART’s light rail coverage and help stimulate development in the Dallas-Fort Worth metroplex.

However, Madam Speaker, while this is a good bill overall, I cannot support the rule supported by the Republican majority because they have denied a request made by the Democratic ranking member of the Subcommittee on Transportation, who sought to offer an important amendment relating to the safety issues raised by allowing Mexican trucks to enter the United States.

I must also oppose this rule because of the issue of the Washington Metropolitan Transit Authority and the renaming of the National Airport Metro stop. Time and again over the last 6 years, the Republican majority has selectively ignored their own mantra of local control when it suits an ideological purpose. The renaming of this Metro stop ignores the wishes of the local authorities, as well as the Member representing this area. And for that reason, as well as the fact that the Sabo amendment was shut out by the Committee on Rules, I oppose the rule.

One of the greatest defects of this rule is the Republican leadership, working in concert with the President, has prevented the House from addressing a serious highway safety issue: the safety standards of Mexican trucks entering this country under NAFTA.

The Bush administration has lifted all restrictions on the movement of Mexican trucks on our highways effective January 1, 2002. Next year, Mexican trucks will be free to drive across the country, despite clear evidence that many are unsafe for our highways.

In May, the Department of Transportation’s Inspector General found that the Federal Government needs to add dozens of additional border inspectors before lifting restrictions on Mexican trucks. The few inspectors now policing the borders found that 40 percent of Mexican trucks that are currently allowed into the U.S. were pulled out of service for significant violations of our safety standards, which is higher than the percentage of violations among U.S. trucks.

So many of these trucks are deemed unsafe for our roads because they are allowed to operate in Mexico with virtually no oversight. The Committee on Transportation and Infrastructure Democrats who address these issues on a routine basis, also expressed their deep concerns to the Committee on Rules about these trucks coming into the United States; yet their concerns were also ignored by the Republican leadership.

For example, Mexican trucks are 10 years older than U.S. trucks, on average, and do not comply with weight standards. Mexico has no hours-of-service regulations, while U.S. drivers can only drive 10 hours per shift. The gentleman from Minnesota (Mr. SABO) offered a sensible amendment that would require the Federal Motor Carrier Safety Administration to conduct a safety compliance review of each Mexican truck entering the United States and to require that they be found to be satisfactory under the same standards applicable to U.S. carriers before being granted conditional or permanent operating authority.

However, the Republican leadership has refused to allow the House to vote on the Sabo amendment. I simply cannot understand why the administration and the House leadership oppose what the gentleman has proposed. The Republican leadership’s refusal to recognize safety concerns related to the use of these trucks throughout the United States is nothing short of negligent, Madam Speaker.

This highway safety issue is particularly critical in Texas, as well as in my own congressional district where I-35 runs through the middle of the district, since two-thirds of Mexican trucks enter the U.S. through Texas; and many of those trucks will travel on I-35 to their interior destinations. But make no mistake: this is a serious safety issue coming to highways all across America, now that the President has lifted any and all restrictions on Mexican trucks operating on American roads and highways.

This rule also prevents discussion of how to pay for relabeling Metro signs for National Airport. In 1998, over strong local opposition, the Republican leadership decided to rename Washington’s National Airport in honor of President Ronald Reagan. Now, in this bill, they are requiring the already strapped Washington Metro Authority to change all of their station signs, maps, directories, and documents to reflect the new name, but Republican leaders are not providing one single penny of the $400,000 it will cost to do this.

Madam Speaker, I served in the Congress when Ronald Reagan was President and understand that many Republicans and Democrats want to honor him. Indeed, this Congress and this Nation have already done much to ensure President Reagan’s accomplishments...
get the respect they deserve. But a $400,000 unfunded mandate hardly seems like a fitting tribute to President Reagan. After all, he made a career of campaigning on behalf of local control.

In my own district, we would not take kindly to the Federal Government forcing us to spend $400,000 in local funds that might otherwise have been already budgeted for health care or schools or other local priorities. I understand why this local community would resist spending $400,000 on a symbolic name change while far too many children in the District of Columbia go without food at the end of the month.

Madam Speaker, if the Republican leadership and Grover Norquist believe new Metro signs and maps are such an important priority, then they should provide the funds to pay for them. It is just plain wrong to force local governments to spend this money on maps for tourists instead of meals for children. Mr. Norquist and other Republican leaders do President Reagan no favor by imposing this unfunded mandate on his name.

Madam Speaker, I believe the House should be allowed to consider and vote on the issue of the safety of our Nation’s highways. These are the same roads school buses travel and people use to get to and from work.

Their safety should be paramount.

Madam Speaker, I urge my colleagues to reject this rule so we may go back to the Committee on Rules and find a better way to address this important issue.

Madam Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Madam Speaker, I yield 5 minutes to the gentleman from Kentucky (Mr. ROGERS), the Chair of the Subcommittee on Transportation.

Mr. ROGERS of Kentucky. Madam Speaker, I thank the gentleman from New York (Mr. REYNOLDS) for yielding me the time.

Madam Speaker, I rise in support of this rule. It is a good rule, it is a fair rule, and it needs to be adopted. At the outset, I want to advise the Members that we have worked closely and cooperatively with the Committee on Transportation and Infrastructure to resolve areas of disagreement on the bill.

The gentleman from Alaska (Mr. YOUNG) and this gentleman have been able to work out almost everything to our mutual satisfaction. We do not agree with their position on every matter, but we do not begrudge their right to assert their concerns and jurisdiction.

Under this rule, the authorizing committee will in a number of instances exercise its prerogatives under the rules of the House to remove provisions that our committee believes are important and necessary, but which fall within their jurisdiction. The rule preserves their right to do that. In a number of other cases, the authorizing committee has agreed not to object to provisions included by our committee, which, again, we believe are necessary to carry out the programs in the bill.

It is vitally important, Madam Speaker, that we adopt the rule and proceed to consider the Transportation appropriations bill. The bill contains $59 billion for highways, airport grants and other aviation programs, highway safety activities, pipeline safety programs, many other items that are critical to every State and to individual Members of the House and, of course, our people.

We are within our funding allocation and the budget resolution. The bill is balanced. It is bipartisan and deserves the support of every Member of this body.

Let me briefly discuss the issue of Mexican trucks and NAFTA. As my colleagues know, the President says that we will be opening our border pursuant to NAFTA in January of next year.

This administration has a plan to ensure the safety of Mexican carriers that transport goods beyond the commercial zones and into the interior of the United States. The administration has put money behind that plan in its budget request. We fund that plan to the penny and then some. In fact, we provide increases above the President's request for the inspection of Mexican carriers at the border. The administration requested $88.2 million above current-year spending. We include $100.2 above the current year, an 80 percent increase.

This money will pay for border inspection facilities and more inspectors. It pays for a common-sense plan that the House needs to support. In addition, our committee has included language in the committee report directing the Department of Transportation to implement a strong safety oversight program that ensures the operational safety of Mexican motor carriers who seek permission to operate in the U.S. Madam Speaker, together these provisions ensure compliance with U.S. safety laws and regulations, while it allows free trade to go forward. It is the responsible approach, and it complies with NAFTA.

Madam Speaker, I have some serious reservations that the proposal from the other side would, in fact, violate NAFTA, subjecting the United States to severe fines.

Madam Speaker, this is a good rule. It is a good bill, and I would hope that Members would support both today.

Mr. PELOSI. Madam Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Madam Speaker, I simply want to rise to express my opposition to this rule because of its failure to include the right of the gentleman from Minnesota (Mr. SABO) to offer his amendment on truck safety.

Very simply, what his amendment seeks to do is to require the establishment of procedures to guarantee that Mexican trucks will be safe before they are allowed to travel all over the United States. It just seems to me that we ought to understand that right now Mexican motor carriers operate with virtually no safety oversight to date.

There are no motor carrier hours of service regulations in Mexico. There is no way at this point to check the driving records, the driving history of Mexican motor carrier drivers. The out-of-service record for those trucks in the areas where they have been checked near the border is astronomically low. Therefore, we cannot turn the road without severe safety precautions.

It is asserted that somehow the Sabo amendment would be a violation of NAFTA. That is nonsense. NAFTA is a trade pact. It is not a suicide pact. We are not required to protect the safety of our motorists at risk in order to satisfy some international bureaucracy. We have already had a ruling that makes quite clear that the United States has the authority, whatever authority we need to exercise, in order to protect the safety of American travelers.

I find it ironic that this House will spend a lot of time on this Mickey Mouse amendment to require the renaming of a train station in the District of Columbia area and yet will not take the time to fully the debate the issue raised by the gentleman from Minnesota. I think that represents a warped set of priorities.

Yet I also find it ironic that the Republican majority has said through legislation that when the question of worker safety is at stake, as was the case with the ergonomics regulations that the Labor Department wanted to put into effect some time ago, I find it ironic that at this point the Republican majority of this House said, “Oh, no, the regulations must wait. We are not going to worry about safety.”

Yet at this point, when we are asking them again to take into account the safety considerations in truck safety, in Mexican trucks crossing our American road, they are saying, “Damn the truck safety consequences, full speed ahead!” If I can plagiarize from Admiral Farragut.

It just seems to me that this House ought to come back to a rule of common sense. Just because the committee did not adopt the amendment in full committee is no reason this House should not have the opportunity to take whatever action is within our reach to ensure the safety of American drivers on our highways.

Madam Speaker, I think the bill itself is basically a good bill, and I intend to support it, but I think it is
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egregiously erroneous for the House not to allow a debate on the Sabo amendment, and that is why I would vote against the rule and urge that other Members do likewise.

Mr. REYNOLDS. Madam Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. Nussle), the Chairman of the House Budget Committee.

Mr. NUSSEL. Madam Speaker, first, I rise in support of the rule. I share the concern that the gentleman from Wisconsin (Mr. Obey) is raising about Mexican trucks. This is the wrong place and the wrong way to address it, in an appropriations bill. I think there is a lot of concern over the Mexican truck issue, and we need to find a way to resolve that. This is not the place.

I rise in support of the underlying bill, H.R. 2299, making transportation appropriations for fiscal year 2002. As the chairman of the Committee on the Budget, I want to report to my colleagues that this bill is consistent with the budget, and it complies with the applicable sections under the Congressional Budget Act.

H.R. 2299 provides $14.9 billion for the Department of Transportation and several transportation-related agencies. The bill includes $907 billion in rescissions of previously enacted budget authority.

The bill is within the 302(a) allocations of the Committee on Appropriations. On 'Transportation and, therefore, complies with section 302(f) of the Budget Act, which prohibits the consideration of appropriation measures that exceed the appropriate subcommittee's 302(b) allocations.

Madam Speaker, I would observe that, based on the congressional scoring that we have before us, the bill would exceed the statutory caps on highways and mass transit. Under the Budget Act, any bill that breaches its caps triggers an across-the-board sequester in programs under that cap, but I further understand that the Committee on Appropriations believes and will work to ensure that this bill will come in under the caps when it is scored by OMB. It is OMB scoring that is used to enforce the caps and trigger any sequester.

Madam Speaker, I urge that the conference committee and the chairman consider this concern and ensure that the final bill is consistent with both the budget resolution and the highway and mass transit caps.

Madam Speaker, I commend the gentleman from Kentucky (Mr. Rogers) and support the rule, but the underlying bill of H.R. 2299.

Mr. FROST. Madam Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. Sabo).

Mr. SABO. Madam Speaker, I thank the gentleman from Texas (Mr. Frost) for yielding me the time.

Madam Speaker, first, let me say that this is a good bill, and I will have more to say about that later. I commend the gentleman from Kentucky (Mr. Rogers) for producing a good bill. At the very least, a bill that deserves broad bipartisan support and should be passed by an overwhelming margin.

Madam Speaker, however, I cannot support this rule. The reason is that we have a problem, a serious problem, with the advent of Mexican trucks having access to the United States outside of the 20-mile commercial zone starting January 1.

This bill did not create the problem, it has been created for us, and if there is one place we can begin to deal with the remedy, that place is in this bill.

The amendment that I had offered, which would require inspection of carrier applicants in Mexico before they receive conditional certification, so that, for example, would add to the safety potential that we have in this country, to go along with the additional inspectors. None of us can guarantee perfect safety, but those working together would give us some greater hope that we will have safe trucks operating in this country.

Madam Speaker, no one disputes the fact that Mexico-domiciled motor carriers operate with virtually no safety oversight today. There are no motor carrier hours of service regulations in Mexico. Even though the Mexican Government is now implementing a driver record database, there is currently no way to check the driving history of Mexican motor carrier drivers. In addition, Mexico will not finalize its roadside inspection program until October 2001.

Let me add that while we are focusing on inspection and out-of-service rates for trucks, equipment is important, but the driving capability of the driver is the most important. A greater proportion of the Mexican-domiciled trucks are out-of-service, a 50 percent higher out-of-service rate than what we have in the United States. Obvious reason, there are no permanent truck inspection facilities at 25 of 27 southern border crossings that account for 3½ million northbound trucks every year.

There is no systematic method in place to verify registration on Mexican-domiciled trucks. The inspector general of our DOT found 254 Mexican trucks operating illegally beyond the commercial zones in 24 States. Those trucks are in a position to kill our constituents. Five thousand people a year die in truck-car accidents. There are going to be half as many more deaths if we allow these Mexican trucks to come unsafely into the United States.

They have a woefully inadequate safety regime in Mexico, no systematic safety rating processes, no truck weight enforcement process, no roadside domestic inspection program, no hours of service regulations in Mexico, no credible enforcement of drug and alcohol testing. We ought to defeat the rule, allow the Sabo amendment to be offered.

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

Mr. FROST. Madam Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Borski).

Mr. BORSKI. Madam Speaker, I rise in opposition to the rule. I believe it is very, very important for this House to be able to vote on the Sabo amendment.

Madam Speaker, just last month, along with the gentleman from Wisconsin (Chairman Petri) and the gentleman from California (Mr. Filner) and the gentleman from Pennsylvania (Mr. Holden), we paid a visit to some of the inspection facilities along the Mexican border.

At Otay Mesa in California, we saw an inspection system that works and works pretty well and hopefully could
serve as a model for the rest of our country.

In California, they perform a comprehensive level one inspection on all trucks crossing the border at least once every 90 days and issue a certificate. If a truck does not have a certificate, it is pulled over and inspected.

The out-of-service rate in California is very similar to our experience in the rest of the United States. Around 24 percent of trucks are taken out of service, way too high in the United States, but something we can continue to work on.

The situation in Texas was an absolute nightmare. There is no inspection in Texas. At Laredo, we visited it on a Sunday, a slow day. Major Clanton of the Texas Rangers or Texas Department of Public Service told us a truck that is absolutely no discussion. On that day Major Clanton told us he pulled five or seven or eight trucks over to inspect, and five of them were taken out of service. We asked if there were serious concerns. The answer was, yes, extremely serious. Things like brakes that are not working.

Madam Speaker, the situation in Texas is very serious. We should not allow trucks to come into the United States unless they are safe, unless they are inspected.

We asked the people in Texas how soon they could put inspection stations up at the border. They told us it would take at least 18 months.

So I would strongly urge that we defeat this rule, we allow the Sabo amendment to be in order so that we can protect the safety of the traveling public in the United States. Whether one is for NAFTA or against NAFTA, we can all be for public safety on the highways.

Mr. REYNOLDS. Madam Speaker, I yield 5 minutes to the gentleman from Texas (Mr. BONILLA), a member of the Committee on Appropriations.

Mr. BONILLA. Madam Speaker, I rise today to ask my colleagues to stop attacking Mexico. I cannot quite understand what the motivation is. If we look at the issue, we are talking about trucks coming into our Nation that would be held at the same standards that American trucks would be held by. That is something we are here about trying to put the same restrictions on Canadian trucks, for example. This simply seems to be an effort to try to discriminate and target Mexican trucks.

Again, let me emphasize that, in the State of Texas, like in my area that I represent spans 800 miles of the Texas-Mexico border. We want the trucks. We are prepared to have them come in and bring their cargo through in a safe manner, complying with American law.

Let me also tell my colleagues what free trade has meant to some of these border communities that used to have unemployment rates at 40 to 45 percent. Free trade has dropped the unemployment in border communities drastically. In some areas, like in Laredo, Texas, it has now caused it to be the second fastest growing community in America. It is a boom area, and we enjoy the fruits of free trade.

Allowing these trucks to come in would help those folks as well. So to try to talk about offering an amendment to stop these trucks from coming in not only discriminates against Mexico, but it discriminates against a lot of minority communities along the border that want these trucks to come through because it has improved the quality of life. Trade has improved the quality of life. This is part of free trade that would improve it even more.

So leave us alone. Let the border communities, the high Hispanic population communities in Texas, benefit from free trade. Stop discriminating against us and stop discriminating against Mexico.

Mr. ROGERS. Madam Speaker, will the gentleman yield?

Mr. BONILLA. I am happy to yield to the gentleman from Kentucky.

Mr. ROGERS. Madam Speaker, the gentleman represents an area of Texas I think is the largest border area of any Member of Congress.

Mr. BONILLA. The gentleman is correct. Madam Speaker.

Mr. ROGERS. So all of the gentleman's constituents live on the border; is that correct, Madam Speaker?

Mr. BONILLA. Madam Speaker, the vast majority of my constituents, although I have areas that are also several hundred miles from the border.

Mr. ROGERS. Madam Speaker, if the gentleman will continue to yield, knowing what the administration, the Department of Transportation is doing even as we speak. That is, DOT is designing a plan for the safety of the trucks coming up from Mexico, and knowing generally what the plan is, does the gentleman from Texas (Mr. BONILLA) have concerns for the safety of his constituents through which these trucks would pass to the rest of the U.S.?

Mr. BONILLA. Madam Speaker, reclaiming my time, not any more than I would have a concern about an American truck coming through the Mexico border.

Let me also just add, if I could, to the gentleman from Kentucky, I would challenge any Member here who continues to pursue this action against Mexico, next time they speak about this issue, and the television camera is on them, I challenge them to look at that camera in the eye and tell us that they are not discriminating against Mexico and border area residents.

Mr. ROGERS. Madam Speaker, will the gentleman yield?

Mr. BONILLA. I am happy to yield to the gentleman from Kentucky.

Mr. ROGERS. Madam Speaker, is the gentleman aware of the rulemaking?

Mr. BONILLA. Madam Speaker, re-emphasizing my time, I am aware of that. I am aware of what the gentleman has said, but I am aware of what I know all of us are concerned about having the highest standards complied with by anyone who drives trucks in our country.

Mr. ROGERS. Madam Speaker, if the gentleman will yield, is the gentleman aware of any Members who have spoken here today that have registered a complaint with the Motor Carrier Safety Administration?

Mr. BONILLA. Madam Speaker, I am not aware of any such problems that have existed, not to create a premise on which to file any complaints. These are simply scare tactics and, as I have pointed out, targeted just against Mexico, nothing mentioned about Canada.

Mr. ROGERS. Madam Speaker, will the gentleman further yield?

Mr. BONILLA. Yes, I yield to the gentleman from Kentucky.

Mr. ROGERS. Madam Speaker, does the gentleman also realize that, if the rulemaking that will be adopted some time this early fall is not severe enough to ensure the safety of American citizens from Mexican trucks, that Congress can always address the question at that time?

Mr. BONILLA. Madam Speaker, I am aware of that, and I am sure that that is something we would want to do in a bipartisan way.

Mr. FROST. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. FULNER).

Mr. BONILLA. Madam Speaker, I rise in opposition to the rule and because of its refusal to allow the common-sense Sabo amendment on truck safety.

This gentleman represents a border community. This gentleman represents an area where 30 percent of the trucks cross the border.

The gentleman from Kentucky (Mr. ROGERS) has filed a complaint on the rulemaking. I will tell my colleagues that I know of the dangers of the trucks to our citizens and to our driving public. I know what happens when uninsured drivers have accidents. I know what happens when trucks do not have brakes. I know what happens
when tired drivers are on the roads in San Diego and the rest of this Nation. I will tell the gentleman from Texas (Mr. Bonilla), who just spoke, and the gentleman from Kentucky (Mr. Rogers) who talks about an administration plan, I live on the border. There is no evidence of such a plan. There is no national standard. I have traveled to Texas, I have looked at our border inspections in California. This is not discrimination against Mexico, Madam Speaker. This is a plea on behalf of the state of Texas.

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

Mr. FROST. Madam Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Madam Speaker, I thank the gentleman from Texas for yielding me this time.

President Bush's decision to open the border to Mexican trucks is wrong. A report released on May 8th from the Department of Transportation's inspector general showed the U.S. Border Patrol can only inspect 1 percent, 46,000 of the 4.5 million trucks that were crossing the border.

Three years ago, at my expense, I went to Laredo, Nuevo Laredo. I went to the border, I watched the trucks inspections. One person was inspecting trucks that day. Two thousand five hundred trucks were going through the border at Laredo; one inspector was 

for Governor George W. Bush and the Department of Public Safety in Texas. I asked him how many trucks he inspected a day. He said 10 to 12. I asked, how many trucks do you take out of service each day? He said, somewhere between 9 to 11.

He had told us, it had come to the State of Texas had not fixed the scales which had been broken for 3 months, that the State of Texas and the Government of the United States simply were not very interested in truck safety.

Whether these trucks, these 2,500 a day that were going from Nuevo Laredo to Laredo, Texas, the 4.5 million trucks a year, whether they have faulty brakes or tire failures or loads that exceed weight limits, Mexican trucks fail to meet American standards.

Mexican trucks on average are 10 years older than U.S. trucks. A truck driver in the United States cannot get a license until they are 21. In Mexico, the age is 18. Mexico does not have a national commercial truck driver's license information system to detect driving violations. U.S. drivers can drive only 10 hours per shift, must keep a log of their hours worked, must pass a knowledge and skills test, and must have regular medical examinations.

In Mexico there are none of those requirements. Madam Speaker, President Bush is wrong on truck safety. He is wrong to open the border to unsafe trucks. The Republican leadership is wrong on this issue. Vote 'no' on the rule.

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

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

Mr. REYNOLDS. Madam Speaker, if the gentleman wishes to yield back, we will close this and move to the vote.

Mr. FROST. Madam Speaker, we had several other requests for time. The Members are not present on the floor. I would ask the gentleman whether he has any additional speakers.

Mr. REYNOLDS. No, I do not. It is obvious I have been reserving the balance of my time to close the debate on our side when the gentleman is ready.

Mr. FROST. Madam Speaker, I yield myself such time as I may consume to urge that the rule be defeated. The rule does not make in order the very important amendment offered by the gentleman from Minnesota (Mr. Sabo), and the rule also did not take into consideration the objections raised by the gentleman from Virginia (Mr. Moran).

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

Mr. REYNOLDS. Madam Speaker, I yield myself such time as I may consume to close.

Madam Speaker, this is an open rule. It is a fair rule. It is a rule that allows the transportation legislation of the Committee on Appropriations to come before the House. There has been considerable discussion, with the will of the Committee on Appropriations passing a second degree amendment to the Sabo amendment offered by the gentleman from Kentucky (Mr. Rogers). That amendment passed 37 to 27, reflecting the will of the Committee on Appropriations in the amendment.

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

The previous question was ordered. The SPEAKER pro tempore (Mrs. Wilson). The question is on the resolution.

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

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

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

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to clause 8(c) of rule XX, this 15-minute vote on the adoption of House Resolution 178 will be followed by a 5-minute vote on the motion to suspend the rules posted earlier today.

The vote was taken by electronic device, and there were—yeas 219, nays 205, not voting 9, as follows:

(Roll No. 191)

YEA—219

Aderholt Davis, Tom

Akpin DeKal

Armey Hefley

Askus Holm

Baker Iowa

Ballenger Horner

Bartlett Duncan

Barton Bush

Berenger Bush

Biggert English

Hilarios Falcon

Bust Bush

Boehnert Ferguson

Bonahoe Jenkins

Bonilla Boust

Bono Blunt

Brady (TX) Bustos

Brown (SC) Burton

Brower Gallegly

Brower Geske

Bryan Gehrke

Burr Geen

Calvert Gibbons

Camp Gilchrest

Cannon Gillmor

Cantor Gilman

Cappito Goeke

Castle Goodlatte

Chabot Goss

Chambliss Graham

Cleaver Guevara

Collins Gravel

Collins Graves

Combest Green (WI)

Cornyn Greenberg

Cox Gruceri

Crenshaw Hansen

Cubin Hart

Creson Hawley

Cunningham Hayes

Davis, Jo Ann Hayworth

McKeon

McCrery

Manzullo

LoBiondo

Lewis (KY) Latham

Lewis (CA) Largent

Largent Latham

Leach Latham

Letter

LoBiondo

Linder

Lloyd

Lester

McCarthy

McInnis

McKeon

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The SPEAKER pro tempore. The question of the yeas and nays having been ordered, the resolution is not in order, and the question is on the adoption of the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.
11916
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds

Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)

Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)

Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9
Burton
Clement
Hilliard

Hinojosa
Kaptur
LaTourette

Payne
Platts
Putnam

b 1426
Mrs.
MEEK
of
Florida,
Mrs.
NAPOLITANO, Ms. VELÁZQUEZ, Mrs.
CAPPS, and Messrs. BECERRA, INSLEE and JONES of Ohio changed their
vote from ‘‘yea’’ to ‘‘nay.’’
Mr. HOUGHTON changed his vote
from ‘‘nay’’ to ‘‘yea.’’
So the resolution was agreed to.
The result of the vote was announced
as above recorded.
A motion to reconsider was laid on
the table.
f

rmajette on PROD1PC67 with BOUND RECORD

NAYS—205
Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford

VerDate Aug 31 2005

June 26, 2001

CONGRESSIONAL RECORD—HOUSE
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns

Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty

14:21 Feb 22, 2007

Meehan
Meek (FL)
Meeks (NY)
Menendez
MillenderMcDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)

Jkt 089102

RECOGNIZING OUTSTANDING AND
INVALUABLE DISASTER RELIEF
ASSISTANCE PROVIDED DURING
TROPICAL STORM ALLISON
The SPEAKER pro tempore (Mrs.
WILSON). The pending business is the
question of suspending the rules and
agreeing to the resolution, H. Res. 166.
The Clerk read the title of the resolution.
The SPEAKER pro tempore. The
question is on the motion offered by
the gentleman from Louisiana (Mr.
COOKSEY) that the House suspend the
rules and agree to the resolution, H.
Res. 166, on which the yeas and nays
are ordered.
This will be a 5-minute vote.
The vote was taken by electronic device, and there were—yeas 411, nays 0,
not voting 22, as follows:
[Roll No. 192]
YEAS—411
Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert

PO 00000

Frm 00030

Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Buyer
Callahan
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clyburn
Coble
Collins

Fmt 0688

Sfmt 0634

Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle

Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)

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H26JN1

Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
MillenderMcDonald
Miller (FL)
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri

Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Udall (CO)


Mr. Chairman, I am very pleased to present to the House the Department of Transportation and related agencies appropriations bill for fiscal year 2002. This is an excellent bill that reflects not only the priorities of the budget submitted by the President earlier this year but also the important contributions of all the Members of our subcommittee and full committee and we hope now the full House.

I want to especially thank the gentleman from Minnesota (Mr. OBEY), the ranking member of the full committee, for their support of this subcommittee and the programs we oversee. I am also thankful to all the members of our subcommittee who had a part in the drafting of this bill and the full committee on Appropriations, each of which had the chance to amend and correct as we went through that process. And, of course, we would not be here without our wonderful staff, both on the majority and the minority side upon whom we all so much depend.

Mr. Chairman, the bill I present today provides an increase of 6 percent in the programs and activities of the Department of Transportation. At first blush, this appears to be a healthy increase over current levels, but in fact it is barely enough to cover the 4.6 percent pay raise that will go to all Federal employees next year as well as the general cost of inflation for programs in our jurisdiction. So this is a lean bill, especially when compared with the explosive growth and needs caused by highway and air travel in this country. We are doing a lot in this bill to respond to that demand but not nearly as much as we would like. The Department of Transportation will have to economize, it will have to be more efficient, and it will have to live within the constraints of the spending limits set by the budget just like every other agency.

The bill is within our 302(b) allocation, in both budget authority and outlays. It fully funds the highway and aviation spending increases established by TEA-21 and AIR-21, and it will help relieve the congestion that is frustrating citizens on our interstates, in the skies, and in our bus and train terminals.

Our bill fully funds the Coast Guard’s operating budget and provides $600 million, which is a huge increase, in their capital account. Within the capital appropriation for $4 billion to kick off the Deepwater program, which will provide a vitally needed upgrade and replacement of the Coast Guard’s ships and aircraft. Members should know that this is the largest acquisition program, that is the Deepwater program, in the Coast Guard’s history.

The bill also includes, Mr. Chairman, funds to address serious staffing, training, and equipment problems at our small-boat stations of the Coast Guard which were highlighted in our hearings with the Inspector General and the Coast Guard this year. I am proud that we could find a small amount of money to raise the staffing levels and the training at these stations which provide the backbone of our Nation’s search and rescue capability. With an average workweek, Mr. Chairman, of 80 hours-plus, Coast Guardsmen at these stations are in desperate need of some help. We provide it in this bill.

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Consistent with the provisions of AIR-21, this bill fully funds the airport grants program at $3.3 billion and fully funds FAA’s capital appropriation at $2.9 billion. It also provides nearly 100 percent of the FAA’s operating budget. In addition, this bill includes several initiatives that will hopefully lead to reductions in the number and severity of airline delays. Our gridlocked aviation system has been a major focus of this subcommittee, and it will continue to receive the scrutiny of our panel until we untangle it for the good of the traveling public and the industry.

In this bill we are doing everything possible to make sure the money is there for work and technologies that address the problem.

If we find programs and initiatives that work, we will fund them. If we find programs that fail, we will cut them off. It is that simple. We are determined to make improvements. Things will change. This bill is a start. But we will keep pressing for real action and real results in an area critical to all of us.

The bill restores proposed cuts to the essential air service program. Under the administration’s proposal, 18 cities would have lost their air service next year. This bill maintains the eligibility of each of these cities in the program and provides the additional $13 million needed to maintain current service levels. That will be good news to 18 cities across the country where EAS provides a necessary service. In addition, the bill provides $10
million to kick off the new small community air service development pilot program authorized last year in AIR-21. This program will enable small and rural communities around the country to foster air service where it does not exist and foster competition in those communities where there is monoply service. I can personally attest to the decline in air service in many smaller cities around the country. It is a tremendously needed program, and I am pleased the bill provides initial funding for it.

The bill includes $32.6 billion for our Nation's highways, an increase of $1.2 billion, 4 percent, consistent with the authorizations in TEA-21. This will provide for high-priority construction needs in every State of the Nation.

The bill provides $298 million for the Motor Carrier Safety Administration, an increase of 11 percent over the current year. Included in the bill is the addition of $112 million requested by the President to maintain a high level of trucking safety on the border with Mexico as we fully open up the border next year pursuant to NAFTA. This is a very important initiative to ensure the safety of all Americans as Mexican trucks begin to drive beyond commercial zones near the border into the interior of the U.S. I believe this funding, combined with the administration's regulatory and program activities, will ensure that we receive the benefits of greater trade with Mexico while at the same time protecting our people as we learn to share the road with our neighbors to the south.

The bill includes $419 million for the National Highway Traffic Safety Administration, a 4 percent increase above current year, essentially the same as the administration requested, and it provides the level of funding called for in TEA-21.

Amtrak, we are recommending the requested level of $521 million for Amtrak's capital needs, and we waive a limitation on funding carried for several years so that Amtrak can access those funds on the first day of the fiscal year. We have all read about and studied Amtrak's difficult cash situation. This bill will help them as much as we can next year. Ultimately, though, Congress will have to decide what to do next year if Amtrak does not meet its 5-year glide path to operational self-sufficiency mandated by Congress, soon to be 5 years ago. This bill for now meets the Federal commitment to help get Amtrak to that point. Now the debate will begin about whether or not Amtrak deserves the subsidies that will be required to keep it operating.

In transit, the bill provides $6.7 billion for transit programs, an increase of almost $500 million over the current year. For the New Starts program, where funding is very tight, the committee chose to provide a higher share of the requested amount to those transit projects which show a more solid financial commitment by the local and State governments and where the Federal share is limited to 60 percent or less. This will allow the Congress to stretch the very limited amount of Federal money so a much greater number of worthy projects as possible can be conducted. I hope all Members will appreciate that the explosive demand for transit services is far greater than we can possibly fund. By rewarding those projects with a higher local commitment, we are being good stewards of the taxpayers' money.

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

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

Mr. Chairman, I rise in support of the fiscal year 2002 appropriation bill. This bill is one that historically has been developed in a bipartisan manner, and I am happy to say that this year is no different.

This is the first year that the gentleman from Kentucky (Mr. ROGERS) has chaired the subcommittee, and I congratulate him on a job well done. He has been thorough, he has been fair, and we have a bill before us that deserves the support of all Members of this House.

I would also like to thank our staff, Bev Phyto and Marjorie Duske from my staff, and the subcommittee staff of Rich Efford, Stephanie Gupta, Cheryle Tucker, Linda Muir and Theresa Kohler. They all have worked exceptionally well together and have produced an outstanding product. So this is a good bill that deserves passage by a substantial margin, and I would hope unanimous support.

The subcommittee held a number of hearings this year on aviation delays. The gentleman from Kentucky (Mr. ROGERS) should be commended for bringing the FAA, airports, airlines and other stakeholders together for frank discussions on the problems facing aviation customers. Solutions are not easy to come by, but we need a balanced approach to increase aviation system capacity with updated air traffic control technology, new runways and responsible flight scheduling.

One important factor that must not be overlooked is the fact that many communities have a legitimate concern about airport noise that results in delays or even prevent airport expansion. In order to save billions of dollars every year to mitigate noise impacts by insulating or relocating homes. To help alleviate the noise problem at its source, the bill provides an additional $20 million to increment aircraft engine noise research so that quieter airplanes can be developed sooner.

Overall, this is a great bill. We should pass it.

Let me also, however, note some concerns of our colleagues that the committee did not extend several transit, bus and New Start earmarks and would allow them to be reprogrammed in 2002. I am sure that we can work out these issues as we move forward in the appropriations process.

In closing, I believe that the merits of this bill outweigh any problems that must be addressed, and I urge support of the bill.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, to finish my opening statement, this bill is fair, it is balanced, it is bipartisan. It satisfies our national transportation needs to the best of our ability. It emphasizes strong program oversight and financial accountability, and it represents the hard work of every Member of this subcommittee.

I want to thank all of our Members for their suggestions, their hard work, and, again, special thanks to the ranking member, the gentleman from Minnesota (Mr. SABO), for his assistance throughout the process. I urge approval of the bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. YOUNG), the very able chair of the full committee who has been so helpful to us in the production of this bill and all of the others.

Mr. YOUNG of Florida. Mr. Chairman, I rise in enthusiastic support of this bill, and I want to compliment the gentleman from Kentucky (Mr. ROGERS) for having done an outstanding job in working with the gentleman from Minnesota (Mr. SABO), the ranking member, and the staff of the subcommittee, because they have taken a bill that has the potential for real controversy and made it a very good bipartisan bill.

That is not to say that there are not some differences, because there are some differences. That is always the case when we bring a bill to the floor. But these men have done a really good job.

I also want to compliment the gentleman from Kentucky (Mr. ROGERS), the chair of the Subcommittee, for the tremendous relationship that he has established with the authorizing committee, the Committee on Transportation and Infrastructure, chaired by our friend and colleague, the gentleman from Alaska (Mr. YOUNG). They had some problems that had to be worked out, and they were able to do that, mostly to the satisfaction of both of them. I believe this is a good example of how legislation can be drafted to get to a good bill that can be accepted by most everybody in this Chamber.
Mr. ROGERS of Kentucky. Mr. Chairman, I wish to engage in a colloquy with our distinguished chairman, the gentleman from Kentucky (Mr. ROGERS) and the staff of the Subcommittee on Transportation and Infrastructure, the authorizing committee, with whom I have a very close working relationship, and I appreciate his leadership and hard work, and I want to congratulate him for the outstanding job he has done as chairman of the subcommittee.

At the beginning of this Congress, the gentleman from Kentucky (Mr. ROGERS) and I began a process of improving communications between our two committees, and I am hopeful that we can continue to work together to improve our communications and cooperation.

I also would like to thank the gentleman from Florida (Mr. YOUNG) and the gentleman from Kentucky (Mr. ROGERS) for reporting a bill that generally honors the funding guarantees contained in both the Transportation Equity Act for the 21st Century, TEA–21, and the Aviation Investment and Reform Act of the 21st Century, AIR–21.

However, I still have several concerns about the legislation. First, I have made it clear from the beginning of my term as chairman of Committee on Transportation and Infrastructure that I am going to ensure that the guarantees provided in TEA–21 and AIR–21 are respected. These funds are essential to maintaining and improving our ground and aviation transportation systems.

As the gentleman from Minnesota (Mr. SABO) mentioned earlier, with NAFTA many trucks now will be coming into America further than the 30 miles, coming across into our country, and sometimes they may not meet the requirements that our country has set for our own trucks. I hope we will revisit the SABO amendment and that we make those trucks coming in from Mexico meet the very same standards that our trucks have. Mexican trucks coming from Mexico do not have regular hours of service. Sometimes their inspection records are not up-to-date like ours must be. I hope we take the time in this bill to revisit that issue, to make sure that all American citizens are secure and safe as trucks move around our country.

I would also like to thank the gentleman from Alaska (Mr. SABO) and the staff of the Subcommittee on Appropriations for their cooperation. I want to again to congratulate the gentleman from Alaska (Mr. SABO), the new and very able and strong chairman of the Committee on Transportation and Infrastructure, the authorizing committee, with whom I have a very close working relationship, and I appreciate his hard work and his cooperation.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. KILPATRICK), a distinguished member of our subcommittee.

Mr. KILPATRICK. Mr. Chairman, I thank the ranking member, the gentleman from Minnesota (Mr. SABO) for his outstanding leadership as we brought a perfect bill to this floor.

Mr. Chairman, it has been a pleasure to work with the gentleman from Kentucky (Mr. ROGERS) on this first time on appropriations and in the subcommittee. This is a good bill. I strongly urge its adoption and that we move forward in the process.

The gentleman from Alaska (Mr. SABO) and the gentleman from Minnesota (Mr. YOUNG) for the good work he has done in helping us to resolve some of these differences.

It is a good bill. Let us vote for it.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Michigan (Ms. KILPATRICK), a distinguished member of our subcommittee.

Ms. KILPATRICK. Mr. Chairman, I thank the ranking member, the gentleman from Minnesota (Mr. SABO) for his hard work and willingness to work with the gentleman through this appropriation process to produce the best transportation appropriation bill possible.

Mr. Chairman, I wish to thank the gentleman for yielding me 3 minutes to the gentleman from New Jersey (Mr. LOBIONDO). His amendment is needed to address the significant shortfall in the appropriation to the Coast Guard. It was my understanding that the Committee on the Budget had provided a sufficient Function 400 to cover all the needs of the Coast Guard. Unfortunately, that allocation was not passed in the appropriation bill. Therefore, the subcommittee on the Appropriations Committee on Transportation Appropriations for its consideration and cooperation. I want to commend the excellent staff of the gentleman from Kentucky (Chairman ROGERS) and the staff of the Subcommittee on Transportation for their hard work and willingness to work with my staff.

I look forward to continuing to work with the gentleman through this appropriation process to produce the best transportation appropriation bill possible.

Mr. SABO. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey (Mr. ROTHMAN), a member of the full committee.

Mr. ROTHMAN. Mr. Chairman, I thank the gentleman for yielding me 3 minutes.

Mr. Chairman, I wish to engage in a colloquy with our distinguished chairman, the gentleman from Kentucky (Mr. ROGERS) and the staff of the Subcommittee on Appropriations for its consideration and cooperation. I want to commend the excellent staff of the gentleman from Kentucky (Chairman ROGERS) and the staff of the Subcommittee on Transportation for their hard work and willingness to work with my staff.

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Mr. SABO. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey (Mr. ROTHMAN), a member of the full committee.

Mr. ROTHMAN. Mr. Chairman, I thank the gentleman for yielding me 3 minutes.

Mr. Chairman, I wish to engage in a colloquy with our distinguished chairman, the gentleman from Kentucky (Mr. ROGERS) and the staff of the Subcommittee on Appropriations for its consideration and cooperation. I want to commend the excellent staff of the gentleman from Kentucky (Chairman ROGERS) and the staff of the Subcommittee on Transportation for their hard work and willingness to work with my staff.

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Mr. ROTHMAN. Mr. Chairman, I thank the gentleman for yielding me 3 minutes.

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I look forward to continuing to work with the gentleman through this appropriation process to produce the best transportation appropriation bill possible.
(Mr. ROGERS), on the subject of Stewart Airport.

Mr. Chairman, I thank you for joining in a colloquy with me and the distinguished ranking member, the gentleman from Minnesota (Mr. SABO), to discuss an important issue regarding air traffic in the New York-New Jersey metropolitan region.

Mr. Chairman, I am grateful for your efforts and those of our distinguished ranking member and for the work of the committee to research how to reduce the terrible problem of aircraft noise, which affects tens of thousands of my constituents in northern New Jersey.

I also want to thank the chairman and ranking member for addressing the critical problem of airline delays and for their work on the redesign of the New Jersey-New York metropolitan area's regional air space.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. ROTHMAN. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. I want to thank the gentleman from New Jersey for requesting this colloquy. I am proud to inform him of the work the committee has done in our oversight hearings and in this bill to address the serious issue of airline delays. I am also pleased to report that the bill includes $8.5 million, which the Federal Aviation Administration is to use only for the redesign of the New Jersey-New York metropolitan region's air space.

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

Mr. ROTHMAN. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, the committee has also increased funding for the Federal Aviation Administration's environment and energy budget to research aircraft noise mitigation to $27.6 million, an increase of $24.1 million over fiscal year 2001, in order to speed the introduction of lower-noise aircraft technologies.

Mr. ROTHMAN. Mr. Chairman, re-claiming my time, I thank the gentle-

men.

As the Federal Aviation Administration looks at ways of reducing the stress on our overburdened regional air space, particularly the air space over northern New Jersey, I would also ask the committee to work with the FAA on examining the important role that Stewart International Airport could play in accommodating general aviation aircraft that now use Teterboro Airport, located in my district in New Jersey. Such a shift from Teterboro to Stewart would reduce the aircraft noise and air traffic that affects hundreds of thousands of my constituents every day.

Mr. ROGERS of Kentucky. If the gentle-

man will continue to yield, I want to thank the gentleman from New Jersey (Mr. ROTHMAN) and the others for high-lighting these additional ways that the FAA can reduce aircraft noise and ease air traffic congestion in the region. We will work with them on these important issues as the committee moves forward.

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

Mr. ROTHMAN. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I represent the area around the Stewart Airport, and I want the gentleman to know just today we have been meeting with the FAA to emphasize the need for using regional airports, such as Stewart, to alleviate the congestion of LaGuardia Airport. I want to commend the gentleman for focusing attention on this important issue.

Mr. ROTHMAN. Mr. Chairman, re-claiming my time, I thank my distin-

guished colleague.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Wis-

consin (Mr. OBEY), the distinguished ranking member of the full Committee on Appropriations.

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

Mr. Chairman, I simply want to say while we will certainly be debating a number of issues about which there is some disagreement today, including the Sabo amendment, overall, this is a very reasonable bill and it deserves to be supported. I expect to support it, and I expect a large number of Members will do the same.

I congratulate the gentleman from Kentucky and the gentleman from Minnesota for the job they have done. I appreciate their good work, as I know the House does, and we look forward to disposing of this bill in fairly short order.

Mr. ROGERS of Kentucky. Mr. Chair-

man, I yield 2 minutes to the gentle-

woman from Missouri (Mrs. EMERSON), one of the hardest working members of our subcommittee.

Mrs. EMERSON. Mr. Chairman, I rise today in support of H.R. 2299, and want to thank the gentleman from Kentucky (Chairman ROGERS) and the gentleman from Minnesota (Mr. SABO), the ranking member, for the fabulous job they have done in putting this bill together, as well as the staffs, who have worked tremendously.

I believe very strongly this bill goes a long way towards meeting our Na-
tion's transportation priorities. I come from a rural district; and, as cochair of the Rural Caucus, there is probably nothing more critical to helping rural America than improving our infra-
structure. It is probably the most im-
portant thing that we needed to ad-
dress in this issue, from my perspec-
tive, and, for the first time, our legisla-
tion does fund the Small Community Air Service Development Pilot Pro-
gram, which will stimulate new and ex-
panded air service at under-utilized airports in small and rural commu-
nities.

The legislation also includes import-
ant language which strongly urges the Department of Transportation to issue rural consultation provisions which were included back when we did TEA-
21 3 years ago. These important rules will ensure that our rural elected officials have a seat at the table when our State departments of transpor-
tation are making Statewide transpor-
tation planning decisions.

So, again, I would like to thank the chairman for his tremendous hard work; and I look forward to working with him and the ranking member as we continue on with the process.

Mr. SABO. Mr. Chairman, I yield 1 minute to a distinguished member of our subcommittee, the gentleman from Arizona (Mr. PASTOR).

Mr. PASTOR. Mr. Chairman, first of all I would like to congratulate our chairman, the gentleman from Ken-
tucky (Mr. ROGERS), and, ranking mem-
ber, the gentleman from Minnesota (Mr. SABO), for the fine work they have done in bringing this bill before us. It is a reasonable bill, it is a fair bill, and I congratulate them and also thank them.

I would like to thank the sub-committee for the work that they did on the issue of the borders in this bill. We have monies dedicated to building facilities that will inspect the trucks, as we have the international flow of trucks, and also we have additional personnel on the borders. This bill con-
tains additional money for personnel on the borders that will inspect the trucks.

I would also like to congratulate the subcommittee for the work they have done in dealing with airport congesc-
tion. As the gentleman from New Jer-
sey (Mr. ROTHMAN) talked about hubs, this subcommittee has taken on the re-
sponsibility of dealing with conges-
tion that we have, and I look forward to working with them to resolve that.

I would like to thank the staff for the fine work they have done. This is a good bill, and we support it.

Mr. ROGERS of Kentucky. Mr. Chair-

man, I yield 2 minutes to the gentle-

man from New York (Mr. SWEENEY), another one of the very hardworking members of our subcommittee.

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

Mr. Chairman, I basically wanted to stand and commend and congratulate our chairman of the subcommittee, who faced a number of challenges, as well as the ranking member, the gentle-

man from Minnesota (Mr. SABO).

This is a comprehensive bill that moves forward the transportation needs of this Nation in a very positive way, connecting our people with the air. They faced a great many challenges.

I come from a State that has huge transportation infrastructure needs.
For example, in the New Start program, they faced the challenge that the Federal Transit Administration account has done dangerously low levels in the New Start program, and there are a number of programs that need funding.

We were able to secure some funding for the New York City area, which has huge and substantial needs. In addition to that, as my colleague, the gentleman from New Jersey (Mr. ROMAN), pointed out, this bill moves forward in a very positive way. I think it is the first tangible way that any level of government began to look at the use of Stewart Airport as one of the four major airports in the New York metropolitan area. And this is not a North-east regional issue or problem, it is a national problem, because 30 percent of all domestic travel is constant out of this region. If we are able, through the commission of a study in this bill, to find a way to ease that problem, it will have an effect nationally.

There are a number of other provisions that work to serve the Northeast and my constituents, an I-87 corridor study and many other efforts in the high speed rail area, to connect our region.

But I want to especially commend the chairman, the gentleman from Kentucky (Mr. ROGERS), and his staff for their paying attention to these problems, for taking the issues that are at hand here today and working hard with them.

In addition, I understand we are going to add some new money into the FAA’s General Counsel’s office to handle airport-airline complaints. All of those efforts are consumer friendly and are important to moving the agenda forward, and I want to commend the chairman for his efforts.

Mr. PASTOR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. SERRANO), a member of the subcommittee.

Mr. SERRANO. Mr. Chairman, I rise to engage my chairman, the gentleman from Kentucky (Mr. ROGERS), in a colloquy.

Mr. Chairman, as you know, New York City is the nation’s biggest user of mass transportation. The city’s transportation needs, the constant growth and transit improvements and expansion are of critical importance to the city’s mobility and general well-being.

One project that is vital to the transit network of the future is the Second Avenue Subway. I requested funding for this project, as did other members of the New York delegation. However, as a member of the subcommittee, I am keenly aware of the funding limits that the gentleman from Kentucky (Chair- man Rogers) and the ranking member, the gentleman from Minnesota (Mr. SABO), faced in putting their bill together and of the tough decisions that they were forced to make.

One of these decisions was to limit New Starts funding to projects already in preliminary engineering. This made funding decisions that are still in the alternatives analysis stage of the planning process impossible.

I would ask the gentleman from Kentucky (Chairman ROGERS) if there were any exceptions to this policy and if the gentleman from New York has been very, very persuasive with us.

Mr. SERRANO. Mr. Chairman, reclaiming my time, I thank the chairman for those comments. I would like to close by saying this continues to be a major issue and to certainly the surrounding area, the people who come in to visit. I would hope that in the near future we could move to find a way to fund this project.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

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

Mr. Chairman, I am pleased to rise in strong support of this measure, the Fiscal Year 2002 Transportation Appropriations Act. I commend the gentleman from Kentucky (Mr. ROGERS), the subcommittee’s distinguished chairman, for his diligence and hard work in crafting this legislation, which appropriates over $50 billion in budgetary resources to meet our Nation’s transportation needs, including almost $20 million for New York State and my Congressional district.

I am gratified to note that over $6 million has been earmarked for improving Stewart International Airport, which we have been discussing, providing funding for the construction of a new, long-needed air traffic control tower.

In addition, funds are going to be allocated to the Stewart Airport Connector Study, which will improve surface access to the airport. Moreover, I welcome Chairman ROGERS’ support for Stewart by his recognition of its potential as a priority alternative regional airport for the New York metropolitan region.

Earlier today, I was pleased to host a meeting with Chuck Seliga, Managing Director of Stewart International, and with officials from the Federal Aviation Administration to review the future of Stewart Airport and how our efforts to alleviate congestion at LaGuardia should include Stewart Airport.

Stewart International has the infrastructure location and capability to be a viable alternative for the New York metropolitan region, and I fully support efforts to promote this underutilized airport. I commend the gentleman from Kentucky (Mr. ROGERS), the chairman of the subcommittee, for his efforts in crafting this vital legislation.

Accordingly, I urge my colleagues to fully support this important appropriations bill.

Mr. FASTOR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I would like to engage the gentleman from Kentucky (Mr. ROGERS), the subcommittee chairman, in a colloquy.

Mr. Chairman, I would like to request that a study be conducted on pier safety in navigable waters.

Currently, no Federal regulations exist requiring safety standards for piers. This deeply concerns me because there have been a great number of fatal pier accidents that could have been prevented if Federal safety standards were in place.

One such fatal accident took place on May 18, 2000, when a 140-foot portion of Pier 34 on the Delaware River in Philadelphia collapsed, killing three constituents of mine. This accident could have been avoided if Federal pier safety standards had existed.

I believe that Congress can take an active role in preventing these tragic accidents from occurring by creating safety standards for piers in navigable waters. Therefore, I respectfully ask for the chairman to support my efforts by urging the conferees to include language in the final transportation appropriations bill that calls for a study to be conducted on pier safety.

Mr. Chairman, I thank the gentleman for yielding.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. Mr. Chairman, I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, while I have not examined this particular issue in detail, I can assure the gentleman that we will seriously consider his request.

Mr. ANDREWS. Mr. Chairman, I thank the subcommittee chairman and the staff.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. WOLF), the very able immediate past chairman of this subcommittee and now the chairman of the Subcommittee on Commerce, Justice and State and Judiciary.

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

Mr. WOLF. Mr. Chairman, I rise in strong support of the bill.
I do want to just say, though, for the membership of the body and for the administration, the gentleman from Minnesota (Mr. Sabo) is right. We have to be careful on this truck issue. Five thousand people a year die in the United States from trucks. If you go out on a truck inspection of American trucks, you will be fearful when you go out on the road sometimes.

Mexico has no hours of service. None. Mexico has no drug testing. None. Mexico has no truck inspection. None. Mexico uses leaded gasoline and not unleaded gasoline.

Frankly, the administration has not thought this thing through, and we do not even have an Office of Motor Carrier Administration yet on the job.

Now, I know the gentleman from Kentucky (Mr. Rogers) said we will watch this carefully and I appreciate that. But this is an important issue. I tell you this, Mr. Sabo, you have to be careful and you better handle this right, because if this is not handled right, people will die. So this is an important issue, and I appreciate the chairman’s commitment to making sure that those regulations are good. I think the Congress ought to be very careful and the administration especially so, to listen to what the gentleman from Minnesota (Mr. Sabo) was trying to say.

The truck safety issue is one that I advocated as the chairman of the House transportation appropriations subcommittee over the past six years. I sat in hearings and heard testimony on this. If you can make a comprehensive safety program involving trucks from Mexico, including testing from the inspector general at the Department of Transportation, that office issued a December 1998 audit report which “concluded that neither the Office of Motor Carriers nor the border states, with the exception of California, are taking sufficient action to ensure that trucks entering the United States from Mexico meet U.S. safety standards.” A copy of the report is enclosed.

I understand the requirements under NAFTA permitting cross-border trucking services. Nevertheless, the U.S. needs to ensure that trucks from Mexico, including testing from the inspector general at the Department of Transportation must establish a comprehensive enforcement program that provides reasonable assurance of the safety of trucks from Mexico. The Department of Transportation must establish a comprehensive enforcement program that provides reasonable assurance of the safety of trucks from Mexico.

The United States and Mexico must establish, test and implement a comprehensive truck safety program at our borders. This is unacceptable to have unsafe trucks from anywhere on our highways. These trucks could be traveling on I-81 through the Shenandoah Valley in the heart of my congressional district, or on I-5 in California, or on the streets of the nation’s capital. We have an obligation to protect our families, our friends and our neighbors who use the nation’s highway system every hour of every day.

I urge the Bush Administration to take every precaution necessary to ensure that no lives are lost because of unsafe trucks on our highways. I have spent considerable time on this issue over the past six years and believe it deserves your close attention.

Mr. HINCHEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. Hinchey).

Mr. HINCHEY. Mr. Chairman, I want to express my appreciation to the gentleman from Kentucky (Mr. Rogers), the chairman of the subcommittee, for putting together a very excellent bill to help us deal with the transportation needs of our country over the course of the upcoming fiscal year.

In particular, I want to thank him for his attention to our air traffic needs and particularly to the subject of air traffic safety and the need to relieve air traffic congestion in many places around the country.

The airport at the LaGuardia field in New York City is principal among them. The chairman has recognized that it is possible to relieve air traffic congestion at LaGuardia and other metropolitan airports by providing an alternative venue at Stewart International Airport, which is located just 60 miles north of Manhattan.

The chairman has expressed that by working with us to obtain an appropriation of $5.7 million for a new air traffic control tower and air traffic control system at Stewart, we are going to be successful in attracting new carriers into Stewart, new commercial carriers, this air traffic control system, which is funded in this appropriation bill, will be absolutely essential. I thank the chairman for that.

I also want to express my appreciation to the chairman for his recognition and allowing of report language in the bill which instructs the Federal Aviation Administration to pay attention to Stewart Airport as it addresses the need to relieve congestion at LaGuardia and other airports in the metropolitan region. We have placed language, report language, in the bill which stipulates that this should occur and that the FAA and the Federal Department of Transportation in addressing these needs also pay attention to the need to provide surface transportation between Newburgh where Stewart Airport is located and the metropolitan area of New York City.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. Gekas) for the purpose of a colloquy.

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

The current bill contains a provision in which the result is a reallocation of certain funds that were appropriated for what is called Corridor One in central Pennsylvania, a very vital item in...
the revitalization of mass transit transportation and economic development. We want to recommit this reallocation and allow the stimulus of funding to continue, and we would urge the chairman, and I will yield to him for a colloquy on this. I would ask him to work with us, staff-to-staff and Member to Member, so that we can try to refashion the appropriation and re-store what has been reallocated.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I appreciate the concerns of the gentleman. We would be pleased to work with him as the transportation bill moves along this year, and I assure the gentleman of that.

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman.

Mr. PASTOR. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Jersey (Mr. MENENDEZ).

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

I would ask if he, on behalf of the gentleman from Minnesota (Mr. SABO) and the distinguished chairman, as well as the gentleman from New Jersey (Mr. ROTHMAN), would join in a colloquy.

Mr. Chairman, I would like to thank the gentleman from Kentucky (Mr. ROGERS), the chairman of the sub-committee, and the gentleman from New Jersey (Mr. ROTHMAN), I yield to the gentleman from New Jersey (Mr. ROTHMAN), for the cooperation.

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

Mr. MENENDEZ. Mr. Chairman, I yield to the gentleman from Kentucky.

Mr. ROTHMAN. Mr. Chairman, I too wish to express my gratitude to the gentleman from Kentucky (Mr. ROGERS), the chairman of the sub-committee, and to the gentleman from Arizona (Mr. Pastor) on behalf of the ranking member, the gentleman from Minnesota (Mr. SABO), for the cooperation and generosity of the committee for its help on a wide range of transportation priorities in New Jersey that are included in this bill.

I understand the funding constraints under which the committee is working. I would also, however, like to point out that this new ferry hub project would provide an important transportation solution for the area, New York, New Jersey and Connecticut, as well as in particular for Jersey City. It would connect the New York and New Jersey financial districts with a 5-minute ferry ride, transport up to 30,000 passengers daily, and provide relief to the congested PATH and Holland Tunnel interstate traffic.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. MENENDEZ. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield all of my colleagues for bringing the Jersey City project to our attention. I will be glad to work with my colleagues and other project sponsors as we move the transportation bill through the process this year.

Mr. MENENDEZ. Mr. Chairman, I thank the chairman for his consideration.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I applaud the gentleman from Kentucky (Mr. ROGERS) and the committee for taking action to fight the growing gridlock that plagues northern Illinois.

For the first time in 70 years, our country is building a new commuter rail line, Metra’s North Central line; and once complete, this line will pull thousands of cars off of our crowded highways and help us meet our obligations under the Clean Air Act.

The bill also contains funding for a traffic control center in Libertyville, Illinois, the Pace Suburban Bus System that relieves the pressure for the reverse commuters and for roadway construction at Palwaukee Airport that will rebuild a crumbling runway that is crucial to relieving congestion at nearby O’Hare.

I want to thank the gentleman from Minnesota (Mr. SABO) and the gentleman from Kentucky (Mr. ROGERS) for their commitment to the quality of life and environment of northern Illinois.

Mr. Chair, I urge strong support for this bill.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), one of our colleagues on the Committee on Appropriations and an old friend.

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

Mr. Chairman, I applaud the efforts of the chairman and the ranking member on this bill.

I rise to speak on behalf of a provision which will help the Anacostia waterfront become a vibrant community of residents and commerce, a project that will make Poplar Point a recreation destination, and to make South Capitol Street the center of a vital community and an appropriate gateway entrance into this capital city.

Last year, the gentlewoman from the District of Columbia (Ms. NORTON) shepherded through the Congress a bill to allow private development of the Southeast Federal Center. Her bill was key in bringing commercial and residential growth into this community. Over the past several months, I have been working with the gentlewoman from the District of Columbia (Ms. NORTON), Mayor Williams, and a host of Federal and local agencies and all of my colleagues from the Washington metropolitan area to identify what the Federal Government’s next step can be. The next step must be addressing the terrible state of the South Capitol Street entrance to the Nation’s capitol.

I therefore rise in strong support of the initiative in this bill for the Transportation Department to examine how to rework South Capitol Street. The transportation study will examine ways to create better infrastructure that links the waterfront community to the existing Capitol Hill community.

Once completed, this study is certain, certain to help community residents, Federal officials, and entrepreneurs to combine their skills and energy to realize the Anacostia’s full potential.

We in Congress, Mr. Chairman, have a duty, a duty to this great city. By supporting the South Capitol Street traffic pattern study, we will be giving our Nation’s capital a critical planning tool to make a smart, balanced development decision in the next few years. We will also be sending a powerful signal to District residents and entrepreneurs that we care about Washington, D.C.’s future.

I am very pleased to support this bill and the initiative. I think it is an initiative that all of us will look back on a decade, 2 decades from now and say, this was a substantial step, not just for the capital city, but for America as well.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. FOSSELLA) for the purposes of a colloquy.

Mr. ROGERS of Kentucky (Mr. ROGERS). Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ) for addressing the needs of the Jersey City project.

Mr. MENENDEZ. Mr. Chairman, I yield to the distinguished gentleman from Illinois (Mr. KIRK).

Mr. Chairman, I urge strong support for this bill.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), one of our colleagues on the Committee on Appropriations and an old friend.

Mr. HOYER. Mr. Chairman, I urge strong support for this bill.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ROTHMAN) for the purposes of a colloquy.
Mr. FOSSELLA. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to thank the gentleman from Kentucky (Mr. ROGERS) for giving me the opportunity to discuss an issue that is vital not just to New York, but indeed the entire country.

As the gentleman knows, the dynamics of the Regional Airspace Redesign recently brought this issue to our attention. The FAA is currently undertaking the New York-New Jersey-Philadelphia Airspace Redesign project, which is expected to take 5 years to complete.

According to the FAA, the purpose of the New York-New Jersey Airspace Redesign project is to “increase the efficiency of air traffic flows into and out of the metropolitan area, including Philadelphia, while maintaining or improving the level of safety and air traffic services that are currently in place.”

In accordance with the Federal law, the FAA must conduct an environmental review before implementing any new flight plans. A concern that I have is the environmental impacts of departure delays. Anybody on the runway of any of the major airports knows what I mean, particularly, for example, in Newark airport, where it is not uncommon to sit on the runway for 45 minutes or hour, an hour, 15 minutes in the morning.

It is something that I feel deserves more consideration while conducting the redesign. By increasing efficiency, not only will delays be reduced, but the environments of surrounding communities will see a significant reduction in air pollution. Airports are significant sources of ground-level volatile organic compounds and nitrogen oxides. In our Nation’s largest and busiest airports, these idling planes can create as much, if not more, ground-level pollution than many of their large industrial neighbors.

According to a July 2000 report by Department of Transportation Office of Inspector General, at the 28 largest U.S. airports, the number of flights with taxi-out times of 1 hour or more increased 130 percent over the past 5 years, with nearly 85 percent of all delay times occurring on the ground. In addition, it was reported that the departure delays were significantly underreported, so the full environmental effects of idling planes is not known.

The area included in the redesign contains four of the Nation’s 10 most delayed airports. By encouraging the FAA to take the environmental impacts of departure delays into consideration while evaluating new departure paths, this could lead to not only more efficient airports with less delays and happier consumers, but also a cleaner environment; therefore, I respectfully ask that the gentleman include language in the committee report directing the FAA to consider these impacts while conducting its environmental review.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I want to thank the gentleman from Florida (Mr. YOUNG), the gentleman from Wisconsin (Mr. OBEY), the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) for their great work on this bill.

Mr. Chairman, $65 million for the Mission Valley East Light Rail Extension is included in this bill, and that is part of the San Diego Trolley, an area that we have been trying to improve for a number of years. Also it includes $2 million for phase 1 of the Mid Coast Corridor Extension.

Mr. Chairman, I want to thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) for their long-standing commitment to mass transit.

I also want to recognize and thank my colleagues in the San Diego congressional delegation, the gentleman from California (Mr. HUNTER), the gentleman from California (Mr. FILNER) and the gentleman from California (Mr. ISSA). We have worked together on this Mission Valley East Extension, and this bipartisan cooperation will make a big difference for all of our constituents in San Diego.

What does that mean? It means that we are going to be increasing the trolley ridership by 2.5 million new annual transit riders. It means that students at San Diego State University will now be connected to our light rail system. It means that patients at Alvarado Medical Center will be connected to the light rail system. It also means that we are going to close the gap between our blue and our orange lines, and we will take a first step towards linking the University of California at San Diego to our light rail system.

Mr. Chairman, I thank the gentleman from Kentucky (Mr. ROGERS) for the opportunity to acknowledge these needed transit improvements that will be coming to the San Diego region and the big difference it will be making for all of us.

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

Mr. ROGERS of Kentucky.

Mr. Chairman, I submit the following for the RECORD.
## TRANSPORTATION APPROPRIATIONS BILL, 2002 (H.R. 2299)
(Amounts in thousands)

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<td>(6,331)</td>
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<tr>
<td><strong>Subtotal</strong></td>
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<td>-139</td>
<td>-139</td>
<td>+139</td>
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<td><strong>Office of civil rights</strong></td>
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<td><strong>Across the board (0.22%) rescission</strong></td>
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<td>Transportation planning, research, and development</td>
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<td>Transportation Administrative Service Center</td>
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<td>Payments to air carriers (Airport &amp; Airway Trust Fund)</td>
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<td>87,063</td>
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<td>+11,034</td>
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<td><strong>Acquisition, construction, and improvements</strong></td>
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<td>Vessels</td>
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<td><strong>Environmental compliance and restoration</strong></td>
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<td><strong>Across the board (0.22%) rescission</strong></td>
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<td>-959</td>
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<tr>
<td>Operations</td>
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<td>6,870,000</td>
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<td>Aviation regulations and certification</td>
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<td>(74,440,744)</td>
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<td>Civil aviation security</td>
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<td>(150,154)</td>
<td>(135,849)</td>
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<td>Research and acquisition</td>
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<td>(190,674)</td>
<td>(185,258)</td>
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<td>Commercial space transportation</td>
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<td>(14,709)</td>
<td>(15,254)</td>
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<td><strong>Financial services</strong></td>
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<td>(50,694)</td>
<td>(50,480)</td>
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<td><strong>Staff offices</strong></td>
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<td>(74,518)</td>
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<td>(118,208)</td>
<td>(108,776)</td>
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<td><strong>Subtotal</strong></td>
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<td>(6,886,000)</td>
<td>(6,870,000)</td>
<td>+325,765</td>
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<tr>
<td><strong>Across the board (0.22%) rescission</strong></td>
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**NOTE:** FY01 rescissions included in Net total lines.
## TRANSPORTATION APPROPRIATIONS BILL, 2002 (H.R. 2299)—Continued  
**(Amounts in thousands)**

<table>
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<tr>
<th>Item</th>
<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
<th>Bill vs. Request</th>
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<tr>
<td>Facilities &amp; equipment (Airport &amp; Airway Trust Fund)</td>
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<td>2,914,000</td>
<td>2,914,000</td>
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<td>Research, engineering, and development (Airport and Airway Trust Fund)</td>
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<td>Across the board (0.22%) recession</td>
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<td>Grants-in-aid for airports (Airport and Airway Trust Fund):</td>
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<td>(Liquidation of contract authorization)</td>
<td>(3,200,000)</td>
<td>(1,600,000)</td>
<td>(1,600,000)</td>
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<tr>
<td>(Limitation on obligations)</td>
<td>(3,200,000)</td>
<td>(3,300,000)</td>
<td>(3,300,000)</td>
<td>(+100,000)</td>
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<td>Across the board (0.22%) recession</td>
<td>(-7,040)</td>
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<td>Across the board (0.22%) recession</td>
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<td>Rescission of contract authorization</td>
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<td>+30,000</td>
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<tr>
<td>(Limitations on obligations)</td>
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<td>(3,300,000)</td>
<td>(3,300,000)</td>
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<td>-331,000</td>
<td>-301,000</td>
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<td>+30,000</td>
</tr>
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<td>Federal Highway Administration</td>
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<td>Limitation on administrative expenses</td>
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<tr>
<td>Federal-aid highways (Highway Trust Fund):</td>
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<tr>
<td>(Limitation on obligations)</td>
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<tr>
<td>Revenue aligned budget authority (RABA)</td>
<td>(29,603,806)</td>
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<td>(+154,696)</td>
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<td>Innovative transportation solutions program (RABA)</td>
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<td>Alternative transportation grant program (RABA)</td>
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<tr>
<td>Border infrastructure construction program (RABA)</td>
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<tr>
<td>Subtotal, RABA</td>
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<td>(27,042,994)</td>
<td>(27,197,693)</td>
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<td>(+154,696)</td>
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<td>+4,726</td>
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<td>(23,896)</td>
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<td>(31,563,157)</td>
<td>(31,716,797)</td>
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<td>(+153,640)</td>
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<td>(955,000)</td>
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<td>(30,000,000)</td>
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<td>Emergency Relief Program (Highway Trust Fund) (contingent emergency appropriation)</td>
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<tr>
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</tr>
<tr>
<td>(Limitations on obligations)</td>
<td>(29,661,806)</td>
<td>(31,563,157)</td>
<td>(31,716,797)</td>
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<td>(+153,640)</td>
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<tr>
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<td>Motor carrier safety (limitation on obligations administrative expenses)</td>
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<td>National motor carrier safety program (Highway Trust Fund):</td>
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<td>Border-State grants</td>
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<td>State commercial driver's license</td>
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<tr>
<td>Motor carrier safety assistance grants</td>
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<tr>
<td>Subtotal, RABA</td>
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<td>(204,837)</td>
<td>(205,896)</td>
<td>(+28,896)</td>
<td>(+1,059)</td>
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<td>Total, Federal Motor Carrier Safety Administration</td>
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<td>(+29,009)</td>
<td>(+45,641)</td>
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<tr>
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<td></td>
<td>+591</td>
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### TRANSPORTATION APPROPRIATIONS BILL, 2002 (H.R. 2299)—Continued

(All amounts in thousands)

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<td>(+420)</td>
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<td>(156)</td>
<td>(156)</td>
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<td>Highway traffic safety grants (Highway Trust Fund):</td>
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<tr>
<td>(Limitation on obligations)</td>
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<td></td>
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<td>Highway safety programs (Sec. 402)</td>
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<td>Occupant protection incentive grants (Sec. 405)</td>
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<td>Alcohol-impaired driving countermeasures grants (Sec. 410)</td>
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<td>State highway safety data grants (Sec. 411)</td>
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<tr>
<td>Total, National Highway Traffic Safety Administration</td>
<td>116,876</td>
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<td>124,420</td>
<td>(+5,544)</td>
<td>(+420)</td>
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<tr>
<td>(Limitation on obligations)</td>
<td>295,000</td>
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<tr>
<td>Total budgetary resources</td>
<td>403,876</td>
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<td>419,420</td>
<td>(+13,544)</td>
<td>(+420)</td>
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<tr>
<td>ATB rescissions</td>
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<td>Net total</td>
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<td>416,000</td>
<td>419,420</td>
<td>(+16,432)</td>
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#### Federal Railroad Administration

<table>
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<tr>
<th>Item</th>
<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
<th>Bill vs. Request</th>
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<tbody>
<tr>
<td>Safety and operations</td>
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<td>110,461</td>
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<td>Offsetting collections</td>
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<td>Railroad research and development</td>
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<td>-14,000</td>
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<td>Rhode Island Rail Development</td>
<td>17,000</td>
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<td>Pennsylvania Station Redevelopment project (advance appropriations, FY 2001, FY 2002, FY 2003)</td>
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<td>Rescissions</td>
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<td>Next generation high-speed rail</td>
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<td>West Virginia Rail development</td>
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<td>Capital grants to the National Railroad Passenger Corporation</td>
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<td>521,476</td>
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<td>Across the board (0.22%) rescission</td>
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<tr>
<td>Total, Federal Railroad Administration</td>
<td>743,978</td>
<td>651,258</td>
<td>684,412</td>
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<tr>
<td>Net total</td>
<td>742,338</td>
<td>651,258</td>
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#### Federal Transit Administration

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<th>Item</th>
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<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
<th>Bill vs. Request</th>
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<tbody>
<tr>
<td>Administrative expenses</td>
<td>12,800</td>
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<td>13,400</td>
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<td>Across the board (0.22%) rescission</td>
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<tr>
<td>Administrative expenses [Highway Trust Fund, Mass Transit Account] (limitation on obligations)</td>
<td>51,200</td>
<td>53,600</td>
<td>53,600</td>
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<tr>
<td>Subtotal, Administrative expenses</td>
<td>63,970</td>
<td>67,000</td>
<td>67,000</td>
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<tr>
<td>Formula grants</td>
<td>669,000</td>
<td>718,400</td>
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<td>Across the board (0.22%) rescission</td>
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<td>Formula grants (Highway Trust Fund) (limitation on obligations)</td>
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<td>Across the board (0.22%) rescission</td>
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<td>Subtotal, Formula grants</td>
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<td>3,592,000</td>
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<td>University transportation research</td>
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<tr>
<td>University transportation research (Highway Trust Fund, Mass Transit Account) (limitation on obligations)</td>
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<td>4,800</td>
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<tr>
<td>Across the board (0.22%) rescission</td>
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<td>Subtotal, University transportation research</td>
<td>6,000</td>
<td>6,000</td>
<td>6,000</td>
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<tr>
<td>Transit planning and research</td>
<td>22,200</td>
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<td>Transit planning and research (Highway Trust Fund, Mass Transit Account) (limitation on obligations)</td>
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<td>Subtotal, Transit planning and research</td>
<td>110,000</td>
<td>116,000</td>
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<td>Rural transportation assistance</td>
<td>5,250</td>
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<td>National transportation safety</td>
<td>4,000</td>
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<tr>
<td>Transit cooperative research</td>
<td>8,250</td>
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<tr>
<td>Metropolitan planning</td>
<td>92,114</td>
<td>95,422</td>
<td>95,422</td>
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1/ Funding provided in P.L. 106-113.
TRANSPORTATION APPROPRIATIONS BILL, 2002 (H.R. 2299)—Continued  
(Amounts in thousands)

<table>
<thead>
<tr>
<th>Description</th>
<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
</tr>
</thead>
<tbody>
<tr>
<td>State planning</td>
<td>(10,866)</td>
<td>(11,578)</td>
<td>(11,576)</td>
<td>(+692)</td>
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<tr>
<td>National planning and research</td>
<td>(59,500)</td>
<td>(51,500)</td>
<td>(51,500)</td>
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<td><strong>Subtotal</strong></td>
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<td>(116,078)</td>
<td>(116,076)</td>
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<td>Across the board (0.22%) recision</td>
<td>-49</td>
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<td>+49</td>
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<tr>
<td>Trust fund share of expenses (Highway Trust Fund) (liquidity of contract authorization)</td>
<td>(5,016,600)</td>
<td>(5,397,800)</td>
<td>(5,397,800)</td>
<td>(+381,200)</td>
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<tr>
<td>Capital investment grants</td>
<td>529,000</td>
<td>586,200</td>
<td>586,200</td>
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<td>Capital investment grants (Highway Trust Fund, Mass Transit Account) (limitation on obligations)</td>
<td>(2,116,600)</td>
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<td><strong>Subtotal, Capital investment grants</strong></td>
<td>(2,664,000)</td>
<td>(2,841,000)</td>
<td>(2,841,000)</td>
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<td>Fixed guideway modernization</td>
<td>(1,005,400)</td>
<td>(1,136,400)</td>
<td>(1,136,400)</td>
<td>(+78,000)</td>
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<tr>
<td>Buses and bus-related facilities</td>
<td>(200,000)</td>
<td>(268,200)</td>
<td>(268,200)</td>
<td>(+68,000)</td>
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<td>New starts</td>
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<td>(1,136,400)</td>
<td>(1,136,400)</td>
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<td><strong>Subtotal</strong></td>
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<td>(2,841,000)</td>
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<td>Discretionary grants (Highway Trust Fund, Mass Transit Account) (liquidity of contract authorization)</td>
<td>(350,000)</td>
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<td>-350,000</td>
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<tr>
<td>Job access and reverse commute grants</td>
<td>20,000</td>
<td>25,000</td>
<td>25,000</td>
<td>+5,000</td>
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<tr>
<td>Across the board (0.22%) recision</td>
<td>-44</td>
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<tr>
<td>(Highway Trust Fund, Mass Transit Account) (limitation on obligations)</td>
<td>(100,000)</td>
<td>(100,000)</td>
<td>(100,000)</td>
<td>(+20,000)</td>
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<td>Trust fund share of expenses (limitation on obligations) (ATB recision)</td>
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<td>(+14,492)</td>
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<td><strong>Subtotal, Job access and reverse commute grants</strong></td>
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<td>(125,000)</td>
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<td>Total, Federal Transit Administration</td>
<td>1,254,400</td>
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<td>(Limitations on obligations)</td>
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<td>(5,397,800)</td>
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<td><strong>Total budgetary resources</strong></td>
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<td>Saint Lawrence Seaway Development Corporation</td>
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<td>13,291</td>
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Research and Special Programs Administration

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<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
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<td>Hazardous materials safety</td>
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<tr>
<td>Emergency transportation</td>
<td>1,603</td>
<td>1,687</td>
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<tr>
<td>Research and technology</td>
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<td>4,760</td>
<td>1,764</td>
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<tr>
<td>Program and administrative support</td>
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<td>14,059</td>
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<td>Adjustment</td>
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<td><strong>Subtotal, research and special programs</strong></td>
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<td>41,903</td>
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Offsetting collections

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<th>FY 2002 Request</th>
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<td>Pipeline safety</td>
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<td>Pipeline safety reserve</td>
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<td><strong>Subtotal, Pipeline safety program (including reserve)</strong></td>
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<td>(53,758)</td>
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Office of Inspector General

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<th>FY 2002 Request</th>
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<th>Bill vs. Enacted</th>
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<tbody>
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<td>(By transfer from FTA)</td>
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<td><strong>Net total</strong></td>
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Surface Transportation Board

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<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
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<tbody>
<tr>
<td>Salaries and expenses</td>
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<td>17,507</td>
<td>17,613</td>
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<tr>
<td>Across the board (0.22%) recision</td>
<td>-07</td>
<td></td>
<td></td>
<td>+7</td>
</tr>
</tbody>
</table>

June 26, 2001
## TRANSPORTATION APPROPRIATIONS BILL, 2002 (H.R. 2299) — Continued

(Amounts in thousands)

<table>
<thead>
<tr>
<th>Bureau of Transportation Statistics</th>
<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill Enacted</th>
<th>Bill Request</th>
</tr>
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<td>Office of airline information (Airport &amp; Airway Trust Fund)</td>
<td>3,760</td>
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<td>-3,760</td>
<td>-3,760</td>
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<td>General Provisions</td>
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<td>-54,963</td>
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<td>Appalachian development highway system (Sec. 329)</td>
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<td>-1,256</td>
<td>-1,256</td>
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<td>Amtrak Reform Council (Sec. 326)</td>
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<tr>
<td>Muscle Shoals, Tuscaloosa, and Sheffield (Sec. 375)</td>
<td>5,000</td>
<td>-5,000</td>
<td>-5,000</td>
<td>-5,000</td>
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<td>Valley trains and tours (Sec. 376)</td>
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<td>-1,370,000</td>
<td>-1,370,000</td>
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<tr>
<td>Across the board (0.22%) recision</td>
<td>1,370,000</td>
<td>1,370,000</td>
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<td>Woodrow Wilson Memorial Bridge (Sec. 376)</td>
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<td>Miscellaneous appropriations (P.L. 106-554)</td>
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<td>Newark-Lower rail link project (sec. 1107)</td>
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<td>-2,000</td>
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<tr>
<td>Commercial remote sensing products and spatial information technologies (sec. 1109)</td>
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<td>-2,000</td>
<td>-2,000</td>
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<tr>
<td>Rural farm-to-market roads (sec. 1121)</td>
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<td>-2,000</td>
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<tr>
<td>Buses &amp; bus facilities, A&amp;M University (sec. 1123)</td>
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<td>-2,000</td>
<td>-2,000</td>
<td>-2,000</td>
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<tr>
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<td>-2,000</td>
<td>-2,000</td>
<td>-2,000</td>
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<tr>
<td>Across the board (0.22%) recision</td>
<td>-2,000</td>
<td>-2,000</td>
<td>-2,000</td>
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<tr>
<td>Total, General provisions</td>
<td>2,046,310</td>
<td>785</td>
<td>785</td>
<td>785</td>
</tr>
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Net total, title I, Department of Transportation

| Appropriations | 18,426,918 | 17,094,110 | 17,094,110 | 17,094,110 |
| Rescissions | -1,256 | -1,256 | -1,256 | -1,256 |
| Contingent emergency | -2,000 | -2,000 | -2,000 | -2,000 |
| (By transfer) | -2,000 | -2,000 | -2,000 | -2,000 |
| Limitations on obligations | -2,000 | -2,000 | -2,000 | -2,000 |
| Recissions of limitations on obligations | -2,000 | -2,000 | -2,000 | -2,000 |
| Exempt obligations | -2,000 | -2,000 | -2,000 | -2,000 |
| Net total budgetary resources | 57,840,622 | 58,848,911 | 59,051,479 | 59,263,055 |

TITLE II — RELATED AGENCIES

| Architectural and Transportation Barriers Compliance Board |
| Salaries and expenses | 4,795 | 5,015 | 5,046 | +251 | +31 |
| Across the board (0.22%) recision | -11 | -11 | -11 | -11 |
| Net total | 4,784 | 5,015 | 5,046 | +262 | +31 |

| National Transportation Safety Board |
| Salaries and expenses | 62,942 | 64,480 | 66,400 | +1,920 | +1,920 |
| Across the board (0.22%) recision | -139 | -139 | -139 | -139 |
| Net total | 62,803 | 64,480 | 66,400 | +1,920 | +1,920 |

| Total, title II, Related Agencies |
| Total budgetary resources | 67,587 | 69,495 | 71,446 | +1,859 | +1,951 |

| Contingent emergency | (720,000) | -720,000 | -720,000 | -720,000 |
| (By transfer) | (2,000) | -2,000 | -2,000 | -2,000 |
| Limitations on obligations | (40,899,601) | -40,899,601 | -41,007,600 | +1,257,200 | +107,999 |
| Recissions of limitations on obligations | (87,988) | -87,988 | -87,988 | -87,988 |
| Exempt obligations | (955,000) | -955,000 | -955,000 | -114,000 |
| Net total budgetary resources | 97,908,209 | 98,018,408 | 98,122,921 | +1,214,712 | +104,515 |

| Scorekeeping adjustments: |
| Pipeline safety (OSLT) | -7,000 | -7,000 | -7,000 | -35,000 | +5,000 |
| Across the board cut (0.22%) | -42,000 | -42,000 | -42,000 | -42,000 |
| Total, adjustments | -8,256 | -8,256 | -8,256 | -8,256 |

| Total grand total (including scorekeeping) |
| Appropriations | 18,458,749 | 17,116,805 | 17,116,805 | 1,367,628 |
| Recissions | (941,629) | (941,629) | (941,629) | (941,629) |
| Contingent emergency | (720,000) | -720,000 | -720,000 | -720,000 |
| (By transfer) | (2,000) | -2,000 | -2,000 | -2,000 |
| Limitations on obligations | (40,899,601) | -40,899,601 | -41,007,600 | +1,257,200 | +107,999 |
| Recissions of limitations on obligations | (87,988) | -87,988 | -87,988 | -87,988 |
| Exempt obligations | (955,000) | -955,000 | -955,000 | -114,000 |
| Net grand total budgetary resources | 58,899,453 | 58,971,408 | 59,080,921 | 1,181,468 | +109,515 |
## TRANSPORTATION APPROPRIATIONS BILL, 2002 (H.R. 2299)—Continued

(Amounts in thousands)

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<tr>
<th>FY 2001</th>
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<th>Bill vs. Request</th>
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<td>Request</td>
<td>Bill</td>
<td>Enacted</td>
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<tr>
<td>Highway category:</td>
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<td></td>
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<td></td>
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<tr>
<td>(Limitation on obligations)</td>
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<td>(32,310,000)</td>
<td>(+2,094,000)</td>
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<td>(Limitation on obligations)</td>
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<td>14,892,575</td>
<td>-1,560,774</td>
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<tr>
<td>Total, Discretionary</td>
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<td>16,240,259</td>
<td>16,241,775</td>
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<tr>
<td>Total, mandatory and discretionary</td>
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<td>17,116,605</td>
<td>17,118,121</td>
<td>-1,367,528</td>
</tr>
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</table>
CONGRESSIONAL RECORD—HOUSE
11931

Ms. PELOSI. Mr. Chairman, I support the Sabo amendment, which would ensure that Mexican trucking companies undergo safety reviews before their trucks gain access to American highways.

Trucks are a major factor in highway fatalities. Even with safety regulations in place in the U.S., crashes involving large trucks killed 5,282 people in 1999. Of these fatalities, 363 occurred in my home state of California. Mexico’s regulations are much weaker than ours. Drivers do not log their hours on the road, restrictions on hours behind the wheel are not enforced, drivers can be under 21, trucks that violate safety standards are not taken off the road, and trucks can weigh significantly more than in the U.S.

Of the nearly 4 million trucks that enter the U.S. commercial zones from Mexico annually, the U.S. inspects only 1%. Of that 1%, more than a third are removed from service because of deficiencies. This is a dismal record. We must ensure that trucks from Mexico are safe before they are allowed on any highway in the United States. I urge my colleagues to vote for the Sabo amendment.

Mr. BEREUER. Mr. Chairman, this Member rises in support of H.R. 2299, the Transportation Appropriations Subcommittee bill for fiscal year 2002.

This Member would like to commend the distinguished gentleman from Kentucky (Mr. ROGERS), the Chairman of the Transportation Appropriations Subcommittee, and the distinguished gentleman from Nebraska (Mr. SABO), the ranking member of the Subcommittee for their hard work in bringing this bill to the Floor.

Mr. Chairman, this Member certainly recognizes the severe budget constraints under which the full Appropriations Committee and the Transportation Appropriations Subcommittee operate. In light of these constraints, this Member is grateful and pleased that this legislation includes funding for several important projects of interest to the State of Nebraska.

This Member is particularly pleased that this appropriations bill includes $1,517,000 for pre- liminary work leading to the construction of bridges in Plattsmouth and Sarpy County to replace two obsolete and deteriorating bridges. The request for these funds was made by this Member as well as the distinguished gentleman from Nebraska (Mr. TERRY) and the distinguished gentleman from Iowa (Mr. GANISKE and Mr. BOSWELL).

The agreement leading to the funding was the result of intensive discussions and represents the consensus of city, county and state officials as well as the affected Members of Congress. The construction of these replacement bridges (a Plattsmouth U.S. 34 bridge and State Highway 370 bridge in Bellevue) will result in increased safety and improved economic development in the area. Clearly, the bridge projects would benefit both counties and the surrounding region.

This Member is also pleased that the bill includes $325,000 requested by this Member for the construction of a 1.7-mile bicycle and pedestrian trail on State Spur 26E right-of-way, which connects Ponca State Park and the Missouri National Recreational River Corridor to the City of Ponca. This trail will play an im-

portant role as the area prepares for the bicentennial of the Lewis and Clark Corps of Discovery expedition and the significant impact it will help generate.

The approaching bicentennial represents a significant national opportunity and it is crucial that communities such as Ponca have the resources necessary to prepare for this significant commemoration.

The trail will provide the infrastructure necessary to improve the quality of life by providing pedestrian and bicycle access between Ponca and the Ponca State Park and increases the potential for economic benefits in the surrounding region. The trail addresses serious safety issues by providing a separate off-road facility for bicyclists and pedestrians.

This Member would also like to mention that this bill provides more than $2.6 million in Section 5307 urban area formula funding for mass transit in Lincoln, Nebraska. This represents an increase of $230,753 over the FY2001 level.

Finally, this bill includes $1,976,000 for Nebraska’s Intelligent Transportation System (ITS). This funding, which was requested by this Member and the distinguished gentleman from Nebraska (Mr. Osborne), is to be used to facilitate travel efficiency and increased safety within the state.

The Nebraska Department of Roads has identified numerous opportunities where ITS could be used to assist urban and rural transportation. For instance, the proposed State- wide Joint Operations Center would provide a unified element allowing ITS components to share information and function as an inter- modal transportation system. Among its many functions, the Joint Operations Center will facilitate rural and statewide maintenance vehicle fleet management, roadway management and roadway maintenance conditions. Overall, the practical effect will be to save lives, time and money.

Mr. Chairman, in conclusion, this Member supports H.R. 2299 and urges his colleagues to approve it.

Mr. NADLER. Mr. Chairman, today I rise in support of this bill to provide appropriations for the Department of Transportation for Fiscal Year 2002.

First, I would like to thank Chairman YOUNG, Ranking Member OBIEY, Subcommittee Chairman ROGERS, and Ranking Member SABO, for including funds for the Cross Harbor Rail Freight Tunnel Environmental Impact Study in this bill. This project was first authorized in TEA-21, and received funds for a Major Investment Study, which was just completed last year. After examining numerous alternatives, the MIS recommended construction of a rail tunnel under New York Harbor to facilitate cross-harbor freight movement. The MIS confirmed that a tunnel would be beneficial in several respects. The economic return to the region would be about $420 million a year. The benefit to cost ratio is 2.3 to 1. The environmental impact would be profoundly felt, as the tunnel would remove one million trucks from our roads per year.

Furthermore, this project will improve the overall social and economic conditions in Queens County.

I would also like to thank the Committee for the inclusion of $10 million for the East Side Access Project.

The East Side Access connection will lead to a comprehensive network of pedestrian, bicycle and transit connections between Long Island City residential and business areas and new parks, retail stores, and cultural institutions.

These innovative improvements will help reduce automobile traffic and improve our neighborhood air quality.

I would like to thank the Committee leadership for understanding the importance of this project, and including funds for the EIS phase so that we can continue the progress of the last few years and correct the freight infrastructure imbalance that exists in the region between the Hudson of New York and Connecticut.

I do have a few concerns, however, regarding transit funding. As many of you know, New York relies heavily on public transportation, and as such, we have a number of projects which are essential to the economic stability, as well as to the environmental quality, of the city. I would like to thank the Committee for including funds for one of these projects, The East Side Access Project, to connect the Long Island Railroad to Grand Central Station in Manhattan. Unfortunately, no funds were included for the Second Avenue Subway. Both of these projects are important, and will require a greater federal investment if they are to be completed in the sufficient time frame. That being said, I hope this problem can be resolved, and I urge the Appropriations Committee to include funding for the Second Avenue Subway when this bill goes to Conference with the Senate.

I have a number of other concerns with this bill. For instance, funds should be included for the inspection of Mexican trucks operating in the United States. We must not sacrifice safety in an attempt to comply with NAFTA. Overall, however, this is a good bill, which fully funds the highway and aviation trust funds. I would like to commend Chairman ROGERS and Ranking Member SABO for their hard work in drafting this important legislation, and I want to thank all my colleagues for their support.

Mr. CROWLEY. Mr. Chairman, I rise today in firm support of the transportation appropriations bill for fiscal year 2002.

I would like to commend Chairman ROGERS and Mr. SABO for crafting a bill that addresses the unique transportation needs in this country.

Though this bill takes into account the demands and constraints of the current transportation network throughout the country, I would like to make special mention of certain aspects of this bill that have a tremendous impact on my constituents in the 7th Congressional district of New York.

I want to thank Mrs. LOWEY, Mr. SERRANO, Mr. HINCHEY, and Mr. SWEENEY for their assistance in securing the inclusion of $250,000 for the Long Island City Links Project.

The LIC Links research funded in this bill will lead to a comprehensive network of pedestrian, bicycle and transit connections between Long Island City residential and business areas and new parks, retail stores, and cultural institutions.

These innovative improvements will help reduce automobile traffic and improve our neighborhood air quality.

Furthermore, this project will improve the overall social and economic conditions in Queens County.

I would also like to thank the Committee for the inclusion of $10 million for the East Side Access Project.

The East Side Access connection will involve constructing a 5,500-foot tunnel from the LIRR Main Line in Sunnyside, Queens, to the existing tunnel under the East River at 63rd Street.
A new Passenger Station in Sunnyside Yard, Queens will also be constructed to provide access to the growing Long Island Business District.

The elements of this bill beneficial to my constituency is not limited to ground transportation.

As representative of LaGuardia Airport in Congress, the issue of congestion in the air and on the ground is a problem that plagues residents in and around the airport on a daily basis.

I am pleased that this bill has included two million dollars for the procurement of air traffic control equipment at LaGuardia Airport. It is my hope that these funds will help alleviate the traffic problems that plague one of the most congested airports in the country.

In that same vein, I would like to commend my colleagues in the New York and New Jersey delegation for their work with regard to air space redesign and the diversion of traffic to Stewart Airport.

The idea of burden sharing of airports in the tri-state is essential to the future of LaGuardia Airport.

Given that LaGuardia is completely saturated, the report initiated by Mr. Hinchey to increase service at Stewart Airport will be a welcome relief for travelers and residents of Queens alike.

This is a reasonable and comprehensive bill that truly addresses the needs of Americans in the 21st century.

Therefore, I strongly urge my colleagues to vote in favor of this bill.

Mr. QUEEN OF TEXAS, Mr. Chairman, I rise today in support of this bill. While there are areas that I hope we can improve via amendments that will be offered, it is a good bill that will continue meeting the transportation needs of our constituents.

I would particularly like to praise the Committee for including funding for the Greater Harris County 9-1-1 Emergency Network from the Department of Transportation’s Intelligent Transportation Systems (ITS) program. Harris County, which includes Houston, Texas, is pioneering the practical application of critical data provided by Automatic Collision Notification boxes that are beginning to be installed on late-model automobiles.

By deploying these boxes to 9-1-1 centers and trauma hospitals in Harris and Fort Bend Counties, these locations will be able to receive up-to-date information on automobile accident victims.

This information will enable 9-1-1 operators to direct appropriate levels of resources to accident locations, and will also allow doctors and nurses at hospitals the time and information that they need to prepare for incoming accident victims.

The goal of this technology is saving lives, through better distribution of emergency response personnel and a higher level of preparedness for incoming patients by emergency room personnel.

The transmitted data will include the speed of the vehicle at impact; number of times that vehicle may have rolled; the number of occupants in the vehicle; heat generation, which may indicate whether or not the vehicle is on fire; and other valuable information.

The lessons we learn in the implementation and testing of this system will serve as a model for other jurisdictions across the United States as they develop and deploy their own lifesaving networks.

Again, I support this bill, and I support the funding for this innovative program that will save lives.

Mr. FRELINGHUYSEN. Mr. Chairman, today I rise in support of H.R. 2299, the fiscal year 2002 Transportation Appropriations bill and urge my colleagues to do the same.

First, I want to thank Chairman ROGERS and Ranking Member SADO for all their hard work in crafting this bill, and for their assistance in addressing New Jersey’s transportation priorities.

A special thanks to Rich Erford and the Transportation Subcommittee staff for their help.

Mr. Chairman, as we debate this important bill, thousands of my constituents back in New Jersey are struggling right now to battle traffic delays on Interstate 80, in Denver, and in the heart of my County. The west bound lanes were closed last week after a fiery tractor trailer collision last week damaged the roadway beyond immediate repair.

This is a major commuter route and out of New York City, and commuters snarled in rush hour traffic this morning learned that extensive repairs to the highway may not be completed until this October. My constituents—these commuters stuck in traffic—know only too well that New Jersey’s mass transportation projects deserve our full commitment.

Because New Jersey is the most densely populated state in the nation, innovative commuter light rail projects such as the Hudson-Bergen Light Rail and Newark-Elizabeth Rail Link are vital to relieving traffic congestion in some of the most densely populated areas of our state.

I am pleased to report that these two commuter rail projects, New Jersey’s top transportation priorities, have received major support and funding, within the confines of the overall budget allocation, which keeps our commitment to the Balanced Budget Agreement of 1997.

Mr. Chairman, as we debate this important bill, thousands of my constituents back in New Jersey are struggling right now to battle traffic delays on Interstate 80, in Denver, and in the heart of my County. The west bound lanes were closed last week after a fiery tractor trailer collision last week damaged the roadway beyond immediate repair.

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I am pleased to report that these two commuter rail projects, New Jersey’s top transportation priorities, have received major support and funding, within the confines of the overall budget allocation, which keeps our commitment to the Balanced Budget Agreement of 1997.

I am also pleased that this bill will provide a minimum of $8.5 million specifically for the ongoing Federal Aviation Administration’s New Jersey/New York Metropolitan Airport Redevelopment project. For too long, constituents in my district have been suffering from the daily burden of aircraft noise. We have been repeatedly told by the FAA that the only way to alleviate aircraft noise in New Jersey will be through the comprehensive redesign of our airspace. That is why continued, dedicated funding for this redesign effort is vitally important, and I thank the subcommittee for its continued commitment to this vital effort.

Again, I want to thank Chairman ROGERS and Ranking Member SADO for all their hard work, and urge my colleagues to support this legislation.

Mr. WELLER. Mr. Chairman, I rise today in strong support of H.R. 2299, Making Appropriations for the Department of Transportation for Fiscal Year 2002. H.R. 2299 is an important bill for Illinois, providing much needed funding for Metra Commuter Rail Service New Start Projects and the Elgin, Joliet and Eastem Railroad Bridge Reconstruction. The legislation also directs the Federal Aviation Administration to make a priority of processing the Environmental Impact Statement for the proposed South Suburban Chicago Third Airport and to help Lewis University Airport with much needed expansion.

I would like to focus on the unique needs of Lewis University Airport today. Lewis University Airport is the busiest “single-runway” airport in Illinois with 104,000 annual aircraft landings and takeoffs. Located in Will County, Illinois, it serves as the only corporate airport in Illinois’ fastest growing county. The airport is home to 295 based aircraft and over 35 regular visiting customers. Jet fuel sales—an indicator of corporate aircraft use—have increased from 1.468 gallons sold in 1991 to 273,652 gallons sold in 2000. In less than a decade, jet sales have increased to 136 times the first year’s sales.

The existing 12,000 square yard apron has space for only 10 aircraft. The small size of the apron limits its use by aircraft arriving at the Airport’s new terminal building. The apron is regularly over-filled with visiting corporate jets. There are no spaces available for based aircraft.

To meet federal airport safety and design standards, the Airport must soon relocate 150 aircraft storage positions that are too close to the runway. The proposed terminal apron expansion will provide space for the relocation of these Airport residents.

The proposed apron is part of a multi-phased development program of the Airport. The Runway 1–19 construction program is using innovative construction and land use techniques to save over $9.600,000 in federal airport development dollars. The project received recognition by the FAA with the award of the first projects funded under the FAA’s Innovative Development Funding Program.

In addition, Lewis University Airport is by far the closest and most convenient airport to the new ChicagoLand Motor Speedway, opening July 2001. This NASCAR Winston Cup race is expected to bring 200 to 300 aircraft to the Joliet/Will County area, providing a serious need to increase the apron capacity of the airport.
CONGRESSIONAL RECORD—HOUSE

June 26, 2001

Mr. Chairman, the House Transportation Appropriations Bill recognizes the importance of law enforcement and border security. The Federal Aviation Administration to make it a priority. This is good legislation for Illinois and the Nation's transportation infrastructure. I encourage all of my colleagues to support this bill and vote yes on the rule and final passage.

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

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read. The Clerk read as follows:

H.R. 2299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, $67,726,000: Provided, That notwithstanding any other provision of law, there may be credited to this appropriation up to $2,500,000 in funds received in user fees: Provided further, That not to exceed $50,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $8,500,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, $5,193,000.

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed $125,323,000, shall be paid from appropriations made available to the Department of Transportation: Provided further, That such services shall be provided on a competitive basis to entities within the Department of Transportation: Provided further, That the above limitation on expenses shall not apply to non-DOT entities: Provided further, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: Provided further, That no assessments may be levied against any program, bureau, activity, subactivity, or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of guaranteed loans, $300,000, as authorized by 49 U.S.C. 332: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $18,367,000: Provided further, that in administrative expenses.
that is up to 30 percent, due to insuffi-
cient funds. Without additional oper-
ation funding for the fiscal year 2002, the
Coast Guard will be forced to cut
drug interdiction by 20 percent, includ-
ing eliminating 5 cutters, 19 aircraft and
520 positions.
Mr. Chairman, without the funding in-
crease provided in my amendment, the
Coast Guard’s operating budget during the
next fiscal year will again be inadequate to respond to critical
missions. The law enforcement emer-
gency concerning migrant interdiction or a surge in drug smuggling would se-
verely degrade other Coast Guard law
enforcement activities. None of us want drug smugglers to be given open access to the United States, but that is
exactly what could happen if we are not careful with these funding levels.
Sho Coalt Getmendment will be accept-
ent today. I would urge the House and the Senate conferes on H.R. 2299 to
fund the Coast Guard at a level con-
sistent with the budget resolution and the Coast Guard Authorization Act of 2001. I respectfully request that the
gentleman from Kentucky (Mr. ROGERS), the gentleman from Florida (Mr. YOUNG) and the gentleman from Alaka (Mr. YOUNG) work toward that end.
I understand the Senate Appropriation Committee’s Transportation 302(b) allocation is about $690 million above the House allocation. I strongly believe that the U.S. Coast Guard is the best place to allocate a portion of this fund-
ing.
Mr. Chairman, I urge the House to support my amendment and allow the
Coast Guard to be funded at the levels necessary to respond to the operational emergencies.

POINT OF ORDER
The CHAIRMAN. Does the gentleman from Kentucky wish to be heard on his point of order?
Mr. ROGERS of Kentucky. I do, Mr. Chairman.
Mr. ROGERS. Of Kentucky, I do, Mr. Chairman.
Mr. Chairman, I have great respect for the gentleman from Kentucky (Mr. ROGERS), the gentleman from Florida (Mr. YOUNG) and the gentleman from Alaka (Mr. YOUNG) work toward that end.
I understand the Senate Appropriation Committee’s Transportation 302(b) allocation is about $690 million above the House allocation. I strongly believe that the U.S. Coast Guard is the best place to allocate a portion of this fund-
ing.
Mr. Chairman, I urge the House to support my amendment and allow the
Coast Guard to be funded at the levels necessary to respond to the operational emergencies.

The CHAIRMAN. Does the gentleman from Kentucky wish to be heard on his point of order?
Mr. ROGERS of Kentucky. I do, Mr. Chairman.
Mr. ROGERS. Of Kentucky, I do, Mr. Chairman.
Mr. Chairman, I have great respect for the gentleman from Kentucky (Mr. ROGERS), but the reality is, that is what we all claim we want the Coast Guard to stop the flow of illegal drugs into this country, and to save our depleted fish-
ery, and to maintain aids to navigation for commercial and recre-
tional boaters, and, of course, to save lives.
If we want those things, we have to ante up. I understand the difficulties as articulated by the gentleman from Kentucky (Mr. ROGERS), but we have to find a way.
The facts are with inexcusably inad-
quate resources, the Coast Guard does a heroic job of balancing their multiple responsibilites with heroic profes-
sionism. At the same time budget constraint have been so severe and so chronic that the Coast Guard can barely keep its fleet in the water and its airplanes in the air.
The authorization bill recently passed and championed by the gen-
tleman from New Jersey (Mr. LoBIONDO) responded to those chal-
enges by boosting the Coast Guard’s operating budget for the next year by
250 million, and thus far in the appro-
priations process, that promise stands unfulfilled.
We have to do better. We have to find a way, otherwise we face the predict-
able consequences of a crippled Coast
Guard, lost property, lost commerce and, of course, lost lives, both the lives of the men and women in the Coast
Guard who serve us every day, as well as those who use the seas either for en-
joyment or to secure a livelihood.

□ 1545
Let me just finally remind my col-
leagues that just recently came reports that the Coast Guard recalled port se-
curity forces that were sent overseas to protect U.S. naval units after the de-
stroyer Cole was attacked by a truck. Be-
cause it can no longer foot the bill. That, Mr. Chairman, is simply dis-
graceful, and it is unacceptable.
The CHAIRMAN. Is there anyone else who wishes to be heard on the point of order?
The Chair is prepared to rule on the
point of order.
The Chair is authoritatively guided under section 312 of the Budget Act by an estimate of the Committee on the
Budget that an amendment providing any net increase in new discretionary budget authority would cause a breach of the pertinent allocation of such
authority.
The amendment offered by the gen-
tleman from New Jersey would in-
crease the level on, to expend total budget authority in the bill. As such, the
amendment violates section 302(f) of the Budget Act.
The point of order is sustained. The
amendment is not in order.
The Clerk will read as follows:

ACQUISITION, CONSTRUCTION, AND
IMPROVEMENTS
For necessary expenses of acquisition, con-
struction, renovation, and improvement of
aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $800,000,000, of which $19,896,000 shall be derived from the Oil Spill Liability Trust Fund of which $90,000,000 shall be available to acquire, repair, renovate or improve ves-
sels, small boats and related equipment, to remain available until September 30, 2006; $26,000,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 2004; $74,173,000 shall be available for other equip-
ment to remain available until September 30, 2004; $44,206,000 shall be available for
shore facilities and aids to navigation facili-
ties, to remain available until September 30, 2004; and $4,631,000 shall be available for per-
sonnel compensation and benefits and related

costs, to remain available until Sep-
ember 30, 2003; and $300,000,000 for the inte-
grated deepwater systems program, to re-

main available until September 30, 2004: Pro-
vided, That the Commandant of the Coast

Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offset-
ning collections and made available only for the national distress and response system to remain available until September 30, 2004; provided further, That upon initial submission to the Congress of the fiscal year 2003 Presi-
dent’s budget, the Secretary of Transpor-
tation shall transmit to the Congress a com-
prehensive capital investment plan for the
United States Coast Guard which includes funding for each budget line item for fiscal

years 2003 through 2007, with total funding for each year of the plan constrained to the
funding targets for those years as estimated and approved by the Office of Management and Budget: Provided further, That none of the funds provided under this heading may be obligated or expended for the Integrated Deepwater Systems (IDS) acquisition
contract until the Secretary of Transpor-
tation, or his designee within the Office of

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the Secretary, and the Director, Office of Management and Budget, jointly certify to the House and Senate Committees on Appropriations that IDS program funding for fiscal years 2003 through 2007 is fully funded in the Coast Guard Capital Investment Plan and within the Commerce, Justice, State, Judiciary, and Related Agencies Appropriations, and Budgets' budgetary projections for the Coast Guard for those years.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $16,927,000, to remain available until expended.

Ms. BROWN of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to support the amendment offered by the gentleman from New Jersey (Mr. LoBIONDO), chairman of the Subcommittee on Coast Guard and Maritime Transportation.

Our U.S. Coast Guard performs to the same high standards and faces many of the same dangers as our Armed Forces, but does not get funded in the larger Department of Defense budget. Each year they compete for funding with major agencies in the transportation budget, and for the last several years has been forced to either decrease operations or transfer money from maintenance to operations.

Just 2 weeks ago we passed a Coast Guard authorization by 411 to 3 that added $300 million more than this bill provides. Without this additional funding, the Coast Guard will be forced to reduce operations by 20 percent including deactivating two medium cutters, two TAGOS ships, and 13 Falcon jets.

This is not how we should be treating the men and women who risk their lives stopping drug smugglers and illegal immigrants, protecting our ports, and preventing search-and-rescue missions.

I urge our colleagues to vote yes on this amendment and support a budget for the United States Coast Guard that meets our Nation's priorities.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $15,466,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependent Medical Care Act (10 U.S.C. ch. 55), $876,346,000. Provided, That none of the funds in this Act for financial support of the Coast Guard Reserve: Provided further, That none of the funds in this Act may be used by the Coast Guard to assess direct, indirect, or allocable costs or fees for research and development, testing, and evaluation.

Ms. BROWN of Florida. Mr. Chairman, I move to strike the last word.

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For the implementation of obligations incurred for grants-in-aid for airport planning and development, and noise compatibility planning and programs as authorized under chapter 471 of Title 49, United States Code, and under other law authorizing such obligations; for administration of such programs and other programs and sections 4017, for procurement, installation, and commissioning of runway incursion prevention devices and systems at airports of such title; for implementation of section 203 of Public Law 106-181; and for inspection activities and administration of airport safety programs, including those related to airport operating certificates under section 44706 of title 49, United States Code, $1,800,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That under this heading shall be available for the planning or execution of programs the obligations for which are in excess of $3,300,000,000 in fiscal year 2002, notwithstanding section 4017 of Title 49, United States Code: Provided further, That of the funds limited under this heading for small airports due to returned entitlements, $10,000,000 shall be utilized only for the small community air service development pilot program authorized in section 203 of Public Law 106-181: Provided further, That notwithstanding any other provision of law, not more than $56,300,000 of funds limited under this heading shall be obligated for administration.

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against the language found at page 13, beginning on line 24 which begins “for administration of such programs” and continuing to line 25 and ending with the words “section 4017.” That would fund the cost of administering the Airport Improvement Program from contract authority that, under chapter 471 and section 48103 of Title 49 U.S.C., is authorized only for grants, not administrative expenses. This language clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the Rules of the House of Representatives.

The CHAIRMAN. Does the gentleman from Kentucky (Mr. ROGERS) wish to be heard on the point of order?

Mr. ROGERS of Kentucky. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Kentucky (Mr. ROGERS) is recognized.

Mr. ROGERS of Kentucky. Mr. Chairman, I will concede the point of order in just a minute, but it is unfortunate that the point of order is made. I would defer the beginning of an important and authorized program. These funds would help promote development of smaller airports and promote competition where there is none.

The CHAIRMAN. The gentleman is authorized, just not from this particular funding source. But we believe it is appropriate to use funds otherwise available to small airports for this new program, which only benefits small airports.

Mr. Chairman, I make a point of order against the language found on page 14, beginning on line 12 with the word “Provided” and continuing to end the line.

The language on lines 12 through 17 before the words “Provided further” would fund the cost of the Small Community Air Service Development Pilot Program from contract authority that is authorized only for AIP grants under chapter 471 and section 48103 of Title 49 U.S.C. Although I support this program, as found in section 4017, and would also provide for some administrative expenses, this is an unauthorized earmark of funds.

This language clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the Rules of the House of Representatives.

Mr. Chairman, the language found at page 15, line 17 with the words “That notwithstanding” and continuing through the end of line 20 would fund the cost of administering the Airport Improvement Program from contract authority under chapter 471 and section 48103 of Title 49 U.S.C., that is authorized only for grants, not administrative expenses. This supercedes existing law and clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the Rules of the House of Representatives.

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As I indicated, the program is authorized, just not from this particular funding source. But we believe it is appropriate to use funds otherwise available to small airports for this new program, which only benefits small airports.

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An office already exists, but in lengthy hearings last year over the delays at the Detroit airport involving Northwest Airlines, one aggrieved consumer stood up and said, you know, I spent over $100 on toll bills before I found out there was anybody at the Department of Transportation in a subcategory of the General Counsel’s Office who would listen to my complaint.

This office generally has labored in obscurity merely to compile statistics with a phone recording, people leave their complaints, and sometimes to advocate on the behalf of those with disabilities.

This amendment would increase the rescission of funds on line 25 by $720,000, and it would allocate those funds in the Secretary’s office to the Office of General Counsel, to the people who handle it in the Aviation Consumer Protection Division. It would be funds that could establish a 1-800 number and would also provide for some funding for staff for that number.

I have consulted with the former general counsel a number of times over this over the years and have contacted the Department. They feel that, although this is a relatively modest amount of money, that given the existing number of complaints and the complaints they feel would warrant further action by the Department of Transportation and by that office, they believe it would be adequate funds to begin to better serve aviation consumers.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. Yes, Mr. Chairman, the gentleman from Kentucky, the able chairman, is absolutely correct.

Mr. ROGERS of Kentucky. Mr. Chairman, do I understand the gentleman’s amendment is intended to provide funds which the Secretary of the Department of Transportation would be able to use to establish a hotline for consumers to complain of airline delays, cancellations, problems and so forth associated with air travel?

Mr. DEFAZIO. Yes, Mr. Chairman, the able chairman from Kentucky, the gentleman is correct.

Mr. DEFAZIO. Yes, Mr. Chairman, the gentleman from Kentucky, the able chairman, is absolutely correct.

Mr. ROGERS of Kentucky. Mr. Chairman, in that instance, I have no objection to the amendment.

Mr. DEFAZIO. I thank the gentleman.

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

Mr. DEFAZIO. I am happy to yield to the gentleman from Minnesota (Mr. SABO).

Mr. SABO. Mr. Chairman, do I understand also that the gentleman from Oregon has offset the cost of his amendment with a rescission that equals the cost of his amendment?

Mr. DEFAZIO. Yes, Mr. Chairman, the amendment is.

Mr. SABO. Mr. Chairman, I think the gentleman has a good amendment.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman.
Mr. Chairman, I just want to clarify. I am sorry, I had a different number on mine. I want to make sure we all agreed on the same amendment. With that, I thank the chairman, and I thank the ranking member.

The CHAIRMAN. The CHAIRMAN. The CHAIRMAN.

The CHAIRMAN. The amendment was designated.

The Clerk will report the correct amendment.

The Clerk reads as follows:

Amendment offered by Mr. DeFazio:

Page 14, strike lines 24 and 25 and insert the following:

Of the unobligated balances authorized under 49 U.S.C. 48103, as amended, $301,720,000 are rescinded.

The amount otherwise provided in this Act for “OFFICE OF THE SECRETARY—Salaries and Expenses” is hereby increased by $720,000.

Mr. DeFazio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The CHAIRMAN. The CHAIRMAN. The CHAIRMAN.

The amendment was agreed to.

Amendment offered by Mr. Young of Alaska

Mr. Young of Alaska. Mr. Chairman, I offer an amendment.

The Clerk reads as follows:

Amendment offered by Mr. Young of Alaska

Page 14, after line 25, insert the following:

SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM

For necessary expenses to carry out section 41743 of title 49, United States Code, $10,000,000, to remain available until expended.

Mr. Young of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. Rogers of Kentucky. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The point of order is reserved.

Mr. Young of Alaska. Mr. Chairman, my amendment restores funding for the Small Community Air Service Development Pilot Program that was stricken by my point of order.

This program will help small communities that do not have adequate, affordable commercial air service attract new service. Without reliable air service, small communities cannot sustain their economic growth.

The Small Community Air Service Development Pilot program authorized by section 203 of the Aviation Investment Reform Act for the 21st Century, AIR-21, will assist underserved airports obtain jet service. It will also allow small communities to work with that service to increase passenger service.

The money provided by this program could also assist a small or midsized community by making money available to subsidize air carriers’ operations. If the Secretary of Transportation determines that the community is not receiving sufficient air carrier service.

Mr. Chairman, this program is important to many small communities throughout our Nation, and I urge the adoption of the amendment.

Mr. Chairman, I also suggest, although I struck the money, I do support the program. This is an attempt to put the money back in without having tapped the sources that it originated.

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

Mr. Young of Alaska. Yes. I yield to the gentleman from Minnesota.

Mr. allocation of $301,720,000. Mr. Chairman, I supported this program as a pilot program in AIR-21 last year. In fact, Chairman Shuster and I worked together to fashion the language. I have long supported service to small communities and to initiatives of this kind.

We all know that deregulation has saved billions of dollars for air travelers, but we also know that, in the process, deregulation has cost communities air service.

What we have now is a phenomenon of the community in my district and elsewhere around the country where people are traveling by car as much as 100 miles to get adequate air service.

With the kind of initiative that we anticipated in this provision, this pilot program, we can both prevent communities from becoming essentially air service towns, where the Federal Government is coming in to support air service with direct dollar payments, and help them to advertise, undertake initiatives locally to encourage air travel from lesser-served communities and boost their air service. Such initiatives have worked in communities in my district to more than double air travel in those towns, saving their air service.

I think that this pilot program in the manner in which the chairman has proposed to fund it ought to be approved and will help increase demand in such markets to create adequate service without direct Federal assistance.

Mr. Young of Alaska. Mr. Chairman, I thank the gentleman from Minnesota for his comments. I hope to work with the ranking member and of course the gentleman from Kentucky (Mr. Rogers), the chairman of the subcommittee, to see if we cannot get these monies somehow into this program. It is a good program.

Again, though, I think it should be coming from the general fund and not necessarily from the funds that were set aside for the improvements of these airports.

Mr. Green of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take all of the 5 minutes, but I wanted to bring a point of concern to the attention of my colleagues now that we have both the Chair of our appropriations subcommittee and the Chair of our subcommittee.
Every day, in some of the busiest airports in America, hundreds of aircraft, charter planes, private jets, commercial flights, and even helicopters ferrying oil platform workers, disappear from the radar screens of our air traffic controllers. These flights are not victims of any air disaster, but rather the fact that, for a wide area of airspace in the Gulf of Mexico, we have no effective radar coverage.

In this area, the air traffic controllers at Houston; Miami; and at Merida, Mexico; who share responsibilities for coverage in the Gulf, can neither see these flights nor communicate directly with the pilots who are flying them. For 3 years, the Federal Aviation Administration, the FAA, has worked with airline representatives, pilots, controllers, and other Federal entities, like the Department of Defense, to complete a Gulf of Mexico strategic plan. This plan sets out a detailed recommendation on how to resolve the Gulf of Mexico airspace issues.

I urge the FAA Administrator Jane Garvey to act quickly and approve the solutions laid out by this working group. These solutions are inexpensive and easy to implement and would have a very real impact on the traffic jam in our skies in the Gulf of Mexico.

It will increase safety in our skies and reduce congestion at Houston’s Bush Intercontinental Airport, an important travel hub, especially for the growing markets in Central and South America.

Where previously controllers have had to employ oceanic nonradar separation standards, this enhanced coverage will allow better utilization of empty airspace and more effective management of air traffic. This would reduce delays and save airlines and passengers time and money. I would hope that the FAA could move forward with this much-needed project.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

LIMITATION ON TRANSPORTATION RESEARCH

The Chair recognizes the gentleman from Texas (Ms. Jackson-Lee) for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

Mr. ROGERS. Mr. Chairman, on this amendment I reserve a point of order.

The CHAIRMAN. The Chair will recognize the gentleman from Texas (Ms. Jackson-Lee) for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I hope that my colleagues will see the necessity and importance of waiving the point of order.

This amendment in particular deals with current events that are happening in Houston, Texas. It is an amendment to earmark $5 million in FHA/FAA transportation research funding for the operation of Houston TranStar, a high-tech center that deals with transportation in the context of a tropical storm or a disaster. The impact of not funding the expansion of the transportation emergency center, also known as Houston TranStar, would be undermining Houston’s transportation system. Mr. Chairman, we cannot afford to eliminate additional multimodal transportation management functions requested by the residents of Houston and to limit the transportation emergency management functions to those now existing at the center in inadequate space.

This is not an old unit, the Houston TranStar center, but it has proven itself to be old in wisdom and usefulness. It was very effective in moderating the congestion in Houston, all over the community, but more importantly, in these last couple of weeks, Houston TranStar, that center, became the anchor, the heart of the strategy to help us recover from Tropical Storm Allison. The governor met there, the FEMA director met there, the mayor met there, the judge of Harris County met there, Members of Congress, all support staff, fire department, police department, the health department, all of those individuals were able to gather and design a strategy to help us begin to pull ourselves up.

The establishment and implementation of a temporary command post was a real element of TranStar’s viability. It directed people where not to go because of the flooding in different highways and freeways. The initial action to get pumping gear at the Texas Medical Center, Southwestern Bell’s main switching station, and the Civic Center garage all were part of Houston TranStar.

The coordination of shelter identification, operation of the Salvation Army and the American Red Cross occurred there. The coordination of rescue efforts in unincorporated portions of Harris County, with the Harris County Sheriff’s liaison and the Harris County Fire Marshall’s liaison. The re-location operation of the 911 system in unincorporated portions of Harris County, and the direction, operation and control functions of the Harris County government were pretty much housed at Houston TranStar. The transfer and operation of the Harris County Sheriff’s department and the coordination of the Harris County air search and recovery unit.

Two times I lifted off in a helicopter, one a Black Hawk, to be able to survey the area, and it was from Houston TranStar. Houston TranStar represents a major element of transportation in Houston and the surrounding areas. This is a request for $5 million for a
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center that has proven not only to assist Houston but also the major surrounding areas as well.

These monies come from the pool of monies that are available for this particular usage, and I would ask that my colleagues consider waiving the point of order for this funding source that is basically very necessary to continue the work that we are already doing in expanding and expediting the recovery that is going on now in Houston, Texas.

Mr. Chairman, I rise to offer an amendment that would provide $5 million in funding for the Houston TranStar program, which has been so instrumental in the response to Tropical Storm Allison.

The impact of not funding the expansion of the transportation and emergency center—also known as Houston TranStar—would be destructive to Houston's transportation system. Mr. Chairman, we are now facing additional multi-modal transportation management functions requested by the residents of Houston and to limit the transportation and emergency management functions to those now existing at the center in inadequate space.

As we all know, Tropical Storm Allison has already been dropped an unprecedented record amount of rainfall in Houston causing homes and businesses near bayous, freeways and even the world renowned Texas Medical Center to flood. Citizens from all walks of life—rich, poor, African-American, White, Hispanic, Asian, Baptist, Catholic, Muslim, and especially the vulnerable were all impacted by the Tropical Storm Allison.

Houston TranStar was one of success stories in helping the relief effort to recover from Tropical Storm Allison. Houston TranStar began operating in 1996 as the only such center of its kind in the nation. It has functioned quietly in the background for many years providing safe and efficient transportation management services at a moment's clock in the Houston community. However, during the recent tragedy inflicted by the recent flood, Houston TranStar, the Transportation and Emergency Management center for the greater Houston region, played a major role in identifying heavy flooded areas, marshaling resources, communicating with the citizens and assisting other local, state and national agencies addressing the devastation that was Tropical Storm Allison.

Much of the success Houston TranStar has and is enjoying can be attributed to in large part to its unique partnership comprised of the City of Houston, Harris County, the State of Texas and METRO. Together, these agencies have combined their agencies and expertise to provide a greater level of immediate services to the residents in entire Houston area.

The fact that Houston TranStar is a valuable resource has never been more evident to me than in the past few weeks. To see this unique center in action is truly a pleasure. It makes you feel positive that people can and are trying to make a difference in people's lives in a tangible way. For instance, during Tropical Storm Allison and all other weather-related events, Houston TranStar serves as a one-stop shop for all agencies charged with addressing the demands of the region while ensuring a minimal loss of life and or harm to property.

Some of the recent efforts to aid and assist Houston have included the establishment and implementation of temporary command posts by the Houston Fire Department to direct rescue efforts and dispatch evacuation and rescue boats that moved more than 10,000 people, the initiation action to get pumping gear to the Texas Medical, Southwestern's Main Switching Station and the Civic Center Garage, and the coordination of shelter identification and operations with Salvation Army and the American Red Cross.

In addition, Houston TranStar assisted with the coordination of rescue efforts in unincorporated portions of Harris County with the Harris County Sheriff's Liaison and the Harris County Fire Marshal's Liaison, the direction and control functions of Harris County Government and the coordination of rescue efforts at Houston TranStar, the logistical support of representatives from FEMA, the Army Corp of Engineers and all agency partner personnel working extended hours, among other valued efforts.

Despite the valiant efforts by TranStar, Tropical Storm Allison has caused $23 billion and the Houston community $4.8 billion. The mere fact that Houston TranStar was able to communicate with its citizens, marshal local, state, and national resources and minimize the impact on the region, is a true testament to how effective this unique partnership is for the greater Houston region.

Let us find a way to include the $5 million funding allocation in the bill to maintain these essential funds for the entire Houston. Mr. Chairman, we cannot squander this opportunity to preserve the TranStar program. I urge my colleagues to support the Jackson Lee amendment.

POINT OF ORDER

Mr. ROGERS. Mr. Chairman, I make a point of order against the amendment because it provides an appropriation for an unauthorized program, therefore, violates clause 2 of rule XXI, which states in pertinent part, "An appropriation may not be in order as an amendment for an expenditure not previously authorized by law."

Mr. Chairman, the authorization for this program has not been signed into law. The amendment, therefore, violates clause 2 of rule XXI. I ask for a ruling of the Chair.

Mr. Chairman, does the gentlewoman wish to be heard on the point of order?

Ms. JACKSON-LEE of Texas. I certainly would.

Mr. Chairman, I thank the chairman very much and the ranking member. As I noted, this comes from a large pool of funding of the Federal Highway Administration, some $475 million. My point is that because of the emergency nature of this request, I am asking that the point of order be waived so that this particular unit can carry forth its emergency efforts in helping Houston recover and remain as an emergency center coordinating all forms of government effectively and helping to coordinate the recovery process and finding resources dealing with heavy equipment, in hosting the Coast Guard and the Army Corps of Engineers.

Mr. Chairman, we researched the question to determine authorization. It is unclear whether such has been authorized. But in any event, I would ask the chair of the subcommittee to consider the fact of the ongoing work of Houston TranStar, its importance and vitality in bringing the city back to its feet, and its involvement to the transportation modules in our community and coordinating transportation in a large metropolitan area.

Mr. Chairman, we cannot afford to eliminate certain funds in the bill. Under clause 2(a) of rule XXI, such an earmarking must be specifically authorized by law. The burden of establishing authorization in law rests with the proponent of the amendment.

Finding that this burden has not been carried, the point of order is sustained. The amendment is not in order.

The Clerk will read.

The Clerk read as follows:

FEDERAL-AID HIGHWAYS
(LIMITATION ON OBLIGATIONS)
(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of $31,716,797,000 for Federal-aid highways and highway safety construction programs for fiscal year 2002.

FEDERAL-AID HIGHWAYS
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 139, notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 139, notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 139, notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 139.

AMENDMENTS OFFERED BY MR. ROGERS OF KENTUCKY

Mr. ROGERS of Kentucky. Mr. Chairman, I offer several amendments, and I ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. Rogers:

On page 25, line 4 of the bill, strike "Notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 139, notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 139."
The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Without objection, the amendments will be considered en bloc.

There was no objection.

Mr. ROGERS of Kentucky. Mr. Chairman, I shall not take the full 5 minutes time.

This is a manager’s amendment and accommodates the concerns expressed by the Committee on Transportation and Infrastructure by removing in five cases authorizing language. It has been cleared with the minority as well as the authorizing committee. I believe it is noncontroversial, and I would ask for its adoption.

Mr. SABO. Mr. Chairman, I support the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Kentucky.

The amendments were agreed to.

The CHAIRMAN. The Chair will read.

The Clerk read as follows:

STATE INFRASTRUCTURE BANKS (RECSSION)

Of the funds made available for State Infrastructure Banks in Public Law 104-205, $6,000,000 are rescinded.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Motor Carrier Safety

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses for administration of motor carrier safety programs and motor carrier safety research, pursuant to section 109(a)(1)(B) of title 23, United States Code, not to exceed $52,397,000 shall be paid in accordance with law from appropriations made available by this Act and from any available take-down balances to the Federal Motor Carrier Safety Administration, together with advances and reimbursements received by the Federal Motor Carrier Safety Administrator provided that such amounts shall be available to carry out the functions and operations of the Federal Motor Carrier Safety Administration.

NATIONAL MOTOR CARRIER SAFETY PROGRAM (LIQUIDATION OF CONTRACT AUTHORIZATION) (LIMITATION ON OBLIGATIONS) (HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, 410, and 411, to remain available until expended.

NATIONAL DRIVER REGISTER (HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to the National Driver Register under chapter 303 of title 49, United States Code, $2,000,000, to be derived from the Highway Trust Fund.

HIGHWAY TRAFFIC SAFETY GRANTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (LIMITATION ON OBLIGATIONS) (HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, 410, and 411, to remain available until expended.

NATIONAL DRIVER REGISTRATION (HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to the National Driver Register under chapter 303 of title 49, United States Code, $2,000,000, to be derived from the Highway Trust Fund.

The amendments were agreed to.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise to support the amendment that has been offered by the gentleman from Kentucky.

This is a manager’s amendment and accommodates the concerns expressed by the Committee on Transportation and Infrastructure by removing in five cases authorizing language. It has been cleared with the minority as well as the authorizing committee. I believe it is noncontroversial, and I would ask for its adoption.

Mr. SABO. Mr. Chairman, I support the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?
construction of bus-related facilities under "Federal Transit Administration, Capital investment grants".

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against the language found at page 23, beginning on line 20 and continuing to page 24, line 2, which begins "Provided further, that notwithstanding section 3008 of Public Law 105–78" and ending on page 24, line 52, with "capital investment grants."

This language violates the guarantees of TEA–21 to provide funds for the Clean Fuels Bus formula grant program to the other discretionary grant programs. This language supersedes existing law and clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXII of the rules of the House of Representatives.

Mr. ROGERS of Kentucky. Mr. Chairman, the point of order is conceded.

Mr. YOUNG of Alaska. Mr. Chair

The Clerk will read.

The Clerk reads as follows:

UNIVERSITY TRANSPORTATION RESEARCH

For necessary expenses to carry out 49 U.S.C. 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and $522, $323,000,000, to remain available until expended: Provided, That none of the money provided for in this paragraph shall be available for any highway construction or other purpose.

TRUST FUND SHARE OF EXPENSES (LIQUIDATION OF CONTRACT AUTHORIZATION) (HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carry out transit planning and research account: Provided, That $53,600,000 shall be paid to the Federal Transit Administration's administrative expenses account: Provided further, That $4,800,000 shall be paid to the Federal Transit Administration's university transportation research account: Provided further, That $215,000,000 shall be paid to the Federal Transit Administration's capital investment grants account.

CAPITAL INVESTMENT GRANTS (INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, $658,000,000, to remain available until expended: Provided, That no more than $2,841,000,000 of budget authority shall be available for these purposes: Provided further, That none of the funds provided for in this subsection shall be available to carry out programs under the National Transit Institute (49 U.S.C. 5311(b)(2)); $4,000,000 is available to carry out the programs under the Federal Transit Administration, Formula grants.; and there shall be available for new fixed guideway systems $13,640,000,000, together with $8,128,338 of the funds made available under "Federal Transit Administration, Discretionary grants" in Public law 105–66, and $23,023,901 of the funds made available under "Federal Transit Administration, Capital investment grants" in Public Law 105–277; to be available as follows:

- $10,296,000 for the Alaska or Hawaii ferry projects;
- $25,000,000 for the Atlanta, Georgia, North line extension project;
- $10,867,000 for the Baltimore, Maryland, central light rail transit double track project;
- $1,136,400,000, together with $8,128,338 of the funds made available under "Federal Transit Administration, Discretionary grants" in Public law 105–66, and $23,023,901 of the funds made available under "Federal Transit Administration, Capital investment grants" in Public Law 105–277; to be available as follows:

- $19,118,735 for the Chicago, Illinois, Metra North central corridor commuter rail project;
- $16,000,000 for the Chicago, Illinois, Metra South West commuter rail extension project;
- $20,000,000 for the Chicago, Illinois, Metra Union Pacific West line extension project;
- $2,000,000 for the Chicago, Illinois, Ravenswood reconstruction project;
- $5,000,000 for the Cleveland, Ohio, Euclid corridor transportation project;
- $70,000,000 for the Dallas, Texas, North central light rail transit extension project;
- $60,000,000 for the Denver, Colorado, Southeast corridor light rail transit project;
- $192,492 for the Colorado, Southwestern light rail transit project;
- $25,000,000 for the Dulles corridor, Virginia, bus rapid transit project;
- $10,000,000 for the Floresta station, Los Angeles, Tri-Rail commuter rail upgrades project;
- $3,000,000 for the Johnson County, Kansas–Kansas City, Missouri, I–35 commuter rail project;
- $60,000,000 for the Largo, Maryland, metrorail extension project;
- $1,800,000 for the Little Rock, Arkansas, river valley metrorail project;
- $10,000,000 for the Long Island Railroad, New York, East Side access project;
- $49,686,469 for the Los Angeles North Hollywood extension project;
- $5,500,000 for the Los Angeles, California, East side corridor light rail transit project;
- $3,000,000 for the Lowell, Massachusetts–New Hampshire commuter rail extension project;
- $12,000,000 for the Maryland (MARC) commuter rail improvements project;
- $15,000,000 for the Memphis, Tennessee, Medical center rail extension project;
- $5,000,000 for the Miami, Florida, South Miami-Dade busway extension project;
- $5,000,000 for the Minneapolis–St. Paul, Minnesota, Northstar commuter rail project;
- $50,000,000 for the Minneapolis–St. Paul, Minnesota, Hiawatha corridor project;
- $4,000,000 for the Nashville, Tennessee, East corridor commuter rail project;
- $20,000,000 for the Newark–Elizabeth, New Jersey, rail link project;
- $4,000,000 for the New Britain–Hartford, Connecticut, busway project;
- $14,000,000 for the New Jersey Hudson Bergen light rail transit project;
- $13,800,000 for the New Orleans, Louisiana, Canal Street car line project;
- $3,100,000 for the New Orleans, Louisiana, Desire corridor streetcar project;
- $13,000,000 for the Oceanside–Escondido, California, light rail extension project;
- $16,000,000 for the Phoenix, Arizona, Central Phoenix East Valley corridor project;
- $6,000,000 for the Pittsburgh, Pennsylvania, North Shore connector light rail transit project;
- $20,000,000 for the Pittsburgh, Pennsylvania, stage II light rail, transit reconstruction project;
- $70,000,000 for the Portland, Oregon, Interstate MAX light rail transit extension project;
- $5,600,000 for the Puget Sound, Washington, Sounder commuter rail project;
- $14,000,000 for the Raleigh, North Carolina, Triangle transit project;
- $328,810 for the Sacramento, California, light rail transit extension project;
- $15,000,000 for the Salt Lake City, Utah, CHD to University light rail transit project;
- $718,006 for the Salt Lake City, Utah, South light rail transit project;
- $65,000,000 for the San Diego Mission Valley East, California, light rail transit extension project;
- $2,000,000 for the San Diego, California, Mid Coast corridor project;
- $80,665,331 for the San Francisco, California, BART extension to the airport project;
- $113,336 for the San Jose Tasman West, California, transit light rail project;
- $40,000,000 for the San Juan, Puerto Rico, Tren Urbano project;
- $31,088,422 for the St. Louis, Missouri, MetroLink St. Clair extension project;
- $5,000,000 for the Stamford, Connecticut, urban transitway project;
- $1,000,000 for the Washington County, Oregon, Wilsonville to Beaverton commuter rail project.

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against the language found on page 26, beginning on line 9 and continuing to line 10 which states "That notwithstanding any other provision of law" and also against the language found on page 26, beginning on line 15 and continuing to line 16 which states "(together with $50 million transferred from "Federal
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Transit Administration, Formula grants; this clause “notwithstanding any other provision of law” explicitly supercedes existing law and clearly constitutes legislation on appropriations bill in violation of clause 2 of rule XXI of the rules of the House of Representatives.

This language clearly constitutes legislation on an appropriations bill in violation of rule XXI of the rules of the House of Representatives.

The CHAIRMAN. The gentleman from Kentucky wish to be heard on the point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, we concede the point of order.

The Clerk read as follows:

Job Access and Reverse Commute Grants

Notwithstanding section 3037(1)(3) of Public Law 105–178, as amended, for necessary expenses to carry out section 3037 of the Federal Transit Act of 1998, $25,000,000, to remain available until expended: Provided, That no more than $125,000,000 of budget authority shall be available for these purposes:

Provided further, That up to $250,000 of the funds provided under this heading may be used by the Federal Transit Administration for technical assistance and support and performance reviews of the job access and reverse commute grants program.

Point of Order

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against the language found on page 31, beginning on line 9 and continuing to line 10 which begins “Notwithstanding section 3037(1)(3) of Public Law 105–178, as amended.”

This language waives the statutory distribution of funds specified in TEA–21 for the Job Access and Reverse Commute Grants program and explicitly supercedes existing law. This language clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the rules of the House of Representatives.

The CHAIRMAN. The gentleman from Kentucky wish to be heard on the point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The gentleman from Kentucky concedes the point of order. The point of order is conceded and sustained. The provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SALARIES AND EXPENSES

PIPELINE SAFETY

PIPELINE SAFETY FUND

(PipeLine SpILL Liability TRUST Fund)

For necessary expenses to conduct the functions of the pipeline safety program, for establishment of the pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $69,475,000, of which $7,472,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2004; and of which $41,003,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2004, to result in a final appropriation as offsetting collections and used for necessary and authorized expenses under this heading: Provided further, That the sum made available under this heading shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2002, to result in a final appropriation from the general fund estimated at no more than $17,615,000.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For necessary expenses for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $5,046,000: Provided. That notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses for the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15, uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) $66,400,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

TITLE III

GENERAL PROVISIONS

INCLUDING TRANSFERS OF FUNDS

SBC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SBC. 302. Such sums as may be necessary for fiscal year 2002 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.
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SEC. 303. Appropriations contained in this Act notwithstanding, the Federal-Aid Highways Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for the previous fiscal year the funds for which are allocated by the Secretary.

(3) determine the ratio that—
(A) the obligation limitation for Federal-Aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2), bears to
(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(4) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation limitation for Federal-Aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) of section 117 of title 23, United States Code (relating to high priority projects), section 9 of the Appalachian Regional Development Act of 1965, the Woodrow Wilson Memorial Bridge Authority Act of 1995, and $2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 115 of the Appalachian Regional Development Act of 1965, the Woodrow Wilson Memorial Bridge Authority Act of 1995, and $2,000,000,000 for such fiscal year under section 105 of title 23, United States Code) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(5) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United States Code (other than activities which are covered by obligations to those previously distributed during that fiscal year), such distribution to the States shall be in the same ratio as the distribution of obligation limitation made available for Federal-aid highways and highway safety construction programs for future fiscal years.

(6) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highways and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,000,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-Aid Highways shall not be applied to obligations:

(1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1973; (3) under section 9 of the Federal Aid Highways Act of 1961; (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; (5) under sections 139(b) and 139(c) of the Federal Aid Highways Act of 1968; (6) under sections 1103 through 1106 of the Interstate modal Surface Transportation Efficiency Act of 2001; (7) under section 127 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century; (8) under title 23, United States Code (but only in an amount equal to $339,000,000 for such fiscal year).

(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall, by the date the Congress reconvenes after the Congress reconvenes after the date of the enactment of the Transportation Equity Act for the 21st Century, redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, section 119 (as amended, of the fiscal year at the end of the fiscal year and in effect on the day before the enactment of the Transportation Equity Act for the 21st Century) of title 23, United States Code, and under section 1015 of the Interstate modal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943–1945).

(d) APPLICABILITY OF OBLIGATION LIMITATION TO TRANSPORTATION RESEARCH PROGRAMS.—The obligation limitation shall apply to transportation research programs carried out under chapter 7 of title 23, United States Code, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years.

(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation limitation made available under subsection (a), the Secretary shall distribute to the States any funds: (1) that are authorized to be appropriated for such fiscal year for Federal-aid highways programs (other than the programs under section 1104 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and highway-related programs under chapter 1015 of title 53, United States Code; and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in any fiscal year due to any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(6).

The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) SPECIAL RULE.—Obligation limitation distributed for a fiscal year under subsection (a)(4) of this section for a section set forth in subsection (a)(4) shall remain available until used, and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highways and highway safety construction programs for future fiscal years.

(g) Notwithstanding Public Law 105–178, as amended, of the funds authorized under section 104 of title 23, United States Code (other than the funds authorized for the motor carrier safety grant program) for fiscal year 2002, $56,300,000 shall be to carry out a program for state and Federal border infrastructure construction.

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against

SEC. 305. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 306. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 307. The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to title 49, United States Code, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

SEC. 308. The expenditure of any appropriation or the use of any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 309. None of the funds in this Act shall be used to implement section 401 of title 23, United States Code.

Mr. ROGERS of Kentucky (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 38, line 22, be considered as read, printed in the Record and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there amendments to the point of the bill?

Mr. YOUNG of Alaska. Mr. Chairman, I have a point of order on page 38, line 23.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows: SEC. 310. (a) For fiscal year 2002, the Secretary of Transportation shall—

(1) not distribute from the obligation limitation for Federal-Aid Highways less the aggregate amounts authorized for administrative expenses and programs funded from the administrative take-down authorized by section 104(a)(1)(A) of title 23, United States Code, for the highway use tax evasion program for amounts provided under section 110 of title 23, United States Code, and for the Bureau of Transportation Statistics;

(2) not distribute an amount from the obligation limitation for Federal-Aid Highways that is equal to the unobligated balance of Federal-Aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2), to

(a) the obligation limitation for Federal-Aid Highways less the aggregate amounts not distributed under paragraphs 1 and 2 of section 117 of title 23, United States Code, equal to the amount referred to in subsection (b)(4) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(b) distribute the obligation limitation for Federal-Aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United States Code (other than activities which are covered by obligations to those previously distributed during that fiscal year), such distribution to the States shall be in the same ratio as the distribution of obligation limitation made available for Federal-aid highways and highway safety construction programs for future fiscal years.

The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) SPECIAL RULE.—Obligation limitation distributed for a fiscal year under subsection (a)(4) of this section for a section set forth in subsection (a)(4) shall remain available until used, and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highways and highway safety construction programs for future fiscal years.

(g) Notwithstanding Public Law 105–178, as amended, of the funds authorized under section 104 of title 23, United States Code (other than the funds authorized for the motor carrier safety grant program) for fiscal year 2002, $56,300,000 shall be to carry out a program for state and Federal border infrastructure construction.

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against
all of section 310 beginning on page 38, line 23, and ending on page 44, line 2.

The CHAIRMAN. The gentleman from Kentucky concurs the point of order. The point of order is concurred and sustained. The provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 315. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program or project development aid program or airport improvement program grant: Provided, That, the Federal Aviation Administration shall accept such equipment, which shall be available for use in the training, or to members of the National Guard and the Reserve component of the National Guard only, if such equipment is used for FAA purposes.

The Clerk will read the section as follows:

SEC. 323. Notwithstanding any other provision of law, of the $23,896,000 provided under title II of the Civil Aeronautics Act of 1940, none of the funds in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 8001–8002).

(b) Sense of the Congress; Requirement Regarding Notice.--(1) Purchase of American-Made Equipment and Products.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) Notice to Recipients of Assistance.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(C) Prohibition of Contracts With Persons Falsey Labeling Products as Made in America.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the determination, suspension, and debarment procedures described in sections 9.404 through 9.409 of title 48, Code of Federal Regulations.

Mr. ROGERS of Kentucky (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 50, line 21, be considered as read, printed in the RECORD and open to amendment at any point.

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

Mr. ANDREWS. Mr. Chairman, reserving the right to object, I have an amendment that comes in at page 52 and I wonder what effect that will have on the gentleman's request. I do not intend to object other than to preserve the right to offer my amendment.

The CHAIRMAN. The Chair understands the request is to advance the reading to page 50 line 21.

Mr. ANDREWS. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, I have a point of order beginning on line 22.

The CHAIRMAN. Before the Clerk reads into that section, are there any amendments to the portion of the bill now open?

The Clerk will read.

The Clerk read as follows:

SEC. 323. Notwithstanding any other provision of law, of the $23,896,000 provided under title II of the Civil Aeronautics Act of 1940, none of the funds in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 8001–8002).

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Mr. ROGERS of Kentucky (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 50, line 21, be considered as read, printed in the RECORD and open to amendment at any point.

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The CHAIRMAN. The Chair understands the request is to advance the reading to page 50 line 21.

Mr. ANDREWS. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.
grants to the States of Arizona, California, New Mexico, to hire State motor carrier safety inspectors at the United States/Mexico border: Provided, That such funding is only available to the extent the States submit requests for such funding to the Secretary, and the Secretary evaluates such requests based on established criteria: Provided further, That, on March 31, 2002, the Secretary shall distribute to the States any undistributed amounts in excess of 1/2 of the amount originally reserved, consistent with section 110 of title 23, U.S.C., for the motor carrier safety grants program: Provided further, That on July 1, 2002, the Secretary shall distribute to the States any remaining undistributed amounts consistent with section 110 of title 23, U.S.C., for the motor carrier safety grants program.

POINT OF ORDER

Mr. YOUNG of Alaska. Mr. Chairman, I make a point of order against all of section 323 beginning on page 50, line 20 down to page 51, line 15. This language authorizes the Secretary of Transportation to reserve up to $18 million of Federal Motor Carrier Safety Administration, RABA, for four States, Arizona, California, New Mexico, and purposes of hiring State motor carrier safety inspectors at the U.S.-Mexican border. This explicitly waives existing law in violation of clause 2 of rule XXI of the Rules of the House of Representatives.

The CHAIRMAN. The gentleman from Kentucky wishes to be heard on the point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, the point is conceded.

The CHAIRMAN. The gentleman from Kentucky concedes the point of order. The point of order is conceded and sustained. The provision is stricken from the bill. Section 323 is stricken from the bill.

The Clerk will read.

The Clerk reads as follows:

SEC. 324. Rebates, refunds, incentive payments, minor fees and other funds received by the Department from travel management centers, reimbursement programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department and allocated to elements of the Department using fair and equitable criteria and such funds shall be available until December 31, 2002.

SEC. 325. Notwithstanding any other provision of law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold until December 31, 2002.

Mr. Chairman, in each of the last two Congresses, the House has approved a similar amendment, by a roll call vote in 1999 and by voice in the year 2000. I believe this is a reasonable balance. It permits the work of the Amtrak Reform Council to go on, despite the fact that many of us disagree with that work, while at the same time requiring the council to rely on the good offices of the Department or its modal administrations: (1) any discretionary grant program of the Federal Highway Administration other than the emergency relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the formula grants and fixed guideway modernization programs: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 328. Section 232 of H.R. 3425 of the 106th Congress, as enacted by section 1000(a)(5) of the Consolidated Appropriations Act, 2000 is repealed.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment. The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. Jackson-Lee of Texas

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment. The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. Jackson-Lee of Texas

Page 53, lines 15 through 17, strike section 329.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I am an eternal optimist. I believe that transportation is such a vital part of the quality of life of Americans and Houstonians and Texans, that I offer this amendment and hope my colleagues can work collaboratively with me to ultimately strike the line that removes the opportunity for planning, design, or construction of a light rail system in Houston, Texas.

I say that because I was on the floor just previously talking about Houston TranStar which is a collaboration between city and local officials helping us move and moderate our traffic. Every major city, Houston now being known as the third largest city in the Nation has traffic congestion. Polling in Houston suggests that not only the city of Houston, but small cities surrounding Houston are favorable toward this whole idea of light rail.
Mr. Chairman, I am hopeful that I will be able to work with my colleagues, including the gentleman from Texas (Mr. Delay), in his interest in the city of Houston. I hope we will be able to work together on securing that authorization and funding for TranStar.

At the same time, I am hoping that we can strike this language or work collaboratively so that the City of Houston can fulfill the commitment it has made to its citizens and the citizens can have the commitment made to them by the City of Houston and the county judge and the metropolitan transit authority to have light rail in our community.

Conventional wisdom also suggests that the light rail project would be immensely useful to complement the Main Street connectivity which continues to enrich the lives of countless Houstonians. Another traffic center is the Texas Medical Center, one of the largest employers in our region. We have also heard of the devastation facing the Texas Medical Center. One of the contributing factors is the ability to move those medical professionals, nurses, technicians, and doctors into one of the most important medical centers in our country. They need light rail.

I believe that we can do this together. Working with the administration of President George Bush; working with both Houses, the Senate and the House; working with our appropriations committee; and authorization committee. Never have we seen in the history of Houston the convergence of so many supporters, business community, local and regional communities, local cities that surround Houston, Houston and Harris County, all the local officials in large part. I cannot imagine why light rail is not in the destinies of Houston, Texas. Our sister city has it. What we are asking for is as we go and do focus groups is the ability and faster modes of transportation will inevitably lead to an improved environment and the critical light rail project that is so important to Houston.

Like all Houstonians, I believe that nothing is more important than mobility for the region's future. For these reasons, I am part of our federal team dedicated to increasing funding for our infrastructure needs in the Houston area. Mr. Chairman, we all have the common goal of making transportation more easily accessible in the Houston area. The goal of accessibility and faster modes of transportation will inevitably lead to an improved environment and a better quality of life for all Houstonians. We can do so much together when we make a commitment to work together.

Lastly, let me say that I recognize that I will continue to work with the Administration and Congress to bring Federal assistance to the light rail project in Houston. I look forward to working with METRO and City officials to match ingenuity being shown by other transportation mechanisms utilized by other major metropolitan cities. With a continued collective effort from local, regional, and Federal resources, I believe the light rail system will help transform Houston's transportation system into one of the premier systems in America.

I know that Congress needs to move forward on this bill, and we cannot debate local issues. But I hope the Congress realizes that this is not a local issue. This is a question of equality and parity when all of the other areas of the nation are able to get dollars for light rail. I think the light rail project meets the requirement, and this Congress should give it consideration. The 18th Congressional District of Texas deserves fair treatment regarding these matters.

I urge my colleagues to support my amendment to strike the language prohibiting funding for the light rail program in Houston.

Mr. Bentsen. Mr. Chairman, I rise in support of the gentleman's amendment. This prohibition affects a rail project in the city of Houston, a large portion of which is in the gentleman's district and the other portion which runs into my district. It is one of the main traffic arteries in the city of Houston. The gentleman mentioned the Texas Medical Center, which is the largest medical center in the world, which is located in my district, which has approximately 60 to 70 thousand people moving in and out of a very concentrated area every day of the week.

The gentleman also mentioned that this project enjoys the support of the locally elected political establishment of Houston and Harris County. The Houston Metro board is a metropolitan organization made up of appointees by the elected leadership. So it does have an indirect connection to the voters in that the directly elected officials appoint the members of this board and those members are approved by the elected members of the county commissioners court and the elected members of the Houston city council.

Finally, I would say there are some who have said that this should not go forward because there has been no direct election by the people. The county attorney of Harris County and the attorney general of the State of Texas have ruled that there is no statute in Texas law that would grant the right for such an election. So that is sort of the basis of this. And where we stand now is because of this specific prohibition affecting the City of Houston, the City of Houston is the only metropolitan area, the only municipal area in the United States of which I am aware where the United States Congress has banned the use of Federal funds for rail.

It comes down not to a question of whether you support rail or not, it comes down to a question of equity and whether or not we are going to allow locally elected officials to make the decisions or whether we are going to allow Washington to make the decisions. Unfortunately this provision in the bill has Washington telling the locally elected officials, both Republicans and Democrats and independents and nonpartisan candidates, that they cannot make the decision.

I hope that the House will adopt the gentleman's amendment and allow...
Mr. DELAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in opposition to the amendment. As a representative from the city of Houston and as a former member of the Texas House of Representatives, I can say that Texas law already provides for a mechanism for the voters to have their voice heard. If the metropolitan transit authority in Houston chooses to issue debt, City Council is given an opportunity to have an election. Having just gone through a very extensive election campaign in Houston, I can tell Members firsthand the voters of Houston want an opportunity to speak on this issue; and if they would all welcome a chance to debate it in the public arena in Houston.

The voters of Houston have the right to have their voices heard particularly because of the extraordinary cost of any rail proposal. The numbers that we have seen indicate that it could cost up to $300 million plus to build a rail system in Houston. I can tell Members that the highest transportation priority in Harris County in the opinion of the entire legislative delegation to Austin, I know with the support of many of my colleagues here, is the expansion of the Katy Freeway. The Katy Freeway still needs another $500 million to complete its expansion. That $300 million minimum that is proposed to finance the cost to build a rail system in Houston would virtually finish the Katy Freeway project. $300 million would build 50 miles of freeway.

We in the city of Houston have a very different type of geography. The way the city has grown is different from other cities. Our city was laid out on a salt grass prairie and those wide open spaces have enabled us to grow very rapidly in many directions. Seventy-six percent of the jobs in our city are outside Loop 610, and the city of Houston is just simply not well situated for a rail plan.

All of these factors together, the fact that the rail plan would absorb so many transportation dollars, move so few riders, have to be subsidized so heavily, and the fact that State law already provides a mechanism for a vote lead me to the conclusion that it is entirely proper, in fact essential, that there be a vote in Houston before money is spent on rail.

Ms. JACKSON-LEE of Texas. Mr. Chairman, thank the gentleman for yielding. I appreciate his recounting of the questions that he has put currently surrounding areas. I support the gentleman in helping to improve the Katy Freeway, I-10 West, which goes through a number of our districts, including mine. I think it is important; and in Dallas, there is momentum in the city of Dallas to put forward very rapidly to build this rail plan from downtown Houston out to the Astrodome without asking for voter approval. They could have asked for voter approval, a simple referendum had they chosen to but did not. There are also other mechanisms to allow for a vote and they chose not to do so.

The cost of the rail plan coupled with the immense amount of subsidy that is going to be required, when you compare the cost of rail systems in other cities, the cost per rider to taxpayers is about $3,000 a year, the subsidized cost per taxpayer in Los Angeles for each rider is about 9,000 dollars a year and in Dallas, there is no cost to the community of the work patterns, the growth patterns, the city of Houston are such that I am not sure that we could support it. In fact every town hall meeting I have held and where I have asked questions on this issue to my constituents, the overwhelming response of my constituents is that almost all of them need their cars in order to get to work.

Because of the unique nature of our city, because of where the job centers, the economic centers of Houston are spread out across the metropolitan area, the bottom line is there must be an election and I strongly support the gentleman from Texas (Mr. Delay) in his call for an election before any transportation dollars are spent on the construction of a rail system in Houston. I urge Members to vote against the amendment so that there can be a vote in the city of Houston.

Mr. DELAY. Mr. Chairman, I move to strike the remaining words.

Mr. Chairman, I oppose this amendment because the Houston Metro bureaucracy still has not resolved a major shortcoming. They have not assembled the facts and they have not placed those facts before our community. Without the facts, how can Houstonians make an informed decision about light rail? The answer is they cannot, and I am not going to tolerate an end run around accountability. Without a referendum on rail, Houstonians would be blindly committing billions of dollars to a vast project with an unknown price tag, unknown performance, and an undetermined impact on our most pressing problem in the Houston-Dalkeston area, and that is mobility. The decision to make a multi-billion-dollar transportation commitment cannot be made without the consent of the whole community. That is why I took action last year to have the Houston Metrorail suspended from being used to fund light rail. And it is why I am asking my colleagues to continue supporting this restriction.

My constituents expect me to safeguard their tax dollars, not flit them away on an unproven concept. A light rail system is far from the most effective way for Houston to reduce congestion. In fact, Houston Metro has even admitted that the Main Street line does nothing to reduce congestion and is not even a transportation project. They themselves call it an economic development project.

The decision to build a light rail system would affect everyone in Houston. Supporters must document the ability of a rail system to reduce congestion and increase mobility. And they must take that case to the citizens of Houston to earn their support for a citywide light rail system. The people of Houston would demand that they be given the information that they need to make an informed choice without all the facts and Houston Metro is not giving them the information that they need.

The method used to build the Main Street line gives every appearance of an attempt to evade accountability. Metro is moving forward with a piecemeal construction plan much like they did in Dallas, Texas, and they are moving piecemeal construction plan without explaining light rail's broader mobility impact on the region.

I trust the people of Houston. They can make the right choice if they have all the facts. Metro needs to prepare a comprehensive mobility plan that takes all of our needs into account. It should document all the challenges that contribute to congestion in the Houston region. It should describe all the transportation options. It should also describe and evaluate the effectiveness of those options. Only then will people be able to make an informed decision about light rail.
An additional problem with the Main Street line is that it simply is not a mobility project. The Main Street line is an economic development project. We have a mobility crisis in Houston. We must spend the available transportation dollars on measures that actually target and reduce congestion.

Mr. ROGERS of Kentucky. Mr. Chairman, I move to strike the requisite number of words.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was rejected.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was rejected.

Mr. MICA. Mr. Chairman, I move to strike the last word.

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Mr. CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was rejected.

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The amendment was rejected.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was rejected.
Our Florida Governor signed this measure into law just a few weeks ago, on June 1.

The State of Florida has now taken action to authorize and commit $4.5 million in State funds for high speed rail, and we respectfully ask the subcommittee’s support and assistance and consideration in the future.

Mr. Chairman, I hope that the gentleman from Kentucky (Mr. ROGERS) will be able to work with my colleagues in the Florida delegation and help us identify and secure funding for this project, which also has been authorized under one of the high speed rail corridors.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, let me thank the gentleman from Florida (Mr. MICA) for offering his comment. We would be pleased to work with the gentleman as this transportation bill moves through the appropriations process, especially as the gentleman is the chairman of a very important subcommittee over there on the Committee on Transportation and Infrastructure.

Mr. MICA. Mr. Chairman, I prepared an amendment to earmark funds for fiscal year 2002 funds for the Florida project, but I will not offer that amendment today. I want to thank the chairman for his intention to work with us on this project. It is most important to the people of Florida.

Mr. ROGERS of Kentucky. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. EMERSON) having assumed the chair, the Speaker pro tempore (Mrs. EMERSON) declared the House in the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

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

Mr. YOUNG of Florida. Madam Speaker, I wanted to announce to the membership that it is my intention to file the fiscal year 2002 energy and water development appropriations bill sometime midday tomorrow; and I say midday because in the morning two subcommittees of the Committee on Appropriations will mark up their bills. It will be midday before we could get to the energy and water bill.

With respect to the agriculture bill, it is my intention not to file the fiscal year 2002 agriculture, rural development, Food and Drug Administration and related agencies appropriation bill until the apples issue is resolved. If an agreement can be reached on apples, I would expect to file the agriculture appropriations bill tomorrow.

The Committee on Rules would then meet tomorrow evening to report the rule, and the House could work into the evening on Thursday night, hoping to complete that bill before adjourning for the July 4 recess.

I share theoniums' desire to finish the agriculture bill by midnight Thursday or earlier if possible. In order for us to meet this ambitious schedule, it will require the cooperation of all of our colleagues in the House, and, of course, the cooperation of the Committee on Rules, which is always cooperative.

In order for the House to complete action on the agriculture bill, I would expect that the gentleman from Wisconsin and his leadership would be prepared to enter into time agreements, as we have on previous appropriations bills, and limitations on amendments to be offered on the agriculture appropriations bill. Since we all would like to get home to our districts for the 4th of July holiday, we desire not to have a hard drive into the wee hours of the morning Friday to finish the work. Rather, if necessary, we could complete the work on the agriculture bill when we return in July.

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

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

Mr. OBEY. Madam Speaker, I thank the gentleman from Florida (Mr. YOUNG) for his statement.

Madam Speaker, essentially for the benefit of the Members, what that means is that we would expect tomorrow after the committee is finished with its work in committee to finish action on the energy and water bill, which is being filed right now, and which will be in the Committee on Rules very shortly. On Thursday, if the agriculture bill is brought to the floor, we will work out time agreements and try to get as much done as possible to hope to finish. If we do not, it can be finished whenever the leadership decides it ought to be dealt with, and that would mean that Members would have notice that we would not be in session on Friday. That is really a concern.

Mr. YOUNG of Florida. The gentleman is correct. It is our intention if, in fact, we are able to take up the agriculture appropriations bill that we will do the best we can to complete it Thursday night; but we will not go into, as has been referred to so many times, the dark of night to try to finish it. We would try to finish it at an early time. We will not go into 2:00 or 3:00 or 4:00 in the morning.

The gentleman is correct, the majority leader has agreed that there would be no session on Friday; that we could complete the agriculture bill, if necessary, when we return.

Mr. OBEY. If the gentleman will yield further, it is also my understanding, frankly, that there will be not all that extended a discussion tomorrow on the energy and water bill. I think it is relatively uncontroversial. So I understand the majority party has an event tomorrow evening, and it would certainly be our understanding we would be finished well in time for that to occur.

Mr. YOUNG of Florida. Madam Speaker, reclaiming my time, the gentleman is correct. We do not anticipate a lengthy debate on the energy and water bill, which the gentleman from Alabama (Mr. CALLAHAN) will file here very shortly. In the full committee it was handled expeditiously, and I believe the same thing would happen on the floor tomorrow. But, understand, the Committee on Appropriations has two markups in the morning, so we cannot get to that bill on the floor until those two markups are completed.

Mr. OBEY. Madam Speaker, if the gentleman will yield further, I thank the gentleman. I think that the Members will appreciate the information.

REPORT ON H.R. 2311, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

Mr. CALLAHAN, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107–112) on the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to clause 1 of rule XXI, all points of order are reserved on the bill.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to House Resolution 78 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2299.
Mr. ROGERS. Mr. Chairman, I move to strike the last word to engage the chairman of the Committee on Appropriations Subcommittee on Transportation in a colloquy.

Mr. Chairman, I note that the subcommittee's recommendation for the New Starts program does not include any funding for the Second Avenue Subway in New York City. This is an important transportation investment planned in the metropolitan area, and it is vitally necessary to ensure fluid transit in an already over-congested metropolitan area. The project received $3 million for continued analysis and design in fiscal year 2001.

I understand that the subcommittee's recommendation provides funding for only those projects that have full funding grant agreements in place, are likely to have full funding grant agreements in place in the very near future, or are in final design. While the Second Avenue Subway does not meet this criteria, it is important that the analysis and design continue on this important project. The MTA assures me that the project will be in preliminary design by the end of fiscal year 2001.

The State and the MTA have made a major commitment for the project and have included $1.05 billion in the MTA's capital budget. I ask the chairman that if the Senate were to include an appropriation for the Second Avenue Subway in its fiscal year 2002 Department of Transportation and Related Agencies Appropriations bill, that the subcommittee accommodate to the greatest extent possible to ensure that Federal funding for this project is continued in fiscal year 2002.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY of New York. I yield to the gentleman from Kentucky. Mr. ROGERS of Kentucky. Mr. Chairman, I appreciate the gentlewoman's commitment to this project, and her observations about the criteria the subcommittee used in developing its recommendations. The subcommittee had an enormous number of requests for new light rail transit systems that we simply could not accommodate. We did not have the money. Unfortunately, we had to say "sorry" quite a bit this year.

I can assure the gentleman that should the Senate include funding for the subway in its version of the bill, that we will give it every consideration.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 330. None of the funds made available in this Act may be used for engineering work related to an additional runway at New Orleans International Airport.

SEC. 331. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

Amendment offered by Mr. OLVER.

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

The Clerk read as follows:

Amendment offered by Mr. OLVER:

Page 54, line 7, insert before the period at the end the following: "...except that this limitation does not apply to activities related to the Kyoto Protocol that are otherwise authorized by law (including those activities authorized by the United Nations Framework Convention on Climate Change with respect to which the Senate gave its advice and consent to ratification in October 1992)."

Mr. OLVER. Mr. Chairman, I rise reluctantly, because this bill is an excellent bill, and I respect very much the work of the chairman of the subcommittee, the gentleman from Kentucky (Mr. ROGERS), as well as my ranking member on the subcommittee, the gentleman from Minnesota (Mr. SABO), but I do take exception to the language of section 331.

The language in section 331 is language which has been included several times over the last few years, at a time when it was legitimately believed by the majority that the President in charge of the executive departments would have conducted the very actions which are prescribed by section 331 in the preamble legislation.

On the other hand, President Bush has made it clear that he has no intention of implementing the Kyoto Protocol as it has been worked out, and has even used much stronger language, that the Kyoto protocol is "dead." So, at the very least, the language is unnecessary and shows perhaps a disbelieve in the President's intentions and the President's word, which I am sure the majority does not mean to show.

I would like to point out that just slightly more than 1 month ago, that this House adopted in the Foreign Relations Authorization Act, which was passed on May 16, a sense of the Congress section relating to global warming, and that sense of Congress pointed out that global climate change poses a significant threat to security; that most of the observed warming over the last 50 years is attributable to human activities; that global average surface temperatures have risen since 1961; that in the last 40 years the global average sea level has risen, ocean heat content increased, and snow cover and ice extent have decreased, which threatens to inundate low-lying Pacific Island nations and coastal regions throughout the world; and pointed out at that time that the United States has ratified the United Nations framework on climate change, which framework, ratified in 1992 by the Senate, was proposed for ratification by then President George Herbert Walker Bush to be ratified and was ratified by the Senate and took effect in April of 1994, that quoting from that, "the parties to the convention are to implement policies with the aim of returning to their 1990 levels of anthropogenic emissions of carbon dioxide and other greenhouse gases;" and, to continue, "that developed country parties should take the lead in combating climate change and the adverse effects thereof."

So, in that sense, we already have adopted by this Congress the language that I have offered in the amendment, which is a clarifying amendment, the amendment merely saying that the limiting language should not relate, should not apply, to activities that are otherwise authorized by law, nor to those activities that are authorized by the United Nations Framework Convention on Climate Change with respect to which the Senate gave its advice and consent; and we have a full ratification of that treaty, the United Nations Framework Convention on Climate Change.

So my amendment suggests that the activities that are related to that framework convention as ratified in 1992 are in no way proscribed by the language of section 331. So it is additional language to limit the States' jurisdiction or to explain that limitation.

By the way, Mr. Chairman, it is my intent at the appropriate time to withdraw this amendment. I just wanted to bring it to the attention of the House, that we have a series of activities that we should not be proscribing, that those which are previously authorized by law and those that are part of the already ratified treaty of the United Nations Framework Convention on Climate Change should not be proscribed. So I intend to withdraw the amendment at the appropriate time.

Mr. GILCHREST. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would hope that with the committee's recommendations process, that those of us who have a different opinion about climate change, for whatever reason, and continue to put language in the appropriations
Mr. Chairman, this country has not prospered for over 200 years because of gagged restraint on the part of its citizens and its agencies; this country has prospered because of the accumulation of knowledge and wisdom and information and initiative.

What I would like to do for the members present is to just discuss some of the undisputed facts about climate change. One is scientifically sound. Over the last 10,000 years, the planet has warmed 1 degree centigrade every 1,000 years, except in the last 100 years, especially the last 50 years, this country has warmed 1 degree Fahrenheit in less than 100 years. So there is a dramatic shift in the warming that corresponds to the amount of CO$_2$ and other greenhouse gasses as a result of human activity.

The polar ice caps, in about 50 years, if the present trend continues, will be gone. The North Pole, the polar ice caps, glaciers are receding around the globe. We are releasing into the atmosphere CO$_2$ in decades that took nature millions of years to lock up.

Mr. Alden, CO$_2$ is a natural greenhouse gas that deals with the heat balance of the planet, and it took millions of years to lock up all of this CO$_2$ as a result of dying vegetation and so on and so forth. Now, we have been releasing that same amount of CO$_2$ in decades, so it has some impact. There is more CO$_2$ in the atmosphere now than there has been in the last 400,000 years.

Now, just one last fact. Mr. Chairman, CO$_2$ makes up about .035 percent of the atmosphere. That is a tiny fraction of our whole atmosphere. Yet that tiny amount has an extraordinary effect on the heat balance of the planet. We are warm in a tiny, thin sheen of atmosphere that covers the earth.

Now, any change in that, which is fairly dramatic that we are seeing, will have an effect on the climate. So basically, human activity, because of what we are doing, is having an effect on the climate and 95 percent of the international scientists and 16 scientists from the U.S. just took up overview of this situation with an international panel on climate change, and 15 out of the 16 said there is no mistake that human activity is having an effect on the climate.

Mr. Young of Alaska. Mr. Chairman, will the gentleman yield?

Mr. Gilchrest. I yield to the gentleman from Maryland (Mr. Gilchrest).

Mr. Young of Alaska. Mr. Chairman, I love his theory, but one thing I would ask the gentleman. Two years ago I was in New Mexico standing and overlooking a huge ice action and the gentleman with me said, you know, think about it, Congressman, 12 million years ago there was 284 feet of ice where you are standing. I never will ask how the ice got there, but it was there, and that has scientifically been proven.

But I will ask the gentleman from Maryland, what melted that ice all the way back to the North Pole when our activity is less than 4,000 years? So I want to ask the gentleman, what melted it at that time there? It always intrigues me about the idea of how arrogant we are thinking we are the real problem for all of the problems that occur on this earth.

The Chairman. The time of the gentleman from Maryland (Mr. Gilchrest) has expired.

(On request of the gentleman from Maryland, and by unanimous consent, Mr. Gilchrest was allowed to proceed for 1 additional minute.)

Mr. Gilchrest. Mr. Chairman, I yield to the gentleman from Alaska (Mr. Young).

Mr. Young of Alaska. Mr. Chairman, the oil that we are going to drill and the gentleman from Maryland is going to help me drill in Alaska if he has any wisdom at all; in fact, when we drill, we do not drill through rock up there, we drill through ferns, tree trunks, elephants, all the way down to the bottom to get to the oil.

Now, if we are to accept the gentleman's theory and there is not going to be any change and we are the fault of all of it, then why did this always occur in the past? We take a great deal upon ourselves saying it is our fault because of this global warming when, in reality, if we look at the past history of this earth, it was warm at one time, it was very, very cold at one time; and that was before mankind had anything to do with it.

So before we jump off the cliff, let us understand one thing, we may not be as important as the gentleman thinks we are.

Mr. Gilchrest. Mr. Chairman, reclaiming my time, if I could just respond to the chairman, I am going to go off that cliff in a very gentle way. I am not leaping off that cliff; I am looking to see what is at the bottom.

The Chairman. The time of the gentleman from Maryland (Mr. Gilchrest) has again expired.

(On request of unanimous consent, Mr. Gilchrest was allowed to proceed for 1 additional minute.)

Mr. Gilchrest. Mr. Chairman, there has been change in the climate ever since we have been a planet and the cycle has run over many millions of years and a quick cycle would be 10,000 years. Human beings have a right to live on the planet and to improve the standard of living as best we can, but we also have a responsibility to understand the nature of our impact on the natural processes so that future generations, which will be our grandchildren, and great grandchildren, will not deal with a situation that is more difficult than what we have.

In the last 10,000 years, as a natural consequence of nature, we have warmed about 1 degree centigrade every 1,000 years. But in correspondence to the internal combustion and burning fossil fuels, we have warmed almost that amount in 100 years. So in a simple observation to me, we ought to take a look at that acceleration of that warming rate.

Mr. Oberstar. Mr. Chairman, I move to strike the last word.

Mr. Gilchrest. I yield to the gentleman from Alaska.

Mr. Young. The Department of Energy has shrunk by 40 percent, releasing enormous amounts of colder water into the great ocean circulating current, the great hyaline circulating current that starts in the Arctic with a volume equal to the discharge of all of the rivers of the world in a second. Mr. Chairman, 2 million cubic meters per second, moving cold water of the ocean from the Arctic all the way down the Atlantic coast of the United States, the south Atlantic, into the Pacific and then circulating back up to the Arctic. That great ocean current from time to time disappears. The world enters an ice age, and it occurs on regular currents of about 100,000 years.

It also occurs with a tilt of the earth's axis a half a degree away further from the sun than it does now. That last occurrence made of the disappearance of the circulating current was followed by a warming period that ended with the great Ice Age, which itself ended over 10,000 years ago and was followed by the lesser Ice Age, the period of roughly 1,300 to 1,400 in the modern era. And then about 750 years ago we experienced another lesser ice age, known as the Younger Dryas.

We are now in a period of extended warming. We are beyond those ice age periods and into a new cycle of climate. As the atmosphere has warmed and as the surface of the waters of the Pacific Ocean have warmed more than a centigrade degree since the beginning of this century, the ocean waters are expanding. As they warm, they expand, and so...
is it happening with the Atlantic waters. And as those waters expand and as the atmosphere is warmer, it holds for every degree of temperature 6 percent more moisture. And with more moisture in the atmosphere, more of a collision of warm and cold forces, we are seeing these violent storms. Fifteen years ago, the did not pay more than $1 billion a year in disaster assistance programs. Within the last 5 years, we have expended over $5 billion a year, and last year with the private insurance and the public funds, expended over $100 billion in response to natural disasters. It is incontrovertible that serious things are happening in our climate. And what has changed is not the forces of nature, but man’s application to them.

The gentleman from Maryland said we have contributed the carbon into the atmosphere. There is more carbon in the atmosphere today than at any time in the last 20,000 years. That carbon causes heating. That is the conclusion of 500-plus scientists gathered in the U.N. in the year of the environment in a multi-volume report that was submitted.

Mr. Chairman, we cannot stick our heads in the sand and ignore these facts. We cannot ignore the relentless movement of forces in nature, the melting polar ice pack in the Arctic and the ice pack of Antarctica that are increasing the volume of the oceans by warming of the surface temperature of the Atlantic and the Pacific Oceans. They are causing warming in the atmosphere and more moisture in the atmosphere, more carbon in the atmosphere; and only we can change it, by slowing down the destruction of the tropical forests, increasing sustainable yield forestry in the United States, and reducing our use of carbon. We ought to have that study, and we ought to have this debate. Five minutes is no serious time in which to do it.

Mr. SMITH of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to share with my colleagues a few facts about climate change that have not gotten much press. The main point is uncertainty. There is still a great deal that we do not know or do not well understand about our global climate. For every study that seems to tell us something, there is another that confounds the previous conclusions. Uncertainty is a normal and maybe important part of the scientific process, but it is a part that is often not considered and so rarely reported on. To its credit, The New York Times ran a piece last week entitled, “Both Sides Now: New Way That Clouds May Cool,” which noted that science is uncertain and that uncertainty can dramatically change climate models.

Clouds have long been a source of uncertainty in climate studies. Certain gases generated by the burning of fossil fuels, such as carbon dioxide, are widely held to play a role in warming the planet by enhancing heat trapping. However, aerosols, also produced from fossil fuels, have been found to contribute to the cooling of the planet by affecting the development of clouds that reflect sunlight, and thus it reflects heat away from the planet.

Now, before we pass legislation meant to curb global warming, we need to understand better which human activities affect those and other processes. It seems, and I would suggest, the most important point to take from the recent round of reports is that our climate is a very complex system that is not well understood. As chairman of our Subcommittee on Research of the Committee on Science, we have held several hearings on this subject, and it is almost universally agreed by those testifying before our committee that scientific evidence and knowledge is lacking.

Our best intentions can very easily produce the wrong outcome. Fredrick Seitz, former president of the National Academy of Sciences, did a piece for the Washington Times last week on this very point. Let me quote from that article entitled “Beyond the Clouds of Fright.” Quote: “The science of climate change today does not call for rash action that could wreak havoc with economies worldwide and even cause worse damage to the environment over time.” He also cautioned that “researchers shouldn’t be pressured by politics or encouraged by publicity to find a particular answer. They should be given the space, the time, the funding and the support to seek and find the truth.”

So in conclusion, I would like to urge my colleagues to resist the temptation to jump on the bandwagon of climate change before we better understand the science and better know the consequences of our actions. I understand the ranking member has a perfecting amendment that might help us, help guide us.

Mr. INSLEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, modest uncertainty is not an excuse for major inaction. When the captain of the Titanic steamed out of the harbor, he was uncertain if there was an iceberg there, because he was uncertain if there was an iceberg there, that was a mistake. And this body, with the language in this bill, which now continues to ignore this problem of global climate change, is a major mistake.

I am just going to ask my friends across the aisle to look at two things that happened today within a quarter mile of this building. Number one, The Washington Post, headline this morning: “Penguins In Major Decline. Fifty percent of these stocks are disappearing in the Antarctic.”

Why? Because they have had a reduction of ice in the Antarctic, a death of the crill population that penguins rely on and a potential huge collapse in a couple of their populations.

It happened today. I am just going to ask people across the aisle to not adopt the attitude of the ostrich and ignore these facts.

Number two, right now, 200 yards from now, are two fuel-cell-driven cars, one manufactured by the Ford Company, that run on fuel cells and emit water instead of carbon dioxide in their emissions.

We are, I mean we, have the potential if we get together to emphasize research in these new technologies, we are going to lead the world, instead of the laughingstock of the world, of the country that refuses to be anything but an ostrich on this issue.

Mr. Chairman, I am going to ask at some point that we work together to lead the world. We did not have to wait for the rest of the world to do a clean air bill. We did not have to wait for the rest of the world to do a clean water bill. We ought to lead the world on global climate change. That is the right approach.

Mr. Chairman, I look forward to the time we can do that on a bipartisan basis.

Mr. OLVER. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

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

There was no objection.

Mr. OLVER. Mr. Chairman, I will be very brief this time. In section 331, it refers to a limitation in the use of funds in this legislation to implement in a broad way, in any kind of way, the Kyoto Protocol, which has never been ratified by the Senate of this Nation, nor by any of the other major signatories to the original Protocol for that matter.

My amendment merely says that the limitation which would remain does not include activities related to the protocol which are otherwise authorized by law, nor activities that are authorized by the United Nations Framework Convention on Climate Change, which is the treaty that was negotiated back in 1991 and 1992, and sent to the Senate for ratification by former President George Herbert Walker Bush, and was ratified by the Senate and has the full force of law.

Mr. Chairman, it merely removes the limitation from otherwise-authorized-by-law activities in this area. It is my intent to withdraw the amendment.

Before I do withdraw my amendment, I know that we could probably generate a long discussion here, which
none of us really want, but I would ask the gentleman from Kentucky (Chairman Rogers) if the gentleman would be willing to get together with the groups that are obviously showing their interest in this and come up with something that might address these concerns in the conference that will come forward.

Mr. ROGERS of Kentucky. Mr. Chairman, I will be happy to consider it as time passes, but I was sort of hoping, can we have some more discussion of this?

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

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 332. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services related to air traffic control, air navigation or weather reporting; Provided, That the prohibition in this section does not apply to negotiation between the agency and airport sponsors to achieve agreement on "below-market" rates for these items or to grant, loan or otherwise make money available to airport sponsors to provide land without cost to the FAA for air traffic control facilities.

Sec. 333. Notwithstanding any other provision of law, States may use funds provided in this Act under section 402 of title 23, United States Code, to produce and place highway safety public service messages in television, radio, cinema, and print media, and on the Internet in accordance with guidance issued by the Secretary of Transportation: Provided, That any State that uses funds for such public service shall submit to the Secretary a report describing and assessing the effectiveness of the messages.

Sec. 334. Notwithstanding section 402 of the Department of Transportation and Related Agencies Appropriations Act, 1982 (49 U.S.C. 10903 nt), Mohall Railroad, Inc. may abandon track from milepost 5.25 near Granville, North Dakota, to milepost 35.0 at Lansford, North Dakota, and the track so abandoned shall not be counted against the 350-mile limitation contained in that section.

The point of order

Mr. OTTER. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. Does the gentleman from Kentucky (Chairman Rogers) wish to be heard on the point of order?

Mr. ROGERS. Mr. Chairman, we concur the point of order.

The CHAIRMAN. The gentleman from Kentucky concedes the point of order.

The point of order is conceded and sustained under clause 2, rule XXI. The provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

Sec. 345. Beginning in fiscal year 2002 and thereafter, the Secretary of Transportation may use up to 1 percent of the amounts made available to carry out 49 U.S.C. §5309 for oversight activities under §5337.

Sec. 338. Amtrak is authorized to obtain services from the Administrator of General Services, and the Administrator is authorized to award to Amtrak, under sections 201(b) and 211(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(b) and 491(b)) for fiscal year 2002 and each fiscal year thereafter until the fiscal year that Amtrak operates without Federal operating grant funds appropriated for its benefit, as required by sections 2410(d) and 2410(a) of title 49, United States Code.

Sec. 337. Item number 1348 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 269) is amended by striking "Extend West Douglas Road" and inserting "Construct Gastineau Channel Second Crossing to Douglas Island".

Sec. 338. None of the funds in this Act may be obligated for the Office of the Secretary of Transportation or for the Aeronautics and Space Administration to approve assessments or reimbursable agreements pertaining to funds appropriated to the modal administrations in this Act, except for activities underway on the date of enactment of this Act, unless such assessments or agreements have completed the normal reprogramming process for Congressional notification.

Sec. 339. For an airport project that the Administrator of the Federal Aviation Administration (FAA) determines will add critical airport capacity to the national air transportation system, the Administrator is authorized to accept funds from an airport sponsor, including entitlement funds provided under the "Grants-in-Aid for Airports" program, for the FAA to hire additional staff or obtain the services of consultants: Provided, That the Administrator is authorized to accept and utilize such funds only for the purpose of facilitating the timely processing, review, and completion of environmental activities associated with such project.

The Text of the amendment is as follows:

Amendment no. 5 offered by Mr. TRAFICANT.

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

The CHAIRMAN. The Clerk will describe the amendment.

The text of the amendment is as follows:

Amendment no. 5 offered by Mr. TRAFICANT.

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

Sec. __. None of the funds appropriated or otherwise made available in this Act may be made available to any person or entity convicted of violating the Buy American Act (41 U.S.C. 80a-10c).

Mr. TRAFICANT. Mr. Chairman, I would just like to say the worst thing about global warming would be a German transit system in the City of New York that focuses on the violations that occur in the Buy American Act. The language is straightforward.

Mr. Chairman, I yield to the distinguished gentleman from Kentucky (Chairman Rogers), who has produced a fine work product.

Mr. ROGERS of Kentucky. Mr. Chairman, the Traficant amendment is a good one. We accept it.

Mr. TRAFICANT. Mr. Chairman, I yield to the distinguished gentleman from Minnesota (Mr. SABO), the ranking member.

Mr. SABO. Mr. Chairman, we accept the amendment.

Mr. TRAFICANT. Mr. Chairman, I ask for a vote in the affirmative.

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

The amendment was agreed to.

Mrs. MALONEY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the Committee on Transportation and Infrastructure for the Long Island City Links project and acknowledge the importance of this project and also to express my appreciation.

Mr. Chairman, I include the following line for the IPCC on developments in this growing economy:

I am tremendously pleased that the House Transportation Appropriations bill includes $250 thousand dollars for the Long Island City

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Links project, to improve transit connections and pedestrian paths in an area of New York City that is experiencing tremendous economic growth. These improvements are a vital part of our efforts to make Long Island City not only one of the best places to work in the region, but also a beautiful and livable residential neighborhood. Long Island City Links will immeasurably improve the quality of life for residents in the area by reducing traffic and increasing air quality and providing public parks and walkways.

Long Island City, Mr. Chairman, is one of the fastest growing regions in New York City. Here are just a few of the recent developments in this growing economy:

**BUSINESS MOVES TO LIC**

MetLife brings almost 1,000 jobs to northwestern Queens—MetLife recently decided to relocate almost 1,000 employees in about six months to the renovated, six-story Bridge Plaza North. This move is expected to attract more businesses to this area by drawing attention to the convenient 15-minute commute to midtown Manhattan. MetLife plans to add another building in the city during the 20-year term of its lease.

The FAA has plans to develop a new Regional Headquarters in the area. Construction is already underway for a new FDA laboratory.

Established Companies in the area, such as Eagle Electric, Continental Bakeries, and Schick Technologies, are continually growing and expanding.

Recently welcomed retail chains include Home Depot, Tops Appliance City, Costco, Caldor, Kmart, Sears, the Disney Store, Barnes & Noble, Marshall’s, Gateway, Ethan Allen, Staples, Circuit City, and Bed, Bath & Beyond with a CompUSA already being planned for the near future.

With this growth in business and the economy in Long Island City it is absolutely vital that we move forward with community enhancements like public parks, transportation enhancements, and quality of life improvements for all residents in the neighborhood.

**AMENDMENT OFFERED BY MR. SCHIFF**

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

The Clerk reads as follows:

Amendment offered by Mr. SCHIFF:

The Clerk reads at the end of the bill, insert after the last section (preceding the short title) the following new section:

**SEC. None of the funds in this Act may**

1. Use a very simple amendment. I wish it could be more complicated, but because of the action of the Committee on Rules and the action in the House, I cannot offer a more complicated amendment.

This one simply prohibits funding to process the applications of Mexico-domiciled motor carriers for either conditional or permanent authority to operate throughout the United States beyond the current 20-mile commercial zone.

Let me say that I thought the amendment that we had earlier clearly was NAFTA-compliant. This probably is not, because it is a total prohibition, but I know of no other way for us to do this with this issue on the floor. I think we should deal with it.

Let me review where we are at this point. The Committee on Rules did not make our amendment in order. We heard a great deal about the money that was going to make those funds available for facilities and inspectors in this bill. A significant part of that money has been struck. Today I think close to $90 million for inspectors and facilities have been struck by points of order.

Mr. Chairman, I was an original supporter of the action of our Chair in putting that money in the bill. I thought it was the appropriate thing to do. I thought that was a significant step forward, but not far enough. I thought the best solution to a very troubling situation was both to do preinspection of the carriers, plus add to our capacity to inspect individual trucks.

The reality is at this point in the bill, most of that money has disappeared, and I will now offer an amendment that calls for preinspection. I think the only way we can address this issue in the House, keep it alive for conference, indicate to the administration and to the Senate that we want to make sure that we do the utmost to protect safety, is to adopt this limitation which is strong and outright. It gives us the action from a point of strength of dealing with the issue of truck safety for all the trucks that are going to be coming here from Mexico as we move on in this process.

Let me say as it relates to some of the money that was struck, the administration plans to do 18 months review. Let me simply suggest that even if that money had stayed in the bill, particularly the money for building new facilities, probably very little of that would have been spent within the next 18 months, because it will take a significant period of time to build facilities. Clearly, money would not have been spent by January 1 of this year.

Mr. Chairman, I ask for support of this amendment. It is clear. It is
Mr. Chairman, I fully understand that as this moves through the process, this will need to be revised, but it is the only option we have to deal with this important safety question for the American people.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let us understand where we are here. I did not vote for NAFTA. I opposed NAFTA, but it passed. It is now the law of the land. It is the treaty between our neighbors and us. This provision is in direct violation of a United States treaty with our neighbors.

I am referring to a letter of June 12 from the Secretary of Transportation, who in essence says that this is a clear violation of Mexico’s rights under NAFTA; that it would subject the United States to possible trade sanctions estimated to be valued at over $1 billion annually that this would expose us to.

The majority of my colleagues in this body voted for NAFTA. It passed. NAFTA says we are going to open the borders up to Mexico and to Canada.

This President says January of next year is when we do it. This amendment would prohibit motor carriers from Mexico to enter the United States. Period. You cannot do that. You are in violation of a treaty; in violation of the law; in violation of the majority that passed the treaty through this body.

Now, is it worthwhile to do this type of thing? Look, the Motor Carrier Safety Administration, even as we speak, is taking public comments from anybody who wants to comment, including Members of Congress, about what kind of a procedure we should have to check Mexican trucks for safety as they come into the country. The experts are working on the rule even as we speak. Should we not let them finish their work before we, who are not experts on trucking or safety, tell the experts what they should or should not do?

Give them a chance. If we do not like what they have come up with this fall, we can change the rule and make it effective. But for goodness sakes, give the experts the chance to do their work. They are making the rule right now. Make comments to the rule-making body, not to the Congress. We can deal with this at a later time.

The administration has a plan. The DOT will be going to Mexico. For those carriers in Mexico who want to run trucks into this country, those carriers will be audited for safety, for their record, for training, for all the things that go into whether or not a safe operation of the truck could be made in the United States by that Mexican carrier.

If they pass that audit, they would be given a temporary permit to drive. In the meantime, we will be inspecting the dickens out of the trucks crossing the border.

If at the end of 18 months that carrier has no record problems, all has gone smoothly, then and only then would they be given, not a conditional permit, but a permanent permit. I think it is a responsible approach. There is money in the bill for that approach.

The administration is proceeding. The rulemaking is taking place. Let us not interrupt what they are doing. But please do not vote in this Congress an amendment on to this bill that would be a direct violation of a treaty of the United States of America. Please reject this amendment.

Mr. OBEY. Mr. Chairman, I move to strike the last word. Mr. Chairman, we are being told that this amendment violates NAFTA. That is like the old song that we hear so many times about the person killing both of his parents and then throwing himself on the mercy of the court because he is an orphan.

What the gentleman from Minnesota (Mr. SABO) tried to do is to bring to this House an amendment that will prevent Americans from dying by seeing to it that we have an inspection process and a review process before, not after, dangerous trucks hit the highway.

I want to remind my colleagues NAFTA is a trade agreement. It is not a suicide pact. Let me repeat that: NAFTA is a trade agreement; it is not a suicide pact. We are not required to allow unsafe trucks on American highways in order to satisfy some pencil-heads in Canada, or in Mexico or in NAFTA.

This amendment has no choice but to, for the moment, cut off all Mexican trucks on American highways in order to satisfy some pencil-heads in Canada, or in Mexico or in NAFTA. This amendment has no choice but to, for the moment, cut off all Mexican trucks on American highways because the majority party insisted that was the only option that could be put before this body. So they blocked the effort that the gentleman from Minnesota (Mr. SABO) tried to bring to this House, and which would have been fully consistent with NAFTA. That effort would have said you cannot have those trucks running over American highways until we have the proper review process in place to make certain ahead of time that safety standards are being met.

If this amendment technically would become violation of NAFTA, it is because the majority has forced the House into a position where it can consider no amendment except that kind of an amendment.

Everybody on this floor knows, if you want to pug it out, the bull gravy at the end of the day, this amendment can be fully tweaked in conference so that it is fully consistent with NAFTA and protects the American trucker.

The rationale against this amendment keeps changing. We were told earlier in the day, oh, you have to block the Sabo amendment under House rules because the Sabo amendment was not passed by the full Committee on Appropriations. Many a time, many a time the Committee on Appropriations has chosen not to follow that logic.

We are also told, oh, we do not have to do this. We do not have to protect American motorists this way because we have got all this money in the bill for these new inspectors.

Well, let me remind my colleagues that money is now gone. It was knocked out on a point of order. So the $56 million for infrastructure improvements at the border, the $14 million for added inspections at the border, the $18 million for the supplements for States around the border, all that money is gone.

So your excuse is gone. You have no added protection for American drivers at this point. You know what the problems are. There is no effective oversight. There is no effective oversight on Mexican motor carriers today. There are no motor carrier hours-of-service regulations in effect. Mexico. There is no way to check the driving history of Mexican motor carrier drivers.

In testimony last year, the Department of Transportation Inspector General said this: "I do not think there is any reasonable person who can say that the border is safe when you have an out-of-service rate for safety reasons in the neighborhood of 40 to 50 percent."

Now, the majority blocked the Sabo amendment that would have allowed us to deal with this issue the way it needed to be dealt with. Now because they blocked us from offering the right amendment, they are blaming us because the language of this amendment is not pluperfect.

Well, the gentleman from Kentucky (Mr. ROGERS) is a very smart man. He can easily fix it in conference. We have heard this excuse time and time again. Can fix it in conference. Can fix it in conference. Well, this is one time we are going to say that. We have full confidence in the ability of the gentleman from Kentucky to fix this in conference.

But today, we have only one option if we want to protect American motorists.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. ROGERS) has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 2 additional minutes.)

Mr. OBEY. Mr. Chairman, the only option we have is to adopt this amendment, because this is the only procedural alternative left to us by a rule that prevented us from offering the
amendment that should have been offered on this subject. So do not blame us for the shortcomings which the majority has caused.

I would simply make one other point. We have a choice. We can either insist on having an inspection regimen and a review regimen in place before these trucks are put on the highways, or we can do what the gentleman from Kentucky (Mr. ROGERS) says and wait until they are on the highways and then see what happens.

Only one difference between the approaches. There are people who will die under the second approach who will not die under the first. It is just that simple.

So you have got a very clear choice. If you want to do anything at all to protect the safety of American motorists on the highways on this issue, you will have the opportunity to do that, or you will give the committee the opportunity to do what it has done thousands of times before, which is to tweak the language in conference so that it can satisfy the procedural niceties of this House who eight times out of ten run a railroad truck over legitimate procedure.

You hide behind procedure when it suits your purpose, and you trample fair procedure the rest of the time. We are not fooled by that. American drivers are not going to be fooled by that. The only people you might be fooling are yourselves.

Mr. KOLBE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I have listened with interest to this debate. I do rise in strong opposition to this amendment.

I think that sometimes the rules of the House work to help to show the real issue. What is at stake here is what is involved here. I have said all along in the debate in committee and before this, in the years that it has been before, that this is really an issue about trying to block Mexican trucks from the United States highways, that there are interest groups here in the United States that want to compete there.

We want to make sure these Mexican trucks are safe. We do not want under any circumstances to have Mexican trucks driving on our highways.

Well, today we see that with this amendment. Granted, as the gentleman from Wisconsin (Mr. OBEY) said, it is the only amendment that can be offered or something like this amendment can be offered under the rules.

With this amendment, it is very clear. Block all trucks coming into the United States. The heck with anything else. Block all trucks.

I might add, somehow within the 20 miles in my State is okay under this amendment, but in other areas, it is not okay. So somehow it is okay for us not to have safe trucks since he is worried about safe trucks.

So I think it is very clear what we are talking about here. We are talking about blocking trucks from coming to the United States. Let us face it, there are interest groups in the United States that do not want those trucks here. They are joined by interest groups in Mexico. The Mexican Trucking Association does not want American trucks coming down into Mexico. So they join you in this. They want to be sure there are not trucks in the United States to have an opportunity to compete there.

If we get this, we get reciprocity; and we have an opportunity to have Mexican trucks to go down there. There are Mexican truck associations that do not want us. So there are joint interest groups on both sides that do not want this.

But let us review the facts here. We adopted NAFTA. It was adopted in this chamber, and it is implemented by the executive branch. It is in the law of the land that took effect on January 1, 1994. It stipulated that, by January 1, 2000, that is 18 months ago, we would allow trucks to cross at all points of the border into the United States. Here we are at June 25, and it still has not occurred.

Mexico filed a complaint against us under the terms of NAFTA for not meeting the deadline; and in February of this year, the panel concluded that the U.S. was indeed in breach of its NAFTA obligations.

The sanctions that are being talked about could be as much as $1 billion a year. That is $1 billion on American industry. That is $1 billion for American consumers that they are going to pay more.

I say let us stop treating our Mexican neighbors as though they are some kind of people that we should not want to do business with.

This amendment has nothing to do, by the way, with trucks coming from Canada, our other NAFTA partner. Oh no, just the trucks from Mexico somehow are suspect. So I think we should be building bridges, not barriers to our neighbors from the south.

Let us be clear about this. This issue is not about the safety of the truck, it is about paperwork. The issue as was presented today, by the gentleman from Minnesota was about paperwork.

Of course we want to be sure that all trucks traveling on our highways are safe, but the States along the border, for several years now, have said they are prepared to do that. How come the States that have the responsibility for enforcing this, along with the Department of Transportation, are prepared to do this? We have the regimen in place to check the paperwork as they cross the border, to look at the logs, to look at all these things, to make sure the bonds are there, the licenses are there, the insurance is there, and to do the actual physical inspection of the truck. Because that is after all what we are about, is it not? Why not to make sure these trucks are actually safe. So the most important aspect of truck safety is the observation of the driver and the actual inspection of the truck at the border and along the highway.

The gentleman from Wisconsin said people will die. Yes, people have died in my district. Not very long ago there was a truck driver who was using amphetamines, had not slept for 18 hours, crashed into a car parked along the side of the road and destroyed all the occupants of an entire family because he was violating rules and the law in the United States. We need to inspect for that. We need to have adequate inspection to make sure it is safe in this country.

The trucks coming across the border are all going to be subject to inspection, and the percentage of them that are actually going to be physically inspected is going to be much much higher. Currently are inspecting trucks on our highways. American trucks traveling on our highways. So the paperwork is not the issue. If all my colleague wants to do is check the paperwork, the paperwork can be checked when the truck is down in Guadalajara, but that does not tell us whether the truck is safe.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. KOLBE) has expired.

On request of Mr. OBEY, and by unanimous consent, Mr. KOLBE was allowed to proceed for 5 additional minutes.

Mr. KOLBE. Mr. Chairman, let me just say this, and then I really will yield to the gentleman. This really is not about paperwork, in my opinion. It is really about whether or not trucks are going to be allowed to travel on our highways from Mexico.

I say we should treat people equally. In a study, by the way, in California, of trucks coming across the border into that border zone, shows they meet the standards on an equal basis with U.S. trucks. So there is no real difference that is there. So I say we need to treat our neighbors to the south as partners.

Those of us who live along the border understand what this partnership is all about and how important it is economically and politically to the United States, and I believe that we can make this work. It is clear the Department of Transportation is prepared to do it, the States are prepared to do it, and I would urge that we defeat this amendment.

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

Mr. KOLBE. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding, and let me say he is my good friend, but I would like to read something to him and then ask him a question.
The gentleman indicated that he thought that in this case the rules had been used to bring out the true intent of the amendment before this body, implying that the true intent was to have a flat shutoff of Mexican trucks. I flatly dispute that, and I want to read something then ask the gentleman a question.

This is the text of the original Sabo amendment which the majority blocked from consideration in the House today. It reads as follows: “No funding limited in this Act for the review or processing of applications by Mexican motor carriers for conditional authority to operate beyond U.S. municipalities and commercial zones on the U.S.-Mexico border may be obligated unless the Federal Motor Carrier Safety Administration has adopted and implemented as part of its review procedures under 49 U.S.C. 13902 a requirement that each Mexican motor carrier seeking authority to operate beyond U.S. municipalities and commercial zones on the U.S.-Mexico border shall undergo a new entrant safety compliance review consistent with the safety fitness evaluation procedures set forth in 49 CFR Part 385 and receive a minimum rating of satisfactory thereunder before being granted such conditional operating authority.”

Now, that language is pretty clear. It does not try to shut off Mexican trucks. It says they cannot operate here until they have met these standards. Does not the language of the original amendment in fact indicate what the intention of the original amendment was?

Mr. KOLBE. Mr. Chairman, reclaiming my time, I appreciate the gentleman asking the question, and I understand what the amendment did do and that this amendment now, as it is offered, is somewhat different. But I believe that the amendment that was crafted as offered has the effect of actually stopping any trucks from coming into the United States. That is the intent of it. I believe, to make sure they do not get into the United States.

So now that amendment not having been made in order under the rules, I would say to my good friend from Wisconsin, I think we are seeing the true intent here. It is interest groups. Look at those that are supporting this amendment. Look at the people asking for this. It is groups that do not want trucks coming into the United States.

Mr. OBEY. Mr. Chairman, if the gentleman will again yield. Let me simply say that the gentleman is forgetting one thing. What the Sabo amendment attempted to do is to say that there would be no Mexican trucks on these roads until the safety requirements were met as outlined in the amendment.

I think it is blatantly ridiculous for anyone to assert that the intention of a proposal is something other than that which is quite clearly stated in the proposal. It was the majority that blocked us from being able to vote on this proposal.

Mr. KOLBE. Again reclaiming my time, Mr. Chairman, more than 2 years ago, down at the border, I went over the whole procedures with the Arizona Department of Transportation and the U.S. Department of Transportation. Everybody was prepared at that time to begin implementing this. So there is no question. We are prepared to inspect. We are prepared to look at these trucks. We are prepared to make sure they are safe. We are prepared to make sure they have their license, their insurance, the bonding that is required, and to do the physical inspection of the truck.

As I pointed out, a far greater percentage of them will be inspected than any of the trucks traveling on our highways. The gentleman must acknowledge that there are accidents occurring on our highways because of trucks not properly inspected or, more likely, because the drivers are not following the rules. In fact, there is a very interesting study I just saw the other day that states that 73 percent, I believe was the figure, of all accidents in trucks occur when there is a passenger in the vehicle as opposed to about 23 percent when there is not a passenger. So passengers’ distractions have more to do with it apparently than anything else.

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

Mr. KOLBE. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, the gentleman talks about who supports this amendment, or my earlier amendment. The time of the gentleman from Arizona (Mr. KOLBE) has expired.

(On request of Mr. SABO, and by unanimous consent, Mr. KOLBE was allowed to proceed for 1 additional minute.)

Mr. KOLBE. Mr. Chairman, I yield to the gentleman from Minnesota.

Mr. SABO. As I was saying, I have here a letter from the Commercial Vehicle Safety Alliance, which is an association of State, provincial, and Federal officials responsible for the administration and enforcement of motor carrier safety laws. They were writing to me to express their strong support for the amendment that I had before the Committee on Rules. They are hardly a self-interest group. Their interest is in enforcing the laws that we pass.

Mr. KOLBE. Mr. Chairman, I appreciate what the gentleman is saying, but I would say to the gentleman in response that it is very clear to me that we have the ability to do this, we have the wherewithal to do it, we have the desire on the part of both Federal and State authorities to do this checking, and they are capable of doing this.

Why is this amendment not including Canada? Why are we only including Mexico under this? Canada is a NAFTA partner. Why do we discriminate against the one? That is what makes this violative of NAFTA.

Mr. OBEY. Mr. Chairman, will the gentleman yield so we can answer that?

Mr. KOLBE. I yield to the gentleman from Wisconsin if I have time here.

Mr. OBEY. Mr. Chairman, it is very simple.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. KOLBE) has again expired.

(On request of Mr. OBEY, and by unanimous consent, Mr. KOLBE was allowed to proceed for 1 additional minute.)

Mr. KOLBE. I yield to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. The record for Canadian carriers shows that their highway safety record is virtually every bit as good as ours. The record we respect to the Mexican drivers in question demonstrates quite the opposite.

Mr. KOLBE. And I would say to the gentleman that fair is fair. If we are going to treat people fairly, we need to treat both sides in exactly the same way. With the kind of inspection regimen we are talking about installing here, we should have the same kinds of inspections for trucks coming from Mexico as we are talking about trucks that travel from Canada. Fair is fair. Treat all sides fairly here. That is all that I am saying that we should do.

Why are we singling out our neighbors to the south? Why are we singling out Mexico to say we do not trust you, when we do not think your trucks are safe, do we not think you can comply with NAFTA? I think that is wrong and it sends the wrong signal to our partner, the wrong signal to NAFTA and the rest of the world, that we are going to single out this Latin American country, this neighbor to the south of us, to say that we do not believe your trucks can travel here in the United States. I think it is just plain wrong.

Mr. BONILLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. KOLBE. Mr. Chairman, I stand in strong opposition to this amendment.

Here we go again, attacking Mexico, singling out Mexico for some reason that I cannot understand. What a farce, for anyone to argue that these trucks coming in from Mexico would not be forced to comply with the same standards as American trucks on our highways. This is simply a ploy, a naked ploy now, because it is not masked as an earlier amendment was trying to be masked as some kind of effort that is actually behind a safety issue. This is just a clear effort to try to stop these trucks from coming in altogether.
Let me also say to many of my colleagues who are supporting this amendment, this is an attack on many border communities. We have seen an incredible economic boom as a result of free trade over the last 20 years. To support this amendment stops the progress, stops the jobs from being created in many of the communities close to the border. I do represent almost 800 miles of the Texas-Mexico border and have seen incredible opportunities come to these neighborhoods because of free trade. These people want more opportunity that would come with allowing these trucks to drive through these communities. And we know that they would not be held to any less a standard than an American truck driving through the community.

So let us look at this for what it is. It is discriminatory, a truck against Mexico. It has already been pointed out that no one else is being forced to comply with this standard. No one else would fall under this amendment. Our friends from Canada would not fall under this amendment. This is simply another effort to discriminate against our friends in Mexico who have been good trading partners and have helped create thousands of new jobs in this country. I urge defeat of this amendment for those reasons.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBERSTAR) has expired.

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. CHAIRMAN. The amendment is made in order. I, like my colleagues, regret that the Sabo amendment was not made in order. However, I do not regret being in strong support of this amendment, because I believe it is very important for this House to have a clear vote on this issue.

This issue in my view is not about NAFTA; it is about truck safety and why we can allow the trucks that are entering the United States. Not too long ago, the Subcommittee on Highways and Transit had a site visit to San Diego and Laredo. At San Diego, we found a very good permanent inspection station. That inspection station looks at all of the trucks and issues a permit that is good for 90 days. If any truck tries to enter the United States and does not have that, it is pulled aside and inspected. We have found that their out-of-service rate is similar to the trucks in the whole of the United States of America, about 24 percent. Too high in my view, but similar to the rest of the country.

When we went to Laredo, Texas, we found a system that virtually does not exist. There is no permanent inspection station in Texas. I do not believe there is one outside of California. The results are pretty obvious. The gentleman from the Texas Department of Public Safety, Major Clayton, had suggested to us that a truck that is not inspected will be neglected. We were there on a Sunday, and we asked what the experience was that day. We were informed that they looked at seven or eight trucks, and took five of those trucks out of service.

I asked, What was the problem with those trucks? Were they minor little details like a light that does not work or turn signals or something of that sort?

He said, No, Congressman, these are brakes that are falling, leaking fuel
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Mr. Chairman, these are the vehicles that are going to be allowed come January 1 to enter the interior of the United States. This is not against NAFTA. If we want to continue allowing trucks to come into the border States, where they are traveling at presumably a very low mile-per-hour rate, if these trucks are allowed into the interior of the United States to travel anywhere in the United States of America with brakes that are failing, leaking fuel lines, cracks in undercarriage, bald tires, there are going to be major accidents in our country.

Mr. Chairman, what happens to NAFTA then? What will be the outcry in our country if a truck that was not inspected and had these kinds of violations caused an accident? I think that will cause a whole lot more harm to NAFTA than our insisting that Mexican trucks be inspected and inspected properly. California has done a pretty good job. They have set a model for us. They have put up the funds and have permanent inspection stations. There are no other permanent inspection stations along the border, and trucks that are unsafe will be entering our country. I strongly support the Sabo amendment.

Mr. Chairman, I move to strike the requisite number of words and see if we might inquire how many people want to speak on both sides.

The CHAIRMAN. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. SABO. Mr. Chairman, we have two additional requests for time on our side. And how many on the gentleman’s side?

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, we have one additional speaker.

Mr. SABO. Mr. Chairman, I ask unanimous consent that there be 30 minutes of debate, 15 minutes allocated to each side, controlled by the gentleman from Kentucky (Mr. Rogers) and myself.

The CHAIRMAN. On this amendment and all amendments thereto?

Mr. SABO. Mr. Chairman, that is correct.

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

There was no objection.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, on behalf of my constituents, I thank the gentleman from Minnesota for his amendment.

Mr. Chairman, I represent the southern half of San Diego, California, a district which borders Mexico and which has all of the border crossings for California, at least the great majority. Thirty-five to 40 percent of all truck traffic into the United States crosses my district, so I believe we have some sort of experience and expertise with regard to this matter.

The distinguished chairman of the subcommittee suggested that we ought to wait for experts to decide this question. Mr. Chairman, my constituents are experts. My constituents will tell the gentleman what it is like to be in an accident with a Mexican truck whose brakes have failed; in an accident where the driver did not have adequate insurance; in an accident where the truck driver was a teenager or who had just driven for 20 hours straight. My constituents are the experts on what happens when we do not have adequate inspection system. The gentleman from Arizona (Mr. KOLONE) talked about all of the States are ready to do this. I do not see any evidence that they are. If they are, why do they not do this? Twelve thousand trucks are crossing every day. We heard from the gentleman from Pennsylvania (Mr. BORSKI) talking about the state-of-the-art facility in San Diego where the California Highway Patrol inspects trucks. They are doing this, by the way, with their own funds, no Federal support. There is no Federal support for State inspections, and all States can do what they want. That does not strike me as a way to assure U.S. citizens of truck safety.

But the California Highway Patrol has taken on that responsibility, has paid for it, and does good inspections on the trucks they inspect. We think they do 10 percent of the trucks that cross the border, and that inspection only deals with the safety of the chassis itself. Very little inspection is done or can be done about insurance. Papers are exchanged, but there is no way to check those papers.

The driver’s license may be asked for and the logs may be asked for, but there is no uniformity of those papers. There is no check or way to check on the accuracy of that data. The truck’s license may or may not be a legitimate driver’s license. Logs are not required to be kept by Mexican drivers, so we do not know how long the driver has driven. We do not know the safety record of that driver. There is no way to hook up the computer systems between our two nations. And even if there was, the Mexican systems do not yet meet the standards that we would expect in a DMV of any State in our union.

So even in California Highway Patrol is state of the art, it is only inspecting a few percent of trucks, and it can only inspect for a few percent of what we would normally require to be inspected. And we are light years ahead of the other States that border Mexico. There is no such permanent facility in Arizona, Texas, or New Mexico, and there are no Federal funds to set up these, and there are no standards by which they ought to operate, and there is no agreement on the kind of inspections that ought to be done in those States.

The gentleman from Pennsylvania (Mr. BORSKI) mentioned that the Subcommittee on Highways and Transit of the Committee on Transportation and the Infrastructure with our chairman was at various border crossings along the southern border. We were in Laredo, Texas, where there, and in the environs, most of the trucks apparently cross the border. They have not decided what kind of inspections ought to take place. They do not have the expertise with regard to this matter.

Not only do they not have the money to do it either way, but it is going to take quite a bit longer before they can do it. So we are years away from having an adequate inspection system. We need the Sabo amendment in order to protect our communities.

Mr. Chairman, I stand behind the Sabo amendment and truck safety. 

Mr. SABO. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Chairman, I rise in support of the amendment offered by my colleagues earlier that we were not allowed to have an opportunity to dialogue on. I represent 13 counties in south Texas, two of which are along the Texas-Mexican border and part of the commercial zone already accessible to Mexican trucks. A number of the other counties contain I-35, a principal trade corridor for truck traffic from Mexico.

I recognize the importance and value of expanding trade with Mexico. We need to build upon the trade relationships with Mexico and Canada. I also recognize that the dramatic growth in truck traffic comes with a price. I know from my constituents that that price is often paid on the ground in those counties as we move forward.

The issue is not whether we should have more trade, rather, the challenge is how to protect the public while increasing trade. One should not be pitied against the other. We should just use our common sense. Road maintenance, border infrastructure improvements and border inspection in general have been the responsibility of the counties along the border, some of which are the poorest counties in the Nation. Increased truck traffic without increased inspections is a recipe for disaster.
They did not. They did not get the re-
171 new commercial vehicle inspectors.

Nearly 70 percent of Mexican truck
freight traffic enters the United States
through Texas, which experienced 2.8
million truck crossings last year. The
volume of truck is expected to increase
by 85 percent. As of now, we do not
have the ability to inspect and regulate
these trucks. A total of 1 percent of the
trucks that are crossing into Texas are
now being inspected. Of those in-
spected, the unmarked trucks are 85
percent, nearly twice the national av-
erage for U.S. trucks. We will make the
problem worse if we do not insist on in-
spections for Mexican trucks.

We must insist that Mexican trucks
and their drivers get the same safety
and inspection requirements as U.S.
trucks. We are not asking for anything
special. We want to make sure that
they also be able to go through the
same guidelines. We are not anti-
competitive, and we are not anti-Mexi-
can. What we want to make sure is
that those trucks get treated in the
same way. They should be inspected in
the same manner.

All we are asking is that Mexican
carriers be subject to on-site inspec-
tions prior to being granted operating
authority and permitted to travel
throughout the United States. Why
should we have to wait 18 months for
that? When it comes to public safety,
should we not be more sure? Mexico,
should we have the ability to inspect and regulate
its trucks, especially its long-haul
vehicle. Mexico does not
have the certification process, that could have
began the reform program of its own.

The result was, and we heard from
the ranking member the statistics
about how many unsafe trucks there
were. I can tell my colleagues that at
that time we found 57 percent of the
trucks that we put through our safety
efforts on our border with Canada, al-
much 57 percent did not meet the stan-
dards in the State of Idaho, and so,
therefore, we could halt them at the
border and reject them because they
did not meet our safety standards.
I suspect, Mr. Chairman, that you can do
just about anything that you want to
with statistics.

But let me just say, this is not un-
usual for the United States to do this.
We have airlines that cross borders. We
have railroads that cross borders. We
have no problem with the safety regu-
lations and the equal treatment of both
sides. The same thing with our water
traffic. And so with all the foreign reg-
istry that we have, whether it is on
airlines or boats or railroads, we still find
that we can have that traffic, and I
think that we could use that example,
the same thing, on our highways.

Mr. Chairman, I think it is time that
we recognize that we need to be good
neighbors; we need to be fair neighbors
and not be picking on those people
who we do not like. And so the states
recognized that we need to be good
neighbors, we need to be fair neighbors,
and we recognize that we need to be good
eighbors. I certainly have sat in
the House and been a member for many
years, and I have seen many of the
sides. The same thing with our water
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that we can have that traffic, and I
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the same thing, on our highways.

Mr. Chairman, in 1997, the State of
Idaho petitioned the USTR to stop an
unfair trade practice on our northern
neighbor. I decided perhaps I should come back
and say, I see it, Mr. Chairman, in Idaho we
should be doing business. It is a price
we should not be asked to pay, it is a
risk that we need not take, if we adopt a
sensible inspection policy and then
pay for it. We need to make sure that
those trucks are inspected just like
any other truck.

The CHAIRMAN. The gentleman
for yielding me this
Mr. DEFAZIO. Mr. Chairman, I thank
you for yielding me this
time. The previous speaker in the well
talked about this being a thinly veiled
safety amendment. It is not thinly
veiled. This is all about safety. Plain
and simple that is what we are talking
about, the safety of the driving Amer-
icans, we do not want them exposed
for
with taxpayer dollars, and they can ex-
pect a little bit of protection from their
Federal Government. I think. I
hope.
We do inspect U.S. trucks. We do pull them off the roads when they are unsafe. We do require drug and alcohol testing. I went through that debate here on the floor of the House, and I supported that. We do require log books. We do require restrictions on duty time. And we enforce those laws. For the most part those laws do not exist in Mexico, and where they do exist, they are not enforced.

Now, no one has contested that. They are saying, oh, that we just do not want to be good neighbors. We do not want to be good neighbors, but we do not want to be good neighbors with the people who are endangering the lives of the traveling public.

My district has I-5 running right through the heart of it, and that is where those trucks are going. Now, the gentleman from Minnesota got up and said, ‘My people have done really well. I have such a long border with Mexico, and we have got so many jobs out of this, and you want to hurt that. No, actually he is arguing to hurt them bad. If this amendment does not pass, those trucks are going to steam right through his district. Right now all those trucks have to stop in his district, and they have to reload onto safe American trucks. But when this goes into effect, those trucks are going right through his district and right up into his district, and they have to reload onto safe American trucks. But when this goes into effect, those trucks are going right through his district and right up into his district.

I am a bit perplexed by the arguments on the other side of the aisle. For the most part they have been arguing our side, but in a knee-jerk way at the end they are going to come to a conclusion that we have just got to go ahead, that this is about NAFTA and about free trade.

We have a huge trade with Mexico, a huge and growing trade deficit with Mexico under NAFTA, although they promised us surpluses. That is not to be debated here today. That would not be impeded one bit by this amendment. But what would happen is these trucks that we know are heavier, with drivers who are not meeting U.S. standards for safety, for training, for drug testing, for log books, for records of offenses being kept in a central file, if perhaps for insurance or labeling for hazardous materials, 25 percent of the trucks coming across the border carry hazardous materials; 1 in 4, 7 percent, are labeled. What is going to happen when one of those goes over somewhere on I-5 in California or in a heavily populated part of Oregon or Washington? We will not know what is in it. We will not know how to deal with it. We are going to not only put the traveling public at risk, we are going to put communities at risk. We are going to put the firefighters and the first responders at risk.

No, let us have the Mexicans adopt stringent laws for safety, then enforce those laws, and after they do that, then we will be great neighbors, and we will be happy to welcome their fully inspected, safely driven trucks into the United States of America. But until they meet those standards, no, no, no, no, no.

This will kill Americans. People will die for profit, and that is not right.

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

Mr. SABO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 285, noes 143.

RECORDED VOTE

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

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

The amendments were agreed to.

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

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

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

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

The vote was taken by electronic device, and there were—yeas 426, nays 1, not voting 6, as follows:

[Roll No. 194]

YEAS—426

Mr. WILSON, Mrs. CUBIN, Ms. VELAZQUEZ, Mr. GREENWOOD and Mr. BACHUS changed their vote from "aye" to "no."

Messrs. BAIRD, COMBEST, BUYER, JEFFERSON, FOSSELLA, PICKERING, HYDE, DUNCAN and MICA changed their vote from "no" to "aye."

Mr. HINOJOSA changed his vote from "no." So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. NADLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would be remiss if I did not rise to thank the chairman of the committee, the gentleman from Florida (Mr. YOUNG); the ranking member, the gentleman from Wisconsin (Mr. OBEY); the subcommittee chairman, the gentleman from Kentucky (Mr. ROGERS); and the ranking member, the gentleman from Minnesota (Mr. SABO); for acceding to the request made by the gentleman from Connecticut (Mr. SHAYS) and myself to include funds in this bill for the environmental impact statement for the New York-New Jersey Cross Harbor Rail Freight Tunnel.

This project was first authorized in TEA–21 and received funds for a Major Investment Study, which was completed last year.

New York City, Long Island, and Westchester and Putnam Counties and the State of Connecticut are virtually cut off from the rest of the country’s rail freight system for lack of any way for rail freight to cross the Hudson River, except at a bridge 140 miles north of New York City.

After examining numerous alternatives, the MFS recommended construction of a rail tunnel under New York Harbor. The benefit to the region will be about $400 million a year and the benefit to cost ratio is 2.3 to 1. The environmental impact will be profound as it would remove 1 million tractor trailers from off the region’s roads a year. So I am gratified this was included in the bill. I am disappointed the Second Avenue Subway was not included in the bill.

The CHAIRMAN. The Clerk will read. The Clerk reads as follows:

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 2002."

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ISAKSON) having assumed the chair, Mr. CAMP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, pursuant to House Resolution 176, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

So the bill was passed. The result of the vote was announced as above recorded.
June 26, 2001

A motion to reconsider was laid on the table.

CONGRATULATING REPRESENTA-
TIVE PUTNAM AND MELISSA
PUTNAM ON BIRTH OF DAUGH-
TER ABIGAIL ANNA PUTNAM

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

Mr. CRENSHAW. Mr. Speaker, I have
some exciting news to share with my
colleagues, and I think in a spirit of bi-
partisanship, we can all agree that this
is, in fact, good news, because today
the youngest Member of the House of
Representatives, the gentleman from
Florida (Mr. PUTNAM) and his wife Me-
lissa became the proud parents of a
baby girl.

Mr. Speaker, today Abigail Anna Putnam was born. She weighed 8 pounds
and 4 ounces. She is 21 1/2 inches
long, and they are still looking for the
first sighting of that fire-engine red
hair that the gentleman carries around
with him here.

Just as a word of history, I want my
colleagues to know, first of all, that
the mother and the daughter are doing
well. The gentleman from Florida is a
little shaky, but I think he is going to
make it.

Abigail is the sixth generation Put-
nam to be born in Polk County, Flor-
da, and her great grandfather, who is
92 years old, is so excited that he said
he is probably more excited about the
gentleman from Florida becoming a fa-
thar than he was when the gentleman
got elected to Congress.

I know that all my colleagues want
to join with me in wishing the gen-
tleman from Florida and his wife Me-
lissa and their new baby Abigail a won-
derful life together.

Mr. PENCE. Mr. Speaker, will the
gentleman yield?

Mr. CRENSHAW. I yield to the gen-
tleman from Indiana.

Mr. CRENSHAW. Mr. Speaker, I thank
the gentleman for yielding to me, and I
want to add my congratulations to the
growing congressional family, to Me-
lissa Putnam for putting up with the
gentleman from Florida (Mr. PUTNAM),
and to the happiness. The knowledge
that children are a reward from the
Lord is something we are pleased to ac-
cept.

Mr. OSBORNE. Mr. Speaker, I ask
unanimous consent that it be in order
at any time on the legislative day of
Wednesday, June 27, 2001, for the
Speaker to entertain motions that the
House suspend the rules relating to the
following measures:

H. Res. 172, H.R. 2133 and H.R. 691.

The SPEAKER pro tempore. Pursu-
ance to clause 8 of rule XX, the Chair
announces that he will postpone fur-
ther proceedings today on the motion
to suspend the rules on which a re-
corded vote or the yeas and nays are
ordered, or on which the vote is ob-
jected to under clause 6 of rule XX.

Any record vote on the postponed
question will be taken tomorrow.

RECOGNIZING AND HONORING
YOUNG MEN'S CHRISTIAN ASSO-
CIATION ON ITS 150TH ANNIVER-
SARY IN THE UNITED STATES

Mr. OSBORNE. Mr. Speaker, I ask
unanimous consent that all Members
may have 5 legislative days within

REPORT ON RESOLUTION PRO-
VIDING FOR CONSIDERATION OF
MOTIONS TO SUSPEND THE RULES

Mr. SESSIONS, from the Committee
on Rules, submitted a privileged report
(Rept. No. 107–113) on the resolution (H.
Res. 179) providing for consideration of
motions to suspend the rules, which
was referred to the House Calendar
and ordered to be printed.

REPORT ON RESOLUTION PRO-
VIDING FOR CONSIDERATION OF
H.R. 2111, ENERGY AND WATER
DEVELOPMENT APPROPRIATIONS
ACT, 2002

Mr. SESSIONS, from the Committee
on Rules, submitted a privileged report
(Rept. No. 107–114) on the resolution (H.
Res. 180) providing for consideration of
the bill (H.R. 2311) making appropri-
tations for energy and water develop-
ment for the fiscal year ending Sep-
tember 30, 2002, and for other purposes,
which was referred to the House Cal-
endar and ordered to be printed.

RECOGNIZING THE YOUNG
MEN'S CHRISTIAN ASSOCIA-
TION (YMCA) ON ITS 150TH
ANNIVERSARY

Whereas 2001 is the 150th anniversary
of the Young Men's Christian Association
commonly referred to as the YMCA in the
United States;

Whereas YMCA programs, including the Boy Scouts of Amer-
ica, the Camp Fire Girls, the Negro National
Baseball League, the Gideons, and the Toast-
masters;

Whereas YMCA programs inspire a spirit of
dedication and challenge to individuals to learn
new skills, try new activities, and explore
other cultures, while being good citizens of
their communities;

Whereas the YMCA was founded in 1844 to
serve soldiers at home and abroad;

Whereas the YMCA has been active in
supporting and leading other non-profit
organizations, particularly in the areas of
health, education, and social services;

Whereas the YMCA is the largest child care
provider in the United States;

Whereas the YMCA is widely recognized
as one of the nation's most respected
organizations;

Whereas the YMCA is a leader in
volunteer-based, volunteer-led activities;

Whereas the YMCA is a leader in
advocacy for justice, peace, and
humanity; and

Whereas the YMCA is a leader in
environmental sustainability;

Now, therefore, be it

Resolved by the House of Representa-
tives of the United States, in
Congress assembled, That the Congress—

(1) honors the Young Men's Christian Asso-
ciation (commonly referred to as the YMCA)
for 150 years of building strong youth, strong
families, and strong communities in the
United States; and

(2) expresses support for the continued
work of the YMCA during the next 150 years.

The SPEAKER pro tempore. Pursu-
ant to the rule, the gentleman from
Nebraska (Mr. OSBORNE) and the gen-
tleman from New Jersey (Mr. PAYNE)
each will control 20 minutes.

The Chair recognizes the gentleman from
Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I ask
unanimous consent that all Members
may have 5 legislative days within

GENERAL LEAVE

Mr. OSBORNE.
which to revise and extend their remarks on H. Con. Res. 172, as amended.

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

Mr. Speaker, I am pleased to bring to your attention House Concurrent Resolution 172 to the floor. This concurrent resolution recognizes and honors the Young Men's Christian Association, commonly known as the YMCA, on the 150th anniversary of its founding in the United States.

YMCA's are very much a part of the American landscape and history. The organization began in London, England, in 1844. And in 1851, the first YMCA in America was established in Boston, Massachusetts. The YMCA's presence in America has grown steadily to serve nearly 18 million individuals, including 9 million children annually.

I imagine many of us have participated in or benefited from YMCA's services. Over time, the YMCA has been associated with programs, including youth camping and the creation of after-school sports and activities. Additionally, by the late 1990s, YMCAs were providing daycare for half a million children annually. The YMCA has provided learn-to-swim programs and has been connected to pools and aquatics for many years.

Throughout all of these programs, the YMCA promotes the values of caring, honesty, respect and responsibility. Its commitment to these values can be seen in its history of wartime service dating back to the Civil War, its commitment to the physical and spiritual well-being of the poor and unemployed during the Depression, and its current efforts to teach and reinforce good character in youth through after-school sports and activities.

Mr. Speaker, I am pleased to congratulate the YMCA on the anniversary of their 150 years of existence in America. They have a long history of exemplary service, and I believe we all benefit from the YMCA's existence.

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

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

Mr. Speaker, I rise in celebration also of the 150th anniversary of the YMCA's founding in America. The organization has a special place in my heart, because I had the privilege to serve as the president of the National Council of YMCAs of the USA from 1970 to 1973 and have been involved with the organization most of my adult life, beginning with my teaching career in the late 1950s. Newark's combined YMCA and YWCA is the longest established part of all aspects of our community. In many ways, the history of the local YMCA is a perfect example of the support and stability that Ys around the globe have provided for 150 years to the world.

It seems appropriate tonight to reflect back on many years of successful involvement and rich history this organization has shared with individuals through all parts of the world.

Mr. Speaker, at this point I would like to highlight the route this institution has taken to reach this extraordinary anniversary. The YMCA was founded in London, England, on June 6, 1844, in response to unhealthy social conditions arising in big cities at the end of the Industrial Revolution, roughly 1750 to 1850. The Industrial Revolution took place in Europe.

Growth of the railroads and centralization of commerce and industry brought many rural young men who needed jobs into cities like London. By 1851, an YMCA in Britain was founded with a combined membership of 2,700. That same year, the Y arrived in North America. It was established in Montreal on November 25, and then in Boston on December 29 of that year.

The YMCA expanded throughout the United States. In 1853, the first YMCA for African Americans was founded right here in Washington, D.C., by Anthony Bowen, a freed slave.

The next year, the First International Convention was held in Paris. At that time there were 397 separate YMCAs in 7 Nations with 30,369 members in total.

Then by 1866, the influential New York YMCA adopted a fourfold purpose: the improvement of the spiritual, mental, social and physical conditions of young men.

In those early days, the YMCAs were run almost entirely by volunteers. There were a handful of paid staff members before the Civil War who kept the place clean, ran the libraries and served as correspondent secretaries. But it was not until the 1880s, when the YMCA began putting up buildings in large numbers, that most associations thought they needed to have some full-time employees.

Today's YMCA movement is the largest not-for-profit provider of child care, and it is larger than any for-profit child care at a YMCA each year. In 1996, child care became the movement's second largest source of revenue after membership dues.

Tonight we celebrate the many years of positive change the YMCA has had on our neighborhoods, towns, States and countries. My local YMCA, in Newark, New Jersey, opened its doors in 1881. Since its inception in 1881, the Newark Y has been an integral part of the Newark community.

The programs offered by the YMCA and YMWCA assist Newark residents in their day-to-day lives. For example, the YMWCA has affordable and safe housing options, in addition to state-of-the-art fitness facilities and educational programs.

We must continue our commitment to the YMCA to make it continually strong. As my colleagues know, the triangle of the YMCA, the symbol of the Y stands for the mind, the body and the spirit. We talk about the whole person that must be developed in order for that person to take their rightful place in our society.

And so we would like to acknowledge that the YMCA of the USA in its 150 years of service has been a tremendous asset to this country, as they celebrate this 150-year anniversary this weekend in New Orleans, where people from all over the United States and the world will be celebrating in this great achievement and activities.

We have been fortunate in our own city of Newark today in our city of Newark have come up through the YMCA's programs of youth and government and Model United Nations and trips abroad and work programs, and so it is with that spirit that I stand here proud to commend the YMCA on 150 years.

We wish them continued success in their work.

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

Mr. Osborne. Mr. Speaker, I yield 5 minutes to the gentlewoman from Maryland (Mrs. Morella).

Mrs. Morella. Mr. Speaker, I thank the gentleman from Nebraska (Mr. Osborne) for yielding the time to me.

Mr. Speaker, I rise in strong support of H.Con.Res. 172, which I introduced with the gentleman from New Jersey (Mr. Payne), my colleague, to honor the YMCA.

150 years, YMCAs have touched the lives of communities across our Nation by pioneering so many activities that we value; camping, public libraries, night schools, swimming lessons, lifesaving courses and teaching English as a second language. Over 2,400 volunteer-based YMCA programs across this Nation dedicate themselves to building strong youth, strong families and strong communities.

In fact, YMCAs partner with local schools, hospitals, police departments, juvenile courts and housing authorities to incorporate the needs of their own communities into the programs that they offer.

In my district, Montgomery County, Maryland, the YMCAs are invaluable to parents through both after-school care and summer camp programs. My constituents can avail themselves of programs at the Bethesda-Chevy Chase YMCA, Silver Spring YMCA, the Upper Montgomery County YMCA, and Campmeta, an exemplary summer camp.

Horizons is a good example offered at the Bethesda-Chevy Chase YMCA of a program that really works. This coed
program assists young people to develop more self-esteem, self-control and improved relationships with people their own age. Youth who take part in Horizons develop self-reliance skills and experience what it means to excel.

Today over a quarter of the Nation’s families are headed by single parents.

\[1945\]

YMCA is often a helping hand, providing athletic activities, substance abuse programs that also deal with prevention and volunteer programs to increase the involvement of youth in community service. As the country’s largest provider of after-school programs, the kids see the YMCA as a safe home away from home.

In addition to providing a supportive and compassionate environment for children and adolescents, the YMCA cultivates innovation and new ideas. Our most recent holiday, Father’s Day, was created by the YMCA. Quite frankly, the Boy Scouts of America, the Campfire Girls, and the Association for the Study of Negro Lives and History, those organizations began at the YMCA. Few organizations boast such creativity and responsiveness to the needs of communities around the Nation.

The YMCA not only charters new programs, but enters into partnerships with other organizations. Schools, hospitals, and housing authorities work closely with YMCA programs to coordinate youth activities, and millions of soldiers at home and abroad have been aided by war relief services. Such innovations and partnerships make the YMCA the largest nonprofit community service network in the United States.

The YMCA currently makes a difference in the lives of all over 17 million people. Our support for the continued good work of the Young Men’s Christian Association is vital as it has provided such a positive impact throughout the last 150 years.

I urge this House to join in honoring the YMCA for its unflagging impressive service to the United States, and I wish the YMCA well in their next 150 years of public service.

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

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

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 172, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

CONGRESSIONAL RECORD—HOUSE 11965

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ANNOUNCING THE APPOINTMENT OF MEMBERS OF THE LANDS TITLE REPORT COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. OXLEY) is recognized for 5 minutes.

Mr. OXLEY. Mr. Speaker, pursuant to authority granted by section 501(b)(1)(c) of Public Law 106–569, I am announcing my appointment of the following four individuals to the Lands Title Report Commission, established by section 501(a) of that Act: Mr. Chester Carl of Window Rock, Arizona; Mr. Louie Sheridan of Lincoln, Nebraska; Mr. Bob Gauthier of Pablo, Montana; and Mr. Francis X. Carroll of Buffalo, New York.

These individuals were chosen for this appointment due to their demonstrated experience in and knowledge of land title matters relating to Indian trust lands. The Commission, and their appointment, will expire 1 year after the Commission’s initial meeting.

The Commission is responsible for analyzing the system of the Bureau of Indian Affairs for maintaining land ownership records and title documents and issuing certified title status reports relating to Indian trust lands and, pursuant to such analysis, determining how best to improve or replace the system. The Commission is then required to report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its findings.

The other eight members of the Commissioners are appointed by the Senate and the President.

Mr. Speaker, I want to congratulate these fine individuals on their appointments, and look forward to their report.

ASKING CONGRESS TO HELP STOP JUVENILE DIABETES IN ITS TRACKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. SANDLIN) is recognized for 5 minutes.

Mr. SANDLIN. Mr. Speaker, I rise today to ask the Congress to help a young friend of mine, Anna Kate Gunn. I am also asking the Congress to help over 1 million other young children in the United States suffer from the disease of juvenile diabetes.

I hold in my hand a book of children of all from over this country, all races, all creeds, all colors, all languages, faces that are looking to us to try to do the right thing, faces of other children with juvenile diabetes. Our country is too strong, it is too great, it is too powerful, and it is too rich not to help our children by stopping juvenile diabetes in its tracks right now.

The Speaker, the Juvenile Diabetes Research Foundation just concluded its 2001 Children’s Congress here in Washington. This year, 200 delegates representing all 50 States gathered to meet with policymakers to ask our support as we make decisions about legislation that will impact funding for diabetes research. Diabetes is a chronic debilitating disease that affects every organ system in the body. Type 1 diabetes or juvenile diabetes lasts a lifetime.

Those who are stricken with this disease must take insulin just to live. However, insulin does not cure diabetes or prevent the possibility of its eventual devastating affects. Those affects include kidney failure, blindness, nerve damage, amputation, heart attack, stroke.

More than 1 million Americans have juvenile diabetes. A new case of juvenile diabetes is diagnosed every single hour in this country. Diabetes shortens the life expectancy of these children by 15 years. It is the single most costly chronic disease. It totals more than $105 billion of annual health care spending in the United States of America.

Anna Kate Gunn, my young friend from Texas, came by the office today with her parents and her grandfather, Gene Stallings, a well-known sports hero, former coach of the Texas Cowboys, of Texas A&M, of Alabama, of St. Louis.

Anna Kate was diagnosed with juvenile diabetes when she was 11 months old. Now, at age 3, she endures three insulin injections a day and 8 to 10 finger pricks a day to check her blood sugar level. Without a cure for juvenile diabetes, Anna Kate will have to live with these injections, with these finger pricks for the rest of her life.

One of the funding decisions we make in Congress will be a part that involves stem cell research, a critical part of research in this area. This breakthrough research holds great promise in the cure and treatment of many diseases afflicting Americans and many disabilities including juvenile diabetes.

There are three sources of stem cells, embryonic, fetal, and adult stem cells. Each of these types of cells is very different from the others and all are needed to advance research.

Specifically, embryonic stem cell research offers hope to the more than 1 million American children like Anna Kate who suffer from juvenile diabetes. These cells have the potential to become insulin producing cells because of their unique potential to differentiate into any human type of cell. It is necessary for researchers to understand how embryonic stem cells work before they can get the full affect of the adult stem cell research.

Federal support for embryonic stem cell research is essential to the work...
that scientists are doing to create therapies for a range of serious and currently intractable diseases. By impeding embryonic stem cell research, we risk unnecessary delay for millions of patients, millions of children across this country who may die or endure needless suffering while the effectiveness of adult stem cells is evaluated.

Certainly, there are legitimate ethical concerns and issues raised by this research. However, it is important to understand that the cells being used in this research were destined to be discarded. The cells used are destined to be discarded. They are destined to be discarded. Under these circumstances, it would be tragic to waste this opportunity to pursue the work that could potentially alleviate human suffering especially in our children.

For the past 35 years, many of the common human virus vaccines have been produced in cells derived from the human fetus to the benefit of tens of millions of Americans. Clearly, there is a precedent for the use of fetal tissue that would otherwise be discarded. This is not a political issue. It is an issue of human responsibility. It is an issue of human decency. It is an issue of doing what is right by our children in this country.

Furthermore, the American public overwhelmingly supports this research. In a poll conducted earlier this year, 65 percent of those surveyed said they support Federal funding stem cell research. It is the right thing to do.

Stem cell research is still in the early stages. In order to receive the full benefits of the research, there must be additional study. Federal funding of this research ensures public oversight and accountability among researchers receiving Federal grants. These researchers will be required to adhere to strict guidelines that do not govern private research. Further, Federal funding will allow many scientists to expand the research in this critical area, thus hastening the discovery of therapies.

Mr. Speaker, we fund many worthwhile projects in the United States Congress. Surely, we can advance funds to save the lives of our children in this country.

Putting an end to public support of this research would have a devastating effect on the future of research in numerous diseases. Congress and the administration should allow this important research to continue, if not for the sake of science, for the sake of Anna Kate and children all across this country that are similarly situated.

Please remember those faces looking at us, faces looking at us in trust and in hope. We cannot let them down. Mr. Speaker, let us do the right thing by America’s children.

REINTRODUCTION OF THE PRIVATE BILL FOR THE RELIEF OF ADELA AND DARRYL BAILOR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

Ms. CARSON of Indiana. Mr. Speaker, on May 8 of this year, I introduced H.R. 1709, legislation that would provide private relief for Adela and Darryl Bailor.

As my colleagues know, Mr. Speaker, private relief is available in only rare instances. I believe that the circumstances surrounding the Bailors’ case qualifies under the rules of private legislation. I believe so firmly in the importance of this case that I have introduced this legislation the 105th, the 106th, and the 107th Congresses.

The facts surrounding this case are clear and undisputed. Adela Bailor, while working for Federal Prison Ministries in Fort Wayne, Indiana, was raped on May 9, 1991 by a Federal prisoner who had escaped from the Salvation Army Freedom Center, a halfway house in Chicago, Illinois.

What makes the Bailor case special is that they were caught in a legal Catch-22. The Bailors filed suit against the Federal Bureau of Prisons and the Salvation Army which ran the halfway house to which Mr. Holly was assigned.

One of the requirements for all inmates at a halfway house is that they remain drugfree and take a periodic drug test. Mr. Holly had a history of violence and drug abuse, including convictions for possession of heroin. On May 6, Mr. Holly was called into the Salvation Army office and was told that his drug test was positive for cocaine use. Salvation Army had the option of informing Mr. Holly of the failed drug test, the U.S. Marshal was present, but chose not to. When advised of his GPO’s PDF drug test failure, Holly simply announced that he was out of here and walked through the unlocked door.

In the lawsuit, the Bailors lost on a legal technicality. The 7th Circuit Court of Appeals recognized this technicality. The technicality was that, under the law, apparently no one had true custody of William Holly. The Federal Bureau of Prisons had legal custody of Holly, but not physical custody. Salvation Army had physical custody of Holly, but not legal custody.

Recognizing that this was legally untenable, the 7th Circuit Court recommended that Ms. Bailor apply to Congress for private relief. I ask my colleagues to join in this effort to eliminate this gross injustice for Ms. Adela Bailor and Darryl Bailor.

If we believe in victims’ rights, then we have a moral obligation to provide relief for the incarceration of violent criminals accountable for such conduct.

Interestingly and profoundly, Adela Bailor is an honorably discharged Marine Corps veteran. At the time of the attack, she was helping to make this country a better place. We cannot and should not turn our back on her because of a legal loophole.

The 7th Circuit has reviewed this case fully and has made the recommendation that they apply to the Congress. Although Congress is not bound by such recommendations, Congress should give a great deference to the legal analysis by the Circuit Court which has determined that Adela Bailor and Darryl Bailor fall into an unusual legal situation.

Mr. Speaker, I urge and encourage my colleagues to sign on to a letter to be sent to the gentleman from Pennsylvania (Mr. GEKAS), chairman of the Subcommittee on Immigration and Claims, urging him to hold a hearing on H.R. 1709. We will be in the process of sending that letter next week, Mr. Speaker.

PRESCRIPTION DRUG PRICES

The SPEAKER pro tempore (Mr. KERNs). Under the Speaker’s announced policy of January 3, 2001, the gentleman from Vermont (Mr. SANDERS) is recognized for 20 minutes as the designee of the minority leader.

Mr. SANDERS. Mr. Speaker, I want to thank the gentleman from New Jersey (Mr. PALLONE) for making some of his time available to me.

Mr. Speaker, I want to tell a story tonight about what happens when an industry with unparalleled greed operates and spends huge sums of money, with the result that they are destroying the health and well-being of millions of Americans. And the industry that I am talking about, sadly enough, is the pharmaceutical industry.

Mr. Speaker, I think, as my colleagues know, millions of Americans today cannot afford the outrageously high cost of prescription drugs in this country. Some of these people will die because they are unable to purchase the prescription drugs that their physicians prescribe to them. Many of them will just continue to suffer, not being able to get the alleviation for their pain because they cannot afford those prescription drugs. Others will buy the prescription drugs by taking money out of their food budget or their heat budget and will do without other basic necessities of life in order to purchase prescription drugs.

Disgracefully, Mr. Speaker, tragically, the American people pay by far the highest prices in the world for prescription drugs. It is not even close. Several years ago, I took a number of Vermonters over the Canadian border into Montreal because they could not afford the very, very high prescription drug prices in our own country. And what we found when we went over the
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border to Montreal is that the same exact drugs, manufactured and sold in the United States, were purchased in Switzerland for $65 cents, the United Kingdom for 64 cents, France for 51 cents, and Italy for 49 cents. The same exact drugs. Meanwhile, while the pharmaceutical industry rips off the American people, causes death, causes suffering, that same industry year after year is at the top of the charts in terms of profits.

Last year, for example, the top 10 pharmaceutical companies earned $26 billion in profit. Twenty-six billion dollars. Why is it that prescription drug prices are higher in the United States than in any other industrialized country? Well, the answer is pretty obvious. The pharmaceutical industry is perhaps the most powerful political force in Washington and has spent over $200 million in the last 3 years on campaign contributions, lobbying, and political advertising. Twenty million dollars in the last 3 years in order to make sure that Congress does not lower the outrageously high cost of prescription drugs and affect their profits. Two hundred million dollars. We see that money spent. We see it in the TV ads in our homes, on our home television stations. We see it in the full page ads in the Washington papers and in papers all over this country. Amazingly, not only are they spending money on advertising, not only do they spend money on campaign contributions, but the vast majority of Members of Congress receive money from the pharmaceutical industry. The political parties receive money from the pharmaceutical industry in soft money. But even more amazing, the pharmaceutical industry has on their payroll almost 300 paid lobbyists right here on Capitol Hill. Imagine that. There are 535 Members of Congress, 100 in the Senate, 435 in the House, and they have 300 paid lobbyists, including former Senators, former Members of the House, knocking on our doors every day, saying, hey, do not do anything to lower the cost of prescription drugs. Keep our profits high, and we will make sure you get your campaign contributions.

This is an absolute disgrace to democracy and it is an outrage being perpetrated against millions of Americans who want nothing more than to be able to purchase highly priced prescription drugs. Mr. Speaker, year after year senior citizens throughout this country and those with chronic illnesses cry out for prescription drug reform and lower prices, but their cries are ignored. The pharmaceutical industry and their lobbyists defeat all efforts to lower prices. Year after year those poor people come up here, bla, bla, bla, bla, bla, and year after year every effort is defeated because the pharmaceutical industry and their money machine prevents any real reform.

Well, this year it is my hope that it will be different because Congress is going to build on our successes from the last session of Congress. Last year this Congress, in a bipartisan measure, overwhelmingly passed legislation which promised the American people that they would be able to buy prescription drugs at the same low prices as do our neighbors in other countries through a reimportation program. And that means that the United States, in the midst of a global economy, that our prescription drug distributors, our pharmacists, should be able to purchase FDA safety-inspected drugs from any country where they can get a better price. If drugs are sold in Canada for one-tenth the price, pharmacists in the United States should be able to reimport those drugs under strict FDA safety regulations.

In the House in May, the Crowley reimportation amendment, introduced by the gentleman from New York (Mr. CROWLEY), won by a 363 to 12 vote. Unfortunately, at the end of a long legislative process, loopholes were put into the overall bill last year that made it ineffective. While the language remains on the books, it has not been implemented by either the Clinton or the Bush administrations. In an increasingly globalized economy, where we import food and other products from all over the world, it is incomprehensible that pharmacists and prescription drug distributors are unable to import or reimport FDA safety-approved drugs that were manufactured in FDA approved facilities.

The pharmaceutical industry and their supporters in Congress are sending out letters right now saying, oh, this is a dangerous idea, we are going to be poisoning the American people. This is absolute nonsense. Let me briefly read from a letter that was sent to Senator Byron Dorgan on September 13, 2000 last year. And as many people know, Dr. Kessler is the former FDA commissioner, I believe under both former Presidents Bush and Clinton, and this is what he stated in his support of reimportation last year, and I quote. ‘‘I believe U.S. licensed pharmacists and wholesalers, who know how drugs need to be stored and handled, and who would be importing them under the same safeguards, are well positioned to safely import quality products rather than having American consumers do this on their own. Second, if the FDA is given the resources necessary to ensure that imported FDA approved prescription drugs are the authentic product, made in an FDA-approved manufacturing facility, I believe the importation of these products can be done without causing a greater health risk to American consumers than currently exists. Finally, as a Nation, we have the best medical armamentarium in the world. Over the years, FDA and the Congress have worked hard to assure the American public has access to important medicines as soon as possible. But developing lifesaving medications does not do any good unless Americans can afford to buy the drugs their doctors prescribe. The price of prescription drugs poses a major public health challenge. While we should do nothing that compromises the safety and quality of our medicine, it is important to take steps to make prescription drugs more affordable.’’ That is Dr. David Kessler, in a letter to Senator BYRON DORGAN on September 13, 2000.

Mr. Speaker, when the agricultural appropriations bill comes up, perhaps on Thursday, perhaps next week, the gentleman from New York (Mr. CROWLEY), the gentlewoman from Connecticut (Ms. T iliUDBFD) and others and I intend to introduce an amendment, the reimportation amendment, which is the same amendment as the gentleman from New York (Mr. CROWLEY) introduced last year that received, as I mentioned before, 363 votes. We know right now that the pharmaceutical industry’s cash register is clicking overtime. Their lobbyists are all over Washington trying to scare Members of Congress so that they will not pass this legislation. But I believe that when Members of Congress go into their hearts and when they listen to the seniors and the other people back home who are sick and tired of paying...
Mr. Speaker, fortunately, the other body by Senator MCCAIN, Senator KENNEDY, and Senator EDWARDS, and that has been introduced in the House by the gentleman from Iowa (Mr. GANSEK) and the gentleman from Michigan (Mr. DINGELL).

These are bipartisan bills, but I need to point out that the thrust of the bills is from the Democratic side, because though there are some Republicans that are playing a key role on these bills, the Republican leadership has refused to bring them up in either House, or to support the Dingell bill, the real Patients’ Bill of Rights here in the House, or the McCain-Kennedy-Edwards, the real Patients’ Bill of Rights in the other body.

I will not refer to them necessarily as the Democratic bills because we do have some Republican support, but they are Democratic bills in that the Democratic leadership supports them in both Houses and the Republican leadership does not support them in either House.

Why are we talking about the Patients’ Bill of Rights and HMO reform. Two reasons. This comes from my constituents and from Americans from all walks of life. Increasingly, if a person is in a hospital, if you are in an HMO, the decision about what type of care you get, and that means whether you get a particular medical procedure, whether you can go to a particular hospital, whether you can stay in the particular hospital for a particular length of time, these types of decisions about your care unfortunately are made almost exclusively now by insurance companies, by the HMOs.

What the Democrats have been saying and what the real Patients’ Bill of Rights says is that that needs to change. That needs to go back to medical decisions, what is medically necessary for you, and that decision is made by your physician, your health care professional and you as a patient, not by the insurance company. That is the one major change, and the one reason for reform with regard to HMOs that the Patients’ Bill of Rights seeks to accomplish.

The other major issue and the other major change is the fact that today in HMOs, if a decision is made about what type of care you get, and you do not agree with that, in other words you have been denied the care that your doctor and you feel is medically necessary, you do not have any place to go. You can file a grievance with the HMO; and they will review it and say sorry, we made a decision, and we are not going to change it.

What the Democrats would like to see, what the Dingell-Ganske bill would do is that around and say if you want to seek a redress of grievances because you feel you have been improperly denied care, you can go to an external review board, an independent review board outside of the HMO, and they will review that decision by the HMO. They have the power to overrule it if they think that care was improperly denied and you need the care that your physician says is necessary.

Failing that, in certain circumstances you would be able to go to court and bring suit so you could have the decision of the HMO turned around, or you could even be granted damages if you were seriously injured and it was too late to correct your situation; or God forbid, you died, your estate could sue for damages.

Now, those two things, those two basic theories, the decision about what kind of care you get is made by a health care professional, not by the insurance company, and that you have some place to go to right that wrong and to turn that decision around are really at the heart of the Patients’ Bill of Rights.

Mr. Speaker, I want to talk about some of the specific things that the Patients’ Bill of Rights will do which I think are important on a few that apply to patients, and then I want to mention a few that apply to doctors, because I think as you know, the doctors now under HMOs feel that they cannot even practice medicine.

There are a lot of restrictions on what they can do, so the decision is important for the doctors as well as for the patients.

One area is access to emergency room care. The Patients’ Bill of Rights allows patients to go to any emergency room of a medical emergency without having to call a health plan first for permission. Emergency room physicians can stabilize patients and begin to plan for post-stabilization care without fear that health plans will later deny coverage.

This is a big concern that patients have. I get chest pains, I think I am having a heart attack. I cannot go to the hospital that is down the street, I have to go to one 150 miles away. I may have damages because I have to go to an emergency room so far away. That makes no sense. We reverse that and say if you feel, if the average person feels by having severe chest pains they
The Patients' Bill of Rights ensures that patients who suffer from a chronic condition or require care by a specialist will have access to a qualified specialist. If the HMO network does not include specialists qualified to treat a condition, such as a pediatric cardiologist for, for example, to treat a child's heart defect, it would have to allow the patient to see a qualified doctor outside the network at no extra cost. The Patients' Bill of Rights also allows patients with serious ongoing conditions to choose a specialist to coordinate care or to see their doctor without having to ask their HMO for permission before every visit.

The Patients' Bill of Rights also allows direct access to an OB-GYN. It allows the woman to have direct access to OB-GYN care without having to get a referral from her HMO. Women would also have the option to designate their OB-GYN as their primary care physician. This is very important to women.

Finally, and there are so many other patient protections, and I just want to mention a few because I want everyone to understand how important these patient protections are, the Patients' Bill of Rights says that needed prescription drugs would be available to patients. Currently, many HMOs refuse to pay for prescription drugs that are not on their preapproved list. As a result, patients may not get the most effective medication needed to treat their condition.

The Patients' Bill of Rights ensures that patients with drug coverage will be able to obtain needed medications even if they are not on the HMO's approved list. If your plan does not include drugs, we are not saying that you are going to get it. But if your plan includes drugs, they cannot limit you to their preapproved list of medications.

Let me talk about some of the ways in which the Patients' Bill of Rights, the Dingell-Ganske bill and the McCain-Kennedy-Edwards bill, free up doctors to practice medicine, because many times they feel that their hands are tied. My point is what I originally said, is that accountants and insurance company executives and staff should not be making medical decisions. It is the doctor who should be able to make medical decisions.

What the Patients' Bill of Rights says is that it prohibits insurers from gagging doctors. Patients have a right to learn from their doctor all of their treatment options, not just the cheapest. McCain-Kennedy-Edwards bill prevents HMOs from interfering with doctors’ communications with patients. Doctors cannot be penalized for referring patients to specialists or discussing costly medical procedures. People do not understand that a lot of Americans are in HMOs where they say that the doctor cannot talk to you about a preferred method of treatment. If the insurance plan does not cover a particular procedure, then they can tell the doctor that he cannot talk to you about it even if he thinks that you need it. That is the gag rule. We have eliminated it.

The Patients' Bill of Rights allows doctors to make the medical decisions. It says that the insurance company bureaucrats will basically decide what kind of medical care you get. HMOs are prevented from inappropriately interfering with doctors’ judgments and cannot mandate drive-through procedures or set arbitrary limits on hospital lengths of stay.

In addition, doctors and nurses who advocate on behalf of their patients will be protected from retaliation by HMOs. There are many patient protections in the Patients' Bill of Rights. I am not going to go into all of them tonight, Mr. Speaker. Suffice it to say the main thing is the idea that doctors will make decisions, not the insurance company; and there is some way to appeal that decision outside of the HMO.

Mr. Speaker, I wanted to go into some other areas that relate to the Patients’ Bill of Rights because we know that the other body is considering it. They have done so for about 10 days, and we are hoping that it will come to the House of Representatives eventually. Some of the arguments that are being used now against the real Patients' Bill of Rights, the Democratic bill, are that a lot of States have already enacted legislation that would protect patients, and so it is not really necessary for the Federal Government to act. I hear this from time to time.

My State of New Jersey has actually passed a fairly strong patient protection act. Some people say we have it in New Jersey, or maybe we have an option to designate their OB-GYN as their primary care physician. There is an article just a couple of months ago in one of my local papers, the Home News Tribune, an editorial, that advocated for a Federal Patients' Bill of Rights because it said that it is very difficult in New Jersey to sue if you have been denied care.

That is just another example, even in a State as strong as New Jersey, where we need some Federal action.

I wanted to talk about two other things tonight, Mr. Speaker, two other areas related to the Patients’ Bill of Rights, before I yield back the balance of my time.

One is that I know that in the other body, efforts are being made to weaken the Democratic proposal, the McCain-Kennedy-Edwards bill, through amendment. Fortunately, those efforts have failed. We think it is significant, and it shows that even though this is primarily a Democratic bill, that we clearly have enough Republicans now that are coming over with us on these
key amendments that we are forging a bipartisan coalition to support the real Patients' Bill of Rights regardless of the fact that the Republican leadership opposes the bill.

The two amendments that came up within the last week, I think, are significant. One of the amendments which was defeated by a vote of 56 to 48 was opposed to exempt employers from health care lawsuits in every situation. Now, this has been a major point of contention, because some people say, well, the problem with the Patients' Bill of Rights is that employers may be sued. What we have said is there is a very limited situation where employers can be sued and that is only if they have taken direct responsibility and have been directly involved in the decision of what type of care you should get. But the Republicans, in their amendment, just to say that they could not be sued under any circumstances. I think that is wrong. I was glad to see that this amendment was struck down. I think actually that took place today in the other body, the Senate.

The other amendment which I believe was defeated last week related basically to tax breaks. This was a Republican proposal to add a provision speeding up tax breaks to cover costs of health insurance for the self-employed. I mention that, although it may not be as obvious why that is a bad thing, because what we have seen in the past, and this is what happened in the House of Representatives last year when we took up the real Patients' Bill of Rights, is that there was an effort to try to add all kind of things to the bill, what I call poison pills, to load it up with all kinds of unrelated ideas, if you will, or proposals so that it would never pass.

What really happened last year is that the Republican leadership was fairly successful, in that even though we passed a good Patients' Bill of Rights in the House of Representatives, they put in all these poison pills, related to tax breaks, related to malpractice, related to medical savings accounts, and so that when the bill went to conference between the two Houses, it was virtually impossible to get a bill out of conference. But I believe that is only because of all these poison pills, added provisions, loading down the Patients' Bill of Rights so that it could not pass and was not a clean bill. We do not want that to happen again.

I have been very happy with what is happening in the other body because it is clear that we have a majority, albeit a slight one, between most of the Democrats and a few Republicans to try to have a bill that clearly will shift the burden so that decisions are made by doctors and there is a real way of redressing your grievances and, on the other hand, not loading this bill down with all kind of extraneous material so we can never get it out of conference and to the President's desk.

But the event that occurred today that was disturbing, and I think I need to speak out on it because I need to expose again what the Republican leadership this time in the House is trying to do, is that the Republican leadership in the House, which so far has refused to bring up the real Patients' Bill of Rights, will not have it go through committee, will not bring it to the Committee on Rules, will not bring it to the floor, as the Republican leadership has unveiled their own HMO reform bill which, of course, you know, they are going to call the Patients' Bill of Rights, but it is not the real Patients' Bill of Rights. It is not the bill that has already passed the House, that is now being considered in the other body, that is the support of almost every Democrat about a third of the Republicans.

I want to talk a little bit, if I can this evening, Mr. Speaker, about why this latest House Republican leadership proposal cuts off the mustard and is just a subterfuge to try to kill the real Patients' Bill of Rights, because what I think is going to happen is that the Republican leadership when we come back from the July 4th recess is going to try to bring up an alternative version of this bill that basically what they are trying to do is sort of outbest what the other body is doing. They know that the other body is likely to pass a real Patients' Bill of Rights, and they want to bring up a fake one here in the House that the majority of the Democrats, almost all the Democrats and even about a third of the Republicans are opposed to.

We will see what happens, but I think that we need to expose what is happening here and how this latest bill which was much heralded today by the Republican leadership really does not accomplish the major goal of the real Patients' Bill of Rights, which is to switch the decision about what kind of care you get to your doctor and you rather than the insurance company and that allows you to basically appeal a denial of care to an independent body outside of the HMO and ultimately to court if you do not have a fair shake.

Speaker, I just want to say, I know that every night this week the Democrats are using our time during Special Orders to draw attention to the Patients' Bill of Rights and why we need to pass the real bill here in the House and also in the other body. Last night we had Members of the Texas delegation get up, and I thought that was very significant because, as you know, President Bush said during the course of the campaign that he would sign a bill that was like the Texas law. Frankly, they think it is a fake one. By the way, the McCain-Kennedy-Edwards bill, the real Patients' Bill of Rights, is exactly like the Texas law. Yet now President Bush says he will veto that bill and he does not find that bill acceptable and is asking for something else. I think that is not the commitment he made during the campaign. It was not the commitment he made when he was Governor. And it certainly is a commitment that he should keep and hopefully if we send him the real bill, he will sign it even though he is now threatening to veto it.

The second thing I wanted to say is that tomorrow night, the Democrats...
will have some of our Members who are health care professionals, who are nurses and who are other types of health care professionals, taking to the floor.

The reason we are doing that is because I think that oftentimes it is the people that are in the health care profession, the doctors, the nurses, the technicians, these are the people that understand, I think, oftentimes even more than the patients, why it is important to have a real Patients’ Bill of Rights, because they want to take care of their patients. They want to make sure they get the proper care and the care they deserve. They do not want monetary or other considerations, the bottom line, to dictate the quality of care for the average American. We will be here as Democrats every night this week and also return on the July 4th recess to bring up the point that the real Patients’ Bill of Rights must pass. It is the highest priority of the Democrats in both Houses, and we are determined to see it through.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KENNS). The Chair would remind Members not to characterize Senators or Senate action.

ADDRESSING THE NATION’S ENERGY NEEDS

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, the gentleman from California (Mr. RADANOVICH) is recognized for 60 minutes as the designee of the majority leader.

Mr. RADANOVICH. Mr. Speaker, I would like to take the time that I have that I have been most graciously given to begin to talk about our Nation’s energy needs and the national energy policy that has been put forth by the new administration, by President Bush, and the information contained in the National Energy Policy Development Group’s report on national energy policy.

I want to commend the administration for taking the leadership on what is a real challenging issue, and that is, providing energy for America’s needs. Being from California, they are urgent needs now and also for the energy needs in the Nation for the future. It is a daunting task and one that needs to make up for a lot of lost time because there has not been a lot of focus on our Nation’s energy needs in the last 8 years. So although it may not be popular at times, I want to commend the President for the excellent job that he is doing by tackling such difficult issues.

Why do we need an energy policy? If I may take just a few minutes to outline, it is because America faces its most serious energy shortage since the oil embargoes of the 1970s. Our fundamental imbalance of supply and demand has led to this crisis. Our future energy needs far outstrip present levels of production. Right now, United States energy needs are 56 percent dependent on other countries supplying that need. With that need growing at an ever-increasing rate, we become far more dependent on rogue nations that do not have the best interests of the United States at heart and in many, many ways leave ourselves very vulnerable. I think that it is high time that this policy has been sought after, and I applaud the President for taking steps in this direction.

Last winter, heating bills for many families in the United States tripled. Average natural gas heating costs in the Midwest rose by 73 percent last winter. New Englanders’ heating bills jumped by about 27 percent. Millions of Americans are dealing with rolling blackouts, including myself and brownouts and grayouts and threatening their homes, businesses, families and their own personal safety. Low-income Americans and seniors have been the hardest hit. While energy costs typically represent only about 4 percent of a middle-class household budget, last winter costs for average low-income households were about 14 percent of the household budget.

Drivers across America are paying higher and higher gasoline prices. In 2000, fuel prices on average rose 30 to 40 cents per gallon from a year earlier. This summer in some parts of the Nation, gasoline prices may skyrocket to prices of fertilizer by 90 percent since 1998.

I can read a lot of the talking points on this about a national energy policy, but I think I can speak from the heart being from California and dealing with our energy crisis and the blackouts that we have. Many, many people say that California is an example of how not to deregulate and because of that they face rolling blackouts. Gratefully and thank God there was no direct loss of life attributed to the blackouts that we have had so far, but there is no guarantee that we will not face them in the future because of the dramatic increase in energy needs in California and the lack of California’s ability to meet those needs through increased power generation.

There has not been a new generation plant in California in the last 10 years. So many, many people buried their heads in the sand and this type of increased population was not going to have an effect on the infrastructure of California, when indeed, of course, it did, and it caught up with us in the form of these blackouts.

I do commend the President for his desire to want to piece this thing together and diversify our energy base so that we are not so reliant on natural gas.

I have with me today a dear friend. My mom was born in his district in Arizona. The gentleman from Arizona (Mr. HAYWORTH) is here also to speak on the President’s national energy policy, and I would like to yield him some time.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague, the gentleman from California (Mr. RADANOVICH), for scheduling this hour to discuss the challenges at hand, and whether one resides in Maricopa County, California, Maricopa County, Arizona, or Mecklenburg County, North Carolina, or Mecklenburg County, Virginia, for that matter, from coast to coast and beyond, in our 50 States we are confronting a serious challenge. We need a comprehensive policy, the type drafted by this administration, because we have reached a point where we must realize that this challenge is multi-faceted.

We cannot conserve our way out of it. We cannot drill our way out of it. Instead, we need a calm, confident reassessment of where we are headed.

Mr. Speaker, as I stand here in the well of the United States House of Representatives and I yield just behind me here to this podium, I am acutely aware that 40 years ago Jack Kennedy stood there and challenged this Congress and challenged this Nation to put a man on the moon and bring him safely back to Earth before the decade of the 1960s was completed. We were able to do that; a triumph of technology, yes, but a triumph of will and the human spirit. It will take that kind of commitment. Just as we brought together the best minds and the most innovative companies to put a man on the moon, so, too, we need a national, organized effort, a strategic and financial partnership between business and government to solve the energy problems.

Am I talking about a State plan, excessive regulation program? Of course not. We need to find a reasonable, rational way to put the best minds in this country to work on this program, to take what is valuable from business, to take the strategic planning that should be part and parcel of our constitutional Republic and form a good partnership to solve the energy challenges we face.
Quite simply stated, we need less dependence on foreign oil and more attention to developing our own energy supply here in the United States.

My colleague, the gentleman from California (Mr. RADANOVICH), summed it up. It is worth noting and amplifying. Early in the 1990s, the oil and gas needed by the United States, the majority of that oil and gas was produced within the borders of the United States. Some 60 percent was produced here in this United States. Foreign suppliers accounted for a distinct minority, some 40 percent. Sadly now, at the dawn of a new century, with almost a decade devoid of any energy policy, with almost a decade of the sweet by and by and we will take our risks and we will not worry about this, the situation is completely reversed. We now depend on foreign sources for almost 60 percent of our oil and gas. Simply stated, a reasonable, rational environmentally-sensitive policy of exploring for more American energy is something that forms the foundation of what we need to guarantee an uninterrupted supply of energy when we need it.

It goes beyond that, as important as those products are, because when one thinks of the challenge of energy, when one thinks of what my colleague pointed out, we are talking ultimately not only about the process of exploring and ultimately consuming energy, but there is an impact to the pocketbook. The most immediate effect we think about and associate with across the country is the price at the pump. We need to have a situation where we are no longer dependent on the Organization of Petroleum Exporting Countries, otherwise known as OPEC.

Here is one of the ironies at the outset of this conversation, Saddam Hussein's Iraq, a nation which threatened the stability of its neighbors, attempted to invade and occupy another oil-producing state, Saddam Hussein's Iraq, a country in the early days of this administration where American war planes carried out a raid in part to try and disrupt the fiber optic sophisticated air defense systems now being installed, here is the irony, Mr. Speaker, because of the lack of a cohesive, coherent energy policy, we now import more oil from Iraq than we did prior to the Persian Gulf War.

Mr. RADANOVICH. Mr. Speaker, I want to take the example of the gentleman from Arizona (Mr. HAYWORTH) and put an environmental approach to it, because I am in the Congress continually amazed about the hypocrisy of the extreme environmentalist movement in this Nation. I really believe that the current style of environmentalism in the United States will end when one cannot get water out of a faucet or one cannot get light out of a light switch. People tend in the United States to be very environmental everywhere else but their own backyard, and when emergencies hit like this, there is a change in perception about what we ought to be doing.

Mr. HAYWORTH. Mr. Speaker, I can't think of another approach, I think, that has led to a lot of this Nation's energy crises. It has been at the local levels of government, all across the country, but it has also been fueled a lot by the extreme environmental movement that basically puts the environment over human life, and the priorities thereof.

The reason why I wanted to bring that up, when the gentleman was mentioning this is, does the gentleman think that the environmental policies that regulate oil exploration in Iraq are much more stringent in the United States? I do not think so. Yet the United States uses 25 percent of the world's energy and only has 2 percent of the planet. In 1976, I did this. I do not know what the number is of that 2 percent that is locked up, but I guarantee it is a very, very high percentage.

We are such hypocrites in this country because we demand to use so much energy, and yet we refuse to use our own resources, where if we did that, energy demand would be much more environmentally responsible than in a Third World country.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. RADANOVICH. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, I wanted to add to that point that in Russia, and I was recently in Russia, their pipelines that transport the oil, they actually use it for oil transportation as much as trucks, but they spill the equivalent of an Exxon Valdez-type spill every week just in transporting their oil.

Here we are, we could help them through aid programs trying to get these pipelines improved, which would help the environment but also our energy supply, and the gentleman said we have the best, the strictest environmental regulations in the country, and yet our environmental policies, our radical environmental policies, want to continuously pick on America.

It is interesting that in 1976, in Louisiana, that is when the last oil refinery was built in the United States of America. The gentleman was cranking up his eight-track player by the time they opened that one up. In fact, the gentleman's eight-track player was probably already getting dated. The gentleman's slide rule was gone, and he was not driving his Ford Maverick anymore. That is how long ago we are talking about.

Now, unfortunately, radical environmental politics, now there are 8,000 environmental groups in the country. They generate something like $3.5 billion a year in terms of checks and revenues to them. The Sierra Club out in the great State of California pays something like $57,000 a month just on rent in San Francisco. That is how big we are talking about. So we approach so many of these things emotionally to the extreme degree that we end up worshiping rather than what are we going to do to have a good, balanced approach.

Our great friend Kelly Ann Fitzpatrick talks about a poll that says if the people in America are polled, 87 percent say they want clean air. Her question is, who in the heck are the other 13 percent? What is going on here?

We want a balance. We want clean air, clean water. We want energy-efficient cars. That is a given. It is extremely important.

At this point America is not ready to throw in the keys to their internal combustion engines and say, okay, we are all going to start riding bicycles. So let us keep the supply up for gasoline.

Mr. HAYWORTH. Mr. Speaker, I cannot help but think of the distinction here. It seems that to the cynic so much of what transpires politically is third-hand. We heard in the preceding hour, and I was especially struck by our colleague, the gentleman from New Jersey (Mr. PALLONE) on another matter, just dealing with misinformation and demonization rather than solutions. It seems to me especially on this topic, which touches every American, perhaps we should pledge ourselves not to an extremist environmentalism, but to an enlightened environmentalism; not to a radical environmentalism, but to the environmentalism of the elite, but to the environmentalism of the enlightened.

Our President has made sense of this because he says, Mr. Speaker, that one has to look at this as an either/or. It is not, we will have a clean environment, or we will burn fossil fuels. It is not, we will have clean air, or we will commit to motor vehicles. Indeed, there is an enlightened approach that uses the latest scientific data for clean-burning energy; for environmentally-sound exploration. Though it may not be commensurate with the theatrical politics of demonization and misinformation that drives some of the eco campaigns my colleagues talks about, it is what we should do because it is the right thing to do, to provide for our economy, but at the same time protect our precious environment.

Mr. RADANOVICH. Mr. Speaker, I would like to applaud the President for just the very reason that the gentleman just mentioned, because he is taking a leadership role on this issue. The polls came out the other day in the front page of the New York Times that he is slipping down now to 53 percent. Whether one agrees with that or not, I can see where a President like this has the leadership and the desire to want to improve America, to upset a few
people and ruffle a few feathers just to make things different for our country and better. I think that is what real leadership is, and that is why I want to applaud the President for doing that.

The person who spoke recently was the gentleman from Georgia (Mr. KINGSTON), a wonderful representative of that State.

We are joined now by the gentlewoman from New Mexico (Mrs. WILSON), and I would yield to her at this point.

Mrs. WILSON. Mr. Speaker, I want to thank my colleague, the gentleman from California (Mr. RADANOVIĆ) for yielding me the time.

Mr. Speaker, I had the privilege of having supper tonight with two friends from Roswell, New Mexico, who are in the oil and gas business. They are second- and third-generation members of their families who are in the oil and gas business. I represent the State of New Mexico, which is one of the country’s providers of oil and gas and uranium and coal. We provide the fuel that lights the lights across this country.

I think all of us understand that we have an energy problem in this country. It is toughest in the West, but it affects us all, whether it is the price of gasoline at the pumps or the rising price of the things that we buy in our stores that take energy to make.

I think there is a growing consensus in this country that we need a plan. We have not had an energy policy in this country for almost 20 years. We are more dependent on foreign oil today than we were at the height of the energy crisis. Fifty-five percent of the oil we consume in this country is imported from abroad, mostly from the Middle East, from OPEC.

The sixth largest source of supply for oil in this country is now Saddam Hussein’s Iraq. Most Americans do not know that, know how dependent we are for our energy security on countries abroad.

California also got itself into a real tough spot over the last decade. Their growing, robust economy required about 10,000 more megawatts of power, but they only built 800 megawatts of supply.

I spent Sunday afternoon in the East Mountains that are right up against the city of Albuquerque. One of the reasons why I love being New Mexicans is we love the great outdoors. We love taking our children there. We love the beauty of the land in New Mexico. I know my colleagues would disagree, but I happen to live in one of the richest energy States in the Nation, but I also live in the most beautiful State in the Nation.

Mr. KINGSTON. If the gentlewoman would yield, you have gone too far now.

Mrs. WILSON. My colleagues, I know my colleagues would disagree, but I think you understand my feeling for the place, and also my knowledge that this is not an either/or question; that if we are smart about it, we can provide the energy that we need to live life the way that we choose to live it, not damming the country that we love. I think that is the kind of policy we want to promote, which means we start with conservation.

One of the things I thought was really interesting about the President’s energy plan was some of the data that was in it. In fact, we do not take credit for how far we have come in the last 20 years in energy efficiency.

This top line in this chart shows energy use at constant energy per dollar of gross domestic product. For how much we are producing in this country.

We have gotten so much more efficient since 1972, which is the baseline year. We are using less energy per dollar of GDP.

Now, part of that is we have a more information-based economy and so forth, but we are much more energy efficient now. A refrigerator, we had to buy one recently, thank goodness my husband was at home to get it, and the refrigerator we bought uses one-third less energy than the one that we bought in 1972 that it replaced.

Our cars are more efficient and hold the promise of being even more efficient with hybrid vehicles, which will not restrict our power and our range of those vehicles. So we do wonderful things. We have made tremendous progress with conservation.

But we cannot conserve our way out of an energy problem, any more than I can feed my family just with the leftovers. You have to have the supply too. So we need to increase and diversify our supply of energy and give a balanced mix of energy.

One of the things I am concerned about is the growing reliance on natural gas. I know that a lot of folks do not know that about half of our power plants in this country actually use coal, and we are making progress on clean coal technologies. But most of the power plants on the horizon are going to use natural gas; and within 20 years, we are going to be so reliant on natural gas that we are going to have to be importing natural gas as well. Yet we only have one port in this country that can take liquefied natural gas, which gets to the third problem we have.

We have to work on conservation, we have to increase and diversify our supply, but we do not have the infrastructure in this country that is reliable and safe and gets things we need in order to have a strong energy policy. We do not have the transmission grids that we need. We do not have the pipelines that are safe enough and plentiful enough.

We have not built a refinery in 20 years in America. Our refineries are working at 97 percent capacity, which means if you have a fire or safety shutdown at a gasoline refinery, you immediately create a shortage of supply. We only have one port that can accept liquefied natural gas.

So we must address conservation; increasing supply, with responsible development of domestic supply; the infrastructure needs of the grid, finally, we have to do some government reform. It should not be possible that the Department of Interior, the Department of Agriculture, the Department of State, can make unilateral decisions that affect our energy security without having to take our energy needs into account, and the way our government is set up today they can do that. That is not right, and we need to change it.

I look forward to working with my colleagues this summer on a comprehensive energy bill that is long-term to address some of these problems.

Mr. KINGSTON. If the gentlewoman would yield, I think that you have really hit a great point. I do not want to say anything bad about the great State of California, where my mother lived and my sister lived and lots of my friends do, but I have to take on a little bit your Governor on politics, because here is a State that has grown economically, done real well, demand for electricity has gone up, and he will not increase the supply; would not permit some of the things that Mrs. Wilson has talked about that increase supply, the infrastructure.

If my hometown, Savannah, Georgia, grew, and it has been growing. As it grows we have added new hospitals; we have added new schools, we have built new roads, we have built new bridges. In fact, the State of Georgia has had about an 18 percent growth. California, I know, has had unprecedented growth. Yet as Governor Davis would do those things, he would not add on any power plants.

Now, I have to ask, common sense would say if you are going to have growth in population, certainly you have to have growth in the supply of energy. For the Governor of California to come East looking for energy, when he needs to be sitting back in Sacramento signing bills and legislation
that streamlines and simplifies regulation, it is ridiculous. He is being negli-
gence.

The Governor, I understand, is going now on David Letterman. Okay, let us be real serious about our energy policy. Going on David Letterman. It is time to put the politics aside and get back to Sacramento and do your legislation. Mr. RADANOVICH. Being the gentle-
man from California, if I may, if the gentleman would yield, I think the gentleman is right on the mark. But there was a separate issue in California that brought, I think, the energy crisis in the United States to the fore.

What the problem was in California was really a crisis in leadership in an improper reaction to a flawed deregulation bill that was passed in 1995. We began to see signs of that with this “dereregulation” of, say, 25 percent, and changes to rates at which utilities could charge consumers but put 100 percent of the energy that they were able to purchase on the spot market, which fluctuated from day to day. That is half a deregulation bill, that is not a full one. If you do not go all the way with deregulation, you do not have deregulation. It caused problems beginning in May of last year.

Mr. KINGSTON. If the gentleman would yield, does Governor Gray Davis of California think he is going to get new energy ideas from David Letterman, or is he just making a chau-
rade out of this?

Mr. RADANOVICH. I will say again that the problem in California was a crisis of leadership, and I think blurred objectives; one being a blurred objective, one objective being staying in office and getting reelected, and the other being providing for the needs of California.

Mr. KINGSTON. Has not Governor Davis received over $1 million from utility companies?

Mr. RADANOVICH. The very ones he vilified, many times they have not been able to speak to him unless it was at his own fund raisers. This is the way the whole thing worked out.

But the problem could have been solved a year ago, and I will make this point: If the Governor would have al-
lowed for a modest retail rate increase by the utilities, that percent, it would have driven down future prices; and he could have encouraged the utilities to get into long-term contracts where the wholesale price was below the retail price. We would never have been in this situation.

It was his delay in imposing a modest increase of 25 percent that, by the time he had to impose it, grew to 48 percent, and on top of that, diverting his ener-
gies to State bio-energy, the transmission lines. I give him credit, he was working for ways to get the utilities creditworthy, but his decision was de-
layed and delayed for political expedi-
cency and the fear of doing something wrong that might hurt politically. That was the crisis in California.

Mr. HAYWORTH. If your friend from California would yield, because this points up the real challenge afoot. If just one-tenth of the energy that is being utilized to engage in name-call-

ing or to go on late night television, and I do not know, do stupid gubern-
natorial tricks or whatever is going to be re-
quired, if that were utilized to help solve the problem, that is the measure of a man or woman in public office. Not posturing and preening for the cameras and issuing attack memos and spin, but working to solve the problem.

Mr. Speaker, I have to ask my col-
league from California, I heard other reports where temporary energy sta-
tions could have been placed into com-
mission on an emergency basis, where some regulations had been streamlined, but what I find amazing is that, appar-
ently, Mr. Speaker, the Governor of California said if the folks employed there do not belong to a union, why, then it was not worth opening the power plant.

Now, Mr. Speaker, whatever your feeling on the right to work or collective bargaining, it seems to me the collec-
tive need for energy outweighs the political chits called in by the union bosses.

Let me address, Mr. Speaker, my col-
league from California. Are those re-
turns true? Did the Governor say he would not allow these temporary plants to come on line, these regul-
ations to be streamlined, unless the folks were union employees at the con-
trols?

Mr. RADANOVICH. I have no doubt that that happened during the time of a year ago. Now, from a year ago to now, I think the reason it has been the hesitancy to provide leadership on the issue. Because of that, it led to a situation that could have cost the State maybe $2 billion to one that has cost the State of California $50 billion and has eaten up about a $12 billion surplus that we had last year. It really was a hesitancy to act, and an al-
legiance to labor and the environment.

Mr. KINGSTON. Let me ask the gen-
tleman, why is it that the Governor of California has enough money to come on major comedian shows like David Letterman and come out in Wash-
ington for Democratic fund raisers and come back East to raise cane about George Bush, but he does not have the time to stay at home and solve the problem? Is the problem not better solved in California, rather than blam-
ing it on George Bush, who just un-
packed his bags when the crisis began?

Mr. RADANOVICH. The solution to California's problem was within the leadership of California, in the State legislature and the Governor's office. It was clear that that is where this prob-
lem was going to be called.

After a series of mistakes, refusing to impose modest rate increases, galli-
vanting off, getting the State involved in buying power, purchasing energy for seven times more than what the utilities were able to receive for that energy, led this thing into such a pre-
cairious position that the Governor could not afford then to solve the cri-
sis. Simply because, did he then, would he be answering questions like what the heck did you do with our $2 billion surplus? So, unfortunately, the politics do not allow for the solution in California. Just know for a fact that there is no solution to this paying four to seven times more for the energy in California than what is being gathered up by the utilities.

The reason that that is happening is because it is not politically expedient to solve the problem in California. There is too much need to vilify the President, there is too much need to vilify Members of Congress, those of us on the Committee on Commerce, be-
cause then the issue becomes why did you wait so long to solve this, when it could have cost far less in money and in damage to the State?

Mrs. WILSON. If the gentleman would yield, I am a New Mexican. I have never met Gray Davis, I would not know him if he walked in the room, but I do know people want us to get down to solutions and stop the blame game and get some things done.

I think that this House over the next 6 weeks has got a strategy for dealing with the energy problem that really stresses four things, and they are the four important things for a long-term balanced approach to America's energy needs. Those include things like con-
servation, increasing supply, fixing our infrastructure and government reform. When we talk about vision, there are so many things that we can do. Sandia National Laboratory is in my district in New Mexico and has done some of the leading-edge research on energy conservation in areas that most folks do not think about.

About 40 percent of the electricity used in America is used to put the lights on. Yet we have made so few in-
novations in lighting in America, to re-
duce the use of energy in lighting. 2115

Super conductivity. That is kind of a long word, but what it really means is that when electricity goes down the wires, whether it is the transmission wires that take electricity from New Mexico to Southern California, or even just the wiring in this building that keeps the lights on, we lose electrons as it is getting to where you want it to do the job.

Mr. HAYWORTH. If some of the executives with a public service company in New Mexico told me that because California is so big and New Mexico is really kind of small in comparison as far as number
of people, we actually lose more electricity. Of the amount that we send to California, we could light up the entire State of Oregon. This is why we put in place CAIIP, for the purpose of loss in transmission. Well, if we could save that energy through superconducting materials, in other words, materials that do not lose those electrons along the way that heat up the wires in our walls or along the transmission grid, we can use that energy to actually do work and not waste it.

Mr. Speaker, we have wonderful plans for next-generation power plants that will conserve electricity and will make power plants much more efficient as they turn the raw materials, whether it is neutrons or nuclear materials or coal or natural gas, and turn that into electricity; and when we make them more efficient, we use less of that natural gas and less of that coal in order to make the electricity to light our homes. But we also have to increase supply.

I want to say something here about nuclear energy. Nuclear energy is one of the safest forms of energy. It has some of the fewest emissions of any kind of energy that we have, and it is time to take nuclear energy out of the “too-hard column” where it has languished for almost 20 years. We are going to have a hydro-licensing bill, and it will come out of the Committee on Commerce, I hope within the next month.

Hydropower is one of the cleanest powers we have, and yet there are dams in this country that have existed for 200 years and they are under State control. What most folks do not know is that as soon as you put a turbine on a dam, it comes under Federal regulators, not State law; and it is a nightmare. It takes almost 100 years to get that turbine licensed to provide power and, in the process, you can be ordered to breach your dam. So why would anyone in their right mind take the risk of putting a turbine on an existing dam that has been there for hundreds of years? And as a result, we have clean, safe energy that is going over spillways and dams in this country because we cannot get our licensing right for hydropower.

The first wonderful things we can do with clean coal technology, with natural gas, where we have natural gas on nonpark public lands that we cannot get access to because the Bureau of Land Management is no longer focused on how we steward our resources, but how to keep people off the land that we enjoy in the West.

So there are things that we will do in this House to lead the way, to stop the blame game, to give ourselves a long-term energy policy, to conserve, to increase supply, to fix our infrastructure, and to reform our government. I am very glad that this House is focusing on those things and not on politics.

Mr. RADANOVICH. Mr. Speaker, I would like to say, continuing to defend California, it was an issue of supply I think that was neutrons or nuclear energy that was not caught up with the vision. Now, we have made changes, to the point where cooling our homes, we have the opportunity to look to the sun, and solar power and solar energy on a residential basis. Just as so many Americans have their own garden in the backyard, we can look to a sound alternative form of energy with technological advancements, and, in the long run, not only save on power bills, but save on taxation too.

Mr. Speaker, we should look to those types of commonsense policies. We should never forget that the term “conservative” and “conservation” share the same root, the same notion, that we preserve in a commonsense fashion and, in so doing, free up other sources for those who need them. That is something we need to remember. Conservation plays a key role; not the only role, but an important part to play, just as we look at tax policy and new exploration and streamlining regulation.

Mr. KINGSTON. Mr. Chairman, if the gentleman will yield, I wanted to touch base with what he is saying in terms of nuclear energy and what the gentlewoman from New Mexico was saying. In France, 76 percent of the homes and buildings are powered by nuclear energy; in Belgium, 56 percent; in America, most people do not know this, it is 20 to 25 percent already, and it is safe. I represent Kings Bay Naval Base and all the subs down there are nuclear submarines; yet ironically, people in that county will say, well, I am against nuclear energy; it might be dangerous. So you have more nuclear power plants in your county than most of the States in the entire country.

Nuclear energy is safe. It is low cost, it has fewer disruptions of power. One out of every five homes in America are powered by a nuclear plant. It is the second single-largest source of energy already, and it provides almost 70 percent of all emission-free energy. This is something that we cannot ignore. There are 103 operational nuclear power plants in America today, and over 3,000 shipments of nuclear fuel that were spent were moved safely in the last 40 years.

So when we talk about nuclear energy, people need to understand that this is not some bold new frontier that we are talking about. I always hear people say, well, what about Three Mile Island? Mr. Speaker, there were no people killed at Three Mile Island. That does happen with other sources of energy, but the thing is, that was over 2 decades ago.

Again, going back to the days of the 80s, not that many years ago, another broadcaster who had gone into public office, the late Jack Williams, Governor of Arizona, at that time there was this promise of nuclear energy, but the technology had not caught up with the vision. Now, we have made changes, to the point where...
could hardly transmit a message past a couple of oak trees. Technology has moved on. Technology has moved on in nuclear power. I think that we are just fooling ourselves by not being a little more bold and aggressive about it. Again, 76 percent of the houses and buildings in France are nuclear powered.

Mrs. WILSON. Mr. Speaker, if the gentleman will yield, it is interesting, on this issue of conservation, on Saturday afternoon I was on the west side of Albuquerque visiting a housing development that is full of first-time homes and the builder, Jerry Wade of Artistic Homes, specializes in energy-efficient houses and they build it into the house. I met a family there who were buying their first home. They were moving from a rental house, and one of the reasons we can actually sell power back to the power company, if we live in a house that is energy efficient, and it was a very nice home, but Jerry Wade guarantees their electric bill will be no more than $20 a month, because they build the energy efficiency in.

One of the things that I hope to do in our conservation bill that we are going to be working on here is to make it possible for those savings to be taken into account when people apply for their mortgages, for their federally supported home mortgage loans, so that we can take into account that the electricity bill is going to be lower. The neat thing about what I saw on Saturday was, we are not talking here about something that costs more, we are talking about something that costs less, and that can be done in homes for first-time buyers, not just people who can put on solar panels on their homes.

Talking about where we are going with solar, it used to be that we thought about solar and, gosh, it takes 10 or 15 years to get back the cost of the solar panels. We are on the verge of innovations and technology that will be just as cheap to put on solar shingles on our houses as it is to put on tar paper shingles on our houses. The difference is we hook it up to the meter, and we can actually sell power back to the power company, if we live in a sunny place like my colleague from Arizona and I are privileged to do. We have solar-powered homes, and it does not power the electricity, but it helps preheat the water, it helps keep our electricity bills lower, it helps keep the gas bill lower by preheating the house and heating a bed of rocks under the House. We can do those kinds of things, and it is going to be in the very near future, we can look forward to doing that as it is to build a home the conventional way, and we should build those incentives in to the conservation bill we hope to pass here in the House.

Mr. HAYWORTH. Mr. Speaker and my colleagues, it has been very interesting to spend this hour, not engaged in disinformation or demonization, but looking for reasonable, rational solutions at the outset.

When the gentleman from California claimed this hour of time, I reminisced about the fact that 4 decades ago, President John F. Kennedy stood at the podium behind us and challenged us to go to the Moon. We harnessed not only a triumph of will and exploration, but a triumph of applying science to a rational vision to deal with that challenge. Certainly this challenge cannot be as formidable. Certainly this Nation, with the best minds at the fore, working together with sound policies that streamline regulation, to make it reasonable that look for environmentally sensitive ways to explore for new energy options, that do the research to bring online the innovative new sources of energy and that realize that our destiny is within our grasp in terms of efficiency. Certainly that can be the watchword, the vision for us. Certainly that is what the administration offers in its energy plan.

The challenge for us, Mr. Speaker, is to abandon the theater of politics where some have been so tempted to engage in name-calling and political posturing, to truly represent the American people to find sound solutions, to reject the extremism of the extremists and embrace the conservation and environmentalism of the enlightened. That is our challenge. I believe we are poised to meet that challenge, just as we put a man on the Moon in the 1960s.

Mr. RADANOVICH. Mr. Speaker, I agree with my friend from Arizona. I want also to state my admiration for this President for taking on this job. I do not envy him. I mean, I was born and raised right next to Yosemite National Park. I am excited about these fuel cells that Honda has on the drawing board right now and I am excited about the hydrogen economy.

Mr. Speaker, I am very excited that Honda has on the drawing board right now a hybrid car that will get 75 miles a gallon. I am excited about these fuel cell cars that are out there that have these perpetual batteries. I believe that our government has a role in funding such research, such general research, and we are going to continue to do that.

Mr. Speaker, I also applaud the gentleman from Arizona (Mr. HAYWORTH) for his comments and the gentleman from New Mexico (Mrs. WILSON) for your boldness in speaking out on nuclear energy, because I think it is something that Americans need to be comfortable with the dialogue.

Finally, I want to say that I think that we should continue to explore alternative uses and evaluate our own domestic resources to see what we can do to become more energy-independent and not risk our national security on the whims of Middle East dictators and kings and despots.

I thank the gentleman from California (Mr. RADANOVICH) for inviting me to be here tonight and look forward
to working with the gentleman and the rest of the Congress on some very positive solutions.

Mr. HAYWORTH. Just one note in closing, Mr. Speaker. Very soon we will move past the rhetoric, and we will have to roll up our sleeves and make it happen. The administration has put out a plan. I cannot help but think about the holiday we are about to celebrate and observe, the independence of this country. A new biography of our second President John Adams has been written. In the final year of his life and the final days, a committee of men from his home State of Massachusetts went to visit the second President, at that time his son was President of the United States, and they asked John Adams, Mr. President, would you like to put your feet to the country and the help to find? And he stood up there, stiff-legged, still the strong voice, and he offered two words: “Independence forever.” They said, Mr. President, do you want to add anything else to that? And he said, no, not a word, that suffices.

Indeed, not only in the tradition of this constitutional Republic, but for the future of a sound energy policy with an enlightened environmentalism, let that again be our cry; Independence forever.

Mr. RADANOVIĆ. Mr. Speaker, I want to thank the gentlewoman from New Mexico and gentleman from Arizona and the gentleman from Georgia for participating in this special order.

OPEC OF MILK

The SPEAKER pro tempore (Mr. SHUSTER). Under the Speaker’s announcement of January 3, 2001, the gentleman from Wisconsin (Mr. GREEN) is recognized for 60 minutes.

Mr. GREEN of Wisconsin. Mr. Speaker, we will not take all that time this evening, but I wanted to talk about a subject that probably many people out there tonight have never heard of yet and I would suggest, adversely affects millions of people.

It is something that was recently described by the Wall Street as the OPEC of Milk. It is a price-fixing cartel for milk that affects families all over the country, especially those who are least able to pay for it.

The history of the OPEC of Milk, the Northeast Dairy Compact, is somewhat interesting. Back in 1996, a small group of New England Members of Congress formed something called the Northeast Dairy Compact. The way it was authorized was not to bring it to the floor of the House or to the floor of the Senate for a vote, but, instead, they were able to sneak it into a conference committee report under an appropriations bill.

Now, their intentions were sound. They believed back in 1996 that this cartel that they created, the Northeast Dairy Compact, would, in their words, help stop the loss of family farms in six New England States by guaranteeing a minimum price for milk. That sounds harmless enough. I was not here at the time, but had I been, those sentiments are certainly ones that we all could have supported.

I would suggest to you, Mr. Speaker, and to those who are listening tonight, that those good intentions went awry a long time ago, and that the OPEC of Milk has done tremendous damage not only to our dairy system and to dairy farmers in New England and all over the country, but also to so many families who are trying to afford the great nutrition that we have in our dairy products.

The reason that this is so timely is that the Northeast Dairy Compact was due to expire in September of this year. This compact clearly could not stand on its own merits, and so we have had some of its strongest supporters, particularly Senator Jeffords over in the Senate, say he understands how unpopular it is. He implicitly understands how bad it is, but he has said that he is bound and determined to get this reauthorized, passed in September no matter what it takes.

In fact, he told the Associated Press not 3 months ago that his goal would be to “sneak it in through the stealth of the night.” And to get it through when people are not looking.”

Mr. Speaker, the Northeast Dairy Compact should die a peaceful death in September. First, it has not met its goal. It has not stopped the loss of family farms, not even in the New England States that are part of this compact. Second, as we will talk about tonight, the Northeast Dairy Compact has raised the price of milk to consumers. It is what so many people have called a milk tax.

Third, the Northeast Dairy Compact has accelerated the loss of dairy farms in other States, States like Minnesota, those whose States together have the largest number of dairy farms in the Nation.

Finally, and perhaps, in my view, most damaging, the Northeast Dairy Compact has prevented us from dealing with our dairy problems on a national basis, and we do have tremendous problems in the dairy sector. We are losing dairy farms each and every day, and we must do something, but as long as we have a policy like the Northeast Dairy Compact, which pits State against State, region against region, farmer against farmer, we will not get that national policy.

Mr. Speaker, I think it is important to understand clearly I have an interest in coming from America’s Dairyland of Wisconsin, but it is not just me, not just those in Minnesota and Wisconsin who believe that the Northeast Dairy Compact is an abomination. It is others, analysts, journalists.

Mr. Speaker, I will read from a few, the Wall Street Journal recently said not 2 weeks ago that compacts are “basically a highly regressive tax on milk drinkers, starting with school-aged children, creating them is a tacit endorsement of the OPEC cartel.”

There is the Consumer Federation of America, hardly a biased group, hardly a Republican group or hardly a Midwestern group, the Consumer Federation of America, which represents over 50 million consumers nationwide said not a month ago that regional dairy compacts give too much money to farmers who do not need the help, too little money to farmers who do need the help, and they asked consumers, especially the low-income consumers, struggling to feed their families and pay the rent to pick up the tab.

There is Americans for Tax Reform, which refers to compacts as dairy cartels.

There is the New Republic Magazine, which said that the Northeast Dairy Compact was “a system that can best be described as socialism.”

There are groups like the Council for Citizens Against Government’s Waste, which says that this is a regressive milk tax on Americans; or the National Taxpayer Union, which said that the Northeast Dairy Compact is “a cartel that no robber baron could admire.”

So it is not just folks from States like mine, Wisconsin. It is consumer groups, journalists, people really across the country, across the spectrum, who realize that the Northeast Dairy Compact was a bad idea. It has not gotten any better, and it should die a peaceful death.

Mr. Speaker, the gentleman from Minnesota (Mr. KENNEDY) for yielding to me and thank the gentleman for his leadership on this very important issue.

People may ask, how did this ever come about? How did we get this dairy some cases to allow States to work together on parklands or transportation systems or waterways; however, there is no precedent for price-fixing compacts evidenced in this situation.
This is the only case where we have allowed a region of the country to set a price-fixing compact against other regions of the country, and how this affects us is if you have excess production of milk that you do not drink with cereal or otherwise, you generally turn that into cheese. So if there is excess production in the Northeast, they convert that into cheese.

For those major milk-producing States that include Minnesota and Wisconsin, but California, Idaho, Arizona, several others, that takes away from our cheese market. In fact, the Northeast Dairy Compact was fined $1.76 million in 1998 for the extra amount of money that the USDA had to consume in buying extra production coming out of the Northeast.

They have since instituted just recently a price-fixing agreement, in the Northeast, but if you think of how un-American this is, let us just say we decided that we do not think that Michigan should be disproportionately producing so many cars, so we are going to have, the rest of the country, let us go into an auto compact where we are going to produce the autos we need outside of Michigan and let Michigan only produce the cars that they can use in Michigan.

Orange juice. What if we decided that we are going to have an orange juice dairy compact where we are going to produce our orange juice and let Florida just produce the amount of orange juice that they can consume in Florida. Or movies in California. Or you can go on and on and on. I mean, this is ridiculous. It is un-American. It undermines where we have been in the past and what has made America strong in the past; that we are one country, that we do not have divisions among States. Our Founding Fathers were very nervous about that happening.

Why we would let this happen and undermine our strong dairy industry in Minnesota, Wisconsin, the upper Midwest and other States around the country is something that is beyond me.

It is something that, if American people understood this issue, they would be against it. If they understood, not just that they were being taken advantage of as consumers, but that one area of the country is going and pitting against another area of the country’s strength, they would be uprising and saying we want to end this. Certainly we do want to end this.

I appreciate the gentleman from Wisconsin (Mr. GREEN) reserving this hour to make sure that we can help educate the American people on this subject.

Mr. GREEN of Wisconsin. Mr. Speaker, I thank the gentleman for his comments. I think that the gentleman has pointed out what may be really the greatest tragedy from the Northeast Dairy Compact. Nobody wants to help dairy farmers more than I or the gentleman from Minnesota (Mr. KENNEDY). I mean, we came from dairy States which had the largest number of dairy farmers.

It is interesting, when we were debating dairy policy last year in this House, farmers from the northeast States got up and talked about how many dairy farms that their home States, their home districts have lost. I remember a good friend of mine from the northeast exclaim that his State had lost some 200 dairy farms last year.

I would like to put things into context for a moment. In my home State of Wisconsin, by this time tomorrow, by a quarter to 10:00 tomorrow night, Wisconsin will have lost four more dairy farms. We are losing four dairy farms each and every day. Over the last 10 years, we have lost 13,000 dairy farms. In fact, as we have a State have lost more dairy farms than any other State. This is why of the gentleman from Minnesota (Mr. KENNEDY).

So no one, no one wants to do more for dairy than those of us who represent States like Minnesota and Wisconsin. But we understand that to fix dairy problems, to meet the challenges, to be successful, to be compassionate, we have to have a national dairy policy, one that works all across America.

The Northeast Dairy Compact rewards some dairy farmers. In fact, it encourages them to overproduce and harms others. It pits farmer against farmer, State against State, region and region. That cannot be good.

As I talked to farmers in my home State and dairy farmers from all across America, they understand that one cannot have a policy that pits farmer against farmer. We cannot meet our challenges if we are divided and fighting amongst ourselves.

The system that the gentleman from Minnesota (Mr. KENNEDY) described is Stalinist. I mean, I think the problem that we have had, so many of us who are so opposed to the Northeast Dairy Compact, is that, when we tell people how bad it is and we describe how it is set up, they do not believe us. They do not believe that, in America today, you could have such an absurd, illogical, irrational system. I am afraid, Mr. Speaker, it is true. Believe it or not, we do have such a system. It makes no sense. It does not work. It is, to put it kindly, a great distraction as we should be taking on so very many important issues.

Mr. Speaker, I yield to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, I would like to say that this dairy compact is kind of like salt in the wound. It is a wound that is already being put in place by an underlying milk marketing system that, again, hurts the natural dairy producing States of this country.

When in the 1930s we implemented milk marketing orders, that was designed to make sure that fresh milk was available all over the country. It may have made sense back then; but right now, it divides milk into four classes, all of which receive a different price.

One class 1 milk which we drink out of our glass gets 33 percent or more higher price than what we make in the cheese. Since we are primarily exporters of dairy, we convert about two-thirds of our production in our region into cheese; and, therefore, our farmers receive more than a third less already, just setting the dairy compact aside, for our milk production than those like the northeast that are producing primarily for fluid, milk.

So we are already being penalized by a system that we have not been able to overcome because of the resistance of people in the northeast. We are already being penalized.

Then when they have one down, the dairy compact is really piling on. It is piling on and saying, okay, you know, you are already only getting 60 percent of what we get, but that is not enough for us. We want more. We want to take more out of your income. We want to take more of your dairy farmers and put them out of business. We want to try to prop up what we have.

It really has not had that beneficial impact. They are still losing family farms in the northeast area. They are still not really having the benefits that they speak of at the same time that they are clearly penalizing us.

As the gentleman mentioned, Minnesota and Wisconsin. Many of the people I know, I live in a rural area of Minnesota called Watertown where there are many dairy farmers that go to church. I come across people who are operators of dairy farmers in the last year that I know that have gone out of business. The milk marketing orders and the Northeast Dairy Compact are to blame for that.

The gentleman’s father, I know, is in the medical profession; and the first rule they learn is to do no harm. It would be good for us as legislators to know, to do no harm.

Well, this is clearly something that harms millions of Americans, favors a very small few, and it is something that we should stand up against. It is something that Americans should stand up against.

Write your Congressman wherever they may be and say this is something I do not believe in. This is something that undermines everything that I believe about America.

I ask my colleagues to oppose the dairy compact because this is just the tip of the iceberg. We need to map here of those areas that want to go into dairy compacts. It includes just about every State in the country that is not a producer of dairy over and above

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As I began this evening, I said that, when this system was created, and it was, again, sort of slipped in in the dark of night in a conference committee report, it was done by some Members who really had the best of intentions. They wanted to reverse the decline of dairy farming in New England. But the sad news is it has not worked.

So I would appeal to my friends from the northeast to reexamine their support for the Northeast Dairy Compact, because if they believe that we need to take action to help dairy farmers, this is not it.

The Boston Globe last year did a really interesting study. They studied the States of Massachusetts and Vermont, and they looked at the effect of the Northeast Dairy Compact. Their study showed that, in the 2 years before the Northeast Dairy Compact was concluded, the State of Massachusetts lost 34 dairy farms and the State of Vermont lost 153.

Interestingly, though, in the 2 years after the compact went into effect, the State of Massachusetts lost 44 dairy farms, 10 more, and the State of Vermont lost 153. The compact is not working. In fact, the loss of dairy farms is accelerating.

It is interesting. If one goes beyond those two States to the entire New England region, one will see that 25 more dairy farms went out of business after the compact than in a comparable period before the compact.

What may be most painful of all and really distressing, since the most vulnerable dairy farms in America today are the smallest ones, 50 cows or less, the compact has actually accelerated decline in those farms, the small farms, those that are most vulnerable.

The Consumer Federation of America said recently that, because compacts pay farmers what they can to oppose and certainly we are still benefiting them, but they are not letting us benefit from our natural strengths.

Again, this is something that I implore our colleagues to do everything they can to oppose and certainly we will continue to try to spread the message across the land, that this is something that is un-American and should not be supported.

Mr. GREEN of Wisconsin. The gentleman from Minnesota is right that our two States have football teams that are great rivals. I guess the Northeast Dairy Compact would be like giving the Packers an extra player. Maybe we deserve it, but that is another debate. I think, though, that my good friend and colleague brought up a very important point when he talks about free and fair trade and the great emphasis that we are placing as a Nation and a people on opening up markets and on trying to promote free and fair trade. I think we understand the importance of commerce and growing this economy, what we do best, we all benefit. We all benefit from lower prices of goods. We all benefit from higher employment, higher income levels. The increased prosperity around the world has really sprung from countries opening up their markets and each focusing on what they do best.

If foreign trade is so beneficial to the world, if opening up markets with other countries is so beneficial to us, why should we have open markets with Europe, with Asia, if we cannot even have open markets with Vermont? Again, I have to go back to what you have said. When you tell people about the compact, they cannot believe it. We are used to being pitted against each other when the Packers play the Vikings, and we are used to having our rivalries; but we all come together when it comes to singing that national anthem at the beginning of our games. This does in a nonsportsman-like fashion pit one region of the country against the other in a very unfair way that undermines one region’s strength and subsidizes another region that does not have those natural strengths when in fact they have natural strengths that are still benefiting them, but they are not letting us benefit from our natural strengths.
Mr. KENNEDY of Minnesota. I will just close by saying the gentleman has talked about the broader sense of consumers, how this is hurting consumers. But this is an example, an unprecedented example of the tyranny of a minority by the majority. Those who believe in our government, those who believe in civil liberties should not idly look on as this is taking place. This is a very bad precedent for any number of other things that we are seeing around the country, just because we have fewer congressional votes here in the upper Midwest, can be penalized by another state. How can we as a country, other nations in the West, how can we in all seriousness do it if we come together. I appreciate the gentleman from Minnesota so much for joining me this evening. I offer him the opportunity if he has any final thoughts that he would like to share.

Mr. KENNEDY. Mr. Speaker, thank you for recognizing me again. I am just closing and leaving you with this statement. This is something that the gentleman who is right down the aisle, Mr. ROHRABACHER, and many of our colleagues, the aggrieved States are being overcharged in the Northeast Dairy Compact because it is a very bad precedent for any number of other things that we are seeing around the country. Just because we have fewer congressional votes here in the upper Midwest, we are being penalized by another state. How is that possible? How can we in all seriousness do it if we come together.

I appreciate the gentleman from Minnesota so much for joining me this evening. I offer him the opportunity if he has any final thoughts that he would like to share.
those they wronged. And why should they not stonewall these American heroes? The United States State Department sided with their side against that of Americans who fought and gave their lives and put their lives on the line for the United States of America in the Second World War. The State Department has taken the side of our former enemy, rather than the side of our defenders.

Dr. Lester Tenney, a survivor of the death march in Bataan and of a slave labor camp says, and I quote, "I feel as if I am once again being sacrificed by our government, abandoned not for the war effort as in the past but for the benefit of Japanese big business."

I believe Dr. Tenney has a point that deserves to be heard. In the hours following the attack on Pearl Harbor, the Japanese attacked U.S. installations in the Philippines. The United States forces retreated to the Bataan Peninsula and made their historic stand. Holding off the Japanese for months, they gave America time to regroup and to rally and to come back. Our government had to make the heart-tearing decision to sacrifice the brave heroes of the Philippines because they knew they could not save them without causing the death of many, many, many more Americans in the long run and perhaps a failure of that operation itself. So the decision was made, yes, to abandon those American heroes, tens of thousands of them there in the Philippines. MacArthur was pulled out, he was ordered by the President to pull out, and our troops were left there. They were left there, as the song of the day went, with the battling bastards of Bataan, no mama, no papa, no Uncle Sam.

After the fall of Bataan, American and Filipino troops were forced to walk more than 60 miles in the infamous Bataan Death March. These were men that were weakened already, without food, without water, and they were denied any type of help along the way. Some Filipino people risked their lives; not only risked their lives, but gave their lives in order to throw little bits of water or food to these men as they marched. For those 3 days of the Bataan Death March,

They were beaten, and they were starved as they marched. Those who fell were bayonetted. Some of those who were not walking fast enough were beheaded by Japanese officers who were practicing with their samurai swords from horseback.

The Japanese culture at that time reflected the view that any warrior who surrendered had no honor; thus, was not a fit to be treated like a human being. Thus, they were not committing these crimes against human beings. The Japanese soldiers at that time, as was mandated and dictated by their culture, felt they were dealing with subhumans and animals.

This is the history of the current Japanese generation. The Japanese for the past 50 years have had a strong democracy, at least for these last three or four decades have had a strong democracy, and the Japanese people are America’s best friends. They have a civilized country, and none of them need ever to feel like any of the talk that is going to go on about these men receiving just compensation for what was done to them at Bataan and Corregidor and then later on in the Japanese Islands of Manchuria, the Japanese people themselves are not the target.

We are not trying to make these people feel guilty. This was, after all, the culture of their day, and that culture has changed. Our America had a racist culture for many years. We had slaves in the last century, and the fact is that Americans corrected that. They paid an awful price. In the Civil War, we paid a price of hundreds of thousands, of millions of our own people, in trying to correct this evil in our society.

The Japanese people of today who admit that their country in the past has done wrong need not hang their head in shame, but it will be a shame, and it will be a black spot on the Japanese people if these crimes are covered up and if wrongdoing is not admitted. That is the only accountability the Japanese people of today have.

Those people and those corporations that worked these men as slaves, they have a legal responsibility. It is through these men who were wronged and worked as slaves by these Japanese corporations that still exist, by giving justice to these men we can close this book, and we can bring this chapter to a close. Then they can work and move on. The Japanese people need not feel guilty after that compensation and that apology is made.

In the 3 days of the Death March, 650 to 700 Americans died. They died the worst possible death. Then after enduring this hell, many of the thousands of Americans that had survived that Death March, along with other American prisoners who had been taken prisoner in other areas of the Pacific theater, they were taken, thousands of them, in so-called hell ships to Japan and to Japanese-occupied territories. Packed into cargo holds, these POWs struggled for air, for simple air, in temperatures that reached 125 degrees. It is estimated that over 4,000 American soldiers died aboard these hell ships.

Again, the Japanese treated them like animals because at that time the Japanese were taught if anyone surrenders, they are no better than an animal because they are weak.

Our POWs struggled to survive the harshest conditions imaginable. Toiling beyond human endurance in mines, in factories, in shipyards and steel mills, often under extremely dangerous working conditions, they were worked like animals. Company employees beat and starved these men, and of course, the Japanese work force was all off in the army. They used these slave laborers to make sure Japan could conduct its war effort. In doing so, they treated these men, our men, our heroes, like animals, and they starved these men. They denied them medical care. These brave heroes, Americans, suffered from dysentery, scurvy, malaria, diptheria, pneumonia and many, many other diseases, yet they were not treated, and they were permitted to die. With few rations, and many rations that were simply unfit for human consumption, they worked and they were beaten. POWs were reduced to skin and bones.

Today, many of those who survived the war effort as in the past but for the health problems directly related and tied to that time when they were worked as slave laborers by the Japanese militarists. When one hears the survivors tell their stories, they will never forget how much we owe these heroic individuals.

Frank Bigelow, 78 years old, from Brooksville, Florida, was taken prisoner at Corregidor. Mr. Bigelow was shipped to Japan, where he performed forced labor in a coal mine owned and operated by Mitsui. "We were told to work or die," Mr. Bigelow recalls. Injured in a mining accident, Mr. Bigelow had to have his infected broken leg amputated by a fellow POW. That leg was amputated without anesthetic. At war’s end, though standing 6′4″, Mr. Bigelow weighed 95 pounds.

Lester Tenney, 80 years old, of La Jolla, California, became a prisoner of war with the fall of Bataan on April 9, 1942. He was a prisoner of the Japanese, and once there, he was subjected to the Bataan Death March but was then transported to Japan aboard a hell ship. In Japan, he was sold by the Japanese Government to Mitsui and forced to labor 12 hours a day, 28 days a month, in a Mitsui coal mine. “The reward I received for this hard labor was beatings by the civilian workers at that mine,” he said. They worked him, and they beat him, and they treated him like an animal.

These are just a couple of the stories. The horrors they suffered at the hands of profit-making Japanese corporations can fill the pages of a book and, in fact, have filled the pages of many books.

Their case is clear. The facts cannot be denied. Their claims should not be dismissed or explained away, and their cause should be the cause of all American patriots, and especially should be the cause of the American Government, which they defended with their lives.

And that makes all of this more difficult to understand is why the State Department refuses to assist these heroic veterans. It is hard to fathom why the State Department was willing to help.
facilitate the claims of victims of Nazi Germany but not these victims of militarist Japan.

Certainly the Germans committed atrocities during the war. Nazi Germany was a place of horrors, and the German people have admitted it and tried to make good and tried to bring justice to these claims, and we have backed them up. We have backed them up because it is the right thing to do. We have backed up those people making the claims, and we have encouraged the Germans to move forward in this way.

There is no reason on God's Earth, there is no reason in the cause of patriotism and honor, that our government should not be assisting those Americans that were used as slave laborers by the Japanese corporations. These Americans cannot even make a suit. Bataan Death March, these heroes were worked nearly to death by these Japanese corporations. There is no reason that we should not be with them 100 percent.

Instead, they fight a lonely battle. The lawyers for the State Department are alluding themselves with these war profiteers in Tokyo against the Americans they victimized. The best legalese they can muster is being used to undercut the claims of our American heroes. They are erroneously claiming that the peace treaty with Japan bars these veteran heroes from making these claims against these Japanese corporations that used them as slave labor.

It is wrong, and it is utter nonsense, for a number of reasons. First, as the State Department has elsewhere conceded, the waiver claims of U.S. private citizens against the private companies of another country is not merely unprecedented in the history of the United States, it is not recognized under international law and raises serious constitutional issues under the fifth amendment.

What that means is that it is unprecedented that the United States is claiming that our own citizens cannot sue another company in another country, especially when there are human rights violations involved and international violations of law. This is unprecedented that we are saying that our people are treated in this way, when others who were treated in this way, when American POWs were brought to justice, at the very least justice for our heroes, our World War II heroes right to sue their Japanese tormentors, their Japanese corporate torturers. He provided hope to the survivors that justice will be served.

But I have yet to hear anything else from our Secretary of State. I would hope that Secretary of State Colin Powell, a man of deep feeling, a man of great honor who served our country, but also served his country so well in so many capacities, I hope that the bureaucrats in the State Department do not get to him and have him analyze this situation with a bureaucratic approach that would just put off and put off and put off any type of action until all of these heroes die of old age and are taken by God.

This would be the gravest injustice of all. And those bureaucrats at the State Department, who never want to rock the boat, oh, we cannot rock the boat anywhere in the world. When Americans who have fought for the freedom of the American people were treated in this way, when Americans who are that solid and those people who gave so much for us, when they are being wronged, we can rock the boat anywhere in the world to see that they obtain justice.

I hope that Colin Powell, Secretary of State Powell, sees through this bureaucratic maze that has been constructed and been used to thwart justice for these survivors of the Bataan
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Death March. I hope he sees through that, and I hope he listens to his heart and his patriotism.

We have another opportunity. I hope Colin Powell acts, but we also have another opportunity. In a few days a new Japanese prime minister will be coming to the United States. Again, let me say that in no way do I hold the Japanese people responsible for what we say tonight. That is not meant in any way to be a slap at the Japanese people.

For the last few decades, by the way, the only Japanese American in this body, I guess maybe there are two Japanese Americans in this body, but one of the two Japanese Americans in this body is the coauthor of this legislation that I have brought forth to try to bring justice to these American POWs. He is not about to insult the Japanese people, just as I mean no insult, and none of us involved in this do.

The Japanese people are good friends of ours. I have many good friends in Japan. I lived in Japan as a young boy. The Japanese people now are an honorable people. Some of them are trying to cover up the mistakes, but the most honorable way to go forward is admit mistakes have been made, bring justice about, make an apology, if necessary, and then just move on. That is the way to handle it.

But, instead, our government has been playing a game, playing a game with these very same Japanese corporations that committed these crimes. When the Japanese prime minister comes this week, many people are hoping that this issue does not come up. The diplomats are hoping that it is not to be an issue addressed at the summit. They believe that this issue should be swept under the rug, and we should just stir the pot and try to keep this situation confused until it goes away. And “goes away,” do you know what “goes away” means? It means those heroic men who gave their lives and sacrificed so much, those heroic men of the Bataan Death March, who served as POWs, our most heroic soldiers of World War II, that they are dead. That is when this “goes away.” That is what our State Department is waiting for.

Well, the rest of us perhaps have a greater and a higher standard than that, and a higher appreciation of what that generation, that World War II generation, did for us, and we are not about to stir the pot. We are working now to have justice for these men, and it should be an issue at the summit with a new Japanese prime minister.

It should be swept away when our heroes from the Bataan Death March and the Japanese slave labor camps and the mines and the Japanese war machines and the corporations that worked our people to death, when they compensate our heroes and apologize, it is over, and it will be done, and the book will be closed. But it will not be until then.

Of the more than 36,000 American soldiers who were captured by the Japanese, only 21,000 made it home. The death rate for American POWs was 30 times greater in Japanese prison camps than in German prison camps. Let me repeat that: The death rates for American POWs were 30 times greater in Japanese prison camps than in German prison camps.

Even though Japanese companies profited from slave labor, these companies have never offered an apology or repayment. Perhaps they were being counseled by our State Department. Maybe they were being counseled by lobbyists in this city. Maybe they were being counseled by people whose advice they sought and paid for.

Just like with some of the things going on with China today, what we have unfortunately seen is that some Americans, many Americans, can be bought off. Can be bought off? Can you imagine this? Can you imagine someone taking a fee from a Japanese corporation and telling them how not to apologize and not to give compensation to a survivor of the Bataan Death March, to the greatest of America’s heroes? Oh, yes, there are people like that in Washington, D.C. Yes, there are.

Today there are fewer than 5,400 surviving former Japanese POWs. These survivors are pushing for justice; not just for themselves, but also for their widows and the families of those POWs who died prematurely due to the horrible conditions that they lived under while they were enslaved by these Japanese corporations.

The POWs finally have a chance, however, to win justice, but they should not and they cannot be abandoned once again by their government. These men were abandoned in 1942 by a decision by our government that our government had to make, and there were many tears, I am sure by those POWs who died and by those command officers who had to make that decision and say that these tens of thousands of Americans will be permitted to be taken, captured by the Japanese, and they were abandoned.

We will not abandon them again. If we do, we promise it will happen, with their shame on us. As I say, the gentleman from California (Mr. HONDA), a Japanese American, I might say that he himself was interned during World War II as a Japanese American, he is co-author of this bill. It is called the Justice for United States POWs Act of 2001. The bill number I will repeat that. The bill is called “The Justice for United States POWs act of 2001,” and the number is H.R. 1198.

My name is DANA ROHRABACHER. I am a Republican from California. I am the author of that bill. The coauthor of that bill is a Democrat from California, the gentleman from California (Mr. HONDA). The gentleman from California (Mr. HONDA) and I have put a great deal of time and effort into this legislation, and I commend my over 100 colleagues who have signed on as cosponsors and supporters of this legislation. I would urge my fellow colleagues to do the same.

Mr. Speaker, I agree with those who say that the United States is a great strategic ally of the United States; but a true friendship requires friends to speak out when there has been an insult or an injustice. And friends must join together to address that injustice. A true friendship can only exist when apologies have been made and wrongs have been righted, when the wrongs have been corrected and recognized.

We are asking the Japanese people to be our friends, and they are our friends. Nothing damages our relationship with Japan more than the cold-hearted and unjustified refusal of these multinational corporations, acting with the support of the Japanese government, to make sure that our American hero veterans do not receive the compensation and the apologies that they deserve.

These POWs have asked for back pay, back pay, for a time when they were toiling to death on Japan’s war machine and the Japanese had no right to do so, and they seek an apology. What American could be opposed to that? I would ask, what Japanese person could oppose that? This would be a sign of good faith, and I would hope that this administration would counsel to the new Japanese Prime Minister. I hope Secretary of State Powell and President Bush counsel the Japanese Prime Minister to take a look at this bill and to reach out to the American people and to close this sad chapter. This issue must be addressed, and our State Department should hang its head in shame if it continues to try to undermine the efforts of these American POWs.

Mr. Speaker, I have been asked often why I am personally involved in this issue? Why I, along with the gentleman from California (Mr. HONDA), worked and wrote the U.S. POW Act of 2001, H.R. 1198, and it really is a very personal issue with me, a very personal issue. Mr. Speaker, 90 years ago this time in my life, I am a very happy person. I am serious about the work I do here, but I am a very, very happy person. Three and a half years ago I was married.
after about 15 years of being a single man, and I found the woman that I love, and it was a wonderful thing. And when we were married 3½ years ago, my wife's father had passed away, he died of cancer about 6 years ago; and of course, someone had to give her away at the wedding, and her own father had died of cancer. Giving her away at the wedding, my wife, Rhonda's, Uncle Lou gave her away. That is the first time I ever had a chance to get to meet Uncle Lou.

Uncle Lou is not this man's real name, but everyone calls him Uncle Lou. His friends call him Lou. Uncle Lou's real name is Arthur Campbell, Army Air Corps, 1941. Uncle Lou was unfortunate enough to have been stationed in the Philippines shortly before the war broke out and was captured by the Japanese and survived the Bataan Death March, the horrific death march. He was then taken on a hell ship to Mukden, which is a prison labor camp in Manchuria. Every day he would see his fellow prisoners murdered, beaten and tortured; scientific experimentation was conducted on these men and other prisoners. This was what Uncle Lou survived.

Uncle Lou was a strapping young man who, by the time he was freed at the end of the war, was under 100 pounds. As I say, we call him Uncle Lou because Uncle Lou was called by his Japanese guards as, this man must be Lucifer, because he is so defiant. He was lucky to have survived at all with a defiant attitude, and all of the rest of the prisoners kept calling him Lou at that point, and he adopted the name. Uncle Lou told me about what happened to him, and he met with some of the fellow prisoners that served with him in the prison camp at Mukden. The stories will just tear your heart out. We cannot permit Uncle Lou and the Uncle Lous of this world to go without justice. Uncle Lou will not live forever. Uncle Lou is in his 80s right now, and he has had a pacemaker put in; and the fact is that when he breathes his last breath and he takes a look around him, I want him to know that his country has done justice by him. I think every American should make that a goal, that the Uncle Lous of this world, that we do right by them, whether they are the survivors of the Bataan Death March or the other people who fought for this country during the Second World War.

As Tom Brokaw says, this truly was the greatest generation; and we insult them, we do them a grave injustice, we trash them by having any government involved with legal wrangling to try to prevent their claims against these Japanese corporations that use them as slave labor. This is sinful. We cannot permit it to go on. We must see that they leave the scene. We must honor them.

My father was also a veteran, a combat veteran of World War II. My father was a Marine pilot. He passed away 3 years ago. I looked into his trunk after he died and out came the Japanese battle flags and the memorabilia from World War II, and it seems that my father too fought in the Philippines. He was one of the pilots, Marine pilots that flew up and down the Philippines during the effort to recapture the Philippines from the Japanese in 1944.

He passed away 3 years ago. I remember him telling me quite often about his experiences, and let me just say I am very proud of my father and I am proud of the things he did. But he harbored no grudges against the Japanese. He fought with the Japanese, he had Japanese battle flags in his trunk; but he had many Japanese friends, and I have many Japanese friends as well. Please, no one should take this as an attack on people. I repeat that again. The Japanese people have tried to leave that part of their culture behind that had them treat men and women as they did. They know that heinous crimes were committed against the Chinese people, and they know that men who gave up and surrendered and were treated like animals, they know that; and they have left that behind.

They are trying to build a civilized society, a society of technology, a society of tolerance in Japan. They are trying to do that. We should help them do that by getting this behind us. We have our own haunts, our own ghosts in our past; and we too have tried to leave them behind us. We too have tried to say that we are going to not treat people in an unjust way, as we have in our society in the past.

So let us not look at this as a condemnation of the Japanese. I am sure the Japanese people, the younger ones in particular, there is no malice in our hearts. We wish nothing but success for the Japanese. Our economies are tied together. America cannot have a strong economy unless the Japanese economy begins to pick up and has a strong economy. We are tied together with the Japanese, and they were our enemies. Perhaps that is one of the greatest aspects of America, is our ability to forgive. But we have got to be asked for forgiveness. The people who have been wronged, the Japanese corporations that did this to our people, have to give some compensation to those men they wronged. This is not an unreasonable request.

Finally, let me say this about the Philippines. The Philippines and the Filipino people are perhaps the best friends of the United States in the Pacific, maybe the best friends of the United States in the whole world. They like us, and we should like them. They are in a bad situation right now too. They are in a very bad situation.

Just as the Japanese militarists sought to dominate Asia and the Pacific during the 1920s and 1930s, there is another power on the march, another militaristic power that threatens the stability of the world and is an enemy. This present government that threatens the Philippines and threatens all democratic countries in that region, are trying to expand into island bases in which they will be used as power bases to assert their authority and power in the areas of the Pacific. We can see that now in the Spratly Islands, and we can see it in the Paracel Islands, we can see it throughout the South China Sea.

This power that seeks to dominate the world, the dominate Asia today is as racist as the Japanese were racist back in the 1920s and 1930s. They felt they were racially superior. The Japanese people do not believe that anymore; they want to be part of the family of nations. And I repeat that again, but they had to lose the war to discard that. We liberated the Japanese people, just like we liberated the Philippines from Japanese militarism. We liberated the Japanese people the same, but today this other militaristic power is on the march. They too are racist, they are expansionary, they are militaristic, and they too understand that only the United States of America stands in their way, and that the Philippines is a friend of the United States of America.

I am talking about, of course, the Communist Chinese. I am talking about the People's Republic of China, which is now engaged today in military naval exercises off the coast of the Philippines. This is an alarming piece of news.

The security of the Pacific was won and the peace of the Pacific was won and the freedom of the Pacific was won by the blood and the sacrifice of American military personnel during the Second World War. People like Lou, my father and Uncle Lou. We cannot permit the Chinese Communists to expand their domain and to take over where the Japanese militarists left off.

During the war, the Japanese sank a U.S. patrol boat, the Panay, U.S.S. Panay, killing several of the people on board. A Chinese jetfighter knocks one of our planes out of the air several months ago while it was on a routine mission in international waters, knocking it out of the air, and they took 24 American military personnel and held them as hostages for 11 days. Things are getting worse with China and in the Pacific. We must do justice to the people who fought in the Pacific by ensuring that the Pacific remains free, remains prosperous and at peace; and today, there are ominous clouds on the horizon. Yet as things get
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written, as they were getting worse in Japan, corporate America still demands on doing business as usual with the Chinese.

It is very similar, as we have heard so often quoted, where it is deja vu all over again; and I am afraid that this is a very frightening deja vu. The Japanese in the 1930s were insisting that America continue to sell them scrap metal and oil and aerospace, or I should say aeroplane, because there was not any "space" with it in that day, aeronautical technology. Many of the Japanese aircraft that fought against us in World War II actually were designed and were at least partially designed by American manufacturers. The scrap metal and the oil that was used to fuel their war mission can be traced back to the United States. Our company was willing to close its eyes to the threat that faced us in the Pacific back in the 1920s and 1930s, just as corporate America is trying to close our eyes today to the threat of Communist China.

Mr. Speaker, we do not, we do not do justice to those who defended us in the Second World War by going for short-term profit in the mainland of China, letting those big corporations make billions of dollars off their slave labor, while those Chinese Communists are using their profit from their company to build up their military, which some day will perhaps kill Americans. We have already had, we have already had a transfer of rocket technology to the Communist Chinese that makes our country so much more vulnerable to a possible nuclear attack.

It is frightening to think that American corporations, and the Cox Commission outlined how Lorell Corporations was selling technology that improved the accuracy and the capabilities of Chinese rockets.

There are American aerospace firms improving the capabilities and accuracy of Chinese rockets so that they could evaporate tens of millions of Americans if we get into a conflict with them.

I do not want to have any conflict with the Chinese people. I do not want to have any conflict with China at all. War is horrible. I know. My father had told me and Uncle Lou’s tales are very vivid.

These people who we are trying to find justice for tonight, they certainly know how horrible war is. We do not want to have that. But the quickest way to have conflict is to seem to grow before dictators and militarists, and that is what the Japanese knew of the United States before World War II and the Chinese Communists think the same thing of us today.

They think that we have no honor, because our own corporate leaders sell out the national security interests of our country for short-term profit. No wonder they are treating us as a degenerate culture. We must stand firm. We must stand firm for the security of our country, and we must stand firm to keep our country a leader, a leader for world peace, yes, but also a leader for democracy throughout the world.

We must be the friend of the Japanese people, because they want democracy and we liberated them from their militarists, but we also must be the friend of the Chinese people. The Chinese people live in oppression, we must free them from the militarists that oppress them and are threatening the peace of the world.

If we do so, countries like the Philippines who are struggling now, they have no weapons that can deter the Chinese, the Chines grab of the Spratley Islands and the vast mineral resources, under those islands that should belong to the Philipines, the Chinese are permitted to, through aggression and militarism, to steal that from the Philippino person, but they do not have the means to defend themselves.

We should make sure, and I am very proud that I included in the State Department authorization this year a provision that permits us to provide obsolete weapons and the other type of gear that we would be mothballing from the American military that we can provide it to the Philippines, just as if we are providing it to any NATO ally.

So we increased the Philippines to their status in terms of receiving weapons from the United States up to a NATO ally status.

We must be strong and stand with the people who love freedom, whether it be the people of the Philippines or the people of Japan or the people of China against their own oppressors. We must insist on truth. There is an old saying, know the truth and it will make you free. It comes from the good book.

We must insist on the truth. Yes, if we have to make compromises, if we have to go at problems obliquely rather than straight on, that is what it has to be, but it should not be based on the fact that we are lying to ourselves and lying to the American people.

We need a regeneration, a rebirth of courageous leadership in this country of integrity. We had 8 years under the last administration where no one in this world, even our own people, could respect our own leaders. Many of our own leaders were just not respectable. Now we have a chance.

This new administration has a chance. I would ask people to call their congressmen and talk about this piece of legislation, helping the American POWs from World War II.

I would ask them also to contact the White House and see that the White House brings this issue up of American POWs from the Bataan Death March and to try to see what we can do to get President George W. Bush just to mention this to the Japanese prime minister when he arrives here within a few days.

These are the things that we can do and we can do this because by doing so, we honor those 3,000 or 4,000 surviving Death March survivors who are still here waiting for their day, waiting for their day in court and waiting for justice.

Tonight, I would hope all of those who are with these American POWs, I hope that they activate themselves, and I hope that our democratic process is working. I know that we are making them proud. My own father’s watching tonight and all of those who gave their lives in World War II and other all other American wars, they will be proud.

Let us make them proud of us as Americans and by doing so and having the courage to do what is right, especially for the survivors of the Bataan Death March, America’s ultimate hero.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(‘The following Members (at the request of Mr. SANDERS) to revise and extend their remarks and include extraneous material:

Mr. LANGEVIN, for 5 minutes, today.

Mr. DeFAZIO, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. SANDLIN, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

(‘The following Members (at the request of Mr. OSBORNE) to revise and extend their remarks and include extraneous material:

Mr. OXLEY, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today.

Mr. HERGER, for 5 minutes, June 28.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 657. An act to authorize funding for the National 4-H Program Centennial Initiative.

ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o’clock and 6 minutes p.m.), the House adjourned until Wednesday, June 27, 2001, at 10 a.m.
EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's desk and referred as follows:

2696. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—West Indian Fruit Fly; Removal of Quarantined Area [Docket No. 00–110–3] received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Agriculture.

2670. A communication from the President of the United States, transmitting a request to make funds available for the Disaster Relief program of the Federal Emergency Management Agency; (H. Doc. No. 107–90); to the Committee on Appropriations and ordered to be printed.


2674. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Requirements for Testing Human Blood Donors for Endemic Disease Due to Communicable Disease Agents [Docket No. 98N–0581] received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Energy and Commerce.

2675. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—General Requirements for Blood, Blood Components, and Blood Derivatives; Donor Notification [Docket No. 98N–0607] received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Energy and Commerce.

2676. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Depart- ment of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to the Republic of Korea for defense articles and services (Transmittal No. 01–17), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2677. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to the Republic of Korea for defense articles and services (Transmittal No. 01–16), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2678. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the sale or transfer of defense articles and services sold commercially under a contract to Taiwan [Transmittal No. DTC 02–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2679. A letter from the General Legal Advisor for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112(a); to the Committee on International Relations.

2680. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2681. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2682. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2683. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2684. A letter from the Personnel Management Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2685. A letter from the Principal Associate Administrator, Environmental Protection Agency, transmitting the Agen- cy's final rule—EPA Mail-Arrival Address; Additional Technical Amendments and Corrections (FRL–6772–2) received June 25, 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Resources.

2686. A letter from the Assistant Attorney General, Department of Justice, transmitting the report on the Administration of the Federal Vacancies Reform Act of 1998; to the Committee on the Judiciary.

2687. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen- cy's final rule—Oil Pollution Prevention and Response: Non-Transportation-Related Facilities [FRL–7003–1] (RIN: 2050–AES4) received June 25, 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Resources.

2688. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Eligibility requirements after denial of the earned income credit [TD 8953] (RIN: 1545–AV61) received June 25, 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

2689. A letter from the Assistant Attorney General, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2690. A letter from the Assistant Attorney General, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2691. A letter from the Assistant Attorney General, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2692. A letter from the Assistant Attorney General, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2693. A letter from the Assistant Attorney General, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2694. A letter from the Assistant Attorney General, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2695. A letter from the Assistant Attorney General, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2696. A letter from the Assistant Attorney General, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and referred, as follows:

By Mr. CALVERT (for himself, Mr. LANGEWICZ, Mr. BALDACCI, Mr. ROHRABACHER, and Mrs. BONO): H.R. 2309. A bill to amend the Small Business Act to provide loans to eligible small businesses for energy costs; to the Committee on Small Business.

By Mr. MURTHA: H.R. 2310. A bill to increase the rates of military basic pay for members of the uniformed services by providing a percentage increase of between 7.3 percent and 10.5 percent based on the members' pay grade and years of service; to the Committee on Armed Services.

By Mr. CALLAHAN: H.R. 2311. A bill making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–114); referred to the Committee of the Whole House on the State of the Union.

By Ms. GRANGER (for herself and Ms. E. JACOBS, Mr. KOCH, Mr. GAVIN, Mr. COOKSEY, Mr. WELDON of Florida, and Ms. FUGA): H.R. 2312. A bill to prohibit the use of Federal funds for elective abortion; to the Committee on Appropriations.

By Mr. CALLAHAN: H.R. 2313. A bill to amend the Internal Revenue Code of 1986 to repeal the income taxation of corporations, to impose a 10 percent tax on the earned income (and only the earned income) of individuals, to repeal the estate and gift taxes, to provide amnesty for all tax liability for prior taxable years, and for other purposes; to the Committee on Ways and Means.

By Mr. CALDER: H.R. 2314. A bill to amend title I of the Economic Growth Recovery Act of 1986 to provide for the actuarial present value of the Social Security program; to the Committee on Ways and Means.

By Mr. CRANE: H.R. 2315. A bill to amend the Internal Revenue Code of 1986 to repeal the income taxation of corporations, to impose a 10 percent tax on the earned income (and only the earned income) of individuals, to repeal the estate and gift taxes, to provide amnesty for all tax liability for prior taxable years, and for other purposes; to the Committee on Ways and Means.

By Mr. CALVERT: H.R. 2316. A bill to provide for the protection of the flag of the United States; to the Committee of the Whole House on the State of the Union.

By Mr. GILCHREST, Mr. PERRY, Mr. HOLDEN, Mr. PETERS, Mr. WINTER, and Mr. SCHIPP: H.R. 2317. A bill to provide for protection of the flag of the United States; to the Committee of the Whole House on the State of the Union.

By Mr. CALLAHAN: H.R. 2318. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide to participants and beneficiaries of group health plans access to obstetric and gynecological care; to the Committee on Education and the Workforce.

By Mr. FLETCHER, Mr. PETTERSON of Minnesota, Mrs. JOHN- son of Connecticut, Mr. BURR of North Carolina, Mr. THOMAS, Mr. TAUZIN, Mr. REILIKARIS, Mr. S. JOHNSON of Texas, Mr. COOKSEY, Mr. WELDON of Florida, Mr. HAYES, Mr. PENCE, Mr. PLATTS, Mr. PETTY of Oregon, Mr. GILCHREST, Mr. GREENWOOD, Mr. PORTMAN, Mr. HOIBON, Mr. HILLIARD, Mr.
sible connections between the recurring incidence of violence, sexual harassment, and workplace-related frustrations experienced by postal workers generally; to the Committee on Government Reform.

By Mr. WATTS of Oklahoma (for himself, Mr. WATTS, and Mr. LUCAS of Oklahoma):

H.R. 2322. A bill to amend the Internal Revenue Code of 1986 to provide credits for individuals and businesses for the installation of certain wind energy property; to the Committee on Ways and Means.

By Mr. WITTFOIT (for himself, Mr. BOUCHER, Mr. SHMKUS, Mr. MOLCHAN, Mrs. CAPITO, Mr. COSTELLO, Mr. Lewis of Kentucky, Mr. PHIELPS, Mr. HART, Mr. STREICLAND, Mr. DOYLE, Mr. TIBERI, and Mr. ROGERS of Kentucky):

H.R. 2323. A bill to authorize Department of Energy programs to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities; to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY (for herself, Mr. HALL of Texas, Mr. LAMPSON, Mr. MATHISON, Mr. WU, Mr. BACA, Mr. BAIRD, Mr. BARTY, Mr. BERNAL, Mr. BISHOP, Mr. BOMBERG, Mr. BROWN of Florida, Mr. BROWN of California, Mr. BROWN of Ohio, Mr. BROWN of Pennsylvania, Mr. BROWN of Texas, Mr. BROWN of Virginia, Mr. BROWN of Wisconsin, Mr. BROWN of Iowa, Mr. BROWN of North Carolina, Mr. BROWN of Oklahoma, Mr. BROWN of Oregon, Mr. BROWN of Rhode Island, Mr. BROWN of New York, Mr. BROWN of Utah, Mr. BROWN of Washington, Mr. BROWN of West Virginia, Mr. BROWN of Wisconsin, Mr. BROWN of Wisconsin, Mr. BROWN of Wisconsin, Mr. BROWN of Wisconsin, Mr. BROWN of Wisconsin, Mr. BROWN of Wisconsin):

H.R. 2329. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; to the Committee on Education and the Workforce.

By Mr. TIERNEY (for himself, Mr. SERRANO, Mr. HINCHey, Mr. FRANK, Mr. MCNULTY, Mr. KILDREW, Mr. HILLARD, Mr. NADLER, Mr. MURTHA, Mr. PALLONE, Ms. BROWN of Florida, Mr. DEFAZIO, Ms. KAPTUR, Mr. BONGUS, Ms. FLISOSI, Ms. NORTON, Mr. ABERCROMBIE, Mr. GEORGE MILLER of California, Mr. SANDERS, Mr. INSELBERG, Ms. HANAYAMA, Mr. WATSON, Mr. EFANG, Mr. EVANS, Mr. RUSH, Mr. MCCOVERY, Mr. STARK, Mr. FILER, and Ms. CARSON of Indiana):

H.R. 2330. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; to the Committee on Education and the Workforce.

By Mr. TIERNEY (for himself, Mr. SERRANO, Mr. HINCHey, Mr. FRANK, Mr. MCNULTY, Mr. KILDREW, Mr. HILLARD, Mr. NADLER, Mr. MURTHA, Mr. PALLONE, Ms. BROWN of Florida, Mr. DEFAZIO, Ms. KAPTUR, Mr. BONGUS, Ms. FLISOSI, Ms. NORTON, Mr. ABERCROMBIE, Mr. GEORGE MILLER of California, Mr. SANDERS, Mr. INSELBERG, Ms. HANAYAMA, Mr. WATSON, Mr. EFANG, Mr. EVANS, Mr. RUSH, Mr. MCCOVERY, Mr. STARK, Mr. FILER, and Ms. CARSON of Indiana):

H.R. 2331. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; to the Committee on Education and the Workforce.
H. R. 1711: Mr. Turner, Mr. Easter and Mr. Shadegg.

H. Con. Res. 20: Mr. Hastings of Florida

H. Res. 170: Mr. Emmer.

H. Res. 72: Mr. Green of Texas and Mr. LaHood.

H. Res. 75: Ms. Emerson.

H. Res. 172: Mr. Pastor and Mr. Hastert.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H. R. 2149: Mr. Combest.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H. R. 3311

OFFERED BY: Mr. Cucinich

Amendment No. 1: in title III, in the item relating to “Weapons Activities”, after the aggregate dollar amount, insert the following: “(reduced by $122,500,000)”.

In title III, in the item relating to “D e f e n s e N u c l e a r N o n P ro l i f e r a t i o n”, after the aggregate dollar amount, insert the following: “(increased by $66,000,000)”.

H. R. 3313

OFFERED BY: Mr. Petri

Amendment No. 3: in title I of the bill, strike section 103. Redesignate subsequent sections of title I, accordingly.

H. R. 3311

OFFERED BY: Mr. Tancredo

Amendment No. 4: in title I, strike section 105 (relating to shore protection projects cost sharing).

H. R.

Agriculture Appropriations Bill, 2002

OFFERED BY: Mrs. Clayton of North Carolina

Amendment No. 2: At the end of the bill (before the short title), insert the following new section:

SEC. 738. The amounts otherwise provided by this Act are reduced by the amount made available for “AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES” (and the amount specified under such heading for competitive research grants (7 U.S.C. 5601(b)), by reducing the amount made available for “AGRICULTURAL PROGRAMS—FARM Service Agency—Salaries and Expenses”, and by increasing the amount made available for “AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, and EXTENSION SERVICE—RESEARCH and EDUCATION ACTIVITIES” (and the amount specified under such heading for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1990 (7 U.S.C. 321–326 and 328), including Tuskegee University, by increasing the amount made available for “AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, and EXTENSION SERVICE—RESEARCH and EDUCATION ACTIVITIES” (and the

H. R. 1796: Mr. King.

H. R. 1811: Mr. Stearns of New Mexico.

H. R. 1862: Mr. Barrett, Mr. Deutch, Mr. Rahall, and Ms. Slaughter.

H. R. 1873: Mr. Ranchal and Mr. Watkins.

H. R. 1930: Mr. Hilliard.

H. R. 1943: Mr. Riley, Mr. Baldwin, and Mr. Clay.

H. R. 1948: Mr. Weller.

H. R. 1950: Mr. Stearns.

H. R. 1956: Mr. Hilliard, Mr. Faer of California, Mr. Baird, Mr. Dicks, and Mr. Shows.

H. R. 1962: Mr. Wicker.

H. R. 1975: Mr. Gilmore.

H. R. 1979: Mr. Holden, Mr. Pastor, and Mrs. Cuddy.

H. R. 1984: Mr. Ballenger and Mr. Buyer.

H. R. 1988: Mr. Gillmor.

H. R. 1990: Mr. Nadler.

H. R. 1996: Mr. Tonomy and Mr. Bonior.

H. R. 2001: Ms. Hart and Mr. Thompson of California.

H. R. 2065: Mr. Bowser, Mr. Stark, and Mr. Sanders.

H. R. 2063: Mr. Simmon, Ms. McKeen, Mr. Andrews, Mrs. Davis of California, and Mr. Horn.

H. R. 2067: Mr. Cummings, Mr. Davis of Illinois, Mr. Meeks of New York, Mr. Norton, Mr. Underwood, Mr. Wynn, Mr. Clay, Ms. Brown of Florida, Mr. Rush, Mr. Owens, and Mr. Nadler.

H. R. 2076: Mr. Rehberg.

H. R. 2117: Mr. Leach and Mr. Gutierrez.

H. R. 2123: Ms. Woolsey.

H. R. 2126: Mr. Meeks.

H. R. 2128: Mr. Sanders and Mr. Mchugh.

H. R. 2133: Mr. Bradley of Pennsylvania, Mr. Hilliard, Mrs. Clayton, Mr. Fattah, Mrs. Jackson of Florida, Mr. Jones of Ohio, Mr. Souder, and Mr. Davis of Illinois.

H. R. 2134: Mr. Sawyer.

H. R. 2160: Mr. Bonior and Mr. Platatt.

H. R. 2161: Mr. Bonior and Mr. Lammers.

H. R. 2167: Ms. McKinney.

H. R. 2175: Mr. Bohrer, Mr. Gillmor, Mr. Spence, and Mr. Bryant.

H. R. 2176: Mr. King.

H. R. 2177: Mr. Largent and Mr. Paul.

H. R. 2181: Mr. Otter and Mr. Goodie.

H. R. 2184: Mr. Filner and Mr. Lantos.

H. R. 2196: Ms. Waters.

H. R. 2207: Mr. Frost.

H. R. 2233: Mr. Cucinich, Mr. Sanders, and Ms. McKinney.

H. R. 2240: Mr. Boyd, Mr. Miller of Florida, Mr. Bilirakis, Mr. Goss, Mr. Mica, Mr. Stearns, Mr. Diaz-Balart, Mr. Foley, Mr. Hastings of Florida, and Mr. Keller.

H. R. 2243: Mr. Gutterirez and Mrs. Jones of Ohio.

H. R. 2248: Mr. Peterson of Pennsylvania.

H. R. 2249: Mr. Pence, Mr. LaTourette, Mr. Tiahrt, and Mr. Davis of Illinois.

H. R. 2250: Mr. DeMint and Mr. Stump.

H. R. 2259: Mr. Cummings.

H. R. 2269: Mr. Shaw, Mr. Paul, Mr. Crane, and Mr. Frost.

H. R. 2277: Ms. Jackson-Lee of Texas.

H. R. 2286: Mr. Frost and Mr. Balducci.

H. J. Res. 36: Mr. Forbes, Mr. Rodriguez, Mr. Ghing, Mr. Granger, and Mr. Cole.

H. J. Res. 45: Mr. Sawyer.

H. Con. Res. 20: Mr. Hastings of Florida and Ms. Carlson of Indiana.

H. Con. Res. 25: Mr. Burton of Indiana and Mr. Wamp.

H. Con. Res. 30: Mr. Shays.


H. Con. Res. 61: Mr. Starks.

amount specified under such heading for payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222), and by increasing the amount made available for “AGRICULTURAL PROGRAMS—OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS”, by $5,521,000, $10,000,000, and $7,607,000, respectively.

H.R. 11 Agriculture Appropriations Bill, 2002
OFFERED BY: MR. GUTKNECHT
AMENDMENT No. 3: At the end of title VII, insert after the last section (preceding any short title) the following section:

SEC. 710. None of the amounts made available in this Act for the Food and Drug Administration may be used under section 801 of the Federal Foods, Drug, and Cosmetic Act to prevent an individual who is not in the business of importing prescription drugs from importing a prescription drug that is FDA-approved, is not a controlled substance, and is offered for import from a country referred to in section 804(f) of such Act.
HONORING GRANBY MAYOR DICK THOMPSON
HON. SCOTT MCMINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001
Mr. MCMINNIS. Mr. Speaker, I stand before you today on behalf of Congress to pay tribute to a brave man, and a man who gave of himself to improve the lives of others. Mr. Speaker, the people of Colorado and of our nation lost an amazing man with the passing away of Granby Mayor Dick Thompson, but his heroic efforts will never be lost, because his actions and his character have helped shape his city and country in a positive way that can never be revoked.

In 1949, Dick married his wife Thelma, and eventually became a fantastic father to five children, Larry, Ron, Brenda, Gary, and Linda. A fine businessman, Dick started Thompson Excavating, and later, when his sons decided to join him in his successful business, changed it to Thompson and Sons Excavating.

Dick Thompson believed in self-reliance, freedom, and trust, and he took action to see these values implemented in his community, nation, and family. Dick learned firsthand the meaning of sacrifice at age 18 when he served in the South Pacific during World War II on the U.S.S. Hazard. He never forgot how to serve for the sake of the many, as he gave over 20 years on the town board without a single regret. Eventually, Dick took his political leadership skills to another level when he was elected Mayor in April of 2000. He won the community over with his common sense and his obvious interest for the well being of others. Middle Park Fair and Rodeo, who honored him as Pioneer of the Year, quotes him as saying, “We’ve always had a lot of good people in this country.” "That’s why I like to stay involved. I like the people.”

His positive energy shone through, and helped contribute to his success and to the success of Granby.

It is without a doubt, Mr. Speaker, that Dick Thompson earned our utmost respect and thanks for his exemplary service and honesty. Today, I ask you to join me in honoring one of Colorado’s finest leaders.

In honor of the consecration of the Monastery Marcha Church
HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001
Mr. KUCINICH. Mr. Speaker, I rise today to honor The Consecration of The Monastery Marcha Church for the esteemed dedication by the abbes, Igumanija Ana and two sisters, Sisters Anastasia and Angelina, for their remarkable service to God and the Holy Orthodox Church.

Monastery Marcha in Richfield, Ohio is erected in remembrance of the original Monastery Marcha in Serbia, built in the 17th Century, which was destroyed during the war with Austria-Hungary. Even though it was rebuilt in 1924, it was destroyed once again in 1991. However, due to the devotion of the congregants, the Monastery Marcha in Richfield became what it is today, the first monastery established for the Serbian Orthodox Nuns in the United States.

The Monastery is presently located on a beautiful 82 acre tract of land, which was purchased in 1968 for the sole purpose of building a Diocesan center. The spiritual and uplifting environmental atmosphere invites all those lost souls in need of spiritual enrichment, prayer, service, moral support, and love. The Monastery graciously houses a residence and living accommodations for monastics, a heavenly Chapel, and future plans hope to include a vast area for a cemetery and a residence for senior citizens.

Each week the Holy Services are conducted by an area Orthodox Priest who gratefully volunteered his priestly duties to the Monastery. The Nuns derive income through the generous donations but find that the main source stems from producing vestments, making candles and selling religious articles. The nuns have hospitably provided many spiritual retreats at the Monastery and have become speakers and program presenters throughout Ohio, Pennsylvania, and New York.

The nuns have taken an active part in service to the Monastery and it is well known that the doors of the Monastery are always open for all to enter. My fellow colleagues, please join me in honoring the Monastery Marcha Church for their many contributions to the diocese and wider religious community.

Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP)
HON. SILVESTRE REYES
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001
Mr. REYES. Mr. Speaker, the President’s request for Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) is $277 million for fiscal year 2002. Funding at this level puts the GEAR UP program in my district and many others at serious risk. We should do everything in our power to protect and augment programs like GEAR UP that have proven to be effective.

As you know, GEAR UP is a nationwide program to encourage disadvantaged children to have high expectations, stay in school, study hard and make appropriate decisions that will lead them on the road to a college education. With high school dropout rates so high among Hispanics, programs like GEAR UP are critical. The program directs the Department of Education to offer competitive grants that will build partnerships while creating and expanding alliances between colleges and school districts which have at least 50 percent low-income students.

Since its enactment, GEAR UP has provided a much needed service to nearly 1.2 million children. No other federal program holds more promise for middle school children in low-income schools and does more to institutionalize the necessary reforms that provide early college awareness than GEAR UP. The 73 new partnership grants among 237 new state grants awarded last year brought the two-year total to 237 GEAR UP partnerships and 28 state programs. The second year competition, like that of the first year, was extremely competitive. However, due to funding limitations, only 28 percent of the partnership applications and 33 percent of the state grant applications could be awarded. There is truly a demand for more GEAR UP money.

I believe it is critically important that we remain steadfast in our commitment to GEAR UP, which sends a message to students that a college education is indeed within their reach. I urge my colleagues to support $425 million for GEAR UP in the fiscal year 2002 Labor, HHS and Education Appropriations bill to allow GEAR UP schools to continue to operate their programs.

HONORING TEEN OUTREACH THROUGH TECHNOLOGY (TOTT)
HON. GEORGE RADANOVICH
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001
Mr. RADANOVICH. Mr. Speaker, I rise today to honor Teen Outreach Through Technology (TOTT) for their exemplary service to their community. TOTT is a non-profit organization with an emphasis on youth delinquency prevention.

In 1986, Faye Johnson undertook an independent study at Fresno City College to explore the use of telecommunications with at-risk or troubled teens. Her study showed very positive results and shortly thereafter, a formal program was put in operation, volunteers were recruited, and TOTT became a non-profit organization. TOTT’s purpose is to reduce juvenile delinquency by redirecting negative energy into a positive outcome through computer technology. Through the use of a computer network, newsletter and trained volunteer programs, youth are involved in the process of educating the public to their needs, exploring

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

 Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
June 26, 2001

EXTENSIONS OF REMARKS

HON. JAMES E. CLYBURN
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. CLYBURN. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to Corporal Kelly Stephen Keith. Kelly Stephen Keith was born in 1978, the son of Donna Harter of Florence and Billy Keith of Cheraw, and stepson of Ronald Harter and Connie Keith. His siblings are Andy and Jay Keith of Cheraw and Dustin Brasington of Florence.

Kelly Keith joined the Marine Corps on December 17, 1996 shortly after graduating from Cheraw High School where he had received the “Spirit of the Brave Award” in his senior year. During his high school years, Kelly played in the marching band, was an avid fisherman and hunter, and enjoyed golf, music, and scuba diving. He was a Boy Scout for ten years, and a member of First Baptist Church of Cheraw.

Over the course of his first three years in the Marines, Keith was promoted four times and received numerous awards for good conduct and advanced to the rank of Corporal. He was assigned to Naval Aircrew Training, and later joined the Osprey Unit team. Before joining the Osprey Unit, Kelly was with the Marine Squadron assigned to transport the U.S. President and his staff.

Corporal Keith distinguished himself as the only Corporal, and the youngest officer, to be named crew chief on the Osprey test team. Keith was killed with eighteen other Marines on April 9, 2000 when their aircraft crashed in Arizona on a training exercise.

The South Carolina General Assembly passed a resolution on March 6, 2001 naming a portion of U.S. Highway 52 in honor of Corporal Keith. Corporal Kelly Stephen Keith was a man of integrity, honor, and respect. The service that he rendered for our nation was inexcusable.

The retirement of Mr. Gallardo signifies the end to a dedicated sixty-four years of service to Major Farms and the entire Soledad community. It is clear that Jesse Gallardo's dedication has made a lasting impact on his community, and I join the city of Soledad in honoring Mr. Gallardo.

Mr. Speaker, I rise before the House of Representatives today to mark the passing of an important American, Robert Moody McKinney, editor and publisher of the Santa Fe New Mexican, the west's oldest newspaper.

Mr. FARR. Mr. Speaker, I rise today to honor Jesse Gallardo as he recently celebrated the end of his tenure at Major Farms Inc. in Soledad, California. Mr. Gallardo retired on March 31, 2001, bringing an end to sixty-four years of service to Major Farms Inc. and the entire Soledad community.

Mr. FARR. Mr. Speaker, I rise today to congratulate Teen Outreach Through Technology for their innovative use of technology to serve young people in the Fresno area. I urge my colleagues to join me in wishing TOTT many more years of continued success.

TRIBUTE TO CORPORAL KELLY STEPHEN KEITH

HON. SAM FARR
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. FARR of California. Mr. Speaker, I rise today to honor Jesse Gallardo as he recently celebrated the end of his tenure at Major Farms Inc. in Soledad, California. Mr. Gallardo
President John F. Kennedy appointed him U.S. ambassador to Switzerland in 1961. Under Presidents Lyndon B. Johnson and Richard M. Nixon, he held appointments in the U.S. Treasury Department. He was awarded the Treasury Department's Distinguished Service Medal. 

Because of Santa Fe's proximity to the National Atomic Weapons Laboratory at Los Alamos, McKinney became interested in peaceful uses of atomic energy, became an authority in that field and published several books on the subject.

McKinney served on the board of directors of several major corporations, including the Rock Island Railroad, International Telephone & Telegraph, Trans World Airlines and Martin Marietta. He was a classical scholar, having mastered Latin at Amarillo High School and Greek at the University of Oklahoma. He was a published poet; his book Hymn to Martin Marietta.

He took a leave of absence from McKinney in 1970 and later married Marielle de Montmollin, who died in 1998. He is survived by his daughter, Robin Martin and her husband, Meade Martin; grandchildren, Laura and Elliott of Nambe; stepson, Laurent de Montmollin of Florida; and stepdaughter, Edmee Firth of New York and her children, Marie Louise Slocum and Olivia Slocum, both of New York, and John Slocum of Newport, R.I.

Funeral services are pending.

HONORING ELMER JOHNSON OF COLORADO LEADERSHIP

HON. SCOTT MCINNIS OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. McINNIS. Mr. Speaker, I stand here today to honor and remember Elmer A. Johnson, who gave of himself throughout his life to serve his country and the citizens of Colorado. Elmer was a patriot, a giving man, and a man blessed with outstanding leadership and business skills.

Elmer, a devoted husband and father, was married to Philomena Mancini for fifty years until her death. He gave his wife, his son, Robert, and his two granddaughters much to be proud of. His patriotism drove him to enlist in the Army Air Forces in 1941, where he eventually served as master sergeant in the China-Burma-India theater during World War II. He then began running his father-in-law's printing business and edited a weekly newspaper.

Then, in 1958, he was elected for the first of three times to the Colorado House. He earned a distinguished reputation with those who knew and worked with him there, including former state Rep. Wayne Knox who the Denver Post quotes as saying, “He was a very well-respected, reasonable, moderate legislator” and “a nice guy, a very good guy.” Elmer had the honor of chairing the Finance Committee and served on the Joint Budget Committee as well as on the Legislative Council.

He was a devoted husband who loved his family and friends and who did not know the word stop. However, in 1963, he began working as a city official as manager of revenue and director of budget and management. He also served on the executive board of the Colorado Municipal League, and became its president in 1970. Incredibly, he also found time to serve on the executive board and as president of the Colorado Municipal League, become a member of the Regional Transportation District, and become a member of the Sons of Norway. In addition, his leadership stretched to serving for a term as the international president of the Municipal Finance Officers of the United States and Canada.

Mr. Speaker, Elmer Johnson was a distinguished veteran, a devoted father and husband, and a selfless leader. Today, I would like pay him tribute on behalf of Congress for his lifelong commitment to the defense of his country and to the people of the United States.

HONORING THE 60TH ANNIVERSARY OF THE UNIVERSITY OF TEXAS M.D. ANDERSON CANCER CENTER

HON. KEN BENTSEN OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. BENTSEN. Mr. Speaker, I rise today to honor the University of Texas M.D. Anderson Cancer Center on its 60th Anniversary on June 30, 2001. Although I will not be present at this Ceremony, I would like to honor this distinguished institution which is one of the world's top tier of institutions devoted to the conquest of cancer.

Throughout its history, M.D. Anderson Cancer Center has set the standard for excellence in cancer patient care, research, education and prevention. Named for its benefactor, Monroe Dunaway Anderson, the hospital was designated one of the first three comprehensive cancer centers in the United States by the National Cancer Act of 1971, and has continued to be the model of other centers seeking such recognition. In 2000, M.D. Anderson was ranked by U.S. News & World Report magazine as the nation's best cancer hospital.

Since the first patient was registered in temporary quarters in 1944, nearly 500,000 people have been admitted. Dr. Clark was succeeded by Dr. LeMaistre, a molecular link between cigarettes and lung cancer from studies showing a carcinogen in tobacco smoke binds to key mutagenic sites in the p53 gene.

Over the years, M.D. Anderson has conducted extensive clinical trials that have led to more effective cancer drugs and biologic compounds, less-invasive surgical procedures and more precise, radiation techniques. Many standard cancer therapies now available around the world were originally evaluated, wholly or in part, through such clinical research studies at M.D. Anderson.

Research discoveries and inventions by M.D. Anderson faculty and staff have been responsible for important technology development partnerships with industry. Fifteen companies have been created as spinoffs from M.D. Anderson research projects.

While research advances at M.D. Anderson over the past 60 years have helped to cure some of the most common forms of cancer, the outlook for better treatments in the future and ultimately, prevent cancer is even more optimistic because of emerging knowledge about the highest number of grants awarded to any institution by the National Cancer Institute and the American Cancer Society.

Translational research that applies new laboratory findings to improve patient treatments as quickly as possible has flourished under the leadership of Dr. John Mendelsohn, a distinguished clinical scientist who became M. D. Anderson's President in 1996. Dr. Mendelsohn has recruited a visionary management team and established bold new priorities for M. D. Anderson in the 21st century.

Dr. John Mendelsohn is the third president of the institution. Dr. R. Lee Clark was named the first full-time director and surgeon-in-chief in 1946, two years after the first patient was admitted. Dr. Clark was succeeded by Dr. Charles A. LeMaistre, who was instrumental in recruiting many leading physicians and surgeons. Dr. Mendelsohn took over in 1996 after Dr. LeMaistre's retirement.

Since celebrating its 50th anniversary a decade ago, the major research accomplishments made by M. D. Anderson scientists and physicians include: The first successful correction of a defective p53 tumor suppressor gene in human lung cancer has led to pioneering gene therapies for lung, head and neck, prostate, bladder and several other forms of cancer; Identification of the defective PTEN gene is providing new ways to target therapy for a usually fatal form of brain cancer and other malignant tumors; Expanded landmark chemoprevention studies showing that drugs can prevent first or second primary cancers in individuals at high risk—and also reverse some pre-malignant lesions; Designed a rapid laboratory method to pinpoint gene abnormalities in chromosomes, thereby improving diagnosis and treatment monitoring of many diseases, including cancer; Developed a gene expression technique to predict which cancers will escape primary sites and spread to other organs of the body; Identified genetic variants of components for a common brain chemical, dopamine, that are associated with nicotine addiction; Reported the appearance of human malignant cells from normal blood cells with a technique that allows studying the intrinsic electrical properties of cells; Documented a molecular link between cigarettes and lung cancer from studies showing a carcinogen in tobacco smoke binds to key mutagenic sites in the p53 gene.

Today, M. D. Anderson's public education and community service initiatives help thousands of people reduce their risk of cancer and learn more about the disease.

The outstanding basic, translational and clinical research conducted at M. D. Anderson, has been supported in recent years with the
June 26, 2001

IN TRIBUTE TO ALFRED RASCON

HON. ELTON GALLEGLY
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. GALLEGLY. Mr. Speaker, I rise for the second consecutive year to pay tribute to Alfred Rascon, who was recently confirmed as the 10th director of the Selective Service System.

Alfred is a remarkable man. Born in Mexico, he moved to Oxnard, California, in my district, with his family when he was a small child. His family raised him there and instilled in him the values of honor, integrity, a love of his adopt ed land and a reverence for life and his fellow human beings.

At age 17, he left Oxnard and joined the Army. He trained to be a medic and a paratrooper. On March 16, 1966, in the jungles of Vietnam, Alfred was severely and repeatedly wounded as he crawled from comrade to comrade to render aid, to protect his comrades and to retrieve weapons and ammunition needed in the firefight they were in.

By the time Alfred was loaded into a helicopter, he was near death. A chaplain gave him last rites. He survived. Because of his efforts, so did his sergeant and at least one other in his platoon.

But the Medal of Honor Alfred was due was lost in red tape, until two years ago, when the record was corrected.

He returned to civilian life, became a naturalized citizen and rejoined the Army. After another tour of duty in Vietnam and achieving the rank of lieutenant, Alfred again became a civilian. But he continued to serve his country, with posts in the Department of Justice, where he served with the Immigration and Naturalization Service, the Drug Enforcement Administration and INTERPOL. Prior to his appointment as director of the Selective Service System, he served for five years as its Inspector General.

He is married to the former Carol Lee Richard son. They have two children.

Mr. Speaker, Alfred Rascon is a humble man who achieved greatness by quietly and unselfishly doing what he believed was right. He is the right man to head up the Selective Service System. I know my colleagues will join me in congratulating Alfred on his selection and give him our full support in achieving the goals of his new position.

Mr. Speaker, today I recognize with profound gratitude all of the accomplishments made at The University of Texas M.D. Anderson Cancer Center. And, I warmly congratulate the dedicated faculty, staff, volunteers and supporters on the occasion of this remarkable institution’s 60th anniversary.

IN HONOR OF MS. SUSAN CULVER

HON. DENNIS J. KUCINICH
OF OHIO

IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor and recognize a fine individual and exceptional teacher, Ms. Susan Culver of Olmsted Falls Middle School, for her outstanding dedication to the education of young students.

Ms. Culver has spent the past few months organizing and planning a project for her seventh grade class at Olmsted Falls Middle School. Because of her time and dedication to enriching her students, Ms. Culver has received a grant that will enable her to analyze and research pollution in the Olmsted Falls community. Over the past few years, air and water pollution have become important issues in Olmsted Falls, and Ms. Culver has taken it upon herself to analyze this problem. With the help of 140 seventh-graders, Ms. Culver will test pH levels in local ponds, analyze animal specimens, research the food web, and so much more. This program will give students an opportunity to experience their community in a hands-on environment.

This program materialized only through hours of hard-work, planning and researching. Because of her efforts, Ms. Culver’s program has been chosen to receive a G.I.F.T., Growth Initiatives for Teachers grant. With this grant, Ms. Culver is offering students a wonderful learning experience that will broaden their educational horizons. Ms. Culver is also planning on taking courses at Cleveland State University about computers and will attend numerous conferences of the Environmental Education Council of Ohio.

Ms. Culver holds a bachelor’s degree in middle school math/science and is working toward a masters degree in instructional technology. In 1998, she began her teaching career as a tutor at Olmsted Falls Middle School and joined the full-time faculty in 1999. She teaches science in the classroom, but her influence extends much beyond simple biology and chemistry. Ms. Culver is giving students information that is not only pertinent to where they live, but that will be relevant for their entire lifetime.

Mr. Speaker, please join me in honoring a young teacher that is touching the lives of hundreds of students, Ms. Susan Culver. She has given her time and dedication to Olmsted Falls Middle School, and has earned the respect of students, faculty, and the entire Olmsted Falls community.

READING IS FUNDAMENTAL

HON. SILVESTRE REYES
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. REYES. Mr. Speaker, as our First Lady Laura Bush said in April of this year “Early reading isn’t just good medicine, it’s an important part of a child’s daily activities. Children benefit greatly from reading activities starting at a very young age.” Mr. Speaker, our First Lady is absolutely right!

Unfortunately, in the 2002 budget, President Bush cut all federal funding for a 35-year-old nationwide reading program. The program which is know as Reading is Fundamental (RIF) is supported through the U.S. Department of Education’s Inexpensive Book Distribution Program (IBDP). RIF provides free, new books and family literacy services to 18,000 school and community sites with the vital help of more than 310,000 local volunteers.

RIF has a proven record and should not be destroyed or altered. For 35 years, it has given free paperback books to poor children in all 50 states, the District of Columbia, and U.S. offshore territories. If the federal government gives states reading grants, as President Bush wants, there is no guarantee that this
kind of program, which is badly needed, will continue.

My district of El Paso, Texas is an impoverished area of our country. Programs like Reading is Fundamental may not make much of a difference in more affluent areas, but they certainly do in El Paso. For some kids, a free book is the only access to reading that they have.

RIF programs operate in schools, libraries, community centers, child-care centers, Head Start and even Start centers, hospitals, migrant worker camps, homeless shelters, and detention centers. Today, thanks to public-private partnerships, RIF is the nation’s largest child and family literacy organization. RIF has placed more than 200 million books in the hands and homes of America’s children.

Now, President Bush has proposed a five-year plan to improve young children’s reading ability by cutting all funding for IBDP and consolidating the funding into state-level reading grants. This is simply not the answer. The answer is RIF.

I respectfully request that the Administration restore the RIF program in the 2002 budget. The RIF program is an example of a program that is working and making a real difference in the lives of countless children across the country. It would be a travesty to destroy it.

HONORING HIS HOLINESS KAREKIN II NERSISSIAN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor His Holiness Karekin II Nersissian, the Supreme Patriarch and Catholicos of All Armenians. Karekin II traveled to the United States last month and visited Armenian churches, schools and a retirement home in Fresno, California and surrounding communities.

Karekin II was born in the village of Voskehat, in 1951, in the Etchmiadzin Region of Armenia. He entered the Theological Seminary of the Mother See of Holy Etchmiadzin in 1965 and graduated in 1971. In 1970 he was ordained a Deacon, and in 1972 he was ordained a Celibate Priest. Karekin II then left for Germany to serve as a pastor, while continuing his theological education at the University of Bonn.

In 1979, Karekin II returned to the Mother See of Holy Etchmiadzin, and thereafter, left for Russia to study at the Theological Academy of the Russian Orthodox. In 1980, he was appointed Assistant to the Vicar General of the Araratian Pontifical Diocese. In 1983, he was appointed to Vicar General of the Araratian Pontifical Diocese. Karekin II was ordained a Bishop in October of 1983 and was granted the title Archbishop in November of 1992. In 1998, Karekin II was appointed to the Vicar General of the Catholicos.

On Wednesday, October 27, 1999, Karekin II was elected as the 132nd Supreme Patriarch and Catholicos of All Armenians. Since his ascension to the head of the Armenian Church, Karekin II has actively rejuvenated the theological Seminary. He has been instrumental in the construction of new churches and the building of St. Gregory the Illuminator Mother Cathedral in Yerevan, Armenia. Many new priests have been ordained and assigned to churches in Armenia and Diaspora under the leadership of Catholicos Karekin II.

Mr. Speaker, I urge my colleagues to join me in honoring His Holiness Karekin II Nersissian for his spiritual leadership to all Armenians.

TRIBUTE TO PAUL BEAZLEY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a dear friend, a former colleague, and fellow South Carolinian, Paul W. Beazley. On July 16th, Paul will retire from South Carolina State government. It is a retirement well deserved and we will be sorely missed.

Before coming to this august body, I served as Human Affairs Commissioner for the State of South Carolina. I was fortunate to have Paul among my support staff. Paul joined the State Human Affairs Commission in January of 1973. Upon my arrival in October 1974, I named him Director of the Technical Services Division where he served for five years before becoming Deputy Commissioner.

During my nearly 18-year tenure at the Commission, Paul was an invaluable colleague, and became an expert on the issues of equal opportunity and diversity, particularly in the workplace. He supplemented his vast experience in this area with several published works including: Think Affirmative: The Blueprint, which became the leading affirmative action planning manual in the 1970’s and 1980’s. He recently wrote, The South Carolina Human Affairs Commission: A History, 1972-1977; and Who Gives a Hoot at the EEOC?, a public policy case study.

An active member in his community both professionally and personally, Paul currently serves on the Board of Directors of the Midlands Marine Institute, and is president of the Alumni Association of South Carolina State Government’s Executive Institute. Paul is also chairman of the State Appeals Board for the United States Selective Service System.

In addition, Paul is a member of various professional associations, and works as a volunteer for many non-profit organizations. He is also a member of the Eau Claire Rotary Club of Columbia, and has served as President and Secretary of the National Institute for Employment Equity, and as Chairman of the Greater Columbia Community Relations Council. He has also served on the Board of Directors of the Family Services Center of Columbia, the Board of Visitors of Columbia College, the Board of Directors of Leadership South Carolina and numerous task forces at the state and local level.

Prior to joining the Commission in 1973, Paul was a Presbyterian Minister. He served as a pastor, a Conference center Director, and an Educational Consultant. He has also worked as a Consultant for the University of South Carolina General Assistance Center, teaching in the field of test taking and problem-solving. He founded a private school and directed an experimental reading program for the Columbia Urban League.

Paul received his Bachelor of Arts degree from East Tennessee State University, his Master of Divinity from Union Theological Seminary in Virginia, and a Masters of Education from the University of South Carolina, where he also completed Doctoral studies. Paul is also a graduate of the South Carolina Executive Institute (1992), and Leadership South Carolina (1987).

Paul, a longtime resident of my current hometown, Columbia, South Carolina, is married to the former Marcia Rushworth. They have one son, Paul Derrick Beazley, who lives in Charleston. Paul is a competitive tennis player, and we share yet another common interest in pastime, golf.

Mr. Speaker, I ask you to join me in saluting one of our nation’s authorities on diversity, one of my State’s most highly respected professionals, one of my Community’s finest citizens, and one of my good friends, Paul W. Beazley, upon his retirement. Please join me in wishing him good luck and Godspeed.

IN TRIBUTE TO STEPHEN WALPOLE

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. FARR of California. Mr. Speaker, I rise this evening to join with my friend and colleague, Congressman Mike Honda of the 15th District of California, in honoring a dedicated public servant. Stephen Walpole, Chief of Police for the Scotts Valley Police Department, will be retiring on July 6, 2001, bringing an end to 30 years of service to his community.

Chief Walpole is a constituent of Congresswoman Honda, since part of Santa Cruz County is in his congressional district. However, Chief Walpole and I came to know each other well during my years serving in the California Assembly. His work on behalf of the residents of Scotts Valley is an amazing reminder of the importance of public service in our nation. When Chief Walpole’s career began as a reserve officer in 1970 with the Scotts Valley Police Department his potential was quickly recognized. He was promoted to Sergeant in 1974, Lieutenant in 1979, and Chief of Police in 1986. Besides his focus on the community of Scotts Valley, Chief Walpole has also served in several County and State-wide positions, bringing his experience and leadership to others in law enforcement and government.

Chief Walpole has also been the recipient of many awards and recognitions, including the Exchange Club Officer of the Year in 1973 and 1983; the Meritorious Service Award from the Scotts Valley City Council in 1989 for his efforts during the 1989 Loma Prieta earthquake which devastated many parts of Santa Cruz County; and was named as the Scotts Valley Chamber of Commerce Man of the Year in 1989.
Mr. Speaker, when he retires on July 6, 2001, Chief Wapole will be leaving behind a three-decade legacy of excellence and professionalism. It has been a pleasure for myself and Congressman HONDA to work with him and other members of the Scotts Valley community, and it is an honor to be able to pay tribute to him here. We wish him well in his upcoming retirement, but we know that he will always remain an active member of the community.

HONORING JORDAN HENNER
HON. STEVE ISRAEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. ISRAEL. Mr. Speaker, it is with great pride that I rise today to recognize one of New York’s outstanding young students, Jordan Henner. This young man has received the Eagle Scout honor from his peers in recognition of their achievements.

Since the beginning of this century, the Boy Scouts of America have provided thousands of boys and young men each year with the opportunity to make friends, explore new ideas, and develop leadership skills while learning self-reliance and teamwork.

The Eagle Scout award is presented only to those who possess the qualities that make our nation great: commitment to excellence, hard work, and genuine love of community service. Becoming an Eagle Scout is an extraordinary award with which only the finest Boy Scouts are honored. To earn the award—the highest advancement rank in Scouting—a Boy Scout must demonstrate proficiency in the rigorous areas of leadership, service, and outdoor skills; they must earn a minimum of 23 merit badges as well as contribute at least 100 man-hours toward a community oriented service project.

I ask my colleagues to join me in congratulating the recipients of these awards, as their activities are indeed worthy of praise. Their leadership benefits our community and they serve as role models for their peers.

Also, we must not forget the unsung heroes, who continue to devote a large part of their lives to make all this possible. Therefore, I salute the families, scout leaders, and countless others who have given generously of their time and energy in support of scouting.

It is with great pride that I recognize the achievements of Jordan and bring the attention of Congress to this successful young man on his day of recognition. Congratulations to you and your family.

JIM ROPER, INDUCTEE TO THE NEW MEXICO-BROADCASTING ASSOCIATION’S HALL OF FAME

HON. TOM UDALL
OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. UDALL of New Mexico. Mr. Speaker, I rise to honor one of the outstanding citizens of the northeast corner of my home state of New Mexico—Jim Roper, who was recently inducted into the New Mexico Broadcasting Association’s Hall of Fame. As a pioneer with more than 50 years in the industry, he is eminently deserving of this prestigious honor.

Jim Roper is the chief executive officer of Raton Broadcasting and head of KRTN–AM and FM. These stations bring music and important news to the citizens of Colfax, Union, and Harding Counties as well as southeastern Colorado. In northeastern New Mexico, I cannot emphasize how important the medium of radio is as a critical news source. Mr. Roper and his team have served its citizens well.

Jim’s career began in 1948, while still in high school. And it all started because the station’s general manager had laryngitis. Jim and his family lived in the now abandoned town of Brilliant, not far from Raton, where radio was one of the only sources of entertainment. During a high school basketball game, Stan Brown, then the general manager of KRTN, had lost his voice and could not broadcast the game report. Jim said, “I don’t know, but I’ll try.” One thing led to another, and soon he was spinning records at the station. In less than two decades, he was the station’s owner.

Jim has seen vast changes in the radio broadcasting business since he began. Tape recorders replaced wire recorders, compact discs replaced records and satellites replaced disc jockeys. However, at KRTN on-site folks still operate the station, and despite lucrative offers to purchase the small station, Roper has refused to sell.

Jim has always been committed to providing quality service to the listeners of KRTN and capturing the essence of rural New Mexico. His dedication and commitment have made him an important part of the community. Jim has served as the city commissioner, the president of the Raton Chamber of Commerce, as a member of the city parks and recreation board and as the president for the Raton water board.

There have been two constants that have run throughout Jim’s life: the radio station and his loving family. He is a proud husband and father, whose family has kept him focused and grounded.

Mr. Speaker, Jim Roper is a champion of his community and is completely deserving of being named as one of the first inductees into the New Mexico Broadcasting Association’s Hall of Fame. I urge my colleagues to join me in saluting Jim Roper for his vast accomplishments.

HONORING MAYOR JOHNNY ISBELL OF PASADENA, TEXAS

HON. KEN BENTSEN
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. BENTSEN. Mr. Speaker, I rise today to honor and recognize a fine individual and exceptional teacher, Ms. Tanya Parisi of Olmsted Falls Middle School, for her outstanding dedication to the education of young students.

Ms. Parisi is one of two teachers that have organized a program that will enrich students and address concerns pertinent to the Olmsted Falls community. Within the past few years, pollution has become a growing concern for the small suburb of Olmsted Falls, and Ms. Parisi has taken it upon herself to analyze this problem. With the help of 140 seventh-graders, Ms. Parisi will be researching water and air pollution, studying water samples, researching the food web, identifying living specimens, and so much more. Throughout this entire project, students will maintain a computer portfolio of their research and publish their results online.

This program materialized only through the tireless efforts of Ms. Parisi. Her love and
determination to enrich the lives of her students has earned her the very prestigious G.I.F.T. Growth Initiative for Teachers grant. Ms. Parisi has also been taking courses in computers and technology at Cleveland State University and attending conferences of the Environmental Education Council of Ohio.

Ms. Parisi holds a bachelor’s degree in education and is now pursuing a dual masters degree in science and technology. She began teaching in 1996 and has been with Olmsted Falls Middle School since 1999. She teaches math in the classroom, but her influence extends much beyond numbers and calculations. Ms. Parisi is giving students information that is not only pertinent to where they live, but that will be relevant for their entire lifetime.

Mr. Speaker, please join me in honoring a young teacher that is touching the lives of hundreds of students. Ms. Tanya Parisi. She has given her time and dedication to Olmsted Falls Middle School, and has earned the respect of students, faculty, and the entire Olmsted Falls community.

ENCOURAGING MEMBERS OF CONGRESS AND THEIR STAFFS TO HAVE SCREENINGS FOR PROSTATE CANCER

HON. SILVESTRE REYES
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. REYES. Mr. Speaker, as we begin to celebrate Men’s Health Week, the week leading up to Father’s Day, I rise today to applaud the efforts of my colleagues to bring attention to many issues surrounding men’s health.

I would like to encourage my colleagues and members of their staffs to have screenings for prostate cancer. Except for lung cancer, prostate cancer is the greatest cause of cancer deaths among American men. At highest risk are African-Americans and those with a family history of prostate cancer. One in five men will develop prostate cancer in his lifetime and the American Cancer Society estimates that over 32,000 men will die from the disease this year, a mortality rate approaching that of breast cancer in women. It is recommended that men at high risk begin annual prostate cancer screenings at age 40, and that all other men begin at age 50.

As one of my former colleagues and good friend, Bill Richardson once said, “Recognizing and preventing men’s health problems is not just a man’s issue. Because of its impact on wives, mothers, daughters and sisters, men’s health is truly a family issue.” We owe it to our families to have our prostate screenings. A tiny bit of discomfort is worth saving your life and sparing your families from the pain of an untimely death.

RECOGNIZING JOHN G. TAYLOR
HON. GEORGE RADANOVICH
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize John G. Taylor for being selected as the Person of the Year 2000 for his accomplishments in the area of religious journalism. The Muslim Public Affairs Council-Fresno will present the award to Taylor on Saturday, April 28, 2001 at their annual awards dinner.

John G. Taylor is a first-generation American. He was born in Brooklyn, New York in 1950. He worked as a reporter for a weekly newspaper and as a correspondent for the New York Times while he earned a degree in journalism at New York University. After college, he worked as a desk editor at newspapers in Hartford and New London, Connecticut.

In 1981, John and his family relocated to Fresno, where he began a 20-year career working with the community paper, the Fresno Bee. Most recently, John’s reporting focused on issues of religious significance to the Fresno community, including Pope John Paul II’s World Youth Day Day, the “Stand in the Gap” million-man Christian march in Washington, D.C. He eagerly pur sued stories about people and matters of faith for the Fresno Bee until January of this year. John accepted a position as a senior communications specialist/senior writer with Community Medical Centers. John and his wife Judy have six children and seven grandchildren.

I urge my colleagues to join me in praising Mr. Taylor’s literary contribution to the city of Fresno and in wishing him continued success in the future.

TRIBUTE TO SAMETTA TAYLOR
HON. JAMES E. CLYBURN
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. CLYBURN. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to Sametta Alicia Taylor. Ms. Taylor recently qualified as a National Finalist in the 2001 Pre-Teen America Scholarship and Recognition Program to be held on July 3 in Baton Rouge, Louisiana. Sametta is the 12-year-old daughter of Sammie and Michelle B. Taylor of Moncks Comer, South Carolina. She will represent our state in the speech category as South Carolina’s Miss Pre-Teen.

She participated in the South Carolina Pre-Teen Scholarship and Recognition Program held September 2-4, 2000 in Greenville, South Carolina. Young ladies, ages seven to twelve, were invited who have been recognized publicly for their outstanding personal achievements, volunteer services, school involvement, leadership abilities, and creative talents. State finalists were judged on similar categories including communicative ability, general knowledge, onstage expression, and acknowledgment of accomplishments.

Local participants were selected primarily from public announcements of achievements, by teachers, guidance counselors, and recommendations from past participants. Over 120 South Carolinians participated in the event.

Sametta received a $1,000 educational bond, $100 educational bond for winning the speech competition, and 4 trophies for the highest scholastic average of all the participants.

Sametta has a 10-year-old brother, Sammie Taylor, III. She is the granddaughter of Joseph and Emily J. Brown of Moncks Comer, and Sammie Taylor, Sr. and Josephine Sanders of Rembert, South Carolina. Her godparents are Carl and Altissie Weldon of Bowie, Maryland.

Mr. Speaker, please join me and my fellow South Carolinians in honoring Sametta Taylor for her outstanding achievements.

IN HONOR OF JOSEPH J. GARRY, JR.
HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. KUCINICH. Mr. Speaker, I rise today in honor of Joseph J. Garry, Jr. on his remarkable accomplishment of instilling joy and laughter through theater arts in Cleveland for over 34 years.

Joe Garry, who performs side by side with David Frazier, was just honored by the award-winning actress Patricia Neal with the Signstage Theater’s annual Spotlight award, which recognizes individuals for their contributions to the arts and culture in Cleveland.

Gary and Frazier, well-known in the local and national entertainment circles, were instrumental in the success of many long-running productions. They are best known to Cleveland audiences for their landmark musical “Jacques Brel is Alive and Well and Living in Paris” which ran for two and a half years, and by supporting the restoration of the Playhouse State complex in Cleveland.

Garry, director and former professor and head of the Theater Department at Cleveland State University has written, directed, and produced plays, musicals, and operas. Together with his partner, they have actively produced 15 musicals. They have received many prestigious awards, including being inducted into The Cleveland Play House Hall of Fame for their many years as actors in repertory there, and for performing both nationally and internationally.

Recently, they have performed on the Cunard liners, QE2, Caronia and Seabourn Sea. There they sailed the world first class and perform on the bill with many theater legends, while hosting a group of Cleveland friends and including them in the performances.

Joseph Garry has proved to help cultivate not only the Cleveland arts community, but locations throughout the world via his musical theatrical abilities and inspiration. I ask my colleagues to rise in recognizing this great man, Joseph J. Garry, Jr. for his remarkable contributions to the theater arts.
IN HONOR OF THE 226TH BIRTHDAY OF THE UNITED STATES ARMY

HON. SILVESTRE REYES
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. REYES. Mr. Speaker, on Thursday, June 14th, we celebrated the 226th birthday of the United States Army. The Army’s proud tradition, which dates back to 1775, has always stood tall, both in times of peace, and times of conflict which placed American men and women in harm’s way. For more than two centuries, the soldiers of the Army have been poised and ready to answer the call of duty to defend this great nation. The military is a noble profession and those who have served have demonstrated their patriotism and selflessness. The Army has always been relevant and remains relevant today. With the Transformation of the Army to a leaner, lighter, and more lethal force, the Army will continue to be relevant in the future. As we forge into the future, let us reflect on the great legacy the Army has given this nation, through the great men and women who were and are proud to be Americans.

EXTENDING APPRECIATION TO THE MEMBERS OF THE SUBCOMMITTEE ON AGRICULTURE APPROPRIATIONS

HON. GEORGE RADANOVICH
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. RADANOVICH. Mr. Speaker, I wish to extend my appreciation to our fine chairman, the ranking member, and all of the members of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies for their good work on the agriculture spending bill and the accompanying report that passed the full committee on June 13th. In particular, I am thankful that the Subcommittee has recognized the important contributions made by the Valley Children’s Hospital located in California’s Central Valley.

Valley Children’s Hospital (VCH) is the only freestanding children’s hospital in a rural area in the United States. VCH serves the 10-county, 60,000 square mile region between Los Angeles and the San Francisco Bay, and it functions as a “safety-net” health care provider to all children of Central California. The facility provides services regardless of an individual’s race, religion or ability to pay, with over 70 percent of its patients on MediCal.

As you can imagine, VCH faces many challenges to its ability to provide health care. These challenges include inadequate transportation, shortages of health professionals, high poverty and unemployment, and the fact that there are 93 different spoken languages and dialects in the region. Each of the 10 counties that VCH serves is federally designated as medically underserved.

In light of budget realities, we must continue to carefully define our appropriations priorities.

EXTENDING OF REMARKS

I appreciate the Subcommittee’s recognition that Valley Children’s Hospital is a meritorious organization with projects that deserve special consideration.

PERSONAL EXPLANATION

HON. HARRISON FORD, JR.
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. FORD. Mr. Speaker, due to a commitment in my Congressional District, I was absent on Monday, June 25th for three recorded votes. Had I been present, I would have voted “aye” on rollcall votes, No. 186, H.Res 160, No. 187, H. Res. 99, and rollcall vote No. 188, H. Con. Res. 161.

HONORING CHARLOTTE KEYS

HON. RONNIE SHOWS
OF MISSISSIPPI
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. SHOWS. Mr. Speaker, I rise today to congratulate Charlotte Keys, who was recently honored as a 2001 Robert Wood Johnson Community Health Leader. Ms. Keys is one of only 10 individuals from around the country to receive this distinguished award, which includes a $100,000 grant to help further her work.

Ms. Keys is the founder of an organization called Jesus People Against Pollution, located in Columbia, Mississippi, which works to mobilize the community to improve health and environmental justice. Her early efforts focused on those in the community who suffered severe health problems as a result of a major explosion, which dates back to 1775, has always meant contributions made by the Valley Children’s Hospital.

The Army’s proud tradition, which dates back to 1775, has always been relevant and remains relevant today. With the Transformation of the Army to a leaner, lighter, and more lethal force, the Army will continue to be relevant in the future. As we forge into the future, let us reflect on the great legacy the Army has given this nation, through the great men and women who were and are proud to be Americans.

In light of budget realities, we must continue to carefully define our appropriations priorities.

EXTENDING OF REMARKS

I appreciate the Subcommittee’s recognition that Valley Children’s Hospital is a meritorious organization with projects that deserve special consideration.

PERSONAL EXPLANATION

HON. HOWARD COBLE
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. COBLE. Mr. Speaker, I rise today as the U.S. Mint is poised to issue the 14th in a series of State Quarters that started in 1999 and which will continue through at least the year 2008.

On June 4, 2001, I read an interesting article in The Record, the largest newspaper in my Congressional District, about the origins of the state quarter, which came about because of the legislative vision of my colleague from Delaware, Representative Michael Castle and the tenacity of the Mayor of my hometown, the Borough of Fair Lawn, David Ganz.

Mayor Ganz is not a stranger to the congressional legislative process. In 1973, while still a student at Georgetown University here in Washington, he was admitted to the Periodical Press Gallery of the United States Senate as a Special Correspondent for Numismatic News Weekly, a hobby publication based in Wisconsin. He went on to become a member of the Board of Governors of the American Numismatic Association, a Congressionally-chartered organization and referred to as the National Coin Club. In 1993, U.S. Treasury Secretary Lloyd Bentsen, named him among the first six members of the newly-created Citizens Commemorative Coin Advisory Committee.

Both as President of the American Numismatic Association, and as a columnist for various coin collecting hobby publications, David had long advocated for a return to commemorative coinage [for which there had been a hiatus from 1954 until 1981], but also for truly circulating commemoratives. He testified before the House and Senate Banking Committees on numerous occasions in the quarter century following his first appearance in March of 1974.

Mr. Speaker, bureaucracy is often afraid of change for no reason beyond the fact that it is not familiar, not predictable, or not safe. Mayor Ganz had a vision that circulating commemorative coinage would be good for our nation’s coin collectors, good for our nation’s coffers, and ultimately, educational to all Americans.

It is my hope that she continues to run this race for justice. It is clear that she has covered quite a distance, but the road still stretches out ahead.

Mr. Speaker, it is a privilege today to honor Charlotte Keys for this well deserved leadership award. I am confident that it will help to strengthen and sustain her important work.

PERSONAL EXPLANATION

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EXTENSIONS OF REMARKS

June 26, 2001

HON. PATRICK J. KENNEDY
OF RHODE ISLAND
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise to speak today about a distinguished member of my district who is being honored by an organization which has had an immeasurable impact on America. Jeannine Howard, a retired Bell Atlantic Pioneer from Rumford, Rhode Island, is Junior Achievement’s National Elementary School Classroom Volunteer of the Year. She has volunteered for Junior Achievement for four years and taught 25 classes in that time. Ms. Howard always goes above and beyond her classroom duties, as she works to gradually increase the amount of parents involved in their children’s Junior Achievement efforts in Rhode Island. She even serves as the volunteer for those new programs herself, always with great enthusiasm and energy.

The history of Junior Achievement is a true testament to the indelible human spirit and unparalleled entrepreneurship. Junior Achievement was founded in 1919 by Horace Moses, Theodore Vail, and Senator Murray Crane of Massachusetts, as a collection of small, after-school business clubs for students in Springfield, Massachusetts.

As the rural-to-city exodus of the populace accelerated in the early 1900s, so too did the demand for workforce preparation and entrepreneurship. Junior Achievement students were taught how to think and plan for a business, acquire supplies and talent, build their own products, advertise, and sell. With the financial support of companies and individuals, Junior Achievement recruited numerous sponsoring agencies such as the New England Rotarians, Boy Scouts, Girl Scouts, Boys & Girls Clubs, the YMCA, local churches, playground associations and schools to provide meeting places for its growing ranks of interested students.

In a few short years JA students were competing in regional expositions and trade fairs and rubbing elbows with top business leaders. In 1925, President Calvin Coolidge hosted a reception on the White House lawn to kick off a national fundraising drive for Junior Achievement’s expansion. By the late 1920’s, there were nearly 800 JA Clubs with some 9,000 Achievers in 13 cities in Massachusetts, New York, Rhode Island, and Connecticut.

During World War II, enterprising students in JA business clubs used their ingenuity to find new and different products for the war effort. In Chicago, JA students won a contract to manufacture 10,000 pants hangers for the U.S. Army. In Pittsburgh, JA students developed a specialized lined box to carry off incendiary devices, which was approved by the Civil Defense and sold locally. Elsewhere, JA students made baby incubators and used acetylene torches in abandoned locomotive yards to obtain badly needed scrap iron.

In the 1940’s, leading expositions of the day such as S. Bayard Colgate, James Cash Penney, Joseph Sprang of Gillette and others helped the organization grow rapidly. Stories of Junior Achievement’s accomplishments and of its students soon appeared in national magazines of the day such as TIME, Young America, Colliers, LIFE, the Ladies Home Journal and Liberty.

In the 1950s, Junior Achievement began working more closely with schools and saw its growth increase five-fold. In 1955, President Eisenhower declared the week of January 30 to February 5 as “National Junior Achievement Week.” At this point, Junior Achievement was operating in 139 cities and in most of the 50 states. During its first 45 years of existence, Junior Achievement enjoyed an average annual growth rate of 45 percent.

To further connect students to influential figures in business, economics, and history, Junior Achievement started the Junior Achievement National Business Hall of Fame in 1975 to recognize outstanding leaders. Each year, a number of business leaders are recognized for their contribution to the business industry and for their dedication to the Junior Achievement experience. Today, there are 200 laureates from a variety of businesses and industries that grace the Hall of Fame.

By 1982, Junior Achievement’s formal curriculum offering had expanded to Applied Economics (now called JA Economics), Project Business, and Business Basics. In 1988, more than one million students per year were estimated to take part in Junior Achievement programs. In the early 1990s, a sequential curriculum for grades K–6 was launched, catapulting the organization into the classrooms of another one million elementary school students.

Today, through the efforts of more than 100,000 volunteers in the classrooms of America, Junior Achievement reaches more than four million students in grades K–12 per year. JA International takes the free enterprise message of hope and opportunity even further . . . to more than 1.5 million students in 111 countries. Junior Achievement has been an influential part of many of today’s successful entrepreneurs and business leaders. Junior Achievement is truly the story of America—the fact that one idea can influence and benefit many lives.

Mr. Speaker, I wish to extend my heartfelt congratulations to Jeannine Howard of Rumford for her outstanding service to Junior Achievement and the students of Rhode Island. I am proud to have her as a constituent and congratulate her on her accomplishment.

TRIBUTE TO DOROTHY STEVENS ENOMOTO

HON. ROBERT T. MATSUI
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. MATSUI. Mr. Speaker, I rise in tribute to Dorothy Stevens Enomoto, the first African American woman to manage a California Department of Corrections institution. Mrs. Enomoto, one of Sacramento’s most notable citizens, will receive an honorary Doctor of Humane Letters degree from California State University, Sacramento on May 25th, 2001. As her friends and family gather to celebrate Mrs. Enomoto’s outstanding achievement, I ask all
HONORING JOHN S. KOZA

HON. JAMES A. LEACH
OF IOWA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. LEACH. Mr. Speaker, I rise today to introduce my colleagues to John S. Koza of Iowa City, Iowa. Junior Achievement National Middle School Volunteer of the Year.

Over the past 12 years, John has taught 38 classes in basic business methods as a Junior Achievement instructor. His open, honest and caring teaching style creates a fun, relaxed environment in which students both learn the skills needed to become successful entrepreneurs and are imbued through John’s example with the importance of giving back to your community.

John’s work in the Junior Achievement exemplifies the history of program as a quintessential American success story.

As the exodus from farm to city accelerated in this country at the beginning of the 20th century, so did the need to prepare young people for the demands of a changing workplace. Junior Achievement was founded in Massachusetts in 1919 as a collection of small, after school business clubs to help meet that need, with students learning how to create business plans, to set up appropriate accounting procedures, and to learn basic manufacturing, advertising and marketing techniques.

In 1925, President Calvin Coolidge hosted a White House reception to kickoff a national fundraising drive for Junior Achievement, and by the late 1920’s there were nearly 800 JA Clubs with 8,000 participants in 13 cities throughout New England.

During World War II, enterprising students in JA business clubs applied their ingenuity to aid the war effort. In Chicago, JA students won a contract to manufacture 10,000 pants hangers for the Army; in Pittsburgh, JA students developed a specially lined box to dispose of incendiary devices which was approved by Civil Defense and sold locally; elsewhere, they organized drives to obtain badly needed scrap metal.

The 1950’s saw Junior Achievement increase five-fold, with President Eisenhower declaring the week of January 30 to February 5, 1955, “National Junior Achievement Week.” By then, Junior Achievement was operating in 139 cities in most of the 50 states. By 1982, JA’s formal curricula expanded to Applied Economics, Project Business and Business Basics; by 1988, more than one million students were participating in its programs.

Today, through the efforts of more than 10,000 volunteers like John Koza in the classrooms of America, Junior Achievements reaches over 4 million students in grades K to 12 annually. JA International takes the free enterprise message of hope and opportunity to more than 1.5 million students in 111 countries.

Mr. Speaker, I congratulate John Koza of Iowa City for his outstanding service to Junior Achievement and the young people of Iowa. He is a wonderful example for us all.

TRIBUTE TO LOLA QUENSENBERY

HON. ROBERT E. ANDREWS
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. ANDREWS. Mr. Speaker, I rise today to honor Lola Quensenberry, a woman who has devoted 19 years of service with the USDA Natural Resources Conservation Service (NRCS) through the Earth Team volunteer program. Lola has logged over 18,000 hours of service since she began volunteering in Bythe, California where she worked with the Palo Verde Resource Conservation District.

While in California, Lola assisted with the development of an intensive agricultural irrigation water management program. Her primary role was to operate a Campbell Pacific Nuclear neutron probe, which is an accurate method of monitoring soil moisture, at over 200 sites. Lola also assisted with the evaluation of over 50 irrigation systems, helping the farmers to optimize their water use and thereby conserve our precious water resources.

Lola was also involved with the development of the McCoy Wash PL566 Small Watershed project—a project that is currently under construction.

Upon moving to New Jersey in 1987 to help care for her invalid mother-in-law, Lola continued her Earth Team involvement by volunteering for the South Jersey Resource Conservation and Development Council. Lola’s major responsibility is assisting with the development of the Resource Information Serving Everyone (R.I.S.E.) program. This fully functional program includes operation of eighteen Campbell Scientific weather stations located in seven southern New Jersey counties and four Campbell Scientific water quality stations.

Lola actively participates in numerous watershed projects in New Jersey. She attends meetings and provides a unique perspective to the NRCS-led Millstone watershed project, the proposed Repaucreek watershed project, and the Delaware Valley Regional Planning Commission’s two projects—Crosswicks WMA20 and the Lower Delaware Tributaries WMA 16.

Lola has volunteered time to assist the Bear Creek Conservancy/Stewardship Association with the creation and maintenance of a fresh water marsh for waterfowl habitat. She also volunteers to the South Jersey Chapter of Quail Unlimited to help create upland wildlife habitat.

For over 19 years, Lola Quensenberry’s volunteer spirit, together with the synergy gained from working with other Earth Team members and resource conservation professionals, has helped to conserve resources and improve the environment in California and New Jersey.
IN HONOR OF DAVID O. FRAZIER

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. KUCINICH. Mr. Speaker, I rise today in honor of David O. Frazier, on his incredible accomplishments in the arts and contributions to theater in Cleveland.

Frazier began his musical profession the old-fashioned way by performing in a recital for his piano teacher. Little did he know that this was the starting point of an amazing career that would span more than five decades and take him around the world. Fate eventually led him to Cleveland where his professional career took off with his performance at the Cleveland Playhouse, America’s oldest resident professional theater. His dedicated work kept him busy at the Playhouse for 34 years during which he performed in over 150 productions. When Cleveland’s Playhouse Square was threatened with demolition, Frazier took a leave of absence from his career to aid in rescuing it. He appeared in the record breaking production of “Jacques Brel is Alive and Well and Living in Paris”, which became the longest running show. The production saved Playhouse Square. Now 27 years later, Playhouse Square has become the second largest performing arts center in America.

Together with his partner and collaborator Joe Garry, they have accomplished many awhestruck performances. Recently, they have performed on the Cunard liners, QE2, Caronia and Seabound Sea, There they sail the world, and for performing both nationally and internationally.

As if to punctuate this point, the Energy Independence Act of 2001, advanced by the President, with the energy strategy that has been laid out, provides for a 20-year Regional Transportation Plan for San Diego County.

As a member of these organizations and as an individual advocate for the enhancement of the passenger rail service in southern California, Councilman Kellegian has raised millions of dollars for the funding of various rail projects. Recently, Joe and I were successful in obtaining a $1 million appropriation for the Solana Beach Intermodal Transit Station Structure. This money is to be used to initiate a funding package for park expansion and other improvements at the Solana Beach station, in order to help increase the use of the San Diego Coaster.

Since much of southern California and especially San Diego County are such large, sprawling areas, finding efficient public transportation methods proves to be a challenge. Thanks to the efforts of citizens like Councilman Kellegian, above-ground commuter rail service has flourished in recent years, providing, for less congested roads, cleaner air, a healthier environment and an overall better quality of life. I hope that everyone in the city of Solana Beach and the 51st District will join me in congratulating Joe for his achievements in improving rail service in San Diego County.

Mr. CRENSHAW. Mr. Speaker, last week, the House Budget Committee held an informative hearing on the economic and budgetary effects of our nation’s energy policy. Energy has always been a necessary ingredient—either directly or indirectly—to all our goods and services. Particularly as our economy becomes more and more dependent on technology, energy is increasingly the crucial ingredient.

As to punctuate this point, the Energy Information Administration at the Department of Energy has concluded through its research that falling energy prices can enhance economic growth by about 0.7 percent over a 2-year period. Furthermore, stable energy prices that are not fluctuating widely may enhance growth by as much as 0.5 percent-age points over 2 years. Only a few tenths of a percent can make a world of difference, particularly for small businesses, small investors, and working families.

The President began speaking about the need to develop a national energy policy that addresses both long-term and short-term problems and solutions long before the energy crisis in California became apparent. The future of action that he has presented to the nation through his National Energy Policy Development Group is responsible, sound, and comprehensive. It includes suggested solutions to our lack of domestic energy supply and our dependence on foreign sources, as well as recommendations for the development of energy supplies for the 21st Century.

Furthermore, for the most part, the President has made a serious effort to take into account local concerns and interests where they intersect with the nation’s interest in an energy policy that crosses geographic boundaries. I do, however, hope to have the opportunity to work with the President and his administration to find a compromise to the proposals to develop oil and gas exploration in the Eastern Gulf of Mexico that is consistent with the wishes of Floridians. Florida is renowned for its pristine and beautiful beaches and oceans. Our economy depends on that reputation remaining intact and vibrant. In fact, 40 million tourists traveled to Florida in 1999, spending $46 billion in Florida’s hotels, shops, restaurants, and attractions. It is because of our commitment to the environmental and economic health of our state that Floridians have consistently opposed oil and gas development less than 100 miles off the shores of Florida. This is a position that has had the support of Republicans and Democrats alike.

There is currently under consideration within the Administration proposals to explore within this safe harbor that Florida has requested. While I am pleased by the healthy and productive ongoing debate on this matter, I remain opposed to drilling within this safe harbor. I have been encouraged by the seeming willingness of the Bush Administration to work with the State of Florida to seek further moratoriums in the Straits of Florida region by the famous Florida Keys. And, I am very hopeful that the Administration will work with the State to consider restricting lease sales in the Eastern Gulf so that oil and gas exploration can be pursued for the nation while respecting the concerns of Florida.

A TRIBUTE TO JOEL BUCKWALD, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

HON. JERROLD NADLER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to Joel Buckwald, a Senior Archivist in the New York office of the National Archives and Records Administration whose
service to this country spans the past sixty years. Mr. Buckwald began working for the National Archives on June 3, 1941 after two weeks with the Public Buildings Administration. Hired under the first Archivist of the United States as a Junior Professional Assistant, he quickly rose to the rank of Junior Archivist before enlisting in the Navy at the end of 1942. During World War II, Mr. Buckwald was assigned to the United Nations Central Training Film Committee. Afterwards he studied at the City College of New York and in 1947 returned to the National Archives, where he has worked for the past fifty-four years.

In 1950 Mr. Buckwald moved backed to the New York area to help establish the agency's first regional records center. Thirteen years later he was a consultant to the Organization of American States in archives and records management, spending three months advising the Ministry of Foreign Affairs in Lima, Peru. In 1970 he became the first head of the archives branch for New York, New Jersey, Puerto Rico, and the U.S. Virgin Islands, a post he held for seventeen years before becoming Senior Archivist in what is now the Northeast Region of the National Archives and Records Administration.

Today the National Archives and Records Administration will honor Mr. Buckwald's distinguished career, and tomorrow Mr. Buckwald will celebrate his 84th birthday. For his many years of exceptional leadership and dedication, I congratulate and thank Mr. Buckwald.

**IN RECOGNITION OF STEPHEN K. WOODLAND**

**HON. DAVID D. PHELPS**

**OF ILLINOIS**

**IN THE HOUSE OF REPRESENTATIVES**

**Tuesday, June 26, 2001**

Mr. PHELPS. Mr. Speaker, today I rise to recognize the achievements of Stephen K. Woodland. Mr. Woodland is a 29 year veteran teacher, military retiree, coach, mentor, and friend to hundreds of students who have passed through his regimen of algebra, geometry, and calculus. He drives forward with an energy level undiminished by many years of hard work. For twenty one years, the math teams he has coached and/or helped prepare for state competition have finished first, second, or third. Mr. Woodland maintains the challenge is not the competition. It is the preparation. This is where teaching and learning happen.

Mr. Woodland is the first to tell students that high school math is only the beginning. He encourages students to light their torch of learning in high school and carry it on college. Mr. Woodland refuses the spotlight but his opinion is highly respected, his integrity is beyond reproach, and his influence mighty. When he speaks, students heed his words.

Many teachers will be successful during their careers, but very few will match the level of success and expertise achieved by Mr. Woodland. He is tenacious in his pursuit of excellence. He set his goals and then drives forward. He exhibits the qualities to set himself above the crowd. Clearly, he has distinguished himself in his profession.

**TRIBUTE TO MR. LARRY L. GRIMES**

**HON. MIKE PENCE**

**OF INDIANA**

**IN THE HOUSE OF REPRESENTATIVES**

**Tuesday, June 26, 2001**

Mr. PENCE. Mr. Speaker, I rise today to honor the life of the late Mr. Larry L. Grimes, an outstanding citizen and dedicated community leader in southwest Indiana, but most importantly, a dear friend. I join his lovely wife, Nancy, and daughter, Cassie, in expressing our gratitude for his loyal service to the State of Indiana.

Mr. Speaker, Larry Grimes left this earth in November of 2000, just hours after his overwhelming election to the Warrick Circuit Court in Warrick County, Indiana. His election was a fitting tribute to the Christian character and servant's attitude that animated his life.

Mr. Speaker, I am proud to announce that this past Sunday, June 24, 2001, the town of Newburgh, Indiana held a hose cutting ceremony to dedicate its new fire and EMS station in the name of Former Fire Chief Larry Grimes.

Mr. Speaker, it is written that a good name is more precious than rubies. The good people of Newburgh have put a good name on this new facility.

Mr. Speaker, I respectfully ask my colleagues to join me in paying tribute to this esteemed man and cherished friend who as a family man, an educator, an attorney and a fireman, made southwestern Indiana a better place for his having been there.

**CALLING ON CHINA TO RELEASE LI SHAOMIN AND ALL OTHER AMERICAN SCHOLARS OF CHINESE ANCESTRY BEING HELD IN DETENTION**

**SPEECH OF**

**HON. BILL PASCRELL, JR.**

**OF NEW JERSEY**

**IN THE HOUSE OF REPRESENTATIVES**

**Monday, June 25, 2001**

Mr. PASCRELL. Madam Speaker, I thank my colleague from New Jersey (Mr. SMITH) for his laudable work in the area of human rights and injustice worldwide.

This matter we discuss today hits particularly close to home. Li Shaomin is an American citizen that China is holding hostage.

Sal Cordo, from Bloomfield, was his supervisor when Dr. Li worked for AT&T in New Jersey. Now Sal faces the unimaginable task of leading the charge to get his friend freed from a Chinese prison, where Dr. Li faces trumped up charges.

In a recent article, China's Foreign Minister stated that, “In China, observance of human rights is now in its historically best period.” If China is at its best when it is detaining American citizens without just cause, then “it would be a better world.” Linda, whose actions demonstrate her commitment to such kindness, has improved this world for many.

Linda, who has also worked for Area Agency on Aging, has acted as admissions and marketing director at Columbine Manor for three years. In order to ensure that each resident always has something to look forward to, Linda initiates many projects at the Manor. For instance, she holds a weekly meeting called “Conversations with Linda,” to which she brings a tasty cuisine like corn muffins, pie or crab cakes to spice up the normal meal schedule. The meeting offers more than just a delicious treat, however. Each Tuesday, according to Linda, the residents “share beautiful stories about their past.” In addition, she has involved herself with a committee that plans activities for residents and their families such as Operation Christmas Child, which creates shoeboxes full of gifts for small children. Also, she helps hold a party for every holiday, and a barbecue every month. Linda, always a good listener, makes sure that her events bring what her residents desire. For instance, she says, “Today, we’re helping the residents make potato salad . . . . They wanted homemade potato salad, so we let them do it.”
INTRODUCTION OF HOUSE CONCURRENT RESOLUTION 173—THE INTERNATIONAL HUMAN RIGHTS EQUALITY RESOLUTION

HON. TOM LANTOS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. LANTOS. Mr. Speaker, today with the support of 26 of our colleagues—including both Republicans and Democrats—I introduced House Concurrent Resolution 173, the “International Human Rights Equality Resolution,” a Resolution decrying human rights violations based on real or perceived sexual orientation and gender identity. We introduced this legislation Mr. Speaker, because we believe very strongly that we must send a strong message that gay, lesbian, bisexual and transgendered people must be treated with dignity and respect, not with hatred and violence.

Mr. Speaker, it is appropriate that we have introduced our Resolution today, which is the U.N. International Day in Support of Survivors of Torture. This Resolution, together with Amnesty International’s newly released report, “Breaking the Silence,” highlights the use of torture against people based on sexual orientation and condemns governments who perpetrate these outrageous human rights violations, or fail to do anything to prosecute the perpetrators. All around the world, unacceptable violations of human rights have taken place against individuals solely on the basis of their real or perceived sexual orientation. These ongoing persecutions against gay people include arbitrary arrests, rape, torture, imprisonment, extortion, and even execution.

The scope of these human rights violations is staggering, and for the victims, there are few avenues for relief. Mr. Speaker, some States create an atmosphere of impunity for rapists and murderers of gays and lesbians by failing to prosecute or investigate violence targeted at these individuals because of their sexual orientation. These abuses are not only sanctioned by some States, often, they are perpetrated by agents of the State.

Mr. Speaker, in Afghanistan, men convicted of sodomy by Taliban Shari’a courts are placed next to standing walls by Taliban officials and are subsequently executed as the walls are toppled upon them and they are buried under the rubble. In Guatemala and El Salvador, individuals are either tortured or killed by para-military groups because of their real or perceived sexual identity. In Saudi Arabia, Yemen, Kuwait, Mauritania, and Iran persons accused of committing homosexual acts are convicted of committing homosexual acts. In Pakistan, individuals are flogged for engaging in sexual conduct with same-sex partners, and in Uganda and Singapore individuals engaging in such conduct are sentenced to life in prison. In Brazil, a lesbian couple was tortured and sexually assaulted by civil police. Despite the existence of medical reports and eye-witness testimony, the perpetrators of these heinous crimes are never prosecuted.

Mr. Speaker, around the world, individuals are targeted and their basic human rights are denied because of their sexual orientation. The number and frequency of such grievous crimes against individuals cannot be ignored. Violence against individuals for their sexual orientation violates the most basic human rights.

House Concurrent Resolution 173 puts the United States on record against such horrible human rights violations. As a civilized country, we must speak out against and condemn these crimes. Our Resolution details just a few examples of violence against gays and lesbians in countries as wide ranging as Saudi Arabia, Mexico, China, El Salvador, and other countries. By calling attention to this unprompted and indefensible violence, the International Human Rights Equality Resolution will broaden awareness of human rights violations based on sexual orientation.

House Concurrent Resolution 173 reaffirms that human rights norms defined in international conventions include protection from violence and abuse on the basis of sexual identity, but it does not seek to establish a special category of human rights related to sexual orientation or gender identity. Furthermore, it commends relevant governmental and non-governmental organizations (such as Amnesty International, Human Rights Watch, and the International Gay and Lesbian Human Rights Commission) for documenting the on-going abuse of human rights on the basis of sexual orientation. Our Resolution condemns all human rights violations based on sexual orientation and recognizes that such violations should be equally punished, without discrimination.


I would also like to extend my gratitude to the United States Department of State and the United Nations for documenting the ongoing abuse of human rights on the basis of sexual orientation and gender identity.

Mr. Speaker, the protection of gender identity is not a luxury or privilege, but it should be fully acknowledged in international human rights norms. I ask that my colleagues join me in wholeheartedly embracing and supporting human rights for all people, no matter what their sexual orientation might be. It is the only decent thing to do.

COMMEMORATING THE 50TH ANNIVERSARY OF THE LAURA INGALLS WILDER LIBRARY

HON. JO ANN EMERSON
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mrs. EMERSON. Mr. Speaker, it is with great honor and pride that I stand before the House today in observance of the 50th Anniversary of the Laura Ingalls Wilder Library. The Laura Ingalls Wilder Library is located in Mansfield, Missouri, a small town in Missouri’s Eighth Congressional District.

Many will remember with great fondness the Laura Ingalls Wilder books. In fact many of us or our children grew up reading her accounts of life in the great outdoors. She wrote simply and vividly—with such detail that her accounts of pioneer life have become the way that many of us view life on the Midwestern frontier. Through her writing, Laura Ingalls Wilder provided us with a chronology of life during the Pioneer days that has allowed us to preserve a lost era in American history.

But Laura Ingalls Wilder did more than just evoke a love for the rural way of life in her writing. Through her writing, she instilled a love of reading and over time that love of reading was translated into action as she became a tireless advocate for our public libraries.

In rural America, public libraries are not just a luxury or a convenience, they are a way of life. Most small towns don’t have a Barnes and Noble and many folks don’t have access to Amazon.com.

As a result, the tireless endeavors of the Laura Ingalls Wilder’s of today are keeping Ms. Wilder’s efforts alive. In Wright County, the community is working in a cooperative and most inspiring manner to create the Laura Ingalls Wilder Library and Community Center, an expanded library that will provide a technology and community center. The center will give folks the opportunity to embark on a journey of learning and to inspire adults and children with a love for reading.

Mr. Speaker, on this very special occasion, I ask that all of my colleagues join me in recognizing the 50th Anniversary of the Laura Ingalls Wilder Library. May the blessings of the last 50 years serve as a vision for the next 50 years.

IN HONOR OF WILLIAM E. MARTIN, PRESIDENT OF UNITED WAY OF HUDSON COUNTY, UPON HIS RETIREMENT AFTER 45 YEARS OF SERVICE

HON. ROBERT MENENDEZ
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to honor William E. Martin, who will be recognized by the United Way of Hudson County.
New Jersey. On Wednesday, June 27, 2001, the City of Jersey City will honor Mr. Martin during a dedication ceremony to rename Vroom Court the William E. Martin Way. A luncheon in honor of Mr. Martin will follow the ceremony.

William Martin began his distinguished career with the United Way Foundation in 1956, serving as President of the United Way in Hudson County, New Jersey. During his tenure, Mr. Martin was instrumental in establishing over 30 Tri-State United Way agencies. As a result of his hard work and dedication, United Way now provides social services in over 700 communities throughout the Tri-State area, lending assistance to over 8 million people a year.

Beyond his administrative duties, William Martin has also served as an ambassador for the United Way Foundation. In 1988, he was chosen by his peers to set up United Way services in Beijing, China and Hong Kong. In addition, he has assisted in the implementation of United Way services in Vietnam, Pakistan, Egypt, and the Philippines.

Youth outreach and community service initiatives have also been top priorities in William Martin's life. Prior to his tenure with United Way, he was Director of Human Services at Camp Crowder in Missouri and served as Athletic Director at the CYO Center in Jersey City, New Jersey for nine years.

Today, I ask my colleagues to join me in honoring William Martin for his distinguished service on behalf of the United Way Foundation. This group supports needy citizens in Africa and around the world.

I have had the privilege of working with Marvin on other projects, including the Hope Foundation, which he chairs. This group supports needy citizens in Africa and around the world.

For me, Marvin is more than just a partner in public service. I am proud that he is my friend.

Dayton is fortunate that Marvin plans to stay in the area and continue his civic involvement. His creativity, vision, and energy can always be used here.

TRIBUTE TO THE REV. DAVID KALKE

HON. JOE BACA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. BACA. Mr. Speaker, I rise to salute a constituent of mine, the Reverend David Kalke, recipient of a 2001 Robert Wood Johnson Community Health Leadership Award, for his work in creating a “safe zone” for our youth. The award is the nation’s highest honor for community health leadership and includes a $100,000 program grant.

The Reverend Kalke has done remarkable work with teen health and education programs in an area of San Bernardino, CA, known to have the state’s highest teen pregnancy and STD rates and marked incidents of violence. The original core of 12 teens has since grown to over 100 youths a year.

Because of these efforts, he is one of 10 outstanding individuals selected this year to receive a $100,000 Robert Wood Johnson Community Health Leadership Program award.

You know, Mr. Speaker, it is important that we give the children hope. That we give them a chance. A helping hand up. A chance to have a mentor, to have someone believe in them. Because through that confidence in them comes confidence in themselves. The Reverend Kalke has done that. I think we must all remember the role models in our lives, and remember those who inspired us to see the possibilities. So we can all understand what it is for a child to have the sort of opportunities, the sort of chance that the Reverend Kalke has given them.

The Reverend Kalke has a long history of public service and involvement with serving our youth. His deeply held beliefs that the church should be actively involved in the community began with a mission to Chile during the 1970s. He eventually returned to New York City where he led a Lutheran church congregation and initiated a broad array of community programs in the South Bronx.

In 1996, he was asked by the Lutheran church to revive a struggling church in a poverty-stricken section of San Bernardino, CA, known to have the State’s highest teen pregnancy and sexually transmitted disease rates, as well as one of the highest incidences of gang-related violence.

From the beginning, his vision faced obvious risks. His church, the Central City Lutheran Mission (CCLM), was abandoned with no established community ties and a regular risk of violence from area youth gangs. To gain the neighborhood’s trust, Kalke hired local teens to help clean up the site, offering to pay small salaries while they undertook peer HIV/AIDS health educator training. The original core of 12 teens has since grown to over 100 youths a year, working, learning and volunteering in what has become a gang-free, safe space in the midst of a devastated neighborhood.

Admirers have observed: “Not since Escalante worked his magic in teaching calculi to poor minority kids in East Los Angeles has anyone witnessed the dedication, caring, knowledge and skills of David Kalke in assisting ‘throw away’ kids in a ‘throw away’ neighborhood to learn ways to improve their own and the neighborhood’s existence.”

CCLM’s programs now include: an adolescent health program which employs peer educators to teach HIV, STD and teen pregnancy prevention; an after school program for 50 children between the ages of 5–12 to help with homework and nutrition; and, a teen day-school for suspended, expelled or home-study students. CCLM’s cultural programs include art, writing and photography. Teens publish a newsletter of poems, drawings and photographs on the realities of inner city life.

The Reverend Kalke has also raised federal and city funding to rehabilitate abandoned homes and turn them into transitional housing for homeless HIV+ persons.

In order to create these programs he has effectively pulled together numerous partners including other churches, California State University at San Bernardino (Cal State) and the city council. Cal State’s Social Work, Public Health and Communications Departments regularly send interns and nursing students to conduct 9-month internships at CCLM.

The CCLM programs have transformed hundreds of individual lives, giving food, shelter, education, safety and hope where there was none.

And so we honor the Reverend Kalke, and we salute him, for his achievement and his commitment to our youth.

TRIBUTE TO HUGO NEU

HON. FRANK PALLONE, JR.
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. PALLONE. Mr. Speaker, I would like to ask my colleagues to join me in congratulating Hugo Neu Schitzer East, one of the largest scrap metal recyclers in New Jersey, for their proactive efforts to improve industrial recycling.

The Hugo Neu Schitzer East Company has been operating in Port Liberté, New Jersey for the last 40 years. They have invested several million dollars in research and development, attempting to find new and better ways to
mine and recycle waste metal. They have done so with the goal of reducing the amount of scrap metal that needs to be disposed of in landfills. Hugo Neu is working to dispose of these waste materials in a more environmentally conscious manner, as well as find ways to recycle and reuse a larger portion of scrap material.

I ask to submit an article from the Business News New Jersey that better outlines Hugo Neu's efforts on behalf of the environment.

[From the Business News New Jersey, Jersey City, N.J., June 5, 2001]

SCRAPING OLD WAYS AND LOOK FOR NEW ONES
(By Geeta Sundaramoorothy)

John Neu and Robert Kelman like to say jokingly that they are still trying to figure out how to squeeze the last few years of return out of their scrap metal recycling business for 40 years. As part owner and general manager, respectively, of Hugo Neu Schnitzer East, one of the biggest metal recyclers in the region, they may only be half joking.

Jersey City-based Hugo Neu buys scrap metal from auto dealers and construction companies, then shreds, processes and ships it to customers for use as raw material in making steel. With international prices of scrap funding to historic lows and costs increasing, it is imperative that we do not see this important source of funding dwindle. Hugo Neu is spending $20 million to dredge the results of that research in the next two years. "There is only so much we can do to minimize the impact," he says, adding the company has even built a container wall to keep the operations out of the sight of residents. The question is whose impact will be greater for the economy, ours or the residential units, he asks.

Jersey City has, in a way, answered that question by choosing to keep that part of the waterfront reserved for industrial use. Anne Marie Uebbing, director of the city's department of housing, economic development and environment, says Hugo Neu's dredging project, recognizing the importance of Claremont as an international port, especially when Hugo Neu starts bringing in more ships carrying scrap metal cargoes such as rods, rails and containers, is close to emerging out of Chapter 11 bankruptcy, also plans to boost its existing business and handle bulk and break bulk cargo at its Port Newark facility. Last month, the company won a battle against the International Longshoremen's Association to use its own labor for loading and unloading some break bulk cargo.

John Neu's father, Hugo Neu, who is considered a pioneer in the scrap recycling industry, started the family business in the early 1970s. It split in 1994, after Hugo Neu's death, with John Neu getting the scrap metal operations and half the real estate business. John Neu, now CEO of Manhattan-based Hugo Neu Corporation, formed Hugo Neu Schnitzer East in 1998—as a 50% joint venture with the world's largest exporter of processed scrap. The company has annual revenues of about $170 million, 225 employees, and handles 1.3 million tons of scrap annually in the New York metro region. It says it is the region's largest exporter of processed scrap.

According to Kelman, in the last 18 months scrap prices have dropped from about $130 per gross ton to less than $80, a 38% falloff. International demand for scrap has also fallen, and the price for scrap metal has begun to mirror the international trend. As Hugo Neu's share of those declines, the disposal of waste metal causing comparisons which have the support of state, local, business, and environmental leaders would suffer such a serious setback due to faulty information.

Hugo Neu has also invested several million dollars in research and development to find new ways to "mine" the waste metal it produces. About 25% of every automobile that is recycled also contains plastic. Kelman hopes to announce the results of that research in the next few months. In addition, the company is converting waste from the auto shredding process into landfill cover that reduces its tipping fee—money charged by landfill companies for dumping waste. Kelman hopes in the next few years the company will be able to reduce its waste by 50%, with the ultimate goal of producing zero waste.

EXTENSIONS OF REMARKS

June 26, 2001

CORRIDORONE FUNDING

HON. GEORGE W. GEKAS
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 2001

Mr. GEKAS. Mr. Speaker, I am joined in my remarks by my fellow colleagues from Pennsylvania, Representative Pitts and Representative Platt. We would like to take this opportunity to note that language was included in the FY '02 Transportation Appropriations bill that reallocated unexpended funds from previous appropriations acts for various projects around the country. Much to our surprise, and disappointment, a project which is critical to the central Pennsylvania region—the CORRIDORone project—was on the list to be rescinded.

The report language from the Committee states "these sums are not needed due to changing local circumstances or are in excess of project needs." Upon further inquiry, I was informed by the Subcommittee that these funds for the CORRIDORone project were being reallocated because it was presumed the funds would not be obligated by the September 30, 2001 deadline. However, this is not the case. Capital Area Transit (CAT), the local agency responsible for the project, is proceeding through the Federal Transit Administration (FTA) approval process and is expected to obligate the funds within a few short weeks, well before the September 30 deadline. I am at a loss as to why it was thought that these funds would not be obligated. How this misinformation came to be I do not know, but it saddens me that such a vital project for the central Pennsylvania region, and one which has the support of state, local, business, and environmental leaders would suffer such a serious setback due to faulty information.

Representatives Gekas, Pitts, and Platt have written to Chairman Rogers requesting that the project be removed from the reallocation list or at the very least be granted an extension of one year in order to utilize funds already appropriated and desperately needed. We have also written to the FTA requesting an explanation of their decision to recommend that CORRIDORone's FY '99 funds be reallocated.

Mr. Speaker, if FY '99 funds were reallocated, CAT would lose half of all federal funds appropriated for CORRIDORone to date. Coupled with the fact that no additional funds were appropriated for the project this year, reallocation of half its federal funds would almost certainly prevent CAT from completing the CORRIDORone project. If central Pennsylvania is to successfully move into the 21st century, such an investment in Pennsylvania's future can not be abandoned at this crucial time.
**June 26, 2001**

**TRIBUTE TO COLONEL JOHN COLEMAN**

**HON. TONY P. HALL**

**OF OHIO**

**IN THE HOUSE OF REPRESENTATIVES**

Tuesday, June 26, 2001

Mr. HALL of Ohio. Mr. Speaker, it is my honor to note the long-term record of selfless service by one of Ohio’s own, and a member of the “greatest generation,” Colonel John Coleman, United States Army, Retired. This year marks the 50th anniversary of Colonel Coleman’s election as National President of the Reserve Officers Association and the 73rd anniversary of his acceptance of the oath of office as a commissioned military officer.

Mr. Speaker, few American’s can claim such a rich legacy of service to country and countrymen. We all know the excellent work that is done every day by the staff of the Reserve Officers Association and their numerous volunteer members. But few of us know the significant achievements of Colonel John Coleman in his role as national president of the Reserve Officers Association.

During 1951, Colonel Coleman worked closely with the Marine Corps Reserve Association to gain passage of the Armed Forces Reserve Act of 1952 which became Public Law 476. That act provided the framework for a fully integrated and fully capable reserve force working as partner with the regulars in meeting the nation’s defense needs. As a result of the legislation passed, the reserve force became a critical resource for all military engagements that followed.

Colonel Coleman’s record of military service began with his commissioning as a second lieutenant of the Field Artillery in 1928. His record is marked by selfless service in numerous staff and command positions including service in combat during World War II. Among his many awards and recognition is his membership in the Honorable Order of Saint Barbara for his contributions to the Army Field Artillery.

Mr. Speaker, Colonel Coleman fully represents the spirit of the Reserve Officers Association and its model, the Minuteman. Just across the street from the East front of the Capitol building stands the Association’s headquarters, the Minuteman Memorial Building: an apt symbol of the Minuteman. A most appropriate location for today’s event.

**EXTENSIONS OF REMARKS**

TO RECOGNIZE THE TEACH OUR CHILDREN FOUNDATION AND THE THIRD ANNUAL BART OATES/RICK CERONE CELEBRITY GOLF OPEN

**HON. ROBERT MENENDEZ**

**OF NEW JERSEY**

**IN THE HOUSE OF REPRESENTATIVES**

Tuesday, June 26, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Bart Oates and Rick Cerone, the cofounders of the Teach Our Children Foundation in Newark, New Jersey. On Monday, June 25, 2001, Mr. Oates and Mr. Cerone hosted their Third Annual Oates/Cerone Celebrity Golf Open at the Mountain Ridge Country Club in West Caldwell, New Jersey. This charity event raised funds for the Teach Our Children Foundation, benefiting underprivileged children living in Newark.

The Teach Our Children Foundation, a nonprofit organization founded by Bart Oates and Rick Cerone, provides educational and developmental opportunities for children living in Newark. The foundation aims to address problems children face in urban America today, including the presence of drugs, the breakdown of the familial structure, and the difficulties urban schools face in handling these and other issues.

Bart Oates and Rick Cerone are very well known throughout New Jersey for their successful careers in professional football and baseball. Bart Oates, who is a former New York Giant, graduated from Seton Hall’s School of Law, and currently is Vice President for Marketing and Client Service at the Gale & Wentworth Real Estate Company. Rick Cerone is a former New York Yankee, an alumnus of Seton Hall University, and founder and president of the Newark Bears Minor League baseball team.

Today, I ask my colleagues to join me in honoring Bart Oates and Rick Cerone, along with the Teach Our Children Foundation of Newark, New Jersey, for providing children with a brighter future and real educational opportunities.

**CALLING ON CHINA TO RELEASE LI SHAOMIN AND ALL OTHER AMERICAN SCHOLARS OF CHINESE ANCESTRY BEING HELD IN DETENTION**

**SPREECH OF**

**HON. JOSEPH CROWLEY**

**OF NEW YORK**

**IN THE HOUSE OF REPRESENTATIVES**

Monday, June 25, 2001

Mr. CROWLEY. Mr. Speaker, I want to thank Mr. Smith of New Jersey for authoring this crucial and timely resolution.

It troubles me to report that one of my constituents is among the many Chinese-Americans being held without cause by the government of the People’s Republic of China.

As an author and scholar, Mr. Wu would often travel to the land of his ancestry for business and research. However, on April 8th, Wu Jiaming (Woo John-Ming) of Elmhurst, New York was detained by security forces while traveling in the People’s Republic of China. He was taken to an isolated house outside the city of Guangzhou for questioning.

Chinese authorities detained Mr. Wu for nearly a week before finally notifying the American consulate of the arrest in violation of standard protocol. Though the Consul General was finally granted access to the physical and emotional well being of Mr. Wu, the circumstances surrounding his captivity are simply unacceptable. He has now been held for nearly three months without being formally charged with any crime.

Chinese diplomats here in Washington argue that Mr. Wu’s case is a matter of national security, and provided no further details. Mr. Wu is a husband, a scholar, and a U.S. citizen. He is not a subversive element.

For the sake of Sino-American relations, it is essential that he be immediately and unconditionally released.

It troubles me to report that Mr. Wu’s story is not an isolated incident. The recent detention of Chinese-American scholars has strained our relationship with Beijing.

As members of the international community and partners of the United States, it is imperative that they be held to the same standards as all other nations.

Therefore, I proudly join Mr. SMITH in supporting the release of these men without further delay, and I urge my colleagues to join us in that endeavor.

**HERSHEY INTERMODAL CENTER FUNDING**

**HON. GEORGE W. GEKAS**

**OF PENNSYLVANIA**

**IN THE HOUSE OF REPRESENTATIVES**

Tuesday, June 26, 2001

Mr. GEKAS. Mr. Speaker, I would like to express my disappointment that funding for the Hershey Intermodal Center was not included in the FY 2002 Transportation Appropriations bill. Hershey, PA, is in need of a modernized, central business district with a vibrant center of activity to meet the transportation and commercial realities of the 21st Century. To address this need, local government officials have been working with private concerns in a public-private partnership to renovate downtown Hershey. At the heart of the downtown improvement plan is the construction of an intermodal transportation center. This facility will provide parking in a central location. It will provide for the overall downtown development and is situated to provide a stop for the commuter rail service that is envisioned in the CORRIDORone long-term plan. I strongly support this regional economic development project and believe that funding for this important project should have been included in the Transportation Appropriations bill.

Although $2.5 million was not added to this year’s House version of the Transportation Appropriations bill, I plan to continue my efforts to seek funds which are seriously needed to revitalize downtown Pennsylvania. I hope the Senate will correct this oversight, and recognize the needs of the hard working people of our commonwealth.
EXTENSIONS OF REMARKS

HON. JAMES E. CLYBURN
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Paul Beazley, a former colleague, and fellow South Carolinian, Paul W. Beazley. On July 16th, Paul will retire from South Carolina State government. It is a retirement well deserved and he will be sorely missed.

Before coming to this August body, I served as Human Affairs Commissioner for the State of South Carolina. I was fortunate to have Paul among my support staff. Paul joined the State Human Affairs Commission in January of 1973. Upon my arrival in October 1974, I named him Director of the Technical Services Division where he served for five years before being named Deputy Commissioner.

During my nearly 18-year tenure at the Commission, Paul was an invaluable colleague, and became an expert on the issues of equal opportunity and diversity, particularly in the workplace. He accentuated his vast experience in this area with several published works including: Think Affirmative; The Blueprint, which became the leading affirmative action planning manual in the 1970’s and 1980’s. He recently wrote, The South Carolina Human Affairs Commission: A History, 1972–1977; and Who Give a Hoot at the EEOC?, a public policy case study. He played a key role organizing the State’s first Human Affairs Forums, two of which were nationally televised.

An active member in his community both professionally and personally, Paul currently serves on the Board of Directors of the Midlands Marine Institute, and is president of the Alumni Association of South Carolina State Government’s Executive Institute. Paul is also chairman of the State Appeals Board of the United Service Organizations.

In addition, Paul is a member of various professional associations, and works as a volunteer for many non-profit organizations. He is also a member of the Eau Claire Rotary Club of Columbia, and has served as President and Secretary of the National Institute for Employment Equity, and as Chairman of the Greater Columbia Community Relations Council. He has also served on the Board of Directors of the Family Services Center of Columbia, the Board of Visitors of Columbia College, the Board of Directors of Leadership South Carolina, and numerous task forces at the State and local level.

Prior to joining the Commission in 1973, Paul was a Presbyterian Minister. He served as a Pastor, a Conference Center Director, and an Educational Consultant. He has also worked as a Consultant for the University of South Carolina General Assistance Center, teaching in the field of test taking and problem-solving. He designed an experimental reading program for the Columbia Urban League.

Paul received his Bachelor of Arts degree from East Tennessee State University, his Master of Divinity from Union Theological Seminary in Virginia, and a Masters of Education from the University of South Carolina, where he also completed Doctoral studies. Paul is also a graduate of the South Carolina Executive Institute (1992), and Leadership South Carolina (1994).

Paul, a longtime resident of my downtown hometown, Columbia, South Carolina, is married to the former Marcia Rushworth. They have one son, Paul Derrick Beazley, who lives in Charleston. Paul is a competitive tennis player, and we share yet another common interest and pastime, golf.

Mr. Speaker, I ask you to join me in saluting one of our nation’s authorities on diversity, one of my State’s most highly respected professionals, one of my communities finest citizens, and one of my good friends, Paul W. Beazley, upon his retirement from South Carolina State government. Please join me in wishing him good luck and Godspeed.

HON. ANTHONY D. WEINER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Mr. WEINER. Mr. Speaker, I was unavoidably detained in my district on Monday, June 25, 2001 and the morning of Tuesday, June 26, 2001, and I would like the record to indicate how I would have voted had I been present.

For rollcall vote No. 186, the resolution calling on the Government of China to Release Li Shaomin and all other American scholars being held in detention, I would have voted "aye."

For rollcall vote No. 187, the resolution expressing the sense of the House that Lebanon, Syria and Iran should call upon Hezbollah to allow the Red Cross to visit four abducted Israelis held by Hezbollah forces in Israel, I would have voted "aye."

For rollcall vote No. 188, the resolution honoring the 19 U.S. servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996, I would have voted "aye."

For rollcall vote No. 189, on approving the Journal, I would have voted "aye."
banding together to stop the government’s sinister plan. The plan to create more bloodshed is backfiring on the Indian government.

Such a plan is a tyrannical, unacceptable abuse of power. As the superpower in the world and the leader of the forces of freedom, we must take a stand against this tyrannical, terrorist activity. First, President Bush should reconsider the idea of lifting the sanctions against India. Those sanctions should remain in place until the Indian government learns to respect basic human rights. Until then, the United States should provide no aid to India. And to ensure the survival and success of freedom in South Asia, we should go on record strongly supporting self-determination for all the peoples and nations of South Asia in the form of a free and fair, internationally-recognized self-governing state. In the nations seeking their freedom. This is the best way to let freedom reign in all of South Asia, we should go on record strongly supporting self-determination for all the peoples and nations of South Asia in the form of a free and fair, internationally-recognized self-governing state.

And to ensure the survival and success of freedom in South Asia, we should go on record strongly supporting self-determination for all the peoples and nations of South Asia in the form of a free and fair, internationally-recognized self-governing state.

Mr. Speaker, I would like to take a moment to recognize a woman that has made numerous contributions to the State of Colorado and the United States. Jane Norton has served the State in various capacities over the years, and is currently being recognized by her alma mater Colorado State University for her varied accomplishments. As her friends, family and classmates gather to honor Jane Norton, I too would like to pay tribute to her. Clearly her hard work is worthy of the pride of Congress.

Jane Norton received her Bachelor of Science in Health Sciences from Colorado State University in 1976. She went on to earn her Masters in Management from Regis University. After graduation Jane held many positions in the government. Most notably Jane was the regional director of the U.S. Department of Health and Human Services, under the administrations of President Ronald Reagan and President George Bush. While serving as the regional director, Jane received the U.S. Public Health Service Assistant Secretary’s Award for Outstanding Accomplishment for increasing immunization rates. This is only one of many awards Jane received during her tenure as the regional director of the U.S. Department of Health and Human Services.

Currently Jane runs a number of broad-based health and environmental protection programs ranging from disease prevention, family and community health services and emergency medical services and prevention. Jane is also Secretary of the State Board of Health, a Commissioned Officer for the Food and Drug Administration, and serves on the Board of Directors for the Regional Air Quality Council and Natural Resource Damages Trustee. Throughout a distinguished career, Jane has been loved and is known to her friends and colleagues as a team player. Jane is not only a bright and intelligent woman, but also a woman with incredible people skills.

As Jane receives distinction among her former classmates, Mr. Speaker, I would like to take this opportunity to thank her for her service to the United States of America. She has worked hard for this country, and her hard work is deserving of the recognition of Congress.

Cesar Chavez Day of Service and Learning, funded through the Governor’s Office on Service and Volunteerism (GO SERV).

Cesar E. Chavez, a civil rights leader and community servant, committed his life to empowering people. He championed the cause of thousands of farm workers in order to improve their lives and communities and to work for social justice. Chavez believed that service to others was a way of life, not merely an occupation of an occasional act of charity. He forged a legacy of service, conviction and principled leadership. Californians celebrate and learn about the life and works of Chavez annually through civic engagement.

On March 30, 2001, the Governor’s Office on Service and Volunteerism commemorated the first annual Cesar Chavez Day of Service and Learning by involving K-12 students in service and teaching children about the life and work of Cesar E. Chavez. Individuals, business and community members, teachers and school children came together to perform meaningful service projects to honor the principles by which Chavez conducted his life. GO SERV awarded grants to 71 projects which performed community activities, such as community garden projects, mural painting, theater/teatro performances, environmental restoration projects, community beautification activities, and agricultural/farmer projects.

As a result of these partnerships, over 300,000 students engaged in service activities to honor Cesar E. Chavez.

One striking example was a program in Orange County. At the Orange County Cesar Chavez Day initiative, over 500 4th grade students participated in cleaning fields and harvesting crops. All of the food gathered was donated to the Second Harvest Food Bank which distributed the food locally. Over 25,000 pounds of cabbage, radishes, carrots, onions, romaine, iceberg and butter lettuce was gathered, and performed community activities, such as community garden projects, mural painting, theater/teatro performances, environmental restoration projects, community beautification activities, and agricultural/farmer projects.

As a result of these partnerships, over 300,000 students engaged in service activities to honor Cesar E. Chavez.

Another program called Barrios Unidos, a nonprofit organization dedicated to violence prevention, developed Cesar Chavez service clubs to commemorate Cesar Chavez Day. Barrios Unidos commemorated the day in seven sites statewide including Santa Cruz, San Mateo, Salinas, Fresno, Santa Monica, Venice, and San Diego. Through these Cesar Chavez clubs, youth participated in community beautification projects while learning about the life and values of Chavez. In Santa Monica for example, people joined to celebrate the day by cleaning up Virginia Avenue Park and painting a 20-foot long mural depicting city life.

GO SERV worked in conjunction with Senator Richard Polanco’s office, the Cesar E. Chavez Foundation, the Chavez family, and the Department of Education to promote the first annual Cesar Chavez Day of Service and Learning. We are proud of the undertakings of the first annual Cesar Chavez Day of Service and Learning and look forward to continuing to see the impact GO SERV will have in our
SPEECH OF
HON. SILVESTRE REYES
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Monday, June 25, 2001

Mr. REYES. Mr. Speaker, I am here to convey my strong support for the "Healthy Solutions for America's Hardworking Families" package developed to provide critical health, nutrition, and protection benefits to legal permanent resident children and women. This package includes three pieces of legislation that take steps to address some of the most blatant gaps in our nation's effort to help those legally here in our country in times of greatest need.

As Chair of the Congressional Hispanic Caucus and as a Member whose district includes a large Hispanic community, one of my top priorities is to advocate for the fair treatment of hard-working, tax-paying families. The Immigrant Children's Health Protection Improvement Act, H.R. 1143, gives States the option of providing basic health care coverage to legal permanent resident children and pregnant women who arrived in the U.S. after August 22, 1996. As a result of the 1996 reforms, lawfully present children and pregnant women who arrived in the U.S. after 1996 must wait five years before they can apply for basic health care.

Because many of these recent immigrants are concentrated in low-paying, low-benefit jobs, these hard-working, tax-paying families, like so many others in our country, simply cannot afford private health care coverage. Thus, this vulnerable population cannot obtain proper health treatment such as preventative and prenatal care. Many are forced to delay care and rely on emergency room services to receive treatment. I believe this is an unacceptable risk for any American, as well as for current legal immigrants and their future American children.

The Congressional Budget Office estimated last year that this legislation would provide coverage to insure 130,000 children and 50,000 mothers per year who have followed the rules and are in this country legally. In light of the fact that the Hispanic population is the most uninsured in our country, with over 33 percent having no coverage, this legislation is a critical step in meeting this need.

A second component of this package is the Nutrition Assistance for Working Families and Seniors Act, H.R. 2142, which would permit qualified legal immigrants to obtain food stamps regardless of their date of entry. The majority of those impacted would be in low-income families with children and elderly. I have seen first hand, in my district, the detrimental affects of hunger and under-nutrition. Hungry children are more likely to suffer from adverse health effects and studies show that hunger has a negative impact on a child's ability to learn. Furthermore, pregnant women who are undernourished are more likely to have children with low birth weights, likely leading to developmental delays.

This important bipartisan legislation is widely supported and endorsed by many, including the National Conference of State Legislatures, National Association of Counties, U.S. Conference of Mayors, and the National Governor's Association. Restoring this component of our nation's safety net system is not only critical step toward ending hunger in our country, it is just simply the right thing to do.

Finally, the third bill in the Healthy Solutions package is the Immigrant's Safe Harbor Act, H.R. 2258, which would allow legal immigrants who are victims of domestic violence to apply for critically needed safety services. These victims are frequently economically dependent on their abusers and isolated from the support network. Therefore, we must do everything we can to support victims of abuse and get them on a path toward a better life.

Mr. Speaker, restoring Medicaid and SCHIP, nutrition, and protection services to this group is simply good public policy, but more importantly, the provisions in the "Healthy Solutions for America's Hardworking Families" packages can mean the difference between life and death. We cannot let these children and mothers down. I urge my colleagues to support this important package.

SPEECH OF
HON. SOLOMON P. ORTIZ
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Monday, June 25, 2001

Mr. ORTIZ. Mr. Speaker, I commend my colleague from Texas for organizing this Special Order to bring the attention of the House of Representatives to the state of health care—or lack thereof—for our American neighbors along the border.

I represent a South Texas district that abuts the international border with Mexico. This part of the country is unique in so many ways, including the health needs and rampant poverty. Currently, the greatest health need in my district is the need for a comprehensive response to the rampant spread of tuberculosis in South Texas and elsewhere along the Southwest Border.

Just today, the Centers for Disease Control announced that the rate of tuberculosis cases in Brownsville, Texas, is nearly five times the national rate. At least one doctor in the South Texas area has told me that there is a particularly frightening multiple-drug resistant form of tuberculosis that antibiotics just won't kill. I am told that this is spreading fast and is a nightmare for public health officials. It's an enormous problem. Cross-border dwellers, according to the medial community, are not good about following up on medical care and often do not finish drug therapies such as antibiotics. If you only take a little bit of antibiotics, it only takes care of a little bit of the problem and leaves the tuberculosis strong enough to come back another day.

I supported a resolution in the House that recognizes the importance of substantially increasing United States investment in international tuberculosis control in the Fiscal year 2002 foreign aid budget, which is what it will take to deal with the problem. This resolution also recognizes the importance of supporting and expanding domestic efforts to eliminate tuberculosis in the United States and calls on local, national and world leaders, including the President, to commit to putting an end to the worldwide tuberculosis epidemic.

But as we all know, resolutions have no affect of law; they are merely words on paper on which all of us can agree. But the most fundamental job of Congress is to determine spending priorities, and we will not move forward on finding solutions to this problem without the full attention of Congress and other public policymakers.

Our migration patterns, be they associated with economic circumstances, immigration between countries or just travel between countries, have made this challenge more significant. Today it is only tuberculosis, but that may not be the case tomorrow. This portends a real crisis for health care along the border if other simple or chronic diseases become resistant to medicine we have used so far to eradicate them.

Another unique problem for the border and South Texas is the issue of safe water to drink. Often the people who are low-income and who live in the colonias, the unincorporated neighborhoods that have sprung up around municipalities, have no running water to drink. Generally, they will drink unsafe, unhealthy water and they get sick from it. Are the people left with no kind of health insurance and are usually not even aware of programs like Medicaid that provide the most basic help for them.

Mr. Speaker, I would like to pay special tribute to two great women who have gone to great lengths to ensure that the patients who need medications for tuberculosis get them: Dr. Elena Marin of SU Clinica Familiar and Paula Gomez, the Executive Director of the Brownsville Community Health Center. They have been an excellent source of information to me and other Members of Congress who share an interest in matters relating to health care and I am enormously grateful to them for their service to South Texas and the nation.

I join my colleague Ciro Rodriguez in support of the "Healthy Solutions for America's Hardworking Families" agenda. No agenda can fix everything, but it takes steps to address some of the most egregious gaps in our nation's effort to help new immigrants and those who have lived here for a while along the U.S.-Mexico border.

I thank my colleague from Texas, the Chairman of the Congressional Hispanic Caucus Task Force on Health, for his diligence in bringing these matters before the House of Representatives.
June 26, 2001

HONORING THE MEMORY OF MR. KENNETH KRAKAUER

HON. KAREN MCCARTHY OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 26, 2001

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to honor Kenneth Krakauer, whose death on June 16 is an incalculable loss to his loving family, cherished friends, and to our community. Ken touched the lives of many people through his inexhaustible energy and caring that he brought to every aspect of his life. He was a lifelong Kansas City resident and the great grandson of Bernhard Ganz, one of the first Jewish sellers in Kansas City.

Throughout his life, Ken Krakauer remained extremely dedicated to his faith, country, and community. He served in the U.S. Army Air Corps where he flew 27 missions in the European Theatre and was awarded the Air Medal with Five Oak Leaf Clusters for his bravery. He played a significant role in helping to devote many organizations in our community, including: Director of the Menorah Medical Center for 42 years, Secretary of the Kansas City Crime Commission, Chairman and Co-founder of the Kansas City Chapter of the American Jewish Community, Co-chairman of the Kansas City Chapter of the National Conference of Christians and Jews, and a Director of the Barstow School, Visiting Nurses Association, Blue Cross and Blue Shield, UMCK University Associates, Jewish Family Services, and the Jewish Community Relations Bureau to name a few. Ken Krakauer also was an important part of the Kansas City business community. After his Presidency of the Greater Kansas City Chamber of Commerce, The Kansas City Star praised him as “an unqualified success.” His grandfather, Bernhard Adler, founded Adler’s in 1894, and Ken became owner and President in 1956. Adler’s was the place women of all ages shopped to find the latest in fashion. It was always a special occasion for me because of the high standard of service and quality in his stores. His staff reflected his love of helping people find the uniqueness in themselves.

Ken Krakauer was instrumental in the founding of the Committee for County Progress (CCP) with community and civic leaders Bernie Hofman, Jim Nutter, Sr., Charles Curry, Alex Petrovic, Sr., and Frank Sebree. The government reform movement in Jackson County resulted from their efforts. A charter form of government—modern, open and accessible—was created which was responsive to its citizens and inspired future generations of county leaders. I became active in the CCP, volunteering in local elections to keep the reform alive that Ken Krakauer achieved in the mid ’60s as Chairman of the CCP. Through my friendship in high school with his daughter-in-law, Jane Rieger Krakauer, I was able to get to know Ken Krakauer very well and to assist me in sorting through the challenges I faced. Ken Krakauer’s dedication to his community was matched only by his love for golf. He was a talented golfer at the University of Missouri where he was a captain of the golf team before graduating in 1938 from the School of Journalism. His passion for golf remained undiminished throughout his life as he served in leadership capacities in the Kansas City Golf Foundation, the Kansas City Golf Association, the Missouri Golf Association, the Junior Golf Foundation of Greater Kansas City, and the Missouri Seniors Golf Association.

Ken Krakauer also authored numerous golf articles in “Golf Digest” and “Golf Journal,” as well as the book, “When Golf Came to Kansas City,” the 1986 winner of the National Golf Foundation’s Eckhoff Award. He was instrumental in starting the Evans Scholars program, a scholarship program that aids caddies through their participation as a member of the Western Golf Association’s Evans Scholars program.

Mr. Speaker, former U.S. Senator, Thomas F. Eagleton enjoyed Ken’s friendship throughout his outstanding service to the people of Missouri. I wish to share his reflections with my colleagues:

Ken Krakauer was a magnificent, steadfast friend. When I was young and in my first statewide race for Attorney General of Missouri, he supported me for what I had done, but for what I hoped I might do. Later when I was in the United States Senate, he would occasionally drop a note saying he disagreed with a certain vote I had cast. Ken Krakauer believed that an important part of friendship was candor. I have enormous affection for Ken and his wife, Jane, and for Randee and Rex. All of us will dearly miss this wonderful, intelligent man, Ken Krakauer.

Ken Krakauer loved his family and friends with a passion even collateral-sharenishment. Mr. Speaker, please join me in expressing our deepest sympathy to his devoted wife of 55 years, Jane Rieger Krakauer, his daughter and son-in-law, Randee Krakauer Kelley and Michael J. Kelley, and his beloved grandchildren, who deeply miss this wonderful, intelligent man, Ken Krakauer.

Our little girls stopped at their back door for one on one, giving her his full and loving attention, and a great time was had by all. What an anchor in our lives our Uncle Ken was. What an anchor he was. Most days, when Jim was out of town, my daughter and I would knock on the back door asking for cookies and a chat. Uncle Ken would, so sweetly, hand us a wonderful role model for our young boy. A pat on the back, a bear hug, always a “How’s it going Jake?” And then, he would listen. Most days, when Jim was out of town, my newspapers would be at my back door when I came down to the kitchen. How many many mornings did I see the top of his head across the kitchen window and hear the slight thump of Uncle Ken in his bathrobe, delivering the news to the kitchen door? How many many times did I call him when the power went out, the alarms went off, a strange sound was heard? He would show up at my back door to see if we were OK, one time at 1:00 in the morning dressed in his trench coat over his pajamas with a butcher knife in his sleeve, ready to protect the children and me from an intruder.

Two weeks ago, Jim was babysitting our two-year-old granddaughter, Morgan Grace, on a Saturday afternoon. They too, knocked on the Krakauers’ back door. Aunt Jane was not home but Uncle Ken was, and of course through the kitchen table for a big chocolate brownie and milk. Papa Lynch, he brought them to the kitchen table for a big chocolate brownie and milk. Our little girls stopped at their back door to ask for cookies and a chat. Uncle Ken was there for us, taking the place of the family we lacked.

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love him deeply and completely. He will always be a part of our lives. How we will miss his wave across the driveway. The last thing he ever did when entering his house was always to glance at our kitchen window before the garage door would come down. Always checking on us in his loving way. How I will miss those taillights pulling into the garage, the sound of the car door slamming, and that sweet smile and wave across the drive.
The Senate met at 9:30 a.m. and was called to order by the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

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

Gracious Father, You give us inner eyes to see You and Your truth. Today we celebrate the birthday of Helen Keller, born on this day in 1880. Thank You for her courageous life. With Your help she overcame tremendous obstacles of being born blind and deaf. We are grateful for people like Anne Sullivan who taught her to read braille so that later she could attend Radcliffe College and eventually become a prolific author.

Our spirits are lifted today as we ponder Helen Keller’s words, “I thank God for my handicaps, for, through them, I have found myself, my work, my God.” We intentionally adopt for our lives four things Helen Keller urged us to learn in life: “To think clearly without hurry or confusion; To love everyone sincerely; To act in everything with the highest motives; To trust God unhesitatingly.” And for our work, Keller’s words ring true: “Alone we can do so little; together we can do so much.” Thank You, Father, for the memory of this great woman. Help us today to use all that we have to do as much good as we can in as many circumstances and to as many people as we can. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE
The Honorable HILLARY RODHAM CLINTON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE
The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

Mrs. CLINTON thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME
The ACTING PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER
The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

BIPARTISAN PATIENT PROTECTION ACT
The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1052, which the clerk will report. The legislative clerk read as follows:

A bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

Pending:
Kyl amendment No. 818, to clarify that independent medical reviewers may not require coverage for excluded benefits and to clarify provisions relating to the independent determinations of the reviewer.

Allard amendment No. 817, to exempt small employers from certain causes of action.

Mr. REID. On behalf of Senator DASCHLE, the Senate is advised that the Senate will resume consideration of the Patients’ Bill of Rights that has been called by the Chair. There is going to be an hour of debate on the Allard amendment and thereafter on the Kyl amendment. There will be votes on those two matters this morning. Madam President, I have been advised by the managers of this bill that there has been progress made during the night. If things go as expected, we should be able to meet the deadline that has been set by the leadership; that is, we are going to finish this bill by the Fourth of July break and we can also do the supplemental bill and organizing resolution.

Mr. ALLARD. Will the Senator yield?
Mr. REID. I will be happy to yield.

Mr. ALLARD. My understanding is we have an hour for the Allard amendment equally divided between both sides; is that correct?
Mr. REID. That is true.

I would just say, Madam President, the managers of this legislation, the Senator from Arizona, Mr. MCCAIN, and the Senator from North Carolina, Mr. EDWARDS, and the Senator from Massachusetts, Mr. KENNEDY, have done outstanding work. Senator Gregg and the people he has been working with have been very cooperative. I think this is a good sign for this legislation and movement of this legislation generally.

The ACTING PRESIDENT pro tempore. Who yields time?
Mr. ALLARD. Madam President, I would like to yield 2 minutes to the senior Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. McCAIN. I thank the Senator from Colorado. I will be very brief. I would just like to say to all my colleagues, on this issue I think we have made significant progress. Overnight we have the outlines of an agreement, thanks to Senators SOWEDE DEWINE, NELSON, LINCOLN, and others, on the issue of employer liability. We hope we can get the final details of that ironed out soon. I thank those four Senators and others on this issue.

On the issue of scope, I think we are close to an agreement on that major issue.

I thank all involved, including Senator FRIST and many others, for the serious negotiations that have been ongoing.

We may end up with a couple of issues that simply require votes on the floor to resolve them and the majority of the Senate will prevail. But I am very hopeful, and frankly very pleased at the progress we have made. All parties have been working with each other and working diligently. That is the only way you can resolve an issue that has this much detail and this much complexity associated with it.

Again, I echo the sentiments of the Senate from Nevada. I think we could easily complete this in the next couple of days with the kind of willingness that has been displayed so far.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. One thing I forgot to mention, Senator KENNEDY and I, late last night, spoke to Senator JUDD GREGG—well, it wasn’t late; it was in the evening. He indicated he would try today to get a list of amendments so we would have a finite list of amendments so we could work through those.
If we can do that, it will be very easy to schedule what we will be doing in the next couple of days. If that doesn’t happen, there is no question which will have to work late tonight and tomorrow night. Everyone should be advised Senator Gregg said he would try to get a finite list of amendments to us this morning.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. If I could just proceed for a moment, I just thank all our Members for their cooperation. We have made some progress. There is a lot of work to do on this. We are encouraged by the cooperation of all our Members. But having been around here a long time, we have a lot of work to do. We have to keep at this job. There are very important matters before us.

We ought to just recognize we have a lot of work to do and we will have a chance to see where we are as we take this step by step. We have important debates this morning, and we have some additional issues on employer liability— all of us believing that employers all over this country have to work late tonight and tomorrow night. If that doesn’t happen, there is no question which will have to work late tonight and tomorrow night. Everyone should be advised Senator Gregg said he would try to get a finite list of amendments to us this morning.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. EDWARDS. Madam President, I think everybody agrees that if we can resolve the case at that stage and not have to go to litigation, it is better for everybody. So the question is, what is the appropriate medical service, in this case? Here is a very simplistic example. We are not sure exactly what is wrong with the patient. We will take an x-ray to find out. But the doctor and the patient say: Look, we already had an x-ray, and the x-ray was not definitive enough. We think we need a CAT scan or an MRI.

Those are working out; I hope they are being drafted. As we all know, the key is in the details. I don’t want to have any false sense of anticipation. We have still some very important policy issues that have to be resolved. But we are making progress. We are very grateful to all the Members for their help and cooperation, and we look forward to this morning’s debate.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. EDWARDS. Madam President, I want to echo the words of my colleagues, the Senator from Arizona and the Senator from North Carolina.

There is certainly significant work to be done. Important issues need to be resolved. But we spent a good part of the day yesterday working on the issue of scope, making sure that every American is covered by this bill. I think we have, in fact, made great progress on that issue.

On the issue of medical necessity, which is one of the pending amendments—the Kyl-Nelson amendment—we expect to offer our own compromise amendment on that issue later today, something that was worked out yesterday through the process of discussions. As I think everyone knows, Senators Snowe, DeWine, and Nelson have worked very hard, along with the three of us, to work out an agreement on employer liability— all of us believing that employers all over this country need to be protected. That is not what this legislation is about. It is about giving patients rights and putting health care decisions back in the hands of doctors and patients and not in the hands of big HMOs. All of us are in agreement that in that process it is important to protect employers so they continue to provide coverage for employees all over this country.

So I echo the words of my colleagues. I do think it is true there is work left to be done. We will continue to work diligently with our colleagues. We have had colleagues on both sides of the aisle working on all these issues. We will continue to work on them as we go forward with these votes and this debate. But we are optimistic that we will be able to conclude this bill this week.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Colorado.

Mr. ALLARD. Madam President, I do not intend to take the full time right now. There may be others who wish to speak.

Mr. ALLARD has been kind enough to allow those who support the Nelson-Kyl-Nickles amendment to take some of the time right now. I would like to change the subject back to that amendment which we brought before this body last night and debated for about an hour, and then we will also have an opportunity to conclude the debate on it after the vote on the Allard amendment. But now that we have a few moments, I would like to discuss that.

For those who were not in this Chamber last night to hear the debate, let me make it clear that there were two essential problems that we saw that needed resolution. We had worked with Senator KENNEDY, Senator EDWARDS, and others—and Senator NELSON had extensive conversations—about how to resolve these issues. One of the issues has apparently been resolved by agreement, although no amendment has yet been proposed to deal with it; and that all has to do with reviewing a case by the external reviewer. In other words, the insurance company has an internal review of an issue, and then if that isn’t resolved, it goes to an external reviewer.

I think everybody agrees that if we can resolve the case at that stage and not have to go to litigation, it is better for everybody. So the question is, what exactly can be considered by that independent reviewer? The first problem that we saw was that the independent reviewer actually had the authority, under the bill, to order that benefits be provided to a patient that were excluded by the contract—legally excluded. The insured bought a certain set of benefits, and there were certain benefits excluded, but the independent reviewer would theoretically have the right to order excluded benefits to be provided for a patient.

I think everybody realized that was not what was intended, and it is at least the representation of those on the other side—and specifically Senator EDWARDS has made the point—that there is a way to fix that, and a very specific way, which we all understand. If that amendment is offered, then I think it will be a satisfactory conclusion to that particular matter.

The other matter that remains has to do with the other kind of issue that can come up. There is a benefit which is covered but the question is, what exactly is the appropriate medical service in this case? Here is a very simplistic example. We are not sure exactly what is wrong with this person. We will take an x-ray to find out. But the doctor and the patient say: Look, we already had an x-ray, and the x-ray was not definitive enough. We think we need a CAT scan or an MRI.

Those are very important matters before us.

Mr. ALLARD. How much time does the other side—and specifically Senator ALLARD—have, in fact, made great progress on these issues. We will continue to work diligently with our colleagues. We have had colleagues on both sides of the aisle working on all these issues. We will continue to work on them as we go forward with these votes and this debate. But we are optimistic that we will be able to conclude this bill this week.

I yield the floor.

The ACTING PRESIDENT pro tempore. Twenty-eight and a half minutes.

Mr. KENNEDY. If I could just propose an amendment on that issue later today, something that was worked out yesterday through the process of discussions. As I think everyone knows, Senators Snowe, DeWine, and Nelson have worked very hard, along with the three of us, to work out an agreement on employer liability—all of us believing that employers all over this country need to be protected. That is not what this legislation is about. It is about giving patients rights and putting health care decisions back in the hands of doctors and patients and not in the hands of big HMOs. All of us are in agreement that in that process it is important to protect employers so they...
The one that matters the most is the definition of the plan, but the plan has to have a real defined benefit. What would that definition be?

First of all, if a State mandates certain language, then obviously we need to use that language. So for the 13 or so States that actually mandate language, that would have to be applied. But for the rest of the States, there would be a definition, and the definition that we use is the definition that the Federal Employees Health Benefits Plan families approved by the Office of Personnel Management for fee-for-service plans.

So, Madam President, you and I, and the other Members of this body have an opportunity to acquire health insurance through the Federal Employees Health Benefits Plan just as all other Federal employees do. And there are basically two standards that they use for these contracts. One is for managed care. We consider that to be insufficiently protective of the patients. The other is for the fee-for-service. It is a more strict standard. That is the standard we use.

For 49 percent of the people who are covered by a Blue Cross-Blue Shield contract—and the language, we believe, is also used by another 23 percent. So almost three-fourths of the people are covered by very specific language. That is exactly the language we have in these contracts.

There are five specific elements of it. The one that matters the most is the second one, which is: “Consistent with standards of good medical practice in the United States.”

So the reviewer—if you are in a State that does not have a mandatory definition—would then apply this definition. You might say: “Consistent with standards of good medical practice.” That is pretty broad. That could be almost anything. It is not almost anything. What it is good medical practice. And good medical practice can be determined by experts in the field, based upon the standards of the common medical literature should be done in a particular case, and at least affords an opportunity for the independent reviewer to decide whether or not the patient needs the MRI or the CAT scan, in this case, whether good medical practice would ordinarily call for that, or whether, based on the circumstances of this case, it is just not that difficult and an x-ray ought to be good enough.

There are four other elements to it as well, but that is the key one.

There is a third opportunity here. If people do not like that definition, even though it covers three-fourths of us under a Federal plan, then we provide for a negotiated rulemaking procedure whereby all the stakeholders can get together and figure out a definition. I do not know what that would be. If they can all agree on a definition, we provide a mechanism for them to do so.

And if they do, then that supplants this other definition. One year after that is agreed to, then this other definition is gone.

So there is an opportunity to come up with something that all of the parties agree is better if, in fact, they can do that. In the meantime, this is the definition that would apply. We think that is reasonable and think that is an improvement on the legislation. Certainly something has to be done with this particular section.

Senator Kennedy last night talked to both Senator Nelson and me about some possible changes in the language. We are very open to that. I am hoping that in the remaining hour of debate on the Allard amendment—and then we will have the vote on the Allard amendment—and then we have an hour of debate on the Nelson-Kyl amendment—I am hoping in that 120 minutes or so we can come to an agreement as to what exactly this language should be. If we can, we are very willing to change the amendment and adopt whatever we can agree to. Senator Kennedy had one particular idea last night that both Senator Nelson and my staff are exploring right now.

If we can do this, then we will announce it to the body. We will explain what it is, and hopefully we will have an agreement that anyone can support. If not, then obviously we will need to proceed with this language. In any event, we have identified a problem. We have a reasonable solution to the problem. If somebody has a better idea, we are open to consider what that might be.

I urge my colleagues who are interested to come to the floor and speak to it. We not only have a few remaining minutes under Senator Allard’s time, but we have additional time when the amendment is debated after the vote on the Allard amendment.

I reserve the remainder of the time. Again, I invite anyone who is interested in speaking to this matter to come to the Chamber and address it.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. Kennedy. Madam President, how much time do we have on our side?

The ACTING PRESIDENT pro tempore. Twenty-six minutes.

Mr. Kennedy. I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.
Mr. EDWARDS. Madam President, will the Senator yield?
Mr. KENNEDY. I am glad to yield to the Senator from North Carolina.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. EDWARDS. Madam President, as the Senator is aware, we are continuously working very aggressively with Members on both sides of the aisle, led by Senators SNOWE, NELSON, and DEWINE on this issue, specifically to provide protection for employers, including small employers. As somebody who has been involved with this issue for many years, I wonder if the Senator believes we can have a real patient protection act, real Patients’ Bill of Rights, if, in fact, we exempt almost half of the employees in the country from the protection?

Mr. KENNEDY. The Senator is quite right. Of course, we cannot. That is effectively what we are doing to about 43 or 44 percent. In addition, many of those who have looked at the amendment think there will be larger companies who will break down into units of 50 or fewer in order to escape the protections of this legislation. That can go on ad infinitum. We are talking about 40, 45 employees per employer. It may be a lot more.

The problem is this approach is extreme. It is outside anything the American Medical Association, or medical groups across this country would think is a sensible solution to this issue. So I understand the concern. It is a concern we believe we have addressed in our legislation, which is to protect small employers. But we are working to go further with colleagues on both sides of the aisle, Republican and Democrat, to make sure small businesses all over the country are protected. But the solution is not to penalize almost half the families in this country and not provide them with the same rights that all other Americans would have.

I will speak briefly to the Allard amendment. Let me say first to my colleague, the sponsor of the amendment, who is in the Chamber, I have no doubt that his intentions in proposing this amendment are nothing but good and he is trying to accomplish something he believes is important. The problem is this approach is extreme. It is extreme, it is outside the mainstream of all the work, essentially, that has been done on this issue.

The McCain-Edward Kennedy bill deals specifically with protecting small employers. The competing legislation, the Frist-Breaux bill, also deals with that issue, without this kind of extreme carve-out. The Norwood-Dingell bill that passed the House of Representatives by a wide margin did not have this kind of language in it. The American Medical Association, the medical groups from all over the country would not support this kind of carve-out. The more we move towards having a real Patients’ Bill of Rights so all patients and families across this country are protected if in fact you exclude almost half the employees in this country.

The more sensible, mainstream approach, which is the one we are taking in our legislation and as we speak, is to make sure you provide the maximum protection you can, keeping the interests of the patient in mind, for these small employers. That is the reason we are continuing, as we speak, working across party lines, to craft language that we believe is appropriate to the purpose of protecting employers in general and small employers in particular, to provide protections for employers. But to exclude almost half of the employees in this country from this legislation means we have essentially left half the country out of patient protection, which I do not think anyone thinks is a sensible solution to the issue.

I hope this amendment will not be accepted. It is a carve-out. As the Senator from North Carolina has stated, there are members on both sides of the aisle who are working—Senator Snowe and others—to tighten the language included in the basic document. We have talked about and debated the language during this time, in terms of the role of the employer and to ensure that there won’t be unwarranted additional burdens on the employer. That is in the process. That is what we are dealing with as the way to go. We are going to have the opportunity to consider that later in the day.

Now we have an amendment that is going to effectively eliminate responsibility for almost half of the employees in this country. The protection for those employees is not warranted and justified with the legislation. How many employers have remain, Madam President?

The ACTING PRESIDENT pro tempore. Seventeen minutes.

Mr. KENNEDY. I yield to the Senator from North Carolina.

Mr. EDWARDS. Thank you, Madam President.

I would like to speak briefly to the Allard amendment. Let me say first to my colleague, the sponsor of the amendment, who is in the Chamber, I have no doubt that his intentions in proposing this amendment are nothing but good and he is trying to accomplish something he believes is important. The problem is this approach is extreme. It is extreme, it is outside the mainstream of all the work, essentially, that has been done on this issue.

The McCain-Edward Kennedy bill deals specifically with protecting small employers. The competing legislation, the Frist-Breaux bill, also deals with that issue, without this kind of extreme carve-out. The Norwood-Dingell bill that passed the House of Representatives by a wide margin did not have this kind of language in it. The
extreme and it penalizes almost half of the families in this country and leaves them out of patient protection. Those families will still be in the same place they are today, which is HMOs can deny them coverage and they cannot do anything about it; they are simply stuck. Women will not have the right to go to their OB/GYNs; children will not have access to specialists; there will be no emergency room protection if they need to go to the nearest emergency room; and there will be no way to challenge any decision that an HMO has. That 45 percent of American families, almost half of American families, under this amendment would be totally left out. They would continue to be in the place where the HMO held complete control over their health care.

That is where we are trying to do something about. It is not the right thing to do, to exempt almost half of America from this patient protection. Not that the concern is not legitimate, because it is, but this response is extreme. This is outside the mainstream of the work and thinking that has been done by everyone in this area.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Massachusetts.

Mr. EDWARDS. Will the Senator be good enough to yield for a question?

Mr. KENNEDY. Yes.

Mr. EDWARDS. Can the Senator conceive of a situation where the employer got hold of the HMO and said: Look, I have a worker who has been hurt. I know it is going to be a costly process to bring that worker back to good health, and I don’t want you to spend more than $25,000 on this. I want to put a limit on this. We are not going to spend more. I don’t want you to spend more.

The HMO is going to say, if I am going to keep this as a client, I am going to have to charge this client.

Let me ask you this. If the Allard amendment is accepted, and the worker was seriously injured because of the failure to give the kind of medical treatment that the doctors have recommended and suggested, would that patient be able to hold that employer accountable under the Allard amendment?

Mr. EDWARDS. In answer to the Senator’s question, not only under this amendment the employer couldn’t be held accountable, in fact the HMO couldn’t be held accountable because they would both be exempted from the legislation. So the family and the patient would be completely deprived of any help. That was my point earlier in responding to the Senator, in my comment that this is an extreme response. We have a response, both in our legislation and legislation on which the Senator has been very actively involved that provides adequate protection, will make sure small employers are protected, but does not punish almost half the families in the country.

Mr. KENNEDY. If the Senator will yield further, this is almost an invitation, is it not, to employers, such as the mom-and-pop stores that have half a dozen employees, that basically are just paying the premium and are not making the decisions? Someone will say to them: Look, not only do you get quality insurance but you can just tell your HMO not to spend more than $10,000 or $15,000. You can do that and be completely immune and save yourself in terms of the additional premiums, although in that way you put at risk your workers. Could they not do that?

Mr. EDWARDS. Not only that, but I say to the Senator, having worked for and with small businesses for many years, I know they care about their employees. They care deeply about their employees, the vast majority of small businesses around this country. They do not want their employees to be in a position that they have no rights against the HMO.

To continue to streamline the work, and thinking that has been done by everyone in this area.

Mr. ALLARD. If the Senator will yield, I yield myself 30 seconds—under the proposal that we anticipate and support, I will make the assertion that under this critical component of the legislation that the Senator well knows after all his years of work on this issue, is that they have quality health care. The small employers in this country who care about their employees—in my judgment, the vast majority—will want to make sure their employees have the best product they could possibly have. They will want them to have the same protections.

Those small employers will want to be protected from liability. That is a reasonable concern, and that is the concern, as the Senator knows, that we have addressed in our legislation and we are continuing to address with even stronger language with colleagues from across the aisle.

Mr. KENNEDY. Finally, if I may say to the Senator, having worked for and with small businesses for many years, I know they care about their employees. They care deeply about their employees, the vast majority—will want to make sure their employees have the best product they could possibly have. They will want them to have the same protections.

Mr. ALLARD. I think we ought to just take a little time out here and summarize where we are in this debate on whether or not we exempt businesses of 50 employees or fewer. And this is the way I want to lay it out. The Democrats are arguing that 41 percent of small businesses will lack protection from HMOs. That argument is wrong. Forty-one percent of small business employers will be subject to increased health care premiums or even losing their health maintenance insurance altogether. They will not be insured.

So this argument that there is a line being drawn between 48 and 51 employees, the fact is, when you expose small employers and small businesses to increased lawsuits when they take on a program, they are not going to take on the program. So employees will not be insured.

Moreover, an employee does not get protection from HMOs from suing their employer. If they want to sue, they sue their HMO, not the employer, who happens to be, by the way, kind enough to offer the health insurance.

Under S. 1052, employee health costs will increase $1.19 per month. Again, I believe this argument is irrelevant, and because of S. 1052 we will see, in my view, more than 1 million Americans will lose their health insurance. At least the Senate can do something to help out small employers by exempting them from these unnecessary lawsuits. I am talking about businesses with less than 50 employees.

S. 1052 will allow a small business of five employees, for example, to be sued for unlimited economic, unlimited non-economic damages, and up to $5 million in punitive damages. Now, that is not protecting the small businessman. That is not protecting those businesses that have 50 or fewer employees.

According to a survey of 600 national employers, 46 percent of the employers would be likely to drop health insurance coverage for their workers if they are exposed to new health care lawsuits, plain and simple.

I will ask to print in the RECORD a Denver Post editorial from June 21, 2001. I will quote a small section of it. It says:

The competing Democrat bill, in our view, goes too far and includes a provision that will allow employees to sue their employers for denial of a medical request if the employer helped make the decision.

We think this type of language would have the effect of encouraging more lawsuits and driving up costs instead of encouraging quick, early resolution of disputes.

It went on to say:

We also find fault with the provisions that would authorize individual lawsuits to produce punitive damage awards in the multimillion-dollar range. Compensatory damages are one thing; punitive damage awards are quite another.

I ask unanimous consent that this editorial be printed in the RECORD.
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Mr. ALLARD. Mr. President, the employer is not protected. In fact, he is exposed to more lawsuits—multi-million-dollar lawsuits. In order to protect himself, he is not going to provide health insurance. That means the employees will not be covered. The argument was made, why don’t you provide coverage for emergency service? Why don’t they provide coverage for medical needs that occur in families and what not? The employer isn’t going to provide that coverage if he has to face lawsuits. It is optional. He will decide not to offer health insurance.

I was a small businessman and I had to face the challenge of medical costs. We had between 10 and 15 employees. The health care costs were eating us alive. So finally we went to the employees and said what we would like to do is this: We can’t afford this, so we will pay you more in a salary and then, hopefully, that will be enough of an increase that you can buy your own health insurance. We couldn’t afford to do that. That was in times that weren’t as challenging as they are today.

We are seeing horrendous increases in premiums to small business employers. Now we are going to tack on top of that the mandatory and increased costs and the increased threat of a lawsuit. It is not hard for me to believe that we are going to have at least a million more workers out there who are not going to be insured if this bill passes.

Now, it is 41 percent of the workforce that we are talking about with this amendment. But I look at it a different way. I think we are helping assure that they will have health care coverage with this amendment because we are exempting them from the lawsuits.

I think this amendment is a very responsible one. It is needed. If it is not adopted, the small business community of 50 employees or less will suffer.

I yield 5 minutes to the Senator from Missouri.

Mr. BOND. Mr. President, I thank my friend from Colorado and I commend him for this amendment, which I think is very important because it goes to one of the key areas in this Patients’ Bill of Rights.

We want to make sure that people have good health care coverage and that they get what they deserve from their HMO, their insurance company.

That is what this debate is all about. How do we get there? One of the most important parts of that question is how we deal with the small businesses that provide health care coverage now for their employees and who may not in the future.

My colleagues on the other side of the aisle insist that employers will not drop coverage due to the McCain-Kennedy bill. For some employers, that is probably true. Virtually all large companies offer health care, and even if we pass this legislation and dramatically increase costs, they will probably have to do so. They will have to pay more and their employees will have to pay more. But they are likely to have coverage. But from everything I am hearing from the small business community, it is much less likely that small businesses—even those who now provide health care coverage—will be able to do so.

I heard a colleague on the other side of the aisle say that the McCain-Kennedy bill has taken care of small employers. The small employer health care provision. Right. Just like a herbicide takes care of a bed of flowers, it is going to kill small business health care at the roots. I know what “taken care of” means in that context. I have sprayed herbicide; I know what they do to a flower bed or a lawn. That is how McCain-Kennedy takes care of the health care coverage of small business. They drive them out.

Small businesses are the ones that are struggling to survive. Small businesses are the ones that struggle to provide health care. They are at the heart of the problem that the McCain-Kennedy bill totally ignores—the 43 million Americans who have no health insurance. We are going to see 43 million Americans who have no health care insurance, approximately 60 percent are small businesses owners, employees and their dependents, the family members. That is 25.6 million Americans, either small businesses owners, employees, or family members, who are not covered by health insurance. They can’t be a patient under the Patients’ Bill of Rights. In Missouri, we have 570,000 uninsured, and 324,000 are in families headed by a small businessperson, man or woman.

If we drive more of the small businesses out of health care coverage, those numbers are going to go up. That is a disaster. That is the wrong way to go. Many small businesses do not offer coverage. Why is that? Well, there are still many barriers to small businesses providing health care coverage.

First, they have higher premium costs.

Second, they have higher annual premium increases.

Third, there are more difficult administrative hurdles. In mom and pop operations, neither mom nor pop usually has the administrative skills to set up health care and other benefit plans.

Limited deductions for the self-employed, we voted on that last week. Unfortunately, my colleagues chose to turn a blind eye to the needs of the self-employed and their families and said, if you like the status quo, vote for this bill. That is one more mistake in this bill. Here are the problems. Under McCain-Kennedy, there would be a 4.2 percent cost increase—slightly more. That is going to make health care coverage more expensive for the small business and the small business employee. That means fewer patients, because 300,000 lose coverage for every 1 percent increase.

Exposure to liability is the big one. Employers throughout Missouri are writing: we cannot afford the continuing cost increases in health care and we will not tolerate those plus exposure to liability.
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The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. ALLARD. I yield the Senator an additional 3 minutes.

Mr. BOND. I ask for 1 minute.

Most small businesses in America are only one lawsuit away from going out of business. This lawsuit, under the provisions of action provided in the McCain-Kennedy bill, could drive any single small business out of business. They are one lawsuit away from going out of business. Small businesses are smart enough to know if they are one lawsuit away from going out of business because they provide health care, they are one McCain-Kennedy bill away from getting out of the health care coverage business.

The 43 million Americans who are now uninsured—watch those numbers increase with the increase in the minimum wage. Very few employees of small businesses would lose health care coverage because their small business employer could not take the risk. That number is going to be higher. It is much higher naturally.

I commend the amendment offered by my colleague from Colorado. I offer this as a suggestion: If Members care about small businesses and the health care coverage they provide their employees, vote for the Allard amendment. This is the only way to save small businesses from a knife in their back, making health care coverage for their employees unaffordable.

Mr. ALLARD. I yield 2 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I congratulate Senator Allard. Yesterday we had an amendment on exempting employers from being sued. That amendment was important. This amendment is important, as well.

Our basic point yesterday was, when an employer, because they care about their employees and because they want to attract and hold good employees, put up their own money to help people buy health insurance, we should not reward that voluntary activity by making them liable to being dragged into court and sued.

The bill before the Senate is a classic bait and switch bill, make no doubt. It says you cannot sue employers, and then it says you can sue employers. It has 7½ pages of conditions under which employers can be sued, including conditions where they exercise control, which is a little trick phrase because ERISA, the program that governs employers, guarantees that the employers are always deemed to be in control. So the bill before the Senate is written to guarantee every employer in America can be sued. If anybody doesn't understand that, it is because they don't want to understand it.

This amendment does not fix the problem. This amendment simply makes a plea that if you are going to force companies such as Wal-Mart to cancel their insurance—at least they have smart lawyers and they have lots of money to find a way to get around this provision by changing their plans. Some of them won't. They will cancel their health insurance. And the proponents of this bill will be back a year from now. 2 years from now. And, well, the number of uninsured has gone up and we need to have the Government take over and run the health care system.

This amendment is simply a last gasp effort to introduce some reason into this bill which says while clearly this bill is aimed at allowing employers to be sued, and clearly large employers are going to be hit with this liability and they are going to be forced either to drop their plans or change it, they have some ability to make a change. It is not smart. It is counterproductive. It is hurtful to America. But that is the way it is. That is the majority position.

The point is, this amendment says, if the company has 50 or fewer employees. We are talking about small businesses; we are not talking about companies that can go out and hire a legions of lawyers; we are not talking about companies that have the ability to junk their health care plan and to figure out a clever way to try to get around the devastating provisions in this bill. If you vote against this amendment, you are saying to every small business in America, we don't care if you are sued; we don't care if you provide health insurance.

It is unimaginable we would not adopt this amendment and say that while we want to save the small businesses, we do not want to destroy the ability of small business to provide health insurance, and therefore we are going to adopt this amendment. This does not fix the problem. This is an amendment that should bring out some degree of shame as to what we are willing to do. I urge my colleagues to vote for this amendment.

I yield the floor.

Mr. ALLARD. How much time remains?

The PRESIDING OFFICER. Two minutes, and the other side has 7 minutes 16 seconds.

Mr. KENNEDY. I yield myself 4½ minutes.

Mr. President, the issue is the protection for families in this country. Now this amendment wants to say, we will not go out of business for some, but we will eliminate 45 percent of the protections for families in this country. What possible sense does that make?

There is a representation that somehow employers will be at risk. They will not be at risk unless they are making illegal decisions that will result in harm or injury to the patient. If they are not, they are free, in spite of all the agitation we have heard from those supporting this amendment.

I have been around here long enough to realize that when we take on the special interests—and that is the HMO in this case—we hear dire consequences. When we worked on the Family and Medical Leave we heard the estimates that it would cost American business $25 to $30 billion a year. That was all baloney. We worked on the Kassebaum-Kennedy bill regarding portability of health insurance, particularly for the disabled. They said it would increase the premiums 30 percent. It would be the 4.2 percent over business and the end of the American economy. That was a lot of baloney. We worked on increasing the minimum wage. We heard it would put small business out of business, and that there would be hundreds of thousands out of work all over this country. That was baloney.

The burden we hear that would be put on small business is baloney. They have nothing to fear. They have nothing to fear in this. But the HMOs have something to fear if they are not going to permit doctors and nurses and trained personnel to provide for their patients.

The facts belie these representations that have been made. If you look at the States that have tough HMO legislation, as we have gone through repeatedly, the message should become clear. For instance, in Texas with their tough HMO law, there have been 17 cases in 5 years. California has a tough law that has been in effect now 9 months, and no cases. No cases. Do you hear me? No cases. No small businessmen, nobody with 50 or less, none, no cases on it. And what has happened? The employers are getting the protections they need.

Now we hear, well, what about the premiums? I read into the Record yesterday that the total cost of this amounts to 1 percent a year over the period. It would be the 4.2 percent over 5 years. That amounts to about $1.19 a month. Let me tell every premium payer in this country about what is happening in terms of their premiums, why they are going up.

We have Mr. McGuire, United Health Group, who got $54 million in compensation last year and $357 million in stock options for a total compensation of $411 million. That is $4.25 a month for every premium. We are talking about $1.19 a month.

You want to do something about the increase in terms of your premiums, tell Mr. McGuire he does not need $411 million a year in annual compensation.
Mr. ALLARD. Mr. President, has time expired on the other side? The PRESIDING OFFICER. The majority has 42 seconds. The Senator from Colorado has 1 minute 50 seconds.

Mr. ALLARD. I reserve my time until the majority has used their time on the amendment. The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina.

Mr. EDWARDS. Very quickly, with the remaining 40 seconds that we have, I urge our colleagues to vote against this amendment. We are doing the things necessary to protect small businesspeople all over this country, but that can be done without leaving almost half of the families of America uncovered by the necessary patient protections that are in our legislation. For that reason we urge our colleagues to vote against the Allard amendment. We yield back the remainder of our time.

The PRESIDING OFFICER. The Senator’s time has expired. The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield myself the remainder of the time.

First of all, I would like to thank my colleagues from Texas and from Missouri for their very cogent comments on small business and the adverse impact of this particular bill on small business. My particular amendment exempts businesses of 50 employees or less. This is important because what we do in this bill is we expose businesses to more lawsuits. The consequences are that businesses will not have the ability to get health care coverage. The other side is trying to make the point that somehow or the other this amendment will hurt health care coverage for employees. Just the opposite will happen. If this amendment is not adopted and the bill is passed, small employers all over America will cancel their health care coverage and turn to the employee and ask them to provide for their own health care coverage. That is not more health care coverage; that is less health care coverage.

I am a small businessman. I have had to face those tough decisions, and it is not hard for me to believe that a million employees will lose health care coverage if this particular bill is passed. I am going to ask my colleagues in this Chamber to vote for this Allard amendment because we want to make sure that we have a viable small business community in America. We want to assure that coverage for employees now covered by health plans of their small business employers continues.

If this bill passes, there is a good chance they are going to lose that coverage and that is going to mean less health care coverage for employees, not more.

This is a key amendment. It is a key vote for the small business community.
to discuss with the Senate. I do hope the Senate will come to order.

The PRESIDING OFFICER. The Senate will come to order. Members will take their conversations off the floor.

The Senator from West Virginia.

SUPPLEMENTAL APPROPRIATIONS

Mr. BYRD. Madam President, I have asked for recognition at this time so that I might inquire of the joint leadership as to when we might expect to take up the supplemental appropriations bill. That bill was reported from the Appropriations Committee several days ago. It is on the calendar. We only have a little time left this week.

The administration has asked for this bill. The amount in the bill is within the request of the President of the United States—not one cent, not one thin dime over the President's request.

The bill has had the joint support of the distinguished Senator from Alaska, Mr. STEVENS, and myself, and our respective sides.

I will be able, at a later time, to compliment the members of the committee. Right now I want to inquire. This is a very serious matter. The administration says it wants this bill before we go out because of the need in the military for moneys for services, for training, and so forth. I do not want us to be out through this recess and have this bill hanging out there, and have it there when we get back.

Now we are ready to go. I would suggest we try to get a time agreement that would be amenable to the feelings of the two leaders and our respective sides. I think we can do that. I have every confidence we can do that. I just take the floor now to inquire as to what the chances are for us to move this supplemental appropriations bill before we go home for the Independence Day recess.

Mr. STEVENS. Will the Senator yield for one moment?

Mr. BYRD. I yield.

Mr. STEVENS. Madam President, I just received word from the House of Representatives that they are scheduling two appropriations bills on the floor, and they have bipartisan agreement to finish by Thursday night. That is why this dialog right now is very important. We do have to go to conference with the House before they leave.

I join the Senator in making the inquiry.

Mr. BYRD. Madam President, I thank the distinguished Senator. Mr. DASCHLE addressed the Chair.

Mr. BYRD. Madam President, I yield to the distinguished majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Madam President, I thank the distinguished President, I thank the distinguished chairman for yielding.

I reply that it would be my intention to complete the supplemental prior to the time we leave. I do not think we ought to leave Washington prior to the time the supplemental has been satisfactorily completed. I do not think we ought to take vacation until this legislation has been completed.

I have indicated, just now, to Senator LOTT that if we could reach some agreement—a finite list of amendments remaining on this bill, with an understanding of how long these amendments would require for debate—that I may be willing to enter into something I was not prepared to do earlier, which is to move to the supplemental prior to the time we complete our work on the Patients' Bill of Rights. We will complete our work on the Patients' Bill of Rights this week, and we will finish the supplemental this week, and the organizing resolution this week—or before we leave, as it takes.

I hope our House colleagues will choose not to leave town until the conference has been completed and until we have been able to deal with the conference as well. It should not take long in conference, but clearly the work must be done. As I say, if we could reach that agreement with regard to a finite list, I would be prepared then to find a way with which to schedule and then perhaps take up a unanimous consent agreement that would allow us to consider the supplemental over a designated period of time.

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. I yield to the Senator.

Mr. STEVENS. Madam President, the leader is correct about the timing. We should all stay until we finish this matter. But if we don't finish it by Thursday, and the House is already scheduled, I can tell you, you are not going to get that agreement. I know if people believed I was serious about it, but we are serious. We are resolute. That will be the order for whatever length of time it takes to complete our work.

I thank the chairman for yielding.

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. I thank the distinguished majority leader. I yield to my counterpart. Mr. STEVENS. I know the Senator from Oregon wishes to have a conversation. I am prepared—I think the Senator should be prepared—to present to the Senate now our wishes with regard to the agreement.

From my own point of view, we have a very limited managers' amendment which Senator BYRD and I are working on, and I think we disclosed it with regularity and it is in a drought condition. It is certain to be offered. That is an amendment of the Senator from Arizona.

I am prepared to enter into an agreement of no more than an hour on an amendment, and amendments be disclosed here by noon. We will debate them tonight and vote tomorrow.

Mr. BYRD. Madam President, may I first yield to the distinguished Senator from Oregon who has been waiting. Then I want to respond to the distinguished Senator from Alaska.

Mr. SMITH of Oregon. I thank the chairman of the Appropriations Committee. Senator BYRD does not have a bigger fan in this Chamber than I when it comes to the way he defends the people of West Virginia.

I am one of those who would like not to be holding up this bill, but I am looking at a situation in the Klamath Basin of Oregon and California that is in a drought condition. Drought is typical in the western United States. It is regular. You can count on it. Unlike past droughts, the people of Klamath Basin have had the Government magnify their drought by cutting off every
Mr. BYRD. Madam President, I know the Klamath problem. I would be happy to discuss that. I also know that the administration wants this bill. I hope the Senator will not stand in the way of final action on it. There are many things I have wanted over the years, and the Senator has every right to stand on the floor as long as he wants and hold up the bill and speak as long as he wants. I will be here listening when he speaks. I have a sick wife. She has been in the hospital now for 10 days—9 days, but she is on the mend. I will be here as long as the Senator wants to talk. If he wants to stay in the way of the bill, I will be here listening. But we will talk about this.

I am not saying no, but I am saying that when anyone wants to stand in the way, they are going to have the administration to compete with there. The President wants this bill. And my friends in Oregon and I have bust a gut to get this bill to the floor and to keep it within the President’s limits.

If any Senator is contemplating calling up an amendment, if it is a money amendment, that Senator ought to be ready to find an offset in the bill. That Senator ought to be ready to have the administration call that amendment an emergency on this bill. Now, if the administration wants to call it an emergency or if there is an offset, I am sure the Senator probably won’t have a great deal of trouble. But I want to do what the President has asked for in this instance. This money is needed now.

That is a long story, but I say to the distinguished Senator from Oregon that he won’t be by himself if he wants to hold up the bill.

Mr. LOTT. Madam President, will the distinguished Senator from West Virginia yield?

Mr. BYRD. Yes, I will.

Mr. LOTT. I apologize to my colleagues for not being here to hear the discussion earlier. I have been briefed on basically what has been said.

I commend the chairman of the Appropriations Committee and the ranking member for the work they have done on this important defense, and other issues, supplemental appropriations bill. They have worked hard. They did bust a gut to get it out, and they held it within the area of the President’s request. They have done a credible and formidable job.

I would like to get a time agreement, a tight time agreement, and a limit on amendment or amendments, and would, in spite of the fact that there is a very important conflict tonight, be willing to work with the managers of the legislation to see if we could get an agreement to do it tonight so that a conference would be possible with the House and this very important matter could be completed in the conference and the amendments available for the needs of our defense and the health care of our military men and women.

I will be glad to work with the Senator from West Virginia and with his leader, the majority leader, and to work with Senators who have concerns to make sure we address those, that they are heard.

The important thing is that we push to try to get this done. I appreciate that effort. I know the President wants it. I have spoken to him, and Senator Daschle has spoken to him. Clearly, we need to get this business done. I make my commitment to the Senator that I will work with him and others to see if we can’t work out an agreement to handle the bill tonight and then we can do the conference tomorrow. I will be working on that and will confer with Senators as we go forward.

Mr. BYRD. Madam President, I thank the Republican leader. Let me close by urging that our respective staffs of Mr. STEVENS go forward, work out a time agreement, and any Senators who want to offer amendments under the conditions that have been stated here, by which we are bound, let’s have those Senators come forward by noon today and tell us about their amendments so that we can do the conference tomorrow. I will be working on that and will confer with Senators as we go forward.

Mr. BYRD. Madam President, I thank all Senators. Mr. STEVENS. If the Senator will yield for a moment, because of my need for a point of order, I would like to finish the business.

Mr. REID. I say to the two chairmen, I am also a member of that committee, and I would like to finish the whiteness at hand. Senator Daschle has been very clear. He has stated for more than a week now that we must move forward with the Patients’ Bill of Rights. We are doing that. He said this morning and I have been in conference with Senator Kennedy and Senator Edwards. I have spoken to Judd Gregg, manager of the Patients’ Bill of Rights bill. I indicated to him we need a finite list of amendments on the Patients’ Bill of Rights. That seems simple. We are very interested in doing that, and that should be able to be accomplished quickly. Everybody knows the contested issues on this matter. We need a finite list of amendments.

When that Senator Daschle said he would be happy to work with the two Senators and work out something that is fair. We can do that as quickly as possible. I think there could
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be a finite list given to us in the next hour. It should not be very hard to do at all.

Mr. BYRD. Madam President, I want to make sure the distinguished whip understood my request. My request was not that we take up the bill by noon. My request is only that Senators who have amendments make it known by 12 noon, that we close out after they have made it known as to what amendments they want to call up, and that we close out the amendments at that point. The leader would still retain, of course, his right to call up the bill whenever he wishes.

Having said that, might I make the request again?

Mr. REID. Madam President, as the Senator knows, I have come to him on many occasions on various bills saying we may or may not close before noon. Unless we know when the amendments can be filed. We want to do this. I am saying that we will do this as quickly as possible. You need not be on the floor. I will try to get the agreement as soon as possible. We have time limited to the supplemental, but there are certain people I have to check with, and we will do that as quickly as possible.

Mr. BYRD. I yield to the Senator from Alaska.

Mr. STEVENS. My question to the distinguished whip is plain and simple. Is the Senator from Nevada saying that the finite list of amendments to the Patients’ Bill of Rights must be reached before we can get the finite list for the supplemental?

Mr. REID. No. If the Senator allow me to respond.

Mr. BYRD. I yield for that purpose.

Mr. REID. We need a finite list on the Patients’ Bill of Rights so a time can be arranged to do the supplemental.

Mr. STEVENS. Respectfully, that is not how I understood my discussion with the majority leader. We discussed doing this bill tonight. There will be a window. This is the night of the Republican dinner. Some of us have agreed to stay and debate the amendments on the supplemental so that it might be voted on in a very short window tomorrow and get it to the House tomorrow so they can finish it so we can get it back to the floor Thursday as we do that today. I for one am going to give up on the supplemental.

Mr. REID. If the Senator from West Virginia would allow me to answer.

Mr. BYRD. Yes.

Mr. REID. First of all, probably if you are something like me, that would be a good excuse so you would not have to go to the dinner if you had to be here.

Mr. STEVENS. Better not said, but you are correct.

Mr. REID. But there is no reason that we cannot have a finite list of amendments on the Patients’ Bill of Rights within the next hour or so. I am sure Senator DASCHEL would be happy to work with Senator LOTT and arrange a time. Give us a little time on this. I request to my friends again, the question on the list of amendments should be filed and we will work on that very quickly.

Mr. BYRD. Madam President, I hope we have reached an understanding. I have been at this work for many years. I have learned a long time ago that when you are within reach and you have both leaders having expressed their desire for a unanimous consent request, and with the work that the Senator from Alaska and I have already done with respect to arriving at such a request, that other amendments, other Senators, and other requests can come out of the woodwork. I would like to get this nailed down by noon tomorrow because the longer we wait, the more Senators there will be that will say, “This is my chance.” In closing, I hope we can go forward with this request soon. I yield the floor.

AMENDMENT NO. 818

The PRESIDING OFFICER. Under the previous order, there will now be 15 minutes for debate on the Kyl-Nelson amendment No. 818.

The Senator from Arizona is recognized.

Mr. KYL. Madam President, I will speak and then yield time to Senator NELSON of Nebraska, my colleague on this amendment. In discussing this proposed amendment with some of the stakeholders involved, a couple questions have been raised. I want to clarify my intention and turn the time over to Senator NELSON.

One question asked was, With respect to the external review, is this a de novo hearing? That is to say, does the external reviewer begin with whatever record is before it, but can bring in other witnesses, or consider other material or other factors or records in addition to that which may have been considered by the internal reviewer. The answer to that question is yes. I believe that is what the underlying bill provides. Our amendment intends the same. To the extent that would need to be clarified, we are willing to do that.

Secondly, there is concern that with respect to the negotiated rulemaking procedure that is provided for in the amendment, that the composition of the stakeholders be fair.

Obviously, we believe that should be fair. We believe that the providers need to have adequate representation in such rulemaking procedure, that all stakeholders should be represented. I do not know what we can do to make our commitment any more firm, but to the extent anyone has a suggestion about how we ensure that fairness, it would certainly be our intention to do so.

In summary, we have identified a specific problem with the bill, a need to add a standard that is uniform and to ensure that the two extremes do not represent what occurs here. One extreme is that the external reviewer has no guidance and can just ignore the contract. The other extreme is that an HMO can draft a contract that is so strict that the reviewer has no ability to provide medically necessary care for the patient.

We are proposing a standard of care that can be utilized by the external reviewer to ensure that the patient receives the necessary care and that neither ignores the terms of the contract nor is so pinched that it would not be able to provide the care. That is why we have chosen the terms that apply to over 73 percent of Federal employees under the FEHBP that serves all the Members of Congress, our families, as well as other Federal employees. That is the language we have.

I ask my colleague, Senator NELSON, to speak to this. Senator NELSON has probably as much experience as anybody with this body with insurance contracts at the State level from his previous positions in Nebraska, as well as being Governor of the State of Nebraska.

It has been a pleasure for me to work with Senator NELSON who had the idea for this and brought a group together and expressed his idea. It made sense to me at the time. The more I work with him, the more sense it makes to me, and what he is proposing is desirable for us to do.

I urge my colleagues to respect the experience he brings to this issue from his perspective from the State of Nebraska which, I might add, is my State. I am very pleased that I have worked with Senator NELSON on this. Again, I just hope my colleagues respect the experience he brings to this particular issue.

I yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, I appreciate the opportunity to join with my colleague, Senator Kyl, from Arizona, to support and pursue the opportunity for making certain there is a definition and a standard in the Patients’ Bill of Rights legislation that will give certainty and clarity to the standard by which medical claims can be submitted and the providing of medical care can be made.

There is some concern about whether or not the Federal Employees Health Benefits Plan definition of “medical necessity”—which is essentially the definition, the standard, if you will, that is being proposed in our amendment—is something where the Office of Personnel Management would be bound by the plan’s determination.

We have never said that the plan, in this case the medical reviewer, would have to be bound by the plan, but they would have to be bound by the definition. That is what this is about. It is
making certain there is certainty, clarity, and an understanding, a meeting of the minds, about what will be covered and to what extent, always subject to outside standards, outside review.

I support having a Patients’ Bill of Rights that provides the kind of patient protections that are included within this bill. I support the opportunity for a patient to have a review from the internal side and from the external side, and I support the opportunity and the right of the patient to sue the HMO to ensure the medical decisionmaker in conjunction with any questions that are provided for in the level of support that is provided within the current bill.

It is important as the decisions are made about the claims that there is at least certainty and clarity as to a standard. I do not think even the proponents of the legislation would deny it is important to have a standard. As a matter of fact, I understand the history of this bill to some degree, and I know that in the past there was an effort to arrive at a standard. There were two groups with two different pieces of legislation, and they could not quite achieve an understanding as to what the standard should be or the definition. Perhaps out of frustration, and certainly out of not coming together, the decision was made to leave this open.

The problem with leaving it open is there is no basis of a standard; there is no way to know what the definition of “medical necessity” can be. It can be about anything. When you have a contract and when you have two parties to it, an insurer and insured, you need some degree of certainty. That is what we are asking for, so you can know of what medical necessity truly consists.

As I said about whether or not this language, which is taken right out of OPM’s definition that is included in the Federal Employees Health Benefits Plan—as to whether or not that is adequate language, seems to me there should be no question about it. This is to what the Federal employees are subject. You and I, those who are insured, are subject to the language, the standard, and the definition that is included within this amendment.

I find that it would be unusual if somebody objected to this standard, but our plan provides, even if there is a concern about this standard, that under the rulemaking and the negotiations of regulations another standard could be arrived at with the stakeholders to this legislation. The stakeholders, about 19 of them, would all be assembled, and if they did not like this particular standard, then they could achieve upon agreement, another standard.

This is about having a standard, and there seems to be very little concern about whether or not the current standard that is included within this amendment is an adequate standard, certainly from the standpoint of Federal employees. In other words, if it is good enough for me, it ought to be good enough for other people. If it is good enough for the thousands of Federal employees, then it ought to be good enough for the public.

What does it provide? It provides that the determination of services, drugs, supplies, be provided by hospital or other covered provider appropriate to prevent, diagnose, treat, a condition, illness, or injury, and that they must be consistent with standards of good medical practice in the United States. That is a standard we can all live by because we cannot ask for more than having care that is consistent with standards of good medical practice in the United States.

There are some other requirements as well, but they are essentially the same as what I just read. I cannot imagine somebody would want to argue for not having a standard or having a contract that is open-ended and not know that would, in effect, leave uncertainty, a lack of clarity, and an openness that nobody wants to propose or support.

I hope my colleagues will take a look at this as we fight to keep down the high cost of health care, the availability of health care, and that we work toward making this standard the kind of standard that can be included as part of the Patients’ Bill of Rights.

Anything that establishes clarity and certainty is desirable in the context of this legislation, and certainly that is included within this amendment.

There are some who thought the standard might consist of something such as a cost benefit. This does not involve any kind of cost-benefit analysis regarding medical care. There are some who would want to argue for not having a standard or having a contract that is open-ended and not know that would, in effect, leave uncertainty, a lack of clarity, and an openness that nobody wants to propose or support.

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I realize this is a very complex area that the average person is not going to deal with every day, so I apologize for the complexity, but I do not apologize for having something that will simplify it, that will give us the certainty and the clarity of having a definition and a standard that we can all understand and one with which we can agree and against which good medical care, under good medical practice in the United States, might be measured. That is what we are looking for.

There is a proposal that I understand will be coming forth for consideration this afternoon that will solve part of this problem, but it does not solve the problem of the standard of care and the definition.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON of Nebraska. I yield time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I compliment my friend and colleague from Nebraska, Senator NELSON, for his expertise in this field. He and Senator COLLINS are probably more qualified in this field because they both worked in their respective States in their insurance departments, I think, as commissioners of insurance and they also have expertise in the field from years of experience. When Senator NELSON or Senator COLLINS talk about medical necessity, or being bound or exempt from contracts, they have a certain degree of expertise that the rest of us do not have.

I remember visiting with Senator NELSON and he brought up the medical necessity and the fact this bill before the Senate unfortunately voids contracts. It goes so far as to say you have to cover things that are excluded.

Page 33 of the bill says: No coverage for excluded benefits. That sounds fine. But page 36 says: Except to the extent . . .

In other words, you don’t have to cover items excluded in contracts. Except to the extent somebody considers it medically necessary and so on, even if specifically excluded in contracts. Part of the Nelson-Kyl amendment clears that up.

On contract sanctity, I concur 100 percent. I mentioned a few things excluded under the CHAMPUS program for VA, specifically excluded in contracts under this bill someone might have to pay. They might even be sued if they do not provide a benefit specifically excluded and so on, even if specifically excluded in contracts. Part of the Nelson-Kyl amendment fixes this. Things excluded under CHAMPUS include: Acupuncture, exercise equipment, eye glasses, contact lenses, hearing aids, hypnosis, massage therapy, physical therapy consisting of exercise programs, sexual dysfunction, smoking cessation, weight control or weight reduction programs.

The point is, almost every medical health care plan says we will pay for this list of benefits; we will not pay for these benefits. Those benefits would be excluded in the way they write the bill. That sounds absurd but in reading the language, that could happen. The Nelson-Kyl amendment fixes this. Things excluded under CHAMPUS include: Acupuncture, exercise equipment, eye glasses, contact lenses, hearing aids, hypnosis, massage therapy, physical therapy consisting of exercise programs, sexual dysfunction, smoking cessation, weight control or weight reduction programs.

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Federal employees cannot sue their employer, and Federal employees have to be bound by the contract. If you look at the consumer bill of rights and responsibilities, in OPM’s guidelines dealing with the Federal Employees Health Benefit Program, it says if someone wants to appeal, OPM seeks to determine whether the enrollee or family member is entitled to the services under the terms of the contract. It is bound by the contract.

Blue Cross/Blue Shield, 2001, it says OPM will review your disputed claim requests and use the information it collects from you to decide whether our decision is correct. OPM will determine whether we correctly applied the terms of our contract when we denied your claim or request for service. OPM will send a final decision within 60 days. There are no other administrative appeals.

Interesting to note, the Federal Employees Health Benefits Plan, they appeal to OPM, appeal through their employer. This is not an independent review entity. Again, OPM will make their determination based on the contract.

The Senator from Nebraska and the Senator from Arizona say a contract should be a contract. We should adhere to the contract and have contract sanctity. We should have a definition, some certainty in the definition, and we even use the definition for Federal employees’ fee-for-service plans as one option, as well as the rulemaking process that the Senator from Nebraska spoke about.

I think there are too many people voting “remote control,” thinking, I will vote with Senator KENNEDY or with Senator McCAIN on this issue. I hope they look at this amendment. Should you have contract sanctity? Should you look at the guidelines we use in the Federal Employees Health Benefits Plan to have some contract sanctity? It is obliterated by the underlying bill. I think so.

This is an excellent amendment, an important amendment. If you want a bill that preserves some sanctity of contract, I think it is most important we pass this amendment. I urge my colleagues to vote in favor of the Nelson-Kyl amendment.

Mr. NELSON of Nebraska. I yield.

Mr. ENZI, I thank the Senator from Nebraska for the care and concern that has gone into this amendment. I support it along with him. I know how important it is for businesses to be able to nail down the prices so they can provide this voluntary insurance to people. If they don’t know how much it will cost, if it is going to rise astronomically, I guarantee the small businesses will walk out. That is what the discussion has been about this week and last week—how to continue to have insurance for people.

If I am an accountant, the only accountant in the Senate. I like dealing with numbers. The people who really deal with numbers are the actuaries. They are the ones who have to figure out what the odds are that something is going to happen to people. The smaller the plan, the tougher it is to figure the odds. But those odds have to be calculated in order to figure out the price. If the actuary said figure the whole universe of things that could happen, normally we exclude the ones that are difficult to calculate, but you don’t get to exclude those anymore. You have to figure it as though those could happen to the person, and some reviewer will charge your plan with that. So we cannot tell you what you are going to get in this country, we cannot guarantee it will have to be a higher number because of the uncertainty.

It is extremely important we avoid the Russia syndrome or the China syndrome, where they don’t have contracts worth anything. In this country, we maintain the sanctity of contracts. It is time to do that again. It is time to do that, particularly to protect the people working for small businesses in this country so they will continue to have insurance.

This amendment is particularly important because it does several things. First, it allows both the employer and the employee to be certain about what benefits are covered under the health plan. If they can’t know that, then what’s the point of the contract. Second, the amendment will virtually guarantee that all health plan contracts will now have a great definition of medical necessity, which is the clause in a contract that’s used to make exceptions for medical necessity, the definition of medical necessity. If a health plan or employer chooses not to adopt a strong definition, as defined in this amendment, then they forgo their right to rely on that definition in making decisions on claims for benefits. That’s achieved by allowing the independent reviewer in the external appeals process to ignore that definition if it’s not among those listed in the amendment.

This amendment brings to bear two important concepts that go a long way helping this bill become law. Again, the contract, upon which not just the breadth of benefits is determined, but also the cost of health coverage to both the employer and employee is based, is made whole. And, the quality of health care in this country is set at a standard that will assure patients receive medically necessary care as determined by the standards in the best programs, namely the Federal Office of Personnel Management’s definition for fee-for-service plans.

Mr. President, I again commend my colleagues for their work. Enacting this amendment is as important to preserving the employer sponsored health care system as anything else we may do on this bill. There’s simply no reason Members would vote to undo a health plan contract or against requiring that health plans adopt a strong definition of medical necessity.

Mr. NELSON of Nebraska. We reserve our time.

Mr. KENNEDY. We have 30 minutes? The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I yield myself 10 minutes.

I agree with our friends and colleagues, the Senator from Oklahoma, about the competency of my good friend, Senator NELSON, as well as the Senator from Wyoming, Senator ENZI. I learned, as I worked with Senator Enzi on a number of different issues, has evolved from—a person has enormous capabilities as an accountant in dealing with numbers. I have also had the good opportunity to work with Senator NELSON on this issue. I think there are few Members of this body outside the Senate or inside the committee that have taken more time than the Senator to understand the details of this legislation. He has a commanding knowledge of this legislation and a very healthy understanding and respect about what is happening in the State and local communities. He has been enormously attentive to detail and concept.

We do not always agree on every provision, but I have certainly developed a deeper understanding of the impact of this legislation from my conversations with him.

Even though we differ on the substance on this particular issue, which I think is an important issue, I have enormous respect for what he has brought to this whole debate on the Patients’ Bill of Rights. I value, very much, his continued involvement in this debate.

I will mention briefly what we have in the legislation and why I believe it is wise to retain the approach we have currently. It has the complete support of the American Medical Association, the cancer organizations—I will refer to those later—and the overwhelming support of the medical community. It has evolved over a period of time. I will reference that in just a moment or two as well.

But it does, I think, meet the standard that has been mentioned here about certainty, clarity, and predictability. That is what the proponents of this amendment have asked for. We have just done that on page 35, in establishing the particular details of our standard. I will give brief reasons that we ought to retain this.

The McCain-Edward-Kennedy bill allows the doctors, not the HMO accountants, to make the important medical decisions and it prohibits the HMOs from using arbitrary definitions

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of medical necessity. Unfortunately, the proposed amendment would undermine this crucial protection and allow plans to use definitions of medical care that may harm the patients.

Our legislation asks every Senator the basic question: Do you support the doctors making the critical medical decisions or do you want the HMOs to continue to deny care based on language that puts dollars before lives?

The independent medical reviewer should consider the definition decided by the health plan. However, we should not bind their hands by arbitrary definitions by an HMO. Senators McCain, Bayh, and Carper will offer an amendment later today that reflects the bipartisan belief that reviewers cannot approve services that are not explicitly covered under any circumstances. If a plan says ‘no cosmetic surgery’ and there is a cleft palate on a child, I could see an independent reviewer saying it is a matter of medical necessity it is imperative that we correct the cleft palate and would be justified in doing so. If, in the plan, it said ‘no cosmetic surgery and no cleft palate,’ the medical reviewer would be prohibited from doing so. So there is that degree of interpretation in terms of medical necessity, that aspect of judgment that we want to give to the doctors in dealing with this issue.

The Kyl amendment, once again, I believe gives the HMOs the opportunity to deny critical care by allowing them to use definitions of medical care that are stacked against the patients. This amendment also prevents independent reviewers from weighing all the relevant factors needed to make a fair decision. In addition, the amendment proposes to institute a complex rule-making process to define medical necessity. However, administrative rule-making is only as fair as the participants. If the participants are hostile to patients’ rights and sympathetic to HMOs, they could undermine care for millions.

As Charlie Norwood said, if reviewers are forced to wait on regulation at the speed HCFA moves, leeches might still be considered medically necessary and appropriate.

Also, under this amendment the plan gets to use any of the many definitions for medical necessity. It can seek out the worst of the worst, but consumers get no comparable rights to demand the best of the best.

All you have to do is look at the range of definitions and it is easy to see why the disability community, the cancer community, the American Medical Association, and other groups are so vehemently opposed to this amendment. It fails to protect the patient and allows the health plans to continue to deny medically necessary care. That is why the overwhelming number of medical groups support our language.

Some of the standards that they could pick from say cost-effectiveness should help determine whether care should be provided. It might be cost-effective, for example, for an HMO to amputate a young man’s injured hand, but what about the cost of having to spend the rest of your life without the full use of limbs? It might be effective for an HMO to pay for older, less effective medication for depression, but what about the cost to a mother trying to raise her family while dealing with the harmful side effects that could have been prevented by newer medication? Why should we subject the American people to them?

I urge my colleagues to reject this amendment. Passing it would reverse the strong bipartisan efforts we have worked out in this legislation.

Let me mention here the letter from the National Breast Cancer Coalition: On behalf of the National Breast Cancer Coalition and the 2.6 million women living with breast cancer, I am writing to urge you publicly to support the McCain-Bayh-Carper amendment on medical necessity. The National Breast Cancer Coalition is a grassroots advocacy organization made up of more than 600 organizations and 10,000 individual members all across the country who are dedicated to the eradication of breast cancer through advocacy and action. With new enactments of a strong, enforceable Patients’ Bill of Rights, the NBCC believes the determination about what is medically necessary must remain with the physicians, not HMOs. The coalition is concerned the Kyl amendment would weaken the provisions in the McCain-Bayh-Kennedy Patients’ Bill of Rights and would allow financial decisions to override the medical judgments on patient care.

Let me just mention some of the definitions which have been used. Here is a definition that is used in terms of medical necessity at that time was this: Medically necessary or appropriate means a service or benefit which is a generally accepted principle of medical practice. That is what virtually every Democrat voted for. That gives the maximum flexibility to the doctor. When we got to the conference and began to work this out, the HMO industries wanted it to be so broad and general, in terms of interpretation, that it could mean anything. Therefore, it would completely override the contract terms of the HMOs.

Then we altered it and said: In the internal review they will use the definitions of the HMO, but in the external review they will use a different definition. That is what is in the legislation. That is basically what is in the Breaux-Frist, as well as in the McCaín-Edwards-Kennedy.

Basically, it says “a condition shall be based on the medical condition of the participant”—therefore you look at the medical condition of the principal—and valid, relevant scientific evidence and clinical evidence including peer review, medical literature or findings, and including expert opinion.”

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

Mr. KENNEDY. I yield myself 3 more minutes.

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

Mr. KENNEDY. The expert opinion is critical. The essential element of the case which I know has been questioned—was talked about and essentially agreed to in the conference last year.

This is the concern we have. Here are some of the definitions which have been used in various HMOs, and even in Federal health insurance. The difference, in Federal health insurance is if there is an appeal of it, they leave it completely open. I asked staff to get the standard that is used. It is completely left to the doctor. That is where we want it, to the greatest extent possible. We have limited it as I have defined it. But these are some of the concerns.

This is in CIGNA, in terms of medically necessary:

...that are determined by our medical director to be no more required than to meet your basic health needs.

So this definition is going to be what this plan’s medical director decides. Clearly, they are going to be biased in the HMO.

This is the Hawaii State plan: Cost effective for the medical condition being treated compared to alternative health intervention, including no intervention.

Cost effectiveness is unacceptable. It is more cost effective for the HMO to put someone in a wheelchair rather than for them to have hip surgery. But it is more effective for the individual to have the hip surgery.

Here is another one:

A treatment that could reasonably be expected to improve the member’s condition or level of functioning.

Even though it is used by the Health Alliance HMO in the Federal health insurance, the problem is that for people with disabilities, the treatment may not be for a condition that can improve—but it certainly may improve the quality of life.

Here are the Pacific Care Health plans furnished in the most economically efficient manner.
“Economically efficient” is a problem.

Again, it is what procedures are the most cost effective.

We have to be very sure about what we are going to have. We have a good definition in this proposal. It is supported by McCain-Edwards and myself and is essentially the provision in Breaux-Frist.

It has the overwhelming support of the American Medical Association, as well as the Cancer Association, and is spelled out in this legislation. So there is certainty.

If there is a change on this, we can come back and revisit it. I give the assurances to my friends that we can. But the idea that we are going to give the authority to a panel that will be set up by the Secretary—the makeup of which we don't know—which can propose something, still indicates that we don't know what is going to come out.

That doesn't seem to me to be the way we ought to go in giving predictability and certainty to patients. If we are interested in that, we ought to get criteria that is sound, responsible, and gives medical professionals the ultimate ability to make judgments to protect the patient. That is what we do in this legislation. That is why I don't believe we should alter or change the proposal.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, how much time remains on our side?

The PRESIDING OFFICER. Ten minutes.

Mr. KYL. I yield myself 2 minutes.

I am very sorry to have to say this, but the amendment that Senator KENNEDY has just proposed is not our amendment. I want to be very clear about what our amendment does. The amendment that Senator KENNEDY has been talking about was part of last year's bill.

When Senator NELSON came forward this year, he said: Let's try to come up with something new. We did that. So the language we have before us today is not the language to which Senator KENNEDY has been referring.

When he talks about the Signet language and the other plan language, that would absolutely prohibited by what we are talking about here. That was last year. We would absolutely prohibit that. When he talks about the plans choosing from among a range of criteria that is sound, responsible, and gives medical professionals the ultimate ability to make judgments to protect the patient that is what we do in this legislation. That is why I don't believe we should alter or change the proposal.

The PRESIDING OFFICER. The Senator from Nebraska.

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When he talks about the Signet language and the other plan language, that would absolutely prohibited by what we are talking about here. That was last year. We would absolutely prohibit that. When he talks about the plans choosing from among a range of definitions that could include cost effective, that would be absolutely prohibited under our language. That was last year.

Let me again restate what we did this year.

Mr. KENNEDY. Will the Senator yield on my time?

Mr. KYL. Absolutely.

Mr. KENNEDY. What I read here is “what is determined by our medical director to be no more required than to meet your basic needs.” That is in the Federal health insurance program. That would be included. The language I have read is “the treatment that can reasonably be expected to improve the member's condition or level of functioning.” The Federal employees' plans are included.

The last one, “furnish in the most economically efficient manner,” that is Federal employees. That is included. All three are included because the Federal employees' insurance has been included as well.

What is not included is discretion that is given to the medical doctor: The review of that is provided in the Federal employees' plans, and OPM is using it. It is not included in the underlying.

Mr. KYL. If the Senator will allow me to answer, that is a factual matter. I will not argue with his answer. I think I can explain the reason for the confusion. But the answer to the Senator's question is no. What the Senator said is not correct. That was correct a year ago because the language of the amendment was that you took the FEHBP standard. And the Senator would have been correct a year ago because it was both the fee-for-service standard as well as the managed care contract standard.

So the criticism that the Senator levels would have been correct criticism a year ago. And to some extent, I agree with the Senator from Massachusetts about that criticism. We threw that aside. Instead, we asked: What is the contract that governs the fee-for-service FEHBP plans? The contract that governs, we think, 73 percent of the people—in other words, about 6 million people—is the language that they have approved for the Blue Cross/Blue Shield plan contract, as well as some others. We didn't want to allow any discretion whatsoever. So we took the five specific provisions of that contract. Those are embodied in the legislation. There is no discretion.

If you want a safe harbor now under this amendment, you would have to write your contract with those five items, and only those five items. That is what the reviewer then would be able to review.

If I could just continue on with respect to the negotiated rulemaking, it was our idea that if anyone didn't like those five items, and all of the stakeholders would want to get together and negotiate something different, we would be very amenable to that. So we set up this voluntary rulemaking procedure.

If the Senator from Massachusetts and others think there is something wrong with that and they would not want to create the rule, yes, then we are very amenable to dropping that out. We thought we were doing people a favor by putting that option in so that if somebody didn't like these five items, they could engage in this negotiated rulemaking. But anybody in the negotiations could veto it so that it wouldn't go into effect.

But if people somehow fear that, it is not our intention to try to superimpose some nonspecific standard.

If the Senator would like to engage further on that, we can certainly discuss that. I indicated to the Senator last night our willingness to discuss that. I hope I have cleared it up. I understand the reason for the confusion because that was last year's amendment.

Our amendment language was only available a couple of days ago. So it is understandable that one might not have been able to read our amendment language. But I assure the Senator that our language is very specific and very different from that which he criticized.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, I understand the passion of my colleague from Massachusetts. He has done such great work in this area, and I truly appreciate and respect what he has done and the fact that he has taken a very careful look at what we are proposing.

I suspect, though, that he would maybe look at me as a person who came to the party late and wants to rework the invitation. You can't try to change something where there has been such a history without encountering some resistance to it. I understand there is resistance to wanting to change this because it was dealt with last year. But you don't weaken this bill by making it more certain.

I don't believe there is a problem. But if there is a problem within the Federal Employees Health Benefits Plan, then, as I understand it, a good standard there, we can correct that by passing this amendment and this Patients' Bill of Rights, and make Federal employees subject to the Patients' Bill of Rights.

My colleague from Massachusetts mentioned that there is perhaps a different manner of review for Federal employees where they have to go directly to the Office of Personnel Management rather than getting an internal or external review. We can correct that. We can make that plan subject to the Patients' Bill of Rights, and we can correct that. Or we ought to take a look at that independently.

But this does not change anything that would be detrimental to those individuals my colleague from Massachusetts mentioned.

For example, of the list of people, such as a person with a cleft palate, the only question about a person with a cleft palate is whether that treatment, in the judgment of the medical professional, the doctor, would be consistent with the standards of good medical practice in the United States. That
is the dynamic, and I am sure that it would. There is nothing static about this definition. It will continue to change as the good standards of medical practice in the United States change.

My good friend also mentioned something about making sure that we have our loved ones well protected. I agree with him and include the federal employees as part of our loved ones. I think we want these standards to apply to all Americans. The way in which you can do that is by adopting this amendment on medical necessity.

What it does not do is, it does not change the doctor’s decision making in relation to what kind of care to provide. What it does say is that it has to be consistent with the standards of good medical practice in the United States.

I, for the life of me, do not see what the resistance to this language is, other than the fact that we tried to do it a year ago. We had the Stanford definition. We talked about other definitions a year ago. Now we have come up with a definition which I think is an excellent definition that will do it, that will establish the standard for certainty, for predictability. And now we are saying it may weaken the Patients’ Bill of Rights. But certainty will strengthen this. There is no effort here to do anything that would not be consistent with— as a matter of fact, the language requires that the medical profession do something consistent with the standards of good medical practice. Whether it is an amputation, whether it is a cleft palate, whether it is deciding on cancer care, or whether it is deciding on other kinds of care, all we are saying is it ought to be subject to these standards. That is the only point that is being made.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. CARPER). The Senator from Nebraska has about 4½ minutes remaining. The opposition has 13 minutes remaining.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I am glad to yield— Mr. MCCAIN. Will the Senator allow me a couple minutes of time?

Mr. KENNEDY. Absolutely. Yes. Absolutely. The Senator from North Dakota was looking forward to talking, but whatever.

Do you want me to yield 3 minutes?

Mr. MCCAIN. How much time?

Mr. KENNEDY. I yield 3 minutes to the Senator.

Mr. MCCAIN. I thank the Senator from Massachusetts, and also the Senator from North Dakota. I would be glad to wait until after the Senator from North Dakota speaks, if he prefers.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I have major concerns about the Kyl-Nelson amendment and unfortunately, must oppose it. While I certainly respect the intentions of my dear friend and fellow Arizonian, JON KYL, I respectfully disagree with him regarding this proposal. I simply can't support mandating a Federal statutory definition of "medical necessity" that is vague and creates further confusion and barriers for patients attempting to get the medical care their doctor deems appropriate, and is covered by their HMO plan.

This amendment would put into statutory language a vague definition that allows health plans to determine whether services, drugs, supplies, or equipment are appropriate or necessary to prevent, diagnose, or treat a patient's condition, illness, or injury. While this appears reasonable, it simply is not.

One of the major hurdles currently facing patients is the repeated denial of their medical care on the basis that it is not medically necessary based on a vague or constraining definition. The health plans are intentionally denying that will establish the standard for certainty, for predictability. And now we are saying it may weaken the Patients’ Bill of Rights. But certainty will strengthen this. There is no effort here to do anything that would not be consistent with— as a matter of fact, the language requires that the medical profession do something consistent with the standards of good medical practice. Whether it is an amputation, whether it is deciding on cancer care, or whether it is deciding on other kinds of care, all we are saying is it ought to be subject to these standards. That is the only point that is being made.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. CARPER). The Senator from Nebraska has about 4½ minutes remaining. The opposition has 13 minutes remaining. The opposition has 13 minutes remaining.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield 8½ minutes to the Senator.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 8½ minutes.

Mr. DORGAN. Mr. President, this is a well-intentioned amendment, but it must be defeated because it is aimed right at the heart of this patients' rights bill, right at the core of the bill. The question is, Who is going to make the decisions? Who will make decisions about medical care? An HMO or an MD? Who do we want to make the decisions about medical care?

The McCain-Edwards-Kennedy bill allows doctors and patients to make fundamental decisions about their care. It will be based on medical necessity and appropriateness and supported by valid, relevant scientific and clinical evidence. In other words, if an HMO makes an arbitrary decision about some kind of a treatment they believe is not medically necessary, based on its own inadequate definition of "medical necessity," the reviewers would be able to overturn that and advocate treatment.

If this amendment were put before the Senate, the patient would be bound to the HMO's decision and have literally no options; the independent reviewer would have no authority whatsoever to recommend treatment if it was needed. The Senator from Massachusetts read a list, and he was challenged on that list. But the fact is, the list he read is absolutely correct.

Let met do this in English, if I can. The amendment, as I understand it, allows an HMO or managed care organization several different approaches to deal with the issue of what is medically necessary. How do you define medically necessary? Several different ways. One
Ethan Bedrick, or a young child with a cleft lip and a cleft palate, running into a wall that has a provider service saying: “These are not medically necessary procedures, and we will not cover them,” will have no ability to have an independent reviewer overturn that under the amendment that is offered today.

Mr. KENNEDY. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. KENNEDY. For the benefit of the membership, we had scheduled a vote at 12:30. With the agreement of the leadership, it will be postponed until 2. At 1 o’clock, Senator Gregg will be here to offer an amendment for himself. At 2, it is the anticipation of the leadership that there will be two rollcall votes. We have not made the unanimous consent request yet, but that is the intention of the agreement of the two leaders. After the time expires, we will make that unanimous consent request.

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

The PRESIDING OFFICER. The Senator from Arizona.

Mr. REID. From 12:30 until 1 o’clock there will be general debate on the bill.

Mr. MCCAIN. If the Senator will yield?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I note the presence of the Senator from North Hampshire on the floor. We really have an issue of scope, an amendment we need to bring up, and of course the so-called Snowe compromise amendment as well. I hope we will be able to put both of those in some kind of order in some way today.

Mr. REID. Mr. President, the Senator from Arizona is absolutely right. Progress has been made but not nearly enough. Since Senator Gregg is here, I wonder if we could restate the unanimous consent request and have that entered at this time. The only suggestion I would make to Senator Kennedy is that we should have general debate from 12:30 to 1 on the legislation. Mr. KENNEDY. That is fine.

Mr. GREGG. Mr. President, I can’t guarantee that there would be a second vote on this unless the parties to that amendment are agreeable to that.

Mr. KENNEDY. Then I withdraw my request. I was asked to make that request, if there was going to be no objection, that was going to proceed. Otherwise, we will go ahead.

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

Mr. KENNEDY. I had asked if the Senator would yield. The Senator from North Dakota has the floor.

Mr. DORGAN. Mr. President, how much time remains?

Mr. KENNEDY. I ask unanimous consent that the vote on that amendment be put off until 2 o’clock.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. It is the anticipation of the leadership that between 12:30 and approximately 1 o’clock there will then be general debate on the legislation. At 1 o’clock an amendment will be laid down by the Senator from New Hampshire or his designee. It is anticipated there will be a second vote at 2 which will be on that amendment.

Mr. GREGG. Mr. President, I can’t guarantee that there would be a second vote on this unless the parties to that amendment are agreeable to that.

Mr. KENNEDY. Is there a unanimous consent request pending?

Mr. GREGG. Mr. President, I can’t agree with my assertion. But I also understand that they are trying to craft something that defines what is medically necessary in a manner that would give a managed care organization three different options to restrict care.

In my judgment, the managed care organization will clearly select the option that has the least amount of coverage or the least cost to them. That is precisely why we are here in the first instance. We are trying to see if we can create a Patients’ Bill of Rights that allows a doctor and health care professionals to make judgments about what kind of treatment is appropriate. We have a story after a story about health care professionals making a decision about what kind of health care is necessary for a patient only to be told later that someone 1,000 miles away an insurance office decided, no, this was not medically necessary at all, and we won’t cover it. We don’t agree with the physician’s decision or recommendation for treatment.

The reason the AMA and nurses and others support this legislation of ours is that they believe very strongly that health care professionals ought to be the ones practicing medicine. The American Medical Association is very strongly opposed to this amendment.
I ask unanimous consent to print a letter the AMA has sent objecting to this amendment in the RECORD.

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

[From the American Medical Association, June 26, 2001]

AMA OPPOSES KYL-NELSON AMENDMENT THAT LETS MBAS—NOT MDS—MAKE MEDICAL DECISIONS

AFTER 7 YEARS, THE DEBATE HAS SUDDENLY COME FULL CIRCLE

WASHINGTON.—Today the American Medical Association (AMA) called on Congress to defeat a Kyl-Nelson amendment that would negate a core provision of the patients’ bill of rights. This new medical necessity amendment would allow insurance company bean counters to make medical decisions.

"Today, after seven years of debate, it seems some lawmakers want to start over at the beginning, with no sense of urgency," said Dr. Thomas R. Reardon, MD, AMA past president. "For patients and physicians alike, the debate is clear: Decisions about the health care a patient needs must be left to those who are focused on patients—not on the bottom line.

"The Kyl-Nelson amendment uses a medical necessity definition that allows health plans to determine whether services, drugs, supplies or equipment are appropriate to prevent, diagnose or treat a patient's condition, illness or injury," Dr. Reardon said. "This is a big step backward.

Insurers and business have repeatedly opposed defining medical necessity in legislation: "A federal standard of medical necessity will raise premiums, threaten quality, and jeopardize efforts to prevent abuse." (Blue Cross/Blue Shield, 2/99); "We fear a definition that we consider arbitrary and unethical. A federal standard of medical necessity will raise premiums, threaten quality, and jeopardize efforts to prevent abuse." (Blue Cross/Blue Shield, 2/99)

"We cannot accept a definition that is driven by profit, not patient need. This new definition is an attempt to strip the patients' bill of rights of its core provision," Dr. Reardon said.

Mr. DORGAN. They are opposed precisely because they understand this amendment absolutely unravels the central and vital section of this bill dealing with the patients' bill of rights. Our patients' rights legislation provides a structure by which doctors make decisions and then you have the opportunity for independent review if needed. But in the circumstance as proposed in the amendment up for debate, if we create definitions that allow diminishment of the level of care in terms of what is medically necessary, the independent reviewer will have their hands tied and patients will not get the care they deserve or need.

"This is a very carefully drafted bill. I am not in any way ascribing mal-intent to anyone who offers this amendment. This amendment will unravel the bill in a very significant way. We must defeat this amendment. We should defeat this amendment and preserve the patients' protections legislation that we have brought to the floor of the Senate. This has been going on 5 years. This is good legislation. We ought to pass it and defeat the amendment."

I yield the floor.

The PRESIDING OFFICER. The time controlled by the manager of the bill has expired.

Mr. KENNEDY. Mr. President, I think the Senator has 2 minutes. I have 2 minutes; is that correct?

The PRESIDING OFFICER. The sponsor of the amendment has 4 minutes remaining. All time has expired in opposition to the amendment.

Mr. DORGAN. Mr. President, that cannot be the case. The Senator from Massachusetts allotted 8 minutes to me. At that point, he had 16 minutes remaining. It cannot be the case that we have exhausted our time.

The PRESIDING OFFICER. The timer for the Senator from Massachusetts allotted 8 minutes to me. At that point, he had 16 minutes remaining. It cannot be the case that we have exhausted our time.

Mr. GREGG. I ask unanimous consent that the Senator from North Dakota have another 10 minutes, if he desires.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I yield my time to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take the 2 minutes which I otherwise might have had if we hadn't entered into the request.

Here we go again with greater hope in our hearts that we will be successful.

After the yielding back of the time, we intended to vote on the Nelson amendment. At the request of the leadership, I ask unanimous consent that the vote be put off until 2 o'clock.

Mr. REID. Reserving the right to object, I have been informed that there will be a motion to table made on the amendment. That will be done at the appropriate time.

Mr. KENNEDY. At 2 o'clock. It is anticipated that at 1 o'clock there will be an amendment from the Senator from New Hampshire or his designee. I am informed that it will probably be the Senator from Tennessee. Mr. ThomRson; and that we will begin the debate on that at 1 o'clock and that the time between 12:30 and 1 will be used for general debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I apologize to my friend for the interruptions because the Senator has been a patient during his presentation and is typically kind and generous to permit the workings here.

Here we have a good, solid definition in terms of medical necessity that has been reviewed, evaluated and has gotten broad support. It has bipartisan support. It also has the very, very strong support of the medical community: The American Medical Association, all of the cancer organizations, as well as the disability community. They all have great interest in what that definition is.

In too many instances in the past there have been definitions that have been offered and accepted that work to the disadvantage of patients. For example, definitions have been made that do not include palliative care for patients who have cancer or don't recognize the very special needs of the dial patient. We have a definition here. It is defined in the legislation. It has been reviewed. It is careful. It is predictable. It is certain. It does provide for doctors to exercise their best medical judgment. It is completely consistent with the purposes of the legislation.

As I mentioned, I have great respect for my friend and colleague. I think on this we should stay with the language which should be included and which has the broad support, virtually the unanimous support of the medical community.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Mr. President, I appreciate the opportunity to engage in a dialogue with my colleague from Massachusetts. As I indicated earlier, I respect his work and many years of effort in this field. I certainly respect his judgment. If I would disagree, it would be simply that there is a standard that is currently in place. As a matter of fact, last year they tried on numerous occasions to achieve a standard. They could not come up with one where they agreed. So they agreed to disagree and left the standard out.

We have an opportunity now to come up with a standard that is good enough for Federal employees and put that in this bill. If it is good enough for Federal employees, then of course I think it ought to be good enough for the rest of America.

As to the charts that were shown, I ask, is there anybody in this Chamber today who believes that under the definition of consistent with standards of good medical practice in the United States, any doctor would not have ordered that the cleft palate be treated? I understand the importance of having charts. I understand the importance of having faces put on the patients. I think it is important that, as we do that, it be very clear that we understand that these cases would be treated appropriately under the standards of good medical practice in the...
United States. So I think we really have an opportunity today to provide more clarity, so that doctors will have the authority to make medical decisions and order care will be able to do so consistent with standards.

There is no way that this amendment today is designed to take away any of the authority of the doctor at all, or any other health care provider. All that it is aimed at providing is a standard. If they had come up with a standard last year and it were included in the bill, I would not be raising the question this year. This issue today is about whether to have the standard or not. I can't imagine we are even debating it. We ought to be debating what the standard is. That isn't the debate we have today.

As a matter of fact, some of the objections that I've earlier about this amendment could be equally said of an amendment that I suspect the Presiding Officer will be supporting today a little later, and that is to make sure you don't have those exclusions from a policy, those exclusions from a contract, ignored by a medical examiner in the whole process of the review.

The important point here is that this will provide an opportunity, upon an internal or external review, for a medical reviewer to make good decisions, consistent with good medical practice, consistent with the needs of the patient, so that the conditions in those pictures that were shown here—very vivid descriptions—can and will be taken care of and will not be left open without a definition, without a standard. The boundaries would be set, but they would be far broad enough to cover that and any other condition that was discussed here as an example this afternoon.

It seems to me it is important that we establish a standard, and if I wanted to oppose what I am proposing today, I would come in and I would say that it was going to do something bad, that it was not going to permit something good. But that doesn't make it so. It is important to point out the language and deal with the reality of the words of this amendment, rather than setting up a straw man to attack and say that it is doing something or it won't do something that it is in fact doing.

Mr. President, how much more time is there?

The PRESIDING OFFICER. The Senator has about 8 seconds.

Mr. NELSON of Nebraska. I ask my colleagues to support this amendment and move forward with the important work of the Patients' Bill of Rights. We can do that. This will improve it and will not detract from it.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. CLINTON. Mr. President, I have the greatest respect for my good friend, the Senator from Nebraska, and I rise reluctantly, but firmly, to oppose the amendment he is sponsoring, along with Senators Kyl and Nickles, because I am concerned only about the general issues that have not been raised by other opponents. I am concerned also by the American Medical Association's very strong and vigorous opposition to this amendment, which many of them very clearly have raised to me and my office, as well as, I believe, every other Senator, because of their deep concern that this would be a step backward, permitting health plans to determine the services, drugs, supplies, or equipment needed, or to diagnose, or treat a patient's condition, illness, or injury.

But I have a very specific reason for opposing it. I direct this to my good friend from Nebraska because this is something that deeply concerns me. This amendment allows health plans to define "medically necessary and appropriate" in a way that poses a great threat to all patients and families who require hospice and palliative care to treat the suffering associated with terminal illness.

The Washington Post, just a week ago, published a story outlining the various ways in which recent advances and end-of-life care have not yet reached children with terminal illnesses, causing an enormous amount of suffering for children and their parents and loved ones who have to watch that suffering at the end stages of a terminal illness. The article quotes one mother who says, looking back on her daughter's death, that "pain is such a huge problem."

There are two specific phrases within the safe harbor of the "medically necessary or appropriate" language that deeply concerns me. This amendment allows plans to define "medically necessary and appropriate" in a way that poses a great threat to all patients and families who require hospice and palliative care to treat the suffering associated with terminal illness. First, the amendment declares that care provided "for the comfort of the patient" is not medically necessary care.

Any health care professional—or really any person, such as myself—who has stood at the bedside of a dying friend or a loved one knows that comfort of the patient is absolutely necessary and is often the most appropriate goal of care in those last days, weeks, and even months sometimes. At the very center of palliative care, and particularly in the hospice movement, is the belief that each of us has a right to die free of pain and with our human dignity as intact as possible.

The Institute of Medicine report released this month concludes that "policies and practices that govern payment for palliative care hinder delivery of the care that is needed by patients."

A chapter of that report focuses on the terrible effects these policies have had on children. It found that services necessary to provide dying children and their families with comfort and counseling are not recognized and certainly not even reimbursed by many insurance programs.

I believe the definition of "medically necessary care" proposed by this Kyl-Nelson-Nickles amendment further would undermine access to hospice and palliative care services for patients suffering from terminal illness.

We have not done enough to relieve pain and suffering at the end of life. I served for many years on the board of a children's hospital. Back in those days, the idea of giving strong medication to a dying child was really not even considered a possibility for many reasons. People were afraid about the appropriate dosage. Some people were worried even with a dying child that the child might become addicted to strong pain relief medicine.

I have also seen friends who, at the end of their lives, had to cry out for and demand pain relief from an almost unbearable burden. They did not want to leave this wonderful life, but they knew that was going to happen and they wanted to do it in a way that relieved them and their loved ones of the agony that comes at the end of so many devastating illnesses.

There are many wonderful hospice programs in our country, and many academic development centers are developing comprehensive palliative care programs specifically to focus on patient comfort at the end of life.

The Kyl-Nelson-Nickles amendment places the comfort of dying patients and their families beyond the language of the legislation, really rendering it illegitimate; providing this comfort would no longer be medically necessary or appropriate.
I ask unanimous consent to print in the RECORD the article I referred to earlier, entitled "Children of Denial," from the Washington Post.

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

[From the Washington Post, June 19, 2001]

**CHILDREN OF DENIAL—RECENT ADVANCES IN END-OF-LIFE CARE HAVEN'T REACHED THE YOUNGEST PATIENTS**

(By Abigail Trafford)

The leukemia had come back. Liza Lister, 5, leaned on her mother's shoulder. As her mother later recalled, Liza asked, "Will I die soon?"

She quickly went on, "I want to die on your lap. I want to have my lullaby tape on." Just days after her fourth birthday, Liza had been diagnosed with acute lymphoblastic leukemia. Now her last chance for a cure, a bone marrow transplant, had failed.

Her parents, both physicians in New York City, had access to the most advanced therapies to wage war against her disease. But when a cure was no longer possible, they found themselves outside the mainstream of modern medicine.

Hospitals had no formal support system for families caring for a child who was going to die. There was no one to help parents come to terms with the prospect of suffering, education of doctors and nurses on how to treat patients with advanced illness in an era of expanding biomedical options.

A study published last year in the New England Journal of Medicine concluded that 70 percent of patients survive. "We have to turn our focus on the percent who are not surviving," said pediatric oncologist Jo-anna Hilden of the Cleveland Clinic. "It is very wrong when you put children through here," said cancer specialist Hilden of the Cleveland Clinic. "We were offered several options; one was to stop aggressive treatment and make him comfortable. They chose instead an experimental regimen of chemotherapy and radiation. The tumors disappeared."

"He's had four years of quality life," said his mother, June Csatí. "Derrick goes to school and has a close relationship with his older brother. Ben. His mother knows "we could always tell them we're done.'" But "I keep the faith. I think he could pull this off. He's willing. He's not being hurt by this."

"How can you stop? It's too worth fighting:" THE PAIN FACTOR

For many families, the crucial decision of whether to treat aggressively or let go takes place outside the pediatric intensive care unit (PIC). Doctors and nurses on the front lines remember the hard cases: The teenager with aplastic anemia who was in so much pain she couldn't be touched. The 13-month-old who was born prematurely and stayed on life-support machines virtually all her life until the technology was turned off.

"I wouldn't put my own children through what we put children through here," said Ivor Berkowitz, Director of the PICU at Johns Hopkins. "It is very wrong when you look at it in retrospect."

But he quickly adds that each case is unique and that there are no overall guidelines for treating children with advanced illness in an era of expanding biomedical options. Many children survive crises that would be fatal for adults.

"When do you change your goals?" Berkowitz continued. "Where do we set the bar? This is the biggest struggle in the ICU."

"The discussions are hard," said cancer specialist Hilden of the Cleveland Clinic Foundation. "Are we going to do experimental chemo for leukemia? Or shall we go to hospice? Shall we use a ventilator? That's the down-and-dirty stuff. That's not a 10-minute conversation."
Nori is covered by insurance, Hilden noted. "How wrong we were to think we could just say, 'I don't get paid to talk to parents about the death of their child.'"

All the while, children with debilitating illness faced the medical team to address symptoms such as fatigue, nausea, shortness of breath and depression.

Managing pain is difficult in children, particularly in those who are not able to talk. Physicians get virtually no training in pediatric palliative care. Doctors and nurses watch for increasing heart rates, crying, agitation or irritability. "It's very hard to tell what they're feeling," said physician Charles Berde, director of pain treatment services at Children's Hospital in Boston. "The parents say, 'My child screams all the time.' Is the child screaming from pain or something else?"

"Pain is such a huge problem," remembered psychiatrist Elena Lister, who described her daughter's death in the March issue of the Journal of Pain and Symptom Management. Liza, who died four years ago, suffered with pain even in her sleep.

When Liza was in the hospital, one of the doctors raised the concern that narcotic pain medications are addictive. "To me—who the hell cares if the child is pain even in her sleep? The pain is such an inhibitor for any remaining pleasure."

**Continuity of Care**

Several studies have shown that the involvement of the same physicians and nurses from beginning to end helps to minimize a child's pain and suffering.

"Continuity of care was key. To which I say, "Yes," said neonatologist Suzanne Toce, director of the palliative Footprints program at Cardinal Glennon Children's Hospital. Whether a child is cured or succumbs to a life-threatening condition, "you need to integrate palliative care into mainstream medicine," said Toce.

Sometimes when parents want to stop aggressive therapies before their physician does, they have to change doctors—accelerating their sense of isolation and abandonment at a time when they are in the child's hospitalization.

That's what happened to Kevin and Brandi Schmidt of St. Augustine, Fla. When their daughter Kourtney was 4 months old, she was diagnosed with a severe form of spinal muscular atrophy, a rare inherited disease. The Schmidts quickly learned that such children die within a year. As the muscles weaken, the child can't eat, swallow, cough, even breathe.

Kourtney underwent surgery to have a feeding tube inserted. She received extra oxygen to breathe. She had severe revisions several times.

But the Schmidts did not want to put Kourtney on chronic ventilation. "We went to see a little boy. He was 2 years old and hooked up to a machine. We couldn't see doing that to Kourtney," said Brandi Schmidt. "We wanted her to have a better quality of life. We didn't want to do any measures that would only extend her life."

The low-tech approach did not sit well at the medical center. "He wanted to take the big guns out," said brandi. "It was like all or nothing," said Mike Schmidt. "It was very peaceful."

**Focus on Children**

In a national survey by oncologist Hilden, bereaved parents were asked what they most wanted from their doctors in a palliative care program. She summed it up:

"Tell us exactly what different options mean. . . . Some parents, for example, didn't know that patients could talk on a ventilator. . . . Tell us how you can control pain, even at home. . . . Tell us that not pursuing curative therapy is okay. . . . Tell us the truth that they won't abandon us. . . . Tell us how to prepare for the funeral."

The American Academy of Pediatrics called last summer for regulatory changes in Medicare, Medicaid and private health plans to improve access to end-of-life services for children. Several comprehensive programs have been developed in such cities as St. Louis, Seattle, Buffalo, Boston and Baltimore. These programs offer supportive care from the time of diagnosis and follow some children for years. A study on end-of-life care for children is underway at the Institute of Medicine.

"We have to acknowledge that some kids are going to die," said Houston pediatrician Marcia Levetown, founder of the palliative Butterfly Program in Texas.

Research suggests that when children have an opportunity to discuss death, they are less anxious and feel less isolated from their parents and caregivers.

"What Liza taught us was not only can you talk about this, you must," said psychiatrist Lister. "Otherwise, the child dies and there's never been a chance for intimacy."

For many families, the intimate bonding that can occur during the dying process is what constitutes a "good" death. Teenager Allen Collins of Texas lived another year and a half after the second kidney transplant failed. "When I die, you wear hot pink or bright red," he told his mother. He got a new bike for Christmas. He was dead before dialysis center. Just before he died, he gave an elderly man at the center a harmonica. Then he ordered a lemon tree for his mom.

"He was saying his goodbyes," said Terri Wills. Adam suffered a massive stroke in October 1999, and was rushed to Children's Hospital in Galveston, where he died in his mother's arms in the Butterfly room. "It was the most beautiful thing I've ever experienced," she said. At Adam's funeral, the elderly man from the dialysis center played the harmonica. Four months later, the lemon tree arrived.

**Mrs. Clinton, Mr. President, I urge my colleagues to oppose this amendment not only for all the reasons others have enumerated but for this very specific issue. We are at the beginning of work that needs to be done in hospice care and palliative care, and I would hate to see us turn back the clock before we really started the race to determine what we should do to care for those who are in the last stages of life. I urge all of my colleagues to join me in opposing this amendment and to support the ongoing efforts to provide more pain relief, more palliative care and, yes, more comfort to those who are leaving this life. I thank the Chair.**

**The Presiding Officer.** The Senator from Texas, Mr. Gramm. Mr. President, I want to make two points. One has to do with a colloquy that was underway when I had to leave to introduce someone in committee about moving to the Defense supplemental appropriations and an effort to tie the exclusion of amendments on this bill to that effort. I also want to address the underlying amendment.

It never ceases to amaze me that when we debate these issues, we talk and benefits. I made what I thought was a rational judgment, and I decided not to pay more to get the extra coverage. I made a decision, and it involved cost and benefits.

One day in America, people enter into contracts to buy health care. Obviously, a big question in the bill before us is: Are those contracts binding? Are they binding on the purchaser of the health care? Are they binding on the seller?

As is usual with this bill, on page 35, gosh, it sure looks like they are binding. On page 35, line 14, it says in a bold headline: "No Coverage For Excluded Benefits."

Then you read on. It says:

Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or a health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded.

Gosh, it seems to me they are saying contracts are binding, but when you read on, as is true over and over in this bill, you find that exactly the opposite is true. When you read on, it says:

. . . except to the extent that the application of the exclusion or limitation involves a determination described in paragraph (2).
Then you go back two pages to find paragraph (2) and you find that paragraph (2) has to do with anything that is medically reviewable—it is not covered, except if it is medically reviewable—and all medical decisions are medically reviewable—and unless it has to do with “necessity and appropriateness.”

What this provision actually says is the contract is not binding. The medical reviewer can determine that someone needs care, and even if it is precluded by the contract, the plan is required to provide it.

God did not include wonderful to some people. Let’s take the standard option Blue Cross/Blue Shield policy. I have a limit of 60 days in the hospital. Let’s say I have the misfortune or someone in my family does that they are in the hospital for 60 days. The plan says you are not covered. I go before a reviewer and say: Look, I want the medical reviewers to determine as to whether I need this care or not. They determine I need it, they override the contract, and so I paid for the standard option Blue Shield policy, but I got the high option. Is that great and wonderful?

What do you think is going to happen when it is time for me to renew that insurance policy? What is going to happen is then I am going to have to pay for the high option. That is not going to be such a big deal for me because I can afford to pay the high option, but what about millions of Americans who cannot pay the high option?

If the medical review committees decide what people need, independent of the contract they entered into to provide care—I got a lower price by saying I did not want heart and lung transplant services in my policy, and yet I come down with an acute heart problem and my physician stands up in front of this board and says, I am going to die if I do not get this surgery. Then the review committee says it is medically necessary and under this bill it is covered, even though my plan I paid for the standard option Blue Shield policy, but I got the high option. Is that great and wonderful?

Today is Wednesday. Unless we begin to reach an accommodation on these issues, we are headed for a train wreck at the end of the week, and it is because the provisions of leadership to please not try to tie stampeding Members on this bill, by limiting their rights to offer amendments, to passing a defense supplemental appropriation that I assume we are all for.

Why not pass this bill? I would be willing to pass it on a voice vote so it could be done tonight, get it over with, and then focus our attention on this bill. I hope we don’t have an effort to tie limiting our rights on this bill to even bringing up the defense supplemental. That happens, the net result will be the defense supplemental will not be brought up. No one will benefit from that. It is not good public policy. I urge the two not be tied together.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I will respond to the plea from my friend from Texas, his plea that we finish this bill. No one wants to finish this bill more than the authors of the bill, Senators MCCAIN, KENNEDY, and EDWARDS. They have been working to compromise; they have been working with Republicans. That is the reason we are winning these votes on amendments; I because we are getting Republican and Democratic votes and carrying the majority. We also want to finish this bill and do things the right way.

Why do folks stand up and talk about issues that are already taken care of in this bill? I know there is a disagreement on the fine print. That is what the frustration level is. I hope my friend will work with Senator SNOWE as she seeks to craft a bipartisan amendment that deals with the employer liability.

Right now, as I read the bill, employers do not have liability; they cannot be sued unless they personally make mental question of this bill, and that is, Are contracts binding?

What we are saying in this bill is, no, not if they relate to health care. I think that is very dangerous. This is another reason, if we don’t fix it, the explosive cost of this provision unfixed is greater than the liability cost about which we spent most of our time talking.

I hope my colleagues vote for this amendment.

Now the final point. Senator BYRD and Senator STEVENS were talking about the necessity of passing a supplemental for national defense. I am for this defense supplemental. I want it to come forward. I don’t see why we can’t do it tonight and get it over with, provide the money for national security. I know there will be one controversial amendment. I think if you vote against it, maybe some will vote for it. However, there is no reason that tonight we cannot settle this issue and vote first thing in the morning.

Several of the people who spoke on the floor urge that we will not be allowed to go to that defense supplemental bill unless we have set out a limit on amendments to this patients’ bill of rights. I urge the majority leadership to not concommingle this bill with the defense supplemental. It may well be that in the end we will reach compromises on the 6 to 10 major issues on which we will have to reach some accommodation to see the bill go forward. I am encouraged by the willingness of Senator MCCAIN to sit down and talk. I hope it is the beginning of a recognition that this bill is not perfect and it can be improved.

This morning when we voted down an amendment that exempted small employers with employees from this massive liability burden that they can be sued for simply helping their employees buy health insurance, I took that as a very bad sign for this bill. I have to congratulate the majority that I urge this position of leadership to please not try to tie stampeding Members on this bill, by limiting their rights to offer amendments, to passing a defense supplemental appropriation that I assume we are all for.

My concern is, the clock is running. Today is Wednesday. Unless we begin to reach an accommodation on these issues, we are headed for a train wreck at the end of the week, and it is because the provisions of leadership to please not try to tie stampeding Members on this bill, by limiting their rights to offer amendments, to passing a defense supplemental. That happens, the net result will be the defense supplemental will not be brought up. No one will benefit from that. It is not good public policy. I urge the two not be tied together.
the decision to withhold care from the patient. Most employers do not do that. They contract with providers, and those providers will be held responsible.

I find it very interesting that my friends on the other side of the aisle—most of them, certainly not all of them—and we are happy to have Senator McCain and other Senators joining with us on many of these amend- ments—I find it intriguing that they keep talking about these poor HMOs and insurance companies. We know, and we have said it a number of times, all we want is to see HMOs treated in the same way in our society as we treat every other business, every other indi- vidual. If any of us goes outside this Chamber and we knock into someone and we hurt them, we are responsible. We are held accountable if it was our fault.

The reason we have the safest prod- ucts in the world is that we have the toughest liability laws and they act as prevention. People make safe products, one, because in their hearts want a good, safe product. But we have harsh laws if you intentionally hurt someone. If the brakes on the car don’t work, if the crib bars are too wide, wide enough so a child can be strangled, we have laws on the books. All we are saying to HMOs is, if you in fact hurt people, you should be held account- able as well.

Members can stand up and pick apart one sentence in the bill, but the fact is this debate goes much deeper. It is not about paragraph 1 on page 2; it is about the essence of what we are trying to do. Do patients deserve care that is prescribed by their physician or should they be at the mercy of some account- ant wearing a green eyeshade saying, no, the law cannot spend because our CEO will not make his $200 million this year.

Patients deserve to have their care prescribed by physicians. Certainly, physicians are making that statement to us. Almost every group in the country, and certainly every respected group, makes those decisions to support the McCain-Kennedy-Edwards bill. Patients deserve to be able to know their doctor is taking care of them. You would not go to a doctor to get a tax form filled out; you would not go to an accountant to get your health care. We should keep medicine with the peo- ple who went to school, with those who know what good care is, and we should keep the bean counting and the book- keeping with the people with the green eyeshades; they don’t have white coats. I would rather go to someone in a white coat if I am in trouble and need a course of treatment.

Do patients deserve the medications the doctor prescribe? The HMO says: We have another one we can substitute. If the doctor believes you need a cer- tain medication, you should have it.

Do patients deserve to get into a clinical trial if, in fact, they have no other recourse? Absolutely they do. That is why the Kennedy-Edwards-Ken- nedy bill is so important.

Let’s face it; HMO executives are making millions of dollars while deny- ning needed care to our people. This is about who you stand up for, who you fight for. I have many stories.

I ask the Chair what is the order now? It is 1 o’clock.

THE PRESIDING OFFICER. (Mr. WYDEN). The Chair advises that the Senator from Tennessee is expected to be recognized to offer an amendment.

Mrs. BOXER. I will yield then in 1 minute, if I might, and leave the floor at that time. But I want to sum up.

On Monday morning early I held a hearing in San Francisco. I had pa- tients and families of patients testify. I had doctors testify. I heard stories that absolutely brought tears to my eyes—not just to my eyes but to those of ev- eryone in that room.

No. 1, a husband whose wife was diag- nosed with breast cancer had to lit- erally put his work aside. He is in his 50s. He had to fight for her to get the treatment she deserves and needs be- cause the HMO was trying so hard to save money. He had to threaten to go to the Los Angeles Times and tell his story—threaten—in order to get the care she needs.

I had the mother of a little girl who was diagnosed with cancer in her eyes. She had to struggle and fight. She said: I gave up everything else I was doing. I could not be with my daughter.

This is wrong. Senators can offer amendments until the cows come home and I know one thing: It is delaying passage of this bill. It is delaying the chance to vote on a strong Patients’ Bill of Rights.

Bring your amendments on. We are voting them down, most of them. If some of them are good, we will support them. But voting down patients’ Bill of Rights that says to our people: You are paying for this care. You de- serve this care. If you are turned down for care, you deserve the right to a speedy appeal, and then for sure we want to hold the HMOs accountable if they hurt your family. We say: Treat them as we would anyone else in soci- ety.

I am grateful for the honor to speak on behalf of the underlying bill. I yield the floor.

THE PRESIDING OFFICER. The Sen- ator from Tennessee is recognized.

AMENDMENT NO. 839

Mr. THOMPSON. Mr. President, I do intend to offer an amendment shortly. I believe it is being finalized as we speak. We will have that before the Senate in a few minutes.

Listening to the debate, listening to the discussion this morning, I am once again reminded of what passes for policy discourse nowadays. I was reminded of the article that was written by David Broder in the Washington Post yesterday. Mr. Broder is obviously one of the most respected members of the press corps. Some refer to him as the dean. He is certainly not right of cen- ter. I don’t know what you would call him except a very thoughtful, highly respected individual.

As I listened to this debate this morning, I thought a few of his words would be appropriate. He says this:

The Senate debate over the Patients’ Bill of Rights has become, in large part, a battle of anecdotes. Backers of the Kennedy-McCain-Edwards bill, the sweeping legisla- tion President Bush has threatened to veto, come armed each day with stories about the youngsters whose brain tumor was missed because an HMO denied his parents’ request for a specialist referral or the mother whose breast cancer was ignored until it was too late.

Mr. Broder goes on later in the arti- cle and says:

Would that the issue were that simple and straightforward. But it is not. Anecdotal evi- dence, no matter how powerful, gives no guidance to the scope of the problem being addressed.

Later on in the article he says:

Still less do the anecdotes define the proper remedy. Instead, by narrowing the ques- tion to dramatic horror stories, they pull the debate away from the genuine policy trade- offs that must be made.

I could not agree with him more. The incessant recounting of horror stories and the using of these poor and help- less people as instruments in this de- bate, indeed, pull us away from the genuine policy decisions that have to be made.

I would like to discuss one of those stories briefly this morning. That is the sub- ject of the amendment I intend to in- troduce. It has to do with the exhau- sion of administrative remedies.

That sounds to be an arcane legal is- sue that should not be of much inter- est to very many people. I think in the opposite is the case. Basically what the exhaustion principle is saying is that under the law, generally speaking, if you have a remedy before you get to court, go ahead and use it before you go to court. The importance of that principle of exhausting your adminis- trative process—going through the administrative process before you leap to court—is firmly embedded in our system. We see it working all the time with regard to run-of-the-mill kinds of lawsuits.

We have lawsuits in State court where you have to go through a com- mission or some body or some bureau has a chance to make a determina- tion—usually because that entity has some expertise in the area. We give the entity, under looser rules of evidence and less expert witness, an opportunity to take the first pass at this problem. In the process of doing that, a lot of things shake out, a lot of frivolous claims are made obvious and
are dropped at that level. A lot of times the merits of a particular claim are statable in the State or wherever it is—often at the time, in the State system—sees that and they settle.

It is designed to have someone with some expertise, some objectivity, hash out the facts in a way that would be much faster than a court system, much less expensive than a court system, and would be to the benefit of everyone involved. It still doesn’t mean you can’t go to court later, but a lot of things get winnowed out in the process.

We know how clogged up our court systems are in many cases. In our Federal system, under the speedy trial act, the courts have to consider all the criminal cases first. With all the drug cases we have in Federal court and everything else, sometimes in some jurisdictions it takes as long as 4 years around your case heard in the Federal court system. So this administrative process before you ever go to court, in winnowing those cases down to the ones that really belong in court and providing expertise to the litigants, is very important.

In our system, also, when we go through that process and we get that determination made by those who have the first look, so to speak, with the expertise, then you give some credence to what they found. Then you can go to court, but you do not turn your back on the fact that this process has been followed and they came up with a certain result. The court can live with that result, usually, or it doesn’t have to if it doesn’t want to. But it is out there and it has served its purpose.

That is the general, overall system we have through our system. Not everything goes through this administrative process. It goes to court. A lot of things do. This Health Care Bill of Rights we are considering today does that.

It sets up independent decision-makers to consider these claims in a rather elaborate and detailed way before they ever get to court. The process that is set out in this bill is a good one. It sets forth a several-step process where experts who are independent and objective have a chance to take a look at a claim. We all know, with as many horror stories as are paraded around here by those who support this bill, that we cannot cover everything, all the time, for everybody, at any cost. And we always hear about those cases that are legitimate, after being looked at by all experts, not appropriate, this bill assumes there will properly be some cases that are not. If you are going to have some that aren’t decided in an appropriate way, you do. You set up a process to find out what is just. You set up a process to find out what is right.

How do you do that? This bill does a lot of things. It has an internal review process. It is an expertized process, first of all, to even grant or deny a claim.

Let’s say under the plan that someone comes in and their claim is denied. Maybe they haven’t worked there long enough. Maybe they don’t even work there at all. Maybe a determination is made that this is not a medical procedure that is covered or it is experimental. For whatever reasons, there are many cases that are denied.

Under this bill, there is a process to review that denial, even at the internal stage when the employer still has some say-so with regard to some of these plans. Especially even at that stage, this bill begins to set up expertise and objectivity.

At the internal review level, it says the person making that review cannot be associated with the prior decision. He has to be someone who is independent of that prior decision. It also says it has to be someone with expertise. It also says if it is a medical issue, it has to be a physician.

Even before we get to the external review, while it is still an internal review, this bill sets up expertise and independence in the process in order to make sure this claim is adjudicated or decided in an appropriate manner. All right. You go through that.

Let’s say the claim in this external review process is still denied. This person denies the claim. Then, under this bill, there is an external review process. At this stage of the game, the person is totally independent of the plan. The legislation demands that he be totally independent, that he have expertise, and that he have nothing to do with the plan or the employers or anything else. The bill spent several pages of setting up a procedure whereby he is objective and independent.

The Secretary here in Washington has authority to review what he is doing and to look at the cases he has considered to make sure he is not prejudiced in any way, where it looks as though he may be denying too many claims or something such as that. There are elaborate processes to make sure this external appeals process is fair, independent, and objective. All right.

Let’s say we go through that level. Let’s say that entity decides that there is a medical issue. Then they hand it over to yet another level of independent review. That is the independent medical review.

Once again, the bill sets up someone who is totally independent, totally objective, sets forth supervision by the Secretary, and sets forth how he is to be compensated to make sure he is well qualified.

This is the third level, you might say, in terms of some degree of independence and objectivity—totally at the last two levels and somewhat at the first level.

You have the internal review; you have the external review; and you have the independent medical review—all set up to make sure that someone who comes with a medical claim gets fair consideration, and you don’t have any big, bad, mean HMOs that we hear so much about making these decisions. They are not. These people are under this act.

What we do, and what we say in this amendment that I am going to submit is, let’s use it. What I have just described, let’s use it.

After setting up this process that ought to be used because it is a good process, this bill also says it can be circumvented at any time. It can be. A claimant can stop it if he doesn’t like it. Or, or you can go to court by alleging that they have received irreparable injury or damage—not that they are about to but that they have received it.

There are two things wrong with that: No. 1, you obviously lose the benefit of the administrative process. For example, part of the problem could be or may be the sole problem could be a question of coverage. You have this process set up. You are maybe in the middle of it. Why not just decide whether or not you are really covered under this bill? It is a factually intensive exercise under this plan: how long you have been working here, and that sort of thing.

The second thing that is wrong with the bill as it is now, and allowing them to circumvent this process that I have discussed by alleging irreparable injury—they do not use the word “allege,” but it is the same thing. The only way you can get into court is by alleging that you are really covered under this bill. It is a low threshold.

You can circumvent this process at any time, or this process at any time along the way.
The second thing wrong with it is that it doesn’t have a claimant in it because we are talking about money damages. To circumvent this process in order to allow a claimant to go over here in the middle of it and file a lawsuit for money damages, all he is doing is getting in line over at the courthouse. He doesn’t get an expedited determination. There is no provision in the bill that covers that situation also, under section 103 on internal appeals. At the internal appeals level, if the initial claim is turned down and if a person believes they are entitled to an expedited determination, even at that level, they can go forth and pursue that. Then, at the next level, at the external appeals level, if they believe they are entitled to an expedited determination under this new provision that they are entitled to expedited consideration—at either of those levels—they can get that. So the claimant is covered.

The claimant is covered under those situations, which allows us to go back to the basic legal proposition that I mentioned in the very beginning in relation to the exhaustion of the administrative remedies, which work so well in so many aspects of our judicial system, which is set up under this bill but then has massive carve-outs. That process should be allowed to work. There is one other point in this amendment, and then I will offer it; and that is, after you go through this process, after you exhaust your administrative remedies, after you go through the internal appeal, the external appeal, the independent medical review, and after you get a result—whatever that result is—the trier of fact, when you go to court, ought to know about it. Who may be at issue here is whether it is expeditious in reaching a just result. So let’s let doctors make that initial determination instead of lawyers. This is one of those issues that is doctors versus lawyers.

If you want to go to court, if you want to file a complaint at any time in the process, regardless of what has happened—regardless of whether or not anybody independent has had a chance to look at this—you are going to decide, with a lawyers’ bill, to do that. The way it is constructed right now, you can sue anytime, for anything, in any amount. We can discuss those issues later.

But with regard to this issue, exhausting administrative remedies, let’s let the doctor, let’s let the medical people have the first crack at it, which is the only way it knows. When we get that result in, it might resolve a lot of these potential lawsuits.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows: The Senator from Tennessee [Mr. Thompson] proposes an amendment numbered 619.

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

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

The amendment is as follows: (Purpose: To require exhaustion of remedies)

On page 150, strike line 17 and all that follows through page 153, line 8, and insert the following:

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(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection.
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I shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and
But there is no substituting what many of my colleagues have brought to this Chamber; that is, the experiences of frustrated families with the system as it is currently designed and how it has dealt with the tragedies of their own lives.

Many of my colleagues have brought the experiences of frustrated families: People who get up every morning to work, pay for medical insurance, and participate in a managed care plan, only to find that in a moment of crisis in their own families, that which they purchased, that which they have relied upon, was not available to them.

As do my colleagues, I want to now share with you just two stories that give meaning to all the statistics and illustrate all the failures of the system.

I begin with Kristin Bollinger, a young girl from New Jersey, NJ. Kristin’s experiences illustrate some of the troubling practices of HMOs and how ineffective and unresponsive they can be in dealing with the needs of a child who requires long-term care when chronically ill.

Kristin suffers from a unique condition of seizures and scoliosis, both of which can be managed with proper treatment and care. Her family was forced in an HMO by their family’s employer in 1993. Kristin’s parents have been fighting to ensure their daughter receives specialized services ever since. The HMO told Kristin’s family she could no longer see a pediatrician and the specialists who had treated her all of her life. From birth, she had this condition. She saw a specialist, received specialized care. When Kristin needed to see a neurologist and other specialists, her parents had to pay for the specialists because they were not in the HMO. After a major surgery in 1997, Kristin’s specialties in specialized nursing care was canceled without notice. She wasn’t even told. The HMO even discontinued coverage for physical therapy because it was deemed medically unnecessary.

Eventually, after fighting months and even years, the care was restored. But here is a family dealing with repeated seizures, a child who was not able to function, massive medical bills, although they were in a managed care plan, not able to see the specialists who were deemed medically necessary and had to fight their way back to coverage while caring for a child—case in point.

What would have worked? First, a right to get to a specialist; second, after you have been receiving care from a specialist and your plan changes, the right to keep the specialist; third, when you are denied the right to an appeal, for someone with continuous seizures only to find that now you could not avail yourself of it. They were denied. In fact, the doctors answered. They were denied. In fact, the doctors answered.

Imagine the frustration, that the genius of medical science found a way to deal with the suffering of your child in continuous seizures only to find that now you could not avail yourself of it.

Morgan’s parents appealed the decision, the HMO. They were denied. The doctors wrote that they and only their specialists could provide an answer. They were denied. In fact, the doctors report their letters weren’t even answered.

The HMO provided Morgan’s parents instead with a list of in-network specialists. They were not even board certified. They could not perform. They were not even board certified. They could not perform. They were not even board certified. They could not perform. They were not even board certified. They could not perform.

Last Friday, after 2 years of fighting an appeal, Morgan’s parents received a two-sentence e-mail from her HMO that her original specialists, the doctors they had requested, would now be covered—2 years, no money, no care, no answers. It isn’t right. It is not a system that anyone in this Chamber can defend, to Kristin, to Morgan, to her parents, or to millions of other Americans who are paying for this managed care or whose employers are paying for it and getting what they are covered, and tomorrow morning they are but a single tragedy in life away from Morgan’s or Kristin’s experience. It could be anyone in this Chamber. It could be anyone we
They did it.

KENNEDY, MCCAIN, and EDWARDS.

In a moment of recognition that chronically ill patients can keep their doctors even if they are forced to change plans or their doctors leave the HMO. That is not only right and fair; it is just not being cruel to patients and children in these circumstances.

The truth is, the alternative Republican plan does not allow these decisions to be made by patients and doctors. It means that an HMO that does not have a pediatric neurologist can force a child to see someone who is not trained or capable.

What are the costs of all this? If you take this one element of the Patients’ Bill of Rights I have addressed, just this one narrow, critical element for the chronically ill patient who need these specialists and a continuum of care, if you just take this small element I have addressed, CBO estimates that it would add 2 percent to the cost of insurance. Is there a family in America, given these circumstances, who would not bear that burden? Is there an employer in the country that would not want their employees to have this peace of mind in coverage, just knowing that what they are already purchasing might now be relevant and available in a moment of need? Mr. President, I have participated in this debate over these years. I have offered the case. I have argued the politics. I have discussed the merits. I have reviewed the bill. Now I submit Kristin and Morgan’s cases as the most compelling cases of all of why there is only one piece of legislation available on this floor that truly addresses these circumstances. It is offered by Senators Kennedy, McCain, and Edwards.

The case is overwhelming, and I urge my colleagues across the aisle to join us. They will be proud and pleased that they did it.

I yield the floor.

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

THE PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. KENNEDY, Mr. President, for the benefit of our colleagues, we are now still committed to voting at 2 o’clock on the Nelson amendment which we debated earlier today. We will then return to a conclusion of the Thompson amendment. We just saw that amendment a short while ago, and we are trying to study that more closely.

After the completion of the vote on the Nelson amendment, we will be able to indicate to Members when we will either vote on or dispose of the Thompson amendment.

There has been a proposal made to our colleagues on this side for votes going through the afternoon and times allocated to the different amendments and then into the evening, also being sensitive to the needs of our colleagues on the other side of the aisle for a window, and then returning to the Senate for consideration of legislation.

Hopefully, at the end of the vote at 2:30 p.m., we will be able to give the Members a clearer idea both of the substance and the time for moving the process along. We have had good debates on these issues to date. We still have work to complete on the issue on medical necessity. Also, our colleagues, Senators Snowe and DeWine, held the votes that at 11:30 this morning on their proposals, which hopefully we will consider later this afternoon, to tighten up language in the area of employer liability. We are familiar with the thrust of the proposal. It seems to be extremely valuable and helpful in resolving some of these issues.

We will move on hopefully to the issues of scope later in the afternoon and into the early evening.

This is how we hope to proceed. We are not sure whether the actual proposal is made, but we want to give assurance to Members we are making progress, and we will continue to move as rapidly as we can on the measure.

Again, the liability issue will be the last outstanding issue. There is still no consensus on that particular proposal. We will consider the alternatives in a timely way and hopefully be able to conclude the legislation in a timely way as the majority leader has stated. I thank all of our colleagues for their cooperation. These have been good substantive debates. We have had very few interludes. A number of our colleagues welcome the opportunity to express their views on the legislation, and we will try to accommodate as best we can when we see the opportunity to have a focused debate on a particular subject matter and dispose of that matter in a timely way. I thank all of our colleagues.

At the conclusion of this next vote, which we expect will start in just a very few moments, we will then have further news for Members.

I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

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

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

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Mr. MCCAIN. Mr. President, I move to table amendment No. 818 and ask for the yeas and nays.

THE PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from North Carolina. (Mr. HELMS), is necessarily absent.

THE PRESIDING OFFICER. (Mr. ENZI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

{Rollcall Vote No. 200 Leg.)

YEAS—54

Akaka  Harkin  Johnson  Schumer

Baucus  Feingold  Johnson  Wyden

Bayh  Feingold  Jordan  Wyden

Biden  Fitzgerald  Kaufman  Wyden

Boxer  Graham  Kildee  Wyden

Breaux  Harkin  Landrieu  Wyden

Byrd  Hollings  Landrieu  Wyden

Cantwell  Inouye  Landrieu  Wyden

Carnahan  Inouye  Leahy  Wyden

Cleland  Inouye  Leahy  Wyden

Clinton  Johnson  Leahy  Wyden

Conrad  Johnson  Leahy  Wyden

Corzine  Johnson  Leahy  Wyden

Daschle  Johnson  Leahy  Wyden

Dayton  Johnson  Leahy  Wyden

YEAS—45

Allard  Ensign  NAY

Allen  Ensign  NAY

Baucus  Ensign  NAY

Bennett  Ensign  NAY

Bond  Ensign  NAY

Boren  Ensign  NAY

Bono  Ensign  NAY

Bunning  Ensign  NAY

Burns  Ensign  NAY

Campbell  Ensign  NAY

Cochran  Ensign  NAY

Collins  Ensign  NAY

Craig  Ensign  NAY

Crapo  Ensign  NAY

DeWine  Ensign  NAY

Dorgan  Ensign  NAY

Ensign  Ensign  NAY

NOT VOTING—1

Nelson (NE)  Ensign  NAY

Nickles  Ensign  NAY

Roberts  Ensign  NAY

Santorum  Ensign  NAY

Sessions  Ensign  NAY

Shelby  Ensign  NAY

Smith (MI)  Ensign  NAY

Smith (OK)  Ensign  NAY

Specter  Ensign  NAY

Stevens  Ensign  NAY

Thomas  Ensign  NAY

Thompson  Ensign  NAY

Thurmond  Ensign  NAY

Voinovich  Ensign  NAY

Warner  Ensign  NAY

The motion was agreed to.

Mr. KENNEDY. I move to reconsider the vote.
Mr. KYL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.
Mr. KENNEDY. Mr. President, it is our understanding that the Senator from Arizona is going to offer an amendment at this time on behalf of a number of our colleagues.

Hopefully, we can have order, Mr. President. This is a very important amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that the pending Thompson amendment be laid aside without prejudice so that the Senator from Arizona may proceed.

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

The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that Senator from Arizona would agree to an hour of time evenly divided on his amendment.

Is that right?

Mr. MCCAIN. That would be agreeable. But I think we can do it in a shorter time than that, depending on the view of the Senator from New Hampshire on the amendment.

Mr. GREGG. I am not sure I have seen the amendment.

Mr. MCCAIN. I say to the Senator, I will get it to you right away. Why don’t we do that.

Mr. REID. I would also say, it is my understanding, having spoken to all the managers, that Senator Snowe of Maine is ready to offer the next amendment, whenever the time arrives that Maine is ready to offer the next amendment.

Mr. REID. Mr. President, would the distinguished Senator from Arizona yield to me so I might ask a question without his losing his right to the floor?

Mr. MCCAIN. I am always pleased to yield to the Senator from West Virginia.

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

The PRESIDING OFFICER. The Senator from West Virginia.

SUPPLEMENTAL APPROPRIATIONS

Mr. BYRD. Mr. President, earlier today the distinguished Senator from Alaska, Mr. STEVENS, and I entered into a colloquy with several other Senators here anent the possibility of reaching an agreement on the amendments that would be considered at such time as the majority leader calls up the supplemental appropriations bill. I have asked the distinguished Senator from Arizona to yield for that purpose again.

I wonder if it might be possible at this point to get an agreement, or at least to get ourselves on the way to an agreement, that would limit the number of amendments to be called up to the supplemental appropriations bill to those amendments that we have ascended on out there via the hot-line in the Cloakroom and a managers’ amendment, the contents of which Senator STEVENS and I are ready to reveal to any Senator who wishes to know what is in the managers’ amendment.

Mr. BYRD. I ask, with the permission of the Senator from Arizona—I am about to lose my voice for the second time in 83 years—the distinguished majority leader for a reaction to this request?

Mr. DASCHLE. Mr. President, I appreciate the chairman’s concern for moving the process along. And since we discussed this matter this morning, we have issued a hotline request for amendments. We have now received the response. A number of Senators have indicated a desire to ensure that they have been included in the managers’ amendment. Once that confirmation can be made, I think on our side we would be prepared to then enter into a unanimous consent agreement which would take on or schedule the debate with an appreciation for a managers’ amendment and a designated list of amendments that could be accommodated.

So we are just about at a position where I think a unanimous consent request could be propounded. If Senators could just check with the distinguished senior Senator from West Virginia and the Senator from Alaska to ensure that the managers’ amendment is as it has been reported to them, we will be able to move forward.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. I wonder if we can’t set the hour of 3 o’clock as the time when the majority leader could propound a request in this regard.

Mr. DASCHLE. Mr. President, I would be happy to attempt to propound an agreement at 3 o’clock and see what happens. No harm done in making the effort.

Mr. BYRD. Yes. The distinguished Republican leader has already indicated his strong support for such an effort.

So I thank the majority leader. And I thank the distinguished Senator from Arizona for yielding.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, just to clarify, I would be happy to enter into a unanimous consent agreement that would limit the number of amendments and provide for an understanding about how the supplemental would be addressed. Of course, we cannot schedule the supplemental until we have completed our work on the Patients’ Bill of Rights. I know the senior Senator from West Virginia understood that.

Mr. BYRD. Yes, I do.

Mr. DASCHLE. But I wanted to clarify that for the sake of anybody who may have misunderstood.
Mr. KENNEDY. Would it be agreeable to have an hour, so we could get—

Mr. MCCAIN. Mr. President, I ask unanimous consent that there be 1 hour on this amendment evenly divided.

I withhold my unanimous consent request.

Mr. GREGG. Reserving the right to object, in just a minute I believe I will be able to respond.

Mr. REID. I did not hear the Senator. Mr. GREGG. I said, I believe we will be able to respond to the Senator in about a minute.

Mr. MCCAIN. I thank the Senator.

Mr. President, concerns have been raised that under this legislation, independent medical reviewers can order a health plan to provide items and services that are specifically excluded by the plan's coverage.

The amendment I am offering clarifies that the bill does not do this, and that specific limitations and exclusions on coverage must be honored by the external reviewers.

There are a number of safeguards already in the bill to ensure that external reviewers cannot order a group health plan or health insurer to cover items or services that are specifically excluded or expressly limited in the plain language of the plan document.

First, the external review entity who is responsible for determining which claims require medical review and which do not, may refer claims to independent medical reviewers only if the coverage decision cannot be made without the exercise of medical judgment.

I repeat: The external review entity, the one that is responsible for determining which claims require medical review and which do not, may refer claims to independent medical reviewers only if the coverage decision cannot be made without the exercise of medical judgment.

Second, even if the external review entity makes a mistake and forwards to the independent medical reviewer a claim for an item or service that is specifically excluded or expressly limited under the plan, the legislation states that the independent medical reviewer cannot require the health plan or insurer to cover such excluded benefits.

The amendment I am offering clarifies this limitation on the independent medical reviewer to make it perfectly clear that although we are relying on the independent medical reviewer to give us a second medical opinion when such a medical opinion is necessary to interpret the plan's coverage, we are not empowering them to disregard the plan's specific coverage exclusions and limitations.

The third safeguard and the one we are further strengthening with this amendment is designed to ensure the objectivity and quality of the external reviewers. The bill provides already for their certification and sets out factors that must be considered before they can be recertified, including the external reviewer's compliance with requirements for independence and limitations on compensation. To the recertification considerations already in the bill, this legislation additionally requires the certifying authority, before recertifying an external reviewer, to consider whether the external reviewer has breached the other safeguards by excluding a provision of items or services that are specifically excluded by the plan.

The amendment allows a health plan or insurer to petition the certifying authority to revoke an external reviewer's certification or deny recertification and requires the certifying authority to do this upon a showing of a pattern or practice of wrongfully referring for medical review claims that don't require medical decisions or of ordering the provision of specifically excluded benefits.

Finally, the amendment requires the General Accounting Office, within 1 year after the bill takes effect, to report to Congress on the number and the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

I guess what we are saying here is that we are trying to make the language as tight as possible. We know the way it may be on the part of reviewers to violate the plan with regard to those procedures which may be specifically excluded. We will have follow-up action, including a requirement for taking into consideration, on recertification or even revocation of certification, a study by the General Accounting Office which will tell us about the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded.

My friend from Arizona, Senator KYL, had a very good amendment. We could not quite go that far, and we came close to agreement. I hope this amendment does clarify some of the concerns.

It strikes the language on page 36 of the bill that says: Except to the extent that the application or interpretation of the exclusion or limitation involves the determination described in paragraph 3 of this section.

This removes what was viewed by many as a possible loophole. So we were willing to strike that portion of the bill in order to try to inspire some confidence that in no way does this legislation expect or anticipate or even allow in any way exclusions on coverage that are not specifically listed in the medical plan, in the insurance plan.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, before my colleague Senator MCCAIN leaves the Chamber, I thank him for his leadership on this issue. He has demonstrated his courage in battle and in service to the country and is doing so again by leading this important battle for patient care for all Americans. I thank Senator MCCAIN for his leadership once again.

I thank my colleague Senator CARPER from Delaware. We stood together as Governors for many years, and we share a common interest in ensuring that patients have access to the treatments they need. I was thrilled that this conference report included many of the safeguards that we have been fighting for in the Senate and House, including the right of patients and their insurance companies to contest whether the external medical reviewer is acting appropriately.

I express my appreciation to Senators EDWARDS and KENNEDY for their leadership in this important battle on behalf of patients. I express my gratitude to two of our colleagues who are not on the floor at this time: Senator NELSON of Nebraska and Senator KYL from Arizona.

In particular, I thank Senator NELSON for his heartfelt work on the last amendment. Although unsuccessful, I know he cared deeply about striking the right balance. We share many of the same objectives, although we differ in terms of how to achieve those objectives. I salute Senator NELSON for his work in this regard. I hope our amendment will meet many of his concerns. I believe it does in terms of striking the right balance for the American people.

Our amendment accomplishes both of the important objectives that the American people seek in debating and enacting this Patients' Bill of Rights. First, we ensure that all decisions that involve medical discretion allowing in any way exclusions on coverage that are not specifically listed in the medical plan, in the insurance plan.

Second, this amendment seeks to accomplish quality medicine at affordable cost, keeping the prices as reasonable as possible for consumers and patients across the country. We do this by removing unnecessary ambiguity from this bill, thereby ensuring that we can accomplish quality medical treatment but keeping the risks, the uncertainty, and therefore the costs to patients and consumers as low as possible.

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The bottom line will be quality health care for all Americans at an affordable cost. That is the balance all of us should be seeking to strike in this debate. That is the balance this amendment will help us to accomplish.

Very simply, we seek to honor the original intent of this bill, that doctors should make medical decisions, that lawyers should draft contracts and practice law, but neither should be in the business of practicing the other’s profession. We have removed through this amendment ambiguous language that ran the risk of one encroaching on the other’s territory.

Specifically, let me read the provisions that will remain in the bill. They are explicit and unambiguous. I quote from the legislation:

Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan or health insurance coverage provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or coverage in plain language of the plan document.

Under the bill before this amendment, Mr. President, there had been several exceptions which had consumed the rule, making this clear except for express limitations or prohibitions under the terms of the contract null and void. We put a period at the end of this language, thereby making it very clear that the terms of the contract, in terms of contract language, will govern. This helps to keep the costs low because the uncertainty and the ambiguity will be removed.

At the same time, there can be no uncertainty or ambiguity that medical decisions involving the practice of medicine, anything involving medical discretion, will be fully reviewable by the external appeals process, as it should be.

In addition, there are other precautionary measures included in our amendment that I was interested in and I know the Senator from Delaware was interested in. He may elaborate on these provisions in just a few moments. These ensure that the independent reviewers are truly independent. We want to make sure they adhere to the provisions of this legislation, hopefully as amended by this amendment, and that we don’t lose the power of panels to cancel their authority by changing the terms of the contract where they are expressly provided for, and there is no ambiguity in the language in terms of limitations or exclusions from the terms of the contract.

Once again, this amendment will ensure that independent review panels do not exceed their authority, inappropriately driving up costs without improving the quality of health care for the American people.

Finally, we have a rare opportunity to achieve bipartisan consensus on this amendment.

Not only is Senator McCAIN helping to lead the charge once again, for which we are very grateful, but I listened with great interest and gratitude to something the Senator from Oklahoma, Mr. NICKLES, said last evening. He recited the very same language that I recited about exclusions and limitations in the contract. And then he quoted the end of those provisions and remove the exception language, that would be—use his word—"great." Mr. President, that is exactly what we have done. We have placed a period there and removed the exception language, thereby removing the ambiguity, the risk, the unnecessary cost to consumers without a health care benefit.

Senator THOMPSON, earlier today on the floor of the Senate, indicated that the action we have proposed in this amendment would also go a substantial way toward correcting what he thought was a potential defect in the legislation.

So I ask all Senators, regardless of political persuasion, who are interested in striking the right balance between quality health care on the one hand and affordability on the other hand to support this amendment. We have taken a step that some of those who have been concerned about the ambiguity in the language that have encouraged us to do, thereby ensuring quality affordable health care for every American. We can accomplish that with this legislation, with this amendment, I urge my colleagues to vote in the affirmative.

I yield the floor, and I thank my colleagues for their patience and attention.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I rise in support of the amendment. I am pleased to be an original coauthor with Senators BAYH and McCAIN. The Senator from Indiana is very modest in giving to others the credit, but this is really an idea that I first heard from him. Early this week, Senator BAYH and Senator McCAIN and myself were trying to deal with issue of medical necessity. It is a difficult issue around which there are competing interests—doctors, nurses, insurers, patients—who really find consensus hard to reach.

I thank Senator BAYH for helping us to find this middle ground on which I am encouraged that maybe we will have strong bipartisan support. I express my thanks to Senators McCAIN and KENNEDY and Edwards for their leadership in getting us here this day, and to my friend, Senator GREGG from New Hampshire, for his thoughtful comments, as well as those I heard on the floor this morning by Senator BAYH, from Senator NICKLES. As I recited, earlier today PHIL GRAMM of Texas echoed almost those same comments.

Before I return, I want to step back a little bit and go back in time. I used to be State treasurer of Delaware before I was a Congressman, and I was Governor, before I became a Senator. Senator BAYH was Governor of Indiana and was the secretary of state. We worked in those venues before we came here to work. With our State treasurer at the time, we administered benefits of State employees. Among the things I was mindful of was health care costs.

In the 1970s and 1980s, health care costs went up enormously. It was not uncommon to see increases then of 20, 25, or even 30 percent annually in the cost of health care for State employees. These really mirrored increases that insured to other employees outside the State of Delaware.

Along about the late 1980s, a dozen or so years ago, a number of people began working seriously in this town to figure out how to introduce some competition into the provision of medicine. In a fee-for-service approach in medicine, I might see my doctor and he says, “You are not well; I will order tests A, B, C and D,” and to be sure we will order E, F, G and H,” and he owns the lab where the tests are administered. Then he says, “Come back and we will see how you feel next week.”

There really wasn’t much impetus for controlling costs. As a result, costs spiraled out of control.

Managed care was designed and conceived to try to stop that spiraling and introduce some market forces and competition in order to control the cost of health care. It really succeeded better than I think any of its proponents had imagined. Those costs that were going up 20, 25, even 30 percent, back in the 1980s, by the time we got to the end of the 1990s, were going up by 2, 3 percent, in some years nothing at all. As we went about controlling costs, the concerns switched to a different area, and that different area was quality of health care.

Instead of a lot of our doctors and nurses making decisions, a lot of decisions for the care to be offered or given to us was made within the HMOs running the managed care operation. In some cases, they were doctors and nurses, and in some cases they were no medical professionals.

What we are trying to do in the context of the Patients’ Bill of Rights legislation is restore some balance to the system. We don’t want to see costs spiral out of control or employers cutting off health care for employees. By the same token, we want to make sure that more of the medical decisions that affect us if we are covered by an HMO, especially if it falls under a Federal regulation, which ERISA is—we want to make sure before getting the kinds of protections that insure to folks who are in State HMOs.

How do we do that and not lead us back to spiraling, out-of-control costs
in a way that is fair to doctors and nurses, and in a way that is fair to employers and the same time fair to the HMOs? The key to what we are trying to address is: I am in an HMO; I don’t like the decision my HMO renders with respect to my health care. I appeal that decision, and it is reviewed by an internal mechanism within the HMO. If they don’t provide a decision my doctor and I like, we can appeal to an external reviewer. In some cases, certainly in my State, an external reviewer can override the HMO’s decision and mandate the provision of that health care under a State-regulated plan.

What about in a case where there is a federally regulated HMO, one that falls under ERISA? What do you do in a case when the language of the plan explicitly excludes a treatment that a member of that plan desires? What do we do when the language of the plan explicitly excludes the very treatment that I or the member of a managed care plan desires?

Unexpectedly, the language of the bill as drafted says to the external reviewer that you have license to go beyond that which is explicitly excluded in treatment for a patient. That external reviewer can order additional explicitly excluded treatment for a patient. That might be great for the patient, might be appreciated by the patients’ doctors and nurses. But how fair is that to the insurer who is trying to cost out a plan, to charge for that plan and have a sum certain to operate with?

What Senator BAYH has fashioned, something that he and Senator NELSON and I worked on, is a way to provide that certainty for the insurer and also to provide certainty for the consumer, the patient, and the health care providers. It is a simple change—one endorsed, at least indirectly, by Senator NICKLES and today by Senator Gramm. By simply striking a couple lines in his bill and putting a period where a period ought to appear, we helped solve a problem. It doesn’t solve all of the problems in this bill, but it solves one of the problems. It is clear, clean, and easy to understand.

Let me close my remarks with some comments about another one of our colleagues who, before he was in the Senate, was a Governor, BEN NELSON of Nebraska. Before he was Governor, he was insurance commissioner for his State. He has forgotten more about these insurance matters than most of us will ever know. His insights and perspectives on these issues have been enormously helpful to me in this debate. I thank him for joining with Senator BAYH and me and others in the conversations that really led to the emergence of this proposal.

Senator NELSON offered an amendment with Senator KYI, a little bit earlier today to try to define medical necessity, which is really the kind of issue we are talking about here. People have been trying to do that for years without a lot of success. While we are not going to agree to change the language in the bill with respect to that, we can say here clearly, if a health plan that falls under the jurisdiction of ERISA explicitly excludes a particular kind of a service, then in all fairness the external review committee in reviewing an appeal, cannot override the explicit exclusion in that health care plan. That is fair; that is reasonable; it provides certainty for the insurer, and I think it is fair to consumers as well.

I am pleased to rise in support of it, and I hope that all of us in this Senate, Democrats and Republicans, and Independent as well, can support this amendment and be very much in favor of it.

I yield back my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, before I leave this book, I wanted to thank my friend from Delaware for all his work on this issue. It is very important to the progress we are making to finally protect patients in this country, along with Senator BAYH, who led this effort, and Senator Nelson and others involved in this issue. We very much appreciate all of their input.

The issue of medical necessity, which means how do we determine whether any particular care and is medically necessary for the treatment of the patient, is a critical issue in the bill. We have now agreed on language that we believe appropriately balances the interests of the contract between the insurance company or the HMO and the employer on the one hand, and the interest of the patient and having some flexibility on the other.

Basically what we have said in this amendment is if the contract explicitly excludes a particular treatment, a test, then that will be excluded from care, period, and the independent reviewers are bound by that language.

On the other hand, to the extent we need some flexibility in what is proper and good medical care, we have managed to maintain that. I think we have struck the right balance between the sanctity of the contract on the one hand, so people know they can rely on the provisions of the contract and, secondly, allowing enough flexibility to provide the proper care to patients when they go through the review process.

More important is this is another step in a very important process. When we began last week, we were confronted with trying to get real patient protections in this country with numerous obstacles—disagreement among our colleagues, different issues being raised by Members of the Senate and a written veto threat from the President.

As we have moved forward through the end of last week and through the mid part of this week, we have continued to make progress every step of the way. We keep resolving issues. We keep making progress.

On the issue of employer liability, about which many of our colleagues have expressed concern, making sure that employers around this country are protected from liability, we have worked with our colleagues—Senators SNOWE, Senator NELSON, Senator DeWINE, and others—to work out compromise language that satisfies a large number of Senators on both sides of the aisle so that there is consensus on the need to protect the employers, on the one hand, but keeping in mind the rights of the patients on the other. Issue resolved.

No. 2, scope: What this legislation covers and who it covers. Senator BAYH has fashioned a model in problem solving, in trying to get real patient protection. He has been working very hard on this issue. We believe we have reached a resolution that will result in an amendment being offered later today that strikes a compromise and a balance between the interests of the States, being able to maintain the work they have done in the area of patient protection, while at the same time making sure every single American has a floor on the level of patient protection.

On the issue of medical necessity, as a result of the work of many of my colleagues, we have been able to reach consensus. On the issue of scope, who is covered, we have been able to reach consensus. On the issue of employer liability, we have been able to reach consensus.

Every day we have continued to make progress, but the importance of this is not for what is happening specifically within this Chamber and what is happening in Washington, DC, and what is happening in our States. The winners in this process are the families of America because it is now becoming clearer and clearer that we may finally be able to provide those families with the protections they so desperately need and to which they are entitled.

That is what this debate has been about. That is what all this work among Republicans and Democrats in the Senate has been about. We have shown over the course of the last week that we can work together, we can find ways to provide real patient protection in this country. Up until now, we have a model in problem solving, in trying to give real protection to the families of this country so they can make their own medical decisions. That is what this debate has been about; that is what our work has been about.

We are not finished. We have important issues left to resolve, but I am confident, given the good will and hard work that has already been done, that if we continue in that same way, we will be able to reach a resolution and hopefully be able to put a bill on the
President’s desk and that he will sign a real Bipartisan Patient Protection Act that gives power to patients and lets them make their own health care decisions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida, I thank the Chair. Mr. President, over the past few days of debate on this Patients’ Bill of Rights, we have heard the many horror stories of what happens to people when HMOs put profits ahead of patients. We have heard of one man in a wheelchair whose HMO ordered his oxygen tanks removed from his house; we heard of a youngster whose brain tumor was missed because the HMO refused to allow the necessary test; and we heard of others pleading with their HMO to get conventional medical procedures either for themselves or their families.

These, unfortunately, are not isolated examples. They are happening every day all across this country which is why the people of America are demanding reform and why we are seeing the public outcry now showing support for this legislation to the tune of 81 percent in favor of this legislation.

The people also realize the system is not working for the doctors either. Just last week, I learned of a doctor who is assessing his existing patients a $1,500 annual membership fee for the privilege of continuing their treatment. He wants to cull his current patient list from 3,000 patients down to 600, and by charging this annual membership fee, the doctor shrinks his practice and yet he maintains his profits. The patients who cannot afford the annual membership fee have to find another doctor. I find this outrageous and unethical, and it sets a bad precedent for the future of our health care industry.

All of these incidents and the debate over this legislation have made one thing very clear: Our health care system is failing most of the people in the country.

Mr. President, I rise today to reiterate my strong support for this Bipartisan Patient Bill of Rights. It represents a critical first step, an important first step in a long journey of thousands of miles of reforming America’s health care system.

In short, this legislation puts medical decisions back in the hands of doctors and patients instead of HMO bureaucrats. It gives patients the right to see a specialist when needed, fixing a system that so often blocks a woman’s access to necessary care. This legislation will ensure direct access for a woman to an OB/GYN if that is who she wants as a primary care physician.

This bill gives patients access to the emergency room without first seeking clearance from their health care provider. We have heard many horror stories recounted in the Senate of people denied access to a certain emergency room because they had to go to another.

This legislation also protects the doctor-patient relationship, a very sacred relationship, by ending restrictions on which health care options doctors can recommend. Currently, we know doctors say they fear retribution from the health insurance industry if they pursue more costly medical treatment for their patients.

This bill also prohibits HMOs from offering financial incentives to doctors for recommending limited care. It prohibits HMOs from punishing doctors who seek top-notch care for patients.

What we are trying to do in this legislation is reinject common sense and good medical practice in protecting the doctor-patient relationship so the patient can enter into knowing what is going to prescribe what is the very best medical treatment appropriate for the circumstances.

In spite of claims to the contrary, yesterday the American Medical Association reported in States with recently enacted accountability and legal remedies, the new laws did not produce any documented increase in the number of uninsured, one of the specious arguments that the opponents to this legislation have advanced.

The most crucial issue is whether a patient can seek legal recourse for the wrongdoing by a managed care company. This bill will enable patients to hold their insurance companies accountable for harmful actions. Under current law, if malpractice is committed, if there are grievous wrongs, a patient can recover from a doctor, from a hospital, from other providers, but he cannot recover from an HMO. That is one of the main fundamental principles of this legislation, to change that, so they can hold those HMOs accountable.

Before I came to the Senate, I was the elected insurance commissioner of Florida for 6 years. I saw how some insurance companies—and I don’t say all because I am proud of those insurance companies that would stand up for the rights of their patients and would stand up to protect their patients, but I saw how some insurance companies tried to put profits ahead of patients. Unfortunately, many patients often have little or no recourse.

There is no reason why HMOs should have special protection from lawsuits. The AMA has so stated and endorsed a patient’s right to sue. It is estimated more than 190 million Americans are enrolled in health plans, and 75 percent of them under current law are unable to sue their health plans for anything but the cost of denied treatment. Clearly, the status quo works for the industry, but it fails consumers. We need this legislation to enable people to be able to redress their wrongs in

State courts for damages limited only by State regulations, but that has been a long time coming. It has taken 5 years to get this legislation to the floor because for 5 years special interests have prevented this bill from becoming law. As a result, the people of Florida and the people throughout this Nation have suffered. We must end the industry strangle hold on this legislation and we must take the first meaningful steps toward overall health care reform.

I submit that this legislation is a major first step in the overall journey toward health care reform. We must put the people before the special interests. We must put an end to these consumer horror tales that we have heard with all too much frequency during the course of debate on this legislation.

I thank colleagues for the privilege of addressing this issue and for indulging me in my comments.

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

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that at 5 p.m. the Senate vote in relation to Senate McCain’s amendment No. 820; that prior to that vote, when the quorum call is ended and the unanimous consent agreement is reached, Senators BREAUX and COLLINS be recognized to offer a first-degree amendment on scope—they can, after the vote tonight, either stop or come back tonight, but we will have a vote at 5 o’clock for the convenience of some Senators—that the Breaux and Collins debate occur concurrently today, and when the Senate resumes consideration of the bill tomorrow, Thursday, at 9:15 a.m., there be 30 minutes for debate equally divided between Senators COLINS and BREAUX prior to votes in relation to these two amendments; that there be 2 minutes for debate equally divided before each vote with the first
vote occurring in relation to the Collins amendment; that upon the disposition of those amendments, Senator Gregg be recognized to offer an amendment relative to liability; that there be 1 hour for debate equally divided prior to a vote in relation to that amendment; that upon the disposition of Senator Gregg’s amendment, Senators Snowe and Frist each be recognized to offer a first-degree amendment, and that will be on liability; that there be 4 hours for debate equally divided in the usual form to run concurrently; that at the conclusion or yielding back of time, the Senate vote in relation to Senator Snowe’s amendment; that after disposition of her amendment, the Senate vote in relation to the Frist amendment; that no second-degree amendments be in order to any of the amendments listed in this agreement prior to the vote in relation to the amendments.

Mr. Gregg. Reserving the right to object, I ask if the Senator from Nevada would be willing to amend the agreement, so it would be Senator Gregg or his designee.

Mr. Reid. Absolutely.

Mr. Gregg. I have no objection.

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

Ms. Collins. I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 826
(Purpose: To modify provisions relating to preemption and State flexibility)

Ms. Collins. On behalf of myself, Senator Nelson of Nebraska, Senator Enzi, Senator Voinovich, Senator Hutchinson, and Senator Roberts, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. Collins], for herself and Mr. Nelson of Nebraska, Mr. Enzi, Mr. Voinovich, Mr. Hutchinson, and Mr. Roberts, proposes an amendment numbered 826.

Ms. Collins. I ask unanimous consent reading of the amendment be dispensed with.

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

(The amendment is located in today’s RECORD under “Amendments Submitted.”)

Ms. Collins. I am very pleased to join with my colleague from Nebraska as well as the other Senators whom I mentioned in offering this amendment. Our amendment will give true deference to State laws and the traditional authority of States to regulate insurance, ensuring that which each State addresses the specific patient protections provided in this legislation.

We should pass a strong, binding Patients’ Bill of Rights. We should pass a bill that holds HMOs accountable for promised care and that ensures that patients receive necessary care they need when they need it. However, we should do so in a responsible way that does not add excessive costs and complexity to an already strained health care system.

Congress should act to provide the important protections that consumers want and need without causing costs to soar and without preempting State insurance laws. We can do so by passing a carefully crafted bill.

I strongly believe we should not preempt or supersede but, rather, build upon the good work the States have done in the area of patients’ rights and protections. States have had the primary responsibility for regulating insurance since the 1940s. For more than 60 years, States have been responsible for protecting insurance consumers. As someone who has overseen a bureau of insurance in State government for 5 years, I know firsthand that our States’ bureaus of insurance do an excellent job of protecting consumers’ rights.

One of the myths in the debate on this legislation is that unless the Federal Government preempts State insurance laws, millions of Americans will somehow be unprotected in their disputes with HMOs. That simply is not true. For example, as this chart demonstrates, the States have been extremely active in passing patient protections. In fact, they have been way ahead of the Federal Government and they have acted without any prod or mandate from Washington. Look at this activity: 44 States have dealt with the issue of emergency room access; 49 States have passed laws prohibiting gag clauses in insurance contracts that restrict what a physician can tell a patient. Whether it is access to OB/GYNs, continuity of care, or many of the other issues such as internal or external appeals or patient information, the States have been extremely active in this area. Every single State has acted to pass some sort of patient protections.

As is so often the case, it has been the States that have led the way. They have been laboratories for insurance reform. Moreover, we know one size does not fit all. What may well be appropriate for one State simply may be unworkable or unneeded or too costly in another. What may be appropriate for California, which has a high penetration of HMOs, may simply not be necessary in a State such as Alaska or Wyoming where there is virtually no managed care. In such States, a new blanket of heavy-handed Federal mandates and coverage requirements simply drives up costs that impede rather than expand access to health insurance. That is why the National Association of Insurance Commissioners and the National Conference of State Legislators are very concerned about the language in the McCain-Kennedy bill.

The language in that bill will force States to adopt virtually identical Federal standards.

I recently received a letter from the president of the National Association of Insurance Commissioners. She writes that States have faced the challenges and produced laws that balance the two-part objectives of protecting consumer rights and preserving the availability and affordability of coverage. For the Federal Government to unilaterally impose its one-size-fits-all standards on the States could be devastating to State insurance markets.

I think we should heed that caution.

The Federal Government does have an important role to play in regulating the self-funded plans under ERISA. That is where our effort should be focused.

States are precluded from applying patient protections to these federally regulated plans, and that is why we need a Federal law to ensure that consumers, enrolled in insurance plans beyond the reach of State regulators, have strong patient protections. But the Federal Government should not be in the business of second-guessing and overriding and preempting the carefully crafted patient protections that have been negotiated by our State legislators and Governors to meet the needs of their States’ citizens. States which seized the initiative and acted on their own should not have to revise their carefully tailored laws simply to comply with a one-size-fits-all Federal mandate.

Under the McCain-Kennedy bill, the Federal Government would preempt existing State laws unless the State has enacted protections identical to the standards on the States could be dev- astating to State insurance markets.

A reasonable person’s interpretation of that standard is the States will have to pass new laws wiping out their carefully crafted work, that are virtually identical to the standards in the McCain-Kennedy bill.

The approaches taken by the 50 States to the same type of patient protections vary widely, and with good reason in many cases. Why should States that have already acted on their own to provide strong, workable patient protections have to totally change and make extensive changes in their laws? That is why the National Council of State Legislators supports the Collins-Nelson amendment. It is extremely important to State legislators that they do not have to spend valuable time rewriting and revising laws already on the books that meet the needs of their citizens.

In a recent letter to Senator Nelson and myself, the National Council of State Legislators wrote:

[We] support this amendment. States are best situated to provide oversight enforcement of the patient and provider protections
established in this legislation. The record of the States are looking for an approach that supports the traditional role of States in the regulation of insurance and that recognizes the differences in State insur ance environments. A mechanism for States to protect those markets.

Again, let me be clear. There is a role for the Federal Government, and that is to make sure that those plans, regulated under ERISA, beyond the reach of State regulators, include patient protections. That is why we need a Federal law to accomplish that goal.

It is all well and good and appropriate if Congress decides it wants to impose a specific requirement or mandate on these federally regulated insurance plans. But the Federal Government needs to be careful in respecting the good work the States have done.

Moreover, let's look at the practical consequences of what would happen under the McCain-Kennedy bill. If a State fails to revise its laws to conform to the Federal standard, under the McCain-Kennedy bill the Health Care Finance Administration, HCFA, would displace the State as the enforcer of insurance patient protection.

Talk about a right without a remedy. If there is no enforcement, there is no protection, and experience has already shown that HCFA is completely incapable of carrying out this responsibility.

The Health, Education, Labor, and Pensions Committee on which I serve has held yearly hearings to examine the problems that HCFA has experienced as it has attempted to implement and enforce the 1996 Health Insurance Portability and Accountability Act. There are many GAO reports. This one is entitled "Progress Slowly: Enforcing Federal Standards In Nonconforming States." That is because HCFA is totally ill-equipped to take on this task.

Our States' bureaus of insurance know how to do the job. They have been doing it for 60 years, and they have been doing it well. Consumers should be very concerned, since HCFA has already proven that it is not capable of enforcing existing Federal insurance standards in States that don't conform. In fact, HCFA has shown it cannot even assess the degree of compliance with those Federal laws, where HCFA does play a role. We should be very concerned that we are proposing an empty promise.

The States have the systems, the infrastructure necessary to receive and process consumer complaints in a timely fashion and to hold insurers accountable that they comply with State laws. To me, the bottom line is very simple. My constituents would much rather call the bureau of insurance in Gardiner, ME, than have to deal with the HCFA office in Baltimore, where they have a problem with their insurance.

Another problem of the McCain-Kennedy approach is that it would create a dual enforcement structure that would be extremely confusing for consumers and, frankly, completely unworkable. Under this bill, if some State laws met the new standards but others did not, who would be the regulator? Would it be HCFA or would it be the bureau of insurance? Would it be HCFA for some parts of the insurance contract and the bureau of insurance in the State for other parts of it?

This simply does not work. We would be creating a situation where a patient may have to go to a State bureau of insurance for questions or problems associated with certain patient protections and then try to deal with HCFA if the patient has problems or questions with other parts.

Therefore, Senator NELSON and I, supported by a number of our colleagues, are offering an amendment that will give true deference to State laws and the traditional authority of States to regulate insurance. At the same time, we will ensure that each State considers and addresses the specific patient protections proposed by this legislation.

First, our amendment would grandfather all State patient protection laws that are in place prior to the effective date of this act. That is October 1 of next year. A State would just certify to the Secretary of HHS that it has addressed one or more of the patient protection requirements to be in compliance with the law. This provision would also give States that have not considered these patient protections an incentive to act before the effective date to avoid Federal intrusion and challenges to their laws.

Second, by the effective date a State has been certified as compliant with all the patient protections in the legislation, it will immediately become eligible for funds from a new patient quality enhancement grant program. States that are in full compliance by the effective date of the legislation would be required to meet a higher standard in order to be eligible for funds under this new program. If a State has not acted by the effective date, it would have to certify to the Secretary, for each of the remaining protections, that either the State has enacted a law that is "consistent with the purposes of the Federal standard" or decline to enact a law because the adverse impact of the law on premiums would lead to a decline in coverage or simply because the existence of a managed care market in the State is negligible; it is just not relevant to that State.

Our amendment would recognize the States are the experts in this area. They have led the way. Consumers are best protected if we continue to respect the work the States have done and give them the States' traditional authority to regulate insurance.

I reserve the remainder of my time but yield to the Senator from Nebraska, my principal cosponsor, who is a true expert in this area. He knows more than any other Senator. I hope my colleagues will listen very carefully. It has been a great pleasure to work with him on this issue about which we both care a great deal.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. I thank my colleague from the New England State of Maine for such a glowing recommendation. I hope my colleagues do not think I believe I know more than they do. But it is a subject I have spent a good deal of my life involved in as an insurance regulator and as a Governor, somebody who has dealt with the business of insurance.

I appreciate so much the opportunity to join with Senator COLLINS to bring their amendment to the attention of our colleagues.

It typically is a lot more instructive to talk about the importance of patient care and to talk about those who aren't getting good patient care and certainly to bring to our attention the folks who suffered great injustices under their current health care system. I respect that. I certainly am interested in that aspect. That is why I support a Patients' Bill of Rights. That is why I continue to do that.

But I have found that any bill which comes before this body or that comes before any legislative body is hardly ever such without some amendment and some improvement. I think what Senator COLLINS and I are offering today is in that category of an improvement.

When our founders created this Union they established a system of Government that, pursuant to our Constitution, provided for a divided Government consisting of our States, and under a well-considered principle of Federalism, a Government consisting of our States. We have been best served by this Government when we have permitted it to work for us. While pursuant to the 10th amendment, the Federal Government may preempt States in certain respects, it seems clear from that amendment and from the practice over the last 200-plus years that such preemption should be limited to those areas where the States have failed to act in some manner. This is not one of those cases.

The bill before us presents a dilemma for me and for my colleagues because most of us believe that, with some modifications, this is a good bill. The same may be said of the Prist-Breaux-Jeffords bill.

At the outset, let me state unequivocally that I support the purpose and the protection of this bill. What I don't support is its preemption of State laws in an unnecessary manner. Let me explain.

As my colleague has indicated by the chart, the States have acted. They
have acted rather aggressively and consistently and in many ways. As a matter of fact, they acted so aggressively and so consistently that some multi-State employers were having problems complying with the diversity of the State regulation of health insurance.

First, it was described as a pension issue to which they couldn't quite comply. Then they said, as long as we are getting a preemption, let's grant it in the health insurance area as well. So Congress exempted certain plans from State law. That level of exemption involves fewer than a score of States. We are faced with solving that problem.

Some have said, as long as we are solving that problem, let's move away from diversity and go to uniformity. I am not opposed to having uniformity. But to serve uniformity for uniformity's sake and ignore what the States have done, the fact is that under the principles espoused by Thomas Jefferson States have only been acting as laboratories of democracy by experimenting. Fortunately—and thank goodness—the States have experimented because it is from these experiments and from this diversity that we are now able to assemble for the protection of the ERISA plan group of patient protections.

The work is important about this. If we look at it to a certain extent that virtually all content is taken from various State laws, that is at least some form of congratulation to the States for their efforts. But they ought not to be rewarded by that great effort by the preemption where it is unnecessary.

The framers of the legislation that is before us as well as those of the Frist-Breaux-Jeffords bill have really worked hard to try to find a way to balance this out. I commend them for that. Their work is important about this. I appreciate their efforts. But whether the standard is substantially equivalent as in the McCain-Kennedy Edwards bill or in the Frist-Breaux bill consistent with or in a compromise that is under consideration right now which says substantially compliant, the fact is the States are going to have to come to the Federal Government with the plans and say, “Please let us out” or they will not be able to get out from under the requirements of this legislation unless they are substantially equivalent to.”

“Substantially equivalent to” means the filings of these State protections would have to be made by their Governors to the health and human services agency, and they will have to find out whether or not the plans that they are submitting are substantially equivalent—not whether they are good or bad but whether they are substantially equivalent.

The theory is, if they are substantially equivalent, they are at least as good as or better. But I don't know why we should engage bureaucrats in the Federal Government to try to look over the shoulders of the States that have seriously considered each and every one of these protections.

Why are we doing it? Because we want to solve the problem that exists. Why should we try to solve a problem where there is no problem?

Under the Collins-Nelson effort, we give States the opportunity to opt out if their plan is consistent with the purposes of this law.

It seems to me that we just simply make it clear that the States can continue to experiment. It is easy to suggest that the States have the incentive of the State to experiment, the experimentation will either wither or will at least stagnate.

We want to continue to be sure that there are incentives for the States to continue to experiment because I suggest to you right now this is a dynamic process. Over the next several years, we are going to find some better patient protections, and we are more likely going to find those from the States than we are engaged in the body of this legislative Chamber trying to find those answers.

I would prefer that experimentation continue. Then we can pick and choose the best of the class in each case.

I spoke with the Secretary of Health and Human Services, Tommy Thompson, also a former Governor, and I asked him whether he thought his agency could do this. He said simply that he doesn't think that it can.

Let me add that I think that translates into, “I can't unless I have a larger bureaucracy of several dozens or more Federal bureaucrats and more staff to look over and second-guess Governors and second-guess State legislatures.”

I asked if that is necessary. Quite frankly, I don't believe that it is. And with the stroke of the pen this bill can be amended so that it won't become law so States can opt out and Governors will have the opportunity, as State legislatures, to decide what is the policy that will work within their State.

We are looking for balance with this legislation. All of us want to balance being able to have the right kind of patient protections and the availability and affordability of insurance. The last thing we need to do is to tip the balance one way or the other and end up with a more severe problem than we are trying to solve with this effort.

I suggest to you that Thomas Jefferson might be looking at us at the moment. Furthermore, I think he would be pleased if we had a dual system that recognized that this Federal bill and these Federal protections would apply to the Federal plan, and we would allow the States to continue as they have to protect the people at that level and to serve to provide experimentation and better ideas along the way and permit us to allow them to continue as they have to protect the citizens.

I truly believe that government, when it is functioning at the local level, will function best and certainly can function better in this area than we can function.

Washington already has taken the step of exempting the Federal plans. Let us not now make a mistake of applying what we need to permit for those State plans where there is already much protection and probably even more protection.

Some States have passed during the past decade 1,100 laws and regulations dealing with consumers. Indeed, the States have been way ahead of the Federal Government in this area.

I have shown my colleagues the charts of the numerous laws that the States have passed during the past decade dealing with patients' rights. Each State has taken action on some of these consumer protections. They have done so without any mandate from Washington. They have done so because they want to make sure that in State regulated insurance plans these kinds of protections have been included.

In fact, the States have passed over 1,100 laws and regulations dealing with patient protections. So this is not a case where the States have failed to act and the Federal Government has to come to the rescue. Rather, it is a case where the States have been far ahead of the Federal Government. We have been slow to provide these kinds of State protections to federally regulated plans under ERISA. That should be the primary focus of this legislation.
Both the Senator from Nebraska and I support a strongPatients' Bill of Rights. We want to make sure, in writing this legislation, we do not wipe out the good work of State governments.

Every single State has at least one law on the books dealing with portions of the McCain-Kennedy bill. But no State law is identical to the provisions in the McCain-Kennedy bill. States have dealt with these issues in different ways, depending on the negotiations between the State legislatures and their Governors, to meet the needs of that particular State. There is no need to impose a one-size-fits-all Federal mandate on the States when they are already doing a good job.

When I was Commissioner of Professional and Financial Regulation in the State of Maine, we had a very active bureau, the insurance regulation, have to go back and revisit its laws, reenact them, and rewrite them to meet the dictates of the McCain-Kennedy bill? That just does not make sense.

I think we should respect the work that has been done by the States in this area by honoring the laws that already exist and are on the books. We can encourage those few States—and they are just a handful—that have not acted in some area to do so, and then to bring their plan to the Federal Government or to tell us why they chose not to.

Why does it make sense for a State such as Wyoming or Alaska, which has virtually no managed care, to have to adopt a host of new laws that are irrelevant to their insurance market?

States have been active and have taken a very strong role in trying to protect the patients within their States. The State legislatures, and the regulators have all worked together to try to create an environment in which patients are protected. They have succeeded in doing that.

The one missing piece, though, is not in what the States have failed to do but in what the Government today at the Federal level, in Congress, is now trying to do, and that is to cover the federally exempted plans.

There would not be any discussion in this Chamber today about this bill if it had not been for the exemption granted in 1974, as a result of Congress' action to exempt certain plans from State laws.

There is no criticism of what the States have or have not done. There isn't any suggestion that the States have not been active or that the States have not attempted to do a good job or that they have not done a good job.

What we have is, overcoming an omission to something that has not been done; that is, applying these protections to the Federal laws that have been exempt from State law. That is exactly what this is about.

I certainly want to praise, again, Senator Kennedy, who has been extraordinarily tolerant of those of us who have had something to say about his labor of love. He has been very tolerant. He has been very helpful. And he has been very suggestive about solutions along the way. I want him to know that I personally appreciate that.

I am somewhat embarrassed to be suggesting that I might have some area of improvement, given the fact that he has worked on this for so long. It is a fact that I could not find a thing to say. I feel like somebody who came to the party late who now wants to rewrite the invitation.

It seems to me that this bill is such that it can involve some additional improvement. This is an area where there is clearly some room for improvement, given the fact that the States have the opportunity to make their case—not that they need to be treated as though their laws are substantially equivalent—but to give them the opportunity to come in and say: We have done this. We chose not to do this in our State after carefully considering it. The Governor may have wanted it, but the legislature, in its infinite wisdom, chose not to do it, or vice versa. It works that way. That system ought to be continued.

It will serve the people of our great Nation very well: The people of South Dakota, the people of Maine, the people of Nebraska, the people of Massachusetts, the people everywhere, because it has served this Nation so very well and has served the people so very well.

That is a minor modification. I think it has major implications, but it is a minor modification to say that the Governors can certify, and they can see to it that they have attempted to deal with these cases in their way, that they do not have to do it our way. That is the difference.

I hope that my colleagues will see it that way and will find the capacity to continue to recognize that States have done, are doing, and can continue to do a good job. Even though there is an effort made to limit the amount of the preemption, I believe this preemption simply goes further than is necessary and further than we certainly would like to have it go.

That is what the National Conference of State legislatures have said and other State organizations have said. They would prefer to have less preemption and a better recognition of their efforts and a recognition that they will continue to work to increase the level of patient protection.

I yield to my colleagues from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I know we are about to vote shortly on another amendment.

Let me just summarize this part of the debate—we will be resuming the debate after the vote—by quoting a letter from the National Association of Insurance Commissioners to Senator Nelson and myself. They raise exactly the point that Senator Nelson and I have raised:

Members of the NAIC are also concerned about enforcement. As you know as a former state regulator, if there is no enforcement, then there is no protection. States have developed the infrastructure necessary to receive and process consumer complaints in a timely fashion and ensure that insurers comply with the laws. The federal government does not have this capability, and these proposals (before the Senate) do not provide States with the resources to develop such capability.

It has taken the Health Care Financing Administration (HCFA) years to develop the infrastructure required to enforce the Health Insurance Portability and Accountability Act (HIPAA) which included only six basic provisions that most states had already enacted. The proposed patient protection bills are far more complicated than HIPAA and will require considerable oversight.

If we pass the McCain-Kennedy bill without this amendment, we are holding forth a hollow promise to consumers.

AMENDMENT NO. 820

The PRESIDING OFFICER. The hour of 5 o'clock has now arrived. Under the previous order, the question now is on agreeing to the McCain amendment No. 820.

Mr. REID. Madam President, on behalf of Senator Daschle, this will be the last vote of the evening. There will be further debate on the two amendments now pending. The next vote will be at 9:45 a.m. tomorrow.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?
Mr. BREAUX. Madam President, this amendment is offered on behalf of myself, Senator Jeffords, Senator Kennedy, and Senator Edwards as well. It attempts to deal with the question of whether States would be allowed to continue their programs dealing with Patients' Bill of Rights or will it be dealt with on a Federal level.

We have tried to bring about an agreement between all of the parties and, to a large extent, we have been successful in the sense that we have taken ideas and concepts that have been brought before this body on previous occasions and implemented them in this amendment, a provision that I think makes a great deal of sense.

A great deal of the credit should go to the staffs who have been negotiating this amendment for several days in order to bring it to the attention of our colleagues.

Most of our colleagues recognize the need that States have addressed this problem in a fashion that guarantees to patients that they will have certain rights, and they should be allowed on a State level to run and manage these programs. Very few people would be suggesting the Federal Government knows the answers to all of these problems.

My State of Louisiana, for example, is a State that has already enacted into law some 39 guarantees under our State program, guaranteeing to patients that they will be protected when they deal with their insurance companies and their managed care companies. They can be assured that these rights, in fact, are in place.

There are a number of other States that have done the same thing. The point is that while we in Washington are passing a national Patients' Bill of Rights, those States that have already done this. They were ahead of the Federal Government. They did it before us, and these States should be allowed to continue to run their State programs as they see fit.

What we have suggested in the original Frist-Breaux-Jeffords legislation is that a State would not have their programs superseded by the Federal Government if their plans were consistent with the Federal statute.

The decision on 'substantially comply' whether it is or is not being complied with, is a decision of the Secretary of Health and Human Services, who will look at the State plans and make a determination as to whether or not they substantially comply with the Federal statute. They have time lines within which they have to make that decision. I think that is appropriate so they do not just languish in Washington. They have a certain period in which they have to make a decision on a request by the State to be in substantial compliance with the Federal statute.

The decision on 'substantially comply,' whether it is or is not being complied with, is a decision of the Secretary of Health and Human Services, who will look at the State plans and make a determination as to whether or not they substantially comply with the Federal statute. They have time lines within which they have to make that decision. I think that is appropriate so they do not just languish in Washington. They have a certain period in which they have to make a decision.

The amendment (No. 820) was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

AMENDMENT NO. 830

(Purpose: To modify provisions relating to the standard with respect to the continued applicability of State law)

Mr. BREAUX. Madam President, I ask for the reporting of an amendment that is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The amendment at the desk tries to reach an agreement and compromise that recognizes the role of the States is very important. Our language simply says the State plan will not be superceded by the Federal Government when the State plan substantially complies with the patient protection plan we have written on the Federal level.

Where do we get that language, ‘substantially complies?’ I think that is very important. ‘Substantially complies’ is the test that we instituted when we passed the so-called SCHIP programs for children's health insurance. We basically said in that legislation the States would be able to carry on their State programs for insuring children if it substantially complied with the guidelines of the Federal Government. That language is in the existing law of this Government; it is being interpreted by HHS, and they interact with the States now on the ‘substantially comply with’ test. They know how to handle it; they know what it means; they have interacted with the States on this basic test.

We take that language from that legislation and incorporate it into what we are doing with the Patients' Bill of Rights. Senator Jeffords was a major author of that SCHIP program, and he will speak to this issue. We took the language, the test of ‘substantially comply,’ and we now have that in place in this amendment.

The decision on ‘substantially comply,’ whether it is or is not being complied with, is a decision of the Secretary of Health and Human Services, who will look at the State plans and make a determination as to whether or not they substantially comply with the Federal statute. They have time lines within which they have to make that decision. I think that is appropriate so they do not just languish in Washington. They have a certain period in which they have to make a decision.

The difference in our approach and my colleague from Maine and my colleague and friend from Nebraska is, if States decide to take a walk on this, if a State decides, we don't care what you are doing in Washington, folks, we are not going to pass any Patients' Bill of Rights in this State, and we are not listening to anything you are suggesting, they have a certain period in which they have to make a decision on a request by the State to be in substantial compliance with the Federal statute.

One defect in their amendment is that the only penalty the State can potentially suffer is to have grant money for this program terminated. Therefore, you could have a situation where
the State simply thumbs its nose at the concept of a national patient protection right and does not enact anything like it. I think that would be a serious mistake.

I think it is in the interests of this Nation to have a Patients' Bill of Rights that can be enforced, and what we have offered as a reasonable compromise between the Kennedy bill and the Frist-Breaux-Jeffords bill I think is one that is balanced, it has been well thought out, and uses language that is already in Federal law as the "substantially comply" test is already being enforced by the Secretary of Health and Human Services.

I encourage Members, after having a chance to look at what we have offered, to be supportive of this compromise effort.

I yield the floor.

Mr. JEFFORDS. I will follow up on the Senator's explanation of what we are trying to do, to make sure we have a less complicated situation with respect to who is in charge and with whom to deal.

We have some problems, but the biggest problem, in what was the Kennedy-Kassebaum bill called HIPAA, was we made the mistake of using such language that it ended up that many of the States declined to do anything, in which case the Federal Government, under the bill, came in and tried to do it. That has not worked out. This comes from experience in trying to recognize the States will do a good job and want to do a good job and this is the best place to do it. We will do nothing that prevents that from continuing.

Senator COLLINS has worked hard on this to make sure we come up with something that will be signed into law and allow the President to sign it into law. The protections in the Frist-Breaux-Jeffords Patients' Bill of Rights apply to all 170 million Americans covered by the private sector group health plans, individual health plans, and fully insured State and local government plans. It covers all of them.

At the same time, our legislation recognizes the Federal Government does not have all the answers. States need to play the primary role in enforcing the bill's requirements with respect to health insurers. However, if a State does not have the law or does not adopt the law similar to the new Federal requirements, Federal fallback legislation will apply.

Our amendment strikes a new compromise under scope between the Frist-Breaux-Jeffords standard of "consistent with" and the much more pre-emptive standard in the McCain-Edward-Kennedy bill that states laws "be substantially equivalent to" and "as effective as" the new Federal patient protections. This leaves a lot of indefiniteness in the situation. The Breaux-Jeffords amendment uses a new standard - the State "could be certified if it "substantially complies" meaning that the State law has the same or similar features as the patient protection requirements and has a similar effect.

Also, we require that the Secretary give deference—try your best to make sure the State can do it if they want to do it—to the State's interpretation of the State law involved and the compliance of the law with the patient protection requirement. This amendment represents a true compromise. We believe it will make it less likely that the Federal Government will have to enforce these new standards and more likely that it will get signed into law. I think we have made a good improvement. I am hopeful it will be accepted. I urge its acceptance. I yield the floor.

Mr. NICKLES. Madam President, I will make a couple of comments. I compliment my colleagues, Senator COLLINS and Senator NELSON, for offering an amendment which does recognize States' roles in enforcement of insurance contracts. Unfortunately, I don't believe that is the case under the Breaux-Jeffords amendment. We will have to make a decision: Do we believe States should regulate insurance? Or should the Federal Government? Do we believe one size fits all?

I understand there is a little change and there may be some improvement over the underlying bill, but the improvement is very small. The underlying bill, the McCain-Kennedy-Edward bill, has language in it that says all these protections that we are getting ready to tell the States they have to do, the States have to have "substantially effective" as the standards we are getting ready to pass in the bill.

I think the Senator from Maine said there are 1,100 State protections—State protections dealing with OB/GYN, State protections dealing with clinical trials, and so on. Almost none of the States has identical protections as what we are getting ready to mandate.

Unfortunately, the language that is now being talked about may be an improvement. Instead of "substantially equivalent," it says "substantially compliant" with the Federal standard. "Substantially compliant" was written in the legislation, and that was, if they did this, they would get a pot of money. That is a little different scenario than coming up with: States, you must do this or we will regulate your State insurance—even though the States have always done it. Historically, the Federal Government has never regulated State insurance.

Under the McCain-Kennedy bill or now under the Breaux-Jeffords substitute, you are still going to have the Federal Government telling the States, comply with what we are doing, or else we will supersede your regulation and the Health Care Finance Administration is going to do it.

There are a couple of problems with that. HFCA can't do it. Maybe nobody cares. Maybe we should just go ahead and pass this. We might just pass it and laugh at it because I absolutely know, with certainty, HFCA can't do it.

The Secretary of HHS, Secretary Thompson, basically made that statement before the Finance Committee on June 19. HFCA is already overloaded. They haven't even enforced the Medicare rules we passed years ago. They are not even enforcing HIPAA that we passed several years ago.

Under HIPAA that is the Kennedy-Kassebaum bill that deals with portability. There are all sorts of things that have not complied. We have testimony that HFCA is not enforcing that. They are supposed to. We passed a couple of other bills. Guess what. HFCA is still not enforcing those. There is one dealing with mental parity. They have never enforced it. They never have. They are well aware they are not enforcing it; that they are not compliant. We have records of that. I will submit a bunch of these for the Record tomorrow. HFCA cannot do it.

Yet what are we doing? We are getting ready to say if it is not substantially compliant with the new Federal regulations, HCFA is going to come running at the charge and enforce these regulations, which they were not doing.

The National Association of Insurance Commissioners basically says the same thing. These are State insurance commissioners who are full-time. They are not part-time. I should not say we are part-time Senators. As Senators, we are working part-time on regulating insurance and we are getting ready to mandate a lot of things to the States they will not be able to do, or we are getting ready to say States do it the way we tell you to do it or the Federal Government is going to come charging in and take over. I want everyone to know that is not what we are doing and even "substantially compliant" is going to have a State takeover.

Here is one of their paragraphs. They say—

"Members of the National Association of Insurance Commissioners are also concerned about enforcement. As you know—

And this letter is written to Senator COLLINS—

as a former State regulator, if there is no enforcement, then there is no protection. States have developed the infrastructure necessary to receive and process consumer complaints in a timely fashion and ensure that insurers comply with the law. The Federal Government does not have this capability and the proposals do not provide any
resources to Federal agencies to develop such capabilities. It is taking the Health Care Finance Administration years to develop the infrastructure required to enforce the health insurance portability and accountability act, HIPAA, which included only 6 basic provisions and already had exceptions. The proposed patient protection bills are far more complicated than HIPAA, and will require considerable oversight.

HIPAA had a few patient protections that almost all States already had, a few States still do not have, and HFCA has yet to really enforce those protections. Now we are going to give dozens of protections and have HFCA determine whether or not the States are substantially compliant with our new protections.

I will give an example. In the State of Delaware, they are in the process of passing a patient protection bill. They have an emergency room provision that the State of Delaware is passing, they don't have poststabilization care included in their provision. We do, under this bill. This bill requires ambulance coverage. Guess what. The State of Delaware did not include ambulance, for whatever reason. So we are going to tell the State of Delaware, a bureaucrat at HFCA is going to say: State of Delaware, you did not do it good enough. Your legislature is going to have to go back, pass a bill, have the Governor sign it, have some expansion to make sure that your ER provision is as good as the one we are getting ready to mandate.

I could go on and on. There is an OB/GYN patient protection that basically has unlimited access to OB/GYN and gynecologists. Great. Guess what. The protection we have given to beneficiaries, patients in the Federal Employees Health Benefits Plan, gives one visit. It is not nearly as aggressive.

As a matter of fact, that points out something that maybe a lot of people have missed about all these patient protections. I have heard countless times saying we are going to have the one-size-fits-all Federal Government supersed the States. States, you are substantially compliant with what we tell you to do or else we are going to take over.

I have had the pleasure of chairing the conference last year, where we negotiated patient protections. I negotiated with them my friend and colleague from Massachusetts and other Democrats. We came up with a basic agreement on most of the patient protections. But we never agreed whether or not they should supersed the patient protection laws that are in the States. I would never agree with that and I still will not agree with it.

For whatever reason, I fail to see, when you have 44 States, as the Senator from Maine has shown, that have ER protections in their States—I fail to see that we can write an emergency room provision that is so much better than every State, that we know best what should be in Maine or Oklahoma or the State of Washington or in Massachusetts, what should be in the ER provision just in Delaware.

I really do not like the idea of having a bureaucrat at HFCA determining whether or not those laws are substantially compliant and if that bureaucrat determines they are not substantially compliant, then they have to rewrite their law. There are legislators who were elected in the various States. The insurance commissioners work with these laws and the enforcement of the laws day in and day out. I doubt we have the infinite wisdom, when we are coming up with mandated provisions, to know we should superecede all those States.

I do not have a lot of patient protections in the States that do a much better job than what we have done on the Federal level. I don't doubt there are State protections that are not as aggressive and/or not as expensive as that with which we are getting ready to make them in substantial compliance.

Again, I urge my colleagues to support the Nelson-Collins amendment. I think it is an excellent amendment. It is one that has been well thought out. It is one that is supported by two of my friends and colleagues, Senator Collins and Senator Nelson worked as insurance commissioners in their States. They worked at those jobs for years. They know what they are talking about. They know the Federal Government cannot enforce it. They know the Federal Government should not regulate insurance within the States.

Unfortunately, that is what we are getting ready to do. So this is a most important amendment, and I urge my colleagues to use a little common sense. If we end up passing this amendment and, heaven forbid, should it become law, I will just make a little preposterous. Can a man or woman who happens to be serving overseas, or maybe in the United States, and they have something go wrong and they have poor care, can they sue the Federal Government? The answer is no.

Are they entitled to the protections that are being mandated on every private sector plan in America? The answer is no.

So there are some things that are really wrong. I think one of the things that is wrong is saying we are going to have the one-size-fits-all Federal Government supersed the States. States, you are substantially compliant with what we tell you to do or else we are going to take over.

I have the pleasure of chairing the conference last year, where we negotiated patient protections. I negotiated with them my friend and colleague from Massachusetts and other Democrats. We came up with a basic agreement on most of the patient protections. But we never agreed whether or not they should supersed the patient protection laws that are in the States. I would never agree with that and I still will not agree with it.

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Again, I urge my colleagues to support the Nelson-Collins amendment. I
Federal enforcement. It still has HCFA making a determination whether or not you are substantially compliant, and that's by my colleagues.

I urge my colleagues to support the Collins-Nelson amendment. That would be a giant step, and one which I might mention that Governors around the Nation are going to wake up to. They have been asleep. But Governors around the Nation, Democrats and Republicans, who want to maintain State control and regulation over insurance are going to wake up to what we are doing one of these days and they are going to be coming up saying: What are you doing? Congress, you can't regulate insurance. You haven't been doing that. You don't know how to do it. What in the world do you think you are doing?

We are going to hear from them. I would venture to say that Democratic as well as Republican Governors are going to be outraged should this provision invade the scope, preempting the States to dealing to the extent that the Federal Government knows best when it comes to patient protection—and not even giving real credibility to what the States have already done; not giving them a grandfather. They have already enacted legislation dealing with those particular patient protections. The Collins-Nelson amendment grandfather States that have done patient protections. We should recognize what they are doing and give them credit for it—not try to supersede it with a Government-knows-best solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I rise in support of the Collins-Nelson amendment. I thank them for their foresight and pointing out to this entire Body that Washington doesn't always know best. In this particular case, they are not only saying Washington does not always know best but Washington is incapable of doing the job that this bill gives them to do, even if Washington knew best.

This is a very important amendment. The people who are proposing this bill ought to look at the overburdened responsibilities that the Health Care Financing Administration already has and it is not able to do.

It is from that point that I want to speak about my support for the Collins-Nelson amendment.

I want to make very clear that, as most of my colleagues, I believe that any patient protection we pass must be meaningful and enforceable. But the provisions that the Collins-Nelson amendment deals with, and that they strike and change, are the provisions of the laws, a decade and a half ago. The States have already enacted legislation putting responsibilities on those particular patient protections. The Collins-Nelson amendment grandfather States that have done patient protections. We should recognize what they are doing and give them credit for it—not try to supersede it with a Government-knows-best solution.

The Washington bureaucrats who work there are not going to be able to take the action necessary to give patient protection any additional new responsibilities. In this particular task of enforcing broad new Federal patient protections is clearly inappropriate.

Our new Secretary and Administrator have walked into myriad backlog regulations that hinder already effective and effective work that the taxpayers expect to be done by this agency.

Just last week at a hearing we were having on agency reforms before the Senate Finance Committee that deals with this issue, we had Secretary Thompson and Administrator Scully pleading with us to keep new tasks away from the agency so that the catchup with these existing responsibilities can be done.

I quote Secretary Thompson on that very point. He used the new name, the Center for Medicare Services. He said:

The Center for Medicare Services right now is overloaded with HIPAA and with the privacy rules and regulations, with Medicare and Medicaid, and SCHIP, and so on.

Rather than listing all of the other responsibilities, he said:

I do not think we can really take on any more responsibilities.

That is the Secretary who has the responsibility of carrying out the laws that we already passed, along with the regulations that have to be written to enforce those laws. He would like to get those out of the way before he gets any additional new responsibilities.

I urge my colleagues to support the Collins-Nelson amendment. That would be a giant step, and one which I might mention that Governors around the Nation are going to wake up to. They have been asleep. But Governors around the Nation, Democrats and Republicans, who want to maintain State control and regulation over insurance are going to wake up to what we are doing one of these days and they are going to be coming up saying: What are you doing? Congress, you can't regulate insurance. You haven't been doing that. You don't know how to do it. What in the world do you think you are doing?

Washington is incapable of doing the job that this bill gives them to do, even if Washington knew best.
June 27, 2001

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I do not presume that Senator KENNEDY and Senator MCCAIN meant for this provision of their legislation to be meaningful in its enforcement. But, as a practical matter, if HCFA is already overloaded, and if they are already not writing the regulations for legislation that has been passed over the past 10 years, the ultimate result of passing this bill this way—putting this responsibility on the Health Care Financing Administration—is that it will not be enforced any more than the nursing home laws, which as I said were left unenforced for 8 years.

So I have come to the conclusion that the Collins-Nelson amendment is the right thing to do. Why fool the American people? Washington bureaucracies do not always know best. And we, as Congressmen, if we have not lost touch with the average American, and if we exercise a little common sense, we ought to be able to show to a majority of this body—and for a majority of this body to understand—that if HCFA cannot carry out the law, if they have not carried out a lot of mandates of the Congress of the United States in the past decade, why would you put more responsibilities on their back? If you want patient protection, then let it be done where it can be done, and that is in those States that have meaningful enforcement laws already for patient protection, because this amendment allows States to maintain the hard-fought patient protections they have put in place for their own citizens. And the amendment encourages States to develop even stronger protections.

So I urge my colleagues to support this approach, one that recognizes the vital role that States play in tailoring patient protections to best meet the needs of the respective citizen.

I thank the Chair.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Wyoming.

Mr. ENZI. Thank you, Mr. President.

I appreciate the other side allowing us this opportunity to state our case at the beginning because of some important considerations we have.

I particularly congratulate the Senator from Maine, SUSAN COLLINS, for her tremendous efforts on this entire Patients’ Bill of Rights. On any issue in which she gets involved, you will find that she studies it to a greater depth than anyone. She does additional research; she gets all of the help she can; she gets to the point where she understands what she is doing; and then she works with others to make it better. It does not happen a lot around here. But she is one dedicated Senator who is always willing to look at a better idea.

She has teamed up, in this particular instance, with Senator NELSON, a neighbor of mine, from Nebraska. One of the reasons this is an interesting team is that they have both been State insurance commissioners. They both understand the State side of this. They both understand what is in the bill. I would not want to imply that every- body does not, but these are two people who absolutely understand what is going on in the bill. They have teamed up and said there is a way that we can provide the protection that we can get the States involved, and that we can enlarge the scope. They put it together. I congratulate them for their tremendous efforts.

For 2 weeks, I have been saying that on 80 percent of this bill both sides agree. On eighty percent of it we agree. It is that other 20 percent where there are some philosophical differences.

I have seen—both in legislating that I did before I got to the Senate and since I have arrived—that one of the keys to passing legislation is to put a good title on the bill. That is something we agree on 100 percent: The Patients’ Bill of Rights is a great title. What you do with that can be an abuse of the title. One of the exceptions of this bill, there is an abuse of that title.

There are some substantial changes that need to be made. One of those is, who is going to administer it? There are two very different philosophies involved in the administration of this bill. One side says: Washington knows best. Bring it back to Washington. If the bureaucracy isn’t big enough now, we will make it big enough. And we will put enough in it that we will be able to solve it.

For anybody in America who has ever had to work with the Washington bureaucracy, picture the difference between Washington and your local and State government. When you call Washington, have you ever gotten to talk to the same person twice? That means that when you call in today with a problem that you have to explain, they do not take care of it—because they really do not have the involvement that they do if they know you—you have to call them back. Well, you would not know by tomorrow; you would not know by next week. You would be lucky to know by next month. But next month, when you are sure Washington has not solved your problem, you have to call again. And I guarantee you, you will talk to a different person who will say: What is your problem? And after you have gone through all of the explanation again, they will say: We will get back to you on it. And you are going to spend another month getting back to them on it.

Contrast that with State and local calls that you have had to make. You can almost always talk to the same person again, so the problem that you discussed yesterday they still remember today. And you do not have to wait a month for an answer because they are doing the job efficiently.

There are various ranges of bureaucracies and efficiencies in Washington, also. This bill has chosen to give the jurisdiction to that agency that is doing the poorest job. Don’t believe me? Don’t believe them? What I ask you to do is call your doctor and ask them what they think of HCFA. Call it HCFA; it is the Health Care Financing Administration. But they call it HCFA because that is a four-letter word in the eyes of those who decided that they know better and they want to handle your problem.

Find out how efficient HCFA is. I am certain under the new administration that it will be more effective, but it will take a long time recovering from the problems it has right now. Yes, we can throw more money at it. Is that where you want your tax money to go?

Right now, your States are paying for that. We are going to duplicate and supersede, without saving you a dime and in fact costing you more.

Does the Federal Government do a better job? One of the things I have been working on since I have been here is OSHA. OSHA allows two different processes. One is State plan States. That is where the States do the work. The other is the Federal plan. That is where the Federal Government takes care. I can tell you that the accidents are less in the State plan States for the reasons I mentioned before. A bureaucracy operating out of Washington, trying to handle the whole country as a one-size-fits-all problem can’t do the same job as the people at home in your State.

What are some of the things they have to handle? I will tell you, the new reason that HCFA is going to become a bigger cuss word is called HIPAA. This has to do with portability of insurance. The change in some of my phone calls this week has been calls from doctors and hospitals. They weren’t concerned about a Patients’ Bill of Rights yet. They were concerned about the HIPAA privacy rules. Ask your doctors and your hospitals what they think about that.

Privacy is important to all of us, but they have managed to muffle that one. The same agency that people are calling me and complaining about right now is related to where we are going to turn over, under the opposing amendment, all of the workload.

This week and last week you heard about a number of amendments. One of the things I am very proud of is that
all of those amendments were different solutions that needed to be done on this 20 percent of the bill where there is a competition. As recently as last year, this fact was reaffirmed by the General Accounting Office. GAO testified before the Health, Education, Labor, and Pensions Committee saying:

In brief, we found that many states have responded to managed care consumers' concerns about access to health care and information disclosure. However, they often differ in their specific approaches, in scope and in form.

Wyoming has its own unique set of health care needs and concerns. Every State does. For example, despite our elevation, we don't need the mandate regarding skin cancer that Florida has on the books. My favorite illustration of just how centralized a system of health care mandates would be comes from my own time in the Wyoming Legislature. It is about a mandate I voted for and still support today. Unlike Massachusetts or California, for example, in Wyoming we have few health care providers, and their numbers virtually dry up as you head out of town. We don't have a single city with competing hospitals. So we passed an "any willing provider" law that requires health plans to contract with any provider in Wyoming who is willing to do so.

While that may sound strange to my ears in any other context, it was the right thing for Wyoming to do. But I know it is not the right thing for Massachusetts. I wouldn't dream of asking them to shoulder the same kind of mandate for our sake when we can simply, responsibly apply it within our borders. That is what States have been doing with the 1,100 laws they have passed dealing with patients' bills of rights.

What is even more alarming to me is that Wyoming has opted not to enact health care laws that specifically relate to HMOs. But that is because there are ostensibly no HMOs in Wyoming. There is one which is very small. It is operated by a group of doctors who live in town, not a nameless, faceless insurance company. Yet the sponsors of the underlying bill insist they know what is best for everybody. So they want to require the State of Wyoming to enact and actively enforce—that is what the opposing amendment does, enact and actively enforce—what they say is the right thing for our State. They want to regulate under 15 new laws a style of health insurance that doesn't even exist in our State.

It requires States to forsake laws that they have already passed dealing with patient protections included in the bill, if they are not the same as the new Federal standard. The technical language in the bill reads "substantially equivalent" or some other variation of the application of," and under the process of certifying these facts with the Secretary of Health and Human Services, the State will have to prove that their laws are "substantially equivalent" and one other variation of words. There are a whole bunch of words that could be used there.

There could be a whole series of amendments to undermine the Collins amendment. This is one of them.

The proponents of this language—whichever version you care to look at, except for Collins—say that it won't undo existing State laws that are essentially comparable, but that isn't what their bill requires. Under either appeals process, too. This is the Breaux-Jeffords amendment—they are going to force States to change laws that they have already reviewed, that they believe already work in their States.

Is it that the proponents aren't overly concerned with the implementation of the law versus being able to say that their bill meets the political test of covering all Americans, regardless of existing, meaningful protections that State legislatures have enacted? If the laws just have to be comparable, why don't they use that phrase? I will get into this issue in more detail as the debate proceeds. I believe we can compromise. I don't think this is the compromise. I like the language of the Collins amendment. The only hard proof that we have right now is that States are, by and large, good regulators, while the Federal Government has done a lousy job. The General Accounting Office has been reporting to us that since we passed the Health Insurance Portability and Accountability Act in 1996. And that is the "consumer protection enforcement" mechanism around which the bill before us is written.

Wyoming currently requires that the plans provide information to patients about coverage, copays and so on, much as we would do in this bill; a ban on gag clauses between doctors and patients; and an internal appeals process to dispute denied claims. I am hopeful that the State will soon enact an external appeals process. The General Accounting Office has been reporting to us that since we passed the Health Insurance Portability and Accountability Act in 1996. And that is the "consumer protection enforcement" mechanism around which the bill before us is written.

As consumers, we should be down-right angry at how some of our elected officials are responding to our concerns about the quality of our health care and the alarming problem of the uninsured in this country.
out of the insurance market. I keep mentioning that insurance in this country is provided on a voluntary basis. We have had amendments that dealt with small businesses to see if they could get any kind of relief. Most of them are strained to the maximum. The smaller your business, the higher your potential risk, so the higher the rates you pay. Insurance is risk protection. We discriminate against the smaller businesses on rates because it is actuarially more difficult to calculate that.

Under this bill, we have had some opportunities to provide some relief to those small businessmen. It hasn’t happened. They have been ignored. I will be bringing an amendment that will deal with the large businesses, I am almost exclusively in a small business. Tomorrow, I will be bringing one that deals with the big self-insured, self-administered companies to see if there is going to be any hope of relief for those people who provide the best insurance in this country.

Mr. President, we will be committing two fouls against consumers if we do not adopt the Collins-Nelson amendment. The first would be to eliminate all meaningful patient protections that are not exactly like the Federal law. Second would be to put in enforcement responsibilities with the agency that has already said it can’t do the job. Add to that the third foul that the rest of the bill prices millions of people out of health insurance and we have done anything but hit a home run for patients.

I urge my colleagues to consider the valuable experience and wisdom of the amendment sponsors, as well as the urging of the National Council of State Legislatures. Think about the divergence of philosophy. Do you want your health care to be one size fits all in Washington, determined by HIPAA and HCFA, or do you still want your States to be involved? Do you want your States to have the control? Do you want your States to be able to continue the kind of service they have been providing through your State legislatures that can make decisions based on your State and your needs?

I yield the floor.

EXHIBIT 1
NATIONAL CONFERENCE OF STATE LEGISLATURES,
Hon. Susan Collins,
U.S. Senate,
Washington, DC.
Hon. Ben Nelson,
U.S. Senate,
Washington, DC.

Dear Senator Collins and Senator Nelson:

On behalf of the National Conference of State Legislatures, I would like to take this opportunity to commend you for authoring an amendment to S. 1052, the pending Patients’ Bill of Rights legislation. Your amendment and the important work states have done regarding the regulation of managed care entities and supports the continued role of states in the regulation of health insurance.

The amendment substantially addresses concerns we expressed in our recent letter to you and your colleagues. In that letter we encouraged you to seeking state patient and provider protection laws; and provide a transition period between the enactment of federal legislation and the effective date of the Act to provide such state an opportunity to preserve their authority to regulate managed care entities. This amendment also addresses our concern regarding the adequacy of the infrastructure to enforce the patient and provider protections established in the bill. Finally, it is important to emphasize that the proposed amendment recognizes that insurance markets differ among the states and a “one size fits all” approach may have adverse results among states and within regions of a state. This amendment permits a state to certify adverse impact and head off disruption in its insurance market.

NCSL supports this amendment. States are best situated to provide oversight and enforcement of the patient and provider protections established in the legislation. The record of the states shows that they are capable of doing the job. We are looking for an approach that supports the traditional role of states in the regulation of insurance and that recognizes the differences in state insurance markets and provides a mechanism for states to protect those markets.

NCSL supports passage of Patients’ Bill of Rights legislation that makes a promise that can be fulfilled. We believe state oversight and enforcement is an integral part of ensuring fulfillment of the promise and we look forward to continuing to work with you to develop legislation that will improve the quality of health care without adversely affecting access to care.

Sincerely,

Garrett Coleman,
Texas House of Representatives,
Chairman, NCSL Health Committee.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I will be brief because I see the Senator from Massachusetts also desires to speak. First, I thank my colleague and friend from Wyoming for his extraordinarily generous comments and also for his excellent statement. As a former State senator, he has a great deal of experience in this area. As a businessman, he knows what it is to provide health insurance and to try to provide good benefits for his employees. I am grateful for his support.

Very briefly, I want to respond to a couple of comments that have been made tonight. The former chairman of the Finance Committee, Senator Grassley, talked about the burden on HCFA. I think this is very important because the McCain-Kennedy bill—and, unfortunately, the amendment offered by my friend from Louisiana continues this problem—that HCFA is somehow going to be able to step into the role of insurance regulator, which is something the States have performed well for more than 50 years.

Finally, I make the point that one should look—and I encourage the Senator from Louisiana to look—at the provisions of his State’s laws on consumer and patient protections. They are not identical to the standards in the McCain-Kennedy bill. For example, when you look at the Louisiana law dealing with emergency room access, we find that Louisiana has a law, but that it is crafted in a different way than the McCain-Kennedy bill. So now we have to decide, is it substantially compliant with the provisions of the bill, which would be the standard the Senate from Louisiana would have? It differs in some respects—on reimbursements, on how much is covered, on post stabilization care.

If the State of Louisiana drafted a law dealing with emergency room access, they would have to second-guess that law? Why should we substitute our judgment for the judgment of the good people of the State of Louisiana?
I remind my colleagues that the States have not fallen down on the job. There are more than 1,100 patient protections out there far beyond the confines of this bill.

Unfortunately, while the Breaux-Jeffords amendment is an improvement over the underlying bill, it is still fatally flawed. We may differ on details and they have been doing it in a bipartisan way.

And they have been attempting to do, as my colleagues have been trying to do, wrestle with it, but the President has really did not take a position against it, for the Frist-Breaux bill, basically supported the medical necessity provisions which are included in the McCain-Edwards legislation. They are virtually identical to those in the underlying bill, and the President indicated support of the medical necessity provisions. Those are enormously important.

We come to the third of the major issues, and that is scope. Who is going to be covered, and for what particular protections? The President again indicated in his principles for a bipartisan bill that it proposes to all Americans—Americans; that a Federal Patients’ Bill of Rights should ensure that every person—not just some people, not just a few people in some States, not just some who are covered for certain protections in a few States—but that all Americans, every person enrolled in a health plan, enjoy strong patient protections. Those are words that he used.

The Breaux amendment is consistent with that particular principle. It is not drafted exactly the way I would like to have it drafted. It does not go to the extent I would like to have gone to guarantee the strong protections which Americans deserve. But nonetheless, in a very important way, the Breaux amendment complies with this particular provision. It will ensure that all Americans are going to be covered and that they will have strong protections. The Breaux proposal ensures that protections for Americans will remain in the States. They will be the primary regulator under the Breaux proposal. That is the way it was drafted, and it is a preferable way to ensure not only what the President has stated, but what I think I have heard stated by my good friend, the Senator from Tennessee, our ranking member on the HELP Committee, and others.

As a matter of fact, every proposal that the House of Representatives considered in their debate last year—I believe there were four major proposals offered by Republicans—all of them included all Americans. That was not a debatable point. It is tonight, and tomorrow morning, we will have the opportunity to see where the Senate is going to stand.

I will make a few points, and if I am not correct, Senator Collins will correct me. If I am correct, and the amendment just prior to the time the Senator offered it, although clearly we were very much aware this amendment was coming and Senator Collins told us about that. I will make a statement and, if people are wrong, the Senator from Maine will correct me.

If her amendment is passed tomorrow, or whenever we pass the final legislation, there will be no guarantee of one new protection for most Americans. Do my colleagues understand what I am saying? If the Collins amendment succeeds and is passed, when it goes into law, there will not be one new protection for most people in this country. There will not be any protection for the children who need specialty care; there will not be any new protections guaranteed for women who need clinical trials; there will be no new protections in a wide range of provisions that are included in the underlying legislation. None, unless—unless—the States go about the business of applying and providing them.

Let me be very clear about it, with the passage of her amendment, there is not one new protection from an HMO making the medical decisions they have made in the past.

It seems to me that is why we are here because we have, for the last 5 years, been battling to make sure families in this country receive protections, whether they are in Massachusetts, Nevada, or Maine.

Let’s look at what the circumstances are of some of the States. First, there is an authorization for $500 million, a pool—new funds of $500 million. That is in the amendment. Where we are going to get the money for those funds is not in there. We have authorized funds on many other issues and they have not been appropriated. Welcome to the club. This relies on a $500 million appropriation.

When this is passed, there will still be 39 States that do not require any access to clinical trials. In the United States, you might work in Massachusetts today, and maybe you will be transferred to Nevada, and then transferred to another State after that. Let me make it clear to you and your family you had better make sure you are one of the 11 States that have clinical trials. Most of the States that have clinical trials are for cancer, but don’t include other life-threatening diseases.

When I came to the Senate, you worked at the shipyard, your father worked there, and your grandfather worked there. You graduated from high school and had a good life. Then in the workforce today may have nine different jobs over the course of their life, moving all over the country. We ought to get a dartboard to find out where the protections are in the various States for you and your family, moving from one company to another.

There are 39 States that do not require clinical trials. Zero States affirmatively require timely access to specialists. If we pass the Collins amendment, there will be a signing ceremony at the White House—hopefully and after the bill is in effect, someone will say: I thought when I had a child who had cancer and we went to
our HMO, we would get the guarantee of accessing a specialist. And now that is overridden. I thought we were going to get the protections we needed. I listened to the debate in Washington that said we could get special care.

No, no, no, that is not so, because they passed the Collins amendment. The Collins amendment says, only if the States provide it do they get access to specialists.

We have 20 States that do not ban financial incentives for providers to delay or deny care. What is happening in HMOs is, as we heard in the numerous committee hearings we have held, there are financial incentives and disincentives for doctors on the procedures they recommend in terms of treating patients. Do we do anything about that? No, no, we are not going to do anything about that care. 20 States, not if you live in one of those 20 States. They will have incentives and disincentives for the doctors.

Tell me what consumer knows about that. Ask any Member of the Senate, if they didn’t have a briefing card before them, whether their State does or does not ban financial incentives. They will not have to worry because we have good Federal employee health insurance. We will not have to worry. But I doubt whether any Member knows whether their State prohibits it or not.

There is nothing under the Collins amendment that will make sure states ban inappropriate financial incentives. Under the underlying bill, there is a prohibition on their use. No HMO ought to provide incentives or disincentives to doctors in terms of providing or recommending necessary treatment. Do what we have to learn from this? We have hearings, we find out, we see the affected families, and then move. Washington does not know best, in this case, ensuring we do not have inappropriate financial incentives? We ought to be able to agree on that. Is that a vast intrusion on States rights?

The bill goes on. We have seven States that have not adopted a prudent layperson standard for emergency care. If you live in one of those seven States and you think you are having a heart attack and go to the emergency room, you may end up without that care.

We have seen a number of States that are going to represent our fundamental policies of legislation. CHIP and HIPAA. When we passed the CHIP program we provided incentive and promise. That is not the issue. The issue is, we gave the States the certain criteria that had to be met, and if they met those criteria the Federal provisions did not apply.

Mr. President, 49 of 50 States have done that. I monitored that program closely in our HELP committee. Even when I was not chairman, we had meetings with the previous administration to find out what was happening with that program. I am familiar with it. We don’t have complaints from the States. We are not hearing from the States about the heavy hand of the Federal Government for establishing CHIP. They can say they were getting money for that. Fine; they were also ensuring that children would have the range of services that would meet needs—not the complete range of services I would like to see. We still don’t provide the compensation we can see in that that we ought to provide for children.

Dental work was left out, along with many other services that children need, but we find States conforming to the package that was developed.

The other reference was with regard to HIPAA. I have heard that speech from the Senator from Oklahoma now eight times. He gets better at it each time he talks about HIPAA and HCFA. I pointed out, when the GAO recommended $11 million so HCFA would be able to implement HIPAA, he was the one who led the fight against the $11 million, and he was successful. They put in $2 million. And he led the fight to strike out that $2 million so HCFA would not implement it because they wanted greater flexibility in the States so the insurance companies—that is my conclusion—would be less interfered with. I have had that argument and I will not spend time on it now.

The fact is, tonight there are only five States which are not in complete compliance with HIPAA. It has taken time. Many of the criteria placed upon the States are similar to what is in the Breaux proposal. Personally I would like to see a stronger provision. At the time we pass this bill, I would like to see all Americans have protections. We have taken those steps in the past on other issues.

We decided as a pattern of national policy we were going to pass Federal laws to outlaw child labor in this country. We didn’t say: You can go ahead and use children in the factories for 10 or 12 hours a day who you want to. We passed laws. Anyone can visit now in Lawrence and Lowell, go through the mill, look at the museums and read the poems and letters of 9- and 10-year-old children trapped in those factories for 10 or 12 hours a day who wrote as they looked outside and saw other children play. We went through that as a nation and passed federal laws to prohibit that.

We also said, we will pass a minimum wage law. We know there are many here who are upset. We passed laws in order to protect our environment because we recognize that environmental issues go through various States and the environmental issues know no borders. I make the same case with regard to medical care. They are asking not that way in the old days, but it is that way today.

We made the same judgment with regard to civil rights. You can say, well, these patient protections are not of the dimension of the last several civil rights. I think there is a lot you can say about that. But if you listen to the HMO victims whom many of us have heard, if you see the failure of the recommendations of doctors and nurses and medical professionals—the failure of their recommendations because of an HMO bureaucratic many miles away, and you see how lives have been destroyed and how families have been absolutely destroyed—we can see the answer there. Why should we not give that kind of protection to families in this country?

Americans, I think, are under a lot of pressures today. Working families are under a lot of pressure. They are not asking for something. They are asking for good jobs with a good future. They are asking for schools where their children can learn. They are asking for health insurance that is going to cover them. They want clean water, they want clean air, they want safety and security in their communities, they want to own their own home, they want a national security and defense that are going to protect our interests, and they want human rights policies abroad that are going to represent our fundamental values.

They are not asking for much. But one of the things we can do is protect them when they do get that health insurance. We will be back. We give the other side the assurance the bill will be back. All those speeches we have heard over these past days asking why are we doing this when we have so many people uninsured—we will be back with legislation on the uninsured. We hope for support from so many of those who have been speaking recently about how we ought to make sure people are going to be covered. We will be back to try to make sure we deal with those individuals.

But when you have an opportunity to relieve families of the anxiety so every time they go to a doctor they are going to get the best the doctor can prescribe and the best the nurse can give when your worst moments, that guarantees every family in America, you are going to ease their anxiety when they have a sick one.

Why are we going to play roulette? Let’s say you live in Massachusetts today, or Florida, or New Mexico tomorrow. You shouldn’t have to worry, which one is going to give strong patient protections?
Mr. KENNEDY. Mr. President, I thank the Senator for her correction. The figures are, of the 195 million Americans with private health insurance, the 56 million who are the self-insured would have coverage. This would leave out the 139 million who are not in self-insured plans, as I understand it. These include state and local public service employees. These include firemen. These would be the police officers. These would be the self-employed. There are 139 million who would not have a federal floor of protections. I have read through this, so I appreciate what the Senator has said.

Listen to this. Under this proposal, there is going to be some $500 million that is going to be out there. A State can make a proposal for a new program, and they can receive grants for the works forum.

They say the States can pass laws which are consistent with the purposes of the Federal standard. But they can keep the money and decline to enact a law because of the adverse impact of a law on premiums which would lead to a decline in coverage. So they could get the money to pass it. But, if there is a judgment that there might be a decline in coverage, they could, I guess, keep the money. They do not have to do anything further to enact a law if the managed-care market in the State is negligible. There is no additional responsibility for them to take action for additional protections. They still get money from their fund.

I make the point that during the course of this debate there have been a lot of different ways of trying to cut the protections. We heard in our Health, Education, Labor and Pensions Committee about the kinds of abuses that are taking place across the country. President Bush has recognized that. He indicated that he wanted every person covered. We want to have every person covered. We don’t want to carve out a third and say they will be covered, but we will leave out two-thirds who will not be covered with a great many of these protections.

I continue to believe in the power of this issue and its impact on families. Why are we going to draw a distinction between neighbors on the same street? One neighbor’s fire department or their family goes to a doctor, and the kind of medical advice their doctor gives to them for their child is overridden by an HMO, and they don’t have protections, but his neighbor is protected because his employer self-insures? What possible fairness is there in that? What is the possible justice in that?

We should be interested in protecting all families. The President understands that. Hopefully the Senate will understand that.

If it were left up to me, I would make sure that all of these protections were guaranteed. But we have the Breaux amendment which says: Wait. We are
going to say if States have taken action in these areas, there is going to be deference given to the State. There is going to be no control or supervision by the State in protecting these areas.

I would have liked to see it stronger. But what is very important is guaranteeing some floor of protections.

Finally, we are talking about common-sense protections. We are talking about access to the emergency room, specialty care, OB/GYN, and continuity of care. If a woman is pregnant, and the HMO and her employer end their relationship, at least she can see her obstetrician until after the baby is born.

We are talking about prescription drug formularies. If the doctor recommends a certain medically necessary drug and it is not included in the formulary, the patient can still get the needed drug. There is going to be a shared expense by the patient as well as the HMO. That has been worked out. We use the same cost sharing that is used in the various formularies.

Point of service: There is a closed panel, and a need for outside expertise. Clinical trials are so important. Every one of the protections that is guaranteed are in existence today either in Medicare and Medicaid, or they have been recommended by the insurance commissioners, or they were unanimously recommended under President Clinton’s panel, which was bipartisan and included distinguished representatives of all aspects of the health delivery system. Those are the only ones.

Finally, as we are hopefully coming fairly close to the end of this debate. We have the support of almost every health organization, every professional medical organization, every patients’ organization, every children’s organization, every women’s organization, every disability group, and every cancer organization for this kind of protection.

The reason is very simple. They are out there on the firing line day in and day out. They understand what is happening to families. These are trained men and women who have given their lives for the protection of good health care for families in this country. They have seen what is happening and how many times they are being overruled. They have stated that is what is necessary.

The scope and protections that Senator Breaux has included are what they strongly support. We will have a chance to say another word about this tomorrow.

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

Mr. KENNEDY. I thank my friend from Maine.

I am glad to yield.

Mr. EDWARDS. Let me ask the Senator, as somebody who has been involved in this issue for so long, as the Senator knows, we have been working very closely with Senator Breaux on his amendment in an effort to make sure that all Americans are covered. One of the guiding principles of our efforts in this area is to make sure that families have protections provided in this legislation so that all families in this country can make their own health care decisions. We have worked with Senator Breaux very closely on his amendment to make sure there is a floor for every family in America.

Will the Senator comment on whether, under the amendment of the Senator from Maine, every family in America will in fact get the minimum protections as provided in our bill as opposed to the language we worked out with Senator Breaux?

Mr. KENNEDY. As the language is constructed, they will only provide the protections to these self-insured and not to everyone else who has received their health insurance through other means—the self-employed, those who are getting it through state and local employment, those working for employers who purchase health insurance plans. There are 130 million Americans who will not have those protections.

As I mentioned earlier, they will have to rely on protections from the States. There are States that do not require access to clinical trials. There are States that do not require timely access to appropriate, accessible specialists.

I mentioned earlier the ban on inappropriate financial incentives. Twenty States don’t ban plans from giving financial incentives and disincentives to doctors to delay or deny care. They won’t have those protections.

The point I mentioned earlier was that we are a society in movement. We find so many families are moving from State to State. Members of families are moving with jobs and going back and forth.

We have to ask ourselves ultimately and finally—as the Senator pointed out, this is a federal floor of protections—if you are in a State with clinical trials, why should you have to make sure they have a similar protection requiring access to the clinical trials which your wife might need, but you move to another State and find there is no access to clinical trials?

That is strictly because of the protections that you might have in a particular State. It makes absolutely no sense. We ought to have that basic federal floor. I know that Senator Breaux shares with me.

The way the Breaux amendment has been devised, it gives the maximum deference to the States if they provide protections in these areas. I mentioned just a half dozen different protections. We could have 20 again this evening. I will not take the time to do so, but they are illustrative of the protections. These are pretty common-sense protections.

The PRESIDING OFFICER (Mr. MILLER). The Senator from North Carolina, Mr. EDWARDS, Mr. President, the debate on the floor amendments is critical to the issue of whether all Americans—all families in this country—will have access to the protections provided for in this Bipartisan Patient Protection Act. That is the reason this vote tomorrow morning is critical to the vitality of this bill.

We have worked very closely with Senators on both sides of the aisle to ensure that two things are accomplished with respect to coverage: No. 1, that every American is covered by this legislation and, No. 2, we give deference to States that, through their own work, have established good systems for patient protection. We honor those State legislatures and that State legislation.

So that is the purpose of this amendment, the Breaux amendment. It strikes the right balance between making sure every American is covered—every family is covered—on the one hand and, secondly, giving deference to the States that have already done good work in this area.

We need to ensure that we do not take away the protections we are providing for all Americans by exempting a huge chunk of Americans, which, unfortunately, the Collins amendment would do.

The Breaux amendment, though, is one in a series of consensus agreements that have been reached on this legislation. Starting with the issue of scope, which the Breaux amendment addresses, we now have an agreement which I think a great majority of the Senate will be able to support and be comfortable with.

On the issue of the independence of the appeals, we have an amendment that will be supported. I believe, by virtually all of the Senate, establishing the principle that we believe the HMOs should not have direct control over who is on the independent appeal panel.

On the issue of exhaustion of remedies—exhaustion of the appeals process before a case can go to court—we are working very closely with the Senator from Tennessee to reach a bipartisan consensus on that issue. We have made great progress, and I am optimistic about it.

On the issue of employer liability, from the outset we had—the sponsors of the legislation, along with the Presiding Officer—as a principle that it was important that employers be protected, period. We have worked very hard with Senator SNOWE and Senator NELSON from Nebraska, and other Senators on both sides of the aisle, to ensure that is being done. Tomorrow morning we will offer an amendment on that issue.

We have worked our way through a series of hurdles, going from the issue
So I thank my colleagues for all their work on this issue.

I ask my colleagues to vote, tomorrow morning, against the Collins amendment and for the Breaux amendment, which is a bipartisan consensus that has been reached. And we will continue our work toward providing the American people the protection they need and they deserve.

Thank you, Mr. President. I yield the floor.

Mr. HELMS. Mr. President, I regret I was not present to cast my vote on the motion to table the amendment offered by the Senator from Arizona (Mr. KYL) and the Senator from Nebraska (Mr. NELSON). I wish the RECORD to reflect that had I been present, I would have voted "nay."

The PRESIDING OFFICER. The Senator from Nevada.

SUPPLEMENTAL APPROPRIATIONS

Mr. REID. Mr. President, Majority Leader DASCHLE was asked earlier today, on several occasions by Senator BYRD and Senator STEVENS, if he would bring to the floor a unanimous consent request that there be a time set on the supplemental appropriations bill that is now with the Appropriations Committee that would set a time certain for filing of amendments on this most important legislation.

Such a request has been cleared by Senator DASCHLE and the majority, but objection has been raised by the minority. So the request by Senators BYRD and STEVENS cannot be met tonight. Hopefully, this request will be cleared by the minority tomorrow so that there can be a time certain set for the amendments on this, as I said, most important piece of legislation, the supplemental appropriations bill.

I suggest the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak for up to 5 minutes each.

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

OFFSHORE OIL

Mr. NELSON of Florida. Mr. President, I want to take a moment while the leadership of the Senate is, at this very moment, deciding which course the rest of the day will take with regard to this important legislation, the Patients' Bill of Rights. While we have a moment in which we might reflect on other items, I want to draw to the attention of the Senate the considerable concern of 16 million Floridians that the Bush administration is trying to drill for oil and gas off the shores of the State of Florida.

It is most instructive, if one looks at a map of the Gulf of Mexico, where colored in on the gulf waters are the active drilling leases, will see clearly that, from the central Gulf of Mexico all the way to the western Gulf of Mexico, almost all of the waters of the gulf are shaded in, indicating active oil and gas drilling leases. Indeed, there is a reason for that. It is because the reserves were there, the oil and gas deposits are there, the future reserves are expected to be there. As a matter of fact, I believe it is 80 percent of all economic recoverable oil reserves are on the Outer Continental Shelf—which not only includes the Gulf but also the Atlantic and Pacitic—80 percent of the Nation's known, recoverable gas reserves in the central and western Gulf and 60 percent of the future recoverable oil reserves are in that area too. They are no in the area off the State of Florida.

The State of Florida has consistently taken the position that we should not have oil and gas drilling because of the high cost and potential damage to our environment and to our economy. One of our primary industries is the tourism industry, which so often is dependent upon those pure, sugary white beaches being unspoiled by millions of visitors who come to Florida to enjoy the sunshine and the waters and the beaches can do so without having to worry about having oil spread across those beaches.

I can tell you that 16 million Floridians, in unison, do not want oil lapping up on our beaches. The cost to our environment and the cost to our economy would be simply too high.

Why, you would ask, other than that the oil and gas reserves are in the central and western Gulf, is there not any drilling off the coast of Florida? It goes back to the early 1980s, under the Reagan administration and a Secretory of the Interior, James Watt. He offered tracts for lease from as far north as Cape Hatteras, NC, in the Atlantic, south all the way as far as Fort Pierce, FL.

I had the privilege of being a Member of the House of Representatives at the time. So I went to work, knowing the people of my congressional district, in the early 1980s, didn't want oil lapping up onto their beaches. We were able to persuade the Appropriations subcommittee on the Department of the Interior appropriations bill to insert language that said no money appropriated under this act shall be used for...
offering for lease tracts such and such, and then listed the tracts all the way from North Carolina south to Fort Pierce, FL. And we prevailed in the appropriations.

The administration left Floridians alone on offshore oil drilling for a couple of years but came back under a new Secretary of the Interior and tried again. This time it was harder to stop. This time it escalated all the way to the full House Appropriations Committee. But we finally prevailed, interestingly, not on the threat to the economy or to the environment of Florida, and indeed the United States eastern coastline, but prevailed by getting NASA and the Defense Department to own up to the fact that you cannot have oil rigs down there in the footprint of where you are dropping solid rocket boosters into the space shuttle and where you are dropping first stages off the expendable booster rockets that are being launched out of the Cape Canaveral Air Force station. And we have not been bothered since the early 1980s, in Florida, about offshore oil drilling—until now.

The bush administration is pressing a 6-million-acre lease off the northwest coast of Florida in a strange configuration called lease-sale 181, of which the bulk of the 6 million acres is 100 miles offshore but a stovepipe runs northward to within about 20 miles of the Alabama coastline, which is about 20 miles, then, from the white sands of Perdido Key, State of Florida.

In a meeting of the Vice President with a Florida congressional members delegation, the Vice President suggested a compromise, which was to knock off that stovepipe coming off the bulk of the 6 million acres. That is no compromise. It is unacceptable because that is still oil drilling off the State of Florida where the future reserves are shown to be not as abundant. The tradeoff to 16 million Floridians is simply not worth what potentially could be discovered in oil and gas—the despoliation of our environment and the killing of our economy.

Thus, it was such welcome news when we learned last week that the other side of the Capitol, the House of Representatives, added to the Interior appropriations bill an amendment that would prohibit such drilling. The vehicle was the Interior appropriations bill. It prohibits it for only 6 months. It will be my intention, and certainly the intention of my wonderful colleague, the distinguished senior Senator from the State of Florida, Mr. Graham, that we in the future will offer amendments either to the Interior appropriations bill, to bring it in conformity with the House-passed bill, or more likely amendments that would cause a prohibition of lease-sale 181 as well as offering similar amendments to the authorizing bill that will come out of Chairman Bingaman’s committee.

I want our colleagues to be clear. This is an issue of enormous magnitude to 16 million Floridians. It happens to be of the same concern to New Jersey, the State of the Senator who sits as Presiding Officer, as well as all the States in New England which value so much the pristine waters and the waters particularly as you get on north of New Hampshire and Maine—to those waters that produce such delicacies as the Maine lobsters. This is a matter of grave concern to many of us.

It is time to draw the line in the sand—hopefully, not a line that will be washed over by oil on our beaches’ sands but, rather, a line that will indicate the unanimity of 16 million Floridians, joined by their sister States along the eastern seaboard, of opposition to offshore oil drilling.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator Kennedy in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred April 15, 1998 in Boise, Idaho. Mark Bangerter was brutally beaten because of his perceived sexual orientation. As a result of this attack, Mr. Bangerter was left with severe facial injuries and blindness in one eye.

I believe that government’s first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

HUNGER AND POVERTY IN AFRICA

Mr. LEVIN. Mr. President, it is my pleasure to join with Senators Leahy and HAGEL in submitting S. Con Res. 53, which encourages the development of strategies to reduce hunger and poverty in sub-Saharan Africa.

In the year 2000, almost 200 million Africans, fully a third of the total population, went to sleep hungry and 31 million African children under the age of five were malnourished. One child out of seven dies before the age of five, and one-half of these deaths are due to malnutrition. Nearly half of sub-Saharan Africa’s population, some 291 million people, live on less than $1 a day, and almost 85 percent of the world’s 41 heavily indebted poor countries are in sub-Saharan Africa.

These problems are compounded by epidemics of HIV/AIDS, tuberculosis, malaria, cholera, and other diseases now ravaging the continent. The human costs are staggering. Almost 4 million people are infected with AIDS every year, adding to the over 25 million already infected. Over 75 percent of the people worldwide who have died of AIDS lived in Africa. One million people each year, mostly children, die from malaria.

Hunger only adds to the spread of disease, rendering the poor and malnourished too weak to defend against AIDS and other infectious diseases. Even if treatment clinics are available, those suffering from hunger are unable to afford fees for care or medicine to aid them with their battle against the illness.

Despite funding shortfalls, the U.S. Agency for International Development, USAID, and other U.S. government agencies and organizations, non-governmental organizations, NGOs, and private sector companies are presently implementing many innovative programs directed toward alleviating hunger and poverty in Africa. These efforts are tremendously significant, but these actions are not enough to keep poverty and hunger from growing in many African countries. Many of our experts have concluded that the United States is not tapping into the full range of interest, ability, experience and capacity available to address this problem. The introduction of our Resolution, which addresses these issues, coincides with the conference of The Partnership to Cut Hunger in Africa, an independent effort formed by U.S. and African public and private sector institutions, international humanitarian organizations and higher educational institutions. Michigan State University continues to play a strong leadership role in this effort. The University, serving as co-chair of the Partnership, is one of the institutions that is using the University of Michigan, Michigan State University, the University of Pennsylvania, the University of Hawaii, and The World Bank, as one of the Partnership’s co-chairs and was instrumental in arranging conference-discussion activities in the Senate this week.

The goal of the Partnership is to formulate a vision, strategy, and action plan for renewed U.S. efforts to help African partners cut hunger dramatically by 2015. For three days this week, the Partnership’s 22 distinguished policy experts and practitioners from the U.S. and 8 African countries will share their views on hunger in Africa and will open a dialogue on the role the U.S. might play in diminishing hunger and poverty in Africa. On Thursday, June 28, 2001, Partnership experts will culminate their 3-day conference with a roundtable discussion on Capitol Hill, during which time they will share their findings and action plan to effectively combat hunger and poverty in Africa. I am honored to have the opportunity to join in hosting this event.

I ask unanimous consent that the members of the Partnership to Cut Hunger in Africa and the Partnership's
THE CHALLENGE OF BiotERRORISM

Mr. AKAKA. Mr. President, I rise to address the threat of bioterrorism to our Nation’s security.

President Bush has asked Vice President CHENEY to “oversee the development of a coordinated national effort so that we may do the very best possible job of protecting our people from catastrophic harm.” He also asked Joseph Lhota, Director of the Federal Emergency Management Agency, FEMA, to create an Office of National Preparedness to implement a national effort.

On May 9, 2001, Attorney General Ashcroft testified before a Senate Appropriations subcommittee that the Department of Justice is the lead agency and in sole command of an incident while in the crisis management phase, even if consequence management activities, such as casualty care and evacuation, are occurring at the same time. Clearly, FEMA and the Department of Justice need to work together to shoulder the burden of responding to a large scale event. What is unclear, however, is how the Department of Justice will know that its crisis management skills are needed during a bioterrorism event.

When will a growing cluster of disease be recognized as a terrorist attack? How do we differentiate between a few individuals with the flu and a flu-like epidemic perpetrated by terrorists? When will it be called a crisis? When will the FBI or Justice be called in to handle the newly declared “crisis”? In the case of a bioterrorist attack, the response will most likely be the same as if it was a naturally occurring epidemic. The key question is not “how to respond to an attack” but “are they prepared to respond to any unusual biological event?”

What would happen if a bioterrorist attack occurred today? It would not be preceded by a large explosion. Rather, over the course of a few days or a couple of weeks, people would start to get sick. They would go to hospitals, doctor’s offices, and clinics. Hopefully, a physician in one hospital would notice similarities between two or three cases and contact the local public health officials. Maybe another physician would do the same and maybe, finally, the Center for Disease Control would be notified. So, the first responders would not be a Federal agency.

Across the country, local law enforcement, fire, HAZ MAT and emergency medical personnel are doing a tremendous job preparing and training for terrorist attacks, and I commend their efforts. But, in the scenario I described, they would not be our first line of defense. Instead, the first responders for a biological event would be the physicians and nurses in our local hospitals and emergency rooms. We need to ensure that hospitals and medical professionals are prepared to deal with this threat. This is not the case today.

This past November, emergency medical specialists, health care providers, hospital administrators, and bioweapon experts met at the Second National Symposium on Medical and Public Health Response to BioTerrorism. A representative of the American Hospital Association, Dr. James Bentley, spoke about the challenges hospitals are confronting and stated that “we have driven over the past twenty years to reduce flexibility and safeguards.” Flexibility and safeguards are exactly what is needed by a hospital to go from “normal” to “surge” operations. Surge operations do not require the extreme scenario of thousands of casualties from a bioweapon. Dr. Thom Mayer, chair of the emergency department at Inova Fairfax Hospital, was quoted in the Washington Post, on April 22, 2001, stating that 20 or 30 extra patients can throw an emergency department into full crisis mode.

J.B. Oreinstein, an emergency room physician, in a recent Washington Post op-ed, wrote about the “State of Emergency” the dedicated men and women working in our hospitals and clinics are already facing with the added burden of bioterrorism. Until a year ago, hospitals dealt with surges for only a few days or a week a year during the winter flu, cold and icy sidewalk season. Now, mini-surges occur in the spring, summer and fall due to decreasing numbers of emergency rooms, beds available in any hospital, and qualified nurses. On May 9, 2001, the Society for Academic Emergency Medicine convened a special meeting in Atlanta to discuss “The Unprecedented Emergency: Are we prepared for a bioterrorism event?”

As Chairman of the Subcommittee on International Security, Proliferation and Federal Services, I am concerned that we are not addressing a fundamental problem. Would a biological event be a national security/law enforcement incident with public health concerns, or would it be a public health crisis with a law enforcement component? I hope that the effort led by Vice
President Cheney will address specifically this question and that the unique problems military weapons present are beyond any national plan to counter terrorism. I ask unanimously that the text of Dr. Orenstein’s article be printed in the RECORD.

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

(From the Washington Post, April 22, 2001)

**STATE OF EMERGENCY**

(By J.B. Orenstein)

It’s a typical bad-day crowd in my ER: Here’s a wailing baby who developed a blue spell in front of her panicked mom. This 62-year-old gentleman came in with chest pain 36 hours ago; his worrisome EKG and equivocal lab tests should have put him inside for observation, but, because there’s no room in the ICU so he’s been waiting here for 24 hours. This lady, razor sharp at 89, suddenly started acting “not right,” so her granddaughter brought her in the Thompson room for three hours, but can’t get into treatment because chest-pain guy, blue baby and 18 other patients are packed in the treatment rooms we haven’t been able to admit.

Our communications nurse just told an approaching ambulance to find someplace else to take its potentially critical passenger because we had no place to put him. Not in the ER, not in an ICU, not even in a plain old bed in a ward. The official term for what’s happening here is “saturation,” but down in the pit this is known as a bottleneck.

And it’s happening too often, in more hospitals than ours. On May 9, the society for Academic Emergency Medicine will convene a special meeting in Atlanta on “The Unraveling Safety Net.” The meeting was called in December because panic buttons were being pushed in overcrowded ERs across the country—Boston, St. Louis, Chicago, New York. It was a medical version of the California power crisis, with our rolling blackouts coming in to simulate “divestiture.”

“Up until a year or two ago, we faced this nerve-racking logjam for only a few days or weeks in winter, when flu and cold viruses turn into more serious, even fatal pneumonias. Patients with chronic lung diseases fall prey to respiratory and intestinal viruses, depression fills the psych wards and slippery ice keeps the orthopedists busy. But now we’re seeing mini-surges in the spring, summer and fall as well.

When I started at Inova Fairfax Hospital in 1991, the ER treated 55,000 patients in the course of the year. Last year the number was 70,000. This is in keeping with the national picture. In 1988, there were 81 million visits to U.S. emergency rooms, according to the National Center for Health Statistics. The number for 1998: 104.1 million. Meanwhile, over the same decade, the number of emergency departments fell from about 5,200 to just over 4,500. The average annual visit volume rose from 15,500 to 21,800—that’s more than 50 percent.

In all of American medicine, the only place that has been able to keep up, and guarantees Americans the right to a physician, 24-7, is the emergency room. This is because of the 1986 “anti-dump- ing” law, the Emergency Medical Treatment and Labor Act, or EMTALA. Hospitals are forced by the Health Care Finance Administration and recently upheld by the U.S. Supreme Court, EMTALA is a civil right extended to all Americans regardless of their ability to pay. It is the safety net’s external support. Without it, the savings also come at a price: recent studies indicate that the majority of nursing personnel, finding other career options that are less physically demanding, are more emotionally rewarding and coming with a higher rate of pay. EMTALA does, however, also mean that the American Hospital Association, told a Senate subcommittee earlier this year. And men aren’t making up for the shortfall. And even experienced nurse, last did floor work more than 10 years ago, and though conditions were tough enough then, may recoil at what she would do if she went back now: More and sicker patients on an exponentially higher number of beds; less time getting to know the person who is the patient; and therefore less ability to catch early signs of deterioration; widespread use of “health techs”—people who take vital signs and dispense pills but have no training for more meaningful interaction.

No wonder students at nursing schools dread the first few years following graduation, because before they can get to the challenging, rewarding places to work, such as ERs or ICUs, they have to get experience on inpatient wards.

It’s crowding in those ICUs that puts the whole system under stress. A half-century ago, when medical sophistication was more limited, the ICU was the place to go for surgery patients. Now it’s the only place with roughly equal capacity—the only place we can perform the same level of care—is the ER. This ties up our nurses and blocks the bed from the next guy waiting to get in.

And chances are, that next guy is in pretty bad shape. Most people who come to the ER are in trouble: A heart attack, a stroke, a brain injury. It’s a rapid fire explosion in medical technology and therapies.

A heart attack—there’s something for everything: More and more medication and less invasive procedures. If a patient is going to die, it’s going to die on the operating table, not in the ER. Life-support at mega-hospitals like Inova Fairfax, our hospital, is now the stuff of science fiction.

And it most assuredly was, that would be back in the 1980s. Back then, the ER was the only place with roughly equal capacity—the only place we can perform the same level of care—is the ER. This ties up our nurses and blocks the bed from the next guy waiting to get in.

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And it most assuredly was, that would be back in the 1980s. Back then, the ER was the only place with roughly equal capacity—the only place we can perform the same level of care—is the ER. This ties up our nurses and blocks the bed from the next guy waiting to get in.
I hope they haven't been waiting till May to coming up with some solutions. If they have, the dire statistics of other ER docs and public health researchers. Maybe they've been through, after all. Net'' meeting in Atlanta in three weeks, intrinsic value of nursing is already luring a more nurses will come received, or are negotiating for, approval for today.''

They're right: I muddle through each shift worrying about patients trapped in the waiting room or ambulances that can't discharge their patients at the door. I must humbly apologize because I do not know the patients they sent in specifically for urgent treatment—pain control, antibiotics, whatever—cool their heels for hours on end. I go home exhausted and aggravated with whatever—Cool their heels for hours on end. I go home exhausted and aggravated with whatever—Cool their heels for hours on end.

And we're right. The system will somehow muddle through. As a nursing student, I've seen patients sent in specifically for urgent treatment—pain control, antibiotics, whatever. I've seen them cool their heels for hours on end. I've gone home exhausted and aggravated with whatever—Cool their heels for hours on end.

Doctors and nurses have a bottom line that determines patient care. When we can't provide care, the system fails. Our hospitals and administrators and department chiefs assume that excellent patient care is a non-negotiable standard. But every winter, and increasingly at other times, the crash of the system is quite catastrophic in these accumulated pressures. When forced to manage patients through an overwhelmed system, I must know if I'm doing a good job any more. As a result, I often find myself phoning the patient the next day, checking in: "Everything okay today?"

Many of the region's hospitals have received, or are negotiating for, approval for more beds. Where more nurses will come from is another problem. Anthony Disser, the chief executive nurse at Fairfax, says the intrinsic value of nursing is already luring a more nurses will come received, or are negotiating for, approval for today. He gained a decisive edge on his competition by embracing information technology earlier than anyone else in his business. He knew the numbers and metrics of his business better than anyone else in his business. He was a fine citizen, and a good friend who will be missed, but whose influence, I know, is "a widening ripple, down a long eternity." The world is a better place for his having lived. I ask that my letter be printed in the Record.

DEATH OF ROBERT MCKINNEY

Mr. BINGAMAN. Mr. President, earlier today I sent a letter to the oldest daily newspaper in the West, "The New Mexican" regarding the death of its publisher, Robert McKinney. Robert McKinney was well known to the Senate. His decades of service to this country, in one capacity or another, and his remarkable career in business and publishing brought him into contact with many of us, and with colleagues who have preceded us in this body. He and Clinton Anderson, later a Senator for New Mexico, were great friends, and worked together on the San Juan-Chama water project for our State.

Five presidents called on him for service from Harry Truman through Richard Nixon. He put his prodigious skills to work at various times at the Department of the Interior, the Atomic Energy Commission, and the Department of the Treasury. Under President Kennedy, he served as our Ambassador to Switzerland.

He was a fine citizen, and a good friend who will be missed, but whose influence, I know, is "a widening ripple, down a long eternity." The world is a better place for his having lived. I ask that my letter be printed in the Record.

The letter follows:

LETTER TO THE EDITOR OF "THE NEW MEXICAN"

To the Editor: With so many others, I was saddened earlier this week when word came of the death of Robert McKinney whose American life made him one of the world’s distinguished citizens. When he died in New York on Sunday night, this man of the American West had forged great successes in business, journalism, international diplomacy, public service and public policy in the course of his ninety years. He was a man of "life well lived" and much of it was lived in New Mexico where he was the deeply respected publisher of this newspaper.

He was a singular individual with a wide-ranging mind, vast talents, and varied interests. He brought his considerable energy to

ADDITIONAL STATEMENTS

TIMOTHY J. RHEIN

Mr. BREAUX. Mr. President, I rise today to pay tribute to Timothy J. Rhein, who recently retired after 34 years with American President Lines, Ltd. APL is today one of the world's largest shipping and intermodal lines, and a globally recognized brand, thanks in large part to Tim Rhein's leadership. I came to know Tim through his appearance before the Subcommittee on Merchant Marine, and I can personally attest to his commitment to merchant shipping and his leadership in the U.S. shipping industry. His rise to president and chief executive officer of APL from 1996 to 1999, and then to chairman, was marked by key decisions in a difficult business. He was instrumental in expanding APL from primarily an Asia-America business into a truly global operation. He gained a decisive edge on his competition by embracing information technology earlier than anyone else in his business. He knew the numbers and metrics of his business better than anyone else. He was rarely at a loss for an answer before our committee, and always worth listening to.

And he worked very hard at developing one particular line of business—the U.S. military—to the point where our government is today APL's largest customer. One of the reasons for that is his understanding of logistics, of managing supply lines, a critical skill to the military as well as to APL's multinational corporate customers.

But without doubt his toughest decision was to negotiate the sale of APL to a non-U.S. buyer, in order to protect all of APL's stakeholders and to preserve the APL presence and brand. APL was the oldest continuously operating shipping company in America, and a premier US-flag shipping company. He stuck his neck out on that one, put his reputation on the line, and negotiated the sale personally—and successfully.

Tim Rhein understood his business. He was a nimble and gutsy decision-maker, and we in Washington will miss his understanding and knowledge as we continue our pursuit of a policy to promote a strong U.S. flag maritime shipping presence. I hope he will continue to avail us of his knowledge and wise counsel.

Good luck in your retirement, Tim Rhein.
bear on issues from architecture to atomic energy, war to peace, land use to poetry. He was most certainly a force for good in this world. I was honored to have the benefit of his counsel and the gift his friendship. I will miss him.

JEFF BINGAMAN, United States Senator.

UNVEILING OF TIGER STADIUM COMMEMORATIVE STAMP

Mr. LEVIN. Mr. President, it is with great pride that I pay tribute to a special place in my hometown of Detroit that for the last century has inspired not only our city but our country. This year we are commemorating the tricentennial of the founding of a city that to Americans has long meant great automobiles. To Detroiters, it also means great sports teams and inspiring hero-athletes. Indeed, as Detroit enters its fourth century, our pride in our city is equaled by our pride in the house these heroes built—our storied Tiger Stadium.

Today at home plate, the people of Detroit will gather to unveil one of eleven new stamps commemorating Baseball’s Legendary Playing Fields. Of those eleven ballparks, only four still stand, and one is right in Detroit, where baseball was the pastime at The Corner of Michigan and Trumbull for more than a century.

The history of this stadium is in so many ways the history of our city. The spirit of hard work and determination that has always defined Detroit revealed itself early. When the Great Depression hit Detroit harder than most American cities, it was the 1935 World Champion Tigers—and the renowned “G-Men”: Charlie Gehringer, Goose Goslin, and Hank Greenberg—who renewed the hopes of an entire city. Detroit would forever after be the City of Champions, with four World Series titles to prove it.

When the riots and ruin of 1967 left deep scars of division across our city, it was the 1968 World Champion Tigers led by Al Kaline, Willie Horton, Bill Freehan, Denny McLain and Mickey Lolich who led one of the greatest comebacks in baseball history and who, in their unforgettable victory, united us to celebrate as one city.

It is no exaggeration to state that the heroes of Tiger Stadium also point us to a better America. By the time over the years, the name may have changed, the address for baseball in Detroit was the same the Corner of Michigan and Trumbull. It is still one of oldest ballparks in one of the oldest cities in America. In it we feel our hometown pride in a national landmark. Our city. Our ballpark. The new commemorative stamp to be unveiled today celebrates their common spirit, and it gives me great pride today to join the people of Detroit, in praise of both.

REMEMBERING KAREN KITZMILLER

Mr. LEAHY. Mr. President, I rise today to remember a very special Vermonter, and a good friend, Karen Kitzmiller. Karen, at the young age of 53, lost her long battle with breast cancer on May 20 of this year. In East Montpelier, her home town, on May 20 of this year, I joined hundreds of family, friends, colleagues, and admirers who gathered together to share their memories of Karen, and to honor her life.

For the past 11 years Karen Kitzmiller served as Montpelier’s Democratic State representative in the Vermont Legislature. Her legislative achievements were many, but most outstanding was her work on the House Health and Welfare Committee. Karen was a determined advocate and principal leader on behalf of the health and well-being of Vermonters. She fought to prevent tobacco companies from targeting children with advertisements designed to encourage youth smoking. To help patients appeal coverage denials by health maintenance organizations, Karen dedicated her efforts to the establishment of Vermont’s health care ombudsman. She devoted considerable energies to the expansion of health care coverage for the uninsured. This spring, after almost four years of effort, she witnessed the Governor sign legislation to ensure that uninsured patients who volunteer to participate in cancer treatment clinical trials are provided with health care coverage.

Karen was diagnosed with cancer more than four years ago, and yet through it all, she did not give up her work on behalf of Vermonters. She continued to serve in the Legislature, she continued her commitment to cancer survivor in efforts to promote awareness about the importance of support groups, and she helped to establish the annual Breast Cancer Conference in Burlington. These are just a few of the lasting contributions that will serve as a tribute to Karen’s life for years to come.

Karen leaves behind a loving family—her husband, Warren, and two daughters, Amy and Carrie. Amy is a student at the University of Virginia, studying public policy and women’s studies, and Carrie is a student at the University of Pennsylvania studying at the School of Arts and Sciences. I had the privilege
of sponsoring Amy as a Senate Page in 1996 and as an intern in my Montpelier office in the summer of 2000. They are both bright young women. I knew their mother was very proud of them both. Although their loss is great, the Kitzmillers can take some small comfort in knowing how special Karen was to so many people. Her strength, her courage, and her compassion served as inspiration to all those who were fortunate enough to come in contact with her. She will be missed by all.

TRIBUTE TO SHERRY YOUNG
• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Sherry Burnett Young of Concord, NH, on being named as recipient of the Athena Award. The award is presented to an individual who has demonstrated excellence in her business or profession, served the community in a meaningful way and assisted women in reaching their full potential.

Sherry is founder and director of the Rath, Young and Pignatelli law firm of Concord, NH. She began her legal career with Orr and Reno, P.A., of Concord, as an estate and trust attorney. She involved in community service with several organizations including: Horizon Bank Board of Directors, New England Legal Foundation, Business and Industry Association of New Hampshire, and the New England Council. Some of her civic and charitable activities include: New Hampshire Historical Society Board of Trustees, Concord Hospital Board of Trustees, Greater Concord Chamber of Commerce and New Hampshire Chapter of the American Red Cross.

Sherry is affiliated with professional memberships at the American Bar Association and the New Hampshire Bar Association. She is the first woman selected to serve as State Capital Law Firm, a global association of independent law firms throughout the Americas, Europe, Asia and Africa. In 2000, she was named as one of the top environmental lawyers in New Hampshire by New Hampshire Magazine.

She is a graduate of Cornell University and Franklin Pierce School of Law and lives in Concord with her husband, Gary, and her three children: Garrett, Valerie and Alanna.

I commend Sherry for her dedicated service and contributions to the citizens of New Hampshire and am proud to call her a friend. Her exemplary performance and civic awareness have benefitted the lives of the people of our State. It is an honor and a privilege to represent her in the Senate.

TRIBUTE TO RON WELLIVER
• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Ron Welliver of Nashua, NH, on being named as Police Officer of the Year by the Nashua Exchange Club.

Ron has been a dedicated member of the Nashua police force and his community for more than twenty years. An exemplary citizen, he has contributed to the civic needs of Nashua serving as a football coach at Fairgrounds Junior High School and baseball coach at Bishop Guertin High School in Nashua.

Ron is a team player at the Nashua Police Department who accepted his award by giving praise and recognition to his fellow police officers. During his career he has worked in nearly all areas of the Nashua Police Department including: detective, undercover narcotics and recruiter assignments.

Ron and his wife, Sue, reside in the Nashua area with their two daughters.

I commend Ron Welliver for his dedicated service to the people of Nashua and our entire State. He is a role model to the local community, and risks his own safety as a law enforcement officer to protect the citizens of Nashua. It is truly an honor and a privilege to represent him in the Senate.

TRIBUTE TO DR. GLENN DUBOIS
• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Dr. Glenn DuBois for his service to the State of New Hampshire as Commissioner of the New Hampshire Community Technical College System.

Glenn has taught for more than ten years working with students of all ages and from diverse ethnic and racial backgrounds. He has served for many years in State college and university positions and was appointed by the Governor to the Workforce Opportunity Council and Governor’s Kid’s Cabinet.

He has served in many other capacities including: New Hampshire Governor’s Information Technology, New Hampshire Post Secondary Education Commission, Job’s for New Hampshire’s Graduates Program and the New Hampshire Police Standards and Training Council.

Glenn has been the recipient of many awards including: Distinguished Administrative Performance, President’s Recognition, Award, Distinguished Service Award by the State University of New York, the highest recognition given by that State, and most recently he currently was named as New Hampshire’s Leader for the 21st Century.

Glenn is a tribute to his community and his profession. His ability, dedication and determination to serve the students and citizens of our State is commendable. It is an honor and a privilege to represent him in the Senate.

TRIBUTE TO CHUCK CLEMENT
• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Chuck Clement of Rochester, NH, on being named by the Rochester Chamber of Commerce as Business Leader of the Year 2001.

Chuck Clement is a third generation owner of Eastern Propane. Thanks to Chuck’s leadership and management skills, Eastern Propane is now the 23rd largest retailer in the Nation providing propane, oil, kerosene, diesel fuels, and service throughout New England.

Chuck has provided his customers with high quality service and has implemented several service programs to further enhance his business. Due to his commitment to the community of Rochester, he has moved his central office from Danvers, MA, to Rochester, NH, his new hometown.

He encourages his employees to give back to the community by donating their time and efforts to organizations including: Strafford County YMCA, Greater Rochester Chamber of Commerce and Greater Rochester Chamber of Commerce. Chuck was among the first supporters of the Rochester Public Library Fund and the Rochester Opera House Fund drives.

Chuck’s outstanding contribution and leadership in his business and community are commendable. His exemplary performance and civic awareness have benefitted the community of Rochester and our entire State. It is an honor and privilege to represent him in the Senate.

TRIBUTE TO LAURA MONICA
• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Laura Monica of Bow, NH, for being named by the Greater Manchester Chamber of Commerce as Small Business Person of the Year 2001.

Laura is president and founder of High Point Communications Group Inc. located in Bow, NH. Her firm is a strategic communications company that works with companies, non-profit organizations and government agencies throughout New England and the United States. High Point specializes in the areas of public relations, marketing, corporate communications, media relations and media training.

Laura is a contributor to the local community and is active in many civic organizations including: Greater Manchester Chamber of Commerce, Leadership New Hampshire, Greater Manchester American Red Cross, American Cancer Society New Hampshire Division, and Greater Manchester United Way.

She is active in professional organizations and is a member of the Public Relations Society of America and is a former member of the Bank Investor Relations Association and the National Investor Relations Institute.

Laura received her BA from the University of New Hampshire graduating magna cum laude and received her MPA from the University of New Hampshire graduating summa cum

June 27, 2001
June 27, 2001

CONGRESSIONAL RECORD—SENATE 12065

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON BLOCKING PROPERTY OF PERSONS WHO THREATEN INTERNATIONAL STABILIZATION EFFORTS IN THE WESTERN BALKANS—MESSAGE FROM THE PRESIDENT—PM 30

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my statutory authority to declare a national emergency in response to the unusual and extraordinary threat posed to the national security and foreign policy of the United States by (i) actions of persons engaged in, or assisting, sponsoring, or supporting, extremist violence in the former Yugoslav Republic of Macedonia, southern Serbia, the Federal Republic of Yugoslavia (FRY), and elsewhere in the Western Balkans region, and (ii) the actions of persons engaged in, or assisting, sponsoring, or supporting acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo. The actions of these individuals and groups threaten the peace in or diminish the security and stability of the Western Balkans, undermine the authority and objectives of the United Nations, the North Atlantic Treaty Organization (NATO), and other international organizations and entities present in those areas and the wider region, and endanger the safety of persons participating in or providing support to the activities of those organizations and entities, including United States military forces and Government officials. In order to deal with this threat, I have issued an Executive order blocking the property and interests in property of those persons determined to have undertaken the actions described above.

The Executive order prohibits United States persons from transferring, paying, extends jurisdiction over, or otherwise dealing in the property or interests in property of persons I have identified in the Annex to the order or persons designated pursuant to the order by the Secretary of the Treasury, in consultation with the Secretary of State. Included among the activities prohibited by the order are the making or receiving by United States persons of any contribution or provision of funds, goods, or services to or for the benefit of any person designated in or pursuant to the order. In the Executive order, I have also directed to take actions within the activities described above. Specifically, I have made a determination pursuant to section 203(b)(2) of IEEPA that the operation of the IEEPA exemption for certain humanitarian donations from the scope of the prohibitions would seriously impair my ability to deal with the national emergency. Absent such a determination, such donations of the type specified in section 203(b)(2) of IEEPA could strengthen the position of individuals and groups that endanger the safety of persons participating in or providing support to the United Nations, NATO, and other international organizations or entities, including U.S. military forces and Government officials, and the security and stability of the region. The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to issue regulations in exercise of my authority under IEEPA to implement the prohibitions set forth in the Executive order. These regulations are also directed to take actions within their authority to carry out the provisions of the order, and, where appropriate, to advise the Secretary of the Treasury in a timely manner of the measures taken.

I am enclosing a copy of the Executive order I have issued. The order was effective at 12:01 a.m. eastern daylight time on June 27, 2001.

I have issued the order in response to recent developments in the former Yugoslav Republic of Macedonia, southern Serbia, and elsewhere in the Western Balkans region. I have turned increasingly to the use of extremist violence, the incitement of ethnic conflict, and other obstructionist acts to promote extremist or criminal agendas that have threatened the peace in and the stability and security of the region and placed those participating in or supporting international organizations, including U.S. military and government personnel, at risk.

In both Macedonia and southern Serbia, individuals and groups have engaged in extremist violence and other acts of obstructionism to exploit legitimate grievances of local ethnic Albanians. These groups include local nationalists who fought with the Kosovo Liberation Army in 1998–99 and have used their wartime connections to obtain funding and weapons from Kosovo and the ethnic Albanian diaspora. Guerrilla attacks by some of these groups against police and soldiers in Macedonia threaten to bring down the democratically elected, multi-ethnic government of a state that has become a close friend and invaluable partner of NATO. In March 2001, guerrillas operating on the border between Kosovo and Macedonia attempted to fire upon U.S. soldiers participating in the international security presence in Kosovo known as the Kosovo force (KFOR). Guerrilla leaders subsequently made public threats against KFOR.

In southern Serbia, ethnic Albanian extremists have used the Hardline Safety Zone (GSZ), originally intended as a buffer between KFOR and FRY/Government of Serbia (FRY/GoS) forces, as a safe haven for staging attacks against FRY/GoS police and soldiers. Members of extremist groups in southern Serbia have on several occasions fired on joint U.S.-Russian KFOR patrols in Kosovo. NATO has negotiated the return of FRY/GoS forces to the GSZ, and facilitated negotiations between Serb political leaders and ethnic Albanian insurgents and political leaders from southern Serbia. A small number of the extremist leaders have since threatened to seek vengence on KFOR, including U.S. KFOR.

Individuals and groups engaged in the activities described above have boasted falsely of having U.S. support, a claim that is believed by many in the region. They also have aggressively solicited funds from United States persons. These fund-raising efforts serve to fuel extremist violence and obstructionist activity in the region and are inimical to U.S. interests. Consequently, the Executive order I have issued is necessary to restrict any further financial or other support by United States persons for the persons designated in or pursuant to the order. The actions we are taking will demonstrate to all the peoples of the region and to the wider international community that the Government of the United States strongly opposes the recent extremist violence and obstructionist activity in Macedonia and

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Kosovo. The actions of these individu-
southern Serbia and elsewhere in the Western Balkans. The concrete steps we are undertaking to block access by these groups and individuals to financial and material support will assist in restoring peace and stability in the Western Balkans region and help protect U.S. military forces and Government officials working towards that end.

GEORGE W. BUSH.

REPORT ON THE FEDERAL LABOR RELATIONS AUTHORITY FOR FISCAL YEAR 2000—MESSAGE FROM THE PRESIDENT—PM 31

The PRESIDING OFFICER laid before the Senate the following message from the Representatives of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

In accordance with section 701 of the Civil Service Reform Act of 1978 (Public Law 95–454; 5 U.S.C. 7104(e)), I transmit herewith to you the Twenty-second Annual Report of the Federal Labor Relations Authority for Fiscal Year 2000.

GEORGE W. BUSH.

MESSAGES FROM THE HOUSE

At 3:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2299. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes; to the Committee on Appropriations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 172. Concurrent resolution recognizing and honoring the Young Men's Christian Association on the occasion of its 150th anniversary in the United States; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2587. A communication from the Chief Financial Officer and Plan Administrator, First South Agricultural Credit Association, transmitting, pursuant to law, the annual pension plan report of the Fiscal Year 2000; to the Committee on Governmental Affairs.

EC–2588. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Report of the Attorney General for the period July 1 to December 31, 2000; to the Committee on Foreign Relations.

EC–2589. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Change of Official EPA Mailing Address; Additional Technical Amendments and Corrections” (FRL7672-2) received on June 25, 2001; to the Committee on Environment and Public Works.

EC–2590. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Oil Pollution Prevention and Response; Non-Transportation-Related Facilities” (FRL7672-3) received on June 25, 2001; to the Committee on Environment and Public Works.

EC–2591. A communication from the Council for Indian Affairs, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled “Section 8 Homeownership Program; Pilot Program for Homeownership Assistance for Disabled Families” (RIN23577-AC24) received on June 26, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2592. A communication from the Council for Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled “Voluntary Conversion of Developments from Public Housing Stock; Required Initial Assessment” (RIN23577-AC02) received on June 25, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2593. A communication from the Acting Assistant General Counsel for Regulations, Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled “NIDRR—Community-Based, Research Projects on Technology for Independence; Resource Centers for Community-Based Disability and Rehabilitation Research Projects on Technology and Assistive Technology Outcomes and Impacts and Assistive Technology Research Project for Individuals with Cognitive Disabilities” received on June 23, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2594. A communication from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled “Federal Work-Study Programs; Federal Supplemental Educational Opportunity Grant Program, and Special Leveraging Educational Assistance Partnership Program” received on June 25, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2595. A communication from the Railroad Retirement Board, transmitting, pursuant to law, the annual report on the financial status of the railroad unemployment insurance system for 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2596. A communication from the Director of the Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled “Regulations Under the DNA Analysis Backlog Elimination Act of 2000” received on June 25, 2001; to the Committee on the Judiciary.

EC–2597. A communication from the Deputy Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the annual report of the Office of Police Enforcement Education for calendar year 2000; to the Committee on the Judiciary.

EC–2598. A communication from the Deputy Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the report of a rule entitled “Elimination Requirements After Denial of the Earned Income Credit” (RIN1545-AY6) received on June 22, 2001; to the Committee on Finance.

EC–2599. A communication from the Director of the Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled “Removing Russia from the list of countries whose citizens or nationals are ineligible for transit without visa (TWO) privileges to the United States under the TOWV procedures” (RIN15–AG9) received on June 14, 2001; to the Committee on the Judiciary.

EC–2600. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Eligibility Requirements After Denial of the Earned Income Credit” (RIN1545-AY6) received on June 22, 2001; to the Committee on Finance.

EC–2601. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Removal of the Federal Reserve Banks as Federal Depositories” (RIN1545-AV16) received on June 25, 2001; to the Committee on Finance.

EC–2602. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Bureau of Labor Statistics Price Indexes for Department Stores—May 2001” (Rev. Rul. 2001–35) received on June 26, 2001; to the Committee on Finance.

EC–2603. A communication from the Chief of the Regulations Division, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Recodification
of Regulations on Tobacco Products and Cigarette Papers and Tubes (RIN1512–AC41) received on June 26, 2001; to the Committee on Finance.

EC–2604. A communication from the Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Diamond Mountain District, Viticultural Area” (RIN1512–AA07) received on June 26, 2001; to the Committee on Finance.

REPORTS OF COMMITTEES
The following reports of committees were submitted:
By Mr. BYRD, from the Committee on Appropriations:

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS
The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HARKIN (for himself, Mr. WELLSTONE, Mr. KENNEDY, Mr. SARBANES, Mr. AKAKA, Mr. BINGAMAN, Mr. DODD, Mrs. MURRAY, Mr. LEAHY, Ms. MIKULSKI, Mr. FEINGOLD, Mr. KERRY, Mr. LEVIN, Mr. BAUCUS, Mr. ROCKEFELLER, and Mrs. BOXER):
S. 1107. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participa-

sion in labor disputes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPEYER:
S. 1112. A bill to provide Federal Perkins Loan cancellation for public defenders; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPEYER:
S. 1115. A bill to amend section 1562 of title 38, United States Code, to increase the amount of Medal of Honor Roll special pension, to provide for an annual adjustment in the amount of that special pension, and for other purposes; to the Committee on Veterans’ Affairs.

By Mr. SPEYER:
S. 1114. A bill to amend title 38, United States Code, to increase the amount of edu-
cational benefits for veterans under the Montgomery GI Bill; to the Committee on Veterans’ Affairs.

By Mr. KENNEDY (for himself, Mr. STEVENS, Mr. INOUYE, Mrs. HUTCHISON, and Mr. CORZINE):
S. 1115. A bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. CORZINE, Mrs. HUTCHISON, and Mr. CORZINE):
S. 1116. A bill to amend the Foreign Assist-
ance Act of 1961 to provide increased foreign assistance for tuberculosis prevention, treat-

ment, and control; to the Committee on For-
egnign Relations.

By Mr. DURBIN:
S. 1117. A bill to establish the policy of the United States for reducing the number of nu-
clear warheads in the United States and Rus-

sian arsenals, for reducing the number of nu-
clear weapons of those two nations that are on high alert, and for expanding and accel-

erating programs to prevent diversion and proliferation of Russian nuclear weapons, fissile materials, and nuclear expertise; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

At the request of Mr. ROCKEFELLER, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cospon-
sor of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future genera-
tions of broadband capability.

At the request of Mr. ALLARD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 409, a bill to amend title 38, United States Code, to clarify the standards for compensation for Persian Gulf veterans suffering from certain undiagnosed illnesses, and for other purposes.

At the request of Mr. WELLSTONE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 460, a bill to provide for fairness and accuracy in high stakes educational decisions for students.

At the request of Mr. HAGEL, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 466, a bill to amend the Individuals with Disabilities Education Act to fully fund 40 percent of the average per pupil expenditure for programs under part B of such Act.

At the request of Mr. JEFFORDS, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 556, a bill to amend the Clean Air Act to reduce emissions from electric powerplants, and for other purposes.

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 561, a bill to provide that the same health insurance premium conversion arrangements afforded to Federal em-
ployees be made available to Federal annuitants and members and retired members of the uniformed services.

At the request of Mr. BIDEN, the name of the Senator from Rhode Island (Mr. CHAFFEE) was added as a cosponsor of S. 570, a bill to establish a permanent Violence Against Women Office at the Department of Justice.

At the request of Mr. GRAHAM, the names of the Senator from Massachu-
setts (Mr. KERRY), the Senator from Michigan (Mr. LEVIN), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 592, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immi-
grants under the medicaid and State children’s health insurance program.

At the request of Mr. BREAUX, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the re-
quired use of certain principal repay-
ments on mortgage subsidy bond fi-
nancing to redeem bonds, to modify the purchase price limitation under mort-
gage subsidy bond rules based on me-
dian family income, and for other pur-
poses.

At the request of Mr. HATCH, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 677, supra.
At the request of Mr. Smith of New Hampshire, his name was added as a cosponsor of S. 677, supra.

At the request of Mr. McCain, the name of the Senator from Ohio (Mr. Voinovich) was added as a cosponsor of S. 718, a bill to direct the National Institute of Standards and Technology to establish a program to support research and training in methods of detecting the use of performance-enhancing drugs by athletes, and for other purposes.

At the request of Mr. Chaffee, the name of the Senator from Indiana (Mr. Bayh) was added as a cosponsor of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

At the request of Mrs. Hutchison, the name of the Senator from Maryland (Mr. S. A. S. Sarbanes) was added as a cosponsor of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the Medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

At the request of Mr. Dayton, the name of the Senator from Michigan (Mr. Levin) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

At the request of Mr. Grassley, the name of the Senator from Florida (Mr. Graham) was added as a cosponsor of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

At the request of Mr. Reid, the name of the Senator from Arkansas (Mr. Hutchinson) was added as a cosponsor of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

At the request of Mr. Enzi, the name of the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 906, a bill to provide for protection of gun owner privacy and ownership rights, and for other purposes.

At the request of Mr. Breaux, the name of the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 920, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

At the request of Mr. Harkin, the names of the Senator from Vermont (Mr. Leahy), the Senator from Kentucky (Mr. McConnelly), the Senator from Wisconsin (Mr. Feingold), the Senator from New Jersey (Mr. Torricelli), the Senator from Minnesota (Mr. Dayton), and the Senator from New Jersey (Mr. Corzine) were added as cosponsors of S. 926, a bill to prohibit the importation of any article that is produced, manufactured, or grown in Burma.

At the request of Mrs. Clinton, the name of the Senator from Delaware (Mr. Biden) was added as a cosponsor of S. Res. 117, a resolution honoring John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters.

At the request of Mr. Harkin, the names of the Senator from New Jersey (Mr. Corzine), the Senator from Illinois (Mr. Durbin), and the Senator from Florida (Mr. Nelson) were added as cosponsors of S. Con. Res. 9, a concurrent resolution condemning the violence in East Timor and urging the establishment of an international war crimes tribunal for prosecuting crimes against humanity that occurred during that conflict.

At the request of Mr. Campbell, the name of the Senator from Pennsylvania (Mr. Santorum) was added as a cosponsor of S. Con. Res. 34, a concurrent resolution congratulating the Baltic nations of Estonia, Latvia, and Lithuania on the tenth anniversary of the reestablishment of their full independence.

At the request of Mr. Hagel, the names of the Senator from Wisconsin (Mr. Kohl), the Senator from Maryland (Ms. Mikulski), and the Senator from New Jersey (Mr. Corzine) were added as cosponsors of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. Harkin (for himself Mr. Wellstone, Mr. Kennedy, Mr. Sarbanes, Mr. Akaka, Mr. Bingaman, Mr. Dodd, Mrs. Murray, Mr. Leahy, Ms. Mikulski, Mr. Feingold, Mr. Kerry, Mr. Levin, Mr. Baucus, Mr. Rockefeller and Mrs. Boxer).

S. 1107. A bill to amend the National Labor Relations Act and the Railway Labor Act to prohibit discrimination based on participation in labor disputes; to the Committee on Health, Education, Labor, and Pensions.

Mr. Harkin. Mr. President, I, along with 15 of my colleagues are introducing a bill today that addresses an issue we haven’t talked enough about in the Senate in recent years—but it’s a critically important issue that we cannot continue to ignore.

I’m talking about workers’ rights—specifically the erosion of a worker’s fundamental right to strike, to protect that right.

Today, we are introducing the Workplace Fairness Act. This may sound familiar to many of my colleagues here in the Senate. It was a bill my good friend and former colleague Senator Howard Metzenbaum from Ohio introduced in the 102nd and 103rd Congress.

The Workplace Fairness Act would amend the National Labor Relations Act and the Railway Labor Act by prohibiting employers from hiring permanent replacement workers during a strike. It would also make it an unfair labor practice for an employer to refuse to allow a striking worker who has made an unconditional offer to return to go back to work.

Why do we need this legislation?

Because right now, a right to strike is a right that is too often permanently replaced—to lose your job. Every cut-rate, cutthroat employer knows they can break a union if they are willing to play hardball and ruin the lives of the people who have made their company what it is. In my own state of Iowa—Titan Tire Company out of Des Moines, is trying to drive out the union workers with permanent replacements—the union has been on strike for three years now.

Over the past two decades, workers’ right to strike has too often been undermined by the destructive practice of hiring permanent replacement workers. Since the 1980s, permanent replacements have been used again and again to break unions and to shift the balance between workers and management.

Titan Tire just outside is just one of many examples.

On May 1, 1998, the 650 members of the United Steelworkers of America, Local 161, who work in Des Moines Titan Tire plant, were forced into an Unfair Labor Practice Strike.

During the contract negotiations preceding this strike, Titan International Inc., President and CEO, Morry Taylor, attempted to eliminate post-retirement medical benefits and illegally move jobs and equipment out of the plant. He also forced employees to work excessive mandatory overtime, sometimes working people as many as 26 days in a row without a day off.

Well, the membership decided that Titan’s final offer was impossible to accept, and they voted to strike. Two
months later, in July, 1998, Titan began hiring permanent replacement workers.

During the past three years, approximately 500 permanent replacement workers have been hired at the Des Moines plant. And little or no progress has been made toward reaching a fair settlement. In fact on April 30, 2000, the day before the second anniversary of the Titan strike, Morrie Taylor predicted that the strike would never be settled.

Workers deserve better than this. Workers aren’t disposable assets that can be thrown away when labor disputes arise.

When we considered this legislation in 1994, the Senate labor and Human Resources Committee heard poignant testimony about the emotional and financial hardships caused by hiring permanent replacement workers. We heard about workers losing their homes; going without health insurance because of the high costs of COBRA coverage; feeling useless when they were permanently replaced after years of loyal service.

The right to strike—which we all know is a last resort since no worker takes the financial risk of a strike lightly—is fundamental to preserving workers’ rights to bargain for better wages and better working conditions. Without the right to strike, workers forfeit their fair share of bargaining power.

Permanent striker replacement not only affects the workers who were replaced. It affects other workers in competing companies. When one employer in an industry breaks a union, hires permanent replacements, and cuts salaries and benefits, it affects all the other companies in the industry. Now they have a chance to compete with the low-wages and shoddy benefits of a cut-rate, cut-throat business—or they have to follow suit.

Also, workers faced with being replaced are forced to make a choice. They can either stay with the union and fight for their jobs, or they can cross the picket line to avoid losing the jobs they’ve held for ten or twenty or thirty years.

Is this a free choice, as some of our colleagues would suggest? Or is this blackmail that takes away the rights and the dignity of the workers of this country? What does it mean to tell workers, “you have the right to strike”—when we allow them to be summarily fired for exercising that right?

In reality, there is no legal right to strike today. And because there is no legal right to strike, there is no legal right to bargain collectively. And since there is no legal right to bargain collectively, there is no level playing field between workers and management.

In other words, Management gets to say that you must bargain on their terms—or find some other place to work. If you’re permanently replaced, that means you’re out of work; you lose all your pension rights; you lose your seniority; you lose your job forever.

How did this happen? We’ve got to go back to the 1930’s for the answer.

In response to widespread worker abuses—and union busting—Congress passed the National Labor Relations Act—the Wagner Act—in 1935 and it was signed into law by President Roosevelt. The Wagner Act guarantees workers the right to organize and bargain collectively and strike if necessary. It makes it illegal for companies to interfere with these rights. In fact, it specifies the right to strike and states: ‘Nothing in this act—except as specifically provided herein—shall be construed so as to interfere with or impede or diminish in any way the right to strike.’

In 1938, the Supreme Court dealt the Wagner Act a mortal blow in the case National Labor Relations Board (NLRB) versus Mackay Radio and Telegraph Co. In that case, the Court said that Mackay Radio could hire permanent replacement workers for those engaged in an economic strike.

There are two types of strikes: economic and unfair labor practices. Employers must rehire employees in unfair labor practice strikes. The NLRB determines if the strike is economic or based on unfair labor practices. Unions cannot know in advance whether NLRB will rule that their employer has engaged in unfair labor practices. So any employee participating in a strike runs a risk of permanently losing his or her job.

What’s interesting is that following the Court’s ruling, companies did not take advantage of this loophole until the 1980s. Before then, they recognized that doing so would upset the level playing field. For almost 40 years, management rarely hired permanent replacements.

That began to change in the 1980s. Since then, hiring permanent replacements has become a routine practice to break unions and shift the balance between workers and management.

Again, the Workplace Fairness Act would restore the fundamental principle of fair labor-management relations—the right of workers to strike without having to fear losing their jobs.

Permanent striker replacement keeps us from moving forward as a nation into an era of high-wage, high-skilled, highly productive jobs in the global marketplace. Without the right to strike, workers’ rights will continue to erode. The result will be fewer incentives and less motivation to produce good work, and companies will also suffer with less quality in their products.

Obviously, this legislation won’t be adopted this year. But we are introducing it today to signal my intent on raising it and other fundamental labor law reforms in the next session of Congress. It’s time for us to level the playing field for hard-working Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1197

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

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting ”; or”; and

(2) by adding at the end thereof the following new paragraph:

“(6)(i) to offer, or to grant, the status of a permanent replacement employee to an individual for performing bargaining unit work for the employer during a labor dispute; or

“(ii) to otherwise offer, or grant, an individual any employment preference based on the fact that such individual was employed, or indicated a willingness to be employed, during a labor dispute over an individual who—

“(A) was an employee of the employer at the commencement of the dispute;

“(B) has exercised the right to join, to assist, or to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection through the labor organization involved in the dispute; and

“(C) is working for, or has unconditionally offered to return to work for, the employer.”.

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting ”(a)” after “Fourth.”; and

(2) by adding at the end thereof the following:

“(b) No carrier, or officer or agent of the carrier, shall—

“(1) offer, or grant, the status of a permanent replacement employee to an individual for performing work in a craft or class for the carrier during a dispute involving the craft or class; or

“(2) otherwise offer, or grant, an individual any employment preference based on the fact that such individual was employed, or indicated a willingness to be employed, during a dispute over an individual who—

“(A) was an employee of the carrier at the commencement of the dispute;

“(B) has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through the labor organization involved in the dispute; and

“(C) is working for, or has unconditionally offered to return to work for, the carrier.”.

Mr. WELSTONE. Mr. President, I am pleased to join my good friend Senator HARKIN as an original cosponsor of the Workplace Fairness Act of 2001. This measure, along with the “Right to Organize Act of 2001,” which I introduced yesterday, are two of the most important pieces of legislation that will come before the Senate this year.
Together, these measures strengthen workers' rights to organize, to join a union, and to advocate for fair collective bargaining and fair agreements. Together, these measures produce the basic platform for healthy economies, healthy communities, and healthy families.

Specifically, the Striker Replacement Act is designed to combat an unfair labor practice which strikes at the very heart of the collective bargaining process in this country: the permanent replacement of striking workers. The goal of this Act is to restore the labor-management balance in today's workplace by preventing the fundamental right to strike from being transformed into a right to be fired.

The record shows that permanent replacement of striking workers has been used with increasing frequency to undermine sector employers, emboldened by the Reagan Administration's permanent replacement of striking Federal employees in the early 1980s, began to use the permanent replacement of striking workers as a means of bypassing collective bargaining agreements and bringing in new hires often screened for their anti-union biases.

The process is fairly simple: require major and unreasonable concessions of a union; force them to strike; permanently replace them with workers unsympathetic to the union; and move to decertify the union. This should be called what it is: outright union busting. And it should not be tolerated.

The purpose of the Railway Labor Act and the National Labor Relations Act was to respond to the persistent—and sometimes violent—denial by certain employers of the right to organize and bargain collectively. The resulting strikes and waves of growing unrest in the 1930's were held by the courts to have severely burdened free and open commerce across the country. As a result, the Railway Labor Act and the National Labor Relations Act were passed, guided by two fundamental principles: 1. Employees have a right to pursue their interests collectively without fear of employer reprisals; and 2. Questions about representation must be separated from substantive issues in dispute. Government-supervised procedure should be established to ensure fair representation; while collective bargaining should be the forum for settling the remaining substantive disputes.

This system and these principles are sound. Workers have a right to organize without being retaliated against for exercising that right. And they have a right to negotiate wages, benefits, and other items through collective bargaining. But these principles only work if the right to strike, in the words of the National Labor Relations Act, is not "interfered with or impeded or diminished in any way." In 1938, the Supreme Court in the Mackay Radio case cut a huge swath through these guiding principles by creating the striker replacement doctrine. Under this doctrine, affirmed in subsequent decisions, such as Belknap v. Hale (1983) and TWA v. IPFA (1989), even though it is unlawful to fire a striking worker, it is not unlawful to permanently replace him or her.

The distinction between firing and permanent replacement, is ludicrous—and it is untenable. The central practical reality—as any man or woman who has exercised his or her right to strike and has paid the consequences can tell you—in either case, whether it is called a firing or a permanent replacement—the employee loses their job because he or she has exercised the right to strike. That's the reality. That's the harsh reality.

The measure we are introducing today is a simple one. It does two things: 1. It amends the National Labor Relations Act and the Railway Labor Act to prohibit employers from hiring permanent replacement workers during a strike, or giving employment preference to cross over employees, and 2. It makes it an unfair labor practice for an employer to refuse to allow a striking worker to return to work if that worker has unconditionally offered to return to work. It's that simple. These are fundamental protections. These are protections that are part of the basic compact with the American worker created by the National Labor Relations Act and the Railway Labor Act. It is long past time that workers seeking to better their lives, their families, and their communities are given access to a collective bargaining process that is fair and even-handed. It is long past time that workers be allowed to advocate for reasonable terms and conditions of their employment without fear of devastating retribution.

Finally, this measure not only meets the needs of workers, their families, and their communities. It also serves the interest of our nation in a global economy. As others have pointed out, if we are to remain strong and competitive as a nation, we must develop a highly motivated and skilled workforce and we must create stable worker-employer relations based on mutual respect and a mutual commitment to a joint economic enterprise. This will only happen if we level the playing field and support a just, sound, and effective collective bargaining process.

This measure, the Workplace Fairness Act, is one key to achieving these goals. I urge my colleagues to join me in supporting this legislation.

By Ms. SNOWE (for herself and Ms. COLLINS):
S. 1108. A bill to authorize the transfer and conveyance of real property at the Naval Security Group Activity, Winter Harbor, Maine, and for other purposes; to the Committee on Armed Services.

Ms. SNOWE. Mr. President. I rise today with my colleague from Maine to introduce legislation facilitating the land conveyance at Winter Harbor; ME. First, may I note that this bill is the product of countless hours of hard work and deliberation by the communities it affects—Winter Harbor and Gouldsboro—the State of Maine, and the Maine Delegation. I would like to thank those involved: Chairmen Stan Torrey and Tom Mayor and members of the Gouldsboro and Winter Harbor Base Reuse Committees; Jean Marshall, the Defense Conversion Coordinator for Eastern Maine Development; Linda Pagels and Roger Barto, Town Managers for Winter Harbor and Gouldsboro; and Commander Edwin Williamson, Commanding Officer of Naval Security Group Activity Winter Harbor, for their efforts in crafting legislation that all concerned can support.

Maine and the Navy have always had a special relationship, and that relationship extended to Winter Harbor. The Navy arrived in Winter Harbor in 1919 to establish a radio station for transatlantic communications developed into a complex network of sophisticated equipment that became Winter Harbor Naval Security Group Activity. Throughout the two World Wars and subsequent Cold War, the men and women stationed at Winter Harbor provided invaluable services in our Nation's defense.

Maine and the Navy have always had a special relationship, and that relationship extended to Winter Harbor. The Navy arrived in Winter Harbor in 1919 to establish a radio station for transatlantic communications developed into a complex network of sophisticated equipment that became Winter Harbor Naval Security Group Activity. Throughout the two World Wars and subsequent Cold War, the men and women stationed at Winter Harbor provided invaluable services in our Nation's defense.

Unfortunately, the advent of new technology has made the equipment and mission of Winter Harbor obsolete. With the announcement that the Winter Harbor Naval Activity would close in June 2002, the communities began the laborious process of planning for life without the good neighbors of Winter Harbor NNGA.

With this base closing, Maine will lose an economic base it has depended on for over 80 years. At its high point, Winter Harbor had approximately 250 sailors, 140 civilian employees, and thousands of family members in residence and the base became an economic focal point for the region with an estimated $11 to $15 million being contributed to the local economy on an annual basis.
SECTION 1. LAND TRANSFER AND CONVEYANCE, Gouldsboro to make the most of this people of Winter Harbor and port this initiative and allow the good for their assistance in crafting this leg-
State of Maine, the Navy, and the Na-
viability.
for the region to restore its economic
private and public research facili-
center will host educational programs
Education Center at the site. This
sion in Acadia National Park.
ction Defense Conversion Planning
Economic Development Administra-
towns applied for and received a small
market value of the lease.
and may be an amount less than the fair
appropriate lessee of such parcel.
under that subsection, the Secretary of the
any parcel of real property to be conveyed
the cost of the assessment, study, or analysis
for the benefit of the Naval Security Group Ac-
other firefighting equipment; and
facilities, The primary fa-
cilities at Winter Harbor are located on a be-
the Schoodic Point.
Once the base closes, this legis-
dicates that the Schoodic Point property will shift to the Department of the Interior’s jurisdiction for inclu-
Acadia National Park.
In preparation for this property transfer, the National Park Service has initiated a plan to establish a Research and Education Center at the site. This center will host educational programs and private and public research facilities, becoming a source for meaningful employment and economic generation for the communities. However, the National Park Service effort will not be achieved overnight and, like all pro-
As such, this legislation was drafted to include financial provisions to ease and expedite this transition as well as to reimburse the community for local services and infrastructure improve-
In closing, I would like to thank all of those in the local communities, the State of Maine, the Navy, and the National Park Service and, of course, my colleagues from the Maine Delegation for their assistance in crafting this legis-
(3) The amount of the grant under para-
(2) The amount of the grant under para-
(1) TRANSFER OF JURISDICTION OF SCHOODIC
TRANT OF PERSONAL PROPERTY.—The Secretary
shall transfer, without consideration, to the Secretary of the Interior in the case of the real property transferred under subsection (a), and each parcel of real property conveyed under subsection (b), shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of any survey under the pre-
ceding sentence for real property conveyed under subsection (b) shall be borne by the re-
ponent of the real property.
DECISION.—The Secretary of the Navy may require such additional terms and conditions in connec-
tion with any conveyance under subsection (b), and any lease under subsection (e), as the Secretary considers appropriate to protect the interests of the United States.
SEC. 2. TRANSFER OF FUNDS TO DEPARTMENT
The Secretary of Defense shall transfer to the Secretary of the Interior amounts as fol-
(1) $5,000,000 for purposes of capital invest-
ments for the development of a research and education center at Acadia National Park, Maine.
(2) $1,400,000 for purposes of operation and maintenance activities at Acadia National Park Maine.
SEC. 3. FINANCIAL ASSISTANCE.
(a) GRANT ASSISTANCE FOR TOWN OF WINTER
HARBOR.—(1) The Secretary of the Navy shall, by grant, provide financial assistance to the Town of Winter Harbor, Maine, to be appropriate to reimburse the Town for costs incurred in making improvements to the water and sewer systems of the Town for the benefit of the Naval Security Group Ac-
activity, Winter Harbor, Maine, located in Hancock County, Maine.
(2) The amount of the grant under para-
(1) in fiscal year 2002 shall be $68,000.
(3) The amount of the grant under para-
(1) in each of fiscal years 2003 and 2004 shall be the amount, not to exceed $68,000, jointly determined by the Secretary and the Town to be applied to reimburse the Town as described in that paragraph in the applicable fiscal year.
(b) GRANT ASSISTANCE FOR SCHOOL ADMIN-
istrative District.—The Secretary shall, by grant, provide financial assistance to the School Administrative District (SAD) operating Sumner High School, Sullivan, Maine, for the purpose of offsetting the loss of impact aid under title VIII of the Ele-
mentary and Secondary Education Act of
SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.

(a) TRANSFERS OF FUNDS TO DEPARTMENT OF INTERIOR.—There is hereby authorized to be appropriated for the Department of the Interior, $6,400,000 for purposes of the transfers of funds required by section 2.

(b) GRANTS.—There is hereby authorized to be appropriated the following amounts for grants to the Department of the Interior for fiscal years 2000 and 2001 as a result of the closure of the Naval Security Group Activity, Winter Harbor, Maine:

(1) For fiscal year 2000, $154,000.

(2) For each of fiscal years 2003 and 2004, such amounts as may be necessary.

(c) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this section for the Department of Defense or for the Department of the Navy, for a fiscal year are in addition to any other amounts authorized to be appropriated for such Department for such fiscal year under any other provision of law.

(d) AVAILABILITY.—Amounts authorized to be appropriated by this section for a fiscal year are available until expended, without fiscal year limitation.

Ms. COLLINS. Mr. President, I am pleased to be joining my distinguished colleague, Senator SNOWE, today in introducing this legislation, the Naval Security Group Activity at Winter Harbor Conveyance Act. This conveyance legislation will authorize the transfer of land, which has been under the control of the Naval Security Group for some seventy plus years back to the Department of the Interior, and to the State, ultimately to be put to good use by our local communities.

Over the past seven decades, the Navy has performed a key national security mission called Classic Wizard at Winter Harbor. The Navy has played a significant role in the economic development of the local communities as Maine residents and Navy personnel have supported this mission. As the requirement for the Classic Wizard mission at Winter Harbor is coming to an end, and as technology advances, this naval activity will be ending its ties to the base in the summer of 2002.

While the Navy will be missed, it has worked hand-in-hand with me and the other members of the Maine delegation, the Department of Interior, National Park Service, and our local communities in creating a viable economic development and reuse plan for the naval base and its associated property.

As part of its reuse plan for the site, the National Park Service has proposed developing a research and education center at the Schoodic Point. The center would accommodate and promote a variety of research activities including wildlife genetics and serve as a base for permanent and visiting scientists to conduct interdisciplinary research.

I worked with the National Park Service in the development of its proposal, and I have offered to help make the concept a reality. Maine Governor Angus King shares my support for the proposed research and learning center and has expressed willingness to work as a partner in the effort to establish a wildlife genetics laboratory at the center. We believe that such a laboratory would generate good jobs and promote the region’s economy. The work done at Schoodic Point would also complement the world class research underway at other area facilities in the area such as The Jackson Laboratory, the Mount Desert Island Biological Laboratory, and the University of Maine’s Cooperative Aquaculture Research Center.

The National Park Service’s proposed reuse of the peninsula also includes an educational component that would promote the public’s understanding of the important natural and cultural resources that are a part of our national park system. Moreover, those who have visited Schoodic would agree that the remarkably beautiful 100 acres are worthy of being a part of Acadia National Park, one of our Nation’s greatest natural treasures.

It is important for the Federal Government to lend a hand to communities that are struggling to cope with the adverse effects of a base closure. Our legislation, which was developed in consultation with the local communities, the State, the Department of the Interior and the Navy, provides the options and opportunities that the region needs to move beyond the loss of the Naval Security Group Activity at Winter Harbor. I will work to secure approval of this bill by the Senate Armed Services committee and the full Senate.

By Mr. ENZI:

S. 1110. A bill to require that the area of a zip code number shall be located entirely within a State, and for other purposes; to the Committee on Governmental Affairs.

Mr. ENZI. Mr. President, I rise to announce the introduction of a bill that would help preserve the identity of American communities that have struggled with the United States Postal Service to acquire their own, individual zip codes. The bill would do this by prohibiting the Postal Service from extending zip codes across State boundaries.

This bill was introduced in response to concerns raised by the community of Alta, WY. Alta is a small, rural town situated next to the Wyoming-Idaho border at the western base of the Grand Teton Mountains. Because of treacherous travel conditions to the east of Alta, the Postal Service made the decision to serve Alta residents out of the post office in neighboring Driggs, ID. The decision of the Postal Service was based on the cost to Alta of Wyoming and it simply would be too dangerous to require the Postal Service to cross the Teton mountain range in the winter to deliver mail to Alta. In providing this service, however, the post office has not provided Alta residents their own zip code, as Driggs post office, but has required them to use the Driggs zip code even though Alta residents live in an entirely different State.

While this may not seem like a big deal on its face, there are a number of technical complications that arise in the lives of Alta residents because the Postal Service has not been willing to extend the courtesy of an Alta zip code. By requiring Alta residents to use the Driggs zip code, the Postal Service has created a lot of confusion for Alta residents who attempt to conduct business with mail order companies. What sales tax do they pay? Idaho or Wyoming? Although the Postal Service maintains that zip codes are not used to identify specific locations, other companies use zip codes as an important location code that is necessary to adequately conduct their business. Sales tax is often programmed by zip code, and car insurance, homeowner’s insurance, even our Federal and State income taxes use zip codes as an indicator of where and where to pay taxes.

The requirements of this bill will not be onerous for the Postal Service to implement. It will not require the service to build new facilities or even to change its method of operations. All it will do is require the Postal Service to identify those communities whose mail service crosses State boundaries and to assign them the necessary identification number that they need to provide the rest of the world a clear and concise description of where they live and who they are.

I urge my colleagues to support this most important legislation.

By Mr. CRAIG (for himself, Mr. CONRAD, Mr. ALLARD, Mr. BAUCUS, Mr. BINGAMAN, Mr. BURNS, Ms. COLLINS, Mr. CRAPO, Mr. DASCHLE, Mr. DAYTON, Mr. DORGAN, Mr. ENZI, Mr. GRAMM, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. LEAHY, Mr. LUGAR, Ms. MUKOSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REED, Mr. ROBERTS, Mr. SARBANES, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Mr. THOMAS, and Mr. WELLSTONE):

S. 1111. A bill to amend the Consolidated Farm and Rural Development Act to authorize the National Rural Development Partnership, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

Mr. CRAIG. Mr. President, I rise today with Senator CONRAD to introduce the National Rural Development Partnership Act of 2001—a bill to codify the National Rural Development Partnership, NRDP or the Partnership, and
provided a funding source for the program. I am pleased that Senators AL- 
lard, Baucus, Bingaman, Burns, Col- 
lins, Enzi, Gramm, Grassley, Hagel, 
Helms, Hutchinson, Jeffords, Johnson, 
Kennedy, Kerry, Leahy, Lugar, Mi- 
koski, Murray, Ben Nelson, Reed, 
Roberts, Sargent, Bob Smith, Gordon, 
Santorum, Thomas, and Wellstone are 
joining us as original cosponsors.

The Partnership was established under the Bush administration in 1990, 
by Executive Order 12720. Although the partnership has existed for ten years, it 
have never been formally authorized by Congress. The current basis for the 
existence of the partnership is found in the Consolidated Farm and Rural De- 
velopment Act of 1972 and the Rural Development Policy Act of 1980. In ad- 
dition, the bill specifically authorizes the partnership and State 
rural development councils, SRDCs.

The partnership is a nonpartisan interagency grouping whose mission is to 
“contribute to the vitality of the Nation by strengthening the ability 
of all rural Americans to partici- 
porate in determining their futures.” The NRDCC and SRDCs do something no 
other entities do: facilitate collabora- 
tion among Federal agencies and 
between Federal agencies and State, 
local, and tribal governments and 
the private and non-profit sectors to 
increase coordination of programs and 
services to rural areas. When success- 
ful, these efforts result in more effi- 
cient use of limited rural development 
resources and actually add value to the 
efforts and dollars of others.

On March 8, 2000, the Subcommittee on Forestry, Conservation, and Rural 
Revitalization held a hearing on oversight hearing on the operations 
and accomplishments of the NRDCC and 
SRDCs. The subcommittee heard from a number of witnesses, including of- 
cials of the U.S. Departments of Agri- 
culture, Transportation, and Health 
and Human Services, State agencies, 
and private sector representatives. The hearing established the need for some 
legislative foundation and consistent funding. The legislation we introduced 
last year and are re-introducing this 
Congress accomplishes just that.

This legislation formally recognizes the existence and operations of the 
partnership, the National Rural De- 
velopment Coordinating Committee, 
NRDCC, and SRDCs. In addition, the 
legislation gives specific responsibili- 	ies to each component of the Partner- 
ship and authorizes it to receive con- 
gressional appropriations.

Specifically, the bill formally estab- 
lishes and indicates it is composed of the NRDCC and SRDCs. NRDCC is estab- 
lished for empowering and building the capacity of rural com- 
munities, encouraging participation in 
flexible and innovative methods of add- 
ressing the challenges of rural areas, 
and encouraging all those involved in 
can be equally engaged and to share equally in decisionmaking. This legislation also identifies the role of the Federal Government in the part- nership as being that of partner, coach, 
and facilitator. Federal agencies are 
challenged to make senior-level 
officials to participate in the NRDCC 
and to encourage field staff to partici- 
pate in SRDCs. Federal agencies are 
also authorized to enter into coopera- 
tion agreements with, and to provide 
grants and other assistance to, State 
rural development councils, regardless 
of the form of legal organization of a 
State rural development council.

The composition of the NRDCC is 
specifically representative from each Federal agency with rural 
responsibilities, and governmental and 
non-governmental for-profit and non- 
profit organizations that elect to par- ticipate in the NRDCC. The legislation 
outlines the duties of the council as 
interagency working group whose mis-
cillate coordination among Federal 
agencies and between the Federal, 
State, local and tribal governments 
and private organizations; enhance the 
effectiveness, responsiveness, and 
delivery of Federal Government pro-
grahs; gather and provide to Federal 
agencies information about the impact 
of government programs on rural 
areas; review and comment on policies, 
regulations, and proposed legislation; 
provide technical assistance to SRDCs; 
and develop strategies for eliminating 
administrative and regulatory impedi-
ments. Federal agencies do have the 
ability to opt out of participation in the 
council, but only if they can show how 
they can more effectively serve rural 
areas without participating in the 
partnership and council.

This legislation provides that states 
may participate in the partnership by 
entering into a memorandum of under- 
standing with the NRDCC; and to 
create a State Rural Development 
Council (SRDC). SRDCs are required to operate in a nonpartisan and nondiscrimi-

natory manner and to reflect the di-
versity of the States within which they 
are organized. The duties of the SRDCs are to facilitate collaboration among 
State agencies at all levels and the 
private and non-profit sectors; to 
harness the effectiveness, responsive- 

ness, and delivery of Federal and State 
Government programs; to gather infor-
mation about rural areas in its State 
and share it with the NRDCC and other 
State agencies; to coordinate with the 
private sector, and provide technical 
assistance to SRDCs; and to provide 
the criteria for the distribution of Federal funds to rural areas; to provide comments to the NRDCC and others on policies, 
regulations, and proposed legislation; as-
sist the NRDCC in developing strate-
gies for reducing or eliminating im-
pediments; to hire an executive direc-
tor and support staff; and to fundrais- e.

As I have stated before, this legisla-
tion authorizes the partnership to re-
ceive appropriations as well as author- 
zizing and encouraging federal agencies to make grants and provide other 
forms of assistance to the partnership 
and authorizing the partnership to ac-
cept private contributions. The SRDCs 
are required to provide at least a 33-
percent match for funds it receives as a 
result of its cooperative agreement with the Federal Government.

As you know, too many parts of rural 
America have not shared in the boom 
that has brought great prosperity to 
urban America. We need to do more to 
ensure that rural citizens will have op-
portunities similar to those enjoyed by 
urban areas. To do so, we do not nec-
ecessarily need new government pro-
grahs. Instead, we must do a better job 
of coordinating the many programs 
available from USDA and other Federal 
agencies that can help rural commu-
nities. With the passage of this legisla-
tion, the NRDCC and SRDCs will be 
better situated to provide that much need-
ed coordination.

Mr. CONRAD. Mr. President, I am 
pleased to join Senator Larry Craig 
and 31 of our colleagues today in the 
introduction of the National Rural De-
This bill is similar to S. 3175 which 
Senator Craig and I sponsored last 
year during the 106th Congress. I am 
pleased that so many members from 
both sides of the aisle have recognized 
the importance of this measure by 
agreeing to join as original cosponsors.

The National Rural Development 
Partnership Act had its legislative 
alternative, Order 12720, issued by President George 
H. Bush in 1990. Through the issuance 
of this order, the U.S. Department 
of Agriculture was assigned the respon-
sibilities of creating the partnership 
and providing assistance to States that 
voluntarily enter into a memorandum of under-
standing with the NRDCC. The intent of the legislation is the same. At least 40 States have 
now formed partnership councils to co-
ordinate rural development activities of 
Federal, State, local, and tribal govern-
ment agencies with private support 
agencies, to address community and eco-

demic development needs, and 
to coordinate community and job 
building activities in rural areas. The 
funding for these activities has been 
voluntary from various Federal agen-
cies, including the Departments of 
Health and Human Services, Labor, 
Transportation, Veterans, and State 
agencies. The U.S. Department of Agri-
culture has historically provided the 
largest support staff, and to fundrais-

The needs of rural America are great. The demands on the Federal budget are 
also great. If we are to make optimum use of hard-to-find Federal, State,
The existing partnerships are doing an outstanding job in coordinating activities like police and building jobs in areas that have historically lacked high paying opportunities. While we recognize the continuing importance of the agriculture industry in many States, especially a State like North Dakota, we recognize that, unless we diversify our economy, we will continue to see out migration from the rural areas into the already crowded metropolitan areas of our country.

Again, I am pleased to join this bipartisan effort.

By Mr. DURBIN (for himself, Mr. CHAFEE, Mrs. FEINSTEIN, Mr. BINGAMAN, Mr. AKAKA, Mr. KERRY, Mr. SARBANES, Mr. JOHNSON, and Mr. INOUYE):

S. 1112. A bill to provide Federal Perkins Loan cancellation for public defenders; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, today I rise with Senator CHAFEE to reintroduce legislation to include full-time public defense attorneys in the Federal Perkins Loan Cancellation Forgiveness Program for law enforcement officers. This bill would provide parity to public defense attorneys and uphold the goals set forth by the Supreme Court to equalize access to legal resources. Senators FEINSTEIN, BINGAMAN, AKAKA, KERRY, SARBANES, JOHNSON, and INOUYE are original cosponsors of this bipartisan bill. Representative Tom Campbell of California introduced a companion bill in the House in the 106th Congress.

Under section 465(a)(2)(F) of the Higher Education Act of 1965, a borrower with a loan made under the Federal Perkins Loan Program is eligible to have the loan canceled for serving full-time as a law enforcement officer or correction officer in a local, State, or Federal law enforcement or corrections agency. While the rules governing borrower eligibility for law enforcement cancellation have been interpreted by the Department of Education to include prosecuting attorneys, public defenders have been excluded from the loan forgiveness program. This policy must be amended.

Like prosecutors, public defense attorneys play an integral role in our adversarial process. This judicial process is the most effective means of getting at the truth and rending justice. The United States Supreme Court in a series of cases has recognized the importance of the right to counsel in implementing the Sixth Amendment’s guarantee of a fair trial and the Fourteenth Amendment’s due process clause requiring counsel to be appointed for all persons accused of offenses in which there is a possibility of a jury trial being imposed.

Absent adequate counsel for all parties, there is a danger that the outcome may be determined not by who has the most convincing case but by who has the most resources. The Court rightly addressed this possible miscarriage of justice by requiring counsel to be appointed for the accused. Public defenders fill this Court mandated role by representing the interests of criminally accused indigent persons. They give indigent defendants sufficient resources to present an adequate defense, so that the public goal of truth and justice will govern the outcome.

The Department of Education’s interpretation of the statute to include public defenders from the loan forgiveness program undermines the goals set forth by the Supreme Court to equalize access to legal resources. It creates an obvious disparity of resources between public defenders and prosecutors by encouraging talented individuals to pursue public service as prosecutors but not as defenders. The criminal justice system works best when both sides are adequately represented. The public interest is served when indigent defendants have access to talented defenders. One of the ways to facilitate this goal is by granting loan cancellation benefits to defense attorneys.

Moreover, public defense attorneys meet all the eligibility requirements of the loan forgiveness program as set forth in current Federal regulations. They belong to publicly funded public defender agencies and they are sworn officers of the court whose principal responsibility is to the criminal justice system and are essential in the performance of the agencies’ primary mission. In addition, like prosecuting attorneys, public defenders are law enforcement officers dedicated to upholding, protecting, and enforcing our laws. Without public defense attorneys, the adversarial process of our criminal justice system could not operate.

I urge my colleagues to join me, Senator CHAFEE, Senator FEINSTEIN, Senator BINGAMAN, Senator AKAKA, Senator KERRY, Senator SARBANES, Senator JOHNSON, and Senator INOUYE in supporting the goal of equalized access to legal resources, as set forth in the Constitution and elucidated by the Supreme Court, by providing parity to public defenders and allowing them to join prosecutors in receiving loan cancellation benefits.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

**CONGRESSIONAL RECORD—SENATE**

June 27, 2001

S. 1112

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

SECTION 1. FEDERAL PERKINS LOAN CANCELLATION FOR PUBLIC DEFENDERS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Education has issued clarifications that prosecuting attorneys are among the class of law enforcement officers eligible for benefits under the Federal Perkins Loan cancellation program.

(2) Like prosecutors, public defenders also meet all the eligibility requirements of the Federal Perkins Loan cancellation program as set forth in Federal regulations.

(3) Public defenders are law enforcement officers who play an integral role in our Nation’s adversarial legal process. Public defenders fill the Supreme Court mandated role requiring that counsel be appointed for the accused, by representing the interests of criminally accused indigent persons.

(4) In order to encourage highly qualified attorneys to serve as public defenders, public defenders should be included with prosecutors among the class of law enforcement officers eligible to receive benefits under the Federal Perkins Loan cancellation program.

(b) AMENDMENT.—Section 465(a)(2)(F) of the Higher Education Act of 1965 (20 U.S.C. 1070e(a)(2)(F)) is amended by inserting ‘‘, or as a full-time public defender for service to a local or State government, or to the Federal Government (directly or by contract with a private, nonprofit organization),’’ after ‘‘agencies’’.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) loans made under part E of title IV of the Higher Education Act of 1965, whether made before, on, or after the date of enactment of this Act; and

(2) service as a public defender that is provided on or after the date of enactment of this Act.

(d) CONSTRUCTION.—Nothing in this section or the amendment made by this section shall be construed to authorize the refunding of any repayment of a loan.

By Mr. SPECTER:

S. 1113. A bill to amend section 1562 of title 38, United States Code, to increase the amount of the Medal of Honor Roll special pension, to provide for an annual adjustment in the amount of that special pension, and for other purposes; to the Committee on Veterans’ Affairs.

Mr. SPECTER. Mr. President, I have sought recognition at this time to comment on legislation that I have introduced today to increase the special pension that is available to Medal of Honor recipients, and to provide for automatic adjustments in that special pension to reflect annual increases in the cost of living. When the Congress enacted the Medal of Honor pension, it stated, in the 1916 Senate Report, Report No. 246, 64th Congress, accompanying enactment, that the special pension was then necessary to serve as a “recognition of superior claims on the gratitude of the country,” and to “reward... a modest way startling deeds of individual audacious heroism in the face of mortal danger when war is on.” The legislation that I have introduced today has
June 27, 2001

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1113

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

SECTION 1. INCREASE AND ANNUAL ADJUSTMENT OF MEDAL OF HONOR ROLL PENSION.

(a) INCREASE IN AMOUNT.—Subsection (a) of section 1562 of title 38, United States Code, is amended by striking "$600" and inserting "$1,000, as adjusted from time to time under subsection (e)".

(b) ANNUAL ADJUSTMENT.—That section is further amended by adding at the end the following:

"(e) Effective as of December 1 each year, the Secretary shall increase the amount of monthly special pension payable under subsection (a) of section 1562 of title 38, United States Code, by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1 of such year as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(i))."

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

(2) The Secretary of Veterans Affairs shall not make any adjustment under subsection (e) of section 1562 of title 38, United States Code, as added by subsection (b) of this section, in 2001.

By Mr. SPECTER:

S. 1114. A bill to amend title 38, United States Code, to increase the amount of educational benefits for veterans under the Montgomery GI Bill; to the Committee on Veterans' Affairs.

I have sought recognition at this time to comment briefly on legislation that I am introducing today to increase educational benefits paid to veterans under the Montgomery GI bill, MGIB. This bill is the same as a bill, H.R. 1291, that was passed by the House, under the leadership of the chairman of the House Committee on Veterans' Affairs, Representative CHRISS SMITH, on June 19, 2001, by a vote of 416-0. I introduce the same legislation here in the Senate, and urge my colleagues to join with me to complete the task of increasing veterans' Montgomery GI bill benefits.

This legislation, once it is fully phased in over a three year period, would increase the basic monthly benefit paid to veterans with at least three years of service who have returned to school from $650 to $1,100. With this 85 percent increase in MGIB benefits, the largest percentage increase in the history of the Montgomery GI bill, a veteran with three years of service would be able to afford the average cost of tuition, fees, books, and room and board at a four-year public college or university, and still have money left over for transportation expenses or other personal expenses. This legislation would provide greater educational freedom for veterans who are constrained by the current benefit amount; it would open up the possibility of attendance at more expensive educational institutions. And it is the national security interests of the United States by providing a substantial inducement for young men and women to serve in the military.

When I became chairman of the Senate Committee on Veterans' Affairs at the start of the 105th Congress in 1997, I committed to increasing MGIB benefits which, due to budget constraints, had been woefully inadequate. I am pleased to report that that picture has changed; the basic MGIB benefit has increased by 52 percent from $427 to $650 per month, and in addition, service members now have the opportunity to "buy-up" an additional $150 in monthly benefits by spending a portion of their level of available benefits to $800 per month, an increase of 87 percent since 1997. Despite this significant progress, however, I remain concerned that the benefit usage rate among young veterans is too low, and that it may not yet be a sufficient inducement to assist the Department of Defense in recruiting high quality young men and women to serve in the military.

Of the young veterans eligible for MGIB benefits, only 57 percent choose to avail themselves of this extraordinary opportunity. According to a recent report by the Department of Veterans Affairs, VA, a significant reason for this trend in MGIB benefit usage among young veterans is that the MGIB benefit amount is too low, and that it may not yet be a sufficient inducement to assist the Department of Defense in recruiting high quality young men and women to serve in the military.

The primary purposes of the MGIB is to assist the Department of Defense, DOD with service member recruitment. When DOD asked new recruits in 1997 to list the reasons they joined the military, money for college ranked second only to "a chance to better myself in life" among the answers given. Even so, tight labor market and the availability of other Federal education aid have resulted in
DOD difficulty in meeting recruiting goals. The Assistant Secretary of Defense, for Force Management Policy reports that a benefit level of approximately $1,000 per month would increase high-quality accessions without having a negative impact on reinenements. . . . This, my proposed legislation, which would, in phases, increase the monthly benefit to $1,100, is consistent with DOD’s position that increased MGIB benefits are necessary for it to attract high-quality recruits.

Attracting high-quality young men and women into the military is not only in the interest of the Department of Defense, it is in the national interest of all of our citizens. The United States Commission on National Security/21st Century, chaired by our former colleague Senator Gary Hart and Warren Rudman, recently called on Congress to enhance national security by significantly enhancing the Montgomery GI Bill by providing a benefit that would pay for the average education of four-year U.S. colleges. The Commission emphasized that the “GI bill is both a strong recruitment tool and, more importantly, a valuable institutional reward for service to the nation in uniform.” I thank the Commission for recognizing the important role the GI bill has played, and will continue to play, in ensuring the security of our country.

I commend the chairman of the House Committee on Veterans’ Affairs, Representative Chris Smith, who has taken the lead on this issue in the House during this first year of his chairmanship. Under Mr. Smith’s leadership, the House did its part on June 19, 2001, by passing H.R. 1291 by a resounding vote of 416-0. I urge my Senate colleagues to join with me to complete the task here in the Senate. I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1114

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

SECTION 1. INCREASE IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) IN GENERAL.—(1) Section 3015(a)(1) of title 38, United States Code, is amended to read as follows:

“(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

“(A) for months occurring during fiscal year 2002, $890.

“(B) for months occurring during fiscal year 2003, $950.

“(C) for months occurring during fiscal year 2004, $1,000.

“(D) for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (b); or

(2) Section 3015(b)(1) of such title is amended to read as follows:

“(b) CPI Adjustment.—No adjustment in the monthly benefit to $1,100, is consistent with DOD’s position that increased MGIB benefits are necessary for it to attract high-quality recruits.

By Mr. KENNEDY (for himself, Mr. STEVENS, Mrs. HUTCHISON, and Mr. CORZINE):

S. 1115. A bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues Senator STEVENS, Senator INOUYE, Senator HUTCHISON, and Senator CORZINE in introducing the Comprehensive Tuberculosis Elimination Act. This bipartisan legislation will provide enhanced authority and greater resources to State, local and Federal health officials to do all they can to combat this deadly infectious disease in our country.

Tuberculosis is the world’s leading infectious killer. Its growth has been propelled by the global HIV epidemic, and multi-drug resistant strains have become increasingly prevalent around the world. The World Health Organization estimates that more than one-third of the world’s population is infected with tuberculosis. Every year, there are 8 million new cases of active tuberculosis and 2 million deaths from tuberculosis. This disease causes more deaths among women worldwide than all other causes of maternal death combined.

These harrowing statistics illustrate the truth behind the saying that diseases know no borders. Senators INOUYE, STEVENS, and HUTCHISON and I have already introduced the Stop TB Now Act, which focuses on international tuberculosis control. The bill we are introducing today will deal with tuberculosis in our own country. Only through enactment of both of these measures can we be sure of defeating this readily treatable and preventable disease.

Today’s bill is intended to fulfill the recommendations of the landmark report issued by the Institute of Medicine last year, entitled “Ending Neglect: The Elimination of Tuberculosis in the United States.” Our measure will create a national plan for the eradication of tuberculosis. It will enhance tuberculosis-related research, education and training through the Centers for Disease Control and Prevention. It will also expand support for various research and international tuberculosis research through the National Institutes of Health.

In the United States, tuberculosis has been going through what the Institute of Medicine calls “recurrent cycles of neglect” by public health authorities, “followed by resurgence” of the disease. In the late nineteenth century, tuberculosis was one of the leading causes of death in America. As cities swelled with waves of European immigration, millions of individuals and families were forced into overcrowded tenements and unhealthy workplaces. Many fell victim to outbreaks of deadly infectious diseases. In 1886, the leading cause of death among infants was tuberculosis, followed by infant diarrhea.

Although medical science and public health were in their infancy in those days, the need to combat tuberculosis was clear even then. In 1882, Robert Koch first isolated the organism that causes this disease, providing physicians and scientists with a microbial foundation for science-based public health action. In the early twentieth century, health advocates and physicians formed an association dedicated to fighting tuberculosis, which today is the American Lung Association. Their work helped to bring about more sanitary living conditions and workplaces for the poor, stronger public health laws, and the use of sanatoriums to treat people with tuberculosis.

In this century, the possibility of actually eradicating tuberculosis arose following the development of effective antibiotics in the 1960s. But the country failed to capitalize on scientific opportunities or undertake the kind of broad public health campaign that we undertook so successfully against polio. As a result, scientific interest and public health funding for tuberculosis control waned in the following decades. After years of decline, specific Federal funding for tuberculosis control was actually eliminated in 1972.

Our country paid the price for this complacency in the 1980s. A resurgence of cases and an alarming growth in the prevalence of drug-resistant tuberculosis strains challenged public health and shook the confidence of experts. Through great effort and difficulty, we renewed our national commitment to fighting tuberculosis. But the effort took longer than necessary, and the Nation suffered needless deaths and illness as we worked to bring the number of new tuberculosis cases to its current, all-time low.

Today, we have a historic opportunity to eradicate tuberculosis in the United States. We have a generation of public health officials who have lived through and successfully combated the recent resurgence of the disease. And
By Mr. INOUYE (for himself, Mr. STEVENS, Mr. KENNEDY, Mrs. HUTCHISON, and Mr. CORZINE):

S. 1116. A bill amend the Foreign Assistance Act of 1961 to provide increased foreign assistance for tuberculosis prevention, treatment, and control; to the Committee on Foreign Relations.

Mr. INOUYE. Mr. President, I rise today to join my colleagues, Senator STEVENS, Senator KENNEDY, Senator HUTCHISON, and Senator CORZINE, to introduce the Stop Tuberculosis Now Act of 2001, a bill that responds to the dire need of the United States and the rest of the world to stop the terrible infection that is threatening citizens in every country of the world.

Tuberculosis is the biggest killer of young women and people with AIDS in the world today, and two million people will die of tuberculosis this year alone. Although tuberculosis is preventable and treatable, last year there were more than 17,000 new cases of tuberculosis in the U.S. Among these cases were new strains of tuberculosis that are resistant to many traditional antibiotics that were very successful in the past. Due to its infectious and resistant nature, tuberculosis cannot be stopped at national borders, and virtually every international airport in the U.S. therefore is a port of entry for carriers of tuberculosis. Thus, it will be impossible to control tuberculosis in the U.S. until we control it worldwide.

Because of this dire situation, we are introducing the Stop Tuberculosis Now Act, which calls for a U.S. investment in international tuberculosis control of $200 million in 2002, with a focus on expanding the proven, low cost direct observation therapy system, DOTS, tuberculosis treatment for countries with high rates of tuberculosis infection. DOTS tuberculosis treatment involves a health worker observing and ensuring tuberculosis patients take their prescribed medication that is needed to stop a tuberculosis infection successfully. The current projection for implementing an international tuberculosis treatment program is $1 billion. The U.S. share of this program would be $200 million. This is a small price to pay in order to stop this terrible infectious disease which brings such misery and death, to the U.S. and the rest of the world.

This bill would amend the Foreign Assistance Act of 1961 and declare that a major objective of the U.S. foreign assistance program is to control tuberculosis. Congress would designate the World Health Organization and other health organizations to develop and implement an international tuberculosis control program, including expanding the use of the strategy of DOTS tuberculosis treatment method and strategies to address multi-drug resistant tuberculosis. The particular focus of this program would be in countries with the highest rates of tuberculosis infection. The program would set as goals the cure of at least 95 percent of tuberculosis cases detected and the reduction of tuberculosis related deaths by 50 percent, by December 31, 2010.

I ask unanimous consent that the test the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1116

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Stop Tuberculosis (TB) Now Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1)(A) Tuberculosis is one of the greatest infectious causes of death of adults worldwide, killing 2,000,000 people per year—one person every 15 seconds.

(B) Globally, tuberculosis is the leading cause of death of young women and the leading cause of death of people with HIV/AIDS.

(2) An estimated 8,000,000 individuals develop active tuberculosis each year.

(3) Tuberculosis is spreading as a result of inadequate treatment and it is a disease that knows no national borders.

(4) With over 40 percent of tuberculosis cases in the United States attributable to foreign-born individuals and with the increase in international travel, commerce, and migration, elimination of tuberculosis in the United States depends on efforts to control the disease in developing countries.

(5) The threat that tuberculosis poses for Americans derives from the global spread of tuberculosis and the emergence and spread of strains of multi-drug resistant tuberculosis (MDR–TB).

(6) Up to 50,000,000 individuals may be infected with multi-drug resistant tuberculosis.

(7) In the United States, tuberculosis treatment, normally about $2,000 per patient, skyrockets to as much as $250,000 per patient to treat multi-drug resistant tuberculosis, and treatment may not even be successful.

(8) Multi-drug resistant tuberculosis kills more than one-half of those individuals infected in the United States and other industrialized nations and without access to treatment it is a virtual death sentence in the developing world.

(9) There is a highly effective and inexpensive treatment for tuberculosis. Recommended by the World Health Organization as the best curative method for tuberculosis, this strategy, known as directly observed treatment, short course (DOTS), includes least effective diagnosis, treatment, monitoring, and recordkeeping, as well as a reliable drug supply. A centerpiece of DOTS is observing patients to ensure that they take their medication and complete treatment.

SEC. 3. ASSISTANCE FOR PREVENTION, TREATMENT, AND CONTROL.

(a) ADDITIONAL PREVENTION, TREATMENT, AND CONTROL.—Section 104(c)(7)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7)(A)) is amended—

(1) in clause (i), by adding at the end before the semicolon the following: “by expanding the use of the strategy known as directly observed treatment, short course (DOTS) and strategies to address multi-drug resistant tuberculosis (MDR–TB) where appropriate at the local level, particularly in countries with the highest rate of tuberculosis”;

(2) in clause (ii)—

(A) by inserting after “the cure of at least 95 percent of the cases detected” the following: “by focusing efforts on the use of the directly observed treatment strategy (DOTS) strategy or other internationally accepted primary tuberculosis control strategies”;

and

(B) by striking “and the cure” and inserting “the cure”.

(b) FUNDING REQUIREMENT.—Section 104(c)(7) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following: “by focusing efforts on the use of the directly observed treatment strategy (DOTS) strategy or other internationally accepted primary tuberculosis control strategies and tuberculosis Drug Facility of WHO’s Stop TB Partnership.”

(c) ANNUAL REPORT.—Section 104(c)(7) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (D) the following:

“(C) In conjunction with the transmission of the annual report for enactment of authorizations and appropriations for foreign assistance programs for each fiscal year, the President shall transmit to Congress a report that contains a summary of all programs, projects, and activities carried out under this paragraph for the preceding fiscal year, including a description to which such programs, projects, and activities have made progress to achieve the goals described in subparagraph (A)(ii).”

(d) AUTHORIZATION OF APPROPRIATIONS.—

Subparagraph (D) of section 104(c)(7) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7)), as redesignated by this Act, is amended by striking $60,000,000 for each of the fiscal years 2001 and 2002” and inserting “$60,000,000 for fiscal year 2001 and $200,000,000 for fiscal year 2002”.

By Ms. LANDRIEU:

S. 1117. A bill to establish the policy of the United States for reducing the
number of nuclear warheads in the United States and Russian arsenals, for reduction of the number of nuclear weapons of those two nations that are on high alert, and for expanding and accelerating programs to prevent diversion and proliferation of Russian nuclear weapons, fissile materials, and nuclear expertise; to the Committee on Foreign Relations.

Ms. LANDRIEU. Mr. President, when Winston Churchill addressed the student body at Westminster College in 1946, he declared to the United States that “with the power of the world, our men have joined an awe-inspiring accountability to the future . . . you must not only feel the sense of duty done, but also the anxiety lest you fall below that level of achievement.” Over the course of the cold war, we did not fail in our duty, nor should we in the new century.

In the same speech he laid before the whole world the rhetoric that would define the cold war. In describing the Sphère of Soviet influence in Eastern Europe, Mr. Churchill described an Iron Curtain which the ancient capitals of Warsaw, Prague, and Budapest were held. With the fall of communism in the early part of the last decade, the United States has had to re-shape its review of Eastern Europe. No longer do we view the countries of Poland, the Czech Republic, or Hungary as isolated adversaries, but as partners in the very alliance that carried us through the cold war. In the same way that we have looked to reforming our relationship with the countries of the old Warsaw Pact we must find new ways to view Russia. It is difficult to fathom that in the 21st century we view Russia as a declared ally on the world stage while maintaining a nuclear posture at home which treats her as an enemy. It is time that we transform our nuclear doctrine from one that reflects the thinking of the cold war to one that fits in the context of the 21st century and addresses what is perhaps the greatest threat to our security.

When President Bush met with Mr. Putin a few weeks ago, he expressed that the United States and Russia can find a “common position” on a “new strategic framework”. President Bush declared that the two countries are friends and that it is time for the U.S. and Russia to act that way. In context of this historic meeting, it is time that we “work together to address the world as it is, not as it used to be, it is important that we not only talk differently, we must also act differently.”

I rise today to introduce legislation that I call the NTRA, which the President to seek in his own words: “ . . . a broad strategy of active non-proliferation . . . to deny weapons of terror from those seeking to acquire them . . . to work with allies and friends who wish to join us in this solemn task against the harm they, WMD can inflict.”

The Nuclear threat Reduction Act of 2001, NTRA, would make it the policy of the United States to reduce the number of nuclear warheads and delivery systems held by the U.S. and Russia to the lowest possible number consistent with national security. It would enable the President to reduce our nuclear stockpile while negotiating such reductions with the Russians that are transparent, predictable and verifiable. To do such a thing would be a mark of principled leadership. It would acknowledge that it is no longer necessary to maintain large stockpiles of nuclear arms by the United States and Russia and that we must continue to do so would be unacceptable.

On May 22, 2000 President Bush stated “The premices of cold war targeting should no longer dictate the size of our arsenal” I agree with the President more. The current level of nuclear weapons maintained by the United States comes at a great cost to ourselves financially and poses a significant threat to our security. The current level of nuclear protection that we maintain forces the Russians to keep a similarly robust force which they cannot afford. The crumbling infrastructure of the Russian Military continually raises the risk of accidental launch or greater proliferation. Indeed, the legislation being considered today would ensure that once parts of the Russian arsenal are dismantled, they will be kept safe, they will be accounted for, and they will eventually be destroyed.

The savings from reducing our nuclear arsenals are substantial. A recent CBO report estimated that $1.67 billion could be saved by retiring 50 MX Peacekeeper missiles by 2003. We could use this money to address shortfalls in our nuclear security systems held by the U.S. and Russia that are transparent, predictable and verifiable. To do such a thing would be a mark of principled leadership. It would acknowledge that it is no longer necessary to maintain large stockpiles of nuclear arms by the United States and Russia and that we must continue to do so would be unacceptable.

Finally, the NTRA requires the President to formulate and submit to Congress a strategic plan to secure and neutralize Russia’s nuclear weapons and weapons usable materials over the next eight years. The plan would have to include administrative and organizational reforms necessary to provide effective coordination of these programs and to reflect the priority that the President attaches to them. The President himself has advocated such a strategy and I call on him to implement it.

In closing, the Nuclear Reduction Act of 2001 would help us fulfill the duty that comes with being the world’s last remaining superpower. By preventing the spread of nuclear materials and technology, reducing the nuclear stockpiles of the United States and Russia, and by taking our missiles off of high-alert status, we can fulfill that duty. I ask the other Members of the Senate to join me in support of this measure.
SA 821. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 822. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 823. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 824. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 825. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 826. Ms. COLLINS (for herself, Mr. NELSON, of Nebraska, Mr. ESZTI, Mr. VOIXOVICH, Mr. HUTCHINSON, and Mr. ROBERTS) proposed an amendment to the bill S. 1052, supra.

SA 827. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 828. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, supra; which was ordered to lie on the table.

SA 829. Mr. DINEEN submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 830. Ms. BREAUX (for himself, Mr. JEFFORDS, Mr. KENNEDY, Mr. MCCAIN, and Mr. EDWARDS) proposed an amendment to the bill S. 1052, supra.

**TEXT OF AMENDMENTS**

SA 819. Mr. THOMPSON proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 150, strike line 17 and all that follows through page 155, line 18, and insert the following:

"(9) REQUIREMENT OF EXHAUSTION.—

"(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act of 2001 shall be exhausted.

"(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) pursuant to the exhaustion of administrative remedies under sections 102, 103, and 104 of the Bipartisan Patient Protection Act of 2001 if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary.

"(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of benefits in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act of 2001 shall be exhausted.

"(D) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Bipartisan Patient Protection Act of 2001 shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

"(E) REPORT.—Not later than 12 months after the general effective date referred to in section 401, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number of denials that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

SA 820. Mr. MCCAIN (for himself, Mr. BAYH, Mr. CARPINO, and Mr. EDWARDS) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 148, line 11, insert the following:

"(D) EXCLUSION OF SMALL EMPLOYERS.—

"(I) Definition.—In clause (i), the term 'small employer' means an employer—

"(I) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 15 employees on business days; and

"(II) maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee, or plan administrator, including—

(aa) a small employer described in section 3(16)(B)(ii) with respect to a plan maintained by a single employer; and

(bb) one or more small employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

(V) Compliance with the requirements of this section shall not be subject to the scope of employer size.

For purposes of this subparagraph:
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SA 823. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. 16. NINE-YEAR EXTENSION OF MEDICARE COST CONTRACTS
Section 1876(h)(5)(C) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)), as redesignated by section 634(1) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-508), as enacted into law by section 1(a)(6) of Public Law 106-554, is amended by striking ‘‘2004’’ and inserting ‘‘2014’’.

SA 824. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. 16. NINE-YEAR EXTENSION OF MEDICARE COST CONTRACTS
Section 1876(h)(5)(C) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)), as redesignated by section 634(1) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-508), as enacted into law by section 1(a)(6) of Public Law 106-554, is amended by striking ‘‘2004’’ and inserting ‘‘2013’’.

SA 825. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. 17. SEVEN-YEAR EXTENSION OF MEDICARE COST CONTRACTS
Section 1876(h)(5)(C) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)), as redesignated by section 634(1) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A-508), as enacted into law by section 1(a)(6) of Public Law 106-554, is amended by striking ‘‘2004’’ and inserting ‘‘2015’’.
consistent with the purposes of the patient protection requirement to which the law relates; or
(III) that specified additional information is needed.

A notice under this clause shall include an explanation of the basis for the determination of the Secretary and shall identify specific deficiencies in the State certification.

(ii) PROHIBITION.—With respect to a State that has been notified by the Secretary under clause (i)(III) that specified additional information is needed, the Secretary shall make a determination with respect to such State within 60 days after the date on which such specified additional information is received by the Secretary.

(C) APPROVAL FOR FAILURE TO MEET DEADLINE.—If the Secretary fails to meet the deadline applicable under subparagraph (B) with respect to a State certification, the certification shall be deemed to be approved.

(D) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under paragraph (B)(i)(I) may challenge such disapproval in the appropriate United States district court.

(ii) CERTIFICATION OF ALL OR SELECTIVE PROTECTIONS.—A certification under this subsection may be submitted with respect to all patient protection requirements or selective requirements.

(iii) RULE OF CONSTRUCTION.—
(A) IN GENERAL.—The term "effective date" means October 1, 2002.
(B) EFFECTIVE DATE.—The amendments to sections 112 through 119 of title 42 of the United States Code (relating to timely access and choice of health care) made by subsection (c)(2) of section 1210 note (42 U.S.C. note) are amended—
(1) in the subsection heading by striking the first 2 words and inserting "INDEFINITE"; and
(2) by striking "as provided in section 1210(d)", in the form of a notice provided not later than 30 days before the date on which such notification is received by the Secretary applicable to the State under this subsection, $500,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a State with a certification that has been approved under subsection (b) from amending or otherwise modifying State laws or regulations that the approval was based upon.

(f) LIMITATION ON DELEGATION OF FUNCTION.—The Secretary may not delegate the duties and authority provided under section (b) to the Center for Medicare and Medicaid Services.

(g) NONAPPLICABILITY OF PROVISIONS.—Nothing in this section shall be construed to apply the patient protection requirements to States except as specifically provided for in this section.

(i) DISCLOSURE.—In this section:
(A) EFFECTIVE DATE.—The term "effective date" means October 1, 2002.

(B) PATIENT PROTECTION REQUIREMENT.—The term "patient protection requirement" means any one or more of the following requirements:
(A) section 111 (relating to consumer choice options);
(B) section 112 (relating to choice of health care professional);
(C) section 113 (relating to access to emergency care);
(D) section 114 (relating to timely access to specialists);
(E) section 115 (relating to patient access to obstetric and gynecological care);
(F) section 116 (relating to access to pediatric care);

(G) section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

(H) section 118 (relating to access to needed prescription drugs).

(J) section 120 (relating to coverage for individuals participating in approved clinical trials).

(K) section 121 (relating to required coverage for minimum hospital stays).

(L) section 122 (relating to access to information).

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003; and

(iv) of information relating to the dispensing of a participant, beneficiary, or enrollee or relating to the plan or issuer otherwise reducing coverage or benefits as described in clause (iii), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect; and

SA 827. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the appropriate place in title V, insert the following:

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(B) DISCLOSURE.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(C) SELF-INSURED PLANS.—Notwithstanding this section, the patient protection requirements of this Act shall apply to self-insured group health plans as provided for under section 714 of the Employee Retirement Income Security Act.

(d) PATIENT QUALITY ENHANCEMENT GRANTS.

(A) IN GENERAL.—Beginning on the effective date, the Secretary shall award grants to eligible States to enable such States to carry out activities to promote high quality health care.

(B) ELIGIBILITY.—To be eligible to receive a grant under this subsection, a State shall—

(i) be a State described in subsection (c)(1); and

(ii) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(C) USE OF FUNDS.—A State may use amounts awarded under this subsection to carry out activities to promote increased health care quality, educate consumers on health care products, provide health care coverage, improve patient safety, carry out enforcement activities with respect to compliance with State patient protection laws, and carry out other activities determined appropriate by the Secretary.

(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $500,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

(E) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a State with a certification that has been approved under subsection (b) from amending or otherwise modifying State laws or regulations that the approval was based upon.

(F) LIMITATION ON DELEGATION OF FUNCTION.—The Secretary may not delegate the duties and authority provided under section (b) to the Center for Medicare and Medicaid Services.

(G) NONAPPLICABILITY OF PROVISIONS.—Nothing in this section shall be construed to apply the patient protection requirements to States except as specifically provided for in this section.

(i) DISCLOSURE.—In this section:
(A) EFFECTIVE DATE.—The term "effective date" means October 1, 2002.

(B) PATIENT PROTECTION REQUIREMENT.—The term "patient protection requirement" means any one or more of the following requirements:
(A) section 111 (relating to consumer choice options);
(B) section 112 (relating to choice of health care professional);
(C) section 113 (relating to access to emergency care);
(D) section 114 (relating to timely access to specialists);
(E) section 115 (relating to patient access to obstetric and gynecological care);
(F) section 116 (relating to access to pediatric care);

(G) section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

(H) section 118 (relating to access to needed prescription drugs).

(J) section 120 (relating to coverage for individuals participating in approved clinical trials).

(K) section 121 (relating to required coverage for minimum hospital stays).

(L) section 122 (relating to access to information).

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003; and

(iv) of information relating to the dispensing of a participant, beneficiary, or enrollee or relating to the plan or issuer otherwise reducing coverage or benefits as described in clause (iii), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect; and

SA 828. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

Beginning on page 98, strike line 2 and all that follows through line 21 on page 109, and insert the following:

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(B) DISCLOSURE.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period, or

(ii) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage;

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003; and

(iv) of information relating to the dispensing of a participant, beneficiary, or enrollee or relating to the plan or issuer otherwise reducing coverage or benefits as described in clause (iii), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect; and

In this section:

CONGRESSIONAL RECORD—SENATE
used in making coverage determinations by

(1) any in- and out-of-network benefits;

(2) any in- and out-of-network benefits;

(3) any specific exclusions or express limi-

(B) any out-of-pocket expense for

(C) any specific exclusions or express limi-

(2) Cost Sharing.—A description of any cost-

(3) Compensation Methods.—A summary
description by category of the applicable
methods (such as capitation, fee-for-service,
salary, bundled payments, per diem, or a
combination thereof) used for compensating
potential or treating health care profes-
sionals (including primary care providers
and specialists) and facilities in connection
with the provision of health care under the
plan or coverage.

(c) Additional Information.—The infor-
mational materials to be distributed under
this section shall include for each option avail-
able under the group health plan or health
insurance coverage described in the follow-
ing:

(1) Benefits.—A description of the covered
benefits, including—

(A) any in- and out-of-network benefits;

(B) any specific exclusions or express limi-
tations on benefits described in section
104(b)(3)(C);

(D) any other benefit limitations, includ-
ing any annual or lifetime benefit limits and
any monetary limits or limits on the number of
visits, days, or services, and any specific
coverage exclusions; and

(E) any definition of medical necessity used
for determining whether a particular item,

(F) any cost-sharing requirements, includ-
ing—

(1) any premiums, deductibles, coinsur-
formance, copayment amounts, and liability
for balance billing, for which the participant,

(2) any maximum out-of-pocket expense

(C) any specific exclusions or express limi-
tations on benefits described in section
104(b)(3)(C);

(3) Choice of Primary Care Provider.—A
description of the circumstances and condi-
tions under which participation in clinical trials
is covered under the terms and conditions of the plan
or coverage, and the right to obtain coverage
for approved clinical trials under section 119
if such section applies.

(7) Clinical Trials.—A description of the

(6) Speciality Care.—A description of the
requirements and procedures to be used by
participants, beneficiaries, and enrollees in
accessing specialty care and obtaining refer-
als to participating and nonparticipating
specialists, including any limitations on
choice of health care professionals referred
determined by the plan or issuer.

(5) Preauthorization Requirements.—A
description of the requirements and pro-
cedures to be used to obtain preauthorization
for health services, if such preauthorization
is required.

(4) Translation Services.—A summary
description of any translation or interpreta-
tion services (including the availability of
printed information in languages other than
English, audio tapes, or information in
Braille) that are available for non-English
speakers and participants, beneficiaries,
and enrollees with communication disabilities
and a description of how to access these
items or services.

(14) Accreditation Information.—Any in-
formation that is made public by accrediting
organizations in the process of accreditation
if the plan or issuer is accredited, or any ad-
cisional quality indicators (such as the re-
sults of enrollee satisfaction surveys) that
are made public by the plan or issuer.

(15) Notice of Requirements.—A descrip-
tion of procedures used and require-
ments (including circumstances, timeframes,
and appeals rights) under any utilization re-
view program under sections 101 and 102,
including any drug formulary program under
section 118.

(17) External Appeals Information.—Ag-
gregate information on the number and out-
come of external medical reviews, relative
to the sample size (such as the number of
covered lives) under the plan or under the
coverage of the issuer.

(16) Utilization Review Activities.—A de-
scription of procedures used and require-
ment for obtaining coverage for approved
clinical trials under section 119 if such
section applies.

(9) Emergency Services.—A summary of
the rules and procedures for accessing emerg-
cency services, including the right of a par-
ticipant, beneficiary, or enrollee to obtain
emergency services under the prudent
layperson standard under section 113, if such
section applies, and any educational infor-
mation that the plan or issuer may provide
regarding the appropriate use of emergency
services.

(10) Claims and Appeals.—A description of
the procedures and process to be used
in determining whether a particular item,

(8) Prescription Drugs.—To the extent
the plan or issuer provides coverage for prescrip-
tion drugs, a description of how to obtain
coverage for prescription drugs included in a for-
mulary, a description of any provisions and
cost-sharing required for obtaining on-
and off-formulary medications, and a descrip-
tion of the rights of participants, beneficiaries,
and enrollees in obtaining access to access to
prescription drugs under section 118 if such
section applies.

(11) Advance Directives and Organ Dona-
tion.—A description of procedures for ad-
vanced directives and organ donation deci-
sions that the plan or issuer maintains such
procedures.

(12) Information on Plans and Issuers.—
The name, mailing address, and telephone
number or numbers of the plan admin-
istrator and the issuer to be used by partici-
ants, beneficiaries, and enrollees seeking
information about plan or coverage benefits
and services, payment of a claim, or author-
ization for services and treatment. Notice of
whether the benefits under the plan or cov-
erage are provided under a contract or policy
of insurance issued by an issuer, or whether
benefits are provided directly by the plan
sponsor who bears the insurance risk.

SEC. 303. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

Section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

"(1) in general.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a plan that is established or maintained by a single or jointly established plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same action with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the term ‘group health plan’ and ‘health insurance coverage’ have the meanings given such terms in section 738."
of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial compliance.

(5) Petitions.—

(A) Petition PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 401, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee that is not the subject of a certification under this subsection, is superseded under subsection (a)(1) because such standard or requirement prevents the application of a requirement of this title.

(B) Opinion.—The Secretary shall issue an advisory opinion with respect to a petition submitted under subparagraph (A) within the 60-day period beginning on the date on which such petition is submitted.

(d) Definitions.—For purposes of this section:

(1) State law.—The term “State law” includes all laws, decisions, rules, regulations, or other State action having the effect of law, of a State, of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) State.—The term “State” includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

On page 132, between lines 11 and 12, insert the following:

SEC. 203. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–91 et seq.) is amended by adding at the end the following:

SEC. 2793. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

“(a) Agreement with States.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary’s authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

“(b) Delegations.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.’’.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 27, 2001 at 10 a.m., in open session to consider the nominations of Doinel M. Aviles to be Assistant Secretary of the Navy (Financial Management and Comptroller); Reginald Jude Brown to be Assistant Secretary of the Army (Manpower and Reserve Affairs); Steven A. Cambone to be Deputy under Secretary of Defense for Policy; Michael Montelongo to be Assistant Secretary of the Air Force (Financial Management and Comptroller); and John J. Young, Jr. to be Assistant Secretary of the Navy (Research, Development and Acquisition).

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the sessions of the Senate on Wednesday, June 27, 2001 at 9:30 a.m. to hold a nomination hearing as follows:

Nominees: Mr. Clark Kent Ervin, of Maryland, to be Coordinator for Counterterrorism, with the rank of Ambassador at Large to be introduced by Hon. Paul S. Sarbanes.

Mr. Clark Kent Ervin, of Maryland, to be Coordinator for Counterterrorism, with the rank of Ambassador at Large to be introduced by Hon. Paul S. Sarbanes.

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 27, 2001 at approximately 11:15 a.m. to hold a nomination hearing as follows:

Nominees: Mr. Pierre-Richard Prosper, of California, to be Ambassador at Large for War Crimes Issues.

Mr. William A. Eaton, of Virginia, to be Assistant Secretary of State (Administration).

General Francis Xavier Taylor, of Maryland, to be Coordinator for Counterterrorism, with the rank of Ambassador at Large to be introduced by Hon. Paul S. Sarbanes.

Mr. Clark Kent Ervin, of Texas, to be Inspector General, Department of State to be introduced by Hon. Phil Gramm.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 27, 2001 at approximately 11:15 a.m. to hold a nomination hearing as follows:

Nominees: Mr. Pierre-Richard Prosper, of California, to be Ambassador at Large for War Crimes Issues.

Mr. William A. Eaton, of Virginia, to be Assistant Secretary of State (Administration).

General Francis Xavier Taylor, of Maryland, to be Coordinator for Counterterrorism, with the rank of Ambassador at Large to be introduced by Hon. Paul S. Sarbanes.

Mr. Clark Kent Ervin, of Texas, to be Inspector General, Department of State to be introduced by Hon. Phil Gramm.

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

COMMITTEE ON THE JUDICIARY

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on “Protecting the Innocent: Ensuring Competent Counsel in Death Penalty Cases” on Wednesday, June 27, 2001 at 10:00 a.m., in SD 226. No witness list is available yet.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, June 27, 2001 at approximately 1:30 p.m. to receive testimony from the U.S. Commission on Civil Rights regarding its latest report on the November 2000 election and from other witnesses on election reform in general.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DORGAN. Mr. President, I ask unanimous consent that the Select
Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 27, 2001 at 2:30 p.m., to hold a hearing on intelligence matters.

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

SUBCOMMITTEE ON ECONOMIC POLICY

Mr. DORGAN. Mr. President, I ask unanimous consent that the Subcommittee on Economic Policy of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 27, 2001 to conduct a hearing on "The Reauthorization of the Defense Production Act."

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. DORGAN. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia of the Committee on Governmental Affairs be authorized to meet on Wednesday, June 27, 2001 at 10:00 a.m., for a hearing to examine "Finding a Cure to Keep Nurses on the Job: The Federal Government’s Role in Retaining Nurses for Delivery of Federally Funded Health Care Services."

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

ORDERS FOR THURSDAY, JUNE 28, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:15 a.m. on Thursday, June 28. I further ask consent that on Thursday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Patients’ Bill of Rights.

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

PROGRAM

Mr. REID. Mr. President, tomorrow the Senate will convene at 9:15 a.m. and resume consideration of the Patients’ Bill of Rights. There will be 30 minutes of debate on the Collins and Breaux amendments regarding scope, with two rollcall votes beginning at approximately 9:45 a.m. Additional rollcall votes will occur throughout the day and into the evening.

The majority leader has told me it is his hope that we will complete this bill tomorrow rather than on Friday or Saturday. We have made great progress today. The minority manager, Senator GREGG, has done very good work. We have our managers—Senator MCCAIN, Senator KENNEDY, and Senator EDWARDS—who have done outstanding work. We have really made great headway. So the light at the end of the tunnel is there. It is up to us whether we take that opportunity to finish this.

Then there is the supplemental appropriations bill which needs to be done, and also the organizing resolution.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:18 p.m., adjourned until Thursday, June 28, 2001, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27, 2001:

NATIONAL TRANSPORTATION SAFETY BOARD

JOHN ARTHUR HAMMERSCHMIDT, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 2002, VICE JAMES E. HALL, RESIGNED.

DEPARTMENT OF VETERANS AFFAIRS

CLAUDE M. KICKLIGHTER, OF GEORGIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (POLICY AND PLANNING), VICE DENNIS M. DUFFY, RESIGNED.
The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. Shaw).

Designation of the Speaker pro Tempore

The Speaker pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
I hereby appoint the Honorable E. CLAY SHAW, Jr. to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

Prayer

Bishop Michael Tyrone Cushman, General Overseer, National Association of the Church of God, West Middlesex, Pennsylvania, offered the following prayer:

Dear Kind and Gracious Heavenly Father, it is with praise and adoration we bow before You on this wonderful day. It is with awe and honor we worship Your holy presence and invite You to dwell in the midst of these men and women who were made by Your hands and fashioned for this very moment.

We acknowledge that all wisdom comes from You. We confess this morning that You are our eternal Father and You are the very essence of love itself, and that we are created in Your loving just and merciful image, and that Your ultimate will is that we love each other unconditionally as we are loved by You.

Please, Kind Sir, bless us this day with the spirit of reconciliation. Endow us with a fresh anointing of grace and tolerance. Empower us to deliberate through the dilemmas and conflicts of purpose and opinion. Equip us to accept what we cannot change. Embolden us to change the unacceptable and enlighten us with uncanny wisdom to strike the compromises that glorify You and dignify every human being.

Now, My Father, bless this House, O Lord we pray. Keep it safe by night and day. In the strong name of Jesus we trust and pray. Amen.

The Journal

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

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

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The Speaker pro tempore. The question is on the Speaker's approval of the Journal.

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

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

The Speaker pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

Pledge of Allegiance

The Speaker pro tempore. Will the gentleman from Texas (Mr. BRADY) come forward and lead the House in the Pledge of Allegiance.

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

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

Welcome to Guest Chaplain, Pastor Michael Tyrone Cushman, Sr.

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

Mr. SCHIFF. Mr. Speaker, I would like to join you in welcoming today's distinguished guest chaplain, Pastor Michael Tyrone Cushman, Sr., and thank him for leading the House in prayer. As first General Overseer of the National Association of the Church of God, Pastor Cushman is responsible for more than 400 churches in the United States, Caribbean, and Africa.

For 22 years, Reverend Cushman served at the Pasadena Church of God in Pasadena, California, one of the most thriving churches in our region. Pastor Cushman distinguished himself as a force for racial reconciliation and more harmonious human relations in southern California. In his new position, his mission is to unify the black and white branches of the Church of God.

I am proud to say, that although Dr. Cushman will travel the world in his new position, he and his wife, Jacqueline, will maintain a home in Altadena, California, which I am proud to represent. Although we will sorely miss his influence in our community on a daily basis, I am happy to note that he will maintain an advisory role at the Pasadena Church of God.

I am proud to welcome Chaplain Cushman here today as our guest chaplain.

America's Energy Policy

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

Mr. FOLEY. Mr. Speaker, while California experiences blackouts, and respirating equipment that is needed for those critically ill goes silent, Gray Davis is hyperventilating and pointing fingers at Washington.

Let us review the Democratic energy policy over the last 8 years under the past administration. Let me see: Hazel O'Leary, Secretary of Energy, goes to the Taj Mahal and spends $1 million of taxpayer money to beautify it before she arrives.

Let me see: Bill Richardson, while on his watch, loses our Nation's energy secrets, and we become vulnerable to outside influences.

During the last campaign, when energy prices were skyrocketing, the Clinton White House's brilliant idea was to reduce and use the oil from the strategic reserves.

Sound bite politics from their side, sensitive politics from ours. We are working on the energy needs of America. We are seeking a plan that will revolutionize the way we are dependent on oil. We are looking at a conservation model. We are looking at new technology. We are coming up with answers, not rhetoric.

I admonish the Democrats to start participating and stop finger-pointing. And Gray Davis could lead the parade by stop spending $30,000 of taxpayer money a month for political consultants and start working with energy consultants to save his State.

Sign Discharge Petition on Cost-Based Energy Pricing

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

Mr. INSLEE. Mr. Speaker, last week, in California, three former employees...
of generators of electricity testified that they turned off their equipment at the demand of their bosses that resulted in driving up electric prices on the west coast. This House should do something about that.

What I urge my colleagues to do is to come to the well of the House and sign a discharge petition for a bill that will create a short-circuit to stop the meltdown of the energy market on the west coast. I do that on behalf of the small business people who are losing their businesses today, last week, next week, because of the thousand percent increases in wholesale electrical rates on the west coast, which are unprecedented, wrong, unconscionable, and should be illegal.

The Federal Energy Regulatory Commission, finally, because we dragged them kicking and screaming for the last 4 months, finally did something a few days ago, but it is clear it is not enough. We need to keep their feet to the fire. I urge my colleagues to sign the discharge petition in the well of the House today.

Mr. TRAFICANT. Mr. Speaker, the pit bull is the most ferocious dog in the world, but nobody told that to Margaret Hargrove of Florida. When a pit bull clamped his massive jaws around her small Scot terrier’s neck, Margaret ferociously bit the pit bull back.

Now, if that is not enough to sanitize your fire hydrant, folks, the pit bull then turned on Margaret and attacked her. Margaret then attacked the pit bull so ferociously that she drove him away.

Beam me up. Do not take this woman to a drive-in movie. Do not forget to feed her terrier. My colleagues, never bite Margaret Hargrove of Florida.

I yield back the need to hire Margaret Hargrove at the Internal Revenue Service to straighten those people out.
CALIFORNIA AND THE WEST COAST ELECTRICITY MARKET HAS BEEN ILLEGALLY MANIPULATED

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

Mr. FILNER. Mr. Speaker, evidence continues to mount that California and the west coast electricity market has been illegally manipulated, and consumers are entitled to billions of dollars for illegal overcharges since last summer.

We just heard about the need for production. Let me tell my colleagues what is happening to plants in California. Last week in sworn testimony to the State senate, three employees of the Duke energy plant in my district in Chula Vista, California, testified that they took the plant out of production for economic reasons. That is to boost the price of electricity at times, including the worst emergencies that were declared in California. At stage 3 alerts, the generators were taken down. They were told to throw away spare parts, so it would take longer to correct any problems that did appear. The manipulation of the market is clear. The illegal manipulation of the market is clear.

Mr. Speaker, all my colleagues should sign the discharge petition at the well this morning to make sure that we get a vote on restoring equanimity to the electrical markets of California, and consumers get refunds for illegal prices.

PRICE CAPS ARE A BAD IDEA

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

Mr. PITTS. Mr. Speaker, even though they violate every principle of free market economics, every principle of common sense, even though they would not produce one drop of oil or one watt of electricity, some Members keep calling for price caps.

Many of us have been trying to explain to the government—has-all-of-the-answers crowd why price caps are a bad idea. But, Mr. Speaker, some Members would rather score political points by claiming to have an easy answer, even though they will really be harming the consumers they pretend to be defending.

The Department of Energy released a study that showed that price controls would cause the California blackouts to get worse. There is no easy fix to this energy crunch, and we should not trust anyone who tells us it is possible to cure it through boosting production and greater conservation. If we have more supply and lower prices, there is no other way.

PATIENTS' BILL OF RIGHTS WILL NOT GENERATE LAWSUITS

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is interesting to hear this controversy being expressed as we cannot do this, and we cannot do that. Although I am here to talk about the Patients' Bill of Rights, I believe that the industry recognizes that something must be done to help Americans with the energy crisis, and I believe cooler heads would welcome the opportunity to put a moratorium on pricing.

But, Mr. Speaker, I want to talk about the misrepresentation of the Patients' Bill of Rights by its opponents, and I want to say there is no evidence that the insured will sue employers recklessly. There is no evidence that there will be frivolous lawsuits by those who are insured. I come from the State of Texas that has had a Patients' Bill of Rights for almost 5 years.

There is evidence that the Patients' Bill of Rights, the Ganske-Dingell bill, will provide every American the right to choose their own doctors and restore the patient and physician relationship, that it will cover all Americans with employer-based health care insurance, that it features all external reviews of medical decisions conducted by independent and qualified physicians and not HMO bureaucrats, that it will hold HMOs accountable. That is the evidence. We need to pass a real Patients' Bill of Rights.

RULE OF LAW PROHIBITS HARVESTING OF STEM CELLS FROM HUMAN EMBRYOS

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

Mr. PENCE. Mr. Speaker, I rise today as a strong advocate of the rule of law and the right to life. That is why I urge the administration to faithfully execute the 1996 law adopted by this Congress prohibiting the use of taxpayer dollars to finance the harvesting of stem cells from human embryos. Just last month the administration tried to trample this law through regulations is no excuse for this administration to fail in its oath to faithfully execute the laws adopted in this Congress. The clear language of the 1996 law, the high principle of the sanctity of human life and the enormous promise of adult stem cell research all argue that this President and this administration should choose life.

PUT MEDICAL DECISIONS BACK IN THE HANDS OF DOCTORS AND PATIENTS

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

Ms. McCOLLUM. Mr. Speaker, let us put medical decisions back in the hands of doctors and patients and ahead of special interests and their slick TV commercials. Let us pass a strong Patients' Bill of Rights.

In my home State of Minnesota, I worked very hard, and in Minnesota, like many other States, we have strong patient protection laws. Those who are covered under Minnesota law have access to specialists when they need them. Every American deserves that right. No one should have to jump through hoops or swim a sea of red tape to get the doctor they need when they need to see one. A patient's doctor knows when they need to see a specialist, and Americans should not have to wait for approval by some profit-driven bureaucrats.

Mr. Speaker, I urge my colleagues to support the bipartisan Ganske-Dingell bill. It is time for sound, responsible managed care reforms and meaningful patient protection.

THE RIGHT APPROACH TO ENERGY

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

Mr. STEARNS. Mr. Speaker, today Californians are experiencing rolling blackouts, rising energy costs and out-of-control gasoline prices. I fear that this will happen in the other States if we are not careful. The solution to our current energy crisis is simple; choose competition, not more regulation and price controls like the discharge petition that the Democrats are talking about.

Governor Davis, with the support of environmentalists and government control advocates, raised barriers and actively sought to prohibit the construction of new power plants. Now the Democrats in Washington want to make the Gray Davis approach to energy the national approach to our energy here in Washington.

Mr. Speaker, it is clear what the results will be if they achieve their goal. What is happening in California will happen in the rest of the country. Blackouts will roll from California all the way to the eastern seaboard. From family to farmer, all Americans will be affected. We do not want this to happen.

We need to have choice and competition, let there not be a recurrence. Let us take the right approach to energy, and work to increase production, reduce regulation and encourage conservation.
IT IS TIME TO PASS A REAL PATIENTS’ BILL OF RIGHTS

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

Mr. DAVIS of Illinois. Mr. Speaker, emergency room nurses are in town, and I commend and congratulate them for the outstanding work they do. This is also a great time to pass a real Patients’ Bill of Rights, one like the Ganske-Dingell bill that ensures that medical decisions come before business decisions, one that ensures that doctors and patients and nurses have the opportunity to decide what kind of treatment there ought to be. It ensures that external review of individuals who do not have a self-interest are the ones making the decisions and recommendations.

Mr. Speaker, it is not like the bill that was introduced yesterday, that allows HMOs to do their own reviewing, to have their own internal reviews to determine whether or not what they are doing is good and right. That is like having the fox guard the chicken house.

Mr. Speaker, if we want to be real, we will pass the Ganske-Dingell bill for real patients’ rights.

AMERICA HAS RESPONSIBILITY TO MEET MORE OF OUR OWN ENERGY NEEDS

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

Mr. BRADY of Texas. Mr. Speaker, even though President Bush inherited the energy problem, I appreciate that he is shooting straight with the American people about what it will take to have reliable, affordable and environmentally clean energy for our country.

America, we do have the responsibility to meet more of our own energy needs. Common sense tells us we will need a balanced game plan based on conservation, on new technology and new supply. There are no shortcuts, no Band-Aids, no steps that we can skip.

The discharge petition Members see today is, more Hollywood theatrics, more Band-Aids, and we simply cannot afford it. If we work together, Republican and Democrat, CEO and environmentalist, we are capable, and we can achieve energy independence.

Mr. Speaker, this issue is more than economics, it is one of national security. As long as America relies on OPEC and foreign countries for more than half of our daily energy needs, we are vulnerable. And there is no need why the most prosperous Nation in the world cannot take responsibility for our own energy needs. It is time for America to take responsibility for America’s energy.

THE PHARMACEUTICAL INDUSTRY IS AT IT AGAIN

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

Mr. SANDERS. Mr. Speaker, the pharmaceutical industry is at it again. This industry which has spent $200 million in the last 3 years to defeat all efforts to limit the cost of prescription drugs, this industry which uses 300 paid lobbyists here on Capitol Hill, continues to charge the American people by far the highest prices in the world for the same exact prescription drugs.

Mr. Speaker, American women should not have to go over the Canadian border to buy tamoxifen, a breast cancer drug, for one-tenth the price that it is charged in the United States. Seniors should not have to go to Mexico or Europe to pick up the same drugs for a fraction of the price.

Mr. Speaker, in a globalized economy, prescription drug distributors and pharmacists should be able to purchase and sell FDA safety-approved medicine at the same prices as in other countries. The passage of reimportation will lower the cost of medicine in this country by 30 to 50 percent. Let us pass the Sanders-Crowley-DeLauro amendment in the agriculture appropriations bill, which will allow Americans to get fair prices for their prescription drugs.

AMERICA NEEDS TO BE NET Exporter OF POWER, NOT Net Importer

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

Mr. SHIMKUS. Mr. Speaker, to my colleagues out West, I want to remind them the best way to get to a most efficient market is allow the market to work. If this country wants low-cost, reliable electricity, we must have a diverse energy portfolio. We must have coal, nuclear, hydro, renewables, and expand our base load generating capacity. If we want low-cost fuel, we need to drill for it and transport it and refine it. States need to be net exporters, not net importers of power generation.

Our country needs to be a net exporter of power, not a net importer of power.

Mr. Speaker, I applaud the State of Illinois and Governor Ryan for passing and signing the Empower Illinois Act, which will incentivize clean coal technology and generation in southern Illinois, and I applaud my colleague, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Kentucky (Mr. WHITFIELD), and support the Neely Jones Act. It is the same thing with a national energy policy, that we will push through the Committee on Energy and Commerce on the floor of the House later on this fall.

SOLVING ENERGY PROBLEMS

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

Mr. HAYWORTH. Mr. Speaker, if we could harness some of the wind power this morning, we could solve our energy problem. If we could take the blame game and convert it to Btus, we would have energy to last for a long time.

Mr. Speaker, we ought to bring in a lot of different people and put them under oath in front of the Committee on Resources, in front of our various oversight committees, and get the answer. I do not countenance any misconduct by anyone, but I will tell you what is interesting: when the Governor of California had a chance to put emergency generators online, he said, Oh, no. If those folks are not going to be union employees, I do not want to see them generators.

When the Governor of California had a chance to work out these problems, he took $1 million from the same utility companies my friend from Oregon
Along with conservation efforts, technological advancements will allow us to meet our energy needs for decades, even centuries to come. New technologies, like gasoline-electric hybrid cars, clean coal, hydrogen fuel, second-generation geothermal, and other such innovators, will allow us to solve the problems like those in California, while ensuring a clean environment as our legacy for our children.

Mr. Speaker, California’s fast-paced society is not capable of supporting itself through energy shortages and rolling blackouts. Neither is the rest of the country. However, since Governor Gray Davis has been showing more interest in his political consultants rather than his constituents, the crisis in his homeland has begun spreading like a catastrophe and has put the Nation on the brink of engulfing other States. It is time to take action now.

SUPPORT THE BIPARTISAN PATIENTS’ BILL OF RIGHTS
(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, let us get down to basics. Some health plans systematically obstruct, delay and deny care. Some health plans provide excuses instead of coverage. The bipartisan Patients’ Bill of Rights has enough teeth in it to deter health plans from cheating their enrollees and ensure enough definition in it to protect health plans and employers from frivolous lawsuits.

Yesterday, my Republican colleagues, the gentleman from Kentucky (Mr. FLETCHER), the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from California (Mr. THOMAS), introduced legislation endorsed by President Bush and written by the largest insurance companies in the country. It does not give enrollees the right to sue. The language is drafted so that the right to sue cannot actually be exercised.

The Republican bill is a sham. I ask President Bush to work with us to put insurance interests aside, to put campaign contributions from insurance interests aside, to work with us in the bipartisan Patients’ Bill of Rights. That is the bill that protects patients. That is the bill that restores the patient-physician relationship.

SUPPORT PRESIDENT’S SOUND ENERGY PLAN
(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, President Bush has outlined what I think is a sound energy policy that is both forward thinking and sensible, but opposed by his plan sound like a broken record, accusing the President of being anti-environment.

The assertion that we must choose between sound energy policy and healthy environment is simply not true. As an example, we need to look no further than the clean air standards for California, which have helped to bring the air pollution for fuel resulted in refineries using additives that produced clean air, but polluted the groundwater. That is, until the development of ethanol.

Ethanol is a biofuel that is produced from corn and grain sorghum. It protects our quality of air by reducing tailpipe emissions and greenhouse emissions. And as an added bonus, ethanol can provide help for our economy, especially our American farmers, and not for OPEC. I, for one, would rather depend upon the good graces of a Kansas farmer than foreign oil producers.

Mr. Speaker, I urge my colleagues to support the President’s sound energy policy.

REDUCING SUPPLY TO INCREASE PRICES
(Mr. TIERNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIERNEY. Mr. Speaker, people this morning have been talking about the energy situation, and I think it is important to talk calmly for a moment about some of the things that have been happening.

I happen to be a member of the Subcommittee on Energy of the Committee on Government Reform, and we have had hearings with the American Petroleum Institute and others from the industry testifying before us. Also, Senator WYDEN in the Senate has taken testimony on this matter.

It is important for the American people to know that there is strong evidence that the industry acted to make sure that they reduced supply so that they could raise costs. Senator WYDEN had thick documents, which I have just put on record in our committee hearing, showing over the last decade of the nineties there was too much refinery backlog for the companies, so they acted, or at least indicated they were going to act, to make sure that those refineries shrunk. Over 50 of them have closed.

Therefore, we did not have the kind of supply that we needed; and of course, that drove up demand and drove up price. Now that that is up there, the companies will tell you the reason we do not have enough fuel at reasonable prices is because we do not have enough refineries.

Now they are looking for the triple play. Instead of producing more and getting that in the pipeline and having more refineries, they now want to do away with environmental regulations. This is not something we should allow to happen. We should keep our eye on that industry and make sure we get something done for the consumer.
CALIFORNIA ENERGY CRISIS

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

Mr. HERGER. Mr. Speaker, we have an energy crisis. Eight years of Clinton-Gore no-growth energy and Federal environmental policies have left us facing frequent shortages.

In my home State of California, the population has grown by 4 million people over 10 years. The economy has doubled in half that time. Sadly, the radical environmentalists have prevented the construction of new power plants.

The equation is simple: more people and no power plants equal blackouts. Rather than place blame, President Bush has proposed a responsible solution that seeks to address our dire situation, supply while offering incentives to reduce demand.

While California is already the most energy efficient State in the country, the President’s comprehensive policy will promote new power plant construction. It is not necessarily political, but it recognizes that there are no quick fixes to the years of policies that forced us deep into the dark.

SUPPORT BIPARTISAN PATIENT PROTECTION ACT

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

Ms. DeLAURO. Mr. Speaker, Americans need a Patients’ Bill of Rights. Every single day we hear stories of patients whose health has been seriously jeopardized because their health plan has denied coverage. Each day 35,000 patients experience a delay in needed care and 7,000 patients per day are denied referral to a medical specialist.

Doctors are unable to make the best medical decisions for their patients because their hands are tied by the insurance companies. What we need to do is to return those medical decisions back to doctors and patients and out of the hands of insurance companies. We need a Patients’ Bill of Rights that grants access to specialists, allows patients to choose their own doctors, lifts physician gags that prohibit doctors from talking about medical options, allows for access to emergency rooms, and, yes, holds HMOs accountable for negligent actions.

These patient protections are long overdue. The Republican leadership has watered down meaningful bipartisan legislation to protect another special interest, the managed care organizations. They want to give HMOs special protection from lawsuits, while weakening patients’ ability to hold health plans accountable.

Vote for Dingell-Norwood. Support the bipartisan Patient Protection Act.

CONGRESSIONAL RECORD—HOUSE

BECOMING ENERGY SELF-RELIANT

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

Mr. REHBERG. Mr. Speaker, let us put all the political posturing and gamesmanship aside and be honest: the major causes of high energy prices this summer will be the lack of domestic energy production and the absence of new investments in the electricity generation facilities needed to meet the growth experienced over the last decade.

That is why becoming more energy self-reliant is so important. If we want an uninterrupted supply of energy, then we need more American oil, American gas, and clean coal. In Montana alone, we have several hundred years’ worth of natural gas and coal deposits. Current estimates place place coal resources on the current 250 billion tons, two-thirds of which is low-sulfur, clean-burning coal.

In developing these resources, it is important that we keep in mind that America has some of the highest environmental standards and most advanced technology in the world. Our strict laws do a good job of ensuring our environment is protected.

The bottom line is this: relying upon foreign sources of energy for the first time is a clear indication that America is a country that pays a utility bill or puts gas in the tank within the last month and knows we have an energy crunch in this country.

SUPPORT A REAL PATIENTS’ BILL OF RIGHTS

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

Ms. CARSON of Indiana. Mr. Speaker, as many of you know, when I was elected to the United States Congress, prior to being sworn in, I had to walk into a hospital in Indianapolis, Indiana, and announce that I believed I was on the verge of a heart attack. Because I was an elected Member of Congress, I did not have to get permission from anybody to get the best medical services that Indianapolis, Indiana, had to offer. That is why I stand before you today on behalf of all of the people who seek the services from HMOs who do not happen to be a Member of the United States Congress.

The President of the United States claims credit for the HMO reform bill that passed in Texas when he was Governor. You would think that a person who claims credit for an issue would work hard to put it into practice at his new job.

It is not right for the HMOs to take money from people they are supposed to serve and then deny them the service when those same people need help. We need to pass the Patients’ Bill of Rights bill that holds health plans accountable when they harm a patient, protect patients from paying out of pocket for emergency room services, provide an independent appeal process, and guarantee that treatment decisions are based on medical, and not financial, concerns. Those were included in Texas law.

The President needs to stop trying to negotiate away from his own law, and support the same bill he said he supported in Texas, the Dingell-Ganske-Norwood Patients’ Bill of Rights.

A BALANCED APPROACH TO ENERGY

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

Mrs. WILSON. Mr. Speaker, it costs $1.60 cents a gallon when I filled up my tank on the corner of Alameda and 4th Street this weekend. Anybody in this country that pays a utility bill or puts gas in the tank within the last month knows we have an energy crunch in this country.

I think everybody, most everybody, knows that Band-aids are not answers, and there are not any quick fixes that are going to solve the problems of energy in this country. I need a balanced, long-term approach, no Band-aids, no quick fixes, to give us stability in our energy markets.

I think it is too important to do anything but the right thing. That is going to require all of us to work together to do the right thing. We need to start with conservation. We made tremendous progress in this country with conservation in the last 20 years; and we are not going back, and nobody wants to. But we also have to increase the supplies of energy in this country, responsibly explore for energy in nonpark land, and give ourselves a mix of supply. It is only the balanced approach that will give us the energy that we need.

BAN DRILLING FOR OIL AND GAS UNDER GREAT LAKES

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

Mr. STUPAK. Mr. Speaker, I rise today to remind my colleagues that today as we do the energy and water bill there will be an amendment by the gentleman from Michigan (Mr. Bonior), the gentleman from Ohio (Ms. KAPTUR), the gentleman from Ohio (Mr. LaTOURETTE), and myself to ban the practice of drilling for gas and oil underneath the Great Lakes.
CONGRESSIONAL RECORD—HOUSE

June 27, 2001

Ms. SOLIS. Mr. Speaker, I would just like to let our colleagues know that today in the State of California, one of the newest generators on Energy Over-sight and talked about all the earnest effort that he has made, and Californians, to conserve energy.

Now, we deserve more attention and support by FERC and this administration. We should provide more energy funding for renewable energy, for con-servation, and obviously provide relief for those ratepayers, the people that pay the bills. We expect to see a refund. Maybe it will not be the $9 billion that Gray Davis is asking for, but surely the people of California and the Western States that are suffering from this energy crisis deserve the very best atten-tion. They are grappling with this problem. They need to have our sup-port.

Mr. Speaker, I ask all Members today to sign the discharge petition, because it is necessary for us to send a message to all citizens of the United States that we are with them on the energy conservation measures.

THE JOURNAL

The SPEAKER pro tempore (Mr. SHAW). Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker’s approval of the Journal. The question is on the Speaker’s ap-proval of the Journal.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic de-vote, and there were—yeas 368, nays 49, answered “present” 1, not voting 15, as follows:

[Roll No. 195]

YEAS—368

CONGRESSIONAL RECORD—HOUSE

Whereas two civilians and dozens of firefighters were injured by the blaze, including firefighters Joseph Vosilla and Brendan Manning who were severely injured; whereas John J. Downing of Ladder Company 163, an 11-year veteran of the department and resident of Port Jefferson Station, and a husband and father of two, lost his life in the fire.

Whereas Brian Fahey of Rescue Company 4, a 14-year veteran of the department and resident of East Rockaway, and a husband and father of three, lost his life in the fire: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters, and recognizes them for their bravery and sacrifice;

(2) extends its deepest sympathies to the families of these three brave heroes; and

(3) pledges its support and to continue to work on behalf of all of the Nation's firefighters who risk their lives every day to ensure the safety of all Americans.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes. The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

HONORING JOHN J. DOWNING, BRIAN FAHEY, AND HARRY FORD, WHO LOST THEIR LIVES IN DUTIES AS FIREFIGHTERS

Whereas Mrs. JO ANN DAVIS of Virginia, Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 172.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 172, and I commend its sponsor, the distinguished gentleman from New York (Mr. GUTTENBERG) for introducing it.

This resolution honors three fighters, John J. Downing, Brian Fahey, and Harry Ford, who lost their lives fighting a fire in Queens, New York, earlier this month.

The resolution also expresses the deepest sympathies of this House for their families. Finally, Mr. Speaker, it pledges that the House will continue to support and work for all American firefighters who risk their lives every day to keep us all safe.

On June 17, 2001, 350 firefighters and numerous police officers responded to a 911 call that sent them to Long Island General Supply Company in Queens, New York; and an explosion in a two-story building had turned the 128-year-old, family-owned store into a heap of broken bricks, twisted metal, and shattered glass; whereas all those who responded to the scene served without reservation and with their personal safety on the line;
Two civilians and dozens of firefighters were injured by the blaze, including two firefighters who were severely injured.

The three firefighters who died were veteran firefighters. Mr. Downing had served for 11 years; Mr. Fahey for 14 years; Mr. Ford for 27. They left behind grieving families. Mr. Downing was a husband and father of two.

Mr. Fahey is survived by his wife and three children. Mr. Ford was a husband and father of three. Nothing this House can say or do, Mr. Speaker, will lessen the losses these families have experienced. At best, we can hope that they will be somewhat comforted by our recognition and appreciation for their loved ones' bravery.

As the House considers this resolution, I also ask my colleagues to remember the dangers and risks that firefighters voluntarily assume every day across the country. By honoring these brave men, we will also honor the sacrifices of all those firefighters who lay their lives on the line day in and day out to protect their neighbors.

On a personal note, Mr. Speaker, I will add that I am the wife of a retired city fire chief. I am personally acquainted with the dangers and challenges that firefighters encounter and extend my sympathies to these families that have lost their fathers and husbands. Those of us whose family members have served as firefighters without suffering serious injuries can count our blessings and can empathize with the loss they must feel. I encourage all Members to support this resolution.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

On Father's Day, three brave firefighters died when a massive explosion suddenly ripped through a Queens hardware store, burying them under a avalanche of rubble.

John J. Downing, Brian Fahey, and Harry Ford lost their lives when what seemed like a routine fire turned into a five-alarm blaze. The devastation marked the deadliest day for the New York Fire Department since three firefighters were killed in a pre-Christmas 1998 high-rise blaze in Canarsie, Brooklyn.

The names of Downey, Fahey, and Ford will one day be added to the Fallen Fire Fighter Memorial Wall in Memorial Park in Colorado Springs, Colorado. In front of the memorial wall is a statue called, “Somewhere Everyday.” Somewhere every day firefighters are engaged in acts of heroism and saving lives, as these firefighters were doing on Father’s Day. The “Somewhere Everyday” statue depicts a firefighter descending a ladder and taking the last step of a successful rescue while clutching a child safely within his arms. The rubble from the fire forms the base of the tribute.

In the rubble of the Long Island General Supply Company building are the shattered lives of three wives, eight children, and other family, friends, and colleagues. The memorial is dedicated to them and all that they have lost. I would only hope that they find comfort in knowing that Downey, Fahey, and Ford died doing what they loved and fulfilling their promise to keep their communities safe and the lives and homes of the people they served secure.

Mr. Speaker, I urge support for this resolution.

Mr. Speaker, I ask unanimous consent that I be allowed to yield the rest of my time to a fellow fireman from New York (Mrs. MALONEY) to manage.

The SPEAKER pro tempore (Mr. SHAW). Is there objection to the request of the gentleman from Illinois (Mr. GRUCCI)?

Mr. GRUCCI. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, first of all, I would like to take this moment to thank my fellow colleagues in the New York delegation, Governor George Pataki, the Committee on Government Reform, and the Congressional Fire Services Caucus for joining me in honoring these brave men today.

House Resolution 172 honors the memory of the three heroes who lost their lives in the line of duty on Sunday, June 17, 2001. It was a sad Father's Day, when eight children lost their dads and three wives became widows. These men, Harry Ford, 50, of Long Beach; Brian Fahey, 46, of East Rockaway; and John J. Downing, 40, a resident of Port Jefferson Station in my congressional district gave their lives fighting a fire in an effort to save the lives and properties of the people of New York. On that day, as on every other day in their careers, they lived up to the motto of the New York City Fire Department, “New York’s Bravest.”

Along with their fellow firefighters from Rescue Company 14 and Ladder Company 13, Harry Ford, John Downing, and Brian Fahey responded to what they believed was an ordinary five-alarm commercial fire at 2:20 p.m. at a hardware store in Astoria, Queens. As they were battling the blaze, the explosion ripped through the building, trapping firefighters Downing and Ford beneath the rubble of the building’s facade and firefighter Fahey beneath the basement stairwell.

Their fellow firefighters valiantly worked to save them, some waffing off the chemical attentions they themselves needed for injuries sustained in the explosion, as they desperately removed the rubble with their hands. Sadly, these three men had perished.

John Downing, a resident of New York’s First Congressional District, was a loving father of two children, Jo-anne, 7, and Michael, 3, and the husband of Anne, who he married 11 years ago. He was one of seven children in the Downing family, growing up in Woodside, Queens. John was one of four Downing children who went on to pursue public service as a career, joining his brother Dennis as a firefighter, while his brothers James and Joseph became police officers.

Everyone who knew John called him a hero in every sense of the word. Every day he was on the job for the past 11 years as a firefighter. John always gave his all and did his best, whether it was fighting fires or helping firefighters to work better. Everyone in the firehouse knew they could count on John. Knowing this, it was no surprise when firefighter Downing was on the front page of the New York Daily News 3 years ago. He was pictured on that front page as a hero once again, rescuing passengers from a commercial jet that had gone off the runway at LaGuardia Airport into the chilling waters of Flushing Bay.

Firefighting was not John’s entire life, though. He was a family man, doting over his two children and devoted to his wife. In recent weeks, he had been working a second job to bring his family on their first real summer vacation to Ireland, to visit the relatives of his family and his wife. Sadly, when the alarm for his last fire came in, John was just 2 hours away from ending his shift and beginning that vacation. And the alarm he put down the study book he had been reading, preparing to take the exam to become a lieutenant in the fire department, grabbed his gear and answered his last call.

Like other firefighters, these brave men risked their lives every day that they went to work, all in the name of protecting their fellow man. We all sleep a little easier each night, go to work with an easier mind every day, and entrust our children in our schools because we know that men and women like John Downing, Harry Ford, and Brian Fahey stand ready to protect our lives, our families, and our homes.

Colleagues, please join me in supporting this resolution that recognizes the heroism and sacrifice of all firefighters, and particularly of these three brave men.

Mr. Speaker, I will submit for the RECORD the full letter from Governor George Pataki, but the letter simply says: “The five-alarm blaze that engulfed the Long Island General Supply
Company presented a tremendous hazard to Astoria, Queens, neighbors. More than 350 firefighters responded to the scene to ensure the safety of these citizens and their community. In the ensuing battle to extinguish the fire, 50 firefighters were injured, and sadly these three firefighters gave the ultimate sacrifice. Their efforts prevented the fire from spreading; and as a result, no civilians were injured. This tragedy serves as a reminder to all of us that, each day, New York State’s bravest perform their duty with the highest degree of distinction and valor by forsaking their own lives to the benefit of others.

Thank you for offering this resolution and providing the House of Representatives the opportunity of honoring not only these men but all firefighters who readily risk their lives throughout the Nation.” Signed in the signature of Governor George E. Pataki.


Hon. FELIX GRUCCI, House of Representatives, Washington, DC.

DEAR CONGRESSMAN GRUCCI: I want to commend you for your efforts in honoring John J. Downing, Brian Fahey and Harry Ford, the courageous firefighters who tragically lost their lives in the line of duty on June 17, 2001. We all continue to mourn for the family and friends of our fallen heroes.

The five-alarm blaze that engulfed the Long Island General Supply Company presented a tremendous hazard to its Astoria, Queens neighbors. More than 350 firefighters responded to the scene to ensure the safety of these citizens and their community. In the ensuing battle to extinguish the fire, 50 firefighters were injured, and sadly these three firefighters gave the ultimate sacrifice. Their efforts prevented the fire from spreading and caused the violent explosion that took the lives of these men. Because the tragedy does not reoccur so that the selfless sacrifices of these three men, heroes to all New Yorkers, were not in vain.

One of my colleagues is the author of the Fire Safety Act, and I yield to the gentleman before he returns to his committee.

Mr. PASCRELL. Mr. Speaker, we are here to salute brothers Downing, Fahey, and Ford. Too many times, my brothers and sisters here in the Congress, we have forgotten the other half of the public safety equation.

Our words are significant and important. I join with the gentlewoman in sympathy, but we need to do something in the House of Representatives that sends a clear message to all 32,000 fire departments and all 1 million firefighters that we stand with them; otherwise, their deaths will have been in vain.

Mr. Speaker, I encourage Members to join and fund what we say we are going to do. God bless these heroic men and their families.

I thank Congresswoman MALONEY of New York and Congressman GRUCCI for allowing me the opportunity to speak on this important resolution.

As a former mayor of a medium-sized city, I know the importance of fire protection and the role that we play in what I call the Public Safety Equation. And although their role is often forgotten, firefighters risk their lives every day to save ours.

On June 17, 2001, three more firefighters gave their lives in the line of duty. John J. Downing, Brian Fahey, and Harry Ford—all long-time veterans of their respective fire companies and all men with families—made the ultimate sacrifice as they battled a fire in Queens, New York on that fateful day.

It is important to remember these men and those before them, because they truly are heroes.

And it is important that we put our money where our mouths are, and not just sing the praises of firefighters at local parades and in
small town meetings. Instead, we need to make sure that we are providing adequate support for fire departments around the country to supplement their responsibilities.

Next month, the VA–HUD Appropriations bill will be marked up. This bill will include, hopefully, continued funding for the Firefighter Assistance Grant Program that was authorized last year.

This bill will provide competitive grants directly to the over 32,000 paid, part-paid and volunteer fire departments across America.

As a result of the unity and commitment of firefighting community and its supporters, the President has returned funding for this program to his budget.

In order for this program to really help firefighters, it must be funded appropriately—and that is $300 million.

And let’s provide this funding with the same bipartisan zeal that we have displayed throughout the process. That is only appropriate. When firefighters run into a burning building, they don’t ask the people they are saving if they are Democrats or Republicans—and we owe them the same commitment.

Let’s not just speak our thanks on the House Floor. Let’s demonstrate our support and provide firefighters with the resources they need to do their job.

Let’s do it for John J. Downing, Brian Fahey, and Harry Ford and their families. Let’s do it for every firefighter in every department in every state. It’s the least we can do.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I commend our colleague, the gentleman from New York (Mr. GRUCCI) for his continued dedication to our Nation’s firefighters and for the work he has done, along with Members on both sides of the aisle in bringing this resolution before the House today.

Each year, thousands of men and women risk their lives to protect the lives and property of all of American communities. Sadly on June 17, Father’s Day, three firefighters died in their line of duty fighting fire in Astoria, Queens; Brian Fahey and Harry Ford, from Rescue Company 4, and John Downing, from Ladder Company 163, were not only firefighters and fathers, they were prime examples of experienced men that our New York communities have to offer. Brian Fahey was a 14-year veteran, a skilled instructor, who left behind a wife and three children.

John Downing had three children and was planning a trip to Ireland; and Harry Ford, who was a father of three, was cited nine different times for his outstanding bravery. All three were Irish Americans whose lives will not be forgotten by their families or their communities.

Mr. Speaker, we are here today honoring their lives and giving thanks for the outstanding courage and bravery of these three heroes. They are within the sound of my voice, what I did on the day of the burial of those six heroes in Worcester, the next time when taking a stroll in the neighborhood when walking past a fire house, stop by, say hello and say thank you to the firefighters. Look them in the eye and say thank you for putting their lives on the line for us and our families 365 days a year.

At the same time, let us take advantage of this opportunity to again pledge our support for all the dedicated firefighters who work each day risking their lives protecting both the lives and property of our citizens. It is unfortunate that it takes a tragic event such as this to initiate a dialogue of the profound sentiment we all feel about our brave firefighters, our police officers, our soldiers, and all of the men and women who ask them to risk their lives for the sake of others. Every town, community, and nation is founded on the sacrifices of those men and women willing to risk their lives for the betterment of others. I urge my colleagues to join in fully supporting this measure, H. Res. 172.

Mrs. MALONEY of New York. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. McNULTY).

Mr. McNULTY. Mr. Speaker, I am honored to join my colleagues today in saluting and expressing our condolences to their families.

What happened on Father’s Day this year is a very sad reminder of what happens all too often in this country. It reminded me specifically of that sad day a couple of years ago when we lost six of our firefighters in that tragic fire in Worcester, Massachusetts.

Mr. Speaker, I have spent a lot of time with firefighters during the course of my career. I had the tremendous honor of serving as the mayor of my hometown, as my father did before me and as he does to this very day at the age of 90. In the course of our careers, we had the opportunity to work with and interact with many outstanding firefighters. Today I spend some of my leisure time with my firefighter friends at Engine 1 in Troy, New York, named for the late Harry Dahl, who gave 44 years of his life in the fire service in the city of Troy. New York. I have seen firsthand the dangers that firefighters face every single day of their lives.

Also a few years back, from the neighboring city of Watervliet, responding to a mutual alarm in Troy, New York, our fire chief, Tommy McCormack, lost his life in the line of duty.

Mr. Speaker, nothing can bring back John or Brian or Harry, but I suggest that there is something that we can do. We can express our gratitude to all of the firefighters who are serving us today. And so today I suggest to all of those who are within the sound of my voice, what I did on the day of the burial of those six heroes in Worcester, the next time when taking a stroll in the neighborhood when walking past a fire house, stop by, say hello and say thank you to the firefighters. Look them in the eye and say thank you for putting their lives on the line for us and our families 365 days a year.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I commend my friend from Long Island, the gentleman from New York (Mr. GRUCCI) for bringing this resolution to the floor.

Mr. Speaker, for those of us who honored our fathers on Father’s Day, it was pouring rain that day. The whole morning looked like the day was going to be ruined. About 2:00 the sun came out in Staten Island and worked its way eastward. There was a call in Queens about that time, and it seemed to be a routine fire. It did not look like it was a big deal until we discovered the news which has been echoed here, that three brave firemen lost their lives.

The purpose here today is to take a moment to honor those men who bravely gave their lives; and to say to the other firemen that their brothers did not die in vain. Their families who survived, the children, our hearts and prayers go out to them; and I hope through their faith they are able to come through this tragedy with the knowledge that others share their grief.

Mr. Speaker, the New York Fire Department in particular is a wonderful resource. In Staten Island, we have lost too many firefighters: Captain John Drennan, Scott Lapedera, George Lenner, Chris Sidenberg. These are young heroes who died way before their time.

Mr. Speaker, so to the families especially, know that Members of Congress, Democrats and Republicans, really honor what those brave men did; and we will miss them.

Mrs. MALONEY of New York. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, I rise today in support of my colleagues, the gentleman from New York (Mr. GRUCCI) and the gentlewoman from New York (Mrs. MALONEY), and thank them for offering this resolution to memorialize John Downing, Brian Fahey, and Harry Ford, three of New York’s bravest.

They were members of the New York City Fire Department who were killed in the line of duty on Father’s Day, Sunday, June 17. Each of these men was a decorated veteran of the fire department. Harry Ford was a 27-year veteran; Brian Fahey had served for 14 years; and John Downing had served for 11 years. Words alone cannot express the sadness that we all feel about the deaths of these men. I can only begin to express my sympathy for their families, especially the eight children now left behind.

This resolution has been introduced in my district in the Seventh Congressional District in Queens. Harry Ford and Brian Fahey worked at the elite Rescue 4 Unit just up the block from where I
grew up, and John Downing of Engine Company 163 also stationed in Woodside, although lived on the Island, grew up in Woodside, was schooled in St. Sebastian School, and was buried out of St. Sebastian’s Church on Friday.

Mr. Speaker, last Friday I had the opportunity to attend the funeral of John Downing, and I sat with his family and the families of the other firefighters that were killed, the Ford and Fahey families. I sat with his colleagues, including my first cousin, Battalion Chief John Moran, who was injured in that fire and spent 2 days in the hospital himself after smoke inhalation trying to recover Mr. Fahey’s body.

Mr. Speaker, I was reminded by this experience that the New York City firefighters were the bravest men and women in the United States. Heroic action taken by the men and women of the New York Fire Department is something that occurs on a daily basis. To those who worked alongside them, I want to take the opportunity to say thank you for the job that they do every day. I am heartened to see the outpouring of sympathy and affection that has been expressed throughout New York and in my home district of Woodside for these brave men who fell in the line of duty on Father’s Day.

Mr. Speaker, I hope we can let the example of these three heroes serve as an example for all of us. Mr. Speaker, these heroes made the ultimate sacrifice in the line of duty. I know? Members join me in paying tribute to their sacrifice in the line of duty. We are the beneficiaries; and it is only when something as tragic as this Father’s Day incident occurred, that it drives home to us just how brave they are, just how much they put their lives on the line, day in and day out. I cannot imagine what a dangerous job, I cannot imagine what a tragic death, than what these three firefighters went through.

Mr. Speaker, let me say my best wishes and condolences to the families of the other firefighters. Many of them are volunteers. I want to give my highest respect to Harry Ford and Brian Fahey are both constituents of mine, Harry Ford from Long Beach and Brian Fahey from East Rockaway, his wife and three children. They really epitomize what the New York City Fire Department is all about. Of course, as the gentleman from New York (Mr. Crowley) said, John Downing grew up in the community adjacent to Woodside, where I also grew up, and which is now so ably represented by the gentleman from New York (Mr. Crowley).

I say this, I make the personal connection only because I think too often we take for granted that so many of the men and women we know who are firefighters are doing such a courageous job day in and day out, and yet we take it for granted; we assume they are going to do the job. It is only when something so tragic and momentous as this terrible Father’s Day incident occurred, that it drives home to us just how brave they are, just how much they put their lives on the line, the line in and out. I cannot imagine what a dangerous job. I cannot imagine what a tragic death.

So I today join with all of my colleagues in expressing not only our condolences, but also our thanks and gratitude for what firefighters in New York City, Long Island, throughout our State and throughout our Nation do. Every day they put their lives on the line, we are the beneficiaries; and it is unfortunate that it takes something as tragic as this Father’s Day disaster to remind us of just how deserving these men and women are of our undying thanks and gratitude.

Mr. Speaker, I yield 2 minutes to my friend, the gentleman from New York (Mr. Israel).

Mr. Israel. Mr. Speaker, let me thank my distinguished colleague, the gentlewoman from New York (Mrs. Maloney), as well as my friend and neighbor, the gentleman from Long Island, New York (Mr. Grucci), for bringing this resolution to the floor.

Mr. Speaker, even as a new member of the Congressional Fire Services Caucus, I believe that no Member of Congress’ words can adequately describe the loss that we have suffered. So I would like to include in the Record today excerpts of a recent Newsday editorial entitled, “For Firefighters, Risk of Death Is All in a Day’s Work.”

The editorial said: “The editors and job has not changed that much over the years.” George Burke of the International Association of Firefighters said yesterday. “While most people run away from disasters, firefighters are paid to run straight into them. And for all of the recent equipment advances, emergencies still are the precious few.” A building filled with working firefighters can suddenly explode like a bomb. Or a flaming roof can collapse. Or a wooden floor can give away without warning. All of this may easily explain why fire fighting is still the nation’s most dangerous public sector job.

On Father’s Day afternoon three members of the New York Fire Department, Harry Ford, John Downing and Brian Fahey, died as they tried to protect residents of Astoria, Queens, from the dangers of a horrific hardware store fire. All told, the three men leave behind eight children.

In addition, two other FDNY members were seriously injured in the disaster, Joseph Voslilla and Brendan Manning, and some 50 more were less seriously hurt. This goes with the territory as well. Burke says 40 percent of all firefighters nationally suffer an injury in the line of duty every year.

“We have lost 3 very brave firefighters,” Mayor Rudolph Giuliani said on Sunday of Ford, Fahey and Downing. “This is one of the most tragic days that I can remember.”

The mayor is right about that, and I join the rest of the New York delegation and all Members of Congress in offering my condolences to the families and fellow workers of these selfless men.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Weldon).

Mr. WELDON of Pennsylvania. Mr. Speaker, as my colleagues know, I would not be in this body, I would not be in politics, were it not for the fire service. I grew up in a firehouse family, and I became president and chief of my fire company, went back and got a degree in fire protection and helped train the firefighters from 80 companies before I came here.

It is tragic that we have to come to talk about the fire service when we have funerals. I have been to hundreds of firefighter funerals in this city, in New York, and around the country.

We have lost over 100 firefighters. Many of them are volunteers. Because we have 1.2 million firefighters in the country out of 32,000 departments, each year 100 of them die.

We come today to pay the respects for three more heroes who made the ultimate sacrifice, three ordinary people doing extraordinary things, who left behind children, who had dreams. In fact, John Downing was about to go on his vacation the day after he was killed in that tragic fire. Harry Ford and Brian Fahey were outstanding professionals in every sense of the word.

We come today to honor them, and I want to give my highest respect to
Mr. WEINER. 

The total funding for the fire service up until last year was zero, nada, even though we are now asking them to deal with international incidents, like terrorism. The World Trade Center bombing, which I attended, was handled with Fire Department firefighters from New York City.

So I say the highest honor that we can bestow upon these three individuals is to renew our efforts to increase funding to give the proper technology to these heroes nationwide. They deserve thermal-imaging protection. They deserve turnout suits. They deserve the kind of GPS systems to allow them to do their job. They deserve the training to deal with toxic gasses, and maybe even putting a man down on someone's face in the well-recognized effort to save a cat out of a tree. Firefighters are our best friends.

And to those eight children of those brave heroes, we have a responsibility to support the families, and to all the unspoken heroes who risk their own lives to save others like them. Perhaps this is an opportunity for us the next time we walk by our local firehouse to stick our head in and say thank you.

To those eight children who lost their fathers on Father's Day, there are no words that can comfort you, except that you should know that your fathers were true American heroes and we in the United States House of Representatives pay tribute to them today.

Mrs. MALONEY of New York. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding me time. I thank the sponsor of this legislation, and I come as a friend to the floor of the House.

The last couple of days I have been talking about Houston and the tragedies that we have faced. In facing those tragedies, the key element of helping to recover those people who were in need in Houston were firefighters. So I come today to pay honor to the New York firefighters, John Downing and Brian Fahey and Harry Ford, who lost their lives on Father's Day.

This is simply a statement to say that those of us grown up looking at the firefighters as major heroes, tall, now men and women, still continue to admire them for the sacrifice they make every day on our behalf.

Firefighters save lives on a daily basis, whether it is resuscitating a victim; whether it is getting a frightened family out of a burning building; whether it is dealing with hazardous toxic wastes, and maybe even putting a small child on someone's face in the well-recognized effort to save a cat out of a tree. Firefighters are our best friends.

And to those eight children of those wonderful men, might I say to you that your fathers will continue to be American heroes. How sad that they lost their lives on Father's Day; but how important it is for us to never, never forget.

Tonight and every other night we might think in our prayers to say thank you for the firemen and women who serve the kind of job that none of us desire; and as a tribute to these three brave American heroes, I pledge my continued support to make the building, so they are not trapped by toxic gasses, so they know what funding to give the proper technology and training, which I attended, was handled with Fire Department firefighters from New York City.

On Sunday, June 17, 350 firefighters and numerous police officers responded to an emergency call at the Long Island General Supply Company in Queens, NY. During the course of the battle to save the blaze, two civilians and dozens of firefighters were injured, two of whom were injured severely. Tragically, three firefighters were killed in the course of their duty as firefighters: John J. Downing of Ladder Company 163, a husband, a father of two, and an 11-year veteran; Brian Fahey of Rescue Company 4, a husband, a father of three, and 14-year veteran; and finally, Harry Ford of Rescue Company 4, a husband, a father of three, and 27-year veteran.

Mr. Speaker, this resolution honors these great heroes of our community who made the ultimate sacrifice of their lives so that we all may sleep better and safer at night. This resolution expresses our deepest sympathy for their families of these brave heroes, and pledges our support and work on behalf of all our heroes.

To all of those who lost in this blaze, the families, and to all the unspoken heroes who fight for us and risk life and limb each and every day, this Congress expresses its sincerest gratitude on behalf of the American people. Your commitment and sacrifice will live on in all of us forever.

Mrs. MALONEY of New York. Mr. Speaker, I include for the RECORD information for the memorial for all of our fallen heroes and our tributes today for our three heroes from New York City.

The Memorial, Memorial Park, Colorado Springs, CO

“Somewhere—Everyday”

“Somewhere—Everyday”, is the copyrighted title given to the 11 foot, “Heroic” bronze Memorial statue by Artist and Sculptor Mr. Gary Coulter since it is with this frequency that somewhere every day Fire Fighters are engaged in acts of heroism and saving lives. All the firefighters give the ultimate sacrifice . . . their lives, in the line of duty. Mr. Coulter has captured the last step of a successful rescue while clutching a child safely within sheltering arms. The rubble of fire forms the base of this magnificent tribute of dedication and heroism. Mr. Coulter designed, with purpose, unequal beams of the 17 foot tall ladder. In the “art” world, “unequal, parallel, lines define infinity”. As Gary stated, Fire Fighters acts of heroism does just that . . . it will always be that way!

“Somewhere—Everyday” weighs 2,600 pounds, its base extends 40 feet into the ground to bed rock. Somewhere—Everyday, was delivered to the Fallen Fire Fighter Memorial Committee in 1987 after nine months of work and a cost of $60,000. This remarkable sculpture was dedicated October 15th, 1987.

The Memorial statue is the Wall-of-Honor containing names of Fire Fighters that have died in the line of duty since 1976. There have been countless numbers of Fire Fighters prior to this year that have made the ultimate sacrifice. 1976 is however when the United States Congress passed a bill titled the Public Service Officers Benefit and the United States Congress passed a bill titled the Public Service Officers Benefit and the Uniformed Services Officers Benefit Act and began real recording of deaths in the line of duty of Fire Fighters. This does not take away any feelings the Brotherhood of Fire Fighters. This does not take away any feelings the Brotherhood of Fire Fighters. This does not take away any feelings the Brotherhood of Fire Fighters. This does not take away any feelings the Brotherhood of Fire Fighters. This does not take away any feelings the Brotherhood of Fire Fighters.
June 27, 2001

CONGRESSIONAL RECORD—HOUSE

line-of-duty. It is further reason to identify, in silent tribute, the immeasurable numbers of devoted, courageous acts of heroism for accurate inscriptions.

Fire Fighters are all: Part kid, adult, husband, father, or mother. They all are in real life human and have families. A Fire Fighters’ family struggles daily as their “Hero goes off to work without security to knowing if their loved one will be hurt before seeing him/her again. They all know the dangerous profession that has been chosen by their special person. With every call, there is uncertainty tugs at heart-strings” in a way that only a Fire Fighters’ Wife, Husband, Mother, Father or Family feels. It is to them that this Memorial is dedicated. Special people... caring and living in a very special way.

—LAMENTATIONS"

A gallant, noble sacrifice, a selfless life laid down:
So rare this servant’s worth, no greater treasure found.
No greater act of decency, no greater human love,
No greater courage demonstrated by lives they gave.

This tribute to unselfish hearts today will testify,
that health and safety have a price,
and brands upon our memory forever will the gravestones shield
into tomorrow cast,
that health and safety have a price,

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and brands upon our memory forever will the gravestones shield
into tomorrow cast,
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I urge all Members to support this resolution.
Mr. HOYER. Mr. Speaker, I rise today in support of honoring New York City firefighters John Downing, Brian Fahey, and Harry Ford. Mr. Speaker, these three brave men made the ultimate sacrifice on June 17th when they responded to a fire at a hardware store in Queens in the early afternoon.

Some might have called it a routine call. All three men were veterans of the department and had between 11 and 27 years of experience in one of theliest departments in the country. Undoubtedly they had all been on this type of call hundreds of times before.
Unfortunately, no call in the fire service is ever really routine. Every 82 seconds in this country the call for help goes out to America’s firefighters. And when that alarm bell rings, the men and women of the fire service know all too well that the call could be their last.
Every year in this country we lose about 100 firefighters in the line of duty. A number that I consider appallingly high. An additional 45,000 firefighters suffer injuries—some of them permanently debilitating. When you factor in training accidents and injuries sustained responding to calls, the number tops 88,000.
I did not know firefighters Downing, Fahey, or Ford. But they say that the measure of a man’s character is his service to others. By this standard these men were giants for the sacrifice they made. I urge all of my colleagues to support this resolution.

Mr. WALKER. Mr. Speaker, I also rise in support of House Resolution 172 to honor fallen New York City Firefighters John J. Downing of Ladder Company 163, Brian Fahey, and Harry Ford both of Rescue Company 4. These men made the ultimate sacrifice in carrying out their sacred duties this past Father’s Day, June 17th when responding to what trag ic fire at the Long Island General Supply Company in Queens, New York our state lost three brave heroes, three dedicated fathers, and three devoted husbands. Words can not de scrive the debt of gratitude we as a nation owe these fine men. I join my Colleagues in expressing my deepest sympathies to their families.

At 2:20 p.m. that Sunday the alarm came in. As they had done so many times in the past, for so many years, Firefighters Downing, Fahey and Ford responded to the call without hesitation. At first, the blaze appeared to be small, but as it burned outside, a massive explosion erupted turning the 128-year-old store into a heap of rubble. In the wake of the blast, these brave men had answered their final alarm trying to enter the building to do a job they had accomplished so many times before.

Much like the 1.7 million firefighters across the nation including the volunteers and paid professionals in my own district in Central New York, these men and their families knew and accepted the risks associated with the nature of their work. Each and every day, when ever the fire whistle blows, fire bell rings, or fire pager sounds, the firefighters in our country respond in an instant, working to protect and secure the lives and property of others and ready to make the same sacrifices that were made for our Quee Father’s Day.

As we honor our fallen heroes from New York City, we must also remember the brave men and women who fight fires on a daily basis in our country. From fighting structure fires to rescuing entrapped victims at motor vehicle accidents, our nation’s firefighters are fearless in practicing the laws of God, as they are brave in protecting the lives and property of their fellowmen. Firefighters Downing, Fahey, and Ford took this spirit to the ultimate limit. We are fortunate to have so many firefighters like these men, firefighters who believe in what they are doing, and who will fight to the very end for what they believe. For this, I pay tribute to them as well as to all the brave firefighters across our nation.

Mrs. JONES of Ohio. Mr. Speaker, I rise today to talk about issues of public safety. H. Res. 172, honoring the fallen firefighters from the Father’s Day blaze in New York City, was on the floor this afternoon commemorating the heroic efforts of those firefighters. John Downing, Brian Fahey, and Harry Ford were dedicated and experienced firefighters whose service to the city they loved was truly inspirational.

It strikes me that being a firefighter is one of the most physically challenging and dangerous professions possible. The men and women who undertake firefighting as a career are at risk every day trying to keep their fellow citizens safe from fires but also are responsible for an ever-growing number of tasks. Today’s firefighters are responsible for hazardous material clean up, response to terrorist threats and emergencies, and providing information to citizens on fire safety techniques.

America’s colleges let out for the summer recently but not without some loss of innocence for our children. Fire can affect our kids as much as it affects the lives of firefighters. I have introduced H.R. 2145, the Campus Fire Prevention Act, in an effort to address the safety of college students. My legislation will provide funds for the installation of fire sprinklers and other fire suppression devices in college dormitories, fraternities and sororities.

Even one death is too many; one injury is too much when it comes to our children. The tragedy at Seton Hall University in 1998 opened the eyes of parents and students to the risks of living in dormitories that had not been outfitted with sprinklers or other
fire suppression. My bill will provide matching funds to a university or organization that applies given approval by the Department of Education and the Fire Administration.

This past school year in Ohio there were four students killed in campus fires. A December fire at the University of Dayton killed one male student in a house fire in a building owned by the university. In May 2001, two fires killed students at John Carroll University and Ohio University. Both students were scheduled to graduate this year. Unfortunately this is not unique to Ohio, there were fire related injuries and fatalities throughout America’s universities.

I encourage my colleagues to join me in enacting H.R. 2145, it is a common sense measure that has already gained 43 cosponsors. Data has demonstrated fire sprinklers work in protecting property and preventing injury. In buildings with functional fire sprinklers there has not been a fire resulting in more than two fatalities.

We should honor the fallen firefighters from New York by helping to prevent future tragedies for firefighters and other innocent Americans.

TALKING POINTS

How often do fires occur in school, college, and university dormitories and fraternity and sorority houses? In 1997, the latest year for which national fire statistics are available, an estimated 1,500 structure fires occurred in school, college, and university dormitories and fraternity and sorority housing. These fires resulted in no deaths, 47 injuries, and $7 million in direct property damage. Between 1993 and 1997, an estimated average of 1,600 structure fires occurred each year, resulting in eight fatal fires known to NFPA, representing a total of 16 deaths over the five years of 1993–1997, 66 injuries, and $8.9 million in direct property damage per year.

How many fires occur specifically in fraternity and sorority housing? Between 1997, an annual average of 154 structure fires occurred in fraternity and sorority housing, resulting in 18 injuries, and $2.9 million in direct property damage per year.

What are the most common causes of fires at school, college, and university dormitories and fraternity and sorority housing? The leading cause of fire in these types of occupancies is incendiary or suspicious causes. The second and third causes of these on- and off-campus housing fires are cooking and smoking, respectively.

How often are smoke or fire alarms and fire sprinklers present in dormitory fires? In 1997, smoke or fire alarms were present in 93% of all dormitory fires, but sprinklers were present in only 28% of these fires. These figures apply only to properties where fires occurred; the overall fraction of properties with these active systems is probably higher. On average, direct property damage per fire is 36% lower in dormitory fires where sprinklers are present compared to those where sprinklers are not present.

H.R. 2145—the Campus Fire Prevention Act is identical to legislation introduced in the Senate by Senator JOHN EDWARDS of North Carolina and designated S. 399.

The bill is intended to supply money for colleges to retrofit sprinklers in dorms and allows fraternities and sororities to access the $100,000,000 in money each year over 5 years.

The bill provides money in the form of federal matching grants for the installation of fire sprinkler systems and other fire suppression or prevention technologies in college living situations (including sororities and fraternities). Priority would be given to any organization applying for the money from the bill with an ability to fund the fire suppression without accessing the funds under the bill.

Grants would be administered through the Department of Education in consultation with the U.S. Fire Administration.

The bill does not mandate using fire sprinkler systems in dorms, only provides funds for those who would like to make their residents safer.

Currently there are 43 cosponsors to H.R. 2145 and it has received endorsements from many campus organizations like the College Parents of America and the National Association of Student Personnel Administrators.

Mrs. Mccarthy of New York. Mr. Speaker, I extend condolences to the families of John J. Downing, Brian Fahon, and Harry Ford. Each of them will be sorely missed. We are forever in your debt and can never repay your loss. More than just firefighters, these men were husbands, fathers, and upstanding members of their communities. They paid the ultimate sacrifice and taught us a powerful lesson about honor, bravery, and sacrifice. These are traits that all firefighters possess. It is a shame that only through such tragedies we recognize this fact.

They were great firefighters, husbands, and fathers. Since the tragic June 17 event, America learned of the vibrant and rich lives of these three men. In the process, we developed a love for them and cried with their families as they mourned their losses. John J. Downing, an 11-year veteran, husband and father of two; Brian Fahon, a 14-year veteran, husband and father of three; Harry Ford, a 27-year veteran, husband and father of three will not be forgotten. Mr. Downing became famous for his bravery in the 1992 USAir plane crash into Flushing Bay. Mr. Fahy was considered one of the fire department’s elite, he worked in the rescue department. Mr. Ford was cited for bravery ten times during the course of his career, including rescuing a baby from a burning building. It is clear to everyone they were exceptional at their job.

These men did not die in vain. Today, as we recognize their bravery, let us pledge our support to work on behalf of all of the nation’s firefighters who risk their lives every day to ensure the safety of all Americans.

Mr. Ackerman. Mr. Speaker, I rise today with mixed emotions as we pay tribute to firefighters John J. Downing, Brian Fahy and Harry Ford. As I stand here I cannot help but feel both sadness and admiration, both respect and grief. While this tragedy is unfortunately close-to-home for New Yorkers, people all over the world are paying homage to these three men today.

Sadeness, Mr. Speaker; that these brave men’s lives were tragically taken from their families, friends and communities on June 17, 2001 when they dutifully responded to the call to put out a deadly fire that was destroying the Long Island General Supply Company in Amityville, New York.

Admiration, Mr. Speaker; for these three firefighters who exemplified the word: Heroes. These three heroes woke-up every morning, ready and willing to fight any fire that threatened our community. These three heroes who worked so that the rest of us could enjoy our lives free from worry or concern of a deadly fire.

Respect, Mr. Speaker; for these three heroes who were dedicated to a career as firefighters that required them to work to protect individuals that they may never have known. When they were called on to rescue these people from fires, these three heroes did so with the same commitment that they would feel for protecting their own families.

And grief, Mr. Speaker; for the devoted wives, loving children and proud communities that are without these three heroes as a result of this horrific tragedy.

Mr. Speaker, I rise today in unity with the entire NY Congressional delegation and ask our colleagues in the House of Representatives today to join us in honoring the memory of firefighters John J. Downing, Brian Fahy and Harry Ford.

The Speaker pro tempore (Mr. Fossella). The question is on the motion offered by the gentleman from Virginia (Mrs. Jo Ann Davis) that the House suspend the rules and agree to the resolution, House Resolution 172.

The question was taken.

The Speaker pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. Maloney of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The Speaker pro tempore. Pursuant to clause 8 of rule XX and the Chair’s prior announcement, further proceedings on this motion will be postponed.

BROWN V. BOARD OF EDUCATION 50TH ANNIVERSARY COMMISSION

Mrs. Morella. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2133) to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education, as amended.

The Clerk read as follows:

H.R. 2133

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

SECTION 1. FINDINGS.

The Congress finds that as the Nation approaches May 17, 2004, marking the 50th anniversary of the Supreme Court decision in Oliver L. Brown et al. v. Board of Education of Topeka, Kansas et al., it is appropriate to
establish a national commission to plan and coordinate the commemoration of that anniversary.

SEC. 2. ESTABLISHMENT.

There is established a commission to be known as the ‘Brown v. Board of Education 50th Anniversary Commission’ (referred to in this Act as the ‘Commission’).

SEC. 3. DUTIES.

In order to commemorate the 50th anniversary of the Brown decision, the Commission shall—

(1) in conjunction with the Department of Education, plan and coordinate public education activities and initiatives, including public lectures, writing contests, and public awareness campaigns, through the Department of Education’s ten regional offices; and

(2) in cooperation with the Brown Foundation for Educational Equity, Excellence, and Research in Topeka, Kansas (referred to in this Act as the ‘Brown Foundation’), and such other public or private entities as the Commission considers appropriate, encourage, plan, develop, and coordinate observances of the anniversary of the Brown decision.

SEC. 4. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed as follows:

(1) A majority of the Senators from the States in which the lawsuits decided by the Supreme Court were filed and the District of Columbia.

(2) Eleven individuals appointed by the President from their respective States.

(3) Two representatives of the judicial branch, the Department of Education, and the NAACP Legal Defense and Education Fund.

(4) Two representatives of the Brown Foundation.

(5) Two representatives of the NAACP Legal Defense and Education Fund.

(6) One representative of the Brown v. Board of Education National Historic Site.

(b) TERMS.—Members of the Commission shall be appointed by the President after receiving recommendations as follows:

(A) Members of the Senate from each of the States in which the lawsuits decided by the Supreme Court were filed and the District of Columbia shall be representatives from such States.

(B) The Delegate to the House of Representatives from the District of Columbia shall be a representative from the District of Columbia.

(C) The Delegate to the House of Representatives from the Commonwealth of Puerto Rico shall be a member selected by the Congress of the Commonwealth.

(D) The President may designate another representative from the District of Columbia to be a member selected by the President.

(c) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointee.

(d) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 59 of title 5, United States Code.

(e) QUORUM.—A majority of members of the Commission shall constitute a quorum.

(f) MEETINGS.—The Commission shall hold its first meeting not later than 60 days after the date of enactment of this Act. The Commission shall subsequently meet at the call of the Chair or a majority of its members.

(g) EXECUTIVE DIRECTOR AND STAFF.—The Commission may secure the services of an executive director and staff personnel as it considers appropriate.

SEC. 5. POWERS.

(a) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take under this Act.

(b) GIFTS AND DONATIONS.—

(1) AUTHORITY TO ACCEPT.—The Commission may accept and use gifts of money, property, or personal services.

(2) DISPOSITION OF PROPERTY.—Any books, manuscripts, miscellaneous printed matter, memorabilia, relics, or other materials donated to the Commission which relate to the Brown decision, shall, upon termination of the Commission—

(A) be deposited for preservation in the Brown Foundation Collection at the Spencer Research Library at the University of Kansas in Lawrence, Kansas; or

(B) be disposed of by the Commission in consultation with the Librarian of Congress, and with the express consent of the Brown Foundation and the Brown v. Board of Education National Historic Site.

(c) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 6. REPORTS.

(a) INTERIM REPORTS.—The Commission shall transmit interim reports to the President as soon as practicable before December 31 of each year. Each such report shall include a description of the activities of the Commission during the year covered by the report, an accounting of any funds received or expended by the Commission during such year, and recommendations for any legislation or administrative action which the Commission considers appropriate.

(b) FINAL REPORT.—The Commission shall transmit a final report to the President and the Congress not later than December 31 of each year. The report shall account for the disposition of any other properties, not previously reported.

SEC. 7. TERMINATION.

(a) DATE.—The Commission shall terminate on such date as the Commission may determine, but not later than February 1, 2005.

(b) DISPOSITION OF FUNDS.—Any funds held by the Commission on the date the Commission terminates shall be deposited in the general fund of the Treasury.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $250,000 for the period encompassing fiscal years 2003 and 2004 to carry out this Act, to remain available until expended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland? There was no objection. Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2133. It is important legislation introduced by the gentleman from Kansas (Mr. RUNYON).

Mr. Speaker, May 17, 2004, will mark the 50th anniversary of the Supreme Court’s landmark decision in Brown v. Board of Education in Topeka, Kansas. In recognition of the importance of that decision, this bill will establish the Brown v. Board of Education 50th Anniversary Commission to plan and coordinate the commemoration of that anniversary.

Mr. Speaker, of all the landmark decisions handed down by the Supreme Court, few are as well-known as Brown v. Board of Education, and few have been as important.

In Brown, a unanimous Supreme Court effectively ended the separate but equal doctrine in education, ruling that racially segregated schools violated the equal protection clause of the 14th amendment. Despite the court’s ruling, dual school systems were not abolished quickly or smoothly, but in the end, Mr. Speaker, they were abolished, further buttressing our Constitution’s promise of equality under the law.

In order to commemorate the 50th anniversary of the Brown decision, the Commission shall hold public education activities and initiatives, including public lectures, writing contests and public awareness campaigns. The Commission will be comprised of representatives from the judicial branch, the Department of Education, the NAACP Legal Defense and Education Fund, and the Brown Foundation, as well as individuals from States in which the cases leading to the Brown decision were filed and the District of Columbia. These States were, incidentally, Delaware, Kansas, South Carolina, and Virginia. There will also be representatives from Massachusetts in recognition that the first legal challenge to segregated schools was filed there in 1849.

The Commission will terminate when its work is done, but not later than February 5, 2005.

Mr. Speaker, the Court’s opinion in Brown v. Board of Education has touched the lives of all of us, and I urge all Members to support this important legislation.

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

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of this resolution, and I yield 3 minutes to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Speaker, I thank the gentleman for yielding me this time.
Today, Mr. Speaker, I rise in support of H.R. 2133 to establish a commission for the purpose of encouraging and providing a focus on education and providing a 50th anniversary of the life-changing Supreme Court decision of Brown v. Board of Education.

In Brown v. Board of Education, the Supreme Court Justices called for racial integration of public schools. Public schools were, with struggle, desegregated and, subsequently, African American youth made enormous progress in various areas, such as high school completion, better test scores, greater college enrollment and obtaining college degrees.

As a result of this important decision, African Americans greatly increased our numbers in many occupational fields which, before Brown, had a scarce but equal doctrine enshrined in public education. This monumental decision led to gains in equal education opportunities for minority children that were not provided for nor even considered under the Plessy v. Ferguson decision. This cemented African American community leaders' actions against the tragedy of segregation in America's schools.

Chief Justice Warren delivered the Court's opinion on May 17, 1954, stating that "segregated schools are not equal and cannot be made equal, and, hence, they are deprived of the equal protection of the laws." Originally taught using dull strategies and rote learning tools, minority students are now able to gain the tools necessary for future success in college and in the workplace.

While African American educational attainment has improved, the amount of education needed to have a real chance in life has grown even more. Yes, the Brown v. Board of Education altered the economic, political and social structure of this great Nation and helped change the face of America. It is for this reason that I strongly urge my colleagues to vote in favor of this very important resolution commemorating this significant decision.

However, I also urge my colleagues to remain committed to the principles of equality in education. As we consider our budget and legislative measures with a focus on education, we must be ever mindful of the critical importance of ensuring that all of this Nation's youth be well prepared to face the challenges and become productive members of this great society.

As we reflect on Brown v. Board of Education, let us remember that a priority focus on education is key, but equity and parity in education is critical.

Mrs. MORELLA. Mr. Speaker, it is my pleasure to yield 7 minutes to the gentleman from Kansas (Mr. Ryun), the introducer of this very important resolution.

Mr. RYUN of Kansas. Mr. Speaker, today we speak of "no child left behind" in our education system, and providing our children with the highest quality education is a value that we all hold dear.

For example, many students never learned that the Brown v. Board of Education was a combination of cases originally filed in Delaware, South Carolina, Virginia, the District of Columbia, in addition to Kansas, and that the final legal challenge occurred in Massachusetts. None of these original cases succeeded in the district court, and all were appealed to the U.S. Supreme Court. At this juncture, they were combined and became known jointly as the Oliver L. Brown, et al., v. The Board of Education of Topeka Kansas, et al. The High Court decided to hear these cases because each sought the same relief from segregated schools for African Americans.

We should also remember that Thurgood Marshall served as a legal strategist and counsel for the school segregation cases. Marshall later became the first African American to serve on the U.S. Supreme Court.

Brown v. Board of Education is undoubtedly the most revolutionary case striking down segregation, and as we approach the 50th anniversary of Brown v. The Board on May 17, 2004, it is only fitting that we commemorate this decision by ensuring that our Nation fully understands the case and the responding effects that it has had on our Nation.

Mr. Speaker, H.R. 2133 will establish a commission to help education Americans on the history and ramifications of this landmark cases in preparation for the 50th anniversary of the Brown decision.

The Commission will work in conjunction with the Department of Education to disseminate print resources to schools, plan and coordinate public education events, including public lectures, writing contests and public awareness campaigns.

Working in cooperation with both the public and private sector, the Commission will be comprised of representatives from the Committee on the Judiciary, the Department of Education, as well as the NAACP, Legal Defense and Education Fund, and the Brown Foundation. In addition, individuals chosen from the States in which the lawsuits were originally filed, which were Delaware, Kansas, South Carolina, Virginia, and the District of Columbia, and from the first State that had the first legal challenge, Massachusetts, will also serve on this Commission.

Equal opportunity is granted by our Constitution, but making equality a reality for all Americans requires real struggle and sacrifice. We must not forget the sacrifices made in order to give equality to all Americans.
The U.S. Supreme Court offered us this reflection in the opinion rendered in the Brown case, and I quote: “It is doubtful that the child of undifferentiated and ungraded school children is reasonably expected to succeed in life if he is denied the opportunity for an education.” Education is the metal that holds the framework of our democratic society together. Brown v. Board of Education guarantees this opportunity.

Mr. Speaker, I ask my colleague to join me in honoring this historic and far-reaching Supreme Court decision and support H.R. 2133.

Mr. Davis of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, let me commend and congratulate the gentleman from Kansas for introducing this very important bill. As a matter of fact, I rise in support of this legislation to establish the Brown v. Board of Education 50th Anniversary Commission.

The Commission, in conjunction with the Department of Education, is charged with planning and coordinating public education activities and initiatives, writing contests and public awareness campaigns. In cooperation with the Brown Foundation for Educational Equity, Excellence and Research, the Commission must submit recommendations to Congress to encourage, plan, develop observances of the anniversary of the Brown decision.

The 50th anniversary of the Brown decision will take place on May 17, 2004. This Commission is going to need every second of the next 3 years to commemorate the Brown decision in a meaningful way.

Brown v. Board of Education is to be commemorated for what it did to address the disparities in the American education system 47 years ago, and to help break down the disparities that we struggle with today. Like in the 1930s and 1950s, the best hope for racial, social and economic equality lay in education. That is why in 1951, Oliver Brown and the parents of 12 other black children filed a lawsuit against the Topeka Board of Education protesting the city’s segregation of black and white students.

That is also why, Mr. Speaker, today parents all across America, particularly parents of children of color, are demanding that elected officials improve the American educational system.

In 1997, 93 percent of whites aged 25 to 29 had attained a high school diploma or equivalency degree compared to 87 percent of African Americans and just 62 percent of Hispanics.

Among those with high school degrees, 93 percent of whites had completed a bachelor’s degree or higher, compared to just 16 percent of African Americans and 18 percent of Hispanics. Given the increasing importance of skill in our labor market, these gaps in educational attainment translate into large differences by race and ethnicity in earnings, such as wages and employment.

American schools are integrated, but they still are not equal. They are not equal because we still do not understand in many places what it takes to make schools effective. Are we prepared?

How do we prepare all of our children to meet the challenges of tomorrow? For some people, charter and private schools are the answer. For others, it is school vouchers and class size reduction. One thing is for sure, if we do not break down the disparities in the educational system, the cycle of poverty will continue among children who attend poor and inner-city schools. A good, solid public education system is basic for the future of all Americans.

The historic Brown v. Board of Education was announced on May 17, 1954 by Chief Justice Warren. Justice Warren’s words are timeless. He stressed the fact that public education was a right which must be made available to all on equal terms.

I trust that the commission will remember these words when planning for observances of the 50th anniversary of the Brown decision. And even as we discuss this resolution today and prepare for its passage, there is still not equal funding for school districts even in my own state, the land of Lincoln, the State of Illinois, where some school districts receive as much as three times the funding of other districts; and if that is not separate but equal, unequal, then I do not know how to define it.

Mr. Speaker, I hope that we all will remember this as we seek to improve the American educational system. I urge all of my colleagues to join in supporting this resolution.

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

Mrs. Morella. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. Tiahrt).

Mr. Tiahrt. Mr. Speaker, I thank the gentleman from Maryland (Mrs. Morella) for yielding me the time.

Mr. Speaker, I rise today in strong support of H.R. 2133. We are soon coming up on the anniversary of the landmark Supreme Court decision. On May 17, 1954, the United States Supreme Court eradicated the separate but equal doctrine and integrated our public school system.

Most Americans have heard about Brown v. Board of Education trial, but few completely understand this very important case.

I commend the gentleman from Maryland (Mrs. Morella) and the gentleman from Illinois (Mr. Davis) for introducing this legislation to establish a commission to help educate Americans on the history and ramifications of Brown v. Board of Education in preparation for the 50th anniversary of this case.

Education is, perhaps, the most important tool for fulfilling one’s dreams. The American dream, the wonderful belief that any child in America, any child, regardless of color or economic background, has the ability to make his dream a reality. In order to help children, our children, in the pursuit of their dreams, we need to make sure they have a good education.

Last month, we showed our commitment to this goal by voting on an education plan to Leave No Child Behind. Unfortunately, in 1954, African Americans were denied the chance to have equal access to our public school system.

Their parents, realizing the importance of education, did everything possible to educate their children while at the same time fighting the segregated system.

They also realized that beyond the 3 R’s, it was important for all children to learn respect for all people. The Brown decision was more than just an end to the practice of segregation in our schools; it was also a wonderful beginning. The beginning of a public school system that could more accurately reflect the belief that all men and women are created equal and should be treated as such.

Integrated schools are beneficial to all students and the Nation as a whole. For this reason, we should make sure that Brown v. Board of Education case is properly taught and understood.

I share the belief of the gentleman from Kansas (Mr. Yun) that for the 50th anniversary of this landmark case we should help make history come alive for our Nation’s school children. In doing so, we could help the newest generation of Americans realize the importance of liberty and democracy.

Mr. Davis of Illinois. Mr. Speaker, I yield 3 minutes to the dynamic gentleman from Lenexa, Kansas (Mr. Moore).

Mr. Moore. Mr. Speaker, I thank the gentleman from Illinois (Mr. Davis) for yielding me the time.

Mr. Speaker, I rise today to speak in strong support of a very important piece of legislation, H.R. 2133. On May 17, 1954, in the case of Brown v. Topeka Board of Education, the United States Supreme Court unanimously declared that separate educational facilities are inherently unequal and, as such, violate the 14th amendment to our United States Constitution, a Constitution which guarantees to all citizens equal protection of the laws.

This was a critical point in time, because it began an era of social responsibility, equity, and justice that this country has not seen since the end of the Civil War.

The legacy of the Brown decision is its impact on the whole of American society and its contribution to the civil
rights movement. When you think of the civil rights movement, the 1954 Brown decision is clearly a watershed. Would we have had a Rosa Parks in 1955 without a Reverend Oliver L. Brown fighting for equal education in Topeka, Kansas in 1951. Maybe, but without the definitive court ruling of what was right, what was constitutional, we would not have desegregation in Little Rock, Arkansas.

The Brown decision sliced the issue of inequality wide open, putting it in the morning newspaper and on the evening news. Brown is important for four very basic reasons.

Number one, it was the beginning of the end of racial segregation authorized by law in this country.

Number two, it overturned laws permitting segregated public schools in Kansas. Mr. Speaker, I would also like to thank my esteemed colleague, the gentleman from Georgia (Mr. LEWIS), that the Brown case; I would like to acknowledge the dedication and hard work of Cheryl Brown Henderson, a Kansan, who brought to my attention the national importance of this 50th anniversary of the court decision.

Ms. Henderson has been mentioned as the daughter of Oliver L. Brown, the lead plaintiff in this case; and I commend her for her dedication. I commend her father for his courage. Her lead plaintiff; and I commend her for the many and varied ways she has led to her across America sharing the lessons of this and other landmark civil rights cases.

My own interest in this historic case began as a student at the University of Kansas. Paul Wilson, was the junior Kansas assistant attorney general assigned to defend Topeka Board of Education. Largely through happenstance, Wilson wound up arguing before the Supreme Court in one of his first cases as an attorney.

Each spring for many years, Professor Wilson spoke at a noon forum on his involvement in Brown v. Topeka Board of Education. Each year, the talk grew more and more popular, attracting an ever larger crowd of students. The stories he held about that experience were fascinating stories of buying his first suit to a trip to Washington, D.C., riding a train for his first time outside the State of Kansas, filling out the paperwork to be admitted to the bar of the District of Columbia. One of my professors, Paul Wilson, spoke at a noon forum on his involvement in Brown v. Topeka Board of Education.

Besides preserving his memories of the facts of the Brown case in his classroom speeches, Professor Wilson had a unique perspective to analyze the case and how the decision's message would carry the decision's message. Not until Brown were the civil rights cases.

The Supreme Court ruling made a monumental impact on human rights struggles worldwide. The laws and policies struck down by this ruling were the products of prejudice and discrimination. Ending the legal practice of these behaviors caused social and ideological implications we continue to feel in our country today.

We are fast approaching the watershed of 2004. This decision could impact how people learn about the case and would carry the decision's message into the 21st century. Mr. Speaker, let us remember what the Brown v. Board of Education decision was all about. It was all about blacks exercising their citizenship and rights as a people, one Nation under God. Given our dark history concerning slavery and the citizenship rights of blacks and others in this country, we remember the Dred Scott decision. The question in the Dred Scott v. Sanford case where a black slave from Missouri claimed his freedom on the basis of 7 years of residency in a free State.

On March 6, 1857, nine justices filed in the basement of the U.S. Capitol, led by Chief Justice Taney, and they asked the question then, "can a negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community entitled to the protection of the Constitution of the United States, and as such become entitled to all the rights, privileges and immunities guaranteed by that instrument to the citizen?"

The Supreme Court decision then did not serve justice to Dred Scott.

Thirty-nine years later, the answer to this question became much more resounding in the Supreme Court case of Plessy v. Ferguson as a sad chapter in the pages of history. In this landmark decision of 1896, the court found that the doctrine of separate but equal concerning segregation of public facilities did not violate the Constitution. Separate schools for whites and blacks became a basic rule in southern society, legitimized in this doctrine that legalized segregation known as "Jim Crow."

For years, this decision affected many black boys and girls and kept them from achieving an equitable education that would enable them under the Constitution of the United States.

In the midwest town of Topeka, Kansas, a little girl named Linda Brown had to ride the bus five miles to school.
each day, although a public school was located only four blocks from her house.

The school was not full, and the little girl met all the requirements to attend, but one that is. Linda Brown was black, and blacks were not allowed to go to white children’s schools. In an attempt to gain equal educational opportunities for their children, 13 parents with the aid of the local chapter of the NAACP filed a class action suit against the Board of Education of Topeka Schools. Prior to becoming our first African American Justice of the Supreme Court of the United States, Thurgood Marshall presented a legal argument that resulted in the 1954 Supreme Court decision that separate but equal was unconstitutional because it violated the children’s 14th amendment rights by separating them solely on the classification of the color of their skin. This ruling in favor of integration was one of the most significant strides America has taken in favor of civil rights.

So we come today, Mr. Speaker, in support of a resolution to commemorate that day and to commemorate that time and to commemorate the exciting events that took place then as we look forward to events taking place even now. So I would urge all of my colleagues to join in support of this resolution.

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

Mrs. MORELLA. Mr. Speaker, I associate myself with the remarks of the gentleman from Illinois (Mr. DAVIS). Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Virginia (Mr. FORBES), our newest Representative over here on this side.

Mr. FORBES. Mr. Speaker, it is an honor and privilege to speak for the first time as a Member of the House of Representatives on an issue of great importance to me and my constituents, a quality public education available to all that leaves no child behind.

The legislation before us today prepares for the commemoration of the historic 1954 Supreme Court decision Brown v. Board of Education. It establishes and funds a commission that will plan and coordinate activities for the 50th anniversary of the case just 3 years away.

Mr. Speaker, children should not have an inferior education because of the color of their skin. But before the Brown decision, textbooks, classrooms and buildings were second-class for black students as compared to the rest of our Nation. This was wrong.

In May 1954, the Supreme Court sided with citizens in Topeka, Kansas, and said that it is not lawful to separate school children because of their race. When the Topeka case made its way to the United States Supreme Court, it was combined with the other cases from Delaware, South Carolina, Washington, D.C. and my home, the Commonwealth of Virginia. This comprehensive case became known as Oliver L. Brown, et al., v. Board of Education of Topeka.

I thank the gentleman from Kansas (Mr. Ryun) for his leadership on this bill as well as the entire Kansas delegation. Let us work tirelessly to strengthen the educational system in our country through ideas and technology with accountability, proper funding, and reform.

From the finest towns in America to the worst neighborhoods in our inner cities, we must never lose sight of the unconditional commitment to our children. We must never forget that barriers were broken and hurdles were overcome to get to where we are now.

Education is first, last, and always about our children. They need and deserve an equal opportunity to excel, to achieve and be the best they can be. Brown v. Board of Education opened the doors for all of our children to learn on a level playing field. We should be thankful, remember our past, learn from our history, and plan for our future.

I thank the gentlewoman from Maryland (Mrs. MORELLA) for yielding me this time. I urge passage of the legislation.

Mr. DAVIS of Illinois. Mr. Speaker, how much time do I have remaining?

Mr. DAVIS of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman very much for yielding me this time. I urge the passage of this legislation.

This legislation resulted in a different education for many of us who studied on the floor of the House today. To acknowledge and to organize a commission to celebrate the 50th anniversary of the Supreme Court decision in Brown v. Board of Education reminds us of those heroes like Thurgood Marshall and Constance Baker Motley and others who pursued the rights of children to be educated fairly and justly in the courts of the United States. How different our education and our lives would have been had we not had the opportunity to fight against segregated and unequal schools.

The process that was designed in the 1800s that, in fact, you could be educated unequally was finally eliminated by this case to ensure that we would have an equal education. It is our challenge to keep the spirit of this Supreme Court decision alive. It is our challenge to ensure that public schools are at their very best, and that those children who sit in our public schools today, those who are special needs children, those who are at-risk children, can experience the kind of education that Thurgood Marshall intended, and that was, of course, that we take away the unequality of education and promote equality.

Secondly, I would say that, over the years, we have had an attack on affirmative action. That is affirmatively reaching out to help education and to help promote equality.

The Brown v. Board of Education was a symbol of fighting for equality and affirmatively seeking to create an opportunity for children educated together. I think my message now is to thank those who organized and well knew that they had to fight for justice, to thank those youngsters prepared to be the plaintiffs in the case, and to thank those lawyers.

This Commission will be a commission that will be well-respected, giving us the structure and the ability to honor those and celebrate the 50th anniversary of this enormous decision that changed the lives of so many of us as well as changed the life and the values of the American society to believe truly in the equality of education.

Mrs. MORELLA. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise today to lend my support to H.R. 2133. This legislation commemorates through the establishment of a commission the 50th anniversary of the Brown v. Board of Education Supreme Court decision, which sparked the end of school segregation based on race in this country.

It goes without saying that school segregation and desegregation were among America’s most controversial social issues during the last half of the 20th century. Along with many Americans, I can clearly recall scenes of violence and upheaval that took place in the 1950s, 1960s and 1970s in places as diverse as Boston and Little Rock as our Nation’s public schools made the transition to integration.

We have much to be thankful for as a result of the Supreme Court’s decision some 50 years ago. Today our children and our children’s children find themselves interacting daily in the school setting with other boys and girls of different colors and backgrounds, broadening their perspectives and expanding their horizons in ways that were not experienced by previous generations.
Today we no longer see the blatant and blanket denial of educational opportunity to children based solely on the color of their skin. As a result of the Brown decision, we as a society no longer accept the flawed doctrine outlined in the earlier case of Plessy v. Ferguson that separate means equal.

These are all things that should be rightfully celebrated and commemorated, but before we go patting ourselves on the back while claiming that education segregation is dead, we may first want to take a closer look at our public schools. What we will find is that, while race is no longer the basis for segregation in some States, homelessness is the basis for segregation. Some 47 years after the historic Brown v. Board of Education ruling, Congress may inadvertently be endorsing de facto segregation of homeless children.

Mr. Speaker H.R. I, passed in May by this body, contains a grandfather clause permitting school districts that currently receive Federal dollars that segregate homeless children in separate schools or classrooms may continue to do so. This is contrary to what the Federal law currently says. It is also contrary to the spirit of Brown v. Board of Education that we commemorate today.

I am hopeful that this body will reconsider this provision in conference before we send it to the President for his signature. Now, that would be a fitting tribute to the decision made by the U.S. Supreme Court on May 17, 1954.

Mr. Speaker, I congratulate the gentleman from Kansas (Mr. Ryun) on this legislation, and I yield back the balance of my time.

Mr. Davis of Illinois. Mr. Speaker, I would like to associate myself with the remarks made by the gentleman from Illinois (Mr. Biggers) regarding homelessness and homeless children and where they fit in the school systems that we have to today.

Mr. Speaker, I yield the balance of my time to the gentlewoman from Ohio (Mrs. Jones).

Mrs. Jones of Ohio. Mr. Speaker, first of all, I would like to commend my colleagues, the gentleman from Illinois (Mr. Davis) and the gentlewoman from Maryland (Mrs. Mink) for their work on this particular piece of legislation.

Mr. Speaker, I rise today in support of this bill which would establish a commission to commemorate the 1954 Brown v. Board of Education decision. Back on May 17, 1954, the Supreme Court unanimously declared that separate educational facilities are inherently unequal and, therefore, violate the 14th amendment to the United States Constitution.

Back on May 17, 1954, I was 5 years old, attending the Cleveland Public Schools, which, at that time, was one of the best public school systems in the Nation. I rise in support of this Commission and speak to the issue that, even though we have done a lot since Brown v. Board of Education, our school systems are still segregated. That school system that I loved and enjoyed as a child is now a predominantly African American school system, and the funding for schools, public schools is no longer as high or as good as it used to be back when I was in elementary school.

On May 8 in Cleveland, however, we worked and passed a $3.7 million bond issue for school construction. It would raise $355 million, which would be matched by $500 million from the State of Ohio. They are greatly needed in the city of Cleveland, as I am confident they are needed across this country, to bring those crumbling public school systems back to the level that we wish that all of our children would enjoy in public schools.

I thank my colleagues for giving me the chance to commemorate Brown v. Board of Education.

Mr. Speaker, the Court’s opinion in Brown v. Board of Education has touched the lives of all of us. I urge all Members to support this legislation.

I just want to comment on the fact that my first teaching assignment in Maryland was during the early transitional years of integration in Poolesville, Maryland.

This year I delivered the high school commencement address at that same place, a caring community which has as its slogan, “Where everyone knows your name.”

My thanks to the gentleman from Illinois (Mr. Davis) for handling the important resolution on the aisle. I also want to thank the gentleman from Indiana (Mr. Burton), chairman of the Committee on Government Reform, the gentleman from Florida (Mr. Scarrow), Subcommittee on Civil Service, the gentlewoman from California (Mrs. Waxman), and the gentleman from Illinois (Mr. Davis), the ranking members respectively of the Committee on Government Reform and Oversight and Subcommittee on Civil Service, for expediting the consideration of this measure.

Again, I encourage all Members to support this resolution.

Mrs. Mink of Hawaii. Mr. Speaker, I rise in strong support for H.R. 2133, which establishes a commission to encourage and provide for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education of Topeka, Kansas. This unanimous landmark decision marked the beginning of the end for de jure racial segregation in public facilities. On May 17, 1954, the Supreme Court declared that separate educational facilities are inherently unequal and, as such, violate the 14th amendment to the United States Constitution, which guarantees all citizens equal protection of the laws.

The Brown v. Board of Education 50th Anniversary Commission will work with the U.S. Department of Education to plan and coordinate public education activities and coordinate observances of the anniversary.

It is important that we revisit our history to see how far our nation has evolved. I am sure that it is hard for young people today to believe that only 50 years ago children were prohibited from attending certain public schools simply because of their race. The blatant racism behind the disingenuous claim of providing “separate but equal” facilities for African American children was recognized and repudiated by the Supreme Court.

The Supreme Court decision did not mean the end of segregation, however. Many states and localities continued to fight efforts to integrate the schools for many years. And today, economic inequalities mean that many of our schools remain effectively segregated. None of this was a major turning point in eliminating Jim Crow laws and practices that sought to marginalize and isolate minorities.

It is fitting that our nation begin preparations to commemorate this important anniversary in 2004. We need to look back at where we started, celebrate the progress we have made thus far, and re dedicate ourselves to creating that more perfect union that will truly deliver on the promise of equal opportunity for all Americans.

Mr. Watts of Oklahoma. Mr. Speaker, On May 17, 1954, in the landmark case aimed at ending segregation in public schools—Brown versus the Board of Education—the United States Supreme Court issued a unanimous decision that “separate educational facilities are inherently unequal”, and as such, violate the 14th Amendment to the United States Constitution, which guarantees all citizens, “equal protection of the laws.” This decision effectively denied the legal basis for segregation in Kansas and other states with segregated classrooms and would forever change race relations in the United States.

The United States Constitution guarantees liberty and equal opportunity to the people of the United States. Historically, however, these fundamental rights have not always been provided. America’s educational system is one such example.

In the early beginnings of U.S. history, education was withheld from people of African descent. In some states it was against the law for African Americans to even learn to read and write. Later, throughout America’s history, the educational system was used to separate schools for children based solely on race. In many instances, the schools for African American children were substandard facilities with out-of-date textbooks and insufficient supplies.

In an effort to ensure equal opportunities for all children, African American community leaders and organizations across the country utilized the court system in order to change the educational system. The Brown decision initiated educational reform throughout the United States and brought all Americans one step closer to attaining equal educational opportunities.

As the great abolitionist and orator Frederick Douglass once said, some people know the value of an education because they have one,
but I know the value of an education because I did not have one. Therefore, we must continue working to make sure that all of America’s children receive the very best education imaginable.

I urge all of my colleagues to join me today in supporting the establishment of a commission to encourage and provide for the commemoration of the 50th anniversary of the Brown versus Board of Education Supreme Court decision.

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

The SPEAKER pro tempore. The question was taken. The yeas and nays were ordered. The yeas and nays ordered. The Chair’s prior announcement, further to rule XX and the order against consideration of the bill.

The yeas and nays were ordered.

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 180 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 180

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the Bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The amendment printed in the report of the Committee on Appropriations accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. Points of order against provisions in the bill, as amended, for failure to comply with clause 2 of rule XXI, which prohibits unauthorized or legislative provisions in an appropriations bill, except as specified in the rule.

The bill shall be considered for amendment by paragraph, and the Chair is authorized to accord priority in recognition to Members who have preprinted their amendments in the Congressional Record.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the legislation before us is an open rule providing for the consideration of the bill. The Energy and Water Development Appropriations Bill for 2002. This legislation provides for funding in this bill continues the strong record of conservation and preservation by the Republican Congress.

Mr. Speaker, I would like to commend the chairman of the Subcommittee on Energy and Water Development of the Committee on Appropriations, the gentleman from the First District of Alabama (Mr. CALahan), and the Democrat ranking member, the gentleman from Indiana (Mr. Visclosky), for their hard work in bringing this bill to the floor. Their staffs have done a great job in the drafting of this bill.

Mr. Speaker, this bill is considered noncontroversial. This rule, like the underlying legislation, deserves strong bipartisan support.

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

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

Mr. Speaker, I would like to thank the gentleman from Texas for yielding me the time. It is a pleasure to serve on the Committee on Rules with my good friend and colleague, the gentleman from Texas (Mr. Sessions), and I thank him for welcoming me as the newest member of the Committee on Rules.
Mr. Speaker, I rise in support of the Energy and Water Appropriations bill for fiscal year 2002 and in support of the rule. I also would associate myself with the remarks made by the gentleman from Texas about the many particulars that are set forth in the bill that are meritorious, in my view, for the entire body.

I want to congratulate the chairman of the subcommittee, the gentleman from Alabama (Mr. Callahan), and the ranking member, the gentleman from Indiana (Mr. Visclosky), for their work on this bill and for their appreciation of the importance to the entire country of the necessary public works projects it funds.

I am especially pleased, from a parochial point of view, that this bill contains nearly $20 million for the continued restoration of the Florida Everglades. Congress and the State of Florida made a historic agreement last year to save this international treasure, and I am thrilled that Congress continues its commitment through this bill.

Additionally, Mr. Speaker, this bill contains a number of significant projects important to my south Florida district, as well as those that are my colleagues that are in that area; and I would like to highlight a few of them for just a moment.

In my home of Broward County this bill funds beach erosion and renourishment projects to the tune of $2.5 million. These funds are critical to protecting and enhancing Florida’s pristine beaches and the businesses that thrive because of them.

In northeast Dade County this bill contains funding for a study of flood patterns in the county and remediation of flooding that continually occurs in some of the poorest neighborhoods of this area.

Mr. Speaker, I am pleased that this bill contains projects that would greatly benefit the constituents of myself and those of my colleague, the gentleman from Florida (Mr. Foley), in Ft. Pierce, in St. Lucie County, and a number of projects that greatly improve conditions in Palm Beach County that are relevant to my other colleagues, the gentleman from Florida (Mr. Shaw), the gentleman from Florida (Mr. Wexler), and the gentleman from Florida (Mr. Foley), as well as myself.

Mr. Speaker, this is a good bill; and the rule is fine as far as it goes. As the gentleman from Texas (Mr. Sessions) noted, it allows for amendment to the dollar amounts contained in the committee-reported bill. The committee Republicans chose not to allow the gentlewoman from Nevada (Ms. Berkley) the right to offer an amendment relating to transportation of high-level nuclear waste. This is most unfortunate, in my view, as I believe the Berkley amendment would have made the bill better.

Also, Mr. Speaker, let me add my support for the amendment which will be offered by my friend and colleague, the gentleman from Florida (Mr. Davis), which will allow construction of the Gulf Stream pipeline to continue unabated.

Again, Mr. Speaker, I thank the chairman and ranking member for bringing in an excellent bill to the House. This is a bipartisan bill that helps millions of Americans from coast to coast, and I urge passage of the bill and adoption of the rule.

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

Mr. Sessions. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. Hastings), a member of the Committee on Rules.

Mr. Hastings of Washington. Mr. Speaker, I want to thank my good friend and colleague on the Committee on Rules, the gentleman from Texas (Mr. Sessions), for yielding me this time; and I want to congratulate my friend, the newest member of the Committee on Rules, the gentleman from Florida (Mr. Hastings), on his first rule.

Mr. Speaker, I rise in strong support of this rule and this underlying legislation. I would like to begin by commending the chairman, the gentleman from Alabama (Mr. Callahan), and the ranking member, the gentleman from Indiana (Mr. Visclosky), as well as the chairman of the full Committee on Appropriations, the gentleman from Florida (Mr. Young), and the ranking member, the gentleman from Wisconsin (Mr. Obey), on their leadership in bringing this excellent piece of legislation to the floor. This is the first bill of the gentleman from Alabama as chairman of the Committee on Energy and Water Development, and I commend him on his openness and his support. They have carefully balanced the priorities in a very tight budget year to ensure that the cleanup of former nuclear sites stays on schedule.

As chairman of the Nuclear Cleanup Caucus here in the House, I have been privileged to work closely with the committee this year to ensure that cleanup sites throughout the Nation continue their significant progress, ensuring that the legacy of World War II and the Cold War is cleaned up. While I have been supportive of the President’s goal to cap the overall spending increase at 4 percent, I have to admit that I was deeply troubled by the administration’s initial request on cleaning up the Nation’s former nuclear weapons sites.

Earlier this year, the Committee on the Budget responded to that by including in the committee-reported budget resolution language directing to an additional $1 billion in the Environmental Management Account. I am pleased that the Committee on Appropriations has, in the past 2 weeks, included an additional $880 million for cleanup in the supplemental and the legislation we will consider today. This will allow for the Federal Government to keep its legal and moral commitments to the communities that surround these sites.

The Department of Energy has negotiated innovative contracts that mirror commercial practices to transform the cleanup program and ensure that more dollars are spent on cleanup. These negotiated contracts ensure that the American taxpayer receives more cleanup dollars for less by requiring efficiencies to do more with less. Without this additional funding for the Environmental Management program, these aggressive contracts would have had to be re-negotiated, thus eliminating the benefits they provide.

This legislation will increase funding by nearly $700 million over the administration’s request. This will reverse the proposed reductions at the major sites throughout the country. Specifically at Hanford the additional dollars provided in this legislation will provide full funding for the construction of the Waste Treatment Project. This is the home of over 60 percent of the radioactive waste of this country; and yet it is the only facility, Hanford, that lacks a treatment capability. It is essential that this project be funded in fiscal year 2002 in order to ensure maximum benefit to the taxpayer and the safety of the Pacific Northwest.

Further, the legislation allows for the River Corridor Initiative to begin at the Richland Operations Office. This innovative approach will allow for the acceleration of cleanup along the River Corridor and will shrink the Hanford site from 560 square miles to 75 square miles by the year 2012.

This is an aggressive schedule which will save American taxpayers hundreds of millions of dollars over this time period.

Mr. Speaker, this legislation provides the first step to what I hope will be the full transformation of this project to a closure contract in fiscal year 2003. Further, the legislation will allow for continued efforts to remove spent nuclear fuel which has been standing 100 yards from the Columbia River for 25 years, and to move it away from the river into safe storage.

I would like to commend the gentlewoman from Alabama (Ms. Callahan) and the gentleman from Florida (Mr. Young) for their excellent work. I would also like to thank my colleagues on the Nuclear Cleanup Caucus, the contractors and the stakeholders that came together in a unified manner to ensure that these increases became a reality.

Mr. Speaker, I support the rule and the underlying legislation.
June 27, 2001

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

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I congratulate the gentleman from Florida (Mr. HASTINGS), having been appointed to the prestigious and important Committee on Rules. Florida is proud of his service in the Congress, and we are proud that 3 of 13 Members who serve on the Committee on Rules are from Florida, two Republicans, the gentleman from Florida (Mr. Goss) and the gentleman from Florida (Mr. DIAZ-BALART). And now the gentleman from Florida (Mr. HASTINGS) joins the Committee on Rules, and my great State is going to benefit by the gentleman's leadership.

Let me also commend this bill of the Subcommittee on Energy and Water. The gentleman from Florida (Mr. HASTINGS) clearly laid out some of the very important projects that are occurring in our districts, such as Port St. Lucie, the inlet maintenance project, some shoreline protection that will occur throughout our counties; but I also want to call attention to an amendment that will be offered by one of our colleagues that will seek to reduce the Federal allocations towards beach renourishment. I believe that has been made in order. What that basically says is that we will reduce the Federal share of beach renourishment projects in places like Florida.

The gentleman from Florida (Mr. HASTINGS) and I clearly want to underscore the need for Federal involvement, and we also want to give a little education here, because some people assume that beach renourishment projects are folly, that they are a waste of tax dollars, that they are something that the local jurisdictions should do, and we need not concern ourselves with these issues in Congress.

As the gentleman from Florida (Mr. HASTINGS) and I know, many of the areas where the most severe beach erosion is occurring are just south of inlets that were designed and constructed by the Corps of Engineers for some commerce at times, and some were natural security issues. So in Palm Beach County, for instance, at the south end of our inlet, we are constantly vigilant because of shoreline that is eroding because of that unnatural cut that occurred.

Mr. Speaker, therein lies the nexus by which we ask and continue to urge Congress to fund these shoreline protection agreements. They are vital to tourism. We are parochial in our approach, and we are concerned about tourism; but it has more to do with ecological factors, such as nesting turtles, reef renourishments. All of these are impacted by a degradation of our beaches.

Mr. Speaker, I stand opposing an amendment that will be offered later; although supporting the fine work in this bill. There are some phenomenal projects that I will call Members' attention to again, whether it is the Department of Energy or other related accounts, the President's initiative on energy, or on strategically positioning ourselves to be more self-reliant on energy needs.

Mr. Speaker, the gentleman from Alabama (Mr. CALLAHAN) has done a masterful job of meeting not only the needs of 50 States, but also the concerns of Members.

Mr. Speaker, as a Member from the Florida delegation, I want to apologize to the gentleman from Alabama (Mr. CALLAHAN) because we were unaware during debate last week on a very contentious issue that the gentleman was out of the Capitol with the President attending some business with the President of the United States in Alabama. We would not have excluded him from debate if we had known that was the case. We meant no disrespect. As a delegation, we are absolutely opposed to the drilling question, but never would we have done it as an attempted embarrassment of the fine chairman and the fine job he has done.

Mr. Speaker, I want to commend the rule. I urge Members to support its adoption, the underlying bill; and again, I would ask my colleagues to pay special attention to an amendment that would cut the government's responsibility on shoreline protection and urge the defeat of that same amendment.

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

Mr. Speaker, I thank the gentleman from Florida (Mr. FOLEY) for his kind comments regarding my ascension to the Committee on Rules.

Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. UDALL).

Mr. UDALL of Colorado. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the rule and in general support of the bill. I want to in particular touch on three issues briefly. I want to thank the committee, thank House for continuing to fund the nuclear facilities closure projects across the country, but in particular the one in my district at Rocky Flats. Rocky Flats is close to the center of my congressional district. It is just a few miles from population centers that exceed 2 million people. This is a very important project to clean up and close this facility.

I also thank the committee for the inclusion in the bill of initial funding for a small flood control project in Arvada, Colorado. There has been an important partnership there along Van Biber Creek, and these are important moneys that will begin to put this capital project in place.

Finally, I want to emphasize my support for the committee's work in increasing the levels of funding for DOE's renewable energy programs. Initially, the administration slashed these important budget items by $138 million, almost 36 percent, and I think this was shortsighted; but we have worked hard over the last 2 years to boost funding for these programs, and I want to acknowledge the gentleman from Tennessee (Mr. WAMP) on the Renewable Energy and Energy Efficiency Caucus for the good work the gentleman has done.

In general, Mr. Speaker, although no bill is perfect, this one is awful close, and I very much appreciate the opportunity to speak today in support of it.

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

Mr. SESSIONS. Mr. Speaker, I yield myself a much time as I may consume.

Mr. Speaker, just as it is the first rule for the gentleman from Florida (Mr. HASTINGS) to manage in the Committee on Rules, we also like to thank such a good friend of all of ours. It is a time to say hello; and a time to say good-bye.

Mr. Speaker, this is a fair and open rule supported by my colleagues, and I would ask my colleagues to support this rule.

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

The previous question was ordered.

The SPEAKER pro tempore (Mr. SIMS) said, The question is on the resolution.

The question was taken; and the ayes appeared to have it.

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, following this 15-minute vote on House Resolution 180, the Chair will reduce to 5 minutes the minimum time for electronic voting on the two motions to suspend the rules on which the Chair determined further proceedings earlier today.

The vote was taken by electronic device; and there were—yeas 425, nays 1, not voting 7, as follows:
ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 8 of rule XX, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

House Resolution 172, by the yeas and nays; and

H.R. 2313, by the yeas and nays.

Both of these will be 5-minute votes.
CONGRESSIONAL RECORD—HOUSE

BROWN v. BOARD OF EDUCATION 50TH ANNIVERSARY COMMISSION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2133, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mrs. MORELLA) that the House suspend the rules and pass the bill, H.R. 2133, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device and there were—yeas 414, nays 2, not voting 17, as follows:

[Roil No. 196]

YEAS—414

Abercrombie Costello Graves
Ackerman Cox Green (TX)
Aderholt Coney Green (WI)
Akin Craig Gravel
Arney Crane Gravel (NY)
Baca Crenshaw Gutierrez
Basch-Portman Crowley GTôin
Baird Cubin Hall (OH)
Barker Carnival Hall (TX)
Baldacci Cummings Hansen
Baldwin Cunningham Harmon
Ballenger Davis (CA)
Barber Davis (FL)
Barrett Davis (IL)
Bartlett Deal Hefley
Bass DeFazio Hefley (AL)
Becerra DeGette Hildreth
Bentsen Delahunt Hunter
Berreuter DeLauro Hyde
Berkley Delaney Irving
Berman DeMint Judd
Berry Deutsch Jordan
Biggs Diaz-Balart Kauffman
Bilirakis Dicks Kincheloe
Bishop Dingell Kinzinger
Blagoevich Doggett Kline
Blumenauer Dooley Kline (OH)
Blunt Doyle Kline (PA)
Boehlert Dreier Kline (NY)
Boehner Duncan Kolbe
Bonilla Edwards Kolb
Bonior Eilers Kobach
Boucher Ensero Koerner
Boyd England Korgan
Browder English (PA) Kratovil
Brown (FL) Etheridge Kucinich
Brown (OH) Evans Lake
Bryant Farr Lake (OH)
Buyer Ferguson Lally
Calvert Filner Landrieu
Campion Fletcher Landry
Capito Ford Lance
Capo Fasula Lankford
Capuano Frelinghuysen LanHAM
Cardin Frost Larson (NW)
Carson (ND) Gallegly Larson (CT)
Carmen Garban G ounce (CA)
Chabot Geahrhards LaHood
Chambliss Gilchrist Lackey
Clay Gilmer Lambert
Clayburn Gilmore Lantos
Clement Gilran Langevin
Clyburn Gilstrap Lane
Collins Goodlatte Larson
Combest Goodwin Larson (WA)
Condit Goss Larson (NE)
Cooksey Granger Lenihan

NOT VOTING—9

Barber (NY) Hugel
Broun (GA) Huffman
Duncan (AR) Hutto
Erdlenburger (IN) Howorth
Frederick (MD) Householder
Garcia-Bey (GA) Howard
Hart (NC) Howard (LA)
Jennings (GC) Jackson
Lourie (SC) Jackson (MO)
Lloyd (AL) Jackson (MS)
Loretta (CT) Jacob
Macy (NY) Jackson (NC)
Markey (CT) Joyce
Moss (AL) JoHne
Moynihan (NY) JoHne (NM)
Mowery (TN) Johnson
Owens (GA) Johnson (TX)
Phillips (GA) Johnson (WA)
Waxman (CA) Johnson (WI)

NAYS—2

Flake Paul

NOT VOTING—17

Allen Frank
Andrews Pamala
Boswell Wormuth
Burke Callahan
Carnahan Dunn
Doolittle Platff

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

The result of the vote was announced as above recorded.

The motion to reconsider was laid upon the table.
Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 2180.

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXI, all points of order are reserved.

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

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

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

There was no objection.

GENERAL LEAVE

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, and that I may be permitted to include tabular and extraneous materials.

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

There was no objection.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore. Pursuant to House Resolution 180 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY) each will control 30 minutes.

The Chair recognizes the gentleman from Alabama (Mr. CALLAHAN).

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

Mr. Chairman, it is my privilege to bring before the body today the fiscal year 2002 appropriations bill for energy and water needs facing this country. We have tried desperately to work with all the Members on both sides of the aisle to bring before you today a fair bill, a bill that has addressed most of the concerns of the Members who have contacted us. Mr. Chairman, there have been extensive contacts with us. In our deliberations we have come forward with a bill that I think provides the administration with ample funds for energy and water and reclamation needs in this country.

The bill agrees with President Bush that we should constrain government growth. I am happy to report that this bill constrains government growth because it is only increased about a one-half of 1 percent over the FY year 2001 level of funding.

The total funding in H.R. 2311 is $23.7 billion. This is $147 million, as I said, less than one-half of 1 percent, more than fiscal year 2001, for energy and water development programs.

Title I of the bill provides funding for the civil works program of the Corps of Engineers. The Subcommittee on Energy and Water Development is unanimous in its belief that these programs are among the most valuable within the subcommittee’s jurisdiction. The national benefits of projects for flood control, for navigation and shoreline protection substantially exceed project costs. The bill acknowledges the importance of water infrastructure by funding the civil works program at $4.47 billion, an increase of only $58 million over last year’s appropriation.

Within the amount appropriated to the Corps of Engineers, $163 million is for general investigations, $1.67 billion is for the construction program, and $1.86 billion is for operations and maintenance. In addition, the bill includes $347 million for the flood control, Mississippi River and Tributaries project.

The bill also funds the budget request for the regulatory program and the Formerly Utilized Sites Remedial Action Program.

In title II, which is for the Bureau of Reclamation, we spend $842 million, an increase of only $26 million over fiscal year 2001. Title III provides $18 billion for the Department of Energy, an increase of $444 million over fiscal year 2001.

So in all three areas of jurisdiction the bill is within the suggested constraints that President Bush has submitted to us, whereby we control excessive government growth spending. We are very pleased to have done that.

We sought to maintain level funding for basic research in science programs; and we provided $3.17 billion, an increase of $6.5 million over the budget request. Funding of $276.3 million has been provided for construction of the Spallation Neutron Source, the same as the budget request. We have sought to respond to all of the needs, and we visited some of the projects throughout the country in trying to determine where our priorities ought to be.

I think if there is anything, Mr. Chairman, that pleases me, it is the way we have been able to work in a bipartisan fashion with the minority. We have been able to respond, as I said earlier, to most every legitimate need, we feel, that has been brought before us for our consideration. I am happy to have the support of so many Members of Congress in helping us draft this legislation.

Mr. Chairman, I owe a debt of gratitude to the hard work of the dedicated members of the Subcommittee on Energy and Water Development. They have labored under difficult constraints to produce a bill that is balanced and fair. I am especially grateful to the gentleman from Indiana (Mr. VISCLOSKY), our ranking minority member. It is in large part due to his efforts that we present a bill that merits the support of all Members of the House.

Mr. Chairman, I urge all Members to support H.R. 2311 as reported by the Committee on Appropriations.

Mr. Chairman, I include the following charts for the RECORD.
### ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, 2002 (H.R. 2311)

(Amounts in thousands)

<table>
<thead>
<tr>
<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
<th>Bill vs. Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corps of Engineers - Civil</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Investigations</td>
<td>180,564</td>
<td>130,000</td>
<td>163,260</td>
<td>+2,767</td>
</tr>
<tr>
<td>Construction, general</td>
<td>1,716,165</td>
<td>1,324,000</td>
<td>1,671,854</td>
<td>-44,270</td>
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<tr>
<td>Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee</td>
<td>350,458</td>
<td>280,000</td>
<td>347,855</td>
<td>-2,003</td>
</tr>
<tr>
<td>Operation and maintenance, general</td>
<td>1,897,775</td>
<td>1,745,000</td>
<td>1,684,464</td>
<td>-130,643</td>
</tr>
<tr>
<td>Regulatory program</td>
<td>124,725</td>
<td>128,000</td>
<td>128,000</td>
<td>-275</td>
</tr>
<tr>
<td>FUSRAP</td>
<td>139,682</td>
<td>140,000</td>
<td>140,000</td>
<td>0</td>
</tr>
<tr>
<td>General expenses</td>
<td>151,666</td>
<td>153,000</td>
<td>153,000</td>
<td>0</td>
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<tr>
<td>Total, title I, Department of Defense - Civil</td>
<td>4,541,065</td>
<td>3,900,000</td>
<td>4,466,233</td>
<td>-72,657</td>
</tr>
</tbody>
</table>

- **TITLE II - DEPARTMENT OF THE INTERIOR**

| Central Utah Project Completion Account | 19,924 | 24,169 | 24,169 | 4,464 |
| Fish, wildlife, and recreation mitigation and conservation | 14,136 | 10,749 | 10,749 | -3,487 |
| Utah reclamation mitigation and conservation account | 4,489 | | | -4,489 |
| Subtotal | 36,499 | 34,918 | 34,918 | -883 |
| Program oversight and administration | 1,213 | 1,310 | 1,310 | 97 |
| Total, Central Utah project completion account | 39,712 | 36,228 | 36,228 | -3,570 |
| Bureau of Reclamation | | | | |
| Water and related resources | 678,953 | 647,967 | 691,160 | +12,197 | +43,193 |
| Loan program | 9,348 | 7,495 | 7,495 | -1,853 |
| (Limitation on direct loans) | (20,061) | (20,000) | (20,000) | -61 |
| Central Valley project restoration fund | 26,030 | 55,030 | 55,030 | -16,769 |
| California Bay-Delta restoration | | | | |
| Policy and administration | 50,114 | 92,968 | 52,968 | +2,546 |
| Total, Bureau of Reclamation | 776,775 | 783,496 | 806,862 | +29,867 | +23,163 |
| Total, title II, Department of the Interior | 816,687 | 819,727 | 842,890 | +26,263 | +23,163 |

- **TITLE III - DEPARTMENT OF ENERGY**

| Energy supply | 856,918 | 544,245 | 639,317 | -20,601 | +95,072 |
| Non-defense environmental management | 277,200 | 228,553 | 227,672 | -978 | -681 |
| Uranium facilities maintenance and remediation | 3,383,552 | 2,903,525 | 2,903,425 | +10,020 | +30,000 |
| Science | 3,383,541 | 3,159,890 | 3,166,395 | -16,505 | +6,505 |
| Nuclear Waste Disposal | 190,654 | 134,979 | 133,000 | -7,979 |
| Departmental administration | 225,942 | 221,616 | 209,611 | -16,005 |
| Miscellaneous revenues | 1,151,020 | 1,137,810 | 1,137,810 | +0 |
| Net appropriation | 74,942 | 83,808 | 71,901 | -3,147 |
| Office of the Inspector General | 31,430 | 31,430 | 32,400 | +1,000 |
| Environmental restoration and waste management: Defense function | (6,106,664) | (5,740,763) | (6,410,629) | +1,262,566 | +668,842 |
| Non-defense function | (866,705) | (581,876) | (581,297) | -16,665 | +40,405 |
| Total | (6,773,369) | (6,322,639) | (6,391,922) | +273,356 | +699,161 |

- **Atomic Energy Defense Activities**

| National Nuclear Security Administration | 5,006,153 | 5,300,025 | 5,123,888 | +177,240 | +17,754 |
| Defense nuclear nonproliferation | 872,873 | 773,700 | 845,341 | +71,641 |
| Naval reactors | 668,645 | 668,045 | 688,045 | +600 |
| Office of the Administrator | 9,978 | 15,000 | 10,000 | 22 |
| Subtotal, National Nuclear Security Administration | 6,577,049 | 6,766,770 | 6,667,274 | +90,496 |
| Defense environmental restoration and waste management | 4,963,533 | 4,548,708 | 5,174,399 | +221,700 |
| Defense facilities closure projects | 1,060,331 | 1,200,538 | 1,092,679 | -7,859 |
| Defense environmental management privatization | 85,000 | 141,537 | 143,208 | +1,753 |
| Subtotal, Defense environmental management | 6,108,864 | 5,740,763 | 6,410,625 | +301,761 |
| Other defense activities | 582,466 | 527,614 | 487,484 | -120,726 |
| Defense nuclear waste disposal | 199,725 | 310,000 | 310,000 | 0 |
| Total, Atomic Energy Defense Activities | 13,468,104 | 13,355,167 | 13,975,363 | +407,259 |

- **Power Marketing Administrations**

| Operation and maintenance, Southeastern Power Administration | 3,891 | 4,091 | 4,891 | +1,000 |
| Construction, rehabilitation, operation and maintenance, Western Area Power Administration | 208,038 | 28,038 | 28,038 |
| Falcon and Amistad operating and maintenance fund | 156,465 | 189,465 | 172,165 | +1,640 |
| Total, Power Marketing Administrations | 200,057 | 205,057 | 207,757 | +7,700 |

- **Federal Energy Regulatory Commission**

| Salaries and expenses | 175,200 | 181,155 | 181,155 | 0 |
| Revenues applied | -175,200 | -181,155 | -181,155 | 0 |
## ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, 2002 (H.R. 2311) — Continued
(Amounts in thousands)

<table>
<thead>
<tr>
<th></th>
<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
<th>Bill vs. Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defense nuclear waste disposal (rescission)</td>
<td>-75,000</td>
<td></td>
<td></td>
<td>+75,000</td>
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<tr>
<td>Defense environmental privatization (rescission)</td>
<td>-97,000</td>
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<td></td>
<td>-97,000</td>
<td></td>
</tr>
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<td>Total, title III, Department of Energy</td>
<td>18,303,148</td>
<td>18,106,554</td>
<td>16,747,360</td>
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<td>+640,606</td>
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<tr>
<td>TITLE IV - INDEPENDENT AGENCIES</td>
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<td></td>
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<tr>
<td>Appalachian Regional Commission</td>
<td>66,254</td>
<td>66,290</td>
<td>71,290</td>
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<td>+5,000</td>
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<tr>
<td>Defense Nuclear Facilities Safety Board</td>
<td>18,459</td>
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<td>18,500</td>
<td>+41</td>
<td>-1</td>
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<tr>
<td>Delta Regional Authority</td>
<td>19,956</td>
<td>19,992</td>
<td>-19,956</td>
<td>-19,992</td>
<td></td>
</tr>
<tr>
<td>Denali Commission</td>
<td>29,934</td>
<td>29,939</td>
<td>-29,934</td>
<td>-29,939</td>
<td></td>
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<tr>
<td>Nuclear Regulatory Commission: Salaries and expenses</td>
<td>481,925</td>
<td>506,900</td>
<td>516,900</td>
<td>+25,975</td>
<td>+10,000</td>
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<tr>
<td>Revenues</td>
<td>-447,958</td>
<td>-483,348</td>
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<td>-25,562</td>
<td>-10,272</td>
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<tr>
<td>Subtotal</td>
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<td>43,552</td>
<td>43,380</td>
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<td>-272</td>
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<tr>
<td>Office of Inspector General</td>
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<td>6,180</td>
<td>6,180</td>
<td>+680</td>
<td></td>
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<tr>
<td>Revenues</td>
<td>-5,390</td>
<td>-5,932</td>
<td>-5,933</td>
<td>-543</td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>110</td>
<td>248</td>
<td>247</td>
<td>+137</td>
<td>-1</td>
</tr>
<tr>
<td>Total</td>
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<td>43,800</td>
<td>43,627</td>
<td>+9,650</td>
<td>-273</td>
</tr>
<tr>
<td>Nuclear Waste Technical Review Board</td>
<td>2,884</td>
<td>3,100</td>
<td>3,100</td>
<td>+206</td>
<td></td>
</tr>
<tr>
<td>Total, title IV, independent agencies</td>
<td>171,474</td>
<td>181,721</td>
<td>138,517</td>
<td>-34,957</td>
<td>-45,204</td>
</tr>
</tbody>
</table>

**TITLE V - EMERGENCY SUPPLEMENTAL**

**DEPARTMENT OF ENERGY**

Atomic Energy Defense Activities

Cerro Grande fire activities (contingent emergency appropriations) | 203,012          |                 | -203,012 |                 |

Appalachian Regional Commission (contingent emergency appropriations) | 10,976           |                 | -10,976  |                 |

Total, title V, Emergency Supplemental | 213,988          |                 | -213,988 |                 |

| Grand total: New budget (obligational) authority | 24,048,912       | 23,008,002      | 24,185,000 | +146,688         | +1,186,998 |
| Appropriations | (24,004,324)     | (23,008,002)    | (24,195,000) | (-190,676)      | (+1,186,998) |
| Contingent emergency appropriations | (213,988)        |                 | (213,988)  |                 |
| Rescissions | (-172,000)       |                 | (-172,000) |                 |
Mr. Chairman, I reserve the balance of my time.

Mr. VIECLOSKY. Mr. Chairman, I yield myself such time as may con-
sume.

Mr. Chairman, I would encourage at the outset of my remarks all of the Members of the body to support the en-
ergy and water appropriation bill. I would also at the outset note that the long-standing Alabama and Indiana connection, as they call it, that was es-

established many years ago by Mr. Bevill from Alabama and Mr. Myers from In-
diana, has now been reestablished on that particular subcommittee.

I want to very sincerely thank the gentleman from Alabama (Chairman CALLAHAN) for his leadership on the sub-
committee. He has been a leader. He has been trusting of all of us on this subcommittee, he has been fair, and he has been decisive. He has put together a very good work product in a bipartisan fashion, and I strongly support it.

I also do want to thank all of the members of the subcommittee, who have worked so hard also to put this legislation together.

Last, I want to especially thank those who have done the work, the staff: Bob Schmidt, Jeanne Wilson, Kevin Cook, Tracy LaTurner, Paul Tumminello, the personal staff of the gentleman from Alabama (Mr. CAL-
LAHAN), Mike Sharp and Nancy Tippins; and our side of the aisle, David Killian, Richard Kaelin, and Jennifer Watkins, a former staffer. I do appreci-
ate the work that the staff has done.

The President asked for $1 billion worth of cuts for the programs rep-
resented by this legislation; and under the leadership of this subcommittee, those cuts have essentially been re-
stored.

We are $187 million over the current year level, that is less than a 1 percent increase, but this bill does meet crit-

ical demands faced in the infrastruc-
ture and energy arena by our Nation. I am particularly happy that as far as water infrastructure, there is a $591 million plus-up in this bill, and some of the other attributes I would mention is the increase in environmental funding over the administration request. This funding increase is essential to achiev-
ing long-planned program milestones, assuring compliance with the law, and avoiding unnecessary stretch-outs that could simply lead to higher costs.

I am also very happy that in the non-proliferation accounts, we have in-
creased the amount over the Presi-
dent’s request by $71 million, and the current bill now has $774 million con-
tained therein. I do think it is impor-
tant for all of my colleagues to under-
stand that the gentleman from Ala-
bama (Mr. CALLAHAN) indicated during markup that he plans to conduct a

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June 27, 2001

$12 billion. Clearly, the resources as far as the allocations do not exist.

Mr. Chairman, Alabama has done an exceptional job with the resources we were given. This is a very good bill. However, I do think the ad-
ministration and the Congress some-
day, whether it is water or other eco-
nomic infrastructure, has to face the fact that we need to invest more money.

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

Mr. CALLAHAN. Mr. Chairman, I yield such time as he may consume to the gentle-
man from Florida (Mr. YOUNG), the chairman of the full com-
mittee, and the gentleman who is res-
ponsible for marshalling all 13 of these appropriation bills through this body and through the conference.

I also want to thank the gentleman from Florida (Mr. YOUNG) for his leadership on this issue.

I also do want to congratulate the chairman of this subcommittee. He and the ranking member have done an out-
standing job in bringing disagreements together to agreements. They have a great bill. There will be some dif-
fosses that we will be discussing here later this afternoon, but they have done a really good job. They have worked together very well in a good bi-
partisan fashion, and they have pro-
duced a bill of which both the chair-
man as well as the ranking member can be very proud. The staff of the sub-
committee, too, have done yeoman’s work.

I take this little extra time, Mr. Chairman, to say that one of the con-
versations that we will probably have this afternoon will have to do with en-
ergy. We have enough problems with energy because of our heavy reliance on foreign sources. We have problems with those foreign sources on occasion. We cannot afford to have any energy wars here at home with each other. So we need to be careful how we approach all of these issues so that we do not get into a battle with ourselves over en-
ergy.

A major industrial Nation like the United States, which is a large con-
sumer of energy, must also understand the importance of producing energy, because if we totally rely on energy sources from abroad, we will find our-
selves in real tight spots on occasion, which we do on occasion.

So when we get to those issues later today, let us understand that we are all on the same team, and that we are not going to start any energy wars between one section of the country and another; that we are going to work together to work out what is right and best for the people of the United States of America, who are energy consumers.

But again, I wanted to say that the gentleman from Alabama (Mr. CAL-
LAHAN), the chairman of the sub-
committee, has done a beautiful job with this bill with the help of the gen-
tleman from Indiana (Mr. VIECLOSKY),
Mr. Chairman, we will be filing the Agriculture Bill this afternoon and hopefully will have it on the floor tomorrow. The subcommittees have marked up two more appropriations bills this morning, so we really are moving quickly. We got off to a late start because we received our specific numbers and budget justifications late, but we are catching up, and we are catching up pretty effectively.

Mr. VISCLOSKY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. ROYBAL-ALLARD), a valued member of the subcommittee.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise for the purpose of engaging in a colloquy with the gentleman from Alabama (Mr. CALLAHAN) on the subject of security procedures at the Department of Energy headquarters.

Members of this House were appalled when they learned about the incident involving our colleague, the gentleman from Oregon (Mr. WU), at the Department of Energy headquarters a few weeks ago. The gentleman from California had been invited by DOE to be a guest speaker at a celebration honoring the contributions of Asian Pacific Islander Americans to this country. But when he arrived at DOE headquarters, he was refused admittance and asked three different times whether he was an American citizen, even after producing an official card identifying him as a Member of Congress.

An Asian American aide accompanying the gentleman from California (Mr. WU) was also refused admittance, despite producing a congressional identification card.

As the representative of the 33rd Congressional District of California, I am proud to represent an active community of Asian Pacific Islander Americans in Los Angeles. Understandably, we were very upset at this incident and the implication of discrimination by an official government agency.

I, therefore, want to take this opportunity to thank the gentleman from Alabama (Mr. CALLAHAN) for including in the bill a $4 million increase for transmission reliability and to direct the Department of Energy to initiate field-testing of advanced composite conductors. I just want to clarify that these additional funds will be used explicitly for Aluminum Matrix Composite conductors; is that correct?

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

Ms. ROYBAL-ALLARD. Mr. Chairman, I yield to the gentlewoman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I appreciate very much the gentlewoman's interest in this matter, and I know that we are all concerned about this incident. As the gentlewoman has requested, we have directed DOE to consider its security procedures and to report back to us.

Ms. ROYBAL-ALLARD. Mr. Chairman, reclaiming my time, I thank the gentleman for providing me with this opportunity to report to our colleagues on how we have responded to this disturbing incident. I very much appreciate the gentleman's willingness to work with me to ensure that DOE's security procedures are not only effective, but that they are also in keeping with our American values against discrimination.

Mr. CALLAHAN. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN), a member of our subcommittee, and a very important member of our subcommittee.

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

Mr. Chairman, I rise today in support of the energy and water appropriations bill for this fiscal year. I wish first to thank the gentleman from Alabama (Mr. CALLAHAN), the chairman of the subcommittee, for his leadership on our subcommittee's work, and to the gentleman from Indiana (Mr. VISCLOSKY), the ranking member of this bipartisan approach to our bill, and my thanks to the subcommittee staff for their tireless efforts in putting this bill together.

The gentleman from Alabama (Mr. CALLAHAN) has produced a bill that ensures our Nation's continued commitment to work in partnership with our States and local communities to address such vital needs as flood control, shore protection, environmental restoration, and improving our Nation's many waterways. By doing so, we are helping meet our critical economic, environmental and public safety needs in virtually every State in the Nation, and we are doing so in keeping with our 302(b) allocation, which means we are working within the confines of a balanced Federal budget.

As the chairman can attest and has attested, there are many more requests for funding than our budget allocation can provide for. The No New Start policy contained in this bill is difficult, but very necessary. We are focusing our limited dollars on ongoing projects that are on schedule and on budget.

The chairman deserves special recognition for rejecting forthright the proposition that we should change in midstream the Federal Government's funding formula commitments to these ongoing projects. For more than 170 years, the Federal Government has worked in partnership with our States and local communities to provide solutions to critical flooding, dredging and environmental problems, as well as beach and shore protection. In my home State of New Jersey, these projects have kept our port of New York and New Jersey open for business, and prepared us for the future of bigger ships.

I want to thank the chairman in particular for his strong support of dredging for our port, and with this bill we are helping to keep 127 miles of our beaches in my State open for visitors from around the world. This is a $30 billion industry of tourism for our State. It employs over 800,000 people.

Finally, to help protect people, their homes and businesses from the ravages of flooding, we are helping to purchase wetlands for natural disaster areas, and we are working alongside local governments in Somerset and Morris Counties and elsewhere to develop long-term solutions to keep people safe and our communities whole in the event that floods reoccur, and they will.

Let me also address part of our bill which provides funding for the Department of Energy. Here we have focused our critical dollars on the central programs where the Federal Government funding can truly make a difference. I especially want to thank the chairman for his support of $248 billion for the fusion program and $25 million for laser research. In the President's national energy plan, fusion energy was actually highlighted as having the potential to serve as an inexhaustible and an abundant clean source of energy. The President's energy plan suggests that fusion should be developed as a next-generation technology, and I agree.

Finally, let me say a word about funding for the renewable energy resources, since they are a focus of so much public attention. Let us be clear. Everyone supports renewables, and we fund these programs at $376 million. In fact, in the 7 years I have served on this subcommittee, we have invested over $2.2 billion in renewable energy. This year's added funding maintains our commitment to renewables.

Mr. Chairman, I rise in support of this bill, and I urge my colleagues to do the same.

Mr. VISCLOSKY. Mr. Chairman, I would simply follow up on the colloquy that the gentlewoman from California and the gentleman from Alabama had and would note that the committee directs the Secretary to report back by September 1 of this year in anticipation of the conference. So I do appreciate the chairman's cooperation.

Mr. Chairman, I yield such time as he may consume to the gentlewoman from Minnesota (Mr. SABO).

Mr. SABO. Mr. Chairman, I thank my colleagues for including in the bill a $4 million increase for transmission reliability and to direct the Department of Energy to initiate field-testing of advanced composite conductors. I just want to clarify that these additional funds will be used explicitly for Aluminum Matrix Composite conductors; is that correct?

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

Mr. SABO. Mr. Chairman, I yield to the gentlewoman from Alabama.
Mr. CALLAHAN. The gentleman from Minnesota (Mr. SABO) is correct.

Mr. SABO. Reclaiming my time, I thank the gentleman from Alabama for his response.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. GARY G. MILLER).

Mr. GARY G. MILLER of California. Mr. Chairman, I would like to inquire about a provision in the Committee Report. In title III, describing the Committee’s funding priorities for the Department of Energy’s Energy, Biomass, Biofuels and Energy Systems program, the report states “$1 million to support a cost-shared agricultural waste methane power generation facility in California.”

With regard to this California project, I ask the gentleman from Alabama (Chairman CALLAHAN) is it the same effort proposed by the Inland Empire Utilities Agency in cooperation with the dairies located in the Chino Dairy Preserve?

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

Mr. GARY G. MILLER of California. I yield to the gentleman from Alabama.

Mr. CALLAHAN. The gentleman from California is correct.

Mr. VISCLOSKY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. EDWARDS), a member of the Subcommittee on Energy and Water Development.

Mr. EDWARDS. Mr. Chairman, I rise in support of this important legislation, and I would like to speak about both its process and its product.

Regarding the process in developing this legislation, I commend the gentleman from Alabama (Mr. CALLAHAN), who is not new to a position of being chair in this House, he is not new to the subcommittee; but this is his first term as a chairman of this subcommittee. Through his leadership, working with the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, this was truly put together on a fair and bipartisan basis with the intention of what is good for the country in different regions of the country, not what is good for one party or another.

Mr. Chairman, I regret sometimes that the amount of press attention to legislation in Washington is inversely proportional to the importance of that legislation and how well it is handled. There may not be a lot of coverage of this today in many parts of the country, because it was done on a bipartisan basis without squabbling and infighting.

In terms of the product of this bill, I rise to speak about it because many people in this House and throughout the country do not pay a great deal of attention to the work of this subcommittee, especially because much of its work is designed for prevention, flood prevention and nuclear proliferation prevention.

If this committee does its work well, people never know how important the work of the Subcommittee on Energy and Water has actually been to their lives.

Mr. Chairman, let me pay special tribute to the gentleman from Alabama (Chairman CALLAHAN) for his strong leadership efforts supported by the gentleman from Indiana (Mr. VISCLOSKY) in seeing that at a time of great flood and, in the wake of Tropical Storm Allison, we did not cut the funding for the Army Corps of Engineers flood control projects as had been originally proposed.

In an area of which I have great personal interest, the area of nuclear non-proliferation, I think most Americans would be surprised to know that in Russia today, there is enough nuclear grade plutonium and enriched uranium to build 80,000 nuclear bombs.

This subcommittee’s work is to try to help Russia to get control of that nuclear material so that, God forbid, we do not wake up some day, weeks or months or years from now and read about a major American city having lost millions of its citizens because of the terrorists getting their hands on some nuclear material from the former Soviet Union, not putting it on the tip of a nuclear missile, but putting it in a backpack and parking it in a pickup truck in a major American city.

The gentleman from Alabama (Chairman CALLAHAN) especially deserves the appreciation of American families for saying that we must make an increased investment to ensure that that nuclear material should not get into the hands of terrorists throughout the world.

We may never know how much of a debt of gratitude we owe the gentleman from Alabama (Chairman CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), as his partner in fighting to increase that funding. But I thank the gentleman from Alabama personally as a Member of Congress and as a father for the effort in that particular area, as well as the important work of this subcommittee and flood control and energy renewable research.

Mr. Chairman, I rise in strong support of this legislation. It was handled well. The product is a good one.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I also want to congratulate the gentleman from Alabama (Chairman CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), the ranking minority member, for their leadership, and I look forward to the passage of this legislation.

Mr. VISCLOSKY. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. PASTOR).

Mr. PASTOR. Mr. Chairman, first of all, I would like to congratulate the gentleman from Alabama (Mr. CALLAHAN), the Chairman of the Subcommittee on Energy and Water Development, and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member on the subcommittee, for the fine work they have done in bringing this bipartisan bill forward.

I also would like to thank both of the gentleman for the subcommittee has provided for cylinder maintenance and the construction of an on-site low-level waste disposal cell, will keep us on a steady path towards a safer workplace and a safer community.

Mr. Chairman, the employees at the plant and the citizens living and working in the area adjacent to the plant deserve no less.

On one separate issue, I understand that with the constraint of money, obviously, that the bill recommends a slight reduction in the DOE’s Office of Environmental Safety and Health. To the extent that this reduction might impact the very important medical monitoring program at Paducah for current and former workers, I hope that the gentleman from Alabama (Chairman CALLAHAN) might consider restoring those funds, if it is possible, as the bill moves forward.

The monitoring program is a key component of the newly established DOE workers compensation program, which funds have just now been implemented Nationwide.

Again, I want to thank the gentleman from Alabama (Chairman CALLAHAN), the gentleman from Indiana (Mr. VISCLOSKY), the ranking minority member, for their leadership, and I look forward to the passage of this legislation.

Mr. VISCLOSKY. Mr. Chairman, I want to thank the gentleman from Arizona (Mr. PASTOR).
of us who live in Maricopa County are very appreciative of it.

We do so with thanks to the sub-committee for funding the various flood control studies and habitat restoration of the various tributaries of the Salt River. Also, those of us who represent Tucson are very thankful, because, in this bill, we fund many projects that deal with habitat restoration and flood control in southern Arizona.

Mr. Chairman, I look forward to working with the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, to deal with the issue of the Nogales Wash and to see how we can fund that flood control project; but I would urge my colleagues to support this bill, it is bipartisan.

Mr. Chairman, I wish to thank the staff that have worked very hard on this bill.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, I would like to engage in a brief colloquy with the gentleman from Alabama (Chairman CALLAHAN).

Mr. Chairman, I want to commend the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY) for their action to restore over $30 million in funds which were eliminated from the fiscal year 2002 budget for the U.S. Department of Energy’s Office of Science and Technology within the Environmental Management program.

The Office of Science and Technology has a very important mission in developing and implementing means to clean up contaminated Federal property throughout the country, and it deserves the continued and strong support of the Congress.

Mr. Chairman, I am concerned about the continuation of the important work of DOE’s Western Environmental Technology Office, or WETO, located in Butte, Montana. At this facility, the National Energy Technology Laboratory provides critical support to DOE’s Office of Science and Technology. Their activities help facilitate DOE’s demonstration, evaluation, and implementation of technologies that promise to provide much needed solutions to the environmental cleanup challenges at various DOE sites.

DOE’s Research and Development contract for the Western Environmental Technology Office, originally awarded in fiscal year 1997, has been extended through the end of fiscal year 2003. That contract extension provided that DOE would fund WETO at the following levels: $6 million in fiscal year 2001, $0 million in fiscal year 2002, and $4 million in fiscal year 2003. Consistent with this contract and schedule, the Energy and Water Development Appropriations Act for fiscal year 2001 provided $6.5 million for WETO to carry out its important functions.

It is critically important to preserve this commitment to WETO and continued funding as scheduled. I would add, Mr. Chairman, that the operations and activities of WETO are very important to the economy in Montana. Many professionals have chosen western Montana as their home while they serve our Nation’s challenge to clean contaminated DOE’s sites.

I ask the gentleman from Alabama (Mr. CALLAHAN) if he would agree that it is the committee’s intent that DOE’s agreement with WETO be honored and funded to the maximum extent possible?

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

Mr. REHBERG. I yield to the gentleman from Alabama (Mr. CALLAHAN).

Mr. CALLAHAN. Absolutely. I would agree with the gentleman from Montana. If the Department of Energy has signed a contract with the facility, then it should be honored to the maximum extent possible.

Mr. REHBERG. Reclaiming my time, I thank the chairman for his consideration of this very important program.

Mr. VISCLOSKY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, I thank the gentleman from Indiana (Mr. VISCLOSKY) for yielding me such time.

Mr. Chairman, I rise in strong support of the energy and water bill before us today. I want to thank and congratulate the gentleman from Alabama (Chairman CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, for their great work in drafting a solid bipartisan bill that will address some of the important energy and infrastructure needs of our Nation over the next year.

In particular, I want to thank the committee for including $4.14 million in this bill for the cleanup of Flushing Bay and Creek in my congressional district in Queens.

This funding will be used for the badly needed dredging of parts of this water body to clean up old sediment and other debris that has built up in the bay, which has hampered economic development and the free flow of commerce, as well as trapped pollution and pollutants and other contaminants in that body of water.

The pollution build-up in Flushing Creek Bay and creek has resulted in foul odors and water discoloration, making this body of water a blight on our community, but this investment by the committee in the cleanup will make Flushing Bay and its creek the envy of Queens County.

Mr. Chairman, once again, I want to thank the gentleman from Alabama (Chairman CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, for their hard work and support of this project for the people of my district in Queens, New York.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Chairman, I, too, want to commend the gentleman from Alabama (Chairman CALLAHAN) for his work on this bill.

Mr. Chairman, I rise today in strong support of this bill, specifically the language included to prohibit the Corps of Engineers from using funds to implement a spring rise in the Missouri River.

The National Fish and Wildlife Service recommends implementing higher water levels in the spring and lower levels in the fall. While this artificial water rise would help improve the breeding habitat of three species, least tern, piping plover, and pallid sturgeon, the higher spring water level increases the risk for flooding in towns and on valuable farmland.

The spring rise would devastate communities in my district and all along the Missouri and Mississippi Rivers. When water is released from upstream dams in the Dakotas and Montana, it takes 12 days to reach St. Louis, where the Missouri meets the Mississippi. Once water is released, it cannot be retrieved. Any rains during that 12-day period would make it impossible to control the amount of flooding that would occur.

As we saw earlier this month, the Missouri and Mississippi Rivers often flood naturally; we do not need any additional government-imposed floods. Unless you have been in one of those communities where a flood has hit, you cannot appreciate how devastating a flood can be.

This is not a new proposal. Mr. Chairman, similar language has been included in the last five energy and water appropriation bills. I urge my colleagues to put the needs of the people living and working along the river above the needs of the piping plover and/or the least tern.

Mr. VISCLOSKY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Chairman, I rise today first to commend the gentleman from Alabama (Mr. CALLAHAN), the Chairman of the Subcommittee on Energy and Water Development, and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, for their consistent leadership in addressing the Nation’s water infrastructure needs.

Mr. Chairman, I support this bill, and I appreciate their support of the request that I submitted. I am pleased that $5.5 million of this year’s appropriation bill will go towards the West Basin Municipal Water District located...
in my district, and these funds will assist in the development of the Harbor/South Bay Water Recycling Project in Los Angeles County. The Harbor/South Bay Water Recycling Project will yield clear and measurable long-term returns from this short-term investment.

Mr. KIND. Mr. Chairman, I thank the gentleman very much and thank the ranking Member who is California based on this committee who actively advocated on my behalf, and I thank them very much and thank the ranking member and the chairman.

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

Mr. VISCLOSKY. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. Kim).

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

Mr. Chairman, I rise in support of this bill and commend the subcommittee leadership on their very timely and efficient work on this important piece of legislation.

I was especially happy to see the committee’s recognition of better preserving and protecting the Mississippi River Basin. As co-chair of the bipartisan Mississippi River Task Force, I was happy to see them increase funding by a few million dollars to the important Environmental Management Program above what the Administration requested in their budget.

This is a five-State collaboration program that also involves USGS, the Army Corps of Engineers, Fish and Wildlife Service, which involves Habitat Restoration Projects along the Mississippi River and a long-term resource monitoring scientific program to better understand and share the environmental concerns regarding dredging. In short, dredging and the disposal of dredge materials can only be conducted in such a manner as to not adversely impact surrounding waterways.

Over the past years, I have expressed to the Army Corps of Engineers my concern regarding proposals calling for the establishment of containment islands and borrow pits. I have also met with citizens and groups who have expressed similar concerns.

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in my district, and these funds will assist in the development of The Harbor/South Bay Water Recycling Project in Los Angeles County. The Harbor/South Bay Water Recycling Project will yield clear and measurable long-term returns from this short-term investment.

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

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Over the past years, I have expressed to the Army Corps of Engineers my concern regarding proposals calling for the establishment of containment islands and borrow pits. I have also met with citizens and groups who have expressed similar concerns.

Containment islands, Mr. Chairman, are not appropriate. In the draft, Dredged Material Management Plan, the Army Corps of Engineers found containment islands to be too costly and claimed they were not going to be considered as a viable option. In fact, according to the Corps, pits located directly off Coney Island, the East Bank Pits, and Staten Island, for example, the CAC Pit, that were identified by citizen groups as being designated for near-term disposal activity have been studied extensively and are no longer being considered for any action. However, I want to ensure that the Corps has held to these statements and these options are officially removed from consideration.

We have a responsibility to protect our waterways and marine life from potentially harmful pollutants. The use of emerging technologies and innovative ideas, such as using dredged material for abandoned coal mine reclamation, as well as upland disposal options in the future, will help to ensure the economic benefits of dredging and protecting the environment, I believe, are not mutually exclusive.

Therefore, Mr. Chairman, I would like to work with you as this moves to conference with the Senate to address this important issue.

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

Mr. FOSSELLA. I am happy to yield to the gentleman from New York for bringing this matter to our attention. I want to pledge to him to work with him and the Army Corps of Engineers to address this as this bill moves forward. I will do all that I can to help him. I know of his passion to protect the waterways of the coast of Staten Island, and I want to do everything I can to help him protect those waterways.

Mr. FOSSELLA. Mr. Chairman, I thank the gentleman very much for his support and leadership.

Mr. VISCLOSKY. Mr. Chairman, I understand that the majority has no further speakers. I yield back the balance of my time.

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

Mr. Chairman, I would like to comment that we worked very hard to get this bill to the position it is in today. This is just the first of several steps in the process as we all know. It has to go through the conference committee. Then it has to go through a conference committee after that. I want the Members to know that we are going to do everything we can to protect what we have in this bill and that I am sure my colleagues have the same commitment from the gentleman from Indiana (Mr. VISCLOSKY).

But I echo in Mr. VISCLOSKY’s earlier statement and would like to thank the
staff members that have formulated and drafted this bill. It is a very complicated bill, and it requires a lot of talent. Bill Schmid, and Joanne Wilson and Kevin Cook, Paul Tumminello and Tracey Laturner, along with my staff, Nancy Tippins and Mike Sharp, have done a tremendous job in writing and drafting this very complicated piece of legislation.

But we are happy to have received the support we have received from all Members of Congress.

Mr. Chairman, I yield such time as he might consume to the gentleman from Iowa (Mr. Latham), a member of our subcommittee.

Mr. LATHAM. Mr. Chairman, I thank the chairman very much for yielding me this time.

Mr. THUNE. Mr. Chairman, I yield the gentleman from South Dakota (Mr. Thune).

Mr. THUNE. Mr. Chairman, I thank the gentleman from Iowa for yielding to me.

Mr. Chairman, I intend to rise today to speak to section 106 of the bill before us. Section 106 would prevent the U.S. Army Corps of Engineers from revising the Missouri River Master Water Control Manual that includes anything that includes a so-called spring rise. Mr. Chairman, I have to express my strong objection to that particular provision.

For most of my colleagues here in the House, this debate may not be familiar. It is primarily a regional issue with divisions that break along regional lines, but its significance is much broader.

I appreciate the concerns that the proponents of section 106 have regarding downstream flooding and the continued viability of navigation. However, I believe there is a way to address upstream and downstream concerns as we modify the master manual to account for those competing priorities.

I believe we can forge a balanced approach to the operation of the river. We must consider all of the impacts and do this in a way that balances the needs of all the States concerned.

In addition to recreation flood control navigation, we must consider the impacts changes would have on hydro-power, water supply, and environmental and cultural resources.

The Corps has been working diligently to account for all of these concerns, but there are strong and vocal views on all sides of any solution that they propose. As a result, Mr. Chairman, I would like Congress to look for a new way to deal with this problem that involves consensus building among the various stakeholders.

In the past, the Missouri River Basin Association, a group made up of representatives of the governors of each of the eight basin States and representatives of the Indian tribes has had success in finding common interest among the disparate views of the upstream and downstream States.

As a result, I like to know if the chairman of the subcommittee, the gentleman from Alabama, would be willing to work with me to consider a solution that would help bring consensus to this issue.

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

Mr. LATHAM. I am happy to yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman from South Dakota (Mr. Thune) for his interest in this issue. I am well familiar with this issue through previous conversations that we have had throughout the years, and I know of the great importance it is to him and upstream States.

I appreciate his concerns and would welcome any solution and input that he may have. I would also encourage him to work with his colleagues and the gentleman from Iowa (Mr. Latham), in order to reach a result.

Mr. THUNE. Mr. Chairman, if the gentleman from Iowa will further yield, I thank the chairman for his continued openness and remaining open to working with me on this and as well as for his support of a number of South Dakota priorities that are included in this energy and water appropriation bill.

I also appreciate his suggestion that I work with the gentleman from Iowa (Mr. Latham) on this solution.

Mr. LATHAM. Mr. Chairman, I appreciate the interest of the gentleman from South Dakota (Mr. Thune) in this issue and his willingness to consider some middle ground on this divisive matter.

Our States have so much in common, yet there clearly are differences on this issue. Nonetheless, I do think it is worth considering these areas of the master manual debate where we do agree and work together toward an answer that would satisfy the concerns of upper and lower basin States.

I do not expect this to be an easy task as we all know but would welcome the gentleman's input in the process, and I am willing to work with him to consider various options.

Mr. Chairman, I yield to the gentleman from South Dakota (Mr. Thune).

Mr. THUNE. Mr. Chairman, I thank the gentleman for their cooperation. As I stated earlier, while I am disappointed this provision likely will be voted on by the House today, I am encouraged by the willingness of my colleagues to work with me on a balanced consensus-based approach to revise the Missouri River Master Manual.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi (Mr. Wicker), a member of the subcommittee with the gentleman from Alabama (Chairman Callahan) and also the gentleman from Indiana (Mr. Visclosky), our ranking minority member. I appreciate their hard work and cooperation in producing this bipartisan piece of legislation.

I particularly want to thank the gentleman from Alabama (Chairman Callahan) for crafting a bill which recognizes the benefits of making needed investments today in order to save money tomorrow.

Let me just give the committee two examples of this. One excellent example is the substantial increase in funding for the environmental management cleanup activities at our Nation's nuclear laboratories and facilities. H.R. 2311 provides over $7 billion for the purpose of this cleanup. This is an increase of over a quarter of $1 billion over last year's amount. This increase will allow cleanup timetables to stay on schedule and save unnecessary future costs.

I am also pleased that this bill reflects the importance of our Nation's water infrastructure. Mr. Chairman, our Nation's waters do not recognize State lines as we all know. Over 40 percent of the Nation's water flows by the borders of my home State of Mississippi. Flood control and maintaining navigable waterways are national issues. By making the necessary investments in these activities, we will avoid the greater cost in the future that we would have if we were not having the proposed spending today.

So, Mr. Chairman, I urge the support from all of my colleagues for this bipartisan bill which fund our Nation's priorities and, of course, within the context of a balanced budget.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. Everett).

Mr. EVERETT. Mr. Chairman, the cities of Dothan, Enterprise, Ozark, Daleville and the U.S. Army Aviation Center at Fort Rucker, Alabama have formed a partnership in support of a regional reservoir to meet their water supply needs.

The geological Survey of Alabama has a 3-year study to locate a reservoir to serve these areas experiencing water, severe water supply shortages and is currently working with the Corps of Engineers on a needs assessment which should be completed in a few months.

Does the Chairman understand the importance of this project to the cities mentioned and to the Army Aviation
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Training Center and that this is not a new project?

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

Mr. EVERETT. I am glad to yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I do understand these communities are suffering water shortages primarily because the gentleman from Alabama (Mr. EVERETT) tells me about it every night. Every time we get in a 5-minute lull he expresses to me his serious concerns about these problems, which I think will worsen in the near future, and that the corporation of the Corps is needed as soon as possible.

I pledge to work with the gentleman and find an appropriate resolution to this situation as this process moves forward, probably in conference.

Mr. EVERETT. I appreciate the chairman's comments.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume to advise my colleagues that I do not have any further speakers. But, once again, let me remind the Members that this is the first stage of this process and that we have been fairly generous, I think, in recognizing all of the demands of all the Members on both sides of the aisle. I pledge, along with the gentleman from Indiana (Mr. VISCLOSKY), to try to protect all the projects we have in here as it goes through the process.

As my colleagues well know, the process could involve removal of some of these projects in the Senate, it could include removal of some of these projects in conference, but I am going to do everything I can to make absolutely sure the Members who support this bill especially, that their projects are preserved.

Mr. MATSUI. Mr. Chairman, I would like to thank Chairman CALLAHAN and Ranking Member VISCLOSKY, and the Members of the Subcommittee for their support of Sacramento flood control projects included in the Fiscal Year 2002 Energy and Water Appropriations bill. As this body knows, with a mere 85-year level of protection, Sacramento has been identified by the U.S. Army Corps of Engineers as one of the most at-risk areas in the nation. At risk are roughly half-a-million people and $40 billion in economic value. This includes 1,200 public facilities, 130 schools, 26 nursing home facilities, 7 major hospitals, major interstate highways, and the Capitol to the world's sixth largest economy. Thank you.

Thankfully, this Subcommittee has again generously funded numerous project requests in my Sacramento district essential to the ongoing flood work necessary to address this dire situation. Specifically, I thank the subcommittee for the $8 million allocation for continued construction modifications to Folsom Dam. These flood outlet modifications represent the linchpin to Sacramento's flood control system, providing a doubling of Sacramento's flood protection and giving to the flood plain its first major improvements to flood control in more than 40 years. I am grateful for the $15 million included for the American River Watershed Common Elements which will provide much needed improvements to more than 36 miles of Sacramento's levees, the last line of defense against catastrophic flooding. I also would like to thank the Members for their efforts in securing additional funding for a series of smaller, yet no less critical, regional flood control projects. This includes projects for Sacramento River bank protection, work on the Lower Strong and Chicken Ranch Slough, Maggie Creek, and funds to allow for ongoing studies for American River Watershed flood control.

It is my hope that as this legislation continues to move through the legislative process, serious consideration is given to funding 'new starts' construction projects. The South Sacramento damage area represents protection to more than 100,000 people and 41,000 structures from a network of creeks and small rivers in the region. This project was authorized in the 1999 Water Resources Development Act and is now ready for construction. Although it recognizes the extremely tight budgetary constraints confronting this subcommittee, the perilous situation that these streams pose to the South Sacramento region makes initial construction funding essential. I ask for your support in providing funding for this critical new start project in the conference committee.

Again, on behalf of my Sacramento constituents, I remain grateful for your past and continued support of these vital, life-saving projects. Thank you for your efforts in supporting essential federal assistance to the most pressing public safety issue confronting the region.

Mr. BEREUTER. Mr. Chairman, this Member would like to commend the distinguished gentleman from Alabama (Mr. CALLAHAN), the Chairman of the Energy and Water Development Appropriations Subcommittee, and the distinguished gentleman from Indiana (Mr. VISCLOSKY), the Ranking Member of the Subcommittee, for their exceptional work in bringing this bill to the Floor.

This Member recognizes that extremely tight budgetary constraints made the job of the Subcommittee much more difficult this year. Therefore, the Subcommittee is to be commended for its diligence in creating such a fiscally responsible measure. In light of these budgetary pressures, this Member would like to express appreciation to the Subcommittee and formally recognize that the Energy and Water Development Appropriations bill for fiscal year 2002 includes funding for several water projects that are of great importance to Nebraska.

This Member greatly appreciates the $11 million funding level provided for the four-state Missouri River Mitigation Project. The funding is needed to restore fish and wildlife habitat lost due to the Federally sponsored channelization and stabilization projects of the Pick-Sloan plan. This includes wetlands, and flat floodplains needed to support the wildlife and waterfowl that once lived along the river are gone. An estimated 475,000 acres of habitat in Iowa, Nebraska, Missouri and Kansas have been lost. Today's fishery resources are estimated to be only one-fifth of those which existed in pre-development days. In 1986, the Congress authorized over $50 million to fund the Missouri River Mitigation project to restore fish and wildlife habitat lost due to the construction of structures to implement the Pick-Sloan plan.

In addition, this measure provides additional funding for flood-related projects of tremendous importance to residents of Nebraska's First Congressional District. Mr. Chairman, in 1993 temporarily closed Interstate 80 and seriously threatened the Lincoln municipal water system which is located along the Platte River near Ashland, Nebraska. Therefore, this Member is extremely pleased that H.R. 2311 continues funding in the amount of $350,000 for the Lower Platte River and Tributaries Flood Control Study. This study should help formulate and develop feasible solutions which will alleviate future flood problems along the Lower Platte River and tributaries.

This Member is also pleased that this bill includes $100,000 in funding requested by this Member for the feasibility phase of a Section 206 wetlands restoration project in Butler County, Nebraska. The key element of the plan is the incorporation of a wetlands restoration project northwest of David City, Nebraska. This restoration was supported by a Natural Resources Conservation Service preliminary determination of wetlands potential for a 160-acre tract northwest of David City, Nebraska. Under the proposed project, storm water that currently travels northwest of David City will be diverted west before reaching the city, and then channeled south along a county road before being detained in the proposed wetlands area. The storm water will then slowly be released from the wetlands area so that there are no negative impacts to downstream landowners.

It is also important to note that this legislation includes $200,000 requested by this Member which would be implemented through the Lower Platte South Natural Resources District on behalf of the Lower Platte River Corridor Alliance. This amount represents the 50% Federal share under Section 503 of the Water Resources Development of 1996, to assess and plan for water quality infrastructure and improvements in the Lower Platte River Watershed concentrating on dixt drinking water and wastewater needs within the Lower Platte River Corridor between and including the communities of Ashland and Louisville, in Saunders and Cass counties, Nebraska.

This Member is also pleased that H.R. 2311 includes $1,800,000 for the Missouri National Recreational River, which could be used for projects such as the Missouri River Research and Education Center at Ponca State Park in Saunders and Cass counties, Nebraska.

This is the Missouri River is one of the most historic, scenic and biologically diverse rivers in
North America. The proposed research and education center will serve as a "working" interpretive center for the river and include interactive exhibits. It will provide a timeline for the vast riverine ecosystem as well as an upstream view of the beginning of the Missouri National Recreation River. When completed the center will also include a classroom/conference room facility.

This Member recognizes that this bill includes $656,000 for the Sand Creek Watershed project in Saunders County, Nebraska, and $400,000 for the Antelope Creek project in Lincoln, Nebraska. However, this funding is to be used for preconstruction engineering and design work. This Member believes that it is critically important that the final version of the FY2002 Energy and Water Development Appropriations legislation include some funding for construction of these projects.

Funding for these projects is particularly urgent. The Antelope Creek Basin is a cooperative effort in Nebraska between the state highway agency and water development agencies which makes this project more cost-effective and feasible. Specifically, the dam for this small reservoir is to be a structure that the Nebraska Department of Roads would construct instead of a dam as part of the new state expressway in the immediate vicinity of Wahoo, Nebraska. Immediate funding would help ensure that this coordinated effort could continue.

Construction funding is also needed for the Antelope Creek project. It would be a significant setback to the project timetable if the Corps does not receive construction funding for the project in FY2002. Delays in other components of the project would also likely result.

Finally, this Member is also pleased that H.R. 2311 provides $275,000 in funding for the Missouri National Recreational River Project. This project addresses a serious problem by protecting the river banks from extraordinary and excessive erosion rates caused by the sporadic and varying releases from the Gavins Point Dam. These erosion rates will impact future work on the river by the Federal Government.

Again, Mr. Chairman, this Member commends the distinguished gentleman from Alabama (Mr. CALLAHAN), the Chairman of the Energy and Water Development Appropriations Subcommittee, and the distinguished gentleman from Indiana (Mr. VISCLOSKY), the ranking member of the Subcommittee, for their support of projects which are important to Nebraska and the 1st Congressional District, as well as to the people living in the Missouri River Basin.

Ms. PELOSI. Mr. Chairman, as we consider the Energy and Water bill today here in Washington, California and the West are in the throes of an energy crisis. Now is the time to launch a collaborative effort that will increase funding for renewable energy programs by 50%.

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

The Chair. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule. The amendment printed in House Report 107-114 is adopted.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered out of order.

Mr. TANCREDO. Mr. Chairman, I rise to offer an amendment.

The Chair. The Clerk will read.

The Clerk reads as follows:

H. R. 2311
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following amendments shall be adopted to this bill: (reduced by $9,900,000). Pursuant to the rule, the amendment offered by Mr. TANCREDO and the amendment offered by Mr. CALLAHAN, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered out of order.

TITLE I
DEPARTMENT OF DEFENSE—CIVIL
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS—CIVIL
The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS
For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $153,260,000, to remain available until expended: Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $1,000,000 of the funds appropriated herefore in to continue preconstruction engineering and design of the Murrieta Creek, California, flood protection and environmental enhancement project and is further directed to proceed with the project in accordance with cost-sharing established for the Murrieta Creek project in Public Law 106-377: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use the feasibility report prepared under the authority of section 206 of the Flood Control Act of 1948, as amended, as the basis for the Rock Creek-Keddy Slough Flood Control Project, Butte County, California, and is further directed to use $200,000 of the funds appropriated herein for preconstruction engineering and design of the project: Provided further, That in conducting the Southwest Valley Flood Damage Reduction Study, Albuquerque, New Mexico, the Secretary of the Army, acting through the Chief of Engineers, shall include an evaluation of flood damage reduction measures that would otherwise be excluded from the feasibility analysis based on policies regarding the frequency of flooding in the drainage areas, and the amount of runoff.

AMENDMENT OFFERED BY MR. TANCREDO
Mr. TANCREDO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TANCREDO:
Page 2, line 18, after the dollar amount, insert the following: “(reduced by $9,900,000).” Pursuant to the rule, the amendment offered by Mr. TANCREDO, the amendment offered by Mr. CALLAHAN, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered out of order.

Mr. CALLAHAN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. TANCREDO. Mr. Chairman, today I am offering this amendment to the Energy and Water Appropriations Bill that will increase funding to the Department of Energy’s Renewable Energy Integration Program by $3 million with a corresponding offset for the Army of Corps of Engineers’ General Investigations Account. That account, by the way, is currently receiving about a $33 million increase above the President’s budget.

Recent electricity and gas shortages in California and other Western States, along with an expanding recognition of environmental issues, have highlighted the need for clean renewable power. Concentrating solar power technologies offer a near-term opportunity for large-scale and cost-effective production of renewable energy.

An addition to these accounts would also allow the concentrated solar power program to continue its core long-term research and development activities that will help advance the next-generation trough and dish technologies. The focus would include identifying and implementing advanced converter options for modular dish systems. In fiscal year 2000, the CSP program began working with the National Renewable Energy Lab’s high-efficiency photovoltaic team on the development of a high-efficiency concentrating photovoltaic converter as an alternative to the Stirling engine converter historically supported by the CSP program.

A $5 million increase in the Biomass/ Biofuels Energy System line item would launch a collaborative effort that would advance computational science and bioinformatics developed by the national labs and universities to develop a biorefinery simulation model that enables virtual testing and prototyping of biorefinery systems and components. The simulation model will provide a useful tool to test new concepts as well as provide a basis for industry to develop future design tools for biorefineries.

Mr. Chairman, this is an important amendment because I think it is, again, a matter of priorities. Certainly there is undeniable need for an investment in alternative energy research. No one denies that.
I want to actually thank the committee for their attention to this detail and for restoring the budget, the original budget, for NREL. The reason for that is that there are these two additional needs, and it is simply a matter of priorities.

It seems to me that with taking a part of the budget that has received a $33 million increase above the President's request, taking a part of that, reducing it by only approximately $9 million and putting it into this kind of research, is the correct priority.

We will be talking certainly on the floor here about various issues dealing with the Corps of Engineers, the integrity of the programs operated by the Corps of Engineers, and the integrity of the reports that they commission and are commissioned by others to do to determine whether or not a project is necessary. There are significant problems, to say the least, in this particular area.

Recently, for example, one of the reports that was done by the Corps of Engineers has been criticized by the Inspector General, not only criticized, but there is an allegation of manipulation of data, so much so that there is a criminal investigation under way with regard to that particular endeavor. This is an area in which we should not be increasing the amount of appropriations; we should be decreasing it, or at least we should be forcing the Corps of Engineers to reform itself in a way that would reflect our concerns about the poor administratve tactics they have employed so far.

The fact is that the committee itself added over 12 new studies that the administration did not request. Some of these studies stretch the boundaries of the Corps' jurisdiction. Again, we will be talking as time goes by, I know, Mr. Chairman, that we would like to see some responsibility for that; but there is an allegation of manipulation of data, so much so that there is a criminal investigation under way with regard to that particular endeavor.

The Congress of the United States takes some responsibility for that; but for that purpose, I would ask for the support of this amendment.

The CHAIRMAN. Does the gentleman from Alabama insist on his point of order?

Mr. CALLAHAN. No, sir. I withdraw my point of order, but I would like to rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. CALLAHAN. Mr. Chairman, I appreciate the gentleman's decision is coming from, but this appropriations process is long and involved. We invited every Member of Congress to submit their suggestions to us as to how we could best formulate this bill. The sponsor of this amendment did not choose to bring this to our attention, nor did he request that we consider this during our regular process. But what he is doing in his amendment is taking $9.9 million for this project specifically, and he is taking it out of the Corps' operating budget.

We went through a long deliberative process trying to establish how much money the Corps needed to operate, and in our deliberations we finally decided this was the amount of money that we need. This is not the time to accept this without any hearings or any indication as to what is best for the Corps or what is best for its program.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the last word.

I would join the committee in opposition to the amendment. I appreciate what the gentleman wants to do; but as I pointed out in my opening remarks, the Chair, myself, as well as members of the subcommittee and the full Committee on Appropriations, have added $100 million even to the renewable accounts.

Secondly, while the gentleman pointed out that our figure is $33 million over the President's budget request for general investigations for the Army Corps, I would also point out the President's request of $500 million was under the President's fiscal year, and we are still $32 million under this current funding year level. The Army Corps cannot take all that, as I am adamantly opposed to the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. TANCREDO).

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

Mr. TANCREDO. Mr. Chairman, I demand a recorded vote.

The Clerk read as follows:

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed investigations, studies, or maintenance of existing projects (including those for development with participation or under consideration for participation by States, local governments, and other groups) and made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,671,850,000, to be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 12 Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; Lock and Dam 5, Mississippi River, Minnesota, and London Locks and Dam, Kanawha River, West Virginia; projects; and of which funds are provided for the following projects in the amounts specified:

San Timoteo Creek (Santa Ana River Mainstem), California, $10,000,000; Indianapolis Central Waterfront, Indiana, $9,000,000; Southern and Eastern Kentucky, Kentucky, $4,000,000.

Clover Fork, City of Cumberland, Town of Martin, Pike County (including Levisa Fork and Tug Fork Tributaries), Bell County, Floyd County, Martin County, and Harlan County, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River, Kentucky, $15,450,000; Provided, That $15,000,000 of the funds appropriated herein shall be deposited in the San Gabriel River Basin and Tributaries Fund established by section 110 of division B, title I of Public Law 106-554, of which $1,000,000 shall be for remediation in the Central Basin Municipal Water District; Provided further, That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to modify the Natural Bridge Reservoir, Kentucky, project at full Federal expense to provide additional water supply storage for the Upper Kentucky River Basin; Provided further, That $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake design deficiency repairs to the Bois Brule Drainage District, Missouri, project authorized and constructed under the authority of the Flood Control Act of 1986 with cost sharing consistent with the original project authorization; Provided further, That in accordance with section 323 of the Water Resources Development Act of 1999, the Secretary of the Army is directed to increase the authorized level of protection of the Bois Brule Drainage and Levee District, Missouri, project from 50 years to 100 years using $700,000 of the funds appropriated; provided that the project costs allocated to the incremental increase in the level of protection shall be cost shared consistent with section 103(a) of the Water Resources Development Act of 1986, notwithstanding section 202(a) of the Water Resources Development Act of 1996.

FLOOD CONTROL, MISSISSIPPI RIVER AND TERRITORIES, ARKANSAS, IOWA, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, rescue work, repair, reconstruction, or maintenance of control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a and 702g-1),
$347,665,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, fishways, flood control structures, navigation and recreation; surveys and charting of northern and northwestern lakes and connecting waterways, clearing and straightening channels; and removal of obstructions to navigation, $1,864,464,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that Fund, and of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), may be derived from that account for construction, operation, and maintenance of outdoor recreation facilities: Provided, That with $1,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to perform cultural resource mitigation and recreation improvements at Waco Lake, Texas, at full Federal expense notwithstanding the provisions of the Water Supply Act of 1968: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $2,000,000 of the funds appropriated hereunder to grade the basin within the Hansen Dam feature of the Los Angeles County Drainage District, California, project to enhance and maintain areas of outdoor recreation and to provide for future use of the basin for compatible purposes consistent with the Master Plan including recreation and environmental restoration: Provided further, That, the Secretary of the Army, acting through the Chief of Engineers, is directed to use $1,000,000 of the funds appropriated herein to fully investigate, the development of an upland disposal site recycling program on the Black Warrior and Tombigbee Rivers project and the Apalachicola River and connecting lakes and waterways project: Provided further, That, for the Raritan River Basin, Green Brook Sub-Basin, New Jersey, project, the Secretary of the Army, acting through the Chief of Engineers, is directed to implement the locally preferred plan for the element in the western portion of Middlesex Borough, New Jersey, which includes the buyout of up to 22 homes, and flood proofing of four commercial buildings along Prospect Place and Union Avenue, and also the buyout of up to three commercial buildings along River and Lincoin Avenues, at a total estimated cost of $15,000,000, with an estimated Federal cost of $11,500,000 and an estimated non-Federal cost of $3,500,000.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $128,300,000, to remain available until expended.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination throughout the United States resulting from work performed as part of the Nation’s early atomic energy program, $140,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers, activities of the Humphreys Engineer Center Support Activity, the Institute for Water Resources, and the chief of Engineer Districts, $152,000,000, to remain available until expended: Provided, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Chief of Engineers or the executive direction and management activities of the division offices: Provided further, That none of these funds shall be available to support in an office of congressional affairs within the executive office of the Chief of Engineers.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for official representation and representation expenses (not to exceed $5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for official reception and representation expenses (not to exceed $100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. Section 110(b)(3)(B)(ii) of division B, title I of Public Law 106-554 is amended by inserting the following: "Provided, That the Secretary shall credit the San Gabriel Water Quality Authority with the value of all prior expenditures by the non-Federal interests that are compatible with the purposes of this Act".

Mr. POMBO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage in a colloquy with the gentleman from Alabama about two very important water projects in my district that I believe deserve to receive Federal funding during the fiscal year 2002 appropriations process.

Let me begin by talking about the Banta-Carbona Irrigation District fish screen project. This project is located at the entrance to the Banta-Carbona Irrigation District intake channel on the San Joaquin River.

This pending environmental disaster could be shut down by these Federal funds.

Further, WRDA of 1999 authorized $25 million for conjunctive use and groundwater recharge projects within the Stockton East Water District. This study concluded that a demonstration project should be the next step.

I support the efforts of the Stockton East Water District, and I am requesting the gentleman’s support of up to $2.5 million in fiscal year 2002 for the project.

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

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

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman from California for yielding, and as I mentioned before, I promise to continue working with the gentleman from California during the
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Mr. POMBO. Mr. Chairman, I thank the gentleman, and conclude by saying that the gentleman from Alabama (Mr. CALLAHAN) and the ranking member from Texas (Mr. VISCONTI) deserve to be commended for crafting a sound bill, and I want to thank them for their tireless efforts and work on this bill.

Mr. BENTSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of this bill, and I want to commend the chairman and the ranking member for working with a very difficult budget to put this bill together. I want to commend them for funding projects when they were facing at one point a 14 percent cut in the Corps' construction budget; yet they were able to figure out a way to do this.

Mr. Chairman, as a member of the Committee, I offered the amendment when we were marking up the budget resolution to restore the Corps funds. Unfortunately, that amendment failed, but I was hopeful that the chairman would figure out a way to do this.

I also want to thank them for figuring out a way to increase funding for the Brays Bayou project in my district, which just saw tremendous flooding along with the Sims and other bayous. I appreciate what they did for the Port of Houston project, although we did not get as much money as we would have liked. We hope that will be resolved.

Mr. Chairman, I would like to enter into a colloquy with the chairman regarding the Sims Bayou Texas project. The Sims Bayou Flood Control Project which is currently under construction is funded at $8 million in the committee's budget, I offered the amendment when we were marking up the President's fiscal year 2002 budget request, although it is $3 million below the amount which the Corps of Engineers Galveston District tells us is necessary to keep the project on schedule to be completed by 2009. As I mentioned, the greater Houston area just suffered tremendous flooding as a result of Tropical Storm Allison, including many of the neighborhoods along the Sims in my congressional district, and the district of the gentlewoman from Texas (Ms. JACKSON-LEE); and I think it is important for the chairman and the members of the subcommittee to know, however, where the Federal project had been constructed and was completed was not flood prone where there had otherwise been flooding in previous storms.

So the project does work and these projects do work. The chairman and the ranking member know that, and I think the rest of the Congress needs to know that as well.

I realize that the gentleman from Alabama (Mr. CALLAHAN) was faced with a very tight budget, and I appreciate the job that was done by the chairman and the ranking member, and the members of the subcommittee. I would ask as this bill progresses, that the committee consider increasing the allocation for Sims to get it up to the amount that the Corps would like to have to stay on track if additional funds become available through the appropriations process or through a requested reprogramming from the Corps of Engineers.

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

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

Mr. CALLAHAN. Mr. Chairman, we will be glad to work with the gentleman and the victims of Tropical Storm Allison. We are happy to work with the gentleman from Texas (Mr. BENTSEN), and the entire Texas delegation to provide whatever assistance we can.

Mr. BENTSEN. Mr. Chairman, the majority whip, whose area includes the Brays, has been a very strong supporter of these projects. We have authored legislation on this, and I appreciate the work of the chairman and the ranking member, and the gentleman from Texas (Mr. EDWARDS).

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

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

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

I am very encouraged that the Brays project is on track to be fully funded at $5 million in Fiscal Year 2002, rather than $4 million, as the Administration suggested. The project will improve flood protection for an extensively developed urban area along Brays Bayou in southwest Harris County including tens of thousands of residents in the flood plain, the Texas Medical Center, and Rice University.

The entire project will provide three miles of channel improvements, three flood detention basins, and seven miles of stream diversion resulting in a 25-year level of flood protection. Current funding is used for the detention element of the project. Originally authorized in the Water Resources Development Act of 1990 and reauthorized in 1996 as part of a $400 million federal/local flood control project, over $20 million has already been appropriated for the Brays Bayou Project.

However, besides the admirable considerations, Brays Bayou is a flood protection project. The Committee has wisely lowered that to $70 million below the 2001 level. When I introduced an amendment to remedy this in the mark-up of the budget, I warned that Congress would not stand for such a large shortfall affecting public safety and navigational water projects. I am relieved that much of the proposed cut was restored, and I commend the Chairman and ranking member for their effort.

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

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

Flood control projects are necessary for the protection of life and property in Harris County, but improving navigation in our Port an integral part of the growth of our economy in the global marketplace. Therefore Mr. Chairman, I am disappointed that this legislation provides only 30 out of the needed $46.8 million for continuing construction on the 1215
Houston Ship Channel expansion project. When completed, this project will generate tremendous economic benefits to the nation and will enhance one of our country’s most important trade and economic centers.

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

The Houston Ship Channel expansion project calls for deepening the channel from 40 to 45 feet and widening it from 400 to 530 feet. The ship channel modernization, considered the largest dredging project since the construction of the Panama Canal, will preserve the Port of Houston’s status as one of the premier deep-channel Gulf ports and one of the top transit points for cargo in the world. Besides the economic and safety benefits, the dredged material from the deepening and widening will be used to create 4,250 acres of wetland and bird habitat on Redfish Island.

I want to take this opportunity to urge those who will be conferees on this legislation to fund the Port of Houston project to its capability. This project is supported by local voters, governments, chambers of commerce, and environmental groups.

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

Mrs. EMERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to commend the gentleman from Alabama (Mr. CALLAHAN), chairman of the Subcommittee on Energy and Water, and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, as well as the staff for doing a tremendous job in writing this bill under very, very challenging circumstances. They have done a tremendous job.

Mr. Chairman, I also want to make mention, as the gentleman from Texas (Mr. BENTSEN) did, about restoring the funding for the Corps of Engineers, which is very critical for my district, which has the largest amount of Mississippi and the Missouri Rivers. The work that the Corps does with regard to flood protection is vital to many people in my district.

I want to make mention of the excellent job that the complete staff and our chairman did with regard to hazardous waste worker training. It is a very vital issue. I have a lot of people who actually have worked in the facility in Paducah, Kentucky, who have faced many challenges; and the work that is ongoing there requires a lot of training for protection of lives.

But my real purpose in standing here today is to talk about the language in the bill that prevents the implementa-

tion of the egregious plan by the Fish and Wildlife Service which would impact the flow of the river transportation on the Missouri River. I can understand the concerns over the endangered species that this plan is designed to protect, but I think the cost is too high. I am not willing to displace thousands of farmers along the Mississippi and the Missouri Rivers. I cannot find a good way to explain to my farmers that they have to move because some fish upstream are not happy with their living conditions. It is not possible for me to do that.

This plan calls for a controlled release, but one cannot control the release and ensure that there will be no flooding. Early this month in 3 days the river rose from normal stage to flood stage from one end of Missouri to the other. The water level from Gavins takes 5 days to get to Kansas City and 10 days to get to St. Louis. Once released, the water is not retrievable. The “spring rise” prescribed by Fish and Wildlife would have added to the flooding experienced in Missouri earlier this month.

The Missouri River does not flow through my district, but the Missouri River feeds the Mississippi River and provides as much as two-thirds of its flow during dry years. Missouri River transportation is not minor and is very, very important to my constituents.

I am also concerned about this plan because from an energy standpoint we have an obvious crisis right now with the delivery of energy, and the Fish and Wildlife plan calls for low flows during the summer during peak power demand, reducing the availability of clean hydropower in the summer. Given the investment that our mercury project is making, I do not believe that we should implement a plan that will hinder hydropower production.

The Missouri Department of Natural Resources, which is an independent agency within Missouri, and with whom I did not agree on many occasions, as well as our Democratic Governor Bob Holden, as well as the entire Missouri delegation, Republicans and Democrats, the Senate and House, all reject the Fish and Wildlife Service plan, as do many others up and down the Mississippi River and the Missouri River all of the way down to New Orleans.

Mr. Chairman, I will listen to the Missouri Department of Natural Resources which says that the science behind this plan is not accurate and certainly will not do anything to help these species. Frankly, I reject the notion that the Fish and Wildlife Service is always right and our experts at DNR are wrong, and I clearly oppose that plan and hope that we can reach a compromise that is in the best interest of everyone involved.

Mr. Green of Texas. Mr. Chairman, I move to strike the last word.

I want to engage the chairman in a colloquy and talk about the critical importance to the people of Harris County, but before I do, I thank the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY) for their efforts on flood control and drainage projects. I thank the gentleman from Texas (Mr. EDWARDS) who serves on the subcommittee for his efforts over the years.

Mr. Chairman, I am concerned about the level of funding for flood control projects, particularly the Greens Bayou and Hunting Bayou, all of which flow through my district in Harris County. Greens Bayou flooded nearly half of the 30,000 homes that were damaged by Tropical Storm Allison, while Hunting Bayou affected hundreds of homes as well. These two bayou systems need to be considered for increased support since the recent floods, increased funding for continued improvement to both the Greens and the Hunting Bayou systems.

Mr. Chairman, to see the estimated $4 billion-plus damage, and the loss of 25 lives, we on this floor realize the need to continue the Corps of Engineers projects not only in my district, but all of our districts throughout the country. In light of the recent severe flooding from Tropical Storm Allison, I ask the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY) for their assistance to ensure that funding is restored as the bill moves through conference.

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

Mr. Green of Texas. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, we are happy to work with the gentleman and the entire “T” committee with respect to their needs. We have discussed this with the majority whip, and he is concerned about some of the problems that are facing Texas. Yes, we will do everything we can to facilitate their needs for these very important projects.

Mr. Green of Texas. Mr. Chairman, I thank the gentleman. We have worked together, the seven Members of Congress who represent Harris County. The Greens Bayou I share with the gentleman from Texas (Mr. BRADY), and we have been out to see the devastation of our constituents, along with the gentleman from Texas (Mr. DELAY). I appreciate the efforts of the gentleman.

Mr. Green of Wisconsin. Mr. Chairman, I move to strike the last word for the purpose of entering into a colloquy with the gentleman from Alabama (Mr. CALLAHAN), the chairman of the Subcommittee on Energy and Water.

Mr. Chairman, as the chairman is aware, on September 11, 2000, an agreement was reached between the State of
Wisconsin and the Army Corps of Engineers to transfer 17 locks along the Fox River to the State of Wisconsin for ownership. Under the memorandum of agreement signed by then-Governor Tommy Thompson and Assistant Secretary for the Army Joseph Westphal, the Army Corps of Engineers is to provide the ‘full closure costs’ of $10 million to the State of Wisconsin upon the transfer.

This bill that we are considering today has allocated $5 million to the Army Corps for the transfer of the locks to the State of Wisconsin. Unfortunately, without the full payment of $10 million, this transfer and decades of negotiations will be placed in jeopardy. It is essential, in my view, that full funding for the transfer be included in the fiscal year 2002 appropriation bill or else the local and State matching grants for this project will be jeopardized.

This memorandum of agreement was a promise by the Federal Government to the State of Wisconsin, and I do not believe that we can shirk this responsibility.

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

Mr. GREEN of Wisconsin. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman. I want to tell the gentleman that we applaud this historic agreement that the Governor and the State of Wisconsin have reached with the Corps of Engineers, and it is our intention to see that this commitment of the contract is fulfilled. We know the importance of it because when the gentleman first came to us and explained the importance of it, we, at the gentleman’s insistence, put the first $5 million in there.

We thought it could be a two-step project; but if this is going to interfere with the project, it is my intention to find somewhere in the budget the additional $5 million so this project can move forward as expeditiously as possible.

Mr. GREEN of Wisconsin. I appreciate the chairman’s willingness and commitment to make this transfer a reality. I congratulate him for the hard work that he has done and his staff has done on this bill. I look forward to working with him on this important project.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my first order of business is to thank the chairman and the ranking member of this subcommittee for their very hard and collaborative work on this project. I want to clarify for some of my constituents that is, that the Army Corps of Engineers works, the funding on these projects works, for even though I come from Houston which is flood worn and weary, the areas where the Army Corps of Engineers and the funding from the Subcommittee on Energy and Water Development is the full task. I am very pleased to report unbelievably that there was no flooding. I am very grateful for that. My constituents likewise have said the same. That shows us that the areas that Houston did not have its work completed are in dire need.

And so I was to offer an amendment today giving an increase in funding to the Army Corps of Engineers of some $20.5 million, but knowing the hard work of this committee and the tightness of the efforts that it is making, I will not offer that amendment but offer to say that we can stand some additional assistance. Although I am gratified for the $5 million for the Brays Bayou, Mr. Chairman, that had progress on it where it was completed to a certain point and that area did not flood. We now have some $9 million in the budget with a capacity for $12 million. But there are areas that did flood, the Hunting area, the Greens Bayou area that flowed even though mostly into my colleague’s district, had an impact on some of our neighboring districts.

I am very interested in working with this committee and asking the chairman and the ranking member for their assistance as we provide the potential necessary dollars to either expedite or continue working on projects that have obviously worked.

I might say, Mr. Chairman, in addition, that the Army Corps of Engineers was very visible during the aftermath of the flood, taking aerial views. The general from the Dallas area who is over the whole region came in, which shows me that this is a worthwhile investment. I would like to enter into a colloquy with the chairman to ask him to provide us with assistance, in particular to monitor and work with us on Sims Bayou; to monitor and work with us on Hunting Bayou, and as well my colleagues have already mentioned the bayous in their community, we all work as a team, but to work with us in the Houston and Harris County area along with, of course, as the gentleman mentioned, the majority whip who has an interest obviously in these issues.

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

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Alabama.

Mr. CALLAHAN. I thank the gentlewoman for yielding. Yes, Mr. Chairman, we will be happy to work with her in any capacity we can and with the entire delegation from Texas. The gentlewoman has water needs in Texas now, and I encourage her full intent to do everything we can to assist her in those projects to make certain that, number one, we preclude flooding in the future; and, number two, that we repair any damage that was done during the most recent floods.

Ms. JACKSON-LEE of Texas. I thank the gentleman very much. I would offer to say to the ranking member that I thank him for his work. I look forward to working with his staff.

Mr. Chairman, I yield to the gentleman from Indiana to comment on these efforts. We have already worked with him and his staff. I want to thank him. I would appreciate his assistance as well as we move through this process with the funding for bayous that have yet been completed or need additional assistance.

Mr. VISCLOSKEY. We would be happy to continue to work closely with the gentlewoman.

Ms. JACKSON-LEE of Texas. I thank the ranking member very much.

Mr. Chairman, if I would simply say that these dollars are well needed, they have been well invested, we saw the impact of the funding sources of the Army Corps of Engineers, but we are still suffering. We look forward to working with this Congress to help us as we try to improve those conditions.

Mr. BISHOP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 2311, the Energy And Water appropriations bill. I commend the full committee, subcommittee ranking member Visclosky, and especially Chairman Callahan for all their hard work, particularly on the Tri-Rivers project.

Commercial barge on the Appalachicola, Chattahoochee, and Flint Rivers system is an important issue for our region’s economic infrastructure. I am pleased to see the increased level of funding that this committee has appropriated. Recently, I traveled to Georgia and Florida with Members of the House and Senator Graham of Florida to observe the Tri-Rivers process firsthand. This is a very, very intricate, sensitive area and issue, particularly with Representatives from the three States of Alabama, Florida and Georgia.

The ports on these rivers provide jobs and revenue, particularly for my area of southwest Georgia. The ports of Bainbridge and Columbus generate 548 jobs and over $3 million in State and local taxes. These jobs have a direct impact on the economies of small river towns like Bainbridge, Georgia. Revenue generated at both of the ports, that is, Bainbridge and Columbus, total over $40 million and in turn contribute over $1 million in State and local taxes. The barge system has many economic and environmental advantages that are often overlooked. Barging is energy efficient. An inland barge can transport more materials using far less fuel than other means of transport. A navigable river system provides a competitive alternative that helps reduce rates for other modes of transportation. These
rivers must remain navigable if we are to continue to see these economic rewards.

In the past, the Corps of Engineers has done an environmentally messy job and caused a great deal of anguish in Georgia, Florida and Alabama, particularly in the Apalachicola, Florida area. We know now that better management of water levels upstream by the Corps and better care in the disposal of the waste from dredging will help all of us have a mutually enjoyable use of the river system. The money that is appropriated in this bill will help ensure that dredging has a minimal environmental impact.

It is my vision to see continued economic success for the communities that take advantage of the Apalachicola, Chattahoochee, and Flint Rivers as one of their means of transportation. I encourage my colleagues today to support rural industry and efficient transportation by voting yes on this energy and water appropriations bill.

Mr. TANCREDO. Mr. Chairman, I thank the ranking member and all those who support this bill because I think it is much needed and it is a step forward.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:
SEC. 104. (a) CONVEYANCE AUTHORIZED.—The Secretary of the Army shall convey to the United States in and to a parcel of land consisting of approximately 4.35 acres located in Pottawatomie County, Tuttle Creek Lake, Kansas.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(c) REVERSION.—If the Secretary determines that the property conveyed under subsection (a) ceases to be held in public ownership or to be used as a site for a fire station, all right, title, and interest in and to the property shall revert to the United States, at the option of the United States.

Mr. TANCREDO. Mr. Chairman, in his budget request to Congress, President Bush proposed reversing the cost-sharing ratio of major shore protection projects from 65 percent Federal share/35 percent local share, to 35 percent Federal/65 percent local. The energy and water appropriations bill includes language to block this proposal. The Tancredo-Blumenauer amendment would strip the bill of this fiscally damaging and environmentally questionable legislative rider.

In an interview with the Associated Press yesterday, Office of Management and Budget spokesman Chris Ullman said that the White House continues to believe that the Federal Government should spend less to build beaches. "Since most of the benefits are to localities and local beachgoers, it seems reasonable that they would pay the majority of the costs of sustaining those beaches."

The Army Corps of Engineers recently began the world’s largest beach replenishment project, to provide 100-foothigh dunes along all 136 miles of New Jersey’s coast. This is at an average cost of $60 million per mile. Right now, the Federal Government is obligated to pay the majority of that cost, or 65 percent to be exact. What is worse, most artificial beaches wash away within 1 year of replenishment, leaving taxpayers’ money and environmental damage left in their wake, so to speak.

We encourage you to support the Bush administration’s effort to save tax dollars and cut environmentally questionable spending by removing this legislative rider on beach replenishment cost-sharing.

The current Federal policy of subsidizing beach projects, by the way, is a $50-year agreement with towns. That policy is unsustainable. That means 65 percent of the cost we would be required to fund for 50 years at current levels.

The Duke University program for the study of developed shorelines estimated that the cost to pump sand on just four Atlantic coast States, Florida, South Carolina, North Carolina and New Jersey, will be more than $4 billion.

Many of these beach communities are privately owned and privately re-nourish their beaches. They pay for the projects through hotel-use taxes and progressive property tax assessments according to how close the property lies to the beach. Many, many of these areas, of course, are some of the most expensive areas, most expensive pieces of property that you can purchase in the United States of America. To suggest that the Federal Government has the responsibility to pay for 65 percent of the cost of the renourishment project on that beach every year is ridiculous.

Let me quote from a statement of the administration’s position on this that they have just put out:

"The administration appreciates the committee’s efforts to address administration funding priorities for the Army Corps of Engineers program. However, the administration is concerned about the increase of over $568 million over the request for Corps programs. We can have a strong water resources program at the funding level proposed in the budget by establishing priorities among projects. The administration is particularly concerned that the bill contains approximately $360 million for about 350 specifically identified projects and activities that were not included in the President’s budget. We urge Congress to limit the number of projects and to focus funding on those projects that address the Corps’ principal mission areas."

"We are disappointed that the committee has included legislation that would preclude the Corps from carrying out in fiscal year 2002 the administration’s proposal to increase local cost-sharing for the renourishment phase of ongoing shore protection projects. This proposal would help ensure that the Federal Government’s long-term renourishment obligations do not crowd out other important funding needs. We urge the Congress to reconsider this proposal."
Florida. I want to preserve them, and I want to make absolutely certain that the Corps of Engineers understands that this is one of the reasons for the Corps should not be borne by the State of Florida in the 65-35 ratio that they are talking about.

Mr. Chairman, the beaches in Florida are probably the most beautiful in the world, especially in the panhandle of Florida next door to my district.

Mr. Chairman, I rise to join the chairman in strong opposition to this amendment. First of all, coastal shore protection projects are equivalent to flood protection for inland communities. This proposal places storm damage prevention and shore protection projects that have a clear advantage over comparable inland flood control projects. It will disproportionately affect poor communities which will be unable to raise adequate funds for these projects. It also violates the cost-sharing agreements already in place for some ongoing shore protection projects. It abrogates existing, ongoing, long-term contracts with non-Federal sponsors, and it is inconsistent with the agreed cost-sharing adopted by the WRDA legislation of 1986.

Mr. Chairman, I am strongly opposed to the gentleman’s amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to speak strongly against this amendment for several reasons. First of all, I want to address my comments to some of the comments that the gentleman from Colorado (Mr. TANCREDO) made. I need to start by strongly disagreeing, and I want to make clear that if this amendment were to pass, I assure everyone that the shore protection beach replenishment projects in New Jersey and probably throughout the country would simply not take place. It is erroneous to assume that the towns that are being asked to foot the bill, and in this case under this amendment the additional costs to pay for these beach replenishment projects, would be able to pay for them. They simply would not.

I live in a municipality that has about 30,000 people. I represent some towns that have less than 2,000 people. They barely are able to get the money together now to pay for the percentage that they have to pay toward Federal Government paying most of the cost. If they had to double or triple that under the funding formula that the gentleman from Colorado (Mr. TANCREDO) is proposing, the beach replenishment projects would simply not take place.

Let me say that in my district where one of these projects basically extends about 50 miles along the shoreline, that with a very small exception, probably of that 50 miles maybe no more than one or two, we are talking about public municipally owned beaches. We are not talking about mansions and big homes and wealthy Gold Coast municipalities here. The town that I live in has 5 miles of that 50-mile coastline that is affected by a beach replenishment project. We are what we call an urban-aid project in New Jersey, which means we are one of the poorer towns in the State. We have the second poorest town in the State. I will not mention the name. I do not need to. That is also part of the project. We are not talking about rich areas.

This will not happen. These projects will not take place if this amendment were to pass.

Now let me talk about two other things that I think are misleading here with regard to this amendment. First of all, I think it has to be understood that the current beach replenishment program is done in a way to save the Federal Government money. Not cost the Federal Government more money, but save the Federal Government money. I will say why.

The Army Corps of Engineers goes through a very strict cost benefit analysis in deciding which of these beach replenishment projects to fund, and they weigh the costs and the benefit to the Federal Government. In every case, the cost to the Federal Government has to be significantly less than the benefit. What is the cost to the Federal Government if they do not do the projects? Well, we know about FEMA. We know about the disaster declarations after a hurricane or a tidal wave or whatever it happens to be.

We have a lot of hurricanes along the New Jersey coast. Every time there is a hurricane, there is a disaster declaration. The Federal Government, under FEMA, has to come in and spend millions and millions of dollars to replace and rectify the situation and the damage that occurs.

The Army Corps of Engineers does these beach replenishment projects not because they want to give somebody a nice beach to sit on but because they know that they do not have to come in with a disaster declaration because the storm does not affect the upland area, the infrastructure, the utilities, the roads, that the Federal Government would have to come in and bail out.

This is done to save the Federal Government money that they would have to pay through disaster declaration. It makes no sense not to do these projects from the Federal Government’s point of view. It is cost effective.

Lastly, I want to make one other point. Mr. Chairman. It has not been said yet but I am sure I am going to hear from some that somehow these projects are not good for the environment. That is simply not true. There is strong indication that when beach replenishment is done it is a good thing for the environment. We have been able to do the beach replenishment so that the surfers and the bathers and the fisherman are not negatively impacted. It can be done and it has been done, and it has to be done under the current law so there is access to the beaches for the public and so that the beaches are done or sculpted in a way that the people that use the ocean, whether they be fisherman or surfers or whatever, can continue to do so.

I urge you not let me tell me that a vote on this amendment is a good environmental vote. That is simply not true. I am one of the staunchest defenders for the environment in the
House of Representatives. A vote against this is a good environmental vote. I am going to tell everybody I know who thinks that somehow this is something that relates to the environment, it is not. Beach replenishment is good. It helps the Federal Government cut costs. It is good for the communities and it is good for the environment.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Tancoredo amendment, which removes the protections in the bill for existing projects and allows for contracts the government has signed with communities across the Nation to be broken. The Tancoredo amendment singles out existing beach renourishment, storm damage prevention projects for special adverse treatment. This amendment would cause serious harm to a project already underway in my district, Brevard County.

The Federal Government caused most of the erosion along the beaches in Brevard County when they constructed the Federal inlet in 1953. This inlet was to create Point Canaveral and a facility for the U.S. Navy so that they could take part in testing of their ballistic missile program.

Indeed, one can say the Federal inlet in Brevard County was part of our national effort to win the Cold War. Studies have been completed by the Corps of Engineers, the county, independent experts and, yes, even the U.S. Department of Justice and all have found the Federal Government largely at fault.

In fact, the Justice Department settled a case brought by over 300 coastal property owners because they knew the Federal Government was guilty. That agreement calls for this project to be completed.

There are serious environmental issues here as well. Brevard County beaches are home to the largest concentration of nesting and endangered sea turtles in North America. Ten percent of the entire sea turtle nesting population in North America lays its eggs on these beaches. Throwing a roadblock in front of this project will further threaten this endangered species and contribute to more habitat erosion.

In short, the formula that currently exists is the proper formula, and I believe that this amendment would do serious harm.

Mr. BROWN of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Florida. I yield to the gentleman from South Carolina.

Mr. BROWN of South Carolina. Mr. Chairman, I rise in strong opposition to the amendment to reduce the Federal Government’s investment in beach renourishment.

This proposal is not only shortsighted but it clearly violates today’s agreements that local communities have arranged with the Army Corps of Engineers. To walk away from these commitments is simply wrong. How can we expect the coastal communities in South Carolina and other States to successfully budget for other major infrastructure investments if we arbitrarily increase their local cost share by over 80 percent?

I support reigning in unnecessary government spending, but our shore protection program, Mr. Chairman, is absolutely necessary for us to maintain the natural resources’ responsibility for coastal hazard and erosion protection. If we do not honor the current Federal-local cost-sharing formula, we should know the communities in my district, including Folly Beach and Folly Beach and 150 miles of the shoreline of South Carolina will be facing an enormous financial hardship, so much so that it jeopardizes the progress we have made in improving our water and waste water infrastructure, roads, and bridges.

Without the current cost-share partnership, we risk the preservation of the beautiful beaches that attract over 12 million visitors throughout our country. Our beaches belong to everybody. They provide a wonderful source of recreation for both young and old Americans. We hope our responsibility will be seen to help preserve these great natural resources.

Contrary to the programs’ critics, beach renourishment is a sound investment. I urge my colleagues to reject this ill-advised amendment.

Mr. WELDON of Florida. Mr. Chairman, it took 15 years in Brevard County to develop this formula and this agreement. This amendment would set back years of work. I strongly encourage all of my colleagues to keep the faith that has been hatched between the Federal Government and all of these communities throughout the country. The provisions, the language that the chairman and the ranking member have put in this bill, I think, are very wise in grandfathering the existing programs under the current formula; and I would encourage all of my colleagues to reject this amendment.

Mr. CALLAHAN of Alabama. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 20 minutes, the time to be equally divided between the proponent of the amendment and a Member opposed.

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

Mr. BLUMENAUER of Oregon. Mr. Chairman, I yield to the gentleman from Colorado.

Mr. TANCREDO of Colorado. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

The CHAIRMAN. The time will be equally divided between the sponsor of the amendment, the gentleman from Colorado (Mr. TANCREDO), and the gentleman from Alabama (Mr. CALLAHAN) will control the time in opposition.

The Chairman recognizes the gentleman from Colorado (Mr. TANCREDO).

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

Mr. Chairman, in response to some of the claims that have been brought up here, especially by my friend, the gentleman from New Jersey (Mr. PALLONE), who suggests that there is no environmental concerns that should come up as a result of this and that anybody that suggests there is an environmental problem is simply off base, of course, he is therefore saying that the following organizations, American Rivers, Earth Justice Legal Defense Fund and Environmental Defense, Friends of the Earth, League of Conservation Voters, National Wildlife Federation, Sierra Club, all of these people do not know what they are talking about when it comes to environmental issues and whether in this particular case especially they are simply off base.

Well, I do not certainly consider myself to be an expert in this particular area but I would say that there is some cause for concern with regard to the environmental issues developed by this beach replenishing program.

Federally subsidized beach projects mainly benefit wealthy vacation condo owners and tourism. The gentleman from Myrtle Beach, South Carolina (Mr. BROWN) referred to the fact that 12 million visitors a year enjoy these particular areas.

I think that is wonderful. Now, in fact, who is benefiting from those 12 million visitors? It is, of course, the communities that are adjacent to these beaches. Those communities should be responsible for the majority of the cost of replenishing the beaches. That is all we are saying here. We are agreeing with the administration.

Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER of Oregon. Mr. Chairman, I appreciate the courtesy of the gentleman in yielding time to me. I am pleased to join him in cosponsoring this amendment.
Mr. Chairman, I think the gentleman had it right when he mentioned that there is at least an argument when you look at the major environmental organizations around the country who suggest that this Congress ought to have a debate like this on this floor on the environmental and economic impacts of these massive beach replenishment programs.

With all due respect to our other friend from Florida, it is true that the Federal Government at times has created these problems. It is because we are in a vicious cycle here. We engineer our beaches, we fortify them, we put up jetties, we accelerate the process of coastal erosion, and we make the problem worse.

Then we come forward with these interesting projects. We have watched over the last decade as the Corps of Engineers and this Congress has expanded dramatically the sweep of the Federal involvement in beach nourishment and replenishment.

I think we ought to take a deep breath, take a step back and support this amendment, and give this administration an opportunity to pursue an initiative that is both environmentally sensitive and is fiscally responsible.

When we look at these massive projects, we have authorized one and two-thirds billion dollars in the last decade alone. In the State of New Jersey, where my good friend mentioned a moment ago it was of concern to his district, well, it is. If you look at beach nourishment costs in New Jersey, it is $60 million per mile.

In WRDA, I dare say there were very few Members on this floor who understood the massive project that was slipped in without significant debate for a 4 mile stretch of beach in Dare County, North Carolina, for $1.8 billion, a commitment over the next 50 years. I would dare say that a massive project on this scale merits discussion on the floor of this Chamber, but we do not have it. I was a member of the authorizing committee. It was news to me. I dare say it was news to other Members here.

It is not a benign process akin to laying a road in some area that we have to put the beach spoils, the dredging spoils. This saves the Federal Government money.

Take a look at the record. Mr. Chairman, there have been exposes; in fact, there have been journalistic exposes dealing with the State of Florida with the massive amount of ecological destruction. There is not just spoils with white sand that we would have to pay somebody to take over. Oftentimes we go out to these sensitive ecosystems for dredging materials that we end up putting in these areas.

If you look at the cost factors, noted Duke geologist Orrin Pilkey, a recognized expert in this area, points out that usually beach nourishment projects cost twice what the cost estimates indicate that it ends up being about half as effective.

We could look in Ocean City, Maryland, where the Army Corps of Engineers budgeted to use 15 million cubic yards of sand over the next 50 years of beach replenishment, but in the first 3 years of that project the Corps had used one-third of the total sand allocation. I am blanking right now on the project, and I can get it for you, where it has been on average one a year on the east coast.

There are problems here of significant magnitude. It is not ecologically benign. It is extraordinarily expensive, and we are facing a situation where FEMA has commissioned studies that indicate over the next 60 years we are going to have 25 percent of the structures within 500 feet of the ocean coastline subjected to erosion and damage.

That is without taking into account the impact of global climate change.

Mr. Chairman, I think this is an opportunity for people who care deeply about the environment to join with people who sympathize with the members of this committee who do not have enough money to solve the problems and allow the Bush administration to see if they can come up with a better cost formula. The Democrats ought to be able to submit to this. It is something else that the Clinton administration wanted to do. I think this is an important issue.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. SHAW). No man in this body has been more vocal and outstanding in the preservation of beaches than the former mayor of Fort Lauderdale.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me time. I want to congratulate the chairman of the full committee as well as the ranking members of the full committee and subcommittee for recognizing the importance of beach renourishment.

I have heard some figures thrown out here today that make absolutely zero sense. $60 million a mile? I know of no beach renourishment anywhere in the country, and I checked with the gentleman from New Jersey, and he said that is absolutely preposterous.

I listened to the gentleman from Colorado where he said he is no expert on the particular subject. He has brought the amendment here, and he has quoted some various environmental organizations, some of which have credibility, some of which I think are somewhat debatable.

But, in any event, let me ask the question to any environmentalist here in the Chamber: I have beaches that are nothing but rock. Is that an environmentally sensitive area that should be protected? These were naturally covered with sand. Now the sand is gone. In Boca Ratn, Florida, a whole strip is nothing but rock. You go down into the Florida Keys. In Dade County and Dade County, you are seeing the same thing. These beaches need to be renourished.

If one is concerned about the turtle and reproduction of the turtle, they do not lay their eggs in rocks; they lay them in beach sand. There is great sensitivity as to the time we do the beach renourishment. It is very strictly regulated as to the breeding seasons of the turtle, so you do not destroy their natural habitat.

We talk about FEMA and 500 feet within the beach. I can tell you, the ocean is coming right up to many of the structures, and they are going to be destroyed if we do not get this involved and stay involved in beach renourishment.

The right of contract, the word of the Federal Government, the obligations of the government that would all be wiped out with this senseless amendment.

This amendment must be defeated. I urge all my colleagues to vote against this amendment.

I would say in closing, view the beaches of this country as a national park. We heard that the local communities should pay because they are the ones benefiting from it. Do you want to make the same argument about our national park system? I doubt it. It is there for all Americans.

Over half the Americans in this country do their vacationing at the beaches of this country. Let us keep our beaches safe. Let us keep them environmentally where they should be.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. JONES). Mr. JONES of North Carolina. Mr. Chairman, I thank the gentleman very much for yielding me time.

I want to say to my good friend from Colorado (Mr. TANCREDO), I generally agree with him on just about every vote we have; but on this one he is totally wrong. I want to take a different perspective.

Not talking about the environmental issues, I must say to the gentleman from Oregon, I have great respect for you also, though I disagree, but Dr. Gilkey is an extremist. I do not have the time to get into why I feel he is an extremist, but he is.

Let me very briefly say that what we are talking about is the economy of these areas, the people that pay taxes, the people that want to do for their families. That is really what it comes down to.

Let me give you an example. In Dare County, which the gentleman made reference to earlier, the Corps of Engineers says for every $1 spent on beach renourishment in Dare County, it will return $1.90 cents to the Federal Government. So any time we can make
those kinds of investments, we need to do that. We need to partnership with the people of this country that pay the taxes.

So I want to say to the chairman and the ranking member, thank you very much for this effort. I want to close in saying, Mr. Chairman, that beaches are this country’s economic engines. Four times as many people will visit beaches this year as will visit the national parks. That is telling you how important the beaches are to the American people.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

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

Mr. Chairman, I too rise in opposition to this amendment. It has been stated that four times as many people visit our beaches as visit the national parks in our country.

What do people dream about? They dream about going to the beach. If they talk about their retirement, they talk about a beach someplace. People want to basically be on beaches. We have many beaches in Delaware that are probably as popular in these buildings around here as any beaches in the entire country. Foreign visitors want to come to beaches in the United States of America.

There is tremendous economic production from the beaches that we have across this country, a huge tax benefit, up to 180 times the Federal share that is involved in paying for the beach replenishment which we have. If we did not have this replenishment, it would be almost impossible to have these dreams, to have the ability to offer our beaches to people around the United States of America.

It also protects our migrant birds, which come into my State and come into some other States. It protects us from major storms. And there is huge population growth across the United States of America from our beaches back inland, because people like to be able to access and go to the beaches of our country.

This, unfortunately, is an amendment which is wrong-headed in terms of what it does, and we should defeat it.

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

Mr. Chairman, I want to say to this body and to the world that when I retire, if I ever do, I intend to spend a great deal of time in southern Florida on my boat; and I want to view these beautiful beaches as I patrol the waters of the Atlantic and the Gulf Mexico and the Keys, and I want to go down in history, if I leave any mark on this Congress, as the man who saved the Florida beaches. I think the fact that I am going to go down in history as the man who preserved the beauty of the Florida beaches is a good compliment to the service that I have had in this Congress. So I look forward to that reputation.

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

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

Mr. Chairman, I have a feeling that regardless of what happens with this amendment, even if it were to pass, that my friend and colleague, the gentleman from Alabama (Mr. CALLAHAN), will be able to enjoy a very pleasant retirement on the beaches.

The fact is that, of course, we are not talking about anything here that is going to eliminate the beaches of the Nation. It is just crazy to suggest that if we would allow the administration to go back and do whatever it thought necessary, all of a sudden, all the beach property in this Nation is gone. Nobody would take care of it. The communities that live alongside of it, the homes that are built alongside of it, it is not their responsibility; it is somehow ours. And if we did not kick in 65 percent, it all disappears.

Of course, that is not accurate. It is not what this amendment is intended to do, but it is typical. I know any time we are trying to cut ten cents out of the budget around here, it is almost the most dire consequence we can possibly think of that we use in response to the request to cut the funds.

This is not even a request to cut. We will still spend the money; it is just who is going to be responsible for it. It is not even mandating that we go to the 65-35 split, 65 local. It is saying let us put the administration have the option of managing this. It is not mandating a thing in here.

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

Mr. BLUMENAUER. Mr. Chairman, I would suggest that if people really are serious about preserving the beaches, that maybe this Chamber could be more serious about global climate change, the rising level of oceans, because what we are talking about with beach nourishment, if what the scientific experts tell us is accurate, we may be fighting a losing battle.

I would duly suggest that maybe suggesting allowing the Bush administration an opportunity to revisit these issues is not something that is a radical and extreme position. It is one of these areas where there is a convergence, I think, of fiscal conservatism and thoughtful environmentalism.

It is true that sometimes there are rocks that occur on beaches. There is a natural ebb and flow. We have it in beaches in Oregon. What we have done, however, in our infinite wisdom, is we continue to fortify the beaches, to engineer them, to put up jetties, to put in sand, to disrupt the process, so actually it ends up making it worse over time.

So the Federal taxpayer is on the hook. We mess up the natural process of restoring the beaches, and when we further looking at changes that are a natural part of the environmental process, we just make it worse.

In Oregon, we had a situation with the senior Senator from our State having beachfront property that is being eroded, and there was a great hullabaloo because there was an effort to try and restore and fortify and wall off that portion of the beach. We made it a difficult public policy decision that that would simply put the taxpayer on the hook and deflect the problem further.

Mr. Chairman, I appreciate that these are difficult, but I would think that we need to take our time, stepping up and being serious about this. Otherwise we are going to end up putting the taxpayer on the hook for a lot of money that is going to make the problem worse over time.

Mr. CALLAHAN. Mr. Chairman, I yield the balance of my time to the gentleman from Florida (Mr. YOUNG), the chairman of the committee, who knows firsthand the importance of this issue.

Mr. YOUNG of Florida. Mr. Chairman, I want to thank the gentleman from Alabama (Mr. CALLAHAN), the subcommittee chairman, for doing a really good job on this bill, as I have said earlier. I must say that I really appreciate his commitment to Florida’s beaches. I know that he will have many opportunities to help support Florida’s beaches and protect them in his pristine condition. We go through the various appropriations processes. Seriously, I really do appreciate that support.

Mr. Chairman, I rise in opposition to this amendment and in favor of the committee position. We cannot think about this. The subcommittee thought that we should review this issue, and we did. The reason that we have a formula of Federal-State-local partnership is for the same reasons we have a partnership for highways. We have a Federal-State-local formula for building highways and maintaining highways, because people all over America use highways, all over America. People from all over America use beaches, wherever they might be in America.

We have heard the arguments about the economic effect, the economic impact. We have heard the arguments about the pleasure-seeking people who go to the beach to swim and get out into the sun and have a good time, and all of those are good, solid arguments. There is more to it than just that.

The fact of the matter is that having a good beach protects the infrastructure of the community. Now, I live in a
community where we have water on the Gulf of Mexico on one side, water from Tampa Bay on the other and water from the Biscayne Bay goes right up the middle, but we have a lot of water front. I can tell my colleagues when we get a hurricane in Florida, in my part of the State, most of the damage comes from the high water that pounds against the sea wall, that pounds against these structures. The better beach that exists, the less damage we have to the infrastructure. I have seen roads and highways washed out because there was no beach to protect against that hurricane tidal surge. So it is important that we not only have the economic effect, the tourist effect, but the effect of protecting the infrastructure of the communities.

Now, the formula was established by law. We did consider it seriously, but I think it is important that we stick with the existing contracts. If the gentleman wants to change the formula, the gentleman should go to the appropriate authorizing committee and offer a bill.

Mr. LOBIONDO. Mr. Chairman, I rise in strong opposition to this amendment. It maybe well-intentioned, but it is important that we not only have the economic effect, the tourist effect, but the effect of protecting the infrastructure of the communities.

Mr. TANCREDO. Mr. Chairman, I rise today in strong opposition to this amendment which would eliminate the federal cost share of 65 percent for US Army Corps of Engineers beach replenishment projects.

Beach replenishment is vital to the coastal economies in our country. Millions of residents and small businesses make their home near the coastline and that population increases dramatically in the summer as tourists flock to the beaches. The continued economic health of our nation's beaches is dependent on these important beach replenishment projects by the US Army Corps of Engineers. The pristine white sand beaches are not only a vital component of the tourist industry, but an important natural resource that supports populations of commercially and recreationally significant fish and rare and endangered species.

Mr. SAXTON. Mr. Chairman, I rise today in strong opposition to this amendment which would eliminate the federal cost share of 65 percent for beach replenishment for ongoing and future projects.

Coastal communities have been asked to "voluntarily" increase their cost share for beach replenishment projects to 65 percent, despite that current project authorizations are at a 35 percent state cost share. This is obviously unfair to the State and local governments, who have budgeted their costs for beach replenishment based on their contracts with the federal government and do not have the additional funds which is almost double their authorized cost share.

Coastal States have consistently shown their commitment to assist in the preservation and replenishment of beaches along the Nation's coastlines. The proposed Federal change in cost sharing would only result in the delay or elimination of projects potentially increasing the property damage from hurricanes and severe storm events.

Many coastal communities, such as mine, have suffered from repeated storm events over the last several years which has resulted in the narrowing and lowering of the beaches and dunes. This steady erosion has reduced storm protection that would otherwise have been available, which will only result in more property damage when the next storm or hurricane hits.

Each state receives federal funds to protect its communities from natural disaster, whether it is tornado, earthquake, drought resulting in crop damage, flood or hurricane. It is not fair to the coastal communities to withhold federal funds that would otherwise be available to prevent damage from natural disaster.

I urge by fellow colleagues to oppose this amendment and remember all states benefit from our nation's beautiful shoreline.

Mr. FRELINGHUYSEN, Mr. Chairman, I rise in opposition to the amendment.

I commend Chairman CALLAHAN for producing a bill that ensures our Nation's commitment to work in continued partnership with our state and local communities to address the vital need of shore protection and for supporting the traditional funding ratio that worked so well in my home state of New Jersey, tourism is vital to keeping our economy. With 127 miles of our clean beaches open for visitors from around the country and the world; this federal/state partnership helps maintain a dynamic tourism industry that employs over 800,000 people in my state alone.

Mr. Chairman, I urge my colleagues to oppose this amendment.

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

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from Colorado (Mr. TANCREDO).

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

Mr. TANCREDO. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XXVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) were postponed.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the last word. I would like to enter into a colloquy with the gentleman from Alabama (Mr. CALLAHAN), the distinguished chairman of the subcommittee.

Mr. Chairman, my family came to Texas in the 1840s and settled in Hill and Bosque County in the 1870s around a community called Whitney. My great-great-grandfather and my great-grandfather and my grandfather and my father all grew up on a farm under what is now Lake Whitney, because in the 1940s, the Corps of Engineers built a public lake. Since 1954, that lake has been open for use. There have been hundreds, if not thousands, of boat docks put on that lake, but beginning in the 1970s, the Corps began to refuse permits for new boat docks and, as the old boat docks have declined, they have refused to allow them to continue to be maintained.

I had submitted language to the Subcommittee on Energy and Water Appropriations that would be no cost, but would simply allow a holder of a permit on Lake Whitney for a boat dock to use that permit. I would like to ask the distinguished gentleman from Alabama (Mr. CALLAHAN), the chairman of the subcommittee, "Beach Boy Callahan," if he would support at some point in the process insertion of language that is of absolutely no cost to the Federal Government, but which would allow people around Lake Whitney which, at some point in time, had a permit for a boat dock to utilize that permit.

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

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Chairman, I am a little surprised because I represent
both Hill County and Bosque County. This is the first I have heard about it, and none of this is in the gentleman’s district. I respect the fact that he has family ties in the area, but as a member of the subcommittee, I would have at least asked the gentleman to contact me if I am aware of what he is trying to do.

Mr. BARTON of Texas. Mr. Chairman, reclaiming my time, the gentleman will yield. I had no idea this issue was coming up. It is wholly within my district. I am the only Texan of either party on this subcommittee. I do not know that I would have objection; I do not know if I would support the gentleman’s request, but it seems like it would have been common courtesy to approach me personally.

Mr. BARTON of Texas. Mr. Chairman, I have done that. Mr. EDWARDS. It would have been common courtesy to approach me personally and say, I am going to come to the floor today to talk to the chairman of the subcommittee about something that is not in my district that is within yours.

Mr. BARTON of Texas. Mr. Chairman, if I could reclaim my time, I think the gentleman from Waco has got an absolutely sincere complaint. The gentleman and I have spoken on this several times, but not in the last week. I thought this was in the bill.

Mr. BARTON of Texas. Mr. Chairman, not in the last month, not in the last year that I can recall. My request to the gentleman would be this: This bill still has a long way to go. I am more than willing to sit down with the chairman of the subcommittee, the ranking member, and the gentleman from Texas and see if we agree, and I would think this would change the shape of my congressional district, that I would have some input on this.

Mr. BARTON of Texas. Mr. Chairman, again reclaiming my time, the gentleman and I have not had a discussion on this recently.

Mr. BARTON of Texas. Yes, we have. Yes, we have.

Mr. BARTON of Texas. Mr. Chairman, I will say to the gentleman, I honestly do not recall that discussion. I have dealt with this issue since 1974 when I worked for former Congressman Tiger Teague, and I think I would remember if we had discussed any time in the last 12 months on this.

My request is simply one of common courtesy. I would like to work with the gentleman on this. I would like to work with the chairman on this. I would like to have a discussion, but I would not make any decision today on this. Let us work in good faith and sit down, since this is entirely, completely within my congressional district.

Mr. BARTON of Texas. Mr. Chairman, again reclaiming my time, I will withdraw my request for a colloquy, because I am focused at what the gentleman has just said.

Mr. EDWARDS. Mr. Chairman, if the gentleman will yield, I am stunned that this came up on the floor today, quite frankly. But despite being stunned on both sides, let us sit down and talk this out as two Members of Congress from the State of Texas and see if we can proceed.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield? Mr. BARTON of Texas. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, let me explain my position. This problem is not limited to just one county in Texas. It is also applicable to other portions of Alabama and other States where the same type of incident is taking place. My agreement with the gentleman from Texas (Mr. BARTON) was that I would agree to sit down with him to try to work out a problem that impacts me as well as other Members of Congress.

So it was not intended to move into one particular county, but to discuss the overall issue of what they are doing with these facilities that these people have been using, in some cases for decades. I think that we ought to try to find a solution that will apply to Alabama and to Georgia and to Missouri and all over the Nation, because we are all facing a similar problem.

Mr. BARTON of Texas. Mr. Chairman, reclaiming my time, let me say one thing, because I am not going to press the point. But the language that I had prepared does not expand the number of boat permits, it simply says if there is an existing boat permit or has been, that it can be utilized. That is all it does.

Mr. EDWARDS. Mr. Chairman, will the gentleman yield? Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Chairman, I think what the gentleman from Alabama has suggested makes eminent sense; I respect that. I would look forward to being a part of that conversation along with other Members, but the gentleman from Texas’s comments only focused on a lake in my district, not in any other district.

Mr. BARTON of Texas. That is true, that is true.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 106. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or otherwise responsible for funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt in the upper Missouri Basin that have rivers draining into the Missouri River below the Gavins Point Dam.
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of the Congressional Budget Act of 1974, as amended: Provided, further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $26,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $280,000, to remain available until expended: Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575, to remain available until expended.

Provided, That the Bureau of Reclamation shall be available for activities or functions budgeted as policy and administration expenses, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3406(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended. Provided, That of the amount appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

COURSE VALLEY PROJECT RESTORATION FUND.

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $55,039,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and acquisition functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $968,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: Provided, That no part of any other appropriation in this Act shall be available for administrative expenses.

AMENDMENT OFFERED BY MR. HINCHLEY

Mr. VISCLOSKY. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. HINCHLEY:

SEC. 201. None of the funds made available in this Act may be used by the Bureau of Reclamation (either directly or by making the funds available to an entity under a contract) for the issuance of permits for, or any other activity related to the management of, commercial rafting activities within the Auburn State Recreation Area, California, until the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) are met with respect to such commercial rafting activities.

SEC. 202. Section 101(a)(6)(C) of the Water Resources Development Act of 1999 (113 Stat. 274) is amended to read as follows:

“(C) MAKEUP OF WATER SHORTAGES CAUSED BY FLOOD CONTROL OPERATION.—The Secretary of the Interior shall enter into, or modify, such agreements with the Sacramento Area Flood Control Agency regarding the operation of Poloma Dam and Reservoir, as may be necessary, in order that, notwithstanding an interagency agreement or provision of law, 100 percent of the water needed to make up for any water shortage caused by variable flood control operation during any year for such agreements with the Sacramento Area Flood Control Agency regarding the operation of Poloma Dam and Reservoir, as may be necessary, in order that, notwithstanding an interagency agreement or provision of law, 100 percent of the water needed to make up for any water shortage caused by variable flood control operation during any year for such agreements with the Sacramento Area Flood Control Agency,“.

Mr. CALLAHAN (during the reading).

Mr. Chairman, I ask unanimous consent that the remainder of title II be considered as read in the RECORD, and open to amendment at any point.

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

There was no objection. The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

Savings

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and for energy supply activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 17 passenger motor vehicles for replacement only, not to exceed $329,347,000, to remain available until expended.

AMENDMENT OFFERED BY MR. HINCHLEY

Mr. HINCHLEY. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. HINCHLEY:

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

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

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 10 minutes, the time to be equally divided between the proponents of the amendment and a Member opposed.

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

There was no objection.

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

Mr. Chairman, I want to thank the chairman of the subcommittee for a very good work product, but every product can be improved, and I think that this amendment would improve this energy and water bill significantly.

One of the problems we face as a country, Mr. Chairman, is the fact that our energy policy looks backward rather than forward. We are dependent too heavily on fossil fuels, and increasingly those fossil fuels are coming from places beyond our shores. We are currently dependent on more than 50 percent of our oil from places outside of the United States.

What this amendment would do would be to increase the funding for renewable energy within this bill by $50 million. It would pay for that funding by taking $60 million from the Energy Department’s missile program.

Now, that missile program within the Energy Department currently is funded at the rate of $5.1 billion. That is just within the ‘‘Energy’’ Department. This bill increased that funding by $118 million for the projected fiscal year.

My amendment would take $60 million from that $118 million increase and apply $50 million of it to alternative energy. By alternative energy, of course, we mean producing energy through direct solar, by wind, geothermal and similar technologies.

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It is important that we do so. It is important that we do so, because we want to improve the availability of energy from sources other than fossil fuels, and it is particularly important in terms of nuclear security, because we want to reduce the amount of energy that we need to import from places that are outside the United States.

We can do that by advancing technologies that promote solar, wind, and geothermal energy. And, up until recently, the United States led the world in the production of energy through photovoltaic cells and other direct solar means; however, beginning in the decade of the 1980s, we began to lose that edge. And that edge currently is enjoyed by the Japanese.

They have the edge on us by producing electricity directly from solar and by other solar means and photo-voltaic cells particularly.

Up until recently, we had the edge in producing additional energy through wind technologies. We have lost that edge to the Danes and to the Germans. They are currently ahead of us, and they have more advanced technology for producing energy through wind than we do.

We know that within the next several decades, production of energy through solar and wind technologies and geothermal technologies will provide industrial opportunities globally to the tune of hundreds of billions of dollars, perhaps, trillions of dollars, even by the midpart of this century. And for that reason, alone, as well as our own independence and security, we ought to
be advancing these techniques for energy production.

Mr. Chairman, I think that this amendment, which would increase our funding for renewable energy technologies by $50 million, is frankly little enough; and perhaps, the least that we could do at this particular moment. It would prevent this increase by drawing from the Energy Department's missile program. As we know, the Defense Department under Secretary Rumsfeld is currently engaged in a top-to-bottom review of our military defense program, and our nuclear missile program is going to be a major part of that.

Mr. Chairman, this bill funds nuclear programs through the Energy Department in ways that are, I think, greatly outdated, even archaic. For example, there is a provision in this bill to pay $96 million for a particular type of cruise missile which is used only by the B-52 bomber.

Now the B-52 bomber is 40 years old. It is clearly an outdated technology, and it is very likely that when the Rumsfeld review, top-to-bottom of our defense needs, is completed that this particular program is going to be rapidly phased out.

I can cite a number of other nuclear technology examples that are archaic, that are outdated, and which will undoubtedly not be funded as a result of the top-to-bottom review of the Rumsfeld program. So, therefore, I think it makes sense to take this money from that program and put it here to renewable energy.

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

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I thank the gentleman from Alabama (Mr. TAUSCHER) for yielding me the time to me.

Mr. Chairman, I kind of feel like I am torn between two of my favorite things, as the ranking member on the panel to oversee the national nuclear security administration, I believe we should be investing more money in nonproliferation programs and counterproliferation programs. Obviously, as a Californian, I think it is very important that we work hard to make sure that we have strong energy policies and diversify our portfolio to make sure that we have renewables and alternatives to fossil fuels, but I cannot support this amendment, because we are investing very needed money and, frankly, robbing Peter to pay Paul.

Mr. Chairman, I urge my colleagues to vote against the Hinchey amendment.

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

Mr. THORNBERRY. Mr. Chairman, I appreciate the gentleman from Alabama (Mr. CALLAHAN) for yielding the time to me.

Mr. Chairman, I share the desire of the gentlewoman from California (Mrs. TAUSCHER) that we become more energy independent, but it would be a great mistake to take further funds away from our nuclear weapons program.

What the gentleman from New York (Mr. HINCHEY) may not realize is that our existing nuclear weapons are 18 years old and aging. They were designed to last about 12 years.

We have decided as a country that we are not going to conduct nuclear tests, but some way we have to make sure these weapons continue to be safe, reliable, and secure. If we do not have the funds to conduct surveillance and to conduct scientific tests, to see whether these weapons continue to be reliable, the only option for us is to go back to nuclear testing.

I am afraid amendments like this which would reduce the funds available to just make sure what we have now is safe, secure, and reliable drives us inexorably back towards nuclear testing which is not an option I suggest the gentleman would like.

Mr. Chairman, I oppose the amendment; and I suggest my colleagues do likewise.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman from Alabama (Mr. CALLAHAN) for yielding me the time; and I rise in opposition to this amendment.

Last year, Mr. Chairman, at this time, we were rightfully fixated on the security of our national labs and protection of our nuclear weapons program and data and research. This amendment would strip dollars away from the National Nuclear Security Administration's weapons activities program, the very programs we have worked to strengthen in last year's budget as a result of well-publicized security breaches.

As important as support is for renewable energy programs, the sponsor better find a better account to take it from. I oppose this amendment.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON. Mr. Chairman, I rise in strong opposition to this amendment. We have cut the nuclear weapons budget in this country below what the President requested by $200 million.

I have a letter here from John Gordon that he handwrote to me this afternoon about this amendment and some way it might result in the further reduction of money for the nuclear weapons stockpile stewardship program. It says in part, now, on top of this comes news of potential further budget cuts resulting from possible floor amendments. This is completely unacceptable if we are to have any chance of meeting our high-priority mission needs.

The nuclear weapons program is supposed to certify the safety, security, and reliability of the nuclear weapons stockpile. Our stockpiling is aging, and we must continue to make sure it is safe and reliable for this country.

As much as I support conservation and investment in renewable energy, this is the wrong place at the wrong time to take that money from.

Mr. CALLAHAN. Mr. Chairman, we have only one more speaker and I think we have the right to close?

The CHAIRMAN. The gentleman has 1 minute remaining and the right to close. All time has expired on the other side.

Mr. CALLAHAN. Mr. Chairman, I yield the balance of my time to the gentleman from Tennessee (Mr. WAMP), a valuable member of the Subcommittee on Energy and Water Development and our expert on this issue.

Mr. WAMP. Mr. Chairman, I want to thank the gentleman from Alabama (Mr. CALLAHAN) and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, for hearing our bipartisan plea to increase the funding for renewable energy sources in this bill.

We increased the funding $100 million above the President's request. We worked overtime to make sure that this appropriation bill matches the national energy policy from a balanced comprehensive approach. And as the cochairman of the Energy Efficiency and Renewable Energy Caucus with the gentleman from Colorado (Mr. UDALL), I thank them for hearing our plea to increase renewables.

The result is good and balanced, but the other side of the well-intended amendment of the gentleman from New York (Mr. HINCHEY) is that it takes funding from our nuclear stockpile stewardship and management.

Our country must maintain a safe and reliable stockpile for nuclear weapons. That decision has been made. This is not even debatable, frankly, in this country, in terms of the consensus of Americans that expect us to have a reliable nuclear weapons stockpile.

We must maintain our national preparedness, and we are losing that capability, so we must fight back this amendment in a bipartisan way.

Mrs. TAUSCHER. Mr. Chairman, I rise in reluctant opposition to this amendment.

Reluctant because I have been an outspoken critic of the President's budget, which made drastic cuts to COE's renewable energy programs. Programs that promote renewable energy technologies must be part of any comprehensive, comprehensive energy plan.

I am pleased that my colleagues on the Appropriations Committee have restored some of the funding to the renewable energy accounts, providing $1 million above last year's levels.
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Clearly more needs to be done. It is important to advance development of renewable technologies for applicable use in our homes and businesses and on our grids as soon as possible.

But Mr. Chairman, I must oppose any attempt to defer fully funding our nuclear weapons programs while we wait for the Secretary of Defense’s Strategic Review to be completed.

As a Member of the House Armed Services Committee, I can tell you that the Secretary has briefed me and my colleagues on the status of this Review, and based on these briefings, it is unclear when this Review will be completed.

These programs are vital to our national security and cannot afford to be underfunded or delayed until the Administration concludes its Review.

I’d even given some of the military needs identified in this year’s supplemental appropriations bill, like training and readiness, military personnel quality of life issues, and advanced weapons systems; it is clear that the funding needs of our nuclear weapons programs at DOE next year must be maintained in this bill.

Mr. Chairman, I urge my colleagues to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HINCHHEY).

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

Mr. HINCHHEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. HINCHHEY) will be postponed.

The Clerk will read.

The Clerk reads as follows:

NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition of real property or facility construction or expansion expenses; or (3) used to support multipurpose activities inconsistent with the restrictions provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities.

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out activities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended: Provided further, That $6,000,000 shall be provided to affected units of local governments, as defined in Public Law 97–425, to conduct appropriate activities pursuant to the Act: Provided further, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: Provided further, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: Provided further, That within 90 days of the completion of each fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department that all funds expended from such payments have been expended for activities authorized by Public Law 97–425 and this Act. Failure to provide such certification within such time period shall result in the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1912; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities.

For Department of Energy expenses for the purpose of acquiring, reconstructing, or expanding, and purchase of any real property or any facility or for plant or facility acquisition, construction, or expansion, or condemnation of any real property or any facility to carry out the purposes of Public Law 97–425, to conduct appropriate activities pursuant to the Act:

For necessary expenses to maintain, decontaminate, and otherwise remediate uranium processing facilities, $393,425,000, of which $272,641,000 shall be derived from the Uranium Enrichment Decontamination and Decommissioning Fund, all of which shall remain available until expended.

SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for multipurpose activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition of real property or facility construction or expansion, or condemnation of any real property or facility for or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed 25 passenger motor vehicles for $2,500,000 to remain available until expended:

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, or condemnation of any real property or any facility to carry out the purposes of Public Law 97–425, to conduct appropriate activities pursuant to the Act:

NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition of real property or facility construction or expansion expenses; or (3) used to support multipurpose activities inconsistent with the restrictions provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities.
of passenger motor vehicles and official re-
ception and representation expenses (not to
exceed $35,000), $209,611,000, to remain avail-
able until expended, plus such additional
amounts as necessary to cover increases in
the estimated amount of cost of work for oth-
ers notwithstanding the provisions of the
Anti-Deficiency Act (31 U.S.C. 1511 et seq.):
Provided, That such increases in cost of work
are offset by revenue increases of the same
or greater amount, to remain available until
expended: Provided further, That of the funds
provided to the Department of Energy under
title III, in the item relating to ''WEAP-
ons design and nuclear weapons effects.''

AMENDMENT NO. 2 OFFERED BY MR. KUCINICH

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

The CHAIRMAN. The Clerk will des-
ignate the amendment.

The text of the amendment is as fol-
lows:

Amendment No. 2 offered by Mr. KUCINICH:
In title III, in the item relating to ''WEAP-
ONS ACTIVITIES'', after the aggregate dollar
amount, insert the following: ''reduced by $122,900,000'':

In title III, in the item relating to ''De-
fense Non-Proliferation'', after the aggregate dollar amount, insert the fol-
lowing: ''reduced by $46,000,000'':

Mr. KUCINICH. Mr. Chairman, the
National Ignition Facility is a multi-
billion-dollar giant laser designed to
blast a radioactive fuel pellet in an at-
tempt to create a nuclear fusion explo-
sion. The Department of Energy con-
cludes that the National Ignition Facility
is important to its Stockpile Stewardship
program, but according to experts, the
project is overbudget, may not be tech-
nically feasible, and is not necessary to
maintain our nuclear arsenal.

According to Dr. Robert Cviak, a
physicist and former OMB Program Ex-
aminer for Department of Energy nu-
clear weapons programs, the NIF will
consume $5 billion to build, $4 billion
more than the Department of Energy's
original estimate. Including operating
costs, the NIF will consume more than
$32 billion, six times the Department of
Energy's original estimate.

Dr. Cviak also reports that the De-
partment of Energy has yet to solve
numerous technical problems that pre-
vent NIF from fully venting the
fusion explosion. Full operation of
NIF is already 6 years behind its origi-
nal schedule.

In fact, according to former Los Alamos
physicists Leo Mascheroni, the chance of
NIF reaching ignition is zero. Not 1 percent. Those who say 5
percent are just being...polite.

What is all that money being spent for?
Department of Energy says the NIF helps us maintain our nuclear
weapons, but experts disagree. When
asked about NIF's utility for weapons
maintenance, Edward Teller, father of
the hydrogen bomb and co-founder of
the Lawrence Livermore National Lab-
oratory, replied that it had "none whatsoever."

Sandia National Laboratory's former
vice president called NIF "worthless"
for maintaining nuclear weapons safety
and reliability.

Lawrence Livermore Laboratory
weapon designer Seymour Sack called
NIF "worse than worthless" for the
task.

Ray Kidder, another Livermore phys-
icist, has stated, "As far as main-
aining the stockpile is concerned, NIF is
not necessary."

In fact, NIF is an instrument for
developing new nuclear weapons. Depart-
ment of Energy itself touts NIF as
playing an essential role in under-
standing the physics of nuclear weap-
ons design and nuclear weapons effects.

This type of nuclear weapons design ac-

tivity violates the spirit of both the
Nuclear Non-Proliferation Treaty and the
Comprehensive Test Ban Treaty.

NOR is there a consensus with the De-
partment of Energy on NIF's impor-
tance. Officials at Sandia National Lab-
oratory, another DOE facility, have
challenged Department leaders on NIF,
calling for a scaled-down version in
order to make sure it works and that it
can be built affordably.

Now, at the same time that Congress
is covering the spiralling cost of NIF,
an instrument of proliferation, we have

cut funding for the DOE's nonprolifera-
tion activities. The bill we have before
us cuts nearly $27 million from the 2001
nonproliferation budget.

This cuts are commendable for con-
cern for all of us, because even funding at fiscal
year 2001 levels would not be enough to
address the problem. Currently, for in-
stance, there are enough quantities of
fissile material in Russia to make
more than 40,000 nuclear weapons, and
the resource-starved Russian Govern-
ment cannot secure all of this material
on its own.

The bipartisan Cutler-Baker panel
that recently studied these issues called the risk of theft of Russian nu-
clear materials the United States' most urgent unmet national security
threat. Their report urged sharp in-
creases in spending on nonprolifera-
tion, not cuts.

Our amendment attempts to address
these skewed priorities by taking
money being used for proliferation-
type activities and setting it aside for
national security programs that could be considered by this House
and approved by this House.

The amendment reduces NIF funding
by one-half. This still represents a $14.5
million increase in funding over the
last year.

At the same time that we slow down
the dubious National Ignition Facility,
we add $24 million to the Immobiliza-
tion Program, which disposes of sur-
plus plutonium; $19 million to the Ma-
terials Protection, Control and Ac-
counting Program, which seeks to se-
cure 603 metric tons of at-risk weap-
ons-scalable nuclear material in Russia;

$r23 to the Nuclear Cities Initia-
tive, which helps find employment for
nuclear scientists in Russia's 10 closed
civilian nuclear cities so that they are not

tempted to sell sensitive information to
groups developing weapons of mass
destruction.

I urge a yes vote on this amendment.
Let us demonstrate our Nation's com-
mitment to smart government and take
the leadership role in the fight to
prevent proliferation of nuclear weap-
ons.

Mr. WAMP. Mr. Chairman, I move to
strike the last word in opposition of
the amendment.

Mr. Chairman, again, I applaud the

tenure of the author of the amendment
to increase our accounts for renewable
cut the $24 million from the 2001

energy, but as the Republican cochair-
man with the gentleman from Colorado
(Mr. UDALL) of the House Renewable

electricity for a bipartisan way we have worked tirelessly with the
gentleman from Alabama (Chairman CALLAHAN)
and the gentleman from Indiana (Mr. VISCLOSKY), ranking member, to in-
crease these renewable accounts by

$100 million above the President's re-
quest.

This is even by those in the renew-
able energy field being applauded as a
great victory at this point in the pro-
cess. Now, if there are future victories
to be had for renewables, and I hope there are this year, they need to take place at the conference committee where we have an increase in the allocation on the Senate side, and I believe still room for debate on the final funding levels for these important renewable energy functions. I will be there at that conference advocating on behalf of further increases in these renewable accounts.

But here we go taking the money again out of an absolutely essential function of our Federal Government. Our nuclear weapons stockpile stewardship is critically important for the good of this country and, indeed, the entire free world. If we are going to be able to test these weapons without firing these weapons, then facilities like NIF must be supported.

Grated the management of the project itself has not been stellar, and it has had to be improved, but the fact is the imperative is there to finish the project, to continue to support our nuclear weapons stockpiling stewardship, and to be able to maintain these weapons and test these weapons without firing these weapons.

We increased at this subcommittee these nonproliferation accounts that the gentleman referred to by $71 million. Again, we have done a very good job at the subcommittee of balancing all of these needs because we agree with the gentleman on the points that he made. But we have already done that work. What the gentleman’s amendment actually does is takes it further and cuts into our national preparedness, something that we cannot afford to do.

There is no question that some people would come to the floor today and oppose this NIF. But, Mr. Chairman, our country wants us to maintain a safe and reliable nuclear stockpile.

Mr. Chairman, I rise in strong opposition of the Kucinich-Lee amendment. As the mother of a 10-year-old, I share my colleagues’ hope for a peaceful world free of nuclear weapons.

I believe the United States should reduce the number of nuclear weapons we maintain, and I introduced legislation today with the gentleman from North Carolina (Mr. SPRATT) calling on President Bush to do just that.

I agree that funding for nonproliferation programs is well short of what is needed, but I also believe that, as long as this country relies on nuclear weapons as a central part of our national security strategy, we have a commitment to maintain them in a safe and reliable condition.

Our best hope for maintaining the reliability of our nuclear weapons without testing is a robust Stockpile Stewardship program that includes the National Ignition Facility known as the NIF.

The NIF is an essential component of our Stockpile Stewardship program because it will allow us to create conditions similar to those that exist within a nuclear explosion without actually conducting live tests of nuclear weapons. Tremendous progress has been made in constructing this facility.

Since construction began, over $1 billion has been invested in the NIF, and more than 1,000 tons of equipment have been installed. The building housing the NIF is 98 percent complete, and 70 percent of the laser glass has been produced and meets specification.

Mr. Chairman, we can ill afford to abandon the NIF at this critical juncture in the Stockpile Stewardship program. We must give the Nation’s nuclear stewards the tools they need to maintain the safety, security and reliability of our Nation’s nuclear deterrent.

Finally, Mr. Chairman, I would like to submit for the RECORD a letter I received today from Ambassador Thomas Graham, who negotiated the nonproliferation treaty, expressing his support of the NIF.

I would also like to direct the RECORD on quotes attributed to Dr. Edward Teller. Dr. Teller’s quote is, “I was misquoted giving the appearance I did not support this NIF project. It is necessary that I correct this completely wrong impression.” I am for the NIF.

Mr. Chairman, I urge my colleagues to strongly vote down this amendment. It will jeopardize our ability to have a safe and reliable and certificable stockpile.

Mr. Chairman, I include the following documents for the RECORD as follows:

MRS. TAUSCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition of the Kucinich-Lee amendment. As the mother of a 10-year-old, I share my colleagues’ hope for a peaceful world free of nuclear weapons.

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Mr. Chairman, I include the following documents for the RECORD as follows:
It is my opinion that the NIF will almost certainly be a nuclear fusion bomb for the hydrogen bomb. Such demonstration will be valuable in the Nation’s search for ways that future functioning of fusion bombs can be assured.

Mr. CALVERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this very irresponsible amendment. We often debate the proper roles and responsibilities of the Federal Government, but I thought we all agreed that Congress exists in large part to provide for our national security.

This amendment strikes at the heart of our country’s defense. If we pull support from the National Ignition Facility, we would cripple our nuclear weapons stockpile, the cornerstone of our national defense.

NIF is the only facility that can create the extreme temperature and pressure conditions that exist in exploding nuclear weapons. Without NIF, we would lose our ability to fully understand the operations of our arsenal.

NIF is also the only facility that can create fusion ignition—burn in the laboratory. Without NIF, we would not be able to access and certify the aging nuclear stockpile unless we renew underground testing.

Do not just take my word for it. The head of the National Nuclear Security Administration in DOE has said that, without NIF, we will need to begin underground tests once again.

We need to ensure that our weapons are safe and that they will work. NIF gives us this assurance. Stand up for the defense of our Nation. I urge my colleagues to vote against this ill-advised amendment.

Ms. LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand today in strong support of this amendment to cut funding from the National Ignition Facility and to transfer that money to crucial nonproliferation programs and to the national Treasury.

This project has already sucked up billions of taxpayer dollars while endangering our environment and sabotaging efforts to reduce nuclear nonproliferation. Instead of continuing to go down this path, let us stand up today for peace, for security, and fiscal common sense.

NIF has cost billions and will cost billions more and will not increase our national security. The National Ignition Facility is not some crucial component to our security system. It is an albatross, mired in cost overruns and dubious science.

When Edward Teller, the father of the hydrogen bomb, says that NIF has no utility whatsoever, we really should listen.

Now, at the same time, the Energy and Water Development Appropriations bill cuts funding for nonproliferation programs that represent an investment in peace, which is really an investment worth making. So this amendment restores badly needed dollars to programs that will make us truly safer.

This is not a trade-off in security. It is an enhancement of security. Now is not the time to cut support for efforts to curtail the spread of nuclear weapons. Reducing the number of nuclear weapons in the world and reducing the amount of nuclear material in the world enhances our security.

\[1645\]

So we must move forward toward a safer future, not backwards to a more dangerous past.

Finally, this amendment returns over $56 million to the national treasury. Fifty-six million dollars. That money can be used to house the homeless, to care for our seniors, or to feed the hungry. Without housing, without medical care, without food for all, how can we really be secure?

Once again I urge my colleagues’ support of this amendment.

Mr. RYAN of Wisconsin. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment.

Mr. Speaker, I am in support of this amendment from a good-government-taxpayer point of view. This program has failed audit after audit after audit. Just the most recent GAO audit has given it a failing grade. This program is 6 years over its original completion date, and it is almost $4 billion over budget.

For us, as the legislative branch of government, to properly conduct our proper oversight role over the executive branch, to see if their proper stewardship of our taxpayer dollars is making sense and is being implemented well, and for us to walk away from these kinds of abuses, is quite simply irresponsible.

I support the Kucinich amendment. I do not think it strikes a devastating blow to our nuclear stockpile program. In fact, I think this is a good thing, because it says that if an organization is going to take taxpayer dollars, they have to spend them wisely, have a good plan in place, and that we will not chase good money after bad. These audits need to be paused before we can reward this program with the funding they are asking for.

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent to limit debate on this particular amendment to 10 minutes, 5 minutes for a proponent and an opponent.

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

Mr. VISCOSKY. Mr. Chairman, I object momentarily.

The CHAIRMAN. Objection is heard.

Mr. THORNBERRY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. I support the nonproliferation efforts which can reduce the amount of nuclear material and nuclear expertise which is floating around the world and which some reports say is the greatest single threat to U.S. security, but I cannot support reductions in programs that keep our own nuclear stockpile safe, secure, and reliable.

I would say to the gentleman who just spoke in the well that this Congress is not walking away from the management difficulties that the NIF has had. As a matter of fact, in the Committee on Armed Services we have had a number of hearings over the past several years on the NIF and its management difficulties. As a matter of fact, I think one of the reasons we have a new entity within the Department of Energy to help with those problems in the past. And I can report that the new National Nuclear Security Administration and General Gordon, its head, has moved aggressively to solve the management problems that the NIF has had in the past.

As my colleague from California has said, we have sunk a tremendous amount of money into this project. To walk away now would be the height of folly. But I want to take just a second to put the NIF into its proper context, because I think many of my colleagues do not realize we continue to rely today on nuclear weapons as the central part of our security deterrent; yet those nuclear weapons are 18 years old, on average. They were designed to last 12 years, and so they are already well beyond their design life.

What many people do not realize also is that there is a lot we do not know about nuclear weapons and how they work. In spite of the fact that we have avoided many of the past number of years, going back to 1945, there is a lot about what happens with a nuclear explosion that we do not understand, and NIF and other programs like that are designed to help us understand what is going on so that as our weapons age we can continue to have confidence that they are safe, secure, and reliable. If we do not have NIF or other tools like NIF, then the uncertainties will grow, and they will grow to a point where the President and a Congress will have no choice but to resume nuclear testing, and that will have enormous consequences.

I would point out to my colleagues that this subcommittee has already cut the President’s request by $176 million. That gives me enormous concern. But to take more money out of the President’s request to increase the uncertainties and here to stop the funding for NIF, which is one of the essential tools to answer those questions as our stockpiles age, would be a serious, serious mistake.

Mr. Chairman, I think that what we have before us as an amendment will
CONGRESSIONAL RECORD—HOUSE

June 27, 2001

The CHAIRMAN. The gentleman from Ohio (Mr. KUCINICH) has 1½ minutes remaining, and the gentleman from Tennessee (Mr. WAMP) has 3½ minutes remaining.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume, and I would like to cite the latest GAO report about the NIF, which was issued on May 17th, and continues to recommend an independent scientific review of NIF. It says:

In our report, we recommended that the Secretary of energy arrange for an independent outside scientific and technical review of NIF's remaining technical challenges. NIF still lacks an independent external review process. Independent external reviews are valuable for measuring cost, schedule, and technical success in any large and ambitious science project. Yet, no such external independent reviews of NIF have been conducted or planned. The DOE's own orders state that external independent reviews are beneficial; however, DOE plans to continue its own internal review process, allowing Defense Programs officials to manage the project themselves.

It is very clear, Mr. Chairman, that accountability has been lacking. While we know about the lack of accountability at NIF, we also have an opportunity here to take a strong position with respect to nonproliferation and fund some of those programs that have been cut back.

Mr. WAMP. Mr. Chairman, I yield myself the balance of my time.

Whether coming at the amendment from a budget-cutting perspective or coming at it from an anti-nuclear or non-proliferation perspective, it does not serve our country well today to retreat from our national preparedness, including the ultimate deterrent of a safe and reliable nuclear weapons stockpile. We built it, we must maintain it for a purpose, and we must maintain it for a purpose. The entire free world is depending on us.

And, frankly, in closing, I want to say we now have better management for our weapons stockpile than we had 5 years ago. There is no question that NNSA was a good move. It was done by a bipartisan team led by the gentleman from Texas (Mr. THORNHILL) and the gentleman from California (Mrs. TAUSCHER), and I applaud their work. Because today, under General Gordon's leadership, the NNSA is responsibly re-forming our nuclear weapons programs so that we are prepared for the future.

For too long our weapons activities have been put on the back burner.

□ 1700

We have been funding through our national security programs weapons, and our personnel on active duty and our Guard and Reserve, but we cannot ignore our weapons activities to the back burner and expect to have an infrastructure that is capable of the next generation of nuclear weapons if we need them, or a workforce. We have a

hurt the security of the United States not only here but in the long term, and I hope will reject it.

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment, and all amendments thereto, be limited to 10 minutes, the time to be equally divided between the proponent of the amendment and a Member opposed.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama to limit the debate to 10 minutes, 5 minutes divided equally on each side?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. KUCINICH) will control the time in favor of the amendment, and a Member on the opposite side will control the time in opposition to the amendment.

Mr. KUCINICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. OLIVER).

Mr. OLIVER. Mr. Chairman, I thank the gentleman for yielding me this time, and I am rising in support of the amendment that has been proposed by the gentleman from Ohio, in part, I think, to clear up some of the issues along the way.

The expenditure in nuclear programs is far beyond what we need to be expending in nuclear programs. That is as simple as one can say it. The increase in nuclear programs in this budget is by a very significant amount over the previous year when we have such great other needs. The amendment that the gentleman has proposed returns $56 million to the Treasury, which by the way is about similar to the amount that was involved in the amendment we had been offered by the gentleman from New York seeking only an additional $50 million for renewable energy research programs. It seems to me that that would be a far, far better way to use the $56 million that otherwise would be returned to the Treasury by the gentleman from Ohio and his amendment.

I just want to point out, in partial reply on exactly the same amendment earlier, the gentleman from Tennessee was speaking about what the committee had done, and I do commend the committee for returning, on renewable energy sources, $100 million, which had been cut from the budget for renewable energy sources by the President's request. In returning that amount of money, they now have in the bill $377 million for renewable energy research and development, which is exactly $1 million more than there was in the previous bill.

Now, I would just point out here that in the National Energy Policy Report that has come out, the policy report has at one point a statement that President George W. Bush understands the promise of renewable energy and strongly encourages alternative sources, such as wind, biomass, and solar energy. And in another place here the statement reads that "renewable and alternative fuels offer hope for America's energy future." I do not think it is appropriate to have only a $1 million increase in the accounts for renewable energy, commendable though it is, that the subcommittee has recommended $100 million more than the President had proposed, because he had cut so much out of what he is in other places here saying are such important pieces of work to be done.

It seems to me that we would be far wiser to use money that might be saved from the NIF and otherwise, by the amendment, would return to the treasure that would really significantly help in producing the kind of energy that we need for the future in renewable sources that does not produce global warming, CO₂, in most of its forms, and produces very little, except renewable sources, in biomass.

The CHAIRMAN. Does the gentleman from Tennessee (Mr. WAMP) seek to control the time in opposition to the amendment?

Mr. WAMP. I do, Mr. Chairman.

Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I thank my colleague for yielding me this time. We can have our own opinion, but we cannot have our own separate set of facts; and the facts about the NIF are very clear. While there were significant production failures and management problems in the NIF in 1999, even into early 2000, that has been dramatically fixed by new management. And, frankly, we have not had any GAO reports saying anything other than that.

These investments are critical to our stockpile stewardship program. They are critical to having an ability to certify the sustainability and the safety of these weapons. The NIF is a project that was plagued with problems; but even today, in the Subcommittee on Military Procurement, General Gordon, the director of the National Nuclear Security Administration, testified that the NIF is now problem free. It is a program that is going forward, that we have significant investment in, and it is critical to our ability to have a stockpile stewardship program that enables us to certify weapons without testing.

So I think that while there are rumors out there that the NIF is still plagued with problems, I want to assure my colleagues that they need to vote down this amendment. I urge them to strongly oppose it. We need the NIF for stockpile stewardship, and we need it for nuclear security.

Mr. KUCINICH. Mr. Chairman, how much time remains?
graying workforce and aging infrastructure throughout the weapons complex.

I represent the Y–12 in Oak Ridge, Tennessee, where bricks fall off the walls and people have to report to work in hard hats because the infrastructure has eroded.

Mr. Chairman, we must reinvest in the modernization of these facilities. We have buildings that are 50 years old. We have not adequately funded those facilities. This strikes at NIF, but NIF is at next-generation of being able to test without activating these weapons and testing underground, maintaining the weapons stockpile reliability. We must do this and fight back this amendment.

Mr. Chairman, I urge a ‘no’ vote on this amendment.

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

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

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

Mr. KUCINICH. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 8 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. KUCINICH) will be postponed.

Mr. BARR of Georgia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the distinguished gentleman from Alabama (Mr. CALAHAN), the chairman of the Subcommittee on Energy and Water Development.

Mr. Chairman, since being elected to the Congress, I have worked closely with the Army Corps of Engineers to ensure full pool lake levels at West Point Lake. On several occasions, the Army Corps has imprudently lowered the lake level, causing environmental degradation and severely affecting the use of the lake by the tens of thousands of citizens who rely on it for their water, energy, and recreation.

Over the last year, however, with the assistance of former Assistant Secretary of the Army for Civil Works, Joseph R. Capella, we were able to work on making sure that the Army Corps in managing West Point Lake, respected the benefit-cost priorities that were established by Congress when this project was authorized by title II, section 203 of the Flood Control Act of 1962, Public Law No. 87–874 (76 Stat. 203) of the Flood Control Act of 1962, Public Law No. 87–874 (76 Stat. 203 of the Flood Control Act of 1962, Public Law No. 87–874 (76 Stat. 203).

Secondly, I want to thank the gentleman from Michigan (Mr. BONIOR) for his sponsorship of this, as well as the gentlewoman from Ohio (Ms. KAPTUR).

Mr. Chairman, for those who have grown up along the shores of the Great Lakes, we know that the Great Lakes define the region by which we live. It is what we are about. It is what has made the Great Lakes the wealthiest area on the planet Earth because of this wonderful and abundant resource.

Mr. Chairman, we depend on our drinking water, our recreation, the engine of our economy on the water in the Great Lakes. Tourism is our second largest industry. We do about $10 billion a year in tourism. Families come to Michigan to fish, to use our beautiful beaches, to swim in our lakes and enjoy our sand dunes. They do not come to Michigan to look at oil wells or oil derricks. We are passionate about protecting the Great Lakes.

We cannot afford to put our greatest natural resource at risk. When I say that, 95 percent of all of the fresh water on planet Earth, comes out of the Great Lakes and its connecting waters; 20 percent, a fifth of the fresh water on planet Earth, comes out of the Great Lakes. We are amazed and appalled and alarmed that some in Michigan are proposing to drill for oil and gas beneath our Great Lakes. They seek to
add 30 new directional drills along our shores. They are moving at breakneck speed to get this done. Over their life-
time, these rigs that are drilled already in place have produced less than one-third of a day’s supply of natural gas and oil.

This process began with seven wells, up to 13, now back to seven as far back as 1979. There is virtually very little that has accured. I remind my colleagues that 1 quart of oil can contami-
nate up to 2 million gallons of drinking water. Just think of the damage that would do if we had directional slant dr-illing.

If we have a drill that hits a pressure pocket, it can spew gas and oil back out like a geyser, Mr. Chairman. There is also another problem that we have experienced in one of the drills in the area. I wish to warn Michigan. It is Great Lakes hydrogen sulfide. It is a poisonous gas. It is very similar to cyanide. It was released back in 1997 and 1998, sending 20 people in that region to the hospital.

Under the present movement to ac-
cess and explore gas and oil, our drink-
ing water could be contaminated. Oil could wash up to our shores; and if that happened, it could take as much as 500 years to completely flush out.

In conclusion, let me say, Mr. Chair-
man, oil and water do not mix. Let us put an end to this bad idea by passing this amendment sponsored by my colleague, the gentleman from Michigan (Mr. STUPAK), the gentlewoman from Ohio (Ms. KAPTUR), and put an end to this once and for all.

This amendment would prohibit the Army Corps from spending funds to issue any new permits for oil and gas drilling under the Great Lakes. We need to preserve this national beauty for future generations. Drilling in the Great Lakes is a formula for disaster. I urge my colleagues to support the amendment.

Mr. Chairman, I yield 4½ minutes to the gentleman from Michigan (Mr. STUPAK), my distinguished colleague and leader on this issue.

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

Mr. Chairman, this could be a great day for the Great Lakes and all of us who live along the Great Lakes shore. The Arctic Ocean is under the Great Lakes. Since the 106th Congress 4 years ago, I have sought to ban the practice of drilling for oil and gas in and under our Great Lakes. Early on I was a lone voice among public officials on this issue.

But I have been rewarded for my ef-
forts. Mr. Chairman, with strong support from both sides of the aisle, Demo-
crats and Republicans, and from Members inside and outside of the Great Lakes basin. This is a bipartisan effort that represents how this issue has found its time and place in the House of Rep- resentatives.

This is not a Florida situation. We have drilling in Michigan for oil and gas. But what our amendment says is to keep these rigs from drilling for oil and gas on our shoreline. We should not be drilling in the world’s greatest supply of fresh water. We should not have to be drilling on the shoreline of fresh water for 34 million people who live around the Great Lakes. Let us not jeopardize our Great Lakes. Let us not jeopardize their drinking water. Let us not drill for gas and oil under our Great Lakes.

This amendment is important be-
cause our State of Michigan is moving forward to open new areas for drilling along the shores of Lake Michigan, Lake Huron, Lake St. Clair, the con-
necting waterway between Lake Huron and Lake Erie.

Consider, Mr. Chairman, that 18 per-
cent of the world’s fresh water is found in the Great Lakes. Ninety-five percent of our Nation’s fresh water is found in the Great Lakes. It is the home and workplace of 34 million people. The procedure that Michigan plans to au-
thorize does not involve oil platforms located in the water of the Great Lakes themselves. Instead, the rigs would be located along the shore. Oil pockets under the lakes would be tapped by drilling at an angle from the shore rigs. This is a procedure known as direc-
tional drilling.

Michigan law already permits State officials to move forward to lease bottomlands of the Great Lakes for drilling, without a new vote of the Michigan State House or State Senate. Michigan can move forward to lease bottomlands without permission from any other Great Lakes State. But as people inside the circle of Michigan have learned what Michigan is doing, Mr. Chairman, they have raised their voice in opposition. The Governor of Ohio has said he would never consider such a procedure. The Wisconsin Sen-
ate has said no to directional drilling. Members of the Michigan legislature themselves are waking up to the dan-
gers that this practice presents to the Great Lakes. Although the Michigan Senate earlier this month voted to sup-
port new drilling, that language last night was eliminated from a House-Senate conference report and the lan-
guage allowing directional drilling has been eliminated in Michigan.

Here in Congress, a bipartisan group of Members from this body and the other body have brought forth bills to block any new drilling for oil and gas underneath the Great Lakes. But de-
spite all of these actions, the State of Michigan can still move forward by ad-
ministrative action and still plans to do so under the leadership of Governor Engler. Leasing of bottomlands of the Great Lakes for new oil and gas could take place within months under the current administration in Michigan.

Michigan State officials have argued that the procedure is safe. A set of rec-
ommendations made up by a panel, a set of recommendations directed by the Michigan Governor to study the safety of directional drilling, have not been implemented and will not be imple-
mented. They want to drill up in my district and they have never yet had a hearing in my district as required under the procedures as to whether or not you should drill in the Great Lakes.

Mr. Chairman, we may be able to imagine the hazards of drilling, but it is harder to see the benefits. What is the economic trade-off here that you could argue in favor of drilling under our Great Lakes? The answer, Mr. Chairman, is small and short-term gain for Michigan’s budget and profits for oil companies; but at large that faces the threat of drilling would see virtually no benefits. The proposed 30 or so new wells would yield only enough oil to meet the needs of Michi-
gan residents for 3 weeks and enough natural gas for 4 weeks.

Mr. Chairman, of all the places in the Nation where we might wish to sink oil wells, I believe we can argue that we would never choose the shoreline shared by the people of Chicago, Milwau-
kee, Detroit, Cleveland, Toronto, and Buffalo among others. Let us block this procedure.

I thank the U.S. Senators in the Michigan delegation and other Sen-
ators for their efforts. I would like to thank my colleagues, the gentleman from Michigan (Mr. BONIOR), the gen-
tlewoman from Ohio (Ms. KAPTUR), the gentleman from Michigan (Mr. CAMP), the gentlewoman from Florida (Mrs. THURMAN), the gentleman from Wisconsin (Mr. BARRETT), the gentleman from Ohio (Mr. LAFOURRETE), the gent-
lewoman from Ohio (Ms. KAPTUR), and others who stepped forward to cospon-
sor legislation to ban directional drilling each and every Congress that I have introduced it.

A vote for this amendment tells the American public that we understand that the Great Lakes, one of the Na-
tion’s, one of the world’s greatest re-
sources, should and will be protected. Vote “yes” on the Bonior amendment.

The CHAIRMAN. Does the gentleman from Alabama, seek the time in opposi-
tion to the amendment?

Mr. CALLAHAN. Yes, Mr. Chairman. The CHAIRMAN. The gentleman from Alabama is recognized for 30 min-
utes.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CAMP).

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

Mr. Chairman, I rise today in support of a new amendment offered by my col-
leagues from the Midwest, an amend-
ment which prohibits the Federal Gov-
ernment from facilitating drilling projects in the Great Lakes. This

□ 1715
amendment is a vote in support of the most precious fresh water resource we have.

It remains unclear whether or not the Federal Government or the Army Corps of Engineers has any authority in this area, but I believe it is important to make a statement on protecting the Great Lakes. For example, section 10 of the Rivers and Harbors Act cited in this amendment was passed in 1899 and only refers to blocking navigable waters.

Protection of the Great Lakes basin best remains with the eight Great Lakes Governors and two Canadian Premiers. Earlier this month, the governors and premiers came together and signed Annex 2001 which protects the Great Lakes from commercial withdrawals of water. So while not a perfect solution, I am voting for this amendment to be sure the word goes out that our Federal Government should not be participating in our Great Lakes and this amendment does that.

I applaud Members of both parties for working to protect our lakes. I urge my colleagues to vote in favor of protecting our greatest natural resource.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. HOEKSTRA).

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

Mr. Chairman, my district represents roughly 150 miles of Lake Michigan shoreline. On a day-to-day basis the quality of life and the very livelihood of many of my constituents are directly affected by Lake Michigan and the Great Lakes. The Great Lakes are one of this Nation’s most precious resources. This amendment is one way we can help protect and preserve the largest body of fresh water in the world.

I am and have always been in favor of States rights and there are some that will invoke that issue in regard to this amendment. Action by Congress is needed, however, because the Great Lakes States and provincial governments of Canada have a patchwork of regulations that do little to protect the Great Lakes from the dangers associated with oil and gas drilling. Canada allows vertical drilling to line the bottomlands of Lake Erie. While some States in the Great Lakes region allow drilling, others have banned this practice. Protection of this resource cannot vary from State to State or from one body of water to the next. Everything is interconnected in the Great Lakes region and the decisions that place Lake Erie at risk in turn place Lake Michigan at risk and vice versa. The only appropriate policy is to keep drills out of the Great Lakes.

I feel it is necessary today to vote in favor of this amendment to eliminate the risk as opposed to allowing this activity to take place. In addition to supporting this amendment today, I am also introducing legislation that will require further study of the environmental impact of any gas drilling in the Great Lakes. I will ask for a comprehensive assessment of the condition, safety, and the potential environmental effects of pipelines that run under the Great Lakes and through the States that surround those lakes. And I will ask for a comprehensive study to determine how much oil and gas might be gained by drilling in the Great Lakes region.

We should go further. We need a comprehensive plan to protect the Great Lakes. This is a good first step.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Chairman, I cannot believe I am standing here like this. It is the height of irresponsibility. I think Members should oppose this amendment because it establishes a horribly irresponsible precedent for our energy security in this country. The Democrat leadership is constraining our economy within the same energy straitjacket that they applied under the Carter administration and that they are applying now in California that brings blackouts.

The working people of America are depending on us to open energy reserves to safe, environmentally responsible exploration. Without reliable energy, our economy will crumble. It will mean blackouts, layoffs, and plant closings.

This energy security obstructionism is one aspect of a broader effort to systematically choke off every promising source of domestic energy. It is hard to fathom how this campaign to block energy production gains its driving force. It is anything but a misguided motivation to weaken America and to leave us beholden to foreign sources of energy.

The Democratic leadership is at war with our ability to produce an adequate and dependable energy supply. They oppose safe oil exploration. They oppose expanded nuclear power. They oppose clean coal. They oppose ANWR. They oppose tapping the natural gas trapped beneath public lands. They oppose drilling in the Gulf of Mexico. And now they oppose slant drilling in Michigan.

Now, they are for closing plants. They are for closing refineries. They are against opening any new plants. They oppose everything that allows us to increase our supply. Their actual objective must be to eradicate America’s energy security. Why else would the Democrat leadership be recklessly pursuing a policy that is weakening the United States economy?

The question for Democrats to answer is this: Where will Americans go for the energy that they need to sustain their quality of life after you have completely strangled our ability to produce the energy that we need? What will Democrats tell the men and women who worked in gas lines? What explanation will they offer families suffering through frequent and recurring blackouts? What justification will they offer to workers when they open a pink slip after plants are forced out of business by spiraling energy costs?

And this environmental extremism, this radical environmentalism is entirely unwarranted. Today, slant drilling technology allows us to safely withdraw oil and gas beneath bodies of water from the shore. Environmentally safe. We do not have to trade environmental safety for energy security.

Members, please oppose these amendments that weaken America by enhancing the power that foreign suppliers of energy hold over our Nation. And more recently, an oil company sold 2 minutes to the distinguished gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Chairman, I applaud the gentleman from Michigan (Mr. BONIOR) for introducing this amendment along with the gentleman from Michigan (Mr. STUPAK) and others.

Mr. Chairman, I rise in strong support of this amendment. Unfortunately, some public officials in Michigan are using recent fuel price spikes to justify their desire to open up the Great Lakes to oil and gas drilling. Although drilling in the Great Lakes may bring a profit to the oil companies, it is not going to solve our national energy crisis or even temporarily drive down the cost of gas in the Midwest. In fact, it is estimated that new wells in the Great Lakes will only yield enough oil to meet one State’s needs for 3 weeks. The negligible benefits of expanded oil and gas drilling in the Great Lakes is hardly worth it considering the risks. The type of directional drilling industry proposes carries the risk of oil spills and toxic hydrogen sulfide releases, ruining the lakes’ pristine ecosystem and jeopardizing human health. Many of us recall the Exxon Valdez oil spill which dumped 11 million gallons of crude oil contaminating 300 miles of shoreline and causing billions of dollars in damage to one of our most pristine natural wildlife refuges in Alaska. And more recently, an oil company devastated the Galapagos Islands, ruining miles of shoreline and destroying the environment.

As the world’s biggest source of fresh water, the Great Lakes must be protected from such a tragedy. I think the 34 million people inhabiting the Great Lakes basin as well as Americans across the country would agree.

Unfortunately, State officials in Michigan are ignoring common sense and pushing forward in their efforts to reverse a moratorium on Great Lakes drilling. It is therefore incumbent upon Congress to protect the Great Lakes. Banning Federal funding through
amendment is a step in the right direction and would send a strong signal to those eager to exploit Great Lakes resources.

People in Wisconsin and other Great Lakes States are blessed to have the world’s most pristine lakes and fresh water resources in our backyard. We get our drinking water from them, our kids swim in them, and our tourism industry depends on them. Because the Great Lakes are such an important part of our daily lives, we are not willing to gamble with this precious resource for short-term gain.

I urge my colleagues’ support of this amendment. Please stand with us to protect the Great Lakes from environmental hazard and degradation.

Mr. CALLAHAN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. KNOLLENBERG), a member of our subcommittee.

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

Mr. Chairman, I rise in strong opposition to the amendment. The amendment is overly broad and would prohibit all agencies in the Energy and Water bill including the Corps of Engineers, the Department of Energy, and a portion of the Department of the Interior from expending funds for drilling in the Great Lakes. I have concerns that needed grants from these Federal agencies would be cut off as a result of this amendment. This is another attempt by the amendment’s author and others to shift decision-making authority over the Great Lakes to the Federal Government, just like the water management issue. They would rather have bureaucrats in Washington to manage our resources than those of us who actually live there. I do not think that is right.

The issue is under the jurisdiction of the State of Michigan and our State legislature and the governments of all the Great Lakes States. This is not just a Michigan issue. The Michigan State legislature has made a decision that this will be handled by State agencies, including the Michigan Department of Environmental Quality, Department of Natural Resources, and the State’s Natural Resources Commission.

□ 1730

They have made this decision on their own, free from Federal interference, which is as it should be. In fact, my home State of Michigan is not alone in this sentiment. It is shared by others. In a letter from the Interstate Oil and Gas Compact Commission, and I have a letter here, which has 30 of our Nation’s 50 States as members, this letter went to EPA administrator Christie Todd10

10 Christie Todd is a former EPA administrator.

Todaswes, “The majority States of the IOGCC regard drilling beneath the Great Lakes and protection of the environment in relation to that drilling to be matters that are within the exclusive jurisdiction of the States and not the United States EPA or other Federal agencies.

This amendment would be counter to the belief of the IOGCC and the majority of States in our Union. Remember again, there are 30 States involved here.

Mr. Chairman, directional drilling should not be confused with offshore drilling. Directional drilling sites are inland. In the State of Michigan, they are prohibited from being closer than 1,500 feet from the shoreline. Conversely, offshore drilling done from ships or rigs directly in the water is prohibited by State law in five of the eight Great Lakes States.

In 1997, the Michigan Environmental Science Board concluded directional drilling posed little or no risk to the contamination to the Great Lakes. Since 1979, there have been no accidents and no significant impact to the environment or public health. I think the evidence that directional drilling is safe and an effective procedure and does not warrant any kind of Federal encroachment. State geologists estimate the production of new oil and gas resources from the Great Lakes could provide, contrary to what one might have heard, as much as $100 million to the Michigan Natural Resources Trust Fund, the State’s sole source of funds for land acquisitions, recreational projects, and natural resource development.

The revenue produced by leasing of land for drilling is crucial; and without it, state-owned natural resources could be taken without compensation by private wells drilled along the State of Michigan shorelines and the other States as well; on private lands, I might add.

Furthermore, I believe directional drilling can be done in an environmentally safe manner, and it may be one solution to some of our energy woes.

This amendment is counterproductive because our Nation, particularly those in California, are currently experiencing an energy supply shortage and prohibiting directional drilling in the Great Lakes would cut off a critical supply source.

Mr. Chairman, this amendment is little more than an example of mission creep by which the Federal Government slowly, slowly gains more and more authority. This mission creep amendment should not pass this House. I urge Members to oppose this amendment.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. SHIMKUS) assumed the Chair.

SUNDAY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

The Committee resumed its sitting.

Mr. BONIOR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. Kirk).

Mr. KIRK. Mr. Chairman, first I want to commend the gentleman from Alabama (Mr. CALLAHAN) for restoring funding for renewable energy in this bill.

With regard to contamination of Lake Michigan, we have had the Rock Goble, the Fish Hook Flat, alewife, nuclear waste and PCBs. Lake Michigan has had enough. We killed Lake Erie in the middle and northern Michigan. The Great Lakes are home to half of the world’s supply of fresh water. It is one of our Nation’s greatest environmental treasures. I strongly support the Bonior-LaTourette bipartisan amendment and am totally committed to Lake Michigan’s environment and urge Members to support this worthy goal.

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

Mr. Chairman, I might point out that the purpose of this debate, what the gentleman from Michigan (Mr. BONIOR) is attempting to do, is to restrict the Corps of Engineers from granting any further permits for this venture.

This is what the Corps of Engineers is all about. The Corps of Engineers is there to protect the environment, to make absolutely certain that everything with respect to any type of activity on the lake is in the best interest of the environment and of the American people and the area.

I would beg to differ that the permitting process on this is not taking place, because it is. They cannot do it without permits. If the gentleman’s amendment is adopted, the Corps would be prevented from issuing the permits, resulting in a halting of further exploration.

I might say that every day we hear in these 1-minutes the Members of the minority talking about the energy crisis, and this is an opportunity to do something about the energy crisis while not doing anything to harm the environment. So I would urge the Members to pay close attention to what this debate is all about.

Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Chairman, I would join my Michigan Republican colleagues who have spoken in support of this amendment, the gentleman from Michigan (Mr. CAMP) and the gentleman from Michigan (Mr. HOEKSTRA), also in support of the amendment.
Some say that this is a safe process, slant drilling. Well, I have to say, I am not convinced that the science, in fact, is correct. No one has ever suggested that the oil perhaps underneath the Great Lakes is an Arab oil field. It will not provide a lot of oil under anyone’s estimation. So why should we take the risk?

I grew up on the shores of Lake Michigan, and I can remember as a young boy in the 1960s and even into the 1970s there in fact had been an oil spill on the southern shore of Lake Michigan, and I will say virtually every day, every day in St. Joe, Benton Harbor, my hometown and along the southern shore of Lake Michigan, anyone that went to the beach got oil from the sand on themselves. I do not think there was a house along the street that did not have a little bottle of Mr. Clean on the kitchen step, which was the only stuff that would take that oil off our clothes, off our shoes, name it.

That smell of Mr. Clean stays with me from this day, from those summer days of always getting oil on our feet, our clothes, off our shoes, name it.

One of the first pieces of legislation I passed as a young Member of this House was oil-spill legislation. I remember almost a cataclysmic event in Bay City, Michigan, that would have destroyed, I think, the ecosystem of the Great Lakes, for decades, if not more than 100 years.

This is a Great Lakes watershed area that is not like someplace else. When the oil is there, it stays there and it stays there for a long time.

I support this amendment. It is bipartisan. For those of us that have districts along the Great Lakes, I think that all of us, I would hope, would support it. After all, we know our Great Lakes area better than just about anybody else.

This is a wise amendment. I support the amendment. I would hope that my colleagues would also vote for this when we take it up tomorrow. I appreciate the bipartisanship that it certainly has, and I would just compliment my colleagues in support of this amendment to make sure that, in fact, we do not have oil spills throughout the Great Lakes.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Chairman, I have a lot of good friends on both sides of the aisle that are addressing this issue, and I really get concerned and I struggle with this.

Southern Illinois used to have one of the largest oil fields in the country 50 years ago, decades ago. Guess what? It was all pumped out. To benefit the United States of America, we drilled in southern Illinois. We still have some marginal wells there. They pump about two barrels a day. They are the little seesaw horses that one sees when they drive down the road.

My cornfields and soybean fields are just as important as any lakefront beach property. Sometimes I think we put our eggs in the wrong basket. We are in an energy crisis. Fuel is at an all-time high. We do not want to drill off the Great Lakes. We had a vote yesterday, where we do not want to drill off of Florida. Heaven no, we do not want to go into ANWR. So my basic question is: Where do we go?

I will say where we go. We are going to the Saudi Arabia sheiks. We are going to pony up our dollars. We are going to be held hostage by Saudi Arabia for our oil.

I just do not understand. We can send people to the Moon. We can send people to Mars. We can go all over this world, and we cannot drill safely?

So I ask you to bring a little common sense to the table. Do the environmentalists have some natural resources. We have places that expended our natural resources for the benefit of our country. Now it is time to make sure that we are energy self-sufficient, not reliant on foreign oil. If we rely on foreign gasoline online, we have to do a couple of things. We have to drill. We have to transport and we have to refine and, of course, we have to add ethanol.

Mr. BONIOR. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Ohio (Ms. KAPTUR), the cosponsor of the amendment.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman from Michigan (Mr. BONIOR) for yielding me this time.

Mr. Chairman, last week the Members of our body voted to send a message to the Bush administration that oil and water do not mix. The House voted overwhelmingly to stop offshore drilling off the coast of Florida by a vote of 247 to 164. Seventy Republicans voted overwhelmingly to stop offshore drilling in the Great Lakes. As environmentalists protested outside Lake Pointe Manor banquet hall where he was speaking, Cheney said he supports searching for new sources of fuel. Possibly, he said, that could include the controversial plan to slant drill under the lakes.

"The technology in my judgment is extraordinarily good," Cheney said.

"I'd also like to remind everybody that we have a serious problem in our dependence on foreign oil sources."

He added that to meet the country's electricity needs, between 1,300 and 1,900 new generators would have to be built for coal, gas and nuclear energy.

"Those are the three options for the foreseeable future," he said. "The attractive features of coal are that we've got a lot of it ... and it's cheap."

Cheney was at the banquet hall south of Howell attending a $1,000-a-plate fund-raiser for Michigan Republic:7's campaign for President. Republicans joined 177 Democrats in a rebuke to the White House drilling policy. Nonetheless, Vice President Cheney claims that drilling can be conducted without environmental damage. Where does the administration stop in its single-minded desire to appease the oil and gas special interests? How many times do we have to send this message before the administration gets it?

"I'd also like to remind everybody that we have a serious problem in our dependence on foreign oil sources."

Cheney also spoke to about 500 people who paid $25 each to attend a rally at the banquet hall, where he touted the passage of the "socially responsible" tax cut in a speech to the American Bankers Association. Cheney's tour began in Florida, where he made a quick stop in Warren and then attending a $1,000-a-plate fund-raiser in St. Joseph. Cheney was speaking in Warren to about 500 people who paid $25 each to attend a rally at the banquet hall, where he touted the passage of the “socially responsible” tax cut in a speech to the American Bankers Association. Cheney’s tour began in Florida, where he made a quick stop in Warren and then attending a $1,000-a-plate fund-raiser in St. Joseph.

"Michigan's lakes already are under an adversay for mercury. Where does he think the mercury comes from? It comes from the emissions of those dirty coal-fire plants," Farough said. "He is pushing drilling in Alaska and in the Great Lakes but even if we kept all of what we could get, it would only lower our imports by 2 percent."

"He is pushing drilling in Alaska and in the Great Lakes. He is pushing off the ANWR. So my basic question is: Where do we go?

"I will say where we go. We are going to the Saudi Arabia sheiks. We are going to pony up our dollars. We are going to be held hostage by Saudi Arabia for our oil.

"I just do not understand. We can send people to the Moon. We can send people to Mars. We can go all over this world, and we cannot drill safely?"
In Warren, Cheney climbed into a fuel-cell vehicle and munched on popcorn provided by the escape room run hybrid truck. He said he was impressed by what he saw at the GM facility.

"I am . . . optimistic. With American technology and ingenuity there's no question we can solve any problems down the road," Cheney said.

The tour came a week after GM announced a 25-year collaboration with General Hydrogen Corp., a pioneer in fuel-cell technology. GM hopes the partnership will accelerate the development of fuel-cell vehicles, which create electricity directly from a reaction between hydrogen and oxygen. The vehicles emit only water vapor from their tailpipes.

Rick Wagoner, GM's president and CEO, applauded the Bush administration's energy plan.

"We believe the plan makes sense and believe the auto industry can help implement it," Wagoner said.

Rogers, who defeated state Sen. Dianna Byrne in the race to succeed James A. "Doc" Sundaga, by 110 votes in November, garnered more than $350,000 for his campaign through the Cheney visit. He faces his first re-election bid in 2002.

The Associated Press contributed to this report.

Mr. BONIOR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman from Michigan (Mr. BONIOR) for yielding me this time.

Mr. Chairman, in the 20th century the greatest resource issue was oil, but in the 21st century the greatest resource issue in the world will be water.

The freshwater resources of the Great Lakes are as precious to the U.S. as oil is to the Middle East. It is our health. It is our wealth. It is our economic future. It is our environmental future.

Clean water is a basic right in a democratic society. The oil companies should not be permitted to privatize the Great Lakes.

The Bible tells a story of Esau, who sold his birthright for a mess of potage. Let us not sell America's birthright for any kind of the Great Lakes.

I am from Minnesota, a State with a special respect for the Great Lakes. Yet, today, discussion persists about drilling in this pristine area, particularly directional or slant drilling, is what is being discussed.

Since 1979, the seven existing directionally drilled wells have produced enough energy to cover less than a half day of consumption. Think about this: risking the Nation's largest supply of fresh water for a few hours of consumption.

As a Nation, we must not fall back into the old way of doing things in this country. We will never get balance in our energy policies if we continue to debate drilling in our Nation's most pristine areas.

I urge this Congress to have the vision to develop new approaches to energy policy in this country. I urge Members to consider the ramifications, before risking this resource for a few hours of energy consumption. Let us give our children and their children the splendor of the Great Lakes coastline. Let us keep the shores of the Great Lakes pristine.

Mr. BONIOR. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from the State of Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Chairman, I rise today to strongly oppose drilling in this most precious resource. I visited Minnesota's North Shore and you will immediately know why.

Lake Superior is a constant source of wonder for many of us in this country. It helped to shape our landscape, our climate, it supports our economy, and it enhances our quality of life.

I oppose drilling not because we do not need to find additional energy resources. We do. But these lakes are just too valuable and too many families' lives would literally be at risk without fresh drinking water. It is simply not worth the risk.

We are making progress in using energy more efficiently, reducing our reliance on coal and natural gas through energy efficiency and technology; but we must work hard to make bigger investments in current programs to do more.

Investments do not always have to cost money either. We can and we must reduce our consumption by supporting wind, solar power and renewable fuels, like ethanol, which we produce in Minnesota.

Future generations depend on us not to jeopardize today's greatest natural resources. An oil spill or any related disaster on the shores of the Great Lakes would impact fresh drinking water for 35 million people, and for what? For less than 1 day's worth of oil and natural gas.

The Great Lakes are important to this Nation. They are important to my State. They are important to the families in this country. They have been crucial in our historical and economic development. Our communities continue to play a critical role in Minnesota, and water is a part of that.

I urge my colleagues to support today's drinking water for future generations. I urge my colleagues to support this amendment.

Mr. BONIOR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. STUPAK), the gentleman from Minnesota (Mr. LUTHER), and the gentlewoman from Ohio (Ms. KAPTUR), and other colleagues from the Great Lakes region for consistently championing the preservation and protection of these precious lakes.

I live on Lake Erie and appreciate the lake for its natural beauty. But Lake Erie is far more than a pretty backdrop. Ohioans rely on the lake for our region's economic well-being. We rely on Lake Erie to ship goods, to provide us with drinking water, to play host for recreational activities, and to attract tourists from all over the world.

The Great Lakes contain 20 percent of all the fresh water in the world; and yet attempts are now being made to expand so-called directional drilling under the beds of the Great Lakes, jeopardizing the water, the shorelines, and the surrounding wetlands. These attempts are being made even though the existing oil and gas wells in operation under the Great Lakes have not produced enough oil and gas to fuel our domestic needs for even a single day.

President Bush's solution for the country has been to drill early and drill often. Drill in the Arctic National Wildlife Preserve, drill in the Gulf of Mexico, drill in the five Great Lakes. Instead of pursuing fossil fuels to the end of the Earth, Congress should author an energy policy that addresses both the immediate and long-term energy needs of our people.

We should explore for additional sources of oil and gas. We cannot drill our way out of dependence on foreign oil. Any strategy that calls for drilling in the Great Lakes, where there is more drinking water than any other place on Earth, fails even the most basic risk-reward analysis.

Fossil fuels are a finite resource. Instead of risking despoiling of every piece of ground or water under which fossil fuels may reside, we must focus instead on using energy resources more efficiently, increasing our use of renewable fuels and encouraging conservation.

Last week, this body supported an amendment that afforded protection to the coast of Florida from the potential ravages of oil exploration. Today I ask my colleagues to afford the Great Lakes the same protection.

Mr. BONIOR. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me time, and I congratulate him and the gentleman from Michigan (Mr. STUPAK)
and others on both sides of the aisle for sponsoring this amendment.

Mr. Chairman, I rise today in strong support of the amendment to prohibit the Army Corps from issuing any permits to provide for directional drilling for either natural gas or oil on the Great Lakes.

Mr. Chairman, I live on a great lake, Lake Michigan. My district borders the lake. I want to point out to the Members, especially those opposed that Lake Michigan alone provides fresh clear drinking water to about 10 million residents of not only Wisconsin, but also Michigan and Illinois.

I hear from the opponents saying we need more drilling and we need more drilling, but I have yet to hear the word “conservation.”

I would like to point out to the Members that in the 22 years that drilling has occurred on the Great Lakes, a grand total of 439,000 barrels of crude oil has been extracted. Well, if you would support us and increase the fuel efficiency for automobiles, light trucks, and SUVs by only a small amount, we could save 1 million barrels of crude per day in this country, obviating the need to go into fresh water areas like the Great Lakes, which, as has been said many times, has 20 percent of the world’s fresh water, and provide for drilling and looking for crude on that great body of water.

Mr. BONIOR. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Wisconsin (Mr. OBEY), the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I simply want to take the time to thank the two gentlemen for offering this amendment. The greatest body of fresh water in the world is Lake Superior. Lake Michigan is certainly not far between. The only proper level of risk such a pristine resource is zero risk. I congratulate the gentlemen for offering the amendments.

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

Mr. Chairman, I thank my colleague for his comments and support on this. Mr. Chairman, again I want to thank my friend, the gentleman from Michigan (Mr. STUPAK), for his leadership on this and all the colleagues who have spoken on this amendment.

The State of Michigan is a very gorgeous State. We are talking about more than just Michigan here, we are talking about all the Great Lakes States and the connecting waterways that touch them.

But I would like to focus on in my State for a second, if I could, because we have had a history, Mr. Chairman, of being ravaged. If you go back 300 years ago, John Jacob Astor and his ilk came into our State and they took the fur and the animals out of our Great Northwest. It took them about 5 years before they depleted some of the most precious resources we had, leaving extinct many of the most important mammals in our Northwest region.

Then, of course, in the next century, after the pine had been exhausted in Maine, the lumbermen came into the State of Michigan, and built the country. At one point, the State of Michigan was 17,187 trees. We had pine, spruce, fir, as tall as great redwoods out West today, reaching 200 feet in the air; and they were leveled. Thanks to Franklin Roosevelt and the CCC and the second growth policy of replanting during those 9 years during the Great Depression, the CCC and the 90,000 workers planted, Mr. Chairman, 465 million trees in our State.

Then the Boston mineral magnates came in, and they took the iron and the copper that Houghton, Burke, and all the others discovered in our great State.

I give you this history, because now the attack is on our water resources. And if you do not believe my word today, all you need do is open the record in our State. We have 11,000 inland lakes. Every one of them is filled with mercury.

I went and got my fishing license the other day. They gave me a little booklet that said if you are a pregnant woman or 15 years of age or under, you cannot eat a good amount of the fish in the inland lakes. The Governor of our State has issued permits to dump raw and untreated sewage in our rivers and streams, to the point now where many of our beaches are closed in our State because of E. coli bacteria.

I give you this history, because now the attack is on our water resources. And if you do not believe my word today, all you need do is open the record in our State. We have 11,000 inland lakes. Every one of them is filled with mercury.

And now he is pursuing a policy of drilling in the Great Lakes, extending 30 more wells. We do not need that. Oil and water do not mix.

I think it has been made very clear today that this is our most precious resource. A fifth of the fresh water on the planet is in our region, and we need to protect it. We need to protect it from diversion, we need to protect it from drilling, we need to protect it from being polluted with E. coli bacteria in our rivers and streams and closing our beaches; we need, as my colleague from Michigan (Mr. STUPAK) has said on numerous occasions, a water policy for our State. We do not have it. Until we do, we need to do all we can to protect this most valuable resource.

So I ask my colleagues, please, do not create this picture. For all of my colleagues who come up into our beautiful State, who travel up into Michigan, from the South, from the east coast, from the other parts of the Midwest who come to vacation, they do not come to see this, they come to swim in our lakes, they come to use our beautiful sand dunes, they come to fish in our waters, they come to rest on our beaches, and they come to drink our wonderful water.

So, Mr. Chairman, I would say to my colleagues, thank you for your support
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on this amendment. Vote for the amendment that has been offered, and make sure that we can save one of the most precious resources that God has given our planet.

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

Mr. CALLAHAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Chairman, I want to commend my colleague from Michigan.

This is a solution, though, that is looking for a problem. There is not one State in the Great Lake States that allows offshore drilling, not one. There is a moratorium on new angle drilling wells in Michigan. What are we doing? This is not about protecting the Great Lakes. This is not about talking about protecting the diversion of our water; not at all. What we have here is a direction that many in this Chamber I hope would disagree, including those who may have ambitions to hold office of Governor. I trust my Governor. I trust the Governors of the Great Lake States to be in charge of the water of the Great Lake States.

As a matter of fact, underneath the Great Lakes today, there is about 22,000 barrels of crude oil an hour flowing under the Great Lakes. There are 550 offshore wells in Canada. This bill addresses none of that. There are 5 million tons of oil bobbing around on the Great Lakes every year, 20 spills a year in our Great Lakes. This amendment does nothing to address any of those issues.

This is not about protecting the Great Lakes; this is about the Federal Government going into the State of Michigan and telling the legislators, there you do not know what you are doing. Do we want to talk about our Great Lakes? You ought to live there in February. You ought to have to put up with the cold weather in the winters and the high degree of snow. Let us not get confused about what we are doing here.

There are some great protections of our Great Lakes, and I trust those Governors, and I trust those legislators to do the right thing.

I want to say again, because this is very important, I heard it 10 times tonight if I heard it once, that somebody is out there trying to build an oil rig in the Great Lakes, and they are going to do it now, and President Bush is leading the charge. There is not one State in the Great Lakes that allows offshore drilling, not one. There is a moratorium on directional drilling in the State of Michigan today. So what are we doing?

Mr. Chairman, I do not believe that a bureaucrat in Washington whose only experience with the UP is a picture in the National Geographic is going to do anything for the protection of our shoreline, our Great Lakes. I want people who live there. The gentlewoman from Ohio to talk about home, and that is how we learn the needs of those Great Lakes. Why? Because we live there. We see the water, we see the pollution, we fought back and took back Lake Erie, and now we can eat the fish. We could not about 10 or 15 years ago.

Why? Because the people of the Great Lake States stood up. It is nothing that Congress did. It is not us arguing this issue, it is the people around the Great Lakes. Why? Because those in California are taking care of California needs in their districts, and those legislators who are State-elected and Governors who are elected by all of the people of the Great Lake States are protecting our Great Lakes.

Mr. Chairman, I have a passion for this stuff as well. We have a real difference of opinion on what we are doing here. Diversion of water. There is a bill in this House to empower Congress to decide what happens on diversion issues in the States. Truth, last I checked, Kansas and Arizona and New Mexico and California could use a bit extra water, and last I checked, there are more of them than there are of us. It has no business in this Chamber. It has all the business in the chambers in our State legislatures back home.

This is a solution that is looking for a problem.

There is this package of bills in, and I have done many of them, one to encourage the States to protect the diversion of that water, the States to do it. I have a bill in that continues the ban on offshore drilling in our Great Lakes and goes after the 550 wells currently in operation in Canada that are out in the water. Even the industry tells us they do not want to put a pipe in that fresh water. They do not want to do it. Anything that touches the water they do not want to be a part of. We ought to be proud of it, and we ought to stand up with them today.

But what the Federal Government can give us, they can take away. Pretty soon, maybe the faces of this Chamber will change, and maybe pretty soon the folks in this Chamber will decide that we want oil in the Great Lakes, and since many of us do not live there, and the bureaucracies of Washington, D.C., that do not get to visit there much are going to decide, maybe it is worth it.

The thing that will protect us then, my good esteemed colleagues, is our State legislators and our Governors of those Great States.

Mr. Chairman, I want to urge this body to reject this amendment, to throw away all the rhetoric about how this is going to pollute the water and people are rushing to put platform drilling in the Great Lakes, and they cannot wait for that oil to gush through Lake Superior and Lake Michigan. That is just absolutely not true.

What I would encourage the gentleman from Michigan to do is to work with us, and let us try to work with them; it is not a solution, it is a moratorium on offshore drilling. I want those people to be able to play in the water and not have 20 spills on average a year.

Does the gentleman want to do something for the Great Lakes? Let us be a partner with them and help them solve those problems. Let us not flex our muscles as the Federal Government and come in and tell those legislators, you really do not know what you are doing out here. We are here to help you.

I used to be an FBI agent, and when I would walk into a local police station and tell them that there was a warm welcome then, and I can tell you, Congress is not going to get a warm welcome in the State halls in Lansing.

Mr. Chairman, this is an important issue. It is an extremely important issue. I grew up on a lake. I want that lake safe for my kids. I want them to go to Lake Michigan and be able to play in the water and not have to worry about turning green when they come home. I want them to be able to eat the fish in Lake Erie. Meaning no disrespect to this Chamber, I just came from the State legislature, and I have seen the good things that Congress can do, and I have seen the bad things that Congress can do, and I served with some very bright people in the State legislature. I served with a great Governor who understood that we had to protect our Great Lakes while we have a moratorium on drilling. I want those people empowered to make a difference for the Great Lakes.

I would urge this body’s strong rejection of the Federal Government encroaching into the business of Great Lake States.

I applaud all of the Members for getting up here and talking about their passion for protecting our greatest natural resource there. Well, let us do it. Let us be a partner with the States. Talk to our State legislators, talk to our Governors. They will be with us. Talk to the people and ask them, who do they want to protect their Great Lakes? Is it the people that get up every morning and eat breakfast there and go off to work and send their kids off to school every day, 7 days a week; or is it a bureaucrat that they have never met in the halls of some bureaucracy over here who is going to make an arbitrary decision on how it ought to look; or is it a Member from California who stands up and passionately argues, maybe 40 or 50 years from now, that it is worth the risk to stick a pipe in fresh water?
Stand up for our Great Lakes today. Stand up for the environment of Michigan, Ohio, Pennsylvania, Indiana, Minnesota, Wisconsin, Illinois, New York, and for the people of our home States. Stand up for it by rejecting the Federal Government’s role of encroaching on our ability back home to protect our greatest national resource. I would urge this body’s rejection of the Bonior amendment.

Mr. LEVIN. Mr. Chairman, I rise in strong support of the amendment offered by my colleague Representative BONIOR. I urge its passage by the House.

There should not be any controversy over this issue. The Great Lakes should not be put at risk just so energy companies can extract a few weeks’ supply of oil. It was with a certain amount of disbelief that I learned that Governor Engler and the Michigan Department of Natural Resources had proposed to lift a 1997 moratorium restricting new development of oil and gas drilling under the Great Lakes. I believe this proposal is short-sighted.

The Great Lakes are a vital natural resource to Michigan. The Lakes are our State’s crown jewels, and the heart of Michigan’s multi-billion-dollar tourist industry. In addition, the Great Lakes contain 20 percent of the world’s fresh water. Why would we ever choose to place all this at risk? The environmental damage from an oil spill would be catastrophic.

The amendment before the House today is only common sense. It would bar any funds in this bill from being used to expand oil and gas drilling beneath the Great Lakes.

Mr. Chairman, the Great Lakes are an invaluable resource to the people of Michigan and, indeed, the entire country. The Great Lakes are also part of the environmental legacy we will leave to our children and grandchildren. I urge all my colleagues to join me in voting for the Bonior amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BONIOR).

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

Mr. BONIOR. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan (Mr. BONIOR) will be postponed.

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

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SMITH) announced the time. Mr. SMITH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes, had come to no resolution thereon.

PROVIDING FOR CONDITIONAL ADJOURNMENT OF THE HOUSE AND RECESS OR ADJOURNMENT OF THE SENATE

Mr. YOUNG of Florida. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 176) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 176

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 28, 2001, or Friday, June 29, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, July 10, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, June 28, 2001, Friday, June 29, 2001, Saturday, June 30, 2001, Monday, July 2, 2001, Tuesday, July 3, 2001, Thursday, July 5, 2001, Friday, July 6, 2001, or Saturday, July 7, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, July 9, 2001, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

Sec. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

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

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SHIMKUS). The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A CONCURRENT RESOLUTION FOR THE ADJOURNMENT OF THE HOUSE AND SENATE FOR THE INDEPENDENCE DAY DISTRICT WORK PERIOD

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 107–117) on Friday and no votes. Is that a correct understanding?

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

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

Mr. YOUNG of Florida. Mr. Speaker, the gentleman is correct. Let me state just briefly that the plan will be to convene the house at 9 o’clock in the morning. We will conclude the consideration of the appropriations bill for energy and water. At the conclusion of that bill, we will then begin the rule and the bill for the agriculture appropriations. We will proceed into the evening on the agriculture appropriations bill on tomorrow, Thursday, and at a reasonable time we will make a determination as to how late we will go tomorrow night.

The gentleman is correct that, as I announced with the approval of the leadership yesterday, Members can expect that there will be no votes on Friday.

Mr. OBEY. Mr. Speaker, further reserving the right to object, I think Members need to know what the reality is in terms of their catching planes. They were told the day before yesterday that we would not be into a long march into the night on Thursday. Could the gentleman give us some idea of how long the majority is intending to proceed so that Members on both sides have some idea of what to do with their plane reservations?

Mr. YOUNG of Florida. If the gentleman would yield further. As we discussed yesterday on this subject, we will very likely plan to go late tomorrow night, but also as we discussed, we would not go beyond midnight, or a reasonable time in the evening, if it appears that we have no opportunity to conclude the bill.

Mr. Speaker, I doubt that we will be able to conclude the bill on tomorrow. I would suspect the House could work its will for an earlier departure.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The concurrent resolution was agreed to.
Mr. Davis of Florida, regarding agency, which shall be debatable for 60 hours: Mr. Traficant of Ohio, regarding Buy Authorizing appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002.

Mr. Hastings of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 107-118) on the resolution (H. Res. 183) providing for consideration of the bill (H. R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, which was referred to the House Calendar and ordered to be printed.


Mr. Callahan. Mr. Speaker, I ask unanimous consent that, during further consideration of H.R. 2311 in the Committee of the Whole pursuant to unanimous consent that, when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow.

The Speaker pro tempore. Is there objection to the request of the gentleman from Alabama?

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

Mr. Visclosky. Mr. Speaker, I withdraw my reservation of objection. The Speaker pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Hour of Meeting on Thursday, June 28, 2001

Mr. Callahan. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow.

The Speaker pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

22nd Annual Report of the Federal Labor Relations Authority for Fiscal Year 2000—Message from the President of the United States

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Reform:

To the Congress of the United States:


George W. Bush,


Executive Order Blocking Property of Persons Who Threaten International Stability or Security in the Western Balkans—Message from the President of the United States (H. Doc. No. 107-91)

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Pursuant to section 202(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), and section 301 of the National Emergencies Act, 50 U.S.C. 1621, I hereby report that I have exercised my statutory authority to declare a national emergency in response to the unusual and extraordinary threat posed to the national security and foreign policy of the United States by (1) actions of persons engaged in, or assisting, sponsoring, or supporting, extremist violence in the former Yugoslav Republic of Macedonia, southern Serbia, the Federal Republic of Yugoslavia (FRY), and elsewhere in the Western Balkans region, and (ii) the actions of persons engaged in, or assisting, sponsoring, or supporting acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo. The actions of these individuals and groups threaten the peace in or diminish the security and stability of the Western Balkans, undermine the authority, efforts, and objectives of the United Nations, the North Atlantic Treaty Organization (NATO), and other international organizations and entities present in those areas and the wider region, and endanger the safety of persons participating in or providing support to the activities of those organizations and entities, including United States military forces and Government officials. In order to deal with this threat, I have issued an Executive order blocking the property and interests in property of those persons determined to have undertaken the actions described above.

The Executive order prohibits United States persons from transferring, paying, exporting, withdrawing, or otherwise dealing in the property or interests in the property of persons identified in the Annex to the order or persons designated pursuant to the order by the Secretary of the Treasury, in consultation with the Secretary of State. Included among the activities prohibited by the order are making or receiving by United States persons of any contribution or provision of funds, goods, or services to or for the benefit of any person designated in or
In southern Serbia, ethnic Albania extremists have used the Ground Safety Zone (GSZ), originally intended as a buffer between KFOR and FRY/Government of Serbia (FRY/GoS) forces, as a safe haven for staging attacks against FRY/GoS police and soldiers. Members of ethnic Albanian armed extremist groups in southern Serbia have, on several occasions fired on joint U.S.-Russian KFOR patrols in Kosovo. NATO has negotiated the return of FRY/GoS forces to the GSZ, and facilitated negotiations between Belgrade authorities and ethnic Albanians insurgents and political leaders from southern Serbia. A small number of the extremist leaders have since threatened to seek vengeance on KFOR, including U.S. KFOR.

Individuals and groups engaged in the activities described above have threatened falsely of having U.S. support, a claim that is believed by many in the region. They also have aggressively solicited funds from United States persons. These fund-raising efforts serve to fuel extremist violence and obstructionist activity in the region and are inimical to U.S. interests. Consequently, the Executive order I have issued is necessary to restrict any further financial or other support by United States persons for the persons designated in or pursuant to the order. The actions we are taking will demonstrate to all the peoples of the region and to the wider international community that the Government of the United States strongly opposes the recent extremist violence and obstructionist activity in Macedonia and southern Serbia and elsewhere in the Western Balkans. The concrete steps we are undertaking to block access by these groups and individuals to financial and material support will assist in restoring peace and stability in the region and help protect U.S. military forces and Government officials working towards that end.

GEORGE W. BUSH.

years 2002 and 2003, to make incentive grants to States to implement child passenger-protection programs. Unlike other TEA–21 programs, the child passenger protection education grant program expires at the end of 2001.

H.R. 691 extends the program to 2003, consistent with the authorization period for other TEA–21 programs.

Mr. Speaker, H.R. 691 does not affect direct spending, therefore, offsetting spending reductions are not required. The objective of the bill and the program it authorizes is to prevent deaths and injuries to children, educate the public concerning the proper installation of proper restraints, and train child passenger safety personnel concerning child restraint use.

Every day children sustain injuries or die in motor vehicle crashes. In 1999, more than 1,100 children under the age of 10 were killed in motor vehicle crashes and another 182,000 were injured.

Many of these injuries and deaths could have been avoided with the correct use of safety seats and seat belts; however, many adults are unaware they are using safety restraints incorrectly or not at all, thereby placing their child at risk.

In the fiscal year 2000, in my own State of Washington, child passenger protection education grant funds were used to train 196 law enforcement and child passenger safety certified technicians and 11 certified instructors, establish 25 law enforcement community child passenger safety teams covering 27 of the 39 counties in the State focusing on Native American and Hispanic populations, and conduct 75 child passenger safety awareness events.

In fiscal year 2001, my State of Washington is using its funds to train an additional 100 child passenger safety technicians, conduct additional events and clinics, establish additional community child passenger safety teams, and implement a public education program to promote the Nation’s first booster seat law.

Mr. Speaker, these types of activities are being reflected in State programs across the Nation, the emphasis being placed on cultural and ethnic minorities, rural and low-income and special needs populations and documented low-usage areas based upon available surveys and crash data.

The child passenger protection education program is reducing the number of children being killed in traffic crashes across the country and is deserving of our strong support. I strongly support the bill and urge its approval.

Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from Pennsylvania (Mr. BORSKI).

Mr. Speaker, let me first commend the manager of the bill, the gentleman from Washington (Mr. LARSEN), who has become a very productive member of the Committee on Transportation and Infrastructure in his short time here.

Mr. Speaker I would also like to pay my compliments to the distinguished gentleman from Minnesota (Mr. OBERSTAR), ranking member of the full committee, who is a great Member of Congress and a great leader of transportation.

I do not know of anyone in the Congress who has been a better protector of the traveling public, and I want to commend him for his wisdom in sponsoring this bill and bringing it before the Congress today.

Mr. Speaker, in the last 25 years, the Nation has made significant gains in child passenger safety. Since 1975, child restraint systems have saved the lives of more than 4,000 children involved in automobile crashes.

During that time, the fatality rate for children has decreased steadily; however, the number of deaths has not dropped rapidly due to population increases and a doubling of highway travel. In 1999, 1,135 children, 10 years of age and under were killed; and 182,000 were injured in highway crashes.

Child restraint systems are effective. In 1998, only 8 percent of all children under age 5 rode unrestrained, but they accounted for more than half of all child-occupant fatalities.

Without doubt, the single most effective way to protect our children in the event of a crash is to ensure that all children are buckled up in their appropriate restraint system on every trip.

H.R. 691 will help us do that. The bill will support State programs to educate the public on child restraints and help us continue to reduce the tragic toll of deaths and injuries to our children on the Nation’s highways.

In fiscal year 2000, Mr. Speaker, the State of Pennsylvania received $323,000 in Child Passenger Protection Education Grant funds to establish child passenger safety stations in all State police barracks and increase the awareness of rural and minority populations in the State.

In fiscal year 2001, the State is using its funds to purchase 17 mobile fitting stations, fund child passenger safety courses, and develop new materials to promote child passenger safety among health and medical personnel.

Mr. Speaker, I, again, want to commend the gentleman from Pennsylvania (Mr. OBERSTAR) for his leadership in bringing this measure before us, and I strongly support the bill and I urge its approval.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Washington for yielding me this time.

Mr. Speaker, I join the gentleman from Pennsylvania (Mr. BORSKI), ranking member of the Subcommittee on Highways and Transit in complimenting the gentleman from Washington (Mr. LARSEN) on his leadership and his hard work in being a very studious, energetic member of our Committee on Transportation and Infrastructure and on this particular subcommittee as well. I thank the gentleman from Pennsylvania for his very kind comments. I am grateful for those good words.

I also want to express my sincere appreciation to the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG), for agreeing to move this legislation quickly and the gentleman from Wisconsin (Mr. PETRILLO), chair of the Subcommittee on Highways and Transit for helping to move this bill. I recognize that there is a deadline upon us that we must close and we must get this legislation enacted so that the programs can be funded.

I introduced this bill on Valentine’s Day earlier this year to protect our most cherished loved ones, our children. I was an advocate in ISTEA and again in TEA–21 for this legislation for its funding, which has provided $7.5 million in each of the previous fiscal years for the child protection education grant program.

But unlike the other programs of TEA–21, this particular program expired this year. So we need to provide authorization for funding in the coming fiscal years 2002 and 2003 so that the excellent work can get under way again and continue programs that the States have so vigorously and effectively initiated.

In 1999, there were 1,100 children under the age of 5 killed in vehicle crashes and another 300,000 were injured. But the startling statistic is six out of the 10 killed in those crashes were unrestrained. That is not acceptable.

The previous administration established a goal to increase seatbelt use nationwide and reduce child occupant fatalities, a goal of 15 percent by 2000 and 25 percent by 2005. The grant program has been very effective in achieving those goals.

Congress did provide the funds. Forty-eight States and the District of Columbia and the territories have received grants under the program. Since 1997, the number of child fatalities from traffic crashes has declined 17 percent. That exceeded the goal, 15 percent, by the end of last year.

Restraint for children, infants has risen to 97 percent from where it was in 1996, 85 percent. For children age one to four, it is up from 60 percent in 1996 to 94 percent for last year.

Now, I have a personal witness of how effective this program can be. My late wife and I insisted with our children that they all use their child restraint,
I urge the passage of this legislation by this body, promptly by the other body, signature into law by the President, and implementation with the adequate funding that we need to carry it out.

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

Mr. Speaker, I want to thank the gentleman from Minnesota (Mr. OBERSTAR) in his dedication on this subject in making sure this gets done. It is a very important subject.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield for just a moment. Mr. SIMPSON, I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I apologize for not thanking the gentleman from Idaho (Mr. SIMPSON) for pinch-hitting on the floor and substituting and helping us move this bill. We are grateful for the gentleman’s care and concern, and I thank him for his kind words.

Mr. SIMPSON. Mr. Speaker, I am very honored to do so, I want to thank the gentleman for his support on this subject and his interest in it and his dedication to it.

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

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

The SPEAKER pro tempore (Mr. KENNEDY of Minnesota). The question is on the motion offered by the gentleman from Idaho (Mr. SIMPSON) that the House suspend the rules and pass the bill, H.R. 691.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill passed.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS TO THE COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

The SPEAKER pro tempore. Without objection, pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431), amended by Public Law 106–55, and upon the recommendation of the minority leader, the Speaker appoints the following Members of the House to the Commission on International Religious Freedom to fill the existing vacancies thereon, for terms to expire May 14, 2002:

Ms. Leila Sadat, St. Louis, Missouri
Ms. Felice Gaer, Paramus, New Jersey

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

STRENGTHENING UNITED STATES FOREIGN ASSISTANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Virginia. Mr. Speaker, I would like to say a few words about a national priority that too often gets overlooked: humanitarian and development assistance in our foreign operations appropriations bill.

That bill will probably be coming to the floor within the next few legislative days. Foreign assistance is an important and effective policy device when words and diplomacy are not enough or when military action is not appropriate. Strengthening U.S. foreign assistance will improve the lives of millions of people around the world and is consistent with America’s tradition of extending a helping hand to those less fortunate.

We, and in fact much of the rest of the world, too easily forget the fact that, over the last half century, U.S. humanitarian and development assistance has successfully elevated the standards of living for millions of people. More than 50 nations have graduated from U.S. assistance programs since World War II, including such nations as France, Spain, Portugal, South Korea, Taiwan, Italy, and Germany. More than 30 of these former aid recipients have gone on to become donor nations themselves.

In the years, foreign assistance programs have helped create some of our closest allies and best trading partners and greatest contributors to the world’s economy. For example, the United States now exports to South Korea in just 1 year: $218 billion in TEA–21 over the 6 years.

It is available to train safety professionals, police officers, fire and emergency medical personnel, high school educators, grade school, elementary school educators in safety and in all aspects of child restraint use.

Every State that gets a grant submits a report to the Department of Transportation describing the activities they have carried out with the funds made available under the grant, and the Secretary of Transportation will report to Congress within the coming year on the success of this program with a complete description of all the programs carried out, materials developed, and the success stories from the States.

Mr. Speaker, it is my hope that this Administration and this Congress will embrace this package of 3 bills which provide for a new framework to support our foreign assistance efforts and to strengthen our nation’s democratic pillars around the globe.

Please call the roll by the name as it appears on this page.

Ms. Felice Gaer, Paramus, New Jersey

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.
75 million people a year, and most of them will live in the world’s poorest countries.

If current trends continue, the result will be more abject poverty, environmental damage, epidemics, and political instability; and we are not such an isolated island of prosperity that we are not immune from the ramifications of the desperation.

From our own shores to the far reaches of the world, there is ample evidence that we have not been able to use our trade policies as effectively as we would like to address the negative impact of globalization which contributes to these great disparities between the privileged and impoverished.

Our failure to respond adequately to these problems is a moral dilemma that should be a pivotal part of our overall foreign assistance and international trade framework. Consider, for example, the plight of the seriously ill in the developing world. It is a testament to the failure of industrialized nations that 80 times more pharmaceutical products are sold in the much less populace west than on the entire continent of Africa.

Each year, 300,000 people in Africa develop sleeping sickness, and many of them die from this disease. It is a disease that we could conquer if we had the political will and the research budget to do it, but we do not. We will apply more of our resources to cure bald American males than African children with sleeping sickness.

The most shocking global misallocation of health resources, of course, is the HIV/AIDS pandemic. AIDS is a global crisis which threatens the very governments in every Nation including the United States. This is not merely a health issue, this is an economic, social, political, and moral issue. AIDS has destroyed societies, destabilized governments, and has the potential to topple democracies. According to UNAIDS, nearly 22 million people have lost their lives, and over 36 million people today are living with HIV and AIDS. Fewer than 2 percent of them have access to life-prolonging therapies or basic treatments. The number of new infections of HIV is estimated at 15,000 every day, and it is growing. I am told that nearly a quarter of some of Africa’s armies are HIV positive.

In a year when President Bush has requested an $8 billion increase in spending over the current $320 billion defense budget, U.N. Secretary General Kofi Annan has called for a global AIDS trust fund to raise $7 billion to $10 billion a year to combat the pandemic. That is almost the same figure as the defense spending increase that we would be adding to a $320 billion budget. This has to be a joint effort among governments, private corpora-

tions, foundations, and nongovernmental organizations.

We are highest among the 22 OECD countries in terms of what we spend on foreign assistance, and we have got to spend more. It is in our interest as well as in the interest of the rest of the world. If we are going to maintain our position as the world’s superpower, the most prosperous Nation in the history of western civilization, then we have got to share our resources. If we do not, we are going to pay a price in the long run.

These are national priorities, and I hope that they get better addressed in our foreign assistance budget and in our national priorities generally.

The SPEAKER pro tempore (Mr. KENNEDY of Minnesota). Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to add my voice to those who have been talking about support for a patient’s bill of rights. But, of course, Mr. Speaker, not just any patient’s bill of rights. I support the robust patient’s bill of rights sponsored by my esteemed colleagues, Mr. McCAIN, Mr. KENNEDY, and Mr. EDWARDS in the Senate, and the companion legislation proposed by the gentleman from Iowa (Mr. GANSKE) and the gentleman from Michigan (Mr. DINGELL) in the House. I support the patients’ bill of rights that puts patients before profits and values human life over the bottom line.

The idea of a patients’ bill of rights is nothing new to this Congress. We have all listened to the rhetoric and we have all been involved in the debate. As a Member of Congress since 1996, I must say that it is interesting to see where this debate has gone. I find it worth commenting that the question we are now faced with is not so much whether or not we should pass a patient’s bill of rights but which version we should pass. In other words, we are all in agreement that patients need to be afforded an increased level of protection from the predatory tendencies of managed care organizations.

Rather than immediately delve into the particulars of why we should prefer one version over another, I believe it is instructive to take a step back for a moment and look at the concept of a patients’ bill of rights in the first place. The very idea that patients have the potential to make decisions and determinations about their own health care is a moral imperative. It is simply unethical to take a patient’s well-being into account, it is simply unethical to do so. Any motive other than profit is extraneous and inappropriate.

Now, obviously, this narrow-minded approach has put us in the situation that we are currently in. And I would suggest, Mr. Speaker, that we simply take stock of where we are as a country with a health care delivery system, put patients before profits, make sure that patients and their physicians have the opportunity to collaborate, to make decisions and determinations about the kind of treatment they should receive, and not some bureaucrat or clerk sitting in an office. That is the only real way to do it.

So I would urge all of my colleagues and all of America to really support the Ganske-Dingell bill so that patients can have real rights, and that is the right to be involved, the right to live, the right to get good medicine when they are in need of it.

HONORING THE NATION’S PREMIER LATINA LABOR LEADER, DOLORES HUERTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, I rise today to honor one of our Nation’s premier Latino labor leaders, Dolores Huerta.

Growing up in a predominantly Latino neighborhood in Southern California, I often looked to my community leaders for lessons in how to live and how to treat other people. One of the most influential role models continues to be Dolores Huerta, a prominent civil rights leader who has fought for the rights of farmworkers for more than 40 years.

Born in Dawson, New Mexico, on April 10, 1930, Dolores Huerta was
raised along with her four siblings in the San Jacoquin Valley town of Stockton, California. While there, she wit- nessed the plight of farm workers, enduring physical harm and more than 20 arrests for peacefully exercising her right of free speech.

Her dedication to farm workers and people of color across America has earned her numerous accolades, including the American Civil Liberties Union Roger Baldwin Medal of Liberty Award, the Eugene Debs Foundation Outstanding American Award, the Ellis Island’s Medal of Freedom Award, and induction into the National Women’s Hall of Fame.

Today, my colleagues, we have the opportunity to honor Dolores Huerta, not only for her unwavering dedication to farm workers but to her commit- ment to creating a better environment for all Americans. This resolution that I am presenting today marks the first time in recorded history that Congress has chosen to honor a Latina labor leader. I urge all my colleagues to sup- port this resolution.

PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gen- tleman from Vermont (Mr. SANDERS) is recognized for 5 minutes.

Mr. SANDERS. Mr. Speaker, as my colleagues may know, tragically mil- lions of American citizens cannot af- ford the outrageously high costs of pre- scripton drugs in this country. Some of these people die, others suffer, and still others take money from their food budgets or other basic necessities of life to buy the life-sustaining drugs that their doctors prescribe.

Tragically, and I think many of us are fully aware of this now, citizens of the United States pay by far, not even close, the highest prices in the world for prescription drugs. Only a small fraction of us have taken our constituents across the Can- dian border, others have gone over the Mexican border and have found, for example, that tamoxifen, a widely-pre- scribed breast cancer drug, sells in Canada for one-tenth of the price, one- tenth of the price that it sells in the United States. And this is for women who are struggling for their lives.

But it is not only Canada that has lower prescription drug prices. For every $1 spent in the United States for a prescription drug, those same drugs are purchased in Switzerland for 65 cents, the United Kingdom for 64 cents, France for 51 cents, and Italy for 49 cents. Meanwhile, year after year the pharmaceutical industry appears at the end of a long legislative process, loop-holes were put into the amendment that made it ineffective. While the law remains on the books, it has not been implemented by either the Clinton ad- ministration or the Bush adminis- tration.

In an increasingly globalized econ- omy where we import food and other products from all over the world, it is incomprehensible that pharmacists and prescription drug distributors are unable to import or reimport FDA safety approved drugs that were manufac- tured in FDA approved facilities.

Mr. Speaker, tomorrow as part of the agriculture appropriations bill, the gentlewoman from Connecticut (Ms. DELAUNO) and the gentleman from New York (Mr. CROWLEY) and I will intro- duce essentially what the Crowley bill was that passed overwhelmingly last year.

Despite huge opposition from the pharmaceutical industry, I am con- fident that Congress will stand up and vote to begin the process to lower pre- scription drug costs in this country.

As Dr. David A. Kessler, former FDA Commissioner under President Bush and President Clinton stated in support of reimportation last year, “I believe that the widespread practice of wholesale-pharmacy sales when drugs need to be stored and handled, and who would be importing them under the strict over- sight of the FDA, are well-positioned
to safely import quality products rather than having American consumers do this on their own.” That is Dr. David Kessler.

Mr. Speaker, I hope tomorrow will win an overwhelming victory for prescription drug consumers in this country.

LIFT MEDICAID CAPS IN U.S. TERRITORIES

The SPEAKER pro tempore (Mr. KENNEDY of Minnesota). Under a previous understanding of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, a couple of speakers this evening have talked about the need to improve health care for all American citizens, the most recent speaker talking about prescription drugs, and earlier my colleague talking about a real Patients’ Bill of Rights.

This evening I would like to raise another issue, and that is lifting of the Medicaid Territorial caps in the United States, including my home Island of Guam.

At the start of this Congress, I, along with other territorial delegates from the Virgin Islands, America Samoa, and the Resident Commissioner of Puerto Rico, introduced a bill, H.R. 48, to remove caps on Medicaid payments to the U.S. territories and adjust the statutory matching rate. H.R. 48 is authored by my esteemed colleague, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), formerly a practicing physician there.

When this bill was first introduced during the 106th Congress, we reported that Medicaid allotments fell far short of meeting the needs of indigent populations in the Territories, and because of depressed economic conditions, high unemployment rates and the rising health care needs of growing indigent populations, the reliance on Medicaid assistance continues to surge way beyond the Federal cap and beyond the Territorial Government’s ability to match Federal funds.

In Guam, for example, for fiscal year 2000, Medicaid assistance was capped at $3.4 million. However, the Government of Guam, because of the emerging population, spent approximately 3 times that amount to serve the medical needs of the people of Guam. For fiscal year 2001, the Medicaid ceiling is capped at an additional $209,000 at $5.6 million. However, the estimated cost to provide medical care to Guam’s needy today is approximately $27 million over that amount, resulting in a drastic overrun for the Government of Guam, way beyond any match that is expected of any State jurisdiction.

I fear the squeeze will even be greater as the Government of Guam implements the President’s tax cut plan which has a deep impact on the economy of Guam and the Virgin Islands. These two U.S. jurisdictions have tax systems which mirror the Internal Revenue Service of the United States, Colorado and Idaho, which means whatever tax policies are implemented on the Federal level automatically take effect at the local level, even without consulting us. The Government of Guam has no surplus to cover the anticipated $30 million shortfall in revenues which will result from this tax cut.

Thus, the struggle to provide medical services to Guam’s needy will be more than the local economy can bear. Lifting the Medicaid caps for territories and changing the Federal Territorial matching rate currently set at 50–50 would provide relief to the neediest populations of the Territories.

This legislation proposes that the Federal Territorial matching share be set at the share of the poorest State, which is currently a 77 to 23 Federal-State match. Congress must consider the reality that Territorial Governments have not shared in the same economic prosperity which has been experienced in the U.S. mainland, and should recognize this by changing the matching rate.

I stand here this evening to urge my colleagues to join in support of H.R. 48. Health care is an issue of importance to every American, whether they reside in the 50 States or the U.S. Territories. Resolving Medicaid issues in the Territories is a step in the right direction towards providing much needed health care relief for Americans, no matter where they live. We are all one country when it comes to responsibilities like service to our country. We should all be one country when it comes to realizing benefits and services like health care.

CORRECT UNEQUAL TREATMENT AMERICANS IN THE TERRITORIES FROM MEDICAID PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 5 minutes.

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to join my colleague from Guam in once again speaking out against the unequal treatment that the American citizens in the Territories receive from the Medicaid program. By virtue of where we live and only by virtue of where we live, low-income Americans in the territories are not able to receive the full benefits of the Medicaid program.

For the residents of my district, the U.S. Virgin Islands, in order for a family of 4 to qualify for medical care under Medicaid, the maximum salary that a family can earn is $8,500 a year, one-half of the Federal minimum wage. By contrast, in year 2002, all States at a minimum will provide Medicaid for all children 19 years old and younger living in families at or below the poverty level at $17,050 for a family of 4, more than twice that amount.

Historically the Government of the Virgin Islands matched the Federal contribution with a combination of cash and in kind. When the value of both is added, it equals and many times exceeded the Federal contribution. While this resolves the Federal requirement on paper, it has created a financial havoc for the Territorial hospitals and clinics that really incur the cost of in-kind services but never get reimbursed.

Because of the cap and 50–50 local match, the local Virgin Islands Government also bears the brunt of the cost of the Medicaid program contributing 66 percent of the financial burden on the Territory’s hospitals; and compounding this dilemma is the fact that the Virgin Islanders, nor do the residents of Guam, get SSI benefits, which means that our disabled citizens are also excluded from the benefits of this program, again just because of where we live. I place emphasis on “where we choose to live” because the fact that all a low-income Virgin Islands resident has to do to receive SSI or full Medicaid benefits is to move to Miami or New York where a growing number of our residents now reside. We would prefer to keep our poor, sick and disabled residents at home instead of sending them to these districts because of an iniquity in the law.

Moreover, it is plain wrong that families must move away from their homes and friends in order to receive a benefit that their fellow citizens on the mainland do not have to leave their home to receive.

Why does this unequal treatment exist? The answer most given is that the Territories do not pay Federal income taxes, but it is not as simple as that. The fact is that people who receive SSI and themselves in the States do not pay Federal taxes because they do not earn enough money.

This Congress in their wisdom, through the earned income tax credit and other tax credits, allow low-income Americans to pay very little Federal taxes. But these same citizens, like my constituents, all pay Social Security and Medicare payroll taxes for which there are no credits or exemptions.

How is it that one group of American citizens, or even residents who are not citizens, can receive medical care even though they do not pay Federal taxes while another group does not. Likewise when my constituents are called to serve their country when we
are at war or even when we are not, they are not asked whether they pay Federal taxes; and we serve willingly and freely and in large numbers.

Mr. Speaker, a recent report, the Access Improvement Project of the Virgin Islands, revealed that great disparities exist for Medicaid eligible children in the Virgin Islands compared to the continental United States. The report shows that while the Nation as a whole spends an average of $76 for EPSDT screening per Medicaid eligible child, the U.S. Virgin Islands only spent $1.20. Additionally, the total Medicaid expenditures per child also shows an astonishing disparity. In the age group 15 to 20, national Medicaid expenditures were approximately 599 percent more than what is being spent in the Virgin Islands. We also received a 50 percent match, despite a State like Mississippi where the income is $1,500 higher than ours. They receive 80 percent match. And the Virgin Islands Medicaid program cannot provide wheelchairs, hearing aids or prosthetic devices, and only provides physical and occupational therapy to a limited degree because of the limited funding.

Mr. Speaker, the gentleman from Guam (Mr. UNDERWOOD) and I pledge to work to remove the Medicaid cap and to right this injustice on behalf of the poor and disabled in our districts. I hope that our colleagues will agree that it is not right to penalize American citizens of similar circumstances only because of where they live, and that they will join and support our efforts.

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NATIONAL ENERGY POLICY

The SPEAKER pro tempore (Mr. KENNEDY of Minnesota). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, before I start this evening on the main subject of which I intend to spend the majority of my time on, I want to tell you that today I had a visit from the Future Farmers of America that was very, very good. It is refreshing to have young men and women like this and young men and women of the different groups, not only Future Farmers of America but the different groups that come in to see us, the leadership groups and so on. It does tell you that there is a lot of promise with this new generation, that there is sure a lot more going in favor of that generation than there is going against it. So I felt pretty good. It recharges somebody in my kind of position to see that the nation is following behind us, which is something that we become very dedicated to, because, after all, whether you are a Democrat or a Republican, regardless so where you fall down on the issues, if you really looked at the heart of why most of us are here, it is because we do care about the greatest country on the face of the earth and we do care about being able to hand this country over to a generation that will deliver the same kind of promise to this great country as have the previous generations.

With that, Mr. Speaker, I want to address this evening energy. We have got to talk about energy. I will tell you why and what is happening with energy. We are actually seeing energy prices begin to drop. In fact, energy prices are dropping rather dramatically here just in the last couple of weeks. My concern about energy becoming more affordable, which of course is the basis that we begin to forget the shortage of energy that we have had in the last several months, that we begin to forget the necessity to conserve and to continue to conserve, not just for the period of time that we had the shortage but for the sake of future generations like these Future Farmers of America that were in my office today. I think that we have to adopt permanent conservation methods for future generations as an investment. It is an investment in the future. I think we have to stand up to some of the realities of the shortages that were created over here in the last year. Why did they come about? What is happening? What are we going to do to secure our Nation's future as far as its energy needs?

As the price begins to fall, people begin to take energy and push it off their plate. It is not such a priority. Gasoline alone has fallen 20, 30 cents a gallon in my district. By the way, if my colleagues happen to be anywhere in the United States where gasoline has not dropped in price, they better take a look at the operator, because somebody is making a lot of money. Natural gas prices have begun to drop dramatically. Electric prices have begun to drop rather dramatically. Why? Because, number one, we are coming out of the winter season, obviously we are into summer right now but, two, the supply is beginning to catch up with the demand. Why is it beginning to catch up with the demand? One, we have had increased production overseas, and, two, people are beginning to exercise energy conservation, so the demand and the economy has brought that demand down. In other words, conservation and the slowness of the economy have begun to bring the demand down while the supply goes up. So as supply and demand come closer together, that is where your price matches. If in fact at some point it looks like supply will exceed demand, in other words, you have more than you can sell, prices drop rather dramatically.

So this summer the good news is we are going to have reasonable gasoline prices. Of course, you can go to work, et cetera. But I do not want that to hide the necessity for each and every one of us in here to continue to take a look at what is necessary for this country to conserve and to continue to look for resources that we think are necessary so that this country can stay on an even keel with the needs that it has in the future. It would be a dramatic mistake, a dramatic and serious mistake, for us to assume that everything is going to be the subject of puttering off into the forest. In fact, that was a warning, a warning shot that was fired over our bow, so to speak, in the last few months. It was a message to us that we need to look with an approach on some very, very important parts of, one, how can we conserve, number two, probably more important than anything I have discussed so far this evening, the importance of having an energy policy for this Nation.

Let me spend just a few moments on the energy policy for this Nation. The problem in the last 8 years under the previous administration is that we really never had an energy crisis. During the Clinton days in office, there never really was an energy crisis. So as a result, that administration never really did set forth on trying to come up with some type of energy policy. Why? When you decide to come up with some kind of energy policy, that is condescending. You talk about ANWR. You need to talk about hot subjects like nuclear utilization of energy. You need to talk about hot subjects of where you store waste. You need to talk about and have some discussions with the auto manufacturers about increasing the mileage that we get on our cars. A lot of those conversations are going to be under a very, very heated debate as this administration, the Bush administration, begins to put together an energy policy. So it is a debate that any smart politician would like to avoid. Why take the heat when you do not really have to? If the energy prices are reasonable, in fact, they were not only reasonable over the years of the Clinton administration, they were cheap, why take on the heat of dragging this country through the debate of an energy policy?

Well, things have changed. We know, of course, in the last 5 or 6 months, it seems only a few weeks after President Bush and Vice President CHENEY took
office, that we began to feel a shortage. They did not run from it. That is important that not. We have seen a lot of criticism lately of our President and our Vice President, most of it quite unjustified but nonetheless it is out there. Criticism about how dare they say we go and look for future energy resources. How dare they say a program to get our energy surpluses up here has its budget cut? What is this new administration thinking by putting on the table the different areas of energy and energy reserves in this country and at least asking the question, should we or should we not drill, for example, in those particular areas? Should we or should we not begin to take a second look at nuclear and say maybe we ought to consider it, like France, by the way, of which most of the energy in Europe comes is generating and a clean. Some of the conservation methods. It is controversial to go out to those car manufacturers and say, we need better mileage for those vehicles.

But this administration was willing to do it because they have had to. And, by the way, now that energy prices are dropping, the political heat on coming up with an energy policy is not near as great as it was just 3 weeks ago. Just 3 or 4 weeks ago when the prices were still up there, the heat was fairly extensive in these chambers. But what really will test us is if we are willing to continue to work with the President and the Vice President in putting together an energy policy despite the fact we are not under a lot of heat in these chambers to do exactly that. And I think we have an obligation to do that. Because, as I said, in those last few months what came over the bow of our ship was a warning shot. It did not hit the side of the ship. Our boat did not sink as a result of this energy. We have had some blackouts in California but that really focuses more on negligence by the leadership out in California. It did not occur in 49 other States, by the way, which does make California stand out, saying, “California, 49 States must be doing something right. You must need to adjust something you’re doing.”

The key here is that while we got a warning shot, let us not ignore it. I have not so much ideas this evening and some things I would like to go over with my colleagues. This evening, my remarks really are going to focus on what I call common sense and resource development. It does not read common sense of resource development. It reads this common sense, resource development. In other words, we have got a lot of conservation, for example, and that is the first one I have got down here. Conservation.

Let’s talk about conservation for a couple of minutes. There are a lot of commonsense things in conservation that we can use. And it does not create a lot of pain with the American people. As I have said numerous times on this House floor, the average American driver that owns a car you do not have to change your oil every 3,000 miles. Now, you may have been convinced by marketing efforts that your engine is going to fall out of your car or the engine is going to blow up if you do not change it. But get your oil changed every 3,000 miles, but the fact is if you read the owner’s manual, you are going to discover that your car only needs its oil changed maybe every 6,000 miles. In some cases 7 or 8 or 9,000 miles. Now, you can begin to become a participant in this conservation by simply changing your oil when the owner’s manual tells you to change it. That is not painful to the American people. It is not painful to my colleagues. That is what I call common sense. That is an example of common sense approach to our resource development that we need. Part of that resource development is conservation. There are a lot of things. Of course the simplest thing that anybody can think of which absolutely causes you no pain is shut off the lights when you leave the room. Shut off the lights when you leave the house, I said the other day in Europe, when you go into a hotel in Europe, you actually have a little card. When you walk into the room, you slide that card into a slot. As long as that card is in that slot, you have electricity. But as you leave the hotel, you pull the card out and the lights go off so you do not forget to leave lights on in your hotel room. Does that cause you any pain? No. Does it impact your life-style in a negative fashion? No. In fact, it will actually save money. Do this in your own home, watch out to turn out those lights, and it also helps you become a responsible and responsible participant in conservation efforts. That is a key part, I think, in resource development.

Some people would like you to believe that the only way you can have resource development is to exclude conservation, that when the President and the Vice President talk about resource development, that they have ignored conservation, they have drawn a line through it. That is just political propaganda. That is all that is. It is bogus. I have talked to the Vice President of the United States’ policy on energy is and conservation plays an important part in it. But the President and the Vice President have had enough courage to say, look, you cannot do it on just one of these elements alone. You have to plug up the gap that we have or the gap that we might have in the near future simply through conservation. You can make a significant dent in it, but you cannot make it with just simply conservation. Nor can you make it up with the alternative forms of energy.

I want to point out that if you go all throughout the world, you pick every alternative form of energy you can find, solar, wind, other types of renewable energy generation to be the highest bid. That is, if you took all of that renewable alternative energy in the world and you applied it all to the United States, in other words, only the United States that got that alternative energy, that would only meet at the most 3 percent of our needs. That is not going to be an answer, but it is an important part of the answer. It is a critical piece of the puzzle when combined with conservation. Then you have got to take a look at other renewables. What is a good renewable source out there that generates electricity and provides recreation and provides fisheries and prevents flooding and allows us any other number of benefits? Hydropower. Now, I speak of hydropower with great admiration because I come from the West. My family has had many generations on both sides out of the mountains in Colorado. The mountains in Colorado, but not always out of the area. I think almost half the geographical area of the country only gets about 14 percent of the water. Out here in the East, in some areas you sue to get rid of the water. You try and shove the water over on your neighbor’s property.

Out in the West we need storage. We have about 6 weeks every year out in the West, out in those Rocky Mountains, you have all been out there, you have skied in my district. Aspen, Vail, Telluride, Beaver Creek, Steamboat, Glenwood, Durango. You have skied out there. You think the snow never ends. You think there is lots of moisture out there. First of all, we do not need the moisture in the winter. We need the moisture primarily for agriculture, municipal use, et cetera. For about 6 weeks as that snow melts off those high mountain peaks, and my direct connection with the good Lord, we do not know how to time that. We cannot control the timing of that. Sometimes it comes early, sometimes it comes late. Mostly it comes early. So we have to have the capability to store it. So we all are storing that water, water which we have to have, remember that in the West we have got to store it, not only just for flood control but for our drinking water. So why not while we are storing the water use the energy generation potential of the water and generate electricity.

I am going to show you exactly how hydropower works here in just a few minutes. It is probably the cleanest energy generator we have got out there. What we do is we take the water as it goes down, we spin a generator and we create electricity. Keep in
mind one thing: Hydrodopower, when we have a generator, it spins, that is natural gas. We use a fuel. We have to use natural gas.

So we consume one part of our environment to create electricity. That is the beauty of capitalism. 

Now it is not the best product, and you will go for the best product but right now it is the best product. We have a conscious decision not to explore for more oil and gas and to continue to become more reliant. The trade-off is then we become more reliant on foreign oil. Now there are all kinds of risks to that and we ought to be aware of that. What happened in the State of California is they adopted a policy for many, many years, in fact they were using alternative energy. Vice President Cheney has said that on a number of occasions. The President himself has talked about the importance of conservation, but it will not wipe out this gap.

Let us take a look. How do we close this gap? What do we do to minimize, to minimize this gap, to bring consumption in with production? That is, by the way, what brings your price down. We can conserve and conserve, and careful, very careful. Vice President Bush has said that that and the President has talked about the importance of conservation, but it will not wipe out this gap.

What fills in the gap? Well, what fills in the gap, of course, is foreign oil. We become more and more dependent on people like Saddam Hussein to provide for that gap. Gas has a pretty negative connotation to it. I pulled up 19,000 hits. I did not look at each hit but up came 19,000 hits on conservation ideas. So your computer really at home can help us conserve energy in this country.

I took a look at the words that have negative thoughts to them in regard to energy-related. I can say that oil and gas has a pretty negative connotation to it. Same thing with coal, same thing with nuclear. There are some people out there, again using strict rhetoric, political rhetoric in a lot of occasions, will lead you to believe that, look, exploration for oil or natural gas or nuclear generation for electricity or hydropower, that is that bad; that we can get our power by simply conserving or simply using alternative or solar. Do not buy into this argument that solar is going to replace at least in the near term, and near term meaning the next 10 to 20 years, do not buy into that argument that solar alone is going to do it. That is why we do not have solar generation in our homes today, although a few of them have it with those panels on the roof but it is not very efficient and it is not very effective. That is why most homes do not have it.

I can assure you that once somebody masters how to put that solar energy into a home to generate, for example, your electricity or to provide the energy needs that you have, we are going to go solar. That is where the market will take us. That is the beauty of the capitalistic market. It will never go for the best product but right now it is not the best product, and you are being led down a path without a good return at the end when people say that solar is renewable energy, or other factors or even conservation will solve our problem.

The fact is, we have to have oil and gas until we are able to make some fairly significant technological advances in solar and other alternative fuels so that at some point in the future we will have solar, but today you need oil and gas. We have to face up to the fact that we have to have further exploration.

Here is a chart to give you an idea. This is energy production. It is a flat line at our growth rates last year, flat line energy production. This is energy consumption, the red line. Look at the angle of the red line compared to the flat green line. You say, all right, Scott, there is the energy consumption. There is the energy production. What fills in the gap? Well, what fills in the gap, of course, is foreign oil. We become more and more dependent on people like Saddam Hussein to provide for that gap.

Here is an angle with my pointer, conservation maybe brings it down maybe around like that. It will take care of a good chunk of that gray area but it will not take care of the biggest portion of it.

Then if we take a look at alternative energy like the solar and so on, maybe a little tiny fraction. Certainly, the technological advances we have today, for example, on solar or other alternative energy will not make at all the kind of dent that conservation will make but it will help a little. So after you take that into consideration you still have a significant gap here.

What does that significant gap represent? Well, it represents energy. It represents whether you have air conditioning for elderly people. It represents whether you have refrigeration for storage of food. It represents vehicles and I am not just talking about your car. I am talking about the ability for everything, to run ambulances, to drive semis, to move food from one point in the country to the other point in the country. I do not have to say what needs we have as far as oil and gas, but we cannot pretend to let it always happen in the other person's backyard. We cannot pretend that we do not really need to drill for oil and gas, that somehow oil and gas pipelines are going to fall out of the sky because we need it and we do not have to go through the pain of having to look for it. That is the political reality.

The fact is, in this country, we have to continue to do that or we can make a conscious decision, as they did in California over the years, we can make a conscious decision not to explore for that and become dependent on other sources. In other words, in the United States we can make a decision not to continue to explore for more oil and gas and to continue to become more reliant. The trade-off is we then become more reliant on foreign oil.
Leadership, however, requires that you stand up here and say, we need conserve, coal has a negative connotation, but we do have to continue to explore for oil and gas. We need to do it in an environmentally sensitive method, a responsible method, which not only mitigates the impact to the environment.

The days of mitigation for the environment are pretty well gone, where you go in and you have a project and you are supposed to mitigate for the environment. Those days are pretty well gone. We have now accepted the responsibility for future generations that we have a higher standard, not just mitigation but enhancement, enhancement of the environment. We have done this with wetlands. We have done this with our endangered species, any number of different things. We have actually, because we are concerned about the environment for future generations, we have lifted it to a higher standard where we think will be of benefit to future generations while at the same time allowing utilization, say, of a resource.

Well, let me go on here. We have a very negative connotation based on coal. Coal generates a lot of power in this country and it generates a lot of jobs in this country and it can be done in a doggoned responsible way. Now you have to exercise oversight over it. I said on taking a mountain bike, a mountaintop, for example. I am not too sold on burning coal without the most modern efforts we have, the smoke stack technological instruments that we have, technological instruments that we have to clean that coal, to make sure that the area that comes out has a minimum impact on our environment if we are going to burn coal. What can we do today? We can do a lot of that. Now some of my colleagues, because of the negative connotation to it, say shut it down. My guess is they are not relying on coal. My guess is they do not have jobs dependent on coal. My guess is they have never been in a coal-powered generation facility. That is a responsibility that each and every one of us have. In fact, it is incumbent upon us to go out when we talk about these things, when we talk about hydropower or when we talk against hydropower we ought to go look at a dam. You ought to go out and see what kind of impact, both negative and positive, it might have. We have to weigh it out. That is exactly what the President and the vice president have said on their energy policy. Put it down. Put it down on that table. Then let us debate it. If it does not work, take it off. But everybody has an obligation to put their idea on the table so that we can have this debate, so that we can develop some kind of energy policy for this country.

As I said earlier, I am concerned that because energy prices are dropping that us, Mr. Speaker, in leadership positions will begin to say well, that is not as important as it was three or four years ago. Prices are down. Our constituents are not concerned. The complaints are not out there. Let us move on to something else. We cannot do that. We just got a warning shot. Do not let that go unnoticed because of the fact that our energy prices have dropped.

I would just reemphasize right here, I know I brought this chart up a couple of minutes ago but I just want to reemphasize one thing. That is our production. That is energy production today. That is demand. Now demand came down just a little but the fact is this is our projected shortfall, right there, projected shortfall. Every one of us can make that projected shortfall. We can drop that shortfall by allowing continued exploration in this country under reasonable oversight, using common sense and to the environment. Now, it is very interesting to hear about people. I mentioned this the other day when I was making comments because I find it kind of ironic. I, of course, get out in the mountains. I love the mountains. I know I brought this chart up a couple of minutes ago but I just want to reemphasize right here. I mentioned earlier if we make the conscience decision, which we are free to do, that is why we are on this floor, that is why we have this debate, if, in putting our energy policy together, as the President and Vice President have said we need to do, we need an energy policy, if my colleagues out here make a conscience decision not to have further exploration of our natural gas and our oil reserves in this country, only one thing can happen, you cannot fill the gap in with conservation. It helps, but does not fill the gap.

You cannot fill the gap in with solar energy. The only way you can fill in the gap between supply and demand, when you decide not to drill or further explore in our country, is right here, foreign countries like Iraq. Take a look at our dependence on Iraqi oil exports to the United States. Take a look at that line. The more you decide not to find alternative resources, the more you cannot do to continue to use oil and gas, very negative about mining; you have got to get mining out of here; we cannot have mining. It is interesting comments from somebody on a mountain bike made of titanium.

I said to my friend, I said that bike you have got is one of the most technically advanced bikes in the world. That thing you can lift it, no matter how strong you are, even a child can lift that thing up, it is so light. But you know why that is? Because we have mines, we have minerals. We are able to have oil and gas production. We are able to come up with things like this device which, by the way, utilizing your bicycle is a good way to conserve. In fact, by using that resource we in the long run can use less of it by developing something like a bicycle that is comfortable to ride and a bicycle of which people can recreate on without having to use a gasoline-powered engine, for example.

The fact here is, look at this, our demand for product, this is our demand for product right here. U.S. crude production, these bars right here of production, that is production, 1990, 1991. This right here is the petroleum demand. Take a look at what demand has done to production. When you have that kind of gap, your price skyrocket. That is the kind of gap that begins to lead to a crisis.

If we did not have an energy crisis this last few months, with the exception in California, blackouts in New York. New York City may face some. We do have a drought up in the northwest on the Columbia River.

Mr. Speaker, the fact is 49 out of the 50 States were in pretty good shape. We had an energy crunch, not an energy crisis. That energy crisis is just sitting out there waiting to fire right into the center of us, unless we do something to prepare for it.

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Lightning did not just strike California and they got picked out of the bunch. What California did, our states did, is what we are in the energy crisis. We have several things we ought to discuss since California brought it on themselves.

Number one, a fair question for us to ask to California, to ask the governor of the state of California, "What are you doing to pull yourself up by your bootstraps?" In other words, that word called self help, what are you doing. California leadership, to pull your people in that State out of the energy crisis that you have.

We have to be careful. I am critical of the governor of California, whom, by the way, has blamed everybody else but himself. I never heard him once say that he accepts at least a part of the blame for their shortage out there. That is why I am so critical of the leadership of the State of California.

I want to tell all of my colleagues that we are very dependent on that State. We do not walk away from California. We should not walk away from California. It is a State. We have an inherent obligation to help California. That help should not come without some kind of matching grant, so to speak, matching effort.

They have to make their own effort, but when you look at it from an economic point of view, California is the sixth most powerful economy in the world, we better not walk away from them; not only do we have what I think is an obligation to help California because they are a State. They are our brothers. They are our sisters. They are our neighbors. They are a State of the United States.

We do not walk away when another State is in trouble, so we also cannot walk away from California, because California is the sixth most powerful economic unit in the world.

What do you have to do to get help from the rest of us? First of all, California, and I hope the governor of California has an opportunity to visit with me at some point, you have a lot of power generation facilities to be built in your State. You cannot continue to demand energy and have energy demand continue to grow while at the same time say "not in my backyard."

You cannot continue to depend on people outside your State lines to supply your generation inside your State, unless you want to subject yourself to the ups and downs of price fluctuations. That is exactly what happened.

California is not deregulated. They call it deregulation. They sold their generation outside. Outside owners run it, because they thought they could save money by buying the spot market, which means the prices go up and down by the hour in power, by the hour in electrical power.

They thought they could outsmart the market. What did they do? They bought spot power. The people now control the power, the price goes up. You have to be able to build your own resources within the State of California.

I know that California is now looking at that. They opened their first power plant in 13 years, as I understand it, as I mentioned earlier in my comments, yesterday or today. That is good; not enough, but it is good. You are headed in the right direction.

Mr. Speaker, I want my colleagues from California to know that the rest of us feel an obligation to help your State. But, by gosh, California, you have to help yourself. You have to allow some natural gas lines. You have not allowed a transmission line, not natural gas to your house, but a transmission line to move large volumes of natural gas by pipeline.

You have put price caps. That is one of the problems I am going to go through in a little more detail. Let us just really quickly go to that while we are on the subject.

Let us talk about price caps. I can tell you in fairness of disclosure, I am a student of Adam Smith, the Wealth of Nations. That is the capitalistic system where you have supply and demand. You have to have some oversight so you do not have monopolies, but you have to be careful of abuses, and I understand that. You have to understand, especially in the government, we are not business experts in the government.

None of us are business experts. In fact, a lot of us in these chambers, I happen to have been, but a lot of the people in these chambers have never operated a business.

Where do you think we develop the expertise to go into the marketplace which has been regulated in this country for hundreds of years? Where do you think we can go into it and decide that government manipulation of the market is for the benefit of the consumer, then, in the end, how to beat the market?


It is like leasing. I will give you an analogy here. It is like you own a house and you rent the house to a tenant. You rent it to somebody and you say to the person you are renting to, look, you pay me $500 a month rent for the house, and, by the way, I will pay all the utilities.

Do you know what is going to happen with the person that is renting your house since you are paying their utilities? The air conditioning will be set at 50 in the summer, and the heat will be set so high in the winter you will look over at your house and you will see the windows open so they can get rid of the heat.

Price caps encourage waste of energy. Take a look. Price caps are bad for consumers, the economy and the environment.

The polling in California, and maybe throughout the country, but 70 percent of the American people say they like the idea of price caps. That is where leadership comes in. That is where we as leaders have to say, look, on the short-term basis, you are asking for a short-term return and a long-term risk.

The risk is substantial. The risk is substantial that more waste will occur. Mr. Speaker, the risk is substantial that you cannot artificially hide prices. I know it is painful.

Let me say we do not have price caps in Colorado. Do you know what has happened to my wife and my family here in the last 6 months? We have conservation energy. Why have we conserved energy? Because we did not have price caps.

Do you know that not having price caps what happened to our bill? Our bill went through the ceiling with our natural gas bill. We were stunned. We got a $500 natural gas bill one month and you want to bet that we did not start conserving immediately. Of course, we did.

It is like leasing. You would have had a price cap where it said, look, no matter how much you use, we are only going to have to pay a cap of this amount, it defeats the purpose.

It is a manipulation of the market. That never happened in the history of this country. I know it is popular. I know it is popular. Seventy-five percent of the people support it.

I am telling you, take a look at the history. Seventy-five percent of you supported it, but there has never been successful price caps in the history of this Nation ever.

It is always popular when it is suggested, because, of course, it is only suggested when prices go up. But it has never, ever worked. That is where we have a leadership obligation to at least stand up to the popular opinion and say, I know we want to jump on board, but before we do jump on board, take a look at what the long-term risk of putting price caps on it does.

Price caps impede energy conservation and drive away new energy supplies. Some have called for regionwide price caps, including costs-of-service regulation. That is an aspect of California's effort. Simply put, wholesale and retail price caps prevent markets from working properly.

It is a manipulation of the market and is a politically expedient solution that has exaggerated problems that they are supposed to fix. Price caps create an imbalance between supply and demand by preventing utilities from passing along market prices.
Retail price caps disrupt the natural relationship between supply and demand and prevent markets from operating efficiently. Without incentives for conservation and harms the environment.

Retail price caps eliminate consumers’ incentives to conserve in times of tight supply, because consumers are not paying the true cost of the electricity, for example. Without incentives to reduce consumption, older, dirtier plants are kept running longer.

Let me say that price caps sound good, but think about it. If you artificially keep the price low, you are not putting the investment out there that you need for further supply and reserves for further supply exploration.

If you keep price caps, you have no encouragement at all for people to conserve their energy or to use their own self help. They should not look at this as a way that we are helping the people, but California has to deploy or employ their own self help. They should not look at this as a way to get more natural gas and other things.

In fact, I think all of us would admit that the primary driver outside of the State of California, where you do not have price caps, the primary drive for conservation was the fact that because we did not have price caps, our bills went through the roof. You can bet that the energy conservation immediately went into place.

Mr. Speaker, I hope that as prices begin to drop that all of us continue our responsibility for energy conservation.

Let me just summarize my position on California. California is a very important State. We cannot walk away from them. They are a State after all.

They are the sixth most powerful economic power in the world, but California has not used its economic power to our advantage.

They have expanded water-based recreation projects in Wisconsin, for example, and the turbine to create electricity. That is the beauty of the nature of this thing. It is a renewable resource.

We are not using natural gas. In fact, we are not using any fuel at all to generate electricity. This is a renewable resource.

The storage of the water that is necessary provides for recreation. In fact, our largest recreational water body in the West is Lake Powell. That provides for a tremendous amount of family recreation. It provides for fisheries. It helps us control floods, etcetera, etcetera.

So the water comes in, the water drops through, turns the turbine here, and the turbine the generates the electricity, and out it goes on these power lines. But do you know what? You have got to be able to let these power towers allow transmission lines in their State, but California cannot expect the other 49 States to bail them out.

We ought to help, but California has to pull itself up by its own bootstraps. California has never employed their own self help. They should not look at the other 49 States, which, by the way, are not in the situation California is, because they did not say “not in my backyard,” because they did not refuse to allow generation plants in their State, because they did not refuse to allow gas transmission lines in their State, but California cannot expect the other 49 States to bail them out.

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You are not going to get electricity without electrical generation plants. You are not going to have natural gas without natural gas transmission. That is the point I am making about California.

Let me talk for just a moment here about another common sense approach, and that is hydroelectric, hydropower electricity conservation combined with common sense. Worldwide, 20 percent of all electricity is generated by hydropower.

We are the 2nd largest producer of hydropower in the world. Canada is first. Hydropower makes a lot of sense. Remember, with hydropower, we do not have to have a coal burning facility. We are not using natural gas. In fact, we are not using any fuel at all to generate electricity. This is a renewable resource.

What we are grasping, what we are grabbing is the energy that is created as a result of the fall of the water. You put the water here, it end up here, and the energy that is created between the two points is what we grab to spin a turbine to create electricity. That is exactly what hydropower is about.

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So the water comes in, the water drops through, turns the turbine here, and the turbine generates the electricity, and out it goes on these power lines. But do you know what? You have got to be able to let these power towers allow transmission lines in your area. You cannot always think that the burden is going to be on your neighbor’s property. You cannot always think that the burden is going to be on every other State of the union, which is exactly the policy that the leadership in California adopted. That is why one out of 50 States has got a real serious problem.

Now, up in the northwest, of course, the Columbia River is way down because of the drought. I think, frankly, going back to California, you have got to commend the people in California. In the last month, we have seen a tremendous amount of conservation in California.

I think because they have some of these price caps and they are also selling bonds, they are indebting future generations to pay for this generation’s use of power. Talk about unfairness.

For years here, when I was in the Congress, we talked about how future generations do not deserve the debt that we are putting on them, that we should balance the budget.

In the State of Washington, the Columbia River, are they using the water power today, and they are selling bonds, they are indebting their State and letting future generations pay for the power. That is not right. We ought to absorb the pain as we go.

It is the same thing with hydropower. You have to have transmission towers. There is a lot of common sense that can be deployed more that will give us results where one State does not suffer at the expense of other States, where some people do not suffer at the expense or benefit at the expense of other people. There is a lot we can do.

Let us take a look at, real quickly, hydropower. This is a very important statement that I wanted to cover. Take a look at what utilizing hydropower does. This first step here is clean. It is clean. It prevents the burning of 22 billion gallons of oil or 120 million tons of coal each year.

The hydropower that we have in place in this Nation, we are the second largest user in the world. Canada is the first, our utilization of hydropower saves us and prevents the burning of 22 billion, 22 billion gallons of oil, and 120 million tons of coal. That is a lot of coal that we do not have to burn because we have used a common sense approach and we have built hydropower.

Now, as with exploration of coal, as with conservation, you need to use a reasonable approach and you need to use an approach that is sensitive to the environment. I do not propose for a moment that we go out and build a dam anywhere we want to build a dam, but I do propose that we do not reject it on its face.

I do propose that hydropower be something that we consider, that it go on the table for this energy policy that we have all determined is absolutely necessary for future generations of this country. Our leadership obligations require us to begin and complete the process of an energy policy.

Take a look at what it does. Hydropower does not produce greenhouse gases or other air pollution. We have heard a lot about air pollution. We have heard a lot about greenhouse gases. Hydropower does not produce that. Hydropower leaves behind no waste. Think about it. When you burn gas or oil or any other resource, you leave behind no waste. When you do not leave any waste. The water goes through, turns the turbine, generates the electricity.

Reservoirs formed by hydropower projects in Wisconsin, for example, have expanded water-based recreation resources. It is renewable, and it is common sense. That is the kind of policy that we have to put in place for energy in this country.
Let me just kind of summarize my comments this evening and what I think is essential. First of all, I pointed out at the beginning in my remarks that energy prices are beginning to drop. In fact, it is my prediction that we will actually have an electricity glut, an electrical glut here in the next year or so.

Believe it or not, last year we had 158, now this is not in California, but throughout the rest of the Nation, we had 158 new generation plants come online last year, 158. What you have been reading in the media or hearing from some of the political rhetoric is that there had not been any electrical generation facilities. We had 158.

In fact, if we build out everything that is planned for the next 5 years, if you take weekends out, we will have a new generation facility open every day for the next 5 years if you do not count weekends and if all of those projects that are planned are built out. We are going to have an excess of electric generation, but that is part of the market. It will work itself out.

But the key is this, you cannot have good energy policy by having artificial price on the product. You cannot have price caps. I know it is popular. I know it is the politically correct thing to be talking about.

I know I am going against the wave of popular thought, but the reality is, by going out and selling bonds or by putting an artificial cap or a price, one, you do not help at all in conservation, you encourage waste; and, two, somebody has to pay for it.

Remember basic accounting. Every time you have a debt, you have a credit. Every time you have a credit, it has got to balance out. Every time you sell something artificially low in price, you have to subsidize it. Somebody is paying for it. In California, they are selling bonds to raise the cash to buy the electricity that is being used today. Those bonds are going to be paid by the working people of tomorrow. A little unfair, a little inequitable in my opinion.

But to come back to my main point, we have an obligation to help California. California has an obligation to help itself. We have an obligation in this country to conserve. That is part of it.

Probably the most important poster is this poster right here because I think this diagram illustrates our energy production if it is going to remain flat, I think it will go up a little, but if it is going to remain flat, and our energy consumption is going to continue to climb at that angle, we are going to have this projected shortfall. Common sense will allow us to fill in that shortfall. Common sense allows us to do it.

How do we do it? Conservation will fill in a part of that chart. Alternative fuel like solar generation or alternative generation will fill in a little gap of it. But the reality of it, it is going to have to be filled in by further exploration of natural gas resources or nuclear resources or coal resources.

We can combine. Our answer is not any one of those things I mentioned, not coal, not nuclear, not conservation, not solar. None of those standing alone can solve the energy crisis that we could have in the future. Certainly it is not solving the energy crunch that we have today.

But combined, when you combine conservation with alternative fuels, with renewable energy like hydro-power, with further oil and natural gas exploration, when you put that combination, you can construct a model that can deliver the energy needs to this Nation without requiring undue sacrifice on the lifestyles of the people of this Nation. You can create a model that will provide energy for future generations. After all, our discussions on this floor, our discussions are not just focused on this generation. This generation has an obligation to think about future generations. We have an obligation to provide energy just as much as we have an obligation to provide a strong defense, just as much as we have an obligation to provide a strong educational system.

It is no less of a responsibility to take a look at our future energy picture than it is to take a look at education or health care or any other issue you want to talk about for future generations. We have that opportunity today.

So I would urge my colleagues that, even while the price of energy is dropping, we have an obligation to continue to urge people to conserve. We have an obligation to continue to try and assist our colleagues in California and every other State in this country, to say just because energy has become more affordable does not mean that our energy crunch does not still exist.

We have got to plan for the future. We had that opportunity today in our hands. Now it is going to require leadership. It is going to require an energy policy which we have not seen for 8 years.

We have got a President. We have got an administrative team and many of my colleagues on both sides of the aisle that are prepared to put together an energy policy. That debate has already begun. Now we need to take it to its logical conclusion, and that is to come up with a policy for this generation and future generations of this country in regards to energy.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 933

Mr. JEFFERSON. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor from H.R. 933. There was no objection.

DIGITAL DIVIDE ELIMINATION ACT OF 2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. JEFFERSON) is recognized for 5 minutes.

Mr. JEFFERSON. Mr. Speaker, I am here today to discuss the digital divide that is plaguing our country and to garner support for legislation my colleagues and I have introduced to help alleviate this crisis, H.R. 2281, The Digital Divide Elimination Act of 2001.

Computers are becoming the crucial link to education, information, and to commerce. For all Americans, personal and economic success will depend on having the ability to understand and use these powerful information tools. However, according to the Department of Commerce, less than 10 percent of households with income below $20,000 own computers or have used the Internet, an absolutely alarming statistic. Unless this changes, these poor families in both urban and rural areas will be left behind.

Educators and industry leaders alike realize a serious problem associated with the digital divide and are taking steps to bring computer technology to schools and libraries across America. We, as public officials, applaud these efforts. However, these efforts are not enough.

If we are going to truly give every American access to technology and improve the way our children learn, the Federal Government must join in to bolster these efforts and, more importantly, to help extend technology and technology access to every home in America. Only then will these children and their families gain an appreciation for technology and the Internet in the home, unfettered by the constraints of an institutional setting.

The legislation my colleagues and I have reintroduced this year provides additional tax incentives to induce private companies to donate computer technology and to induce poor families to purchase computers.

First, the legislation increases the special deduction for computer donations from three-fourths of the computer’s sales price to the higher of the full sales price or its manufacturing cost. For example, if the manufacturing cost of a computer is $500 and the sales price is $1,000, the charitable deduction is increased from $750 to $1,000.

The special deductions for computers has already induced computer manufacturers to donate thousands of computers to schools across America. Now, as a result of this provision, computer
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managed contractors will have an even greater incentive to donate unsold computer equipment even where the depreciated cost of the computer exceeds its market price. Under current law, it is more economical for many non-manufacturers to throw away used computers than to donate them to charity because they can take a higher tax deduction for disposing of the computer than for donating it. That is clearly bad tax policy. Thankfully, this provision will change that result.

In addition, non-manufacturers will also have a greater incentive to donate computer equipment even where the depreciated cost of the computer exceeds its market price. Under current law, it is more economical for many non-manufacturers to throw away used computers than to donate them to charity because they can take a higher tax deduction for disposing of the computer than for donating it. That is clearly bad tax policy. Thankfully, this provision will change that result.

Second, the legislation will extend the special computer deduction through 2004 and expand it to include donations, not only to libraries and training centers, but also to nonprofits that provide computer technology to poor families. Nonprofits such as Computers for Youth in New York City have placed computers into the homes of hundreds of low-income families. We need to encourage similar efforts by nonprofits all over the country. Only then can we make our mutual goal of bringing technology into every home in America a reality.

Finally, the legislation will provide a refundable credit equal to 50 percent of the cost for computer purchases by families receiving the earned income tax credit up to $500. While the cost of computers and Internet access are dropping, the cost of computers still remains a barrier for many low-income working families. Returning half of the cost of the computers to these families will go a long way towards helping working families help themselves and provide a brighter future for their children.

Mr. Speaker, bringing technology to all our children is key to our Nation’s future and prosperity. I implore my colleagues to recognize the long-term negative impact that could result from not eliminating the digital divide and urge their support of this legislation. Together, we can ensure a much brighter tomorrow for our children and give them the tools necessary to compete and lead the next generation to an even brighter future.

HMO REFORM

The SPEAKER pro tempore (Mr. MCDONNELL). Under the Speaker’s announcement of January 3, 2001, the gentlewoman from California (Mrs. CAPPS) is recognized for 60 minutes as the designee of the minority leader.

Mrs. CAPPS. Mr. Speaker, I rise this evening to speak about the need for a strong and enforceable patient’s bill of rights for the American people.

I am one of three nurses currently serving in the House of Representatives, and there are other health professionals of all stripes among my colleagues, from doctors to public health specialists and microbiologist, from psychologists and social workers to psychiatrists. Together, in all of our experience and training, we know that access to care and the care we receive in this country is not the best that could be.

Tonight we are going to share with our colleagues our firsthand experiences and make the case for the Ganske-Dingell bill. We have seen firsthand the damage caused by the excesses of the bean counters and the men in green eyeshades when they are too aggressive in containing costs. These bureaucrats have often done real harm to real people when they have taken on the role of medical professionals. Those of us here in Congress with medical backgrounds want to give our constituents the ability to fight back, and we think that the Ganske-Dingell bill is the best way to do this.

This legislation guarantees access to high quality health care, including access to emergency or specialty care, to clinical trials, and direct access to pediatricians and OB-GYNs. It also holds health plans accountable when they interfere in the medical decisions of a trained medical professional. It provides for a strong external review process by medical professionals; and then, after that process, and if that process is exhausted, patients will have access to State courts.

The HMOs have bitterly criticized this proposal on the grounds it will lead to frivolous lawsuits. The Ganske-Dingell bill is based on one in practice in the State of Texas which has allowed patients to sue their HMOs and there have been only a handful of lawsuits of any kind. There is no evidence that this bill will lead to frivolous lawsuits, but it is an essential protection that our patients need because of the deterrent factor that it provides.

Managed care organizations are operating in an environment designed to keep costs low, and we do need to control costs to keep health care affordable, but HMO administrators are under an incredible amount of pressure to cut corners. Often this pressure is excessive and leads to insensitive, inappropriate, and sometimes very damaging actions. Abuses of patients’ rights to quality health care are very common, too common. These needs to be a counterforce on the side of quality care, on the side of the patients, and that counter force has, at the bottom line, the threat of going to the courts.

Access to the courts will help to restore the balance to the scales and will prevent the need for efficiency outweighing the need for quality care. It is what gives the patient’s bill of rights its teeth. Without it, HMOs are free to continue their current practices without fear of the consequences. My constituents do not want to go to court to get the health care that they need, but HMOs do not always want to provide that care. And HMOs do not want to go to court either. The threat of appropriate litigation is how average Americans will keep the HMOs honest. We need to give patients that tool.

Mr. Speaker, if the ceiling in this room were to collapse today because of a contractor doing shoddy work to save money, those of us who were injured would be able to sue that contractor in State court. This provides an important incentive for contractors to do their work well. The same should apply to managed care.

And so I support this legislation, as do many of my colleagues with medical backgrounds. We know our patients. We know the HMOs. We know this issue and its importance. We know the challenges we face and we know how to overcome them. We know this bill is the right thing to do. So we are here this evening, Mr. Speaker, to help our colleagues see this example as well. We have an obligation to our constituents to do our duty and to pass this legislation.

I want to now introduce and invite to the podium a colleague of mine, the gentlewoman from New York (Ms. SLAUGHTER). She is going to present her viewpoint as a microbiologist with a master’s degree in public health. She is particularly respected for her efforts on genetic nondiscrimination and women’s health.

Ms. SLAUGHTER, Mr. Speaker, I thank the gentlewoman from California for taking time this evening and for yielding to me.

In my judgment, one of the most important aspects of the patient’s bill of rights is that it gets the least attention, and it is the potential impact on public health. Now, although most people think of this initiative as one involving individual patients and their access to care, there are major public health implications as well.

In our Nation, public health has become something of a forgotten stepchild of the health care system. In
other industrialized nations, public health goes hand-in-hand with individual health care: Communicable diseases, treated in a standardized fashion, all children receive vaccinations during their regular checkups, and public health professionals can track the incidence of disorders like cancer based on geography.

None of that is true in the United States. In this country, we have created an artificial division between individual health care and public health. Children are supposed to receive immunizations on a certain schedule, but many fail to receive some or all of their shots because they move, switch insurance plans, or lose coverage. Different States track and report different disorders in different ways, and the health of the individual is examined in total isolation from the health of the community.

The patient’s bill of rights has the potential to address some of these problems. For example, the Ganske-Dingell bill contains a solid proposal giving women greater access to the GYN. This provision can help us attack rates of sexually transmitted diseases by allowing women to go directly to the right doctor without having to waste the time, the effort, and the money of passing through a gatekeeper physician. If we can help women get treatment for sexually transmitted diseases quickly and effectively, we can reduce the rates of transmission.

Similarly, the Ganske-Dingell bill has provisions regarding direct access to pediatricians for children. Parents need to be able to get their children to the right doctors as quickly as possible, especially in the cases of communicable diseases, which often can be mistaken for innocuous illnesses in their early stages and spread like wildfire in settings like day care and schools. If we can prevent the transmission of diseases like these and many others when the patients can get timely care under their insurance plan, we benefit the whole community. Sick people create sick communities. When we delay care, we place numerous other individuals at the risk of illness. A patient’s bill of rights would help patients directly to get the care they need.

I would like to note that State, local, and Federal governments have a major financial stake in the patient’s bill of rights as well. When patients cannot receive timely care under their insurance plan, they often seek care in other places, such as clinics and emergency rooms. And in many cases the cost of their care must be absorbed by the facility, the State assistance plans, and Medicaid. The Federal Government spends tens of millions of dollars each year in an effort called disproportionate share hospitals, which treat high numbers of patients lacking coverage. If we could reduce the amount of unreimbursed care in this Nation by even a small fraction, it would make a tremendous difference to many struggling hospitals and facilities, and that in turn would allow those facilities to dedicate more resources to public health goals, like indigent care and outreach.

Finally, as a public health professional, I find it deeply troubling that Congress would allow insurance companies to continue practicing medicine without a license. Insurance company bureaucracies have no business inserting themselves into the doctor-patient relationship. Middle managers should not second-guess M.D.’s. If insurers want to practice medicine, then they must be responsible for the consequences when things go wrong, and that means being held liable for medical malpractice.

I am pleased that our colleagues in the other body are debating a strong, responsible patient’s bill of rights. The House majority leadership bill, H.R. 2215, does not pass muster, and I hope that all of us will pass up this anemic version in favor of a real patient’s bill of rights, H.R. 522, the Ganske-Dingell Patients’ Bill of Rights.

Mrs. CAPPS. Mr. Speaker, I want to thank my colleague, the gentlewoman from New York (Ms. SLAUGHTER), and particularly for her perspective from a public health point of view.

I know many of us, when we saw the managed care plans coming on the horizon as a cost containment method, applauded the program for its preventive care aspects, and some HMOs still do offer these, and they are to be commended. But many, in their cost cutting methods, have curtailed the prevention aspect and the guidance and some of the extra programs that are offered through counseling and health education, advice for families, and the periodic checkups that are part of a good developmental program for children in favor of cost containment. So I think we should go back and accentuate.

We need to point out that this patient’s bill of rights is not an attempt to do away with managed care, but to reform it and to bring it back into the arena of the responsibility of health professionals for the care of their patients and the ability of patients to get the kind of care that will be in their best interest in health care.

I wish now to give time to my colleague, the gentleman from Ohio (Mr. STRICKLAND). He is a psychologist and now is my colleague on the Subcommittee on Health of the Committee on Commerce. He has been a leader for a long time on the patient’s bill of rights and comes to Congress with his perspective, coming right out of his work in psychology in his Congressional District. I am happy to yield to him.

Mr. STRICKLAND. I thank the gentlewoman for yielding to me.

Before coming to this House, I practiced psychology in a maximum security prison, working with mentally ill people, including some of the most seriously mentally ill in American society. I worked in a large psychiatric hospital; and I have worked with emotionally disturbed children. The fact is that we do need a strong patient’s bill of rights. And it is puzzling to me, it is truly puzzling to me that today in America patients can be abused by managed care organizations and have no legal recourse.

I would like to share with my colleagues tonight a story of one of my constituents. Every one of us here in the Congress, whether we are Democrats or Republicans, regardless of what part of the country we are from, have constituents who come to us with their problems, and I would like to talk this evening about a young woman who is 31 years of age. She lives in a small town in Highland County, Ohio. Her name is Patsy Haines.

Patsy’s husband called my office several weeks ago and he asked if we could be helpful. He told us that his wife suffered from chronic leukemia that she had worked for 5 years at this company until she became too ill to work. She was diagnosed with this life-threatening illness. Her doctor told her that she needed a bone marrow transplant. Patsy has a brother who is willing to participate, who is willing to help her, and he is a perfect match for such a transplant surgery.

The problem is that Patsy cannot get her insurance company to agree to pay for this surgery.

I went to the James Cancer Hospital in Columbus, Ohio, possibly one of the premier cancer facilities in this Nation. I spent half a day there, and I talked with the doctor who is over the entire transplant program at the center, and I spent a couple of hours with a young doctor, a very inspiring doctor, who is a specialist when it comes to bone marrow transplant surgery. This young doctor was incredibly sympathetic to Patsy Haines’ condition, and agreed to talk with her and her physician.

After his consultation, he agreed that this young woman needs this surgery. He told me that if she receives this surgery, she has a very good possibility of recovery, of living a long life, of being a mother to her child, a wife to her husband. But the sad fact is that Patsy Haines does not receive this surgery, she very likely will lose her life.

This past Saturday I went to a high school in Hillsboro, Ohio. Community members had brought together items to auction off for Patsy. Patsy was there in a wheelchair because her illness has progressed to the point where her legs are badly swollen and she needs a wheelchair in order to get around. People sat on those high school
bleachers, and they bought items which had been offered for auction. Patsy Haines is an incredibly inspiring young woman.

I do not know if she is watching tonight or if her family or community members are watching tonight, but she inspires me. I said something at that auction that I truly believe, that none of us are islands. None of us in this world stand alone. As Members of Congress, we should have the attitude that each constituent’s joy is joy to us, and each constituent’s grief is our own.

I feel grief for Patsy Haines tonight. It is shameful in the United States of America in the year 2001 that we have car washes and sell cupcakes and auction off small household items to get the resources necessary to help a young woman get the medical attention she needs. I believe American people do not want us to be in this set of circumstances. The American people are with us on this issue. Poll after poll shows that the American people believe if an HMO or an insurance company makes a medical decision and deprives a person of necessary and needed medical treatment, that they ought to be held responsible in a court of law.

As the gentlewoman said, the State of Texas has such a law, the State from whence our President came and where he was governor. During the last Presidential campaign I remember the President talking about the Texas Patients’ Bill of Rights, and he displayed some pride in the fact that Texas had done this.

What we are trying to do in this Congress with the Ganske-Dingell bill and on the Senate side with the McCain-Kennedy-Edwards bill is to do basically what the State of Texas did. The gentlewoman is right, in Texas this law has been in effect for 2 years, and there have been literally half a dozen lawsuits. The reason for that is, I believe, once this law is in place and the insurance company makes a medical decision and deprives a person of necessary and needed medical treatment, they ought to be held responsible in a court of law.

So tonight we are talking about something really important. I hope the American people are watching. I believe the American people of every persuasion, conservative to liberal, Republican, Democrat, Independent, strongly believe that citizens of this country should be protected from this kind of awful, terrible, treatment.

I hope as a result of what we are trying to do here Patsy Haines and her family, and Americans like her, will no longer be subject to this kind of mistreatment. What we are doing in the next few weeks here in Washington is as important as anything that this Congress has done in perhaps decades because we are taking the necessary step to see that American citizens, regular moms and dads and kids, get the kind of care they need.

I will close by saying this. A couple of days ago a colleague of mine held a press conference in Columbus, Ohio, and came out in opposition to the Patients’ Bill of Rights because of the ability to bring suit that is given to the patient in this legislation.

There was a business executive there that had suffered a serious illness and was there to talk about the fact that he had been taken care of by his company. But not all of us are business executives. Some of us are just ordinary citizens like Patsy Haines. Our responsibility here in this Congress is to make sure that ordinary citizens are protected.

I thank the gentlewoman for this special order and giving me the chance to talk about the fact that the American people are watching, and as a result of the fact that they are watching us, I believe we have a very, very good chance of actually getting this legislation passed and signed into law.

Mrs. CAPPS. Mr. Speaker, I thank my colleague from Ohio for sharing such a moving story. It is remarkable in this land of ours we have some of the best possibilities for health care in the world, and some of that is due to funding for research which has been promoted and supported from this House, this very body. We stand behind the great advances in our medical technology and our skills and opportunity. Yet at the same time we have such a gap between our ability to give health care and those who are actually able to get it.

Mr. Speaker, one of the barriers are those without access to any health insurance. They talk about health care delayed and denied and lives lost or destroyed. Two of them told us of having to fight for needed health care while also having to fight at the same time the physically and emotionally devastating disease of cancer. All of their energy and attention was needed at that time and should have been directed to fight the illness and not an insensitive health care system.

We also talk about the plight of those who accepted their denials because they felt powerless to fight the large systems. I would say as a physician who has been involved in public health, I know that prevention is worth a pound of cure, but it does not take an M.D. degree to know that. Our grandparents told us that over and over again.

If we are ever to rein in the high cost of medicine, we can only do it by ensuring that everyone in this country, regardless of income level or ethnicity, has access to good primary care, secondary care and tertiary care when they need it. To do this the bipartisan Patient Protection Action of 2001, the Patients’ Bill of Rights that we are discussing this evening sponsored by the gentlewoman from Iowa (Mr. GANSKE), the gentleman from Michigan (Mr. DINGELL) and the gentleman from Georgia (Mr. NORWOOD) and Senators MCCAIN, KENNEDY and EDWARDS is an important step, long overdue, but better late than never, and a step that we must take now.
Even after the Patients' Bill of Rights becomes law, we will still have to provide health care coverage to the 43 to 45 percent of Americans who do not have health care coverage. We have to close the gap of color and those who live in rural areas. We have to make sure that our young people of color have access to health care careers, and can go back and serve their underserved communities.

A lot of debate is being focused on the liability causes that my colleagues referred to, and I think it is important to make it clear that this is not about lawsuits and large awards, it is about putting the necessary teeth in the legislation to make sure that the HMOs and insurance plans put the patient and his or her medical needs in front of their profits. Money cannot buy back the ability to walk to the paraplegic who lost mobility because of delayed health care, or bring back a loved one because they did not receive the diagnostic treatment that they needed.

The bill that we support does not, nor has it ever held employers who do not participate in making medical decisions to be liable. Employers if they do not intervene in making those decisions have never been held liable by the Patients' Bill of Rights that was introduced even in the last Congress by the gentleman from Iowa (Mr. GANSKE) and the gentleman from Michigan (Mr. DINGELL).

On the other hand if a managed care organization makes a decision about health care, they should be held liable. Providers have been liable for years, and managed care organizations or insurance plans who make decisions about medical care should be liable as well.

There is so much wrong with the managed care system that needs to be corrected, I know we could probably go on for longer than an hour. But we in this body do have the opportunity to put it back on the right track by passing H.R. 526, the Ganske-Dingell-Norwood bill which is also called the Bipartisan Patient Protection Act of 2001. We are here this evening to join you to say, let's do it.

Mrs. CAPPS. I thank the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for sharing her story. She brought up something that I want to accent, because I think it is such a sadness to see what I call revictimization that so often occurs with people and their bureaucratic paperwork that they need to do. Often facing terrible diagnoses with sometimes horrendous outcomes and strenuous treatment regimes that they must go through and then to have to deal with the insurance company to provide the coverage. It is like doing battle on every front. It must feel to the patient and also to their family like being kicked when you are down, when you have such a battle and such a struggle with your health care itself, and trying to save your life, and to get back on track again with your health and then to be constantly nit-picked or told no, not this, and so many hoops to go through, I really feel like we need to get it back into the priority and to streamline many of the approval processes and to make it so that we are treating people with the dignity really that all of us know as American citizens that we want to have. For this to be so completely, not always, but so frequently gone down a different path, that is a most humiliating experience for someone who has to go through it. That is certainly part of what we want to correct in this Ganske-Dingell patients' bill of rights.

Now it is a pleasure for me to yield time to one of my fellow nurses here in Congress the gentlewoman from New York (Mrs. McCARTHY). She represents one extreme end of the country and I am out there in the other end but we have lived through a situation that makes us truly joined at the heart. We have worked together to make sure that the patients' bill of rights, for example, includes whistleblower protection for nurses and other important pieces. It is no surprise to either the gentlewoman from New York or I that the American Nurses Association and so many of the other nurse groups around the country are strongly in support of this particular patients’ bill of rights.

Mrs. McCARTHY of New York. I thank my colleague from California and my fellow nursing partner and certainly our friends that are physicians. You have heard stories tonight from us. You have heard us tell stories about our constituents. But I think if you hear and have listened to us, why are we so passionate about this? Why are we backing the patients' bill of rights? I am going to tell you a story, also, but this story is very personal. Even before I ever came to Congress, I had spent over 32 years, my life, as a nurse. All of us, we went into health care because we care about taking care of people. And we see our doctors today, they still care about their patients. They are fighting for their patients on a daily basis.

But I want to tell you a personal story on why this bill is personal to me. Going back several years ago, something happened in our family. My son ended up being in the hospital. I have to say when he was in the hospital and he was in the intensive care unit, he got the best care you could possibly ever see. Because he was in the hospital, everything was approved. Then Kevin had to spend a long time in rehab. And his actual rehab was actually going to spend a year in rehab. My son was only 26 years old at that time. He went through the sessions in the morning. I would be there with him 18 hours a day. By lunchtime, I am saying to myself, "Well, he's not tired, let's do rehab again."

Gentleman. I went to the head of the unit and I said, "Let's do the whole session all over again."

"Well, we can't."

I said, "What do you mean you can't?"

"Well, the insurance companies will never pay for a double session."

I kind of sat down and I thought about it for a while and I said, well, I can do a lot of this stuff on my own with him, I had the training for it, I knew what I was doing. But then I went back to the director and I said, Wait a minute. My son is 26 years old. He can do more. And if we actually look at it, if he has double sessions, that means he is going to get his therapy himself, the cardiologist and he is going to be out of here twice as fast. As I said to you, they had told me he would be in rehab for a full year.

Well, we won that battle. I got him the double sessions because the hospital realized even that was only the beginning of our battle. Because every single thing that we had to have done for Kevin as far as rehab and everything else, we had to fight for those services. But here is where the kicker came in as far as I am concerned. Kevin had to have a procedure done. He had to go back in the hospital. Five doctors, five of their doctors, their doctors, said Kevin had to go in the hospital for a surgery. We were turned down. Each doctor went to bat, said, wait a minute, he has to go in the hospital and he has to have this surgery done. And he was turned down, he was turned down, turned down. All the way up to the point where I finally talked to the medical director of the HMO and I said, "Why are you denying him this operation?"

"We do not feel he needs it."

I said, "Who are you to make that decision when five of your doctors, a neurosurgeon, a neurologist, the surgeon, the cardiologist and the vascular man said he had to be in the hospital for this operation?"

I said, "Do you know what my son's medical history is?"

He said, "Well, actually I have it."

By the way, his medical history was a little bit longer than the Manhattan telephone book. He did not understand it. He could not understand it.

Now, we were kind of lucky. The company that Kevin worked for happened to be the company that Kevin was covered under. Well, I found out who the CEO was of that company and I called him up. I said, this is ridiculous. And he agreed with me and he called...
and Kevin was in the hospital in a couple of days.

My point is, why did we have to go through this? Why did I have to spend that time trying to get the care for my son that he needed? If anyone even thinks that Kevin wanted to go back in the hospital or I wanted him back in a hospital, believe me, that is not the place we wanted to be. We would have been happy if we had never seen another hospital the rest of our lives.

Now I am in Congress and on a daily basis we have to fight for my constituents to get the care, number one, that they deserve. They deserve. Because the decisions are made by our doctors. And unfortunately when we talk about the patients’ bill of rights, people out there do not even realize the consequences that are going on in the health care system today because of the rights that doctors do not have anymore. Doctors are not encouraging their children to become doctors and we are seeing all of our patients, no one is going to go with you, if the correct care is given to them. We are not slamming all of them. What we are saying is, though, until you come up with a situation where it might be chronic health care or maybe a life and death situation, or maybe it is a bone marrow transplant which they still consider experimental, but if you fight it long enough, you are going to get it, it is just that they want you to fight for it, and that is wrong. All of us have seen families going through so much. They should not have to worry, can I do this, can I raise the money to have it done. America is better than that. We know America is better than that.

Mrs. CAPPS. I want to thank my colleague from New York for sharing her personal story of how she fought hard, she had to make that tough decision; that she fought hard, she had to make a lot of phone calls. Some folks do not have that facility. Maybe there are language barriers. Maybe there are other barriers or they give up. That is compromised health care. That is health care that goes unmet, health needs that go unmet. Her son happened to work for the HMO, the president or whatever the situation, so that she had a personal connection. How about the thousands and thousands of families that do not have that privilege and have that opportunity? We need to speak for them. We need to have this be legislation that really does address the issues so that situations can be relieved just as a matter of course, not as a matter of privilege.

But I want to bring up and am happy to have the gentlewoman from the Virgin Islands join us as well, but I do not want to leave another topic that the gentlewoman from New York brought up in her testimony as a nurse, and that is, the important measure in this bill, the whistleblower protection. Let me make a couple of statements about it and ask our colleague who is a family physician to respond as well from the hospital perspective.

I am concerned now as many in this House and many across the country are about the shortage of nurses. We have a crisis. We have 126,000 positions going vacant today in our hospitals and health care facilities across this land. We have many things we need to do to address this. But one of the issues that is of real concern to those who work at the front line and in the health care settings is the demoralization that occurs when professional standards have been trained and goes to work in a setting and sees and observes something which is not to that standard and has no recourse. It is the most awful experience to go through and think, this is wrong, and sometimes you are there and you have participated, and for fear of your job, you cannot go to someone in higher authority or to an outside agency and a place without fear of retaliation. So this whistleblower protection which has been included in the Ganske-Dingell patient protection bill is vital. I know from my own personal experience in public health out in the community to have this accountability so that the confidence that you have when you go through training, which is hard enough, and then go out to work, which is also challenging. This kind of work that we are talking about that nurses and doctors and health care professionals provide is not the easiest in the world. It has its tremendous rewards. But when you feel that barricade, that you see something and you cannot report it because your livelihood will be on the line, well, that demands correction. That piece in this bill I believe we stand up for. Maybe either of my colleagues would like to comment.

Mrs. CHRISTENSEN. Let me just say that the nurses from the Virgin Islands are up this week as well and this is something they are very concerned about. I wholeheartedly agree with everything the gentlewoman said about needing to keep that in the patients’ bill of rights, the fact that it is included only in the Ganske-Norwood-Dingell bill. But I wanted to say something about something else that our colleague said. She said that when her son was in rehab, if I heard her correctly, the rehab facility decided that even if they were not going to get reimbursed they would provide the service and soak up the cost.

We find that happening more and more often with either the provider or the facility is saying, well, we know this is necessary. So we are going to take the chance. We are going to provide it to the patient even if we do not get reimbursed. Well, hospitals cannot afford not to be reimbursed and still be able to provide quality service to the patients that come to them, and providers on the other hand, they are also taking the risk and saying well, I know my patient needs this, I am going to go ahead and do it, make the referral or order the diagnostic test but when they come up for review later on they run some risks as well.

We find that more and more providers, whether it is a hospital or a physician or another health provider, they are making those decisions to provide the care and take the risks but it also puts the patient under some stress that again they do not need to know well, am I going to have this paid for. I am really glad we are here tonight supporting the Ganske-Dingell-Norwood bill because this bill provides for
access to specialists. The decision is going to be what is medically nec-
essary, access to emergency room services, just using your layperson's judgment so that people can get care and get it early and that our facilities and our providers can be reimbursed for the services they provide.

Mrs. CAPPs. It is really common sense legislation. Those of us who have been doing health care work. I have spent 2 decades in my school community in the public schools of my community on the front lines every day with families that were seeking medical care and doing battle with their HMOs. This is not to do away with them. We are not trying to give insurance a bad name. We need it.

There are good plans but when excess occurs and when people step over the line, companies do and providers do, then they have to be held accountable because the bottom line is a matter of our common sense and what is right for families, for individuals, for this country really in terms of access to health care and good quality health care. I appreciate the comments of the gentlewoman on that.

I want to also make sure that we include in this discussion another very important piece of the Patients' Bill of Rights which includes the opportunity to have clinical trials be continued and be about your insurance.

I have some personal experience myself, so many families do, with members of family who are confronted with the most awful diagnosis, one of the most awful of all, which is the word cancer, and to know that many of the treatments that work for cancer are so recent in their discovery that they have not yet been fully implemented or approved under the Food and Drug Administration and, therefore, they are still undergoing clinical trial and what if your doctor tells you that without treatment and without this particular kind of treatment, as our colleagues stated earlier in this hour, that there is no chance really for life to even continue, you might have a few months at best but you could try this clinical trial, you could embark on that course. I know personally, with my own family, that you do not hesitate for a minute; give me that chance; give me that right to hang onto, particularly if it is one that has gone through several phases but it is still not approved yet and yet it has offered hope to others and treatment and good results to others; oh, you cling to that with your life, to get that treatment for your loved one, and in yet that very dark hour in your life, so many of insurance companies give you this ultimatum: You go down that path and you seek that medical treatment and you lose your insurance; you are losing all of your insurance.

That is like a death sentence. That is an amazing position to be put into as a person, or with your loved one sitting there beside you having to make those terrible choices that should not be forced on our patients to make this kind of choice. So that is why this Ganske-Dingell bill will require that insurance companies continue their basic coverage of patients when they elect to participate in clinical trials.

Now that makes sense. That is a good thing to do. That is what we should be doing for those with the awful diagnoses that many are facing. We want to make sure that new and different treatments are available to all patients without having them lose their ability to have coverage for regular treatments. This is a good measure within this Ganske-Dingell bill. So I offer it as one of the reasons I am supporting it because the gentlewoman with me tonight would like to comment on that or any of the other topics that we have left out.

Mrs. McCARTHY of New York. One of the things we will like comment on and support the words that the gentlewoman has just said, again we as health care providers know a lot of times that when our patients are certainly looking for something to hang onto, and God knows we have seen our patients fight for every breath that they take and they want to try something to continue to be with their loved ones, but it is the loved ones that unfortunately are faced with this fighting most of the time; a lot of the patients do not. We have become their advocates. We are still taking our oath very seriously; the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) as a doctor, myself and the gentlewoman from California (Mrs. CAPPS) as nurses. We are there to protect our patients, as I said earlier, and we will continue to do that.

I think again what I am seeing, which really starts to scare me because there are families that really have good insurance and those that have minimum insurance, those that have really good insurance and those that have minimum insurance, will get the health care that they need; those that do not they are not going to get the health care. I spent, like I said, 32 years in nursing. We did not know who was wealthy. We did not know who was poor. Everybody got the same kind of treatment in the hospital.

Mrs. CHRISTENSEN. Absolutely.

Mrs. McCARTHY of New York. The majority of hospitals in this Nation do not make money. They are always in the red because every penny they get goes back into the infrastructure of the hospital.

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Now, I think the three of us, once we get this Patients' Bill of Rights through, we could come back and talk about all the otherills that we are seeing in the health care system, things that all of us are working on for future bills, because we have to start addressing them and we have to face them. We cannot hide our heads in the sand anymore.

Five years ago, when the gentlewoman came in, we started talking about the whole collapse of our health care system; 5 years ago. Here we are now finally having a bill out there that can make a difference, but we have a long way to go. We have to bring the health care system back to the way it was. Certainly our hospitals have learned to cut down on costs. Certainly we have to make sure there is not fraud and abuse. We will do that, but we still can deliver a good health care system to our patients. The Patients' Bill of Rights will do that.

This is the only true bill because it has the protections in there for our health care workers, our nurses, our doctors. It is certainly going to make our nurses stand up and take their responsibility and if they do their job right they will be fine. It is a shame, it is a shame that we have had to come this far to do legislation in this great House that we work in but sometimes that is why we are here, to make them, whether it is the HMOs, whether it is the auto manufacturers, or different corporations, to do the right thing.

The Patients' Bill of Rights does the right thing for the American people.

Mrs. CHRISTENSEN. As I said earlier, too, this is something that the people of America have clearly said they want. All of the provisions that are included in the Ganske-Dingell–Norwood bill are direct responses to what the people of this country have said. They want to see in their health care system to our patients. The Patients' Bill of Rights will do that.

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Mrs. CHRISTENSEN. Absolutely.
that that quality health care is equally accessible to all of our citizens and reside in this nation.

Mrs. CAPPS. I want to make sure, just as we drew this to a close, I have a pledge I want to make with my two colleagues, but I want to make sure that we leave on the record the answers to a couple of myths that are out there. One of the parts of the employer that there is this fear that if we do this Patients' Bill of Rights that the employer who provides the insurance will be liable, that the lawsuit will include them. We have been assured that they are in the business of providing insurance plans for their employees, who are also occasionally patients. If then their employees choose that plan and they give them only that range of plans to choose from that, then clearly, they are making decisions when the insurance company itself makes decisions which are not in the patient's best interest.

The insurance company is the one who must be held accountable, not the employer in that case.

The other myth that is out there is, and I have heard it on the floor, I have heard it among some of our colleagues who say it is just going to drive up the cost of health care insurance, and there are so many particularly small businesses who are struggling now to provide it, they want to provide it but that is another topic that we are going to address another time about making health care available in a variety of ways, not just putting it on the backs of mostly small business providers.

The cost of the premiums in Texas, in the plan that this Patients’ Bill of Rights, this Dingell-Ganske plan is based on, that the premiums went up, I think they characterized it as a Big Mac, actually just a very small amount of an increase in a premium that most constituents, most employees would be happy to make if they knew they had the benefits that we have been outlining as part of this Ganske-Dingell Patient Protection Act.

So we want to make sure that it is clear that we do in this country hold people accountable when they make mistakes. Doctors, health care providers, all of us had insurance policies when the insurance company itself makes decisions which are not in the patient’s best interest.

Mrs. CAPPS. I, so appreciate my colleagues being here. I think we are almost out of time, but I will yield further to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for some comments.

Mrs. CHRISTENSEN. I am glad that the gentlewoman made the clarification about the employer not being liable, the fact that the premiums and lawsuits do not rise, because we have that experience. It is also important to point out that this is a real bipartisan bill. There has been a lot of work and a lot of compromise to bring this bill forward that addresses issues and has addressed some of the concerns of people on both sides of the aisle. This is a bipartisan effort to address something that has been of great concern to the American people.

Mrs. CAPPS. Mr. Speaker, we will now close and remind our colleagues that we did pass this very bill before in this House. So let us just do the right thing and pass it again. This is my pledge that I want to make to my dear colleagues who have walked us here this evening, the gentlewoman from New York (Mrs. McCARTHY), and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), let us pass the Patients’ Bill of Rights and then let us gather on the floor to discuss some other needs in health care, such as the nurse and professional shortage, as such those without any access to health care because we still have a long way to go. We are willing and we are prepared, we are going to be here until we can address each of these issues. So I will join my colleagues again on the floor at a further time.

Mr. TANCREDO. Mr. Speaker, tonight, I want to talk about a couple of subjects.

First of all, I cannot help but reflect upon some of the prior speakers and what they have talked about, especially in terms of our energy crisis. I will only spend a couple of minutes on that, because I addressed it a couple of times in the past also.

It is undeniably true we have an energy crisis in the United States. It is undeniably true that gas prices are rising, that blackouts, rolling brownouts, all kinds of things are occurring throughout the United States, but especially in California and on the West Coast.

We spend a great deal of time in this body debating as to exactly why that has occurred, and, in fact, there are a number of reasons, of course. They deal mostly with supply problems. We just do not have enough energy. We do not produce enough.
Mr. TANCREDO. "The First Amendment restricts government’s abridgement of free speech.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind Members that the rules of the House prohibit characterization of Members of the Senate even though not their own remarks.

Mr. TANCREDO. "The First Amendment restricts government’s abridgement of free speech. But government hasn’t threatened to muzzle Manson. He will not be barred from performing by any government officials.

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The opposition to his performance here has come from private groups led by Baptist youth minister Jason Janz, and others, according to the Rocky Mountain News. I have no remedy for this. It's one of the peculiarities of the City of Denver had agreed to something like that, had put tax dollars into it. I wonder whether or not the mayor would not be in political trouble the next election.

Would not people in the City say, how could you possibly make me pay for something like this? I think it is horrible. Or even, I do not have an opinion on it, I just have absolutely no desire to fund this particular expression of this particular "artist".

"It's not a question of whether Manson should be condemned or allowed to perform. Of course, both of these things should happen. Manson debases our values, culture and civil conventions. Jason Janz's criticism of him is wholly appropriate. Someone needs to say that, otherwise, I worry that would be more disturbing. To most who attend, Ozfest will be little more than a fun summer concert featuring a variety of performers. The Manson acolytes there will be in the minority. And while they snigger at the establishment's attack on their idol, it still serves a purpose. They may understand when they grow up.

Again, that is Mike Rosen in the Rocky Mountain News.

Now, this leads to another issue and even a much more relevant than this particular event in Denver Colorado in last week. This leads us to a debate we were having on the floor of the House here last week. It was a debate on whether or not we should be funding the National Endowment for the Arts and Humanities.

It was fascinating from a number of standpoints. We have done this every year. The debate occurs every single year. Much of the same thing is heard over and over again as to whether or not government funds should be used to support "art".

Now, what if this had happened in Colorado, everything that I just described, and they had been paid for entirely with tax dollars? Would there not have been a different kind of debate? Would we not have been able to enter into the discussion an argument that, although, certainly, someone, Manson, should be allowed to perform, no one, certainly I would never prohibit him from doing his thing by law. But the question remains is whether or not someone should be forced to pay for it through the taking away of their tax dollars, providing it for this experience.

Certainly there would have been an outcry. Certainly people would have said absolutely not. You know, I do not care whether this person does its thing on the stage and spews forth its blige, I do not care about that. If people want to do it, want to see it, that is their business, and I certainly agree. But making me pay for it through my tax dollars, that is quite another matter.

Now, that would have been an interesting debate, and I wonder how it would have come out. I wonder if the City of Denver, I wonder if the mayor of the City of Denver had agreed to something like that, had put tax dollars into it, I wonder whether or not the mayor would not be in political trouble the next election.

Would not people in the City say, how could you possibly make me pay for something like this? I think it is horrible. Or even, I do not have an opinion on it, I just have absolutely no desire to fund this particular expression of this particular "artist".

Well, I think that that would be a legitimate argument. Do my colleagues not, Mr. Speaker? I think that, in fact, that would be a legitimate debate had we paid for that with tax dollars. I think there would have been significant political ramifications and repercussions to be made by the political leaders in Denver.

But it did not happen that way. It was totally voluntary. People went, paid their price at the door, and went in; and I say, of course, that is fine. They can do what they want to do. If you as a citizen would do it, I would tell you no. It does not matter. I would never stop anyone from either going to see this person or, on the other hand, I would never try to stop this person from actually getting on stage and doing whatever it is it does.

So the question, then, comes as to how we can, every single year, take money from Americans, hard-working Americans, many of whom have to make decisions about, you know, if they are going to pay the rent this month or if they are going to pay their gas bill.

How can we take money from them to support the, quote, artistic endeavors of others of a similar, well no matter, no matter not just anti-Christian, but absolutely no argument as to the value, quote, value of the art. It is still absolutely wrong for any of us here to make that sort of elitist decision for all members of society, that we would take away their monies and give it to a particular kind of art or a particular kind of artist. How can we justify that?

I guess, to a certain extent, I am going to have to actually talk about what we have been funding over these years. I almost hate to say it, but I wish we could put up here one of these signs that say "be careful, the following may not be suitable for viewing by young people" or whatever, because it is certainly some of the nastiest sort of thing. I will try to avoid being too incredibly graphic, but I guess it is pretty hard to suggest that this is not inappropriate for us to discuss here since we paid for it, since we took money from Americans, from hard-working citizens and paid for this stuff that I am going to tell my constituents and give it out.

Let us start with 1998, the National Endowment for the Arts was criticized for funding this New York theater which staged the play "Corpus Christi", a blasphemous play depicting Jesus having sexual relations with his apostles.

By the way, a great deal of what has happened here, a great deal of what the NEA chooses support has a decidedly homo-erotic, anti-Christian, and certainly not just anti-Christian, but a hatred of Christianity, and the most bizarre kind of sexual connotation, not just connotation, but aspects that you can imagine. That really a lot of this stuff that they choose to do. Okay.

One would have thought that the NEA might refrain from funding the Manhattan Theater Club ever again given the theater's decision to present "Corpus Christi." Not so. The very next year, the theater was awarded another grant of $37,000. This year, the theater was awarded another grant of $50,000. Let us start with 1998, the National Endowment for the Arts was criticized for funding this New York theater which staged the play "Corpus Christi", a blasphemous play depicting Jesus having sexual relations with his apostles.

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the Women Make Movies, that is what it is called, by the gentleman from Michigan (Mr. HOEKSTRA), chairman of the Committee on Education and the Workforce Subcommittee on Oversight and Investigations.

At the time, the gentleman from Michigan (Mr. HOEKSTRA) noted that the NEA gave more than $300,000 over a 3-year period to Women Make Movies, that is the name of this organization, which distributed numerous pornographic films such as "Sex Fish", "Watermelon Woman", and "Blood Sisters". These films included depictions of explicit lesbian pornography, oral sex, and sadomasochism.

In 1997, the American Family Association distributed to most Members of Congress clips of some of these and other pornographic films distributed by Women Make Movies.

Criticism of the NEA for funding a group that distributes pornographic works was dismissed by the agency which funded Women Make Movies as late as 1999, giving two grants, one for $12,000, one for $30,000. The Women Make Movies continues to distribute hardcore pornography.

Then there is the Wooly Mammoth Theater Company, a Washington, D.C. theater, a frequent recipient of NEA money, generated controversy in the past for NEA when it staged Tim Miller's one-man performance titled "My Queer Body". This play describes what it is like to have sex with another man, climbs into the lap of a spectator. I do not even want to read this.

Shrugging off the controversy this year, the NEA gave the theater $28,000. Wooly Mammoth's 2000 season, this was last year actually, will include the production "Preaching to the Perverted", written and performed by Holly Hughes, who herself has been the cause of controversy.

Hughes sued the U.S. Government for refusing to fund her indecent work and lost. The Supreme Court ruling was that NEA was not obliged to fund pornography. Despite this Court's ruling, the NEA is still choosing to pay for Holly Hughes' offensive work through its support of Wooly Mammoth. In the Wooly Mammoth's Internet catalog, "Preaching to the Perverted" is described as follows: "If you loved the solo extravagances of Tim Miller", the follow I just mentioned, "you won't want to miss this unique and irreverent evening of legal and sexual politics."

Then there is the Whitney Museum of American Art. It has been a regular recipient of NEA funds for over the years and several times provided fodder for the critics. This in recent years included a work by Joel-Peter Witkin titled "Maquette for Crucifix", a naked Jesus surrounded by sadomasochistic obsessed and many grotesque portrayals of corpses and body parts.

Another Whitney exhibit was a film by Suzie Silver titled "A Spy". It depicts Jesus Christ as woman standing naked with breasts exposed.

Another time it even gone through, it is certainly hard to describe. But we paid for it. We appropriated money in this House. We took money from citizens in this country and paid for this. So it is only right that we should be forced to have to hear that we paid for as grotesque as it is. It is hard for me to read it. I am sure it is hard for many people to hear it. I do not like having to do it. But, in fact, you paid for it. America. You might as well understand what you bought.

Incredibly, Whitney also included "Piss Christ", Andres Serrano's photograph of a crucifix in a jar of urine, the very same work which began the NEA controversy in 1989, as well as a film by porn star Annie Sprinkle entitled "The Sluts and Goddesses Video Workshop or How to be a Sex Goddess in 101 Easy Steps", and on and on and on.

Walker Art Center, a performance at this Minneapolis theater and NEA recipient outright out of existence this year, a Democrat from West Virginia, and many other Members of Congress.

To make a statement about AIDS, artist Ron Athey, who was HIV positive pierced his body with needles, cut designs into the back of another man, bloated the man's blood with paper towels and set the towels over the audience on a clothes line. Then NEA chair Jane Alexander defended the performance, and the Walker Arts Center has continued to receive NEA funds for several years. This year's take, this was a couple years ago, this year's take for the avant-garde center is $70,000.

The NEA was criticized in 1997 for funding the Museum of Contemporary Art in New York because of the work of Carolee Schneeman, an artist credited with inspiring Miss Sprinkle whose pornographic funding have caused a lot of problems for the NEA also. I hesitate to even go into what that one was about.

Franklin Furnace, New York. This New York theater frequently receives NEA funds. The theater's performance often promotes homosexuality and blast traditional morality. Its year 2000 grant, $19,000.

The Theater for New York City, the Catholic League for Religious and Civil Rights brought this New York's theater to national attention recently because of its anti-Catholic bigotry. The theater staged the play "The Pope and the Witch", depicting the Pope called John Paul II, as a heroin-addicted paranoid advocating birth control and the legalization of drugs. The theater received a grant in 1997. The Americans paid for this, $30,000 in 1997 and $12,000 in the year 2000.

Really, I have just pages and pages of this kind of thing. I will enter them into the RECORD, but I will not go on with that in description here audibly tonight. It is just too revolting even for me to deal with.

But my point is this, that all of this is considered to be absolute garbage. That is my opinion. I cannot imagine anyone wanting to see it. I cannot certainly imagine wanting to participate in it. I certainly cannot believe that anyone would have the audacity to suggest that we have to take money from people who have the same feeling as I do about this and give it to these performers in order for there to be a good art thriving in America.
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Robin Hood theory here. In fact, most of the programming on these stations, even that of the "arts" of the NEA has absolutely no appeal to the bulk of America, the majority of Americans, certainly Americans of low income. They are not really interested by and large in that kind of entertainment. Again, if they are, that is fine. They can make their own decisions about it, but it is incredible to me that we can do this; that we can take money from them and provide support for materials and for programming that is only really enjoyed, I say only, but primarily enjoyed by a different group of people, and most of the time people more well off.

There is also the issue of the corruption of the artists and scholars that we fund. It is I think absolutely true, no one welcomes of the "arts"; it has a corrupting influence on it. Artists and want-to-be artists begin to gravitate toward what they think the government is going to fund and find themselves sort of chasing the government dollar.

The influence of government funding of the arts is a negative one and a corrupting one. The politicization of whatever the Federal cultural agencies touch was driven home by Richard Goldstein, a supporter of the National Endowment for the Humanities himself. He pointed out that "the NEH can single-handedly direct the tenor of textbooks and the content of curriculum. Though no chairman of the NEH can single-handedly direct the course of American education, he can nurture the nascent trends and take advantage of informal opportunities to shape the kind of claims he makes that "the NEH can ‘persuade’ with the cudgel of Federal funding out of sight but hardly out of mind.''

Then, finally, every time we debate this issue we are confronted by people who will say that we must do this, we must in fact provide money for the arts community, the National Endowment for the Arts and Humanities, because of the effect that the arts have on our spirit, the soul, the uplifting nature of the arts; that to provide public funding for this is a good because of the way it in fact changes the culture, and they would suggest, for the positive. Well, what if, Mr. Speaker, I came before the

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Mr. GREGG. The reason I am rising is to register my disagreement with the amendment that my distinguished friend Mr. Kasich has offered. I rise in support of the amendment that the chairman of the Rules Committee has offered.

We have an opportunity here. We are taking from the poor to support a particular brand of programming. It is the particular brand of programming that people stay on the air. Again, it is certainly not because I lousy from my point of view. But that does not matter. It is just my opinion. And it is quite true. We never give out a dollar here in this body without also saying how it should be spent. Those are the strings we attach to it. And when we do that for the "arts," it is a corrupting influence on it. Artists and want-to-be artists begin to gravitate toward what they think the government is going to fund and find themselves sort of chasing the government dollar.

The influence of government funding of the arts was 'persuade' with the cudgel of Federal funding out of sight but hardly out of mind.'
Mr. Speaker, I suggest that there is another argument I could make using exactly the same logic. What if I were to come before the body and say, I know something that we should be doing that does all of the things I have just said, is an incredible influence on our lives, that provides an outlet for emotional needs of millions of people, and it is called religion and I am going to ask this body to appropriate $150 million this year for religion.

Now, the first thing that someone would say is we cannot do this because there is this wall of separation that exists in the minds of many, but nowhere in the Constitution, by the way, that separates church and State. But the real reason why we cannot do it and the reason I would never suggest it because the minute we decide to fund religion in this body, we will then begin to decide whose religion, what brand of religion. What about this particular denomination? Why should they not be funded as opposed to that denomination?

Someone somewhere would have to make a decision. So we would establish an Endowment for Religion, and we would appoint some people to it. We would say we will give them the money because Congress does not want to get into the battle about which religion to fund. We will give $150 million to the National Endowment for Religion, and they will make the decision because they are the experts. They know what is best. If they give it all to the Baptists, that is fine. If they split it up with the Jews, the Catholics, the Presbyterians, whatever, it is their decision to make. It is their $150 million. They will make the decision. How many Members in this body would agree with such a thing? No one. I suggest that we would not get very many votes for such a proposal. And rightly so.

It is not our place because the minute that we start doing that, we are automatically discriminating if we pick one over another, which must be done. There is absolutely no difference, Mr. Speaker, none whatsoever, in the funding of the arts and the funding of religion. Each one of those things has its particular brand. It appeals to certain individuals, but other individuals. Somebody has to make a decision about which one of these things gets funded, and then we will come to the House and hold up a list of things that has been funded by that organization and some people will be outraged by it, as I imagine there were some tonight as I was reading through the list of things that we have funded that the government has paid for. Some people will listen and say that is great stuff. I wish a billion dollars was put into it.

What happens is there is discrimination in this thing through the list of things that we have funded that the government has paid for. Some people will listen and say that is great stuff. I wish a billion dollars was put into it.

Now, the first thing that someone would say is we cannot do this because there is this wall of separation that exists in the minds of many, but nowhere in the Constitution, by the way, that separates church and State. But the real reason why we cannot do it and the reason I would never suggest it because the minute we decide to fund religion in this body, we will then begin to decide whose religion, what brand of religion. What about this particular denomination? Why should they not be funded as opposed to that denomination?

Someone somewhere would have to make a decision. So we would establish an Endowment for Religion, and we would appoint some people to it. We would say we will give them the money because Congress does not want to get into the battle about which religion to fund. We will give $150 million to the National Endowment for Religion, and they will make the decision because they are the experts. They know what is best. If they give it all to the Baptists, that is fine. If they split it up with the Jews, the Catholics, the Presbyterians, whatever, it is their decision to make. It is their $150 million. They will make the decision. How many Members in this body would agree with such a thing? No one. I suggest that we would not get very many votes for such a proposal. And rightly so.

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What happens is there is discrimination in this thing through the list of things that we have funded that the government has paid for. Some people will listen and say that is great stuff. I wish a billion dollars was put into it.
Mr. LANGEVIN, for 5 minutes, today.
Mr. SANDERS, for 5 minutes, today.
Mr. UNDERWOOD, for 5 minutes, today.
Mr. JEFFERSON, for 5 minutes, today.
Mrs. CHRISTENSEN, for 5 minutes, today.

The motion was agreed to; accordingly (at 10 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, June 28, 2001, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:

2698. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency’s final rule—Bifenazate; Pesticide Tolerances for Emergency Exemptions (OPPE-301143; FRL-67688-5) (RIN: 20760-A876) received June 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2699. A letter from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission’s final rule—Amendment of Section 73.202(b), Table of Allocations, FM Broadcast Stations (Mountain View, Arkansas) [MM Docket No. 01-45; RM-9997] received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2700. A letter from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission’s final rule—Grants to States for Construction and Acquisition of State Facilities (AD-FRL-6997-9) (RIN: 2090-8-A91) received June 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2701. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2702. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

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2715. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2716. A letter from the Chief Operating Officer, the Corporation, transmitting the Financing Corporation’s Statement of Internal Controls and the 2000 Audited Financial Statements; to the Committee on Government Reform.

2717. A letter from the Director, Office of Regulations Management, Department of Veterans’ Affairs, transmitting the Department’s final rule—Grants to States for Construction and Acquisition of State Facilities (RIN: 2900-A343) received June 22,
REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSEBNRENNER: Committee on the Judiciary. House Joint Resolution 36. Resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States (Rept. 107–115). Referred to the House Calendar.

Mr. BONILLA: Committee on Appropriations. H.R. 2330. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–116). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE of Ohio: Committee on Rules, House Resolution 182. Resolution providing for consideration of a Concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period (Rept. 107–117). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules, House Resolution 183. Resolution providing for consideration of a Concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period (Rept. 107–117). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSEBNRENNER (for himself, Mr. HYDE, and Mr. HUTCHINSON): H.R. 2325. A bill to establish the Antitrust Modernization Commission; to the Committee on the Judiciary.

By Mr. BOEHLERT: H.R. 2326. A bill to establish an alternative fuel vehicle energy demonstration and commercial application of energy technology competitive grant pilot program within the Department of Energy to facilitate the use of alternative fuel vehicles; to the Committee on Science.

By Mr. RYAN of Wisconsin (for himself, Mr. SOUDER, Mr. TROYER, Mr. SCHAEFFER, Mr. ISHTO, Mr. AKIN, Mr. SHADE, and Mr. ARZHELFY): H.R. 2327. A bill to repeal the sunset of the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001; to the Committee on Ways and Means.

By Mr. G. K. FENTON (for himself, Mr. FRANK, Mrs. MINK of Hawaii, Mr. STARK, Mrs. CHRISTENSON, Ms. JACKSON-LEE of Texas, Mr. KILDEE, Mr. EWING, Ms. SANCHEZ of California, Ms. KUCINICH, Ms. PELosi, Ms. MILLINDER-MCDONALD, Mr. SANDERS, Mr. McGOVERN, Mr. GEORGE MILLER of California, Ms. KAPUR, Mr. BACHUS of Idaho, Ms. NADLER, Ms. WATERS, and Mrs. MALONEY of New York): H.R. 2328. A bill to amend the Family and Medical Leave Act of 1993 to eliminate an hours of service requirement for benefits under such Act; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOUTHON (for himself, Mr. OBERSTAR, Mr. QUINN, Mr. CLEMENT, Mr. KING, Mr. RAHALI, Mr. CUMMINGS, Mr. CASTLE, Mr. DeFazio, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MOCHULSKY of New York, Ms. BROWN of Florida, Mr. SHAYS, Mr. LIPINSKI, Mr. Sweeney, Mr. Cardin, Mr. BORSKI, Mr. COSTELLO, Mr. GELMAN, Mr. CANTOR of New York, Mr. BACHUS, Mr. ISAKSON, Mr. MENENDEZ, Mr. HORN, Mr. BLAGOJEVICH, Mr. RUSH, Mr. OWENS, Mr. TATROUETTE, Mr. BOWELL, Mr. REEDER, Mr. PAYNE, Mr. FARR of California, Mr. ACKERDOVILA, Ms. ROUKKEMA, Mr. KILDER, Mr. McGOVERN, Mr. GUTHEREE, Mr. SCHROCK, Ms. DUNN, Mr. BARRETT, Mr. ENGLISH, Mr. TOWNS, Mr. CAPUANO, Mr. NADLER, Mr. BECCHER, Mr. NORTWOOD, Ms. JONES of Ohio, Ms. BEGUIER, Mr. REEDERS, Mr. MEKES of New York, Mr. KIRK, Mr. BOUCHER, Mr. DOYLE, Mr. PASCRELL, Ms. MILLINDER-MCDONALD, Mr. BIVIONDAUER, Ms. PELosi, Mr. FILNER, Mr. LARSKIN of Washington, Mr. BACA, Mr. BAIRD, Mr. FERGUSON, Mr. BALDACCI, Mr. BROWN of Ohio, Mr. DUCKS, Ms. TUSCHER, Mr. HINCHey, Mr. INSLER, Ms. KAPUR, Mr. BOEKHOLT, Mr. KILPATRICK, Mr. WELLER, Ms. LEW, Mr. MCKINNEY, Mr. MARIAN, Mr. BURGER, Mr. MORAN of Virginis, Mr. HOLDEN, Mr. FORD, Mr. GOODLATT, Mr. MATSU, Ms. McCARTHY of Missouri, Mr. DOOLEY of California, Mr. MASCARA, Mr. SERRAIO, Mr. CARSON of Oklahoma, Mr. HOLT, Mr. MCNULTY, Mr. FORBES, Mr. DAVIS of Illinois, Mr. EVANS, Mrs. THURMAN, Mr. HILLIARD, Mr. SANDLIN, Mr. SAWYER, Mr. BRADY of Pennsylvania, Ms. BEEKLEY, Mr. BEEBE, Mr. CARSON of Indiana, Mr. SCOTT, Mr. PINGREE of North Carolina, Mr. HOOLEY of Oregon, Mr. LEWIS of Georgia, Mrs. MALONEY of New York, Ms. SLAUGHTER, Mr. FRANK, Mr. ALLEN, Mr. BISHOP, Mr. JACKSON-LEE of Texas, Mr. SMITH of Washington, Ms. DELAURA, Mr. MARKET, Ms. RIVERS, Mr. KUCINICH, Mr. LAMPSON, Mr. ETHERE, Mr. FALCE, Mr. LA, Mr. FALCE, Mr. GEORGE MILLER of California, Mr. CALVERT, Mr. LANTOS, and Mr. WATSON): H.R. 2329. A bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BONILLA: H.R. 2330. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes.

By Mr. HORN: H.R. 2331. A bill to provide for oversight of the activities of the Federal Energy Regulatory Commission by the Comptroller General, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ANDREWS: H.R. 2332. A bill to amend title 10, United States Code, to provide for expanded eligibility for participation by members of the Selected Reserve and their dependents in the TRICARE program; to the Committee on Armed Services.

By Mr. BURR of North Carolina (for himself, Mr. STUPAK, and Mr. CHAMBLISS): H.R. 2333. A bill to amend the Public Health Service Act to provide for a National Disaster Medical System, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BURR of North Carolina (for himself and Mr. JONES of North Carolina): H.R. 2334. A bill to amend the Internal Revenue Code of 1986 to dedicate revenues from recent tobacco tax increases for use in buying out tobacco quota; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAMP (for himself, Mr. HAYTROWE, Mr. KILDEE, and Mr. BURR): H.R. 2335. A bill to amend part B of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas; to the Committee on Ways and Means.

By Mr. COBLE (for himself and Mr. HERMAN): H.R. 2336. A bill to make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers; to the Committee on the Judiciary.

By Mrs. CUBIN (for herself and Mr. MCINNIS): H.R. 2337. A bill to amend the Internal Revenue Code of 1986 to provide an election for a special tax treatment of certain S corporation conversions; to the Committee on Ways and Means.

By Mr. ENGEL (for himself, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FILNER, Mr. LANTOS, Mr. HINCHY, Mr. JACKSON of Illinois, Mr. PAYNE, Mr. NADLER, Mr. MCKINNEY, Mr. PASCRELL, Mr. OWENS, Mr. SERRANO, Mr. PALLONE, Ms. WATERS, Mr. KUCINICH, Mr. TOWNS, Mr. SANDERS, Mr. MILLER of New York, and Mr. HONDA): H.R. 2338. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit for income tax paid in excess of 30 percent of income; to the Committee on Ways and Means.
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By Mr. ENGLISH (for himself, Mr. RYAN of New Jersey, Mr. HORN, Mr. SHOWS, Ms. BROWN of Florida, Mr. BLAQUEVITCH, Mr. KING, Mr. SPENCE, Mr. TIAHRT, Mr. FOSSELLA, Mr. REDEKER, Mr. and Mrs. GREENWOOD):

H. R. 2339. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit against tax with respect to education and training of developmentally disabled children; to the Committee on Ways and Means.

By Mr. FOLEY (for himself and Mr. TUCHE):

H. R. 2340. A bill to prohibit discrimination or retaliation against health care workers who report unsafe conditions and practices which impact on patient care; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLATTE (for himself, Mr. KOCH, Mr. BARTLETT of Georgia, Mr. BARTLETT of Maryland, and Mr. GROSS):

H. R. 2341. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members and defendants; to assure that simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes; to the Committee on the Judiciary.

By Mr. GRANGER:

H. R. 2342. A bill to amend title XXVII of the Public Health Service Act, the Employee Retiree Health Care Security Act of 1974, and the Internal Revenue Code of 1986 to assure patient access to primary pediatric care through pediatricians under group health plans and group health insurance coverage; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EDWARDS BRINCE JOHNSON of Texas (for herself, Mrs. CLAYTON, and Mr. REYES):

H. R. 2343. A bill to support research and development programs in agricultural biotechnology and genetic engineering targeted to addressing the food and economic needs of the developing world; to the Committee on Agriculture.

By Mr. McINNIS:

H. R. 2344. A bill to provide for the implementation of an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Virginia (for himself, Mrs. Jo Ann Davis of Virginia, Mr. BENTZ, Mr. Frank S. Deer of Virginia, Mr. Scott, and Mr. SCHRACK):

H. R. 2345. A bill to extend Federal recognition to the Chickahominy Tribe, the Chickahominy Tribe-Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Tribe, and the Nansemond Tribe; to the Committee on Resources.

By Mr. MURTHA:

H. R. 2346. A bill to amend title XVIII of the Social Security Act to increase by 20 percent the payment under the Medicare Program for ambulance services furnished to Medicare beneficiaries in rural areas; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NUSSELE:

H. R. 2347. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fishermen, and for other purposes; to the Committee on Ways and Means.

By Mr. PASTOR (for himself, Mr. PALLONE, and Ms. JACKSON-LEE of Texas):

H. R. 2348. A bill to render all enrolled members of the Tohono O’odham Nation citizens of the United States as of the date of their enrollment and to recognize the valid membership credential of the Tohono O’odham Nation as the legal equivalent of a certificate of citizenship or a State-issued birth certificate for all Federal purposes; to the Committee on the Judiciary.

By Mr. SANDERS (for himself, Ms. LEE, Mr. MCHUGH, Mr. RUSH, Mrs. CLAYTON, Ms. MCKINNEY, Mr. ISRAEL, Mr. FILNER, Mrs. MEEK of Florida, Mr. KENNEDY of Rhode Island, Ms. SCHRACK, Mr. THOMPSON of Mississippi, Mr. ENGEL, Mr. COYNE, Mr. CONYERS, Mr. OWENS, Mr. SCHIFF, Mr. CAPUANO, Mr. FROST, Mr. STARK, Ms. CARSON of Indiana, Mr. DELAHUNT, Mr. CONYERS, Mr. SEEING, Mr. CLAY, Mr. VELÁZQUEZ, Ms. RIVERS, Ms. PELOSI, Mr. BLUMENAUER, Mr. MCDERMOTT, Mr. BALDACCI, Mr. MCCOLLUM, Mr. LAEREN of Washington, Ms. MCCARTHY of Missouri, Mr. FRANK, Mrs. JONES of Ohio, Mr. HASTINGS of Florida, Ms. WATERs, Ms. EDWARDS BRINCE JOHNSON of Texas, Mr. BRADY of Pennsylvania, Ms. JACKSON-LEE of Texas, Mr. ALLEN, Mr. GUTIERREZ, Mr. DAVIS of Illinois, Ms. PAYNE, Mr. PAUL of California, and Mr. NADLER):

H. R. 2349. A bill to establish the National Affordable Housing Trust Fund in the Treasury of the United States to provide for the development, rehabilitation, and preservation of decent, safe, and affordable housing for low-income families; to the Committee on Financial Services.

By Mr. SHAW (for himself, Mr. TANNER, Mr. FOLEY, Mrs. JOHNSON of Connecticut, Mr. WATKINS, Mr. LEWIS of Arkansas, Mr. MATSU, Mrs. THURMAN, Mr. MCNULTY, Mr. KLEIZKA, Mr. CARDIN, Mr. POMEROY, Mr. MCINNIS, Mr. MCDERMOTT, Mr. COLEMAN, Mr. JEFFERSON, Mr. LEWIS of Kentucky, Mr. HERGER, Mr. SESSIONS, Ms. DUNN, Mr. PAUL, Mr. BRADY of Texas, Mr. RAMSTAD, Ms. BECERRA, Mr. NEAL of Massachusetts, Mr. ENGLISH, Mr. STARK, Mr. NUSSELE, Mr. LEVIN, Mr. HULHOF, and Mr. WELLES):

H. R. 2350. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers; to the Committee on Ways and Means.

By Mr. SPRATT (for himself and Mrs. TAUSCHER):

H. R. 2351. A bill to establish the policy of the United States for reducing the number of nuclear warheads in the United States and Russian arsenals, for reducing the number of nuclear weapons of those two nations that are on high alert, and for expanding and accelerating programs to prevent diversion and proliferation of Russian nuclear weapons, fissile materials, and nuclear expertise; to the Committee on International Relations, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H. R. 2352. A bill to amend the Internal Revenue Code of 1986 to deny any deduction for direct-to-consumer advertisements of prescription drugs that fail to provide certain information or to present the information in a balanced manner, and to amend the Federal Food, Drug, and Cosmetic Act to require reports regarding such advertisements; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANCREDO (for himself, Mr. LARGENT, Mr. BARLETT of Maryland, Mr. GILCHRIST, Mr. TERRY, and Mr. HEFLERIY):

H. R. 2353. A bill to revise certain policies of the Army Corps of Engineers for the purpose of improving the Corps’ community relations, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. MORELLA (for herself, Mr. GALLEGLY, and Mr. SHAYS):

H. Con. Res. 175. Concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced as to prevent needless suffering of animals; to the Committee on Agriculture.

By Mr. YOUNG of Florida:

H. Con. Res. 176. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate; considered and agreed to.

By Mrs. KAPTUR (for herself, Mr. RODRIGUEZ, Mr. GUTIERREZ, Mr. BACA, Mr. HINOJOSA, Mr. LEE, Mr. GEORGE MILLER of California, Mr. CONYERS, Mr. BERNMAN, Mr. CARSON of Indiana, Mrs. NAPOLITANO, Mr. HONDA, Mr. ROYBAL-ALLARD, Mrs. DAVIS of California, Mr. STARK, Mr. MENENDEZ, Mr. MILLER-McDONALD, Ms. SANCHEZ, Mr. BECERRA, Ms. DEGETTE, Mr. PASTOR, Mr. DAVIS of Illinois, Ms. McKINNEY, Mr. BANK of Hawaii, Mr. GEPHARDT, Mr. SCHIFF, Mr. DOOLEY of California, Mr. KLEIZKA, Mr. FRANK, Mr. GONZALEZ, Mrs. MEEK, Mr. PAYNE, Mr. VELÁZQUEZ, Mr. SERRANO, and Mr. MCINNIS):
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DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2160: Mrs. Bono.

PETITIONS, ETC.

Under clause 3 of rule XII.

30. The SPEAKER presented a petition of the Legislature of Rockland County, New York, relative to Resolution No. 254 petitioning the United States Congress to enact legislation maintaining the Medicaid intergovernmental transfer program for County nursing facilities; which was referred to the Committee on Energy and Commerce.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2311

OFFERED BY: MR. TRAFICANT

Amendment No. 5: At the end of the bill (before the short title) add the following section:

Sect. 7. (Amended) None of the amounts made available in this Act for the Food and Drug Administration may be expended to pay for any application for a new drug submitted by an entity that does not, before completion of the approval process, provide to the Secretary of Health and Human Services a written statement specifying the total cost of research and development with respect to such drug, by stage of drug development, including a separate statement specifying the portion paid with Federal funds and the portion paid with State funds.

H.R. 2330

OFFERED BY: MR. ALLEN

Amendment No. 6: At the end of title VII, insert after the last section (preceding any short title) the following section:

Sect. 7. None of the amounts made available in this Act for the Food and Drug Administration may be spent for competitive research grants, respectively.

H.R. 2330

OFFERED BY: MR. DEFAZIO

Amendment No. 7: At the end of title II, insert the following new section:

Sect. 7. None of the amounts made available in this Act for the Food and Drug Administration may be expended to pay for any application for a new drug submitted by an entity that does not, before completion of the approval process, provide to the Secretary of Health and Human Services a written statement specifying the total cost of research and development with respect to such drug, by stage of drug development, including a separate statement specifying the portion paid with Federal funds and the portion paid with State funds.

H.R. 2330

OFFERED BY: MRS. CLAYTON

Amendment No. 6: At the end of the bill (before the short title) insert the following new section:

Sect. 7.38. The amounts otherwise provided by this Act are reduced by $1,990,000.

H.R. 2330

OFFERED BY: MR. KANJORSKI

Amendment No. 9: In title II, under the heading “COMMON COMPUTING ENVIRONMENT”, insert after the first dollar amount the following:

None of the amounts made available by this Act shall be used to eliminate employment positions or otherwise made available by this Act because of the direction contained in subsection (a).


**CONGRESSIONAL RECORD—HOUSE**

**H.R. 2330**

OFFERED BY: MR. KAPTUR

AMENDMENT NO. 12: Add before the short title at the end the following new section:

**Sec. 1.** In addition to amounts otherwise appropriated or made available by this Act, $500,000,000 is appropriated to the Secretary of Agriculture to carry out and support (utilizing existing authorities of the Secretary and subject to the terms and conditions applicable to those authorities) research, technical assistance, loan, and grant programs regarding the development of biofuels (including ethanol, biodiesel, and other forms of bioenergy-derived fuel), the establishment of farmer-held reserves of fuel stocks, and demonstration projects regarding such biofuels, as part of a Biofuels and Biome Energy Independence effort and to augment the President’s National Energy Policy: Provided, That the entire amount shall be available only to the extent of an official budget request for $500,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the President as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

H.R. 2330

OFFERED BY: MS. KAPTUR

AMENDMENT NO. 13: At the end of title VII, insert the following new section:

**Sec. 1.** Of the amount provided in title I under the heading “EXTENSION ACTIVITIES”, $500,000 shall be used to support the National 4-H Program Centennial Initiative, as authorized by the Act entitled “An Act to authorize funding for the National 4-H Program Centennial Initiative”.

H.R. 2330

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 14: In the item relating to “AGRICULTURAL RESEARCH SERVICE—SALARIES AND EXPENSES”, after the second dollar amount, insert the following: “(increased by $1,000,000)”.

H.R. 2330

OFFERED BY: MS. LEE

AMENDMENT NO. 15: In the item relating to “AGRICULTURAL RESEARCH SERVICE—SALARIES AND EXPENSES”, after the second dollar amount, insert the following: “(increased by $1,000,000)”.

H.R. 2330

OFFERED BY: MS. LEE

AMENDMENT NO. 16: In the item relating to “AGRICULTURAL RESEARCH SERVICE—SALARIES AND EXPENSES”, after the second dollar amount, insert the following: “(increased by $2,000,000)”.

H.R. 2330

OFFERED BY: MR. LUCAS OF OHIO

AMENDMENT NO. 17: Insert before the short title the following new section:

**Sec. 1.** Of the amount provided for the Department of Agriculture provided under the heading “AGRICULTURAL RESEARCH SERVICE—SALARIES AND EXPENSES” in title I, the Secretary of Agriculture shall provide $600,000, the same amount as was provided for fiscal year 2001, for the Hawaii Agriculture Research Center to maintain competitiveness and support the expansion of new crops and products.

H.R. 2330

OFFERED BY: MRS. MINN OF HAWAII

AMENDMENT NO. 18: Insert before the short title at the end the following new section:

**Sec. 1.** Of the amount for the Department of Agriculture provided under the heading “AGRICULTURAL RESEARCH SERVICE—SALARIES AND EXPENSES” in title I, the Secretary of Agriculture shall provide $950,000, the same amount as was provided for fiscal year 2002, by $5,400,000.

H.R. 2330

OFFERED BY: MRS. MINN OF HAWAII

AMENDMENT NO. 19: Insert before the short title the following new section:

**Sec. 1.** Of the amount appropriated or otherwise made available by this Act may be used to pay the salaries of personnel of the Department of Agriculture who carry out the programs authorized by section 524(a) of the Federal Crop Insurance Act (7 U.S.C. 1524) in excess of a total of $3,600,000 for all such programs for fiscal year 2001.

H.R. 2330

OFFERED BY: MR. ROYCE

AMENDMENT NO. 20: At the end of title VII, insert the following new section:

**Sec. 1.** None of the funds made available in this Act for the Food and Drug Administration (as defined in the Federal Food, Drug, and Cosmetic Act, of an application for an animal drug for creating transgenic salmon or any other transgenic fish.

H.R. 2330

OFFERED BY: MR. TIERNEY

AMENDMENT NO. 21: Add before the short title at the end the following new section:

**Sec. 1.** None of the amounts made available in this Act for the Food and Drug Administration may be used for enforcing section 401(d)(1) of the Federal Food, Drug, and Cosmetic Act.

H.R. 2330

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 22: In title I under the heading “COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION ACTIVITIES—‘RESEARCH AND EDUCATION ACTIVITIES’ insert after the dollar amount relating to “competitive research grants (7 U.S.C. 3030(b))” the following: “including grants for authorized competitive research programs regarding enhancement of the nitrogen-fixing ability and efficiency of plants”.

H.R. 2330

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 23: Add before the short title at the end the following new section:

**Sec. 1.** None of the funds appropriated or otherwise made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who permit the payment limitation specified in section 1001(h)(2) of the Food Security Act of 1985 (7 U.S.C. 130(h)(2)) to be exceeded pursuant to any provision of law, except in the case of loan deficiency payments and marketing loan gains received by a husband and wife or joint filers and be paid for the same farming operation.

H.R. 2330

OFFERED BY: MR. WINKER

AMENDMENT NO. 24: In title I, under the heading “AGRICULTURAL RESEARCH SERVICE—SALARIES AND EXPENSES”, insert at the end the following:

**Sec. 1. REPORT REGARDING GENETICALLY Engineered Foods.**

(a) In General.—Not later than one year after funds are made available to carry out this section, the Secretary of Agriculture, acting through the National Academy of Sciences, shall complete and transmit to Congress a report that includes recommendations for the following:

1. **Data and Tests.** The type of data and tests that are needed to sufficiently assess and evaluate human health risks from the consumption of genetically engineered foods.

2. **Monitoring Systems.** The type of Federal regulatory structure to approve genetically engineered foods that are safe for human consumption.

(b) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary of Agriculture $500,000 to carry out this section.

H.R. 2330

OFFERED BY: MR. WINKER

AMENDMENT NO. 25: Insert before the short title the following new section:

**Sec. 1.** None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel of the Department of Agriculture to make any payment to producers of wool or producers of mohair for the 2000 or 2001 marketing years under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-387; 114 Stat. 1548A–55).

H.R. 2330
Mr. PAUL. Mr. Speaker, I am pleased to take this opportunity to draw my colleagues’ attention to the attached article “Postal Service Has Its Eye On You” by John Berlau of Insight magazine, which outlines the latest example of government spying on innocent citizens. Mr. Berlau deals with the Post Office’s “Under the Eagle’s Eye” program which the Post Office implemented to fulfill the requirements of the Nixon-era Bank Secrecy Act. Under this program, postal employees must report purchases of money orders of over $3,000 to federal law enforcement officials. The program also requires postal clerks to report any “suspicious behavior” by someone purchasing a money order. Mr. Speaker, the guidelines for reporting “suspicious behavior” are so broad that anyone whose actions appear to a postal employee to be the slightest bit out of the ordinary could become the subject of a “suspicious activity report,” and a federal investigation. As postal officials admitted to Mr. Berlau, the Post Office is training its employees to assume those purchasing large money orders are criminals. In fact, the training manual for this program explicitly states that “it is better to report many legitimate transactions that seem suspicious than to let one illegal one slip through.” This policy turns the presumption of innocence, which has been recognized as one of the bulwarks of liberty since medieval times, on its head. Allowing any federal employee to assume the possibility of a crime based on nothing more than a subjective judgment of “suspicious behavior” represents a serious erosion of our constitutional rights to liberty, privacy, and due process.

I am sure I do not need to remind my colleagues of the public’s fierce opposition to the “Know Your Customer” proposal, or the continuing public outrage over the Post Office’s proposal to increase monitoring of Americans who choose to receive their mail at a Commercial Mail Receiving Agency (CMRA). I have little doubt that Americans will react with the same anger when they discover that the Post Office is filing reports on them simply because they appeared “suspicious” to a postal clerk. This is why I will soon be introducing legislation to curb the Post Office’s regulatory authority over individual Americans and small business (including those who compete with the Post Office) as well as legislation to repeal the statutory authority to implement these “Know Your Customer” type policies. I urge my colleagues to read Mr. Berlau’s article and join me in protecting the privacy and liberty of Americans by ensuring law-abiding Americans may live their lives free from the prying “Eagle Eye” of the Federal Government.

Since 1997, the U.S. Postal Service has been conducting a customer-surveillance program, “Under the Eagle’s Eye,” and reporting innocent activity to federal law enforcement. Remember “Know Your Customer”? Two years ago the federal government tried to require banks to profile every customer’s “normal and expected transactions” and report the slightest deviation to the feds as a “suspicious activity.” The Federal Deposit Insurance Corp. withdrew the requirement in March 1999 after receiving 300,000 opposing comments and massive bipartisan opposition.

But while your bank teller may not have been spying and watching on every financial move, your local post office has been (and is) watching you closely. Insight has learned. That is, if you have bought money orders, transferred money using wire transfers or bought cash cards from a postal clerk. Since 1997, in fact, the window clerk may very well have reported you to the government as a “suspicious” customer. It doesn’t matter that you are not a drug dealer, terrorist or other type of criminal or that the transaction itself was perfectly legal. The guiding principle of the new postal program to combat money laundering, according to a U.S. Postal Service training video obtained by Insight, is: “It’s better to report 10 legal transactions than to let one illegal ID transaction get by.” Many privacy advocates see similarities in the post office’s customer-surveillance program, called “Under the Eagle’s Eye,” to the “Know Your Customer” rules. In fact, in a postal-service training manual also obtained by Insight, postal clerks are admonished to “know your customers.”

Both the manual and the training video give a broad definition of suspicious activity in instructing clerks when to fill out a “suspicious activity report” after a customer has made a purchase. “The rule of thumb is if it seems suspicious,” the video’s guide for instructing clerks is suspicious,” says the manual. “As we said before, and will say again, it is better to report many legitimate transactions that seem suspicious than to let one illegal one slip through.” It is statements such as these that raise the ire of leading privacy advocates on both sides of the aisle.

The same sort of response came from another prominent critic of “Know Your Customer,” this time on the left, who was appalled by details of the anti-money laundering video. “The postal service is training its employees to invade their customers’ privacy,” Greg Nojeim, associate director of the American Civil Liberties Union Washington National Office, tells Insight. “This training will result in the reporting to the government of tens of thousands of innocent transactions that cast a shadow over the legitimate business. I had thought the postal-service’s eagle stood for freedom. Now I know it stands for. We’re watching you!”

But postal officials who run “Under the Eagle’s Eye” say that flagging customers who do not follow “normal” patterns is essential if law enforcement is to catch criminals laundering money from illegal transactions. “The postal service has a responsibility to know what their legitimate customers are doing with their instruments.” Al Gillum, a former postal inspector who now is a consulting manager, tells Insight. “If people are buying instruments outside of a norm that the entity itself has to establish, that’s where you-start with suspicious activity.”

The anti-money-laundering program started in 1997 already has helped catch some criminals. “We’ve received acknowledgment from our chief postal inspector that information from our system was very helpful in the actual catching of some potential bad guys,” Gibson says.

Gillum and Gibson are proud that the postal-service’s Bank Secrecy Act compliance officer, says the anti-money-laundering program started in 1997 already has helped catch some criminals. “We’ve received acknowledgment from our chief postal inspector that information from our system was very helpful in the actual catching of some potential bad guys,” Gibson says.

Post Office is filing reports on them simply because they appeared “suspicious” to a postal clerk. This is why I will soon be introducing legislation to curb the Post Office’s regulatory authority over individual Americans and small business (including those who compete with the Post Office) as well as legislation to repeal the statutory authority to implement these “Know Your Customer” type policies. I urge my colleagues to read Mr. Berlau’s article and join me in protecting the privacy and liberty of Americans by ensuring law-abiding Americans may live their lives free from the prying “Eagle Eye” of the Federal Government.
It also was the Bank Secrecy Act that opened the door for the "Know Your Consumer" rules on banks, to which congressional leaders objected as a threat to privacy. Lawrence Lindsey, now head of the Bush administration's National Economic Council, recently pointed out that more than 100,000 reports are collected on innocent bank customers for every one conviction of money laundering. "That ratio of 99,999-to-1 is something we normally would not tolerate as a reasonable balance between privacy and the collection of guilty ver- dictiva."

"The postal service tells its employees to write checks on it, so why does he want to buy so many money orders? Our customers don't seem to be asking for it. Why would a baseball standing citizen in the community, but deacon in the church, could be the most up-and-coming leader in the church?'' Gillum asks. ''Why would a person who switches from a transaction that requires an 8105-A form to one that doesn't seem to be asking for it?" Gillum tells Insight. "The presumption seems to be that from the standpoint of the postal office and the Bank Secrecy regulators every cit- izen is a suspect.''

Both Singleton and Nojeim say "Under the Eagle's Eye" unfairly targets the poor, mi- norities and immigrants—people outside of the traditional banking system. "A large proportion of the reports will be immigrants sending money back home," Nojeim says. Singleton adds, "It lends itself to discrimi- nation and harassment and also, I think, it lends itself to also open a large number of reasons to believe that there is something going on there beyond just a legitimate pur- chase of money orders." But Gillum would not discuss any of the "parameters" the postal service uses to test for suspicious activity, saying that’s a secret held among U.S. law-enforcement agencies. And if a clerk’s report isn’t sent to the Treasury Department’s Financial Crimes Enforcement Network (FinCEN) to be shared with law enforcement agencies worldwide. Although he says FinCEN wants the postal service to send all reports along with the postal authorities only will send the clerks’ reports if they fit into suspicious-activity reports as the postal service."

"Our philosophy is to follow what the regu- lations require, and if they don’t require us to fill out an SAR (suspicious-activity re- port) . . . then we wouldn’t necessarily do it," 7-Eleven spokeswoman Margaret Chabris tells Insight. Asked specifically if people who cancel or change a transaction might be targeted, she said, "We are not required to fill out an SAR if that happens." So why does the U.S. Postal Service?

That’s one of the major issues raised by critics such as Postal Watch’s Merritt. He argues for this to be imposed on its com- panies for private businesses on tracking, money orders. "Being a government agency, we feel it’s our responsibility that we should set the tone," he said. The Treasury Depart- ment “basically challenged us in the hundred- nineties to step up to the plate as a govern- ment entity," Gillum adds.

In fact, Gillum thinks the Treasury may mandate that the private sector follow some as- pects of the postal-service’s program. He adds, however, that the postal service is not arguing for this to be imposed on its com- petitors.

Critics of this snooping both inside and outside the postal service are howling mad that the agency’s reputation for protecting the privacy of its customers is being com- promised. "It sounds to me that they’re going past the Treasury guidelines," says Rick Merritt, executive director of Postal Watch, a private watchdog group. The regu- lations, he said, do not give specific ex- ample cases of suspicious activity, leaving that largely for the regulated companies to determine. But the postal-service training video points to suspicious customers. "Such a sus- pective activity on a customer counting money in the line. It warns that even customers whom clerks know well often be suspicious if they frequently purchase money orders."

"Gee, I know he seems like an okay guy," says Sam Slick, the devil, wants to give cus- tomers the benefit of the doubt."

"The video, which Gibson says cost $90,000 to make, uses entertaining special effects to illustrate its points. Employing the angel- and- devil theme often used in cartoons, the video presents two tiny characters in the imagination of a harried clerk. Regina Goodclerk, the angel, constantly urges the clerk to fill out suspicious-activity reports on customers. "Better safe than sorry," she says. Sam Slick, the devil, wants to give cus- tomers the benefit of the doubt."

Some of the examples given are red flags such as a sleazy-looking customer ordering the postal clerk a bribe. But the video also encourages reports to be filled on what appear to be suspicious money order pur- chases. A black male teacher and Little League coach whom the female clerk, also black, has known for years walks into the post office wearing a crisp, pinstriped suit and purchases $2,800 in money orders, just under the $3,000 daily minimum for which the postal service requires customers to fill out a form. He frequently has been buying money orders during the last few days."

"Mr. CAMP. Mr. Speaker, I rise today to pay tribute to Lloyd Oyster, a decorated soldier from World War II. I would like to acknowledge his bravery as a servicemen fighting on the front lines in Europe at the Battle of the Bulge. His many medals and awards demonstrate his bravery and patriotism. I am proud to stand and honor this outstanding citizen of the United States and would like to call his admi- rable actions to the attention of my colleagues in the House of Representatives."

I have attached for the record an article printed in the Ogemaw County Herald by Deanne Cahill about Mr. Oyster’s experience as a World War II soldier.

Six decades ago, at the end of World War II. Lloyd Oyster was given a choice. The Lupton man had to decide whether or not to spend an extra year in Europe and re- ceive the medals he was entitled to, or re- turn home to his wife and baby daughter. Critically wounded in the Battle of the Bulge, Oyster didn’t hesitate. He wanted to go home. He didn’t regret that decision until recently, when he remarried his youngest son, Joe, that he wished he would have stayed and received his medals.

Without letting his father know, Joe went on a mission to grant his father’s wish.
On Monday, June 4, that wish was granted when Rep. Dave Camp presented Oyster, one by one, with the Good Conduct Medal, Purple Heart, European-African-Middle Eastern Campaign Medal with four Bronze Stars, the World War II Victory Medal, the American Campaign Ribbon, the Combat Infantryman Badge and the Honorable Service Lapel Button WW II.

An honored but humble Oyster graciously accepted his medals from Camp, but said many others were far more deserving. "I didn't do any more than anybody else did," he said. "(After his mother died) we stayed together and Dad raised us on the farm."

Eventually two of his older brothers enlisted in the service. One went off to fight in Europe, the other to the Pacific. At the age of 21, Oyster was working at Borden's Dairy in West Branch and met 17-year-old Marge. Oyster worked with Marge's sister's husband, and the sister would often visit at the dairy. He would walk Marge home after he was finished with work because she was frightened to walk alone.

"That started it," Oyster said. "That is how we got acquainted, and from there she tried to rope me in, and she did."

In late 1942 Oyster was drafted into the Army. He could have been deferred because Borden made products for the government, but Oyster opted against deferment. "I was no worse or better than anyone else," he said. "I was just defending my country." The soldier made a surprise counterattack and the Battle of the Bulge ensued.

Oyster added that fear was always present. "You're nuts," he said. "You have got guns and artillery aimed at you.""I wanted to go over and finish the job," he said. "But I wanted a boy.""I was no worse or better than anyone else," he said. "I was just defending my country." The soldier made a surprise counterattack and the Battle of the Bulge ensued.

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Along the way back home, they stopped in England, gangrene had set in. "They wanted me to take my leg," Oyster said. "I said no. At this time penicillin was just being introduced." Doctors administered penicillin to Oyster. "The infection cleared up and I got to save my leg," he said.

On Dec. 31, 1944, as Oyster lay in a hospital in England, Marie gave birth to their first child, Nancy. Oyster was then put into limited service and transferred to the Air Force. "I wanted to be in the Air Force in the first place," he said. "It (the Air Force) is the best place you can be, as far as I'm concerned. It was almost like sending me home, putting me in there." For the remainder of the war, Oyster was stationed at the 8th Army Headquarters, located about 30 miles from London, taking care of three generals' vehicles.

"They were going to send our division to Japan," he said. "But before we got shipped out, the war was over."

Oyster sailed home, this time on the Queen Mary. Upon arrival back into the United States, Oyster was given a choice. "They told me that I could go in the hospital for two to three months and get my disability, I wanted to go home," he said, looking at his wife in England, gangrene had set in. "They wanted me to take my leg," Oyster said. "I said no. At this time penicillin was just being introduced." Doctors administered penicillin to Oyster. "The infection cleared up and I got to save my leg," he said.

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Oyster returned home to claim his bride, and the couple settled back into the Lupton area.

Two more daughters, Joyce and Susan, followed in 1946 and 1948. Oyster yearned for a son. "You take them as they come," he said. "But I wanted a boy."

"I kept trying to have a good one," said Oyster teasingly. "If I couldn't do better than that, I thought I better stop."

The Oysters now have 23 grandchildren and 11 great-grandchildren. Years later Oyster traveled to the veterans' hospital to receive his medical benefits and a wheelchair. When he was discharged from the hospital in England, he was listed as a amputee.

"Veterans records showed that I had a wooden leg and chucking. They wanted to know where my wooden leg was."

For many years, Oyster worked construc-
EXTENSIONS OF REMARKS

His volunteer involvement in the Cincinnati community is legendary. He is particularly well known for his advocacy on behalf of children and his passion for education. His public service has taken him from president of the Wyoming, Ohio School Board in 1986 to more recent positions as Co-Chair of the Ohio Education Improvement Council and membership on the National Commission on Teaching and America's Future. Bob has capably led numerous local organizations, including the Greater Cincinnati March of Dimes, the Greater Cincinnati Chamber of Commerce, the National Advertising Council Board, and Beech Acres For the Love of Kids Parenting Conference.

All of us in Cincinnati congratulate Bob on his outstanding career with Procter & Gamble, thank him for his many years of dedicated community service, and wish him well in the new challenges to come.

TRIBUTE TO JOHN AND MARY KOLIMAS

HON. WILLIAM O. LIPINSKI
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to John and Mary Kolimas who recently celebrated their fiftieth wedding anniversary on June 16, 2001.

John and Mary represent the epitome of married life and family values. They have raised six wonderful children—Mamie, Chris, Bob, Barb, Rich, and Paul. I can attest first-hand to their ability as parents; their son Paul is a former employee of mine and a man I have great respect for. John and Mary have also been blessed with nine beautiful grandchildren: Nicole, Jordan, Kelly, Amie, Cathy, Samantha, Alexandria, Jesenia, and Michael. They also have one deceased grandchild, Elizabeth.

Friends of the couple fondly recall their meeting at a dance in 1948 at St. Stanislaus Bishop and Martyr Catholic Church. They were married at that same church three years later in 1951 by Mary’s brother, Father Edwin Karlowiczer. Their outstanding devotion to the Catholic Church has continued throughout their marriage.

Both John and Mary attended St. Stanislaus Bishop and Martyr Catholic Grammar School. John graduated from Foreman High School, where he was class president. He served in the Navy for two years, and then attended Loyola University in Chicago under the GI Bill. Mary graduated from Holy Academy High School.

The couple was surrounded by seventy-five relatives and friends for mass and a joyous reception at the Rosewood West Restaurant on Saturday, June 16. Mary’s brother, Father Edwin Karlowiczer, presided over the mass along with Father John Sayaya. In attendance for the celebration were Mary’s four sisters: Therese, Kay, Janet, and Jean; and John’s sisters: Helen, Bernice, and Emily. The group enjoyed a video presentation of pictures and music from the couple’s fifty years together.

I have the highest level of respect for devoted couples like John and Mary. Their ability to love and raise children serves as a model for all of us to follow. I encourage my colleagues to join me in celebrating the fiftieth wedding anniversary of John and Mary and the strong family values they represent.
EXTENSIONS OF REMARKS

CONNIE BREMNER, RECIPIENT OF ROBERT WOOD JOHNSON COMMUNITY HEALTH LEADERSHIP AWARD

HON. DENNIS R. REHBERG
OF MONTANA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. REHBERG. Mr. Speaker, Connie Bremner, lifelong resident of Browning, Montana, is of the age when retirement is an option, but it’s the last thing on her mind. Connie doesn’t have the time nor inclination for anything but selfless service to the elderly and disabled in her community.

Connie, director of the Eagle Shield Senior Citizens Center, on the Blackfeet Indian Reservation, is the recipient of the prestigious Robert Wood Johnson Community Health Leadership Award of $100,000. The award gives $95,000 to the center and $5,000 to Connie. This award is one of only ten given nationwide. Most of the award money will go to fund short-term care for terminally ill people who are unable to get help elsewhere. Some of the money will be used to start money for a proposed Blackfeet health care program.

Browning is in a lonely community on the wind swept plains down the eastern slopes of the Montana Rockies. It’s the heart of the Blackfeet Indian Reservation, a place where things have never been easy. When Connie became director of the Eagle Shield Senior Citizens Center in Glacier County, the nation’s 95th poorest, she found the center and the seniors in distressed conditions. Connie made it her objective to transform the facility into a model health and wellness center. She took the barest of bare-bones facilities and breathed life into it—and not just life, but spirit. Eagle Shield now serves over 600 elders with a wide range of programs, from nutrition education and meal delivery to home personal assistance and social activities. Connie’s efforts to expand, improve, and modernize health care for the impoverished, the elderly and the disabled has not only met physical needs, but has lifted spirits and provided hope.

Connie began with a loan of $70,000 from the tribal government, which has already been repaid. The Robert Wood Johnson Community Health Leadership Program’s press release states that Connie’s “hard work has yielded great success for Eagle Shield, including the creation of an Alzheimer’s screening and treatment program and a licensed, Medicaid reimbursed personal care attendant program for over 100 people with a disability unable to care for themselves.”

Connie expanded the personal care attendant program until now is serves over 100 people, ranging from age 4—94. In addition, the center “has trained 300 younger tribal members to become certified personal care attendants. Of those, 90 are currently employed, and to the United States of America. can oversee public health and public safety, but only people can give love and compassion, and the most vital thing we do in life is look after each other by reaching out in kindness to the oldest and youngest and weakest among us. It is known in Browning that nothing will keep her from taking care of her elders. The elders count on Connie. Montana counts on Connie.

It is an honor to read Connie Bremner’s accomplishments into the Congressional Record, although it should be recognized that this woman’s deeds of love and kindness will leave a record much more enduring and significant in the community of Browning than this RECORD of ink and paper in the Halls of Congress. Connie Bremner has shown that the true treasures in Montana—The Treasure State—are people, the old and the young, the weak and the strong. Connie is a treasure to the Blackfeet Nation, to the state of Montana, and to the United States of America.

A TRIBUTE TO LESTER C. PHILLIPS

HON. BOB ETHERIDGE
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. ETHERIDGE. Mr. Speaker, I rise today to honor a great North Carolinian and son of Harnett County, Mr. Lester C. Phillips who recently received the Distinguished Service Award of the Occoneechee Council of the Boy Scouts of America.

Lester Phillips was born on August 25, 1930 in Sampson County, North Carolina to Floyd and Emma Phillips and spent the majority of his early years working on the family farm. He married Winifred Naylor in 1950 and together they raised two sons Ray and Robert. In 1959, Lester moved his young family just up the road to Harnett County, and the town of Dunn, to seek employment opportunities and a better life for his family.

Upon his arrival in Dunn, Lester landed a job with the H.P. Johnson Oil Company, where he quickly became Mr. H.P. Johnson’s most trusted employee. In fact, Mr. Johnson was often over heard saying that “when he wanted something done right, he always looked to Leck.” After several years of working for Mr. Johnson, Lester began his career in the trucking business, which would later lead to his ownership of a small gas station on Highway 301 South in Harnett County and later the development of a waste management enterprise. From these humble beginnings Lester built a nationally recognized business that served locations all the way from Florida to Alaska.

Not only is Lester an outstanding success in the business world, but he is also a remarkable family man and community leader. He is also an active member at Spring Branch Baptist Church in Dunn.

But today we are here to pay tribute to Lester’s contributions to the young people of Harnett County, and to celebrate his recent accomplishment, receiving the Distinguished Service Award from the Boy Scouts of America. As the father of an Eagle Scout and a recipient of the Boys Scouts’ Silver Beaver...
Award, I know first hand the importance that the organization plays in the lives of our nation’s young people. With the help of men like Lester, the Boy Scouts mold young men to be active and productive citizens. I want to honor Lester today for helping to strengthen our nation’s social fabric.

Mr. Speaker, Lester Phillips is a remarkable example of a citizen servant. He selflessly uses his time and energy to better the lives of the young men in Harnett County. He touches so many lives in so many public ways, but Lester’s most important contributions to others are the ones only he knows about. And that is the way he wants it to be. That is a true testament to his unique and special character and the reason we honor him in this House today.

INTRODUCTION OF THE INDIAN AND ALASKA NATIVE Foster Care and Adoption

HON. DAVE CAMP
BY MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. CAMP. Mr. Speaker, today, I am pleased to be joined by Representatives Hayworth, Kildee and Bonoir to introduce legislation to correct an inequity in the laws affecting many Native American children. This effort is also supported by the National Indian Child Welfare Association, American Public Human Service Association, and National Congress of American Indians.

Every year, for a variety of often tragic reasons, thousands of children across the country are placed in foster care. To assist with the cost of food, shelter, clothing, daily supervision and school supplies, foster parents of children who have come to their homes through state court placement receive money through Title IV–E of the Social Security Act. Additionally, states receive funding for administrative training and data collection to support this program. Unfortunately, because of a legislative oversight, many Native American children who are placed in foster care by tribal courts do not receive foster care and adoptive services to which all other income-eligible children are entitled.

Not only are otherwise eligible Native children denied foster care maintenance payments, but this inequity also extends to children who are adopted through tribal placements. Currently, the IV–E program offers limited assistance for expenses associated with adoption and the training of professional staff and parents involved in the adoption. These circumstances, sadly, have meant that many Indian children receive little Federal support in caring for their homes.

In many instances, these children face insurmountable odds. Many come from abusive homes. Foster parents who open their doors to care for these special children deserve our help. These generous people who take these children into their homes should not have to worry about whether they have the resources to provide nourishing food or a warm coat, or even adequate shelter for these children. This legislation will go a long way to ease their concerns.

EXTENSIONS OF REMARKS

June 27, 2001

Mr. Speaker, I am particularly pleased to call to the attention of the House of Representatives Len’s distinguished career because he has always worked diligently in securing the American Heritage River designation for the Upper Susquehanna-Lackawanna Watershed in 1998. Working closely with my office, Len was an invaluable assistant in compiling a great deal of information and working with local elected officials and other interested parties. I wish him all the best.

HONORING DR. JERRY SASSON,
PRINCIPAL OF TERRACE PARK ELEMENTARY SCHOOL UPON HIS RETIREMENT

HON. ROB PORTMAN
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. PORTMAN. Mr. Speaker, I rise today to pay tribute to Jerry Sasson, a friend and constituent, who is retiring after 11 years as principal of Terrace Park Elementary School (TPES) in the Second District of Ohio.

Jerry is a special kind of principal because he is a special kind of person. He has been called a one-of-a-kind educator, who spends time in the classroom every day, knows the name and face of every one of his 300 students, writes a personal, handwritten birthday card to each student every year, and sends students notes at home to recognize personal accomplishments. He encourages kindness and respect among students, teachers and parents, and is aware of each student’s specific challenges and talents.

An Ohio native, Jerry received his Doctor of Education in Educational Leadership from the University of Cincinnati in 1992. He graduated with a Master of Education in Guidance and Counseling and a Bachelor of Science in Education from the University of Dayton. Jerry received his school psychology certificate from Xavier University in 1972. Jerry began his career as a high school English teacher at Fenwick High School in Middletown, Ohio, and went on to become Fenwick’s Director of Guidance and Counseling. From 1972 through 1979, he served the Hamilton County Office of Educational Services as a school psychologist and, in 1979, he joined the Mariemont, Ohio City School District as Director of Special Services, a position he retained while serving as principal. In 1990, he became the principal of TPES, a school within the Mariemont School District.

Jerry is well known for his regular column on parenting, Parent Pride, which appears in the publication of the Mariemont City School District. He tackles tough subjects such as tolerance, assertiveness, morals and responsibility. He’s not afraid to tell us as parents that the best way to raise happy, productive children is to create and maintain home, school and community environments that focus on nurturing and support for all. Jerry believes that most difficult school-related issues—such as bullying, behavior problems, or violence—are not just school issues, but family and community issues, too. And he’s right: schools can create zero tolerance policies, but it all comes
back to the attitudes and relationships at home. All of us in the Greater Cincinnati area are grateful for Jerry's many years of dedicated and caring service. We appreciate his outstanding leadership and friendship, and wish him well in many new challenges and opportunities to come.

TRIBUTE TO BERNARD SIMS
HON. WILLIAM O. LIPINSKI
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to one of the most respected citizens in my district, Bernard Sims. Bernard Sims died on June 3rd at the age of 97. Bernard was well known throughout his hometown of LaGrange, Illinois as a leader, counselor, and teacher. During his ninety-seven years, Bernard fought for equal rights for all citizens. Bernard refused to tolerate discrimination in any form. His promotion of mutual respect has forever made the city of LaGrange a better place.

One of the most respectable traits of Bernard's character was his ability to get things done. He led through action. His friends respectably recall when Bernard led a sit-in at the Walgreen's lunch counter until the establishment agreed to serve African Americans. His nonviolent approach and his positive attitude shaped the LaGrange civil rights movement. Bernard was wholly diplomatic in his actions and respect for him crosses all racial and ethnic lines.

Bernard was a well-known football and baseball star at Lyons Township High School. He worked as an auto mechanic, a handyman, and a real estate entrepreneur. He was born to the first African American family in LaGrange and Bernard met his wife, Helen, in 1953 at a LaGrange diner. The couple spent a remarkable seventy-five years together until his death. Bernard lived his ideals through membership in the Knights of Columbus, Toastmasters, and the NAACP. His active life and positive attitude helped him make a difference everywhere he went.

Bernard was an asset to our community and will be greatly missed. My thoughts and prayers go out to Bernard's family and the LaGrange community during this time of mourning. I am certain Bernard's legacy will live on in the community for years to come. His community-minded spirit holds a lesson for all of us.

PERSONAL EXPLANATION
HON. W. TODD AKIN
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. AKIN. Mr. Speaker, on Monday, June 25, I missed three recorded votes because my flight from St. Louis was canceled. Had my flight not been canceled, I would have voted as follows on these three Resolutions:

"Yea" on H. Res. 180, calling on Communist China to release Li Shaomin and all other American scholars of Chinese ancestry;

"Yea" on H. Res. 99, expressing the sense of the House that Lebanon, Syria and Iran should call upon the Hezbollah to allow Red Cross representatives to visit four abducted Israelis presently held by Hezbollah forces in Lebanon; and


HON. AMO HOUGHTON
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. HOUGHTON. Mr. Speaker, I am pleased to join my friend, Mr. OBERSTAR, and 123 of our colleagues, in introducing the bipartisan "High-Speed Rail Investment Act of 2001." We believe this bill is critical to getting high-speed rail projects started across the country and liberating our Nation's highways and airways from increasingly serious congestion. This legislation, a companion to S. 250 in the other body, is designed to put into place development of high-speed rail. The House passed a similar bill in the 106th Congress.

Congestion on our highways and in our skies is at a crisis point. The cost to our nation in terms of lost productivity and wasted fuel could be as high as $100 billion a year. This will only get worse as road and air travel continue to increase. We cannot resolve this problem simply by building new roads and new airports; the costs are enormous and in many places we simply do not have the space. Our rail system is underused. We fail to meet our standards of systems in most other developed industrial countries. We have scarce fiscal and land resources and we must make more efficient use of our existing infrastructure. The rail lines are there already.

Our bill would build on the current rail infrastructure. The bill would authorize Amtrak to issue $12 billion in bonds over the next 10 years for high-speed rail projects in up to 12 regional corridors identified by the Department of Transportation. The bond proceeds could be invested in high-speed rail rights-of-way, rolling stock and other capital improvements. Bonds could also be issued by Amtrak on behalf of any other qualified intercity passenger rail carrier with the approval of the Secretary of Transportation. The bondholders would receive federal tax credits in lieu of interest payments and the credits would be included in taxable income. States would provide at least a 20 percent match which would be deposited in a trust account to redeem the bonds, but Amtrak would remain ultimately responsible for repaying the principal. The state match would help ensure that only high priority projects are funded.

The bill provides that not more than $1.2 billion in bonds could be issued in each fiscal year from 2002 to 2011. Also, not more than $3 billion could be designated for qualified projects in the northeast rail corridor between Washington, DC and Boston, Massachusetts. In addition, not more than $3 billion could be designated for any individual state for qualified projects.

We believe this proposed legislation is forward looking, cost-effective, and absolutely necessary if we are to ensure that our nation's transportation system can handle the expected growth in travel without being overwhelmed by congestion and gridlock. We encourage our colleagues to join us in cosponsoring this legislation.

HON. MARGE ROUKEMA
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mrs. ROUKEMA. Mr. Speaker, each and every day Americans are exposed to a deluge of negative images of young citizens. Television, radio and newspaper reports are replete with stories of the misdeeds of young Americans. Frankly, coverage of ringing alarm bells and scandal sells. However, this kind of coverage does not tell the entire story. Nor is it fair to the millions of younger Americans who are doing good, helping their friends and neighbors and volunteering to improve their communities.

Therefore, Mr. Speaker, I rise today to draw the attention of my Colleagues to the efforts of just one group of young people—the students at the Lounsberry Hollow Middle School. This weekend I was pleased and gratified to participate as the Vernon Township Fireman's Association honored this group of community-minded, energetic youngsters. Under the guidance of the Director of the School's enrichment program, their outstanding teacher, Vernoy Paolini, the students at Lounsberry Hollow Middle School worked for over 2 1/2 years to raise $36,000 to help fire fighters do their lifesaving work.

These students in Vernon Township have set a record and a high standard for all of us to recognize. Nearly three years ago, the students became interested in an emerging firefighting technology—thermal imaging cameras. The students embarked on an effort to raise the funds to provide Vernon's firefighters with these cameras. They organized a range of creative activities. They sponsored Tupperware Bingo, sold pens and pencils, sponsored games, collected cans, gathered food, sold 15,000 lollipops, established the "Change Makes a Difference" program, etc. With this dedication and commitment, they raised over $36,000.

In the meantime, State Senator Bob Littell (R-Franklin) stepped in and through his leadership on the Senate Appropriations Committee, provided communities all across the state assistance to purchase the thermal cameras. Undaunted, the young people redefined themselves to helping reduce fire dangers.
They changed their focus and purchased a "Safety House Trailer" for the various area fire departments to use in their fire prevention and training activities.

Clearly, these students had help—assistance from their teachers, community leaders, elected officials, and parents. All of them deserve our heartfelt thanks for their role in this project.

Mr. Speaker, I rise to commend and congratulate Lounsberry Middle School, its faculty and staff. But I also rise to offer, on behalf of the Sussex County community, my heartfelt thanks to its students. They are great Americans and their actions typify the kind of community dedication that has made America strong.

INTRODUCTION OF THE FAIR BALANCE PRESCRIPTION DRUG ADVERTISEMENT ACT OF 2001

HON. FORTNEY PETE STARK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. STARK. Mr. Speaker, I rise today to introduce the Fair Balance Prescription Drug Advertisement Act, a bill to deny tax deductions for unbalanced direct to consumer (DTC) pharmaceutical advertising placing more emphasis on product benefits rather than risks or failing to meet Federal Food, Drug and Cosmetic Act Requirements.

The bill will ensure that DTC advertisements are presented in a fair manner, balancing risks and consequences. Print ads would be required to display pros and cons in equal typeface and space, and on the same or facing pages. If the advertisements ran onto additional pages, those pages would have to be consecutive with the first pages. In television and radio ads, risk and benefit descriptions would be allotted equal airtime and volume level. Pharmaceutical companies who do not follow these guidelines will not be eligible for an advertising tax deduction.

Since the FDA relaxed restrictions on television advertising in 1997, DTC advertising has soared. Drug companies’ advertising expenditures doubled between 1998 and 2000. Last year, Merk-Medco cited a report that projected that by 2005, DTC advertising expenditure will reach seven billion dollars annually.

This increased spending correlates with increased prices of prescription drugs. Like any other commodity, greater product recognition leads to increased demand, and higher prices.

Large-scale advertising may also lead consumers to demand drugs that may not be medically necessary or appropriate for the patient’s condition. According to the National Institute for Health Care Management, 86% of patients who request a prescription for Claritin from their doctor receive one.

Doctors often find that patients are difficult to dissuade when they have heard the promises of a new drug. Physicians who acquiesce, however, can put their patients’ health at risk. Before the FDA had published clinical trial results of the arthritis drug Celebrex, physicians had prescribed $1 billion worth of the drug in response to patient demands. The doctors had done this without realizing that Celebrex contains an ingredient to which many patients are allergic. In another example, between its release in October of 1999, and the summer of 2000, 22 patients taking the flu drug Relenza had died. The FDA later determined that in the majority of these cases, the drug should never have been prescribed.

Physicians are beginning to recognize dangers of DTC as well. This month, the American Medical Association in their annual convention decided to ask the

In addition to health dangers, physician’s responses to pressure from “informed” patients can have economic consequences. According to the Blue Cross and Blue Shield Association, a one year dosage of the arthritis medicine Celebrex costs $900, while the same dosage of ibuprofen, which may be adequate to treat many patients’ pain, costs only $24.

Just yesterday, the Wall Street Journal raised concerns about the power of DTC advertising. Due to an intensive new campaign by the Genzyme corporation, many dialysis patients who used to use the over-the-counter medication Tums as a calcium supplement are switching to Renagel, a prescription medication that costs up to ten times the same day.

DTC advertisements may also prevent patients from requesting, and physicians from prescribing generic brand drugs. According to a Merk-Medco 2000 study, increasing a health care plan’s dispensing rate of generic drugs by 1% can reduce drug spending by 12%

Although prescription drug advertisements are purportedly intended to educate consumers, a University of California study determined that drug companies frequently fail short of this goal. In a survey of 320 print ads, only 9% included information on the drug’s success rate, and the same number attempted to clarify misconceptions about the condition the drug is prescribed to treat. Clearly, something must be done to make these ads more honest.

According to a May 2000 Business Week article, some drug companies claim that the increased advertising can alert hospital physicians to new medications that may reduce a patient’s length of stay, and thus reduce overall costs. However, most of the money spent on DTC drug advertisements goes to heartburn, allergy medications, and vanity drugs like those that prevent hair loss. These advertisements promote consumers to seek expensive treatment for conditions that they might not have felt the need for treatment in the past.

This bill I am introducing today would decrease the economic incentives for DTC advertising by taking away the tax deduction for ads that are not fairly balanced. Why should taxpayer funds go to drug companies’ questionable advertising techniques that endanger lives and ultimately raise overall health expenditures? By denying tax deductions for unbalanced prescription drug ads, we may be able to change pharmaceutical company behavior to ensure that their advertising includes clear, life saving information that will better inform the American public, reduce health care costs, and save lives. I urge my colleagues to join me in support of this legislation, and look forward to working with them to make fair, balanced drug advertising a reality.

EXTENSIONS OF REMARKS

HON. JAY INSLEE
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. INSLEE. Mr. Speaker, I would like to take this opportunity to recognize and commemorate the dedication of a great Navy Memorial Statue in my congressional district. “The Homecoming” will be dedicated on July 4, 2001, in Kirkland, Washington. This bronze statue is the third of its kind in the nation and will be dedicated “for those families that also served”—the families that kept the home fires burning while their loved ones fought for their country. We often overlook these unsung “veterans” of the battles the United States has fought and this sculpture dramatically calls attention to the families’ sacrifices. I cannot help but feel indebted to those who have paid a great individual expense to preserve and strengthen the freedom that we enjoy, and future generations will cherish.

The statue is a 7-foot high, 36-inch platform bronze depiction of a returning serviceman embracing his wife and child. It will be installed at Marina Park near the water’s edge of Lake Washington at a ceremony on the 4th of July.

Kirkland resident Edward L. Kilwein, Sr. is on the Board of Directors of the US Navy Memorial Foundation and, along with the Lake Washington Navy League, spearheaded the push to have “The Homecoming” permanently grace the City of Kirkland. Kirkland Mayor Larry Springer, along with a unanimous motion from the Kirkland City Council, assured the expansion of Kirkland’s first-class public art inventory that honors the men and women of the US Armed Services and their families.

I ask my colleagues in the 107th Congress to please join me in commemorating the dedication of “The Homecoming.”

CONGRATULATING THE PEPSI GIANTS, 2001 GUAM MAJOR LEAGUE BASEBALL CHAMPIONS, AND MVP BENJIE PANGELINAN

HON. ROBERT A. UNDERWOOD
OF GUAM
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. UNDERWOOD. Mr. Speaker, I would like to take this opportunity to congratulate the Pepsi Giants for having recently won the Guam Major League Baseball’s championship. Having swept the University of Guam Tritons in four of the best-of-seven series, the Giants became only the fourth team in GML history to win back-to-back championships.

Although they lost the season opener to the Continental Golden Jets, this past season proved to be truly amazing for the Giants. The team went on to win all 15 of their regular season games and later swept the GML’s National League Division by three games enroute to finishing the season with a 22-game winning streak.

More impressive, however, was the record set by Benjie Pangelinan, this year’s series...
Most Valuable Player (MVP). Scoring 11 runs, 6 RBI's, and 15 hits—including 11 singles, two doubles, one triple, and a homer, this Giant’s catcher/center fielder was enough to merit the coveted award. His second year in a row as MVP, Benjie finished the series 15-for-18 for an .833 batting average. A feat that will go down in GML history, Benjie’s batting average broke the series record of .556 set in 1993 by Fernando Diaz.

Always a team player, Benjie claims to have derived more satisfaction from the fact that his team won the championship. He recognizes that this is a feat that was not singlehandedly accomplished. Despite his superior performance, he still credits all of his team members for the victory. He notes that although the Giants have lost formidable players in the past, a new crop of athletes has emerged to fill in the void. In addition, he credited the team’s family members for their sacrifices and support in giving the players the chance to be out on the field and have such a wonderful season. Benjie is married to Nicole Oulette Pangelinan and they have a three-year-old child, Kiana.

Regional and local competitions such as the Guam Major League baseball games provide entertainment, promote community relations and prepare our athletes for higher levels of competition. Once again, I would like to commend and congratulate the Pepsi Giants and especially the series MVP, Benjie Pangelinan, for their superb performance and efforts which resulted in this year’s championship. I am sure that they will stay committed to their winning ways in the years to come.

A BILL TO MAKE PERMANENT THE AUTHORITY TO REDACT FINANCIAL DISCLOSURE STATEMENTS OF JUDICIAL EMPLOYEES AND JUDICIAL OFFICERS

HON. HOWARD COBLE
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. COBLE. Mr. Speaker, along with the Ranking Member of the Subcommittee on Courts, the Internet, and Intellectual Property, Representative Berman, I rise to introduce a bill to make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers.

Under the Ethics in Government Act, judges and other high-level judicial branch officials must file annual financial disclosure reports. However, due to the nature of the judicial function and the increased security risks it entails, section 7 of the “Identity Theft and Assumption Deterrence Act of 1998” allows the Judicial Conference to redact statutorily required information in a financial disclosure report where the release of the information could endanger the filer or his or her family. This provision will sunset on December 31, 2001, in the absence of further legislative action.

The Judicial Conference Committee on Financial Disclosure recently submitted a report on section 7. The Committee monitors the release of financial disclosure reports to ensure compliance with the statute, reviews redaction requests, and approves or disapproves any request for the redaction of statutorily mandated information where the release of the information could compromise the security of the filer. In 2000, the Committee noted that: (1) 13 financial disclosure reports were wholly redacted because the judge was under a specific, active security threat; (2) 140 judges’ reports were partially redacted (9 of which were based on specific threats; the other 81 due to general threats and the potential risk of disclosure of a family member’s unsecured workplace or a residence of a judge or a judge’s family); and (3) a total of 218 financial disclosure reports, which includes reports from previous years, were partially redacted.

The purpose of the annual financial disclosure reports required by the Ethics in Government Act is to increase public confidence in government officials and better enable the public to judge the performance of those officials. However, federal judges should be allowed to redact certain information from financial disclosures when they or a family member is threatened. Importantly, the practice has never interfered with the release of critical information to the public.

This bill will eliminate the sunset clause in section 7 and permit the Judicial Conference to permanently redact information in financial disclosure reports where the information could endanger the filer or his or her family. This is a good bill, and I urge my colleagues to support it when it is brought to the House Floor for consideration.

REMARKS HONORING FORMER DALLAS COWBOYS QUARTERBACK TROY AIKMAN

HON. KAY GRANGER
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Ms. GRANGER. Mr. Speaker, I want to commend NFL quarterback Troy Aikman on his very successful football career, and extend my gratitude for his steadfast dedication to improving the lives of children. Mr. Aikman has more than equaled his professional career with his personal involvement in the community. His character both on and off the field has been a tremendous asset to the Dallas-Fort Worth area.

Troy Aikman was born in West Covina, California. His family moved to Henryetta, Oklahoma, where he graduated from Henryetta High School. Aikman went on to play college football at the University of Oklahoma and the University of California, Los Angeles. He quickly became a star. Upon Mr. Aikman’s graduation, he was the third highest rated quarterback in NCAA history. He also won the highest award for college quarterbacks, the Davey O’Brien National Quarterback Award.

When Mr. Aikman was drafted in the first round by the Cowboys, he quickly became the leader of the team and an integral part of the Dallas-Fort Worth community. During his 12 seasons with the Cowboys, Mr. Aikman led them to three Super Bowl Championships and played in six Pro Bowls. He was named Super Bowl XXVII Most Valuable Player for his performance in the Cowboy’s first Super Bowl of the 1990’s. Mr. Aikman is also the Cowboy’s all-time leader in passing yards, touchdown passes, completion percentage, pass attempts and completions. The Cowboys will surely miss his talent and leadership.

Mr. Aikman has devoted himself to helping critically ill children. In 1992, he established The Troy Aikman Foundation to provide financial support for the physical, psychological, social, and educational needs of critically ill children whose needs are not being met by any other viable resource. Through the Foundation, Mr. Aikman created “Aikman’s End Zones” for children’s hospitals. “Aikman’s End Zones” are interactive playrooms and theaters designed to give critically ill children a place of refuge during their stays in the hospital. Depending on the space available, the facility includes an 8-foot-tall replica of Troy’s helmet, a 1,100 gallon saltwater aquarium, a theater, and an interactive computer network. Mr. Aikman established End Zones at the Children’s Hospital of Dallas, Texas and at Cook Children’s Medical Center in Fort Worth, Texas. His ultimate goal is to have Aikman’s End Zones in every NFL city.

Mr. Aikman has also teamed up with the Starbright Foundation, founded by Stephen Spielberg and General H. Norman Schwarzkopf. The Starbright Foundation’s mission is to improve the lives of critically ill children through technology and entertainment. Starbright provides the interactive computer network in “Aikman’s End Zones.”

In addition to his foundation activities, Mr. Aikman has served on the board of Stars for Children and has been honorary chairman for numerous charitable fundraisers throughout the Dallas-Fort Worth area. Mr. Aikman sponsors a scholarship at Henryetta High School for students who want to attend college but can’t afford it, and has also established a permanently endowed scholarship at the University of California, Los Angeles. In 1994, Aikman was honored for his community service when he received the Byron “Whizzer” White Humanitarian Award.

Mr. Aikman has also become a children’s book author. In 1995 he published his first book titled Things Change. The message of the book is how to use change to one’s advantage and view difficult times as learning experiences rather than as setbacks. In 1998, he published a second book called Aikman: Mind, Body & Soul which is his autobiography.

Troy Aikman continues to give unselfishly to our community, and we are grateful for the work he has done. He is the perfect example of what a terrific role model professional athletes can be if they use the fame and wealth they have been blessed with in a positive way.

Mr. Speaker, I want to once again congratulate Troy Aikman on a wonderful football career and thank him for his unwavering dedication to improving the lives of children.
TRIBUTE TO SERGEANT FIRST CLASS DEBORAH L. THORN

HON. IKE SKELTON
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. SKELTON. Mr. Speaker, let me take this opportunity to congratulate Sergeant First Class Deborah Thorn, of Fort Leonard Wood, Missouri, who was recently named as the 2001 Army Drill Sergeant of the Year. SFC Thorn was chosen out of 2400 drill sergeants across the active Army. The Army’s drill sergeants are responsible for all initial entry training for the Army’s 120,000 new recruits annually.

SFC Thorn enlisted in the Army on her birthday, 3 September 1993 and has served in Fort Huachuca, Arizona and Germany before moving to Fort Leonard Wood to become a drill sergeant assigned as a drill sergeant for the last 25 months in Alpha Company, 795th MP Battalion, 14th MP Brigade. She will attend the Advanced Noncommissioned Officer Course in July. Following her completion of the course, she will then serve a year at Training and Doctrine Command headquarters as an advisor to the commander on drill sergeant and basic training matters.

Mr. Speaker, I know the Members of this body will join me in congratulating SFC Thorn for her outstanding dedication and service to the U.S. Army. She is a tremendous role model for soldiers, not only at Fort Leonard Wood, but across the entire U.S. Army. I join her husband Lee and daughter Samantha in wishing SFC Thorn all the best in the days ahead.

VASSAR POLICE CHIEF JOHN HORWATH: A BASHDE OF HONOR

HON. JAMES A. BARCIA
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. BARCIA. Mr. Speaker, I rise today to honor Vassar Police Chief John Horwath as he prepares to close the book on a long and venerable career serving and protecting the citizens of Vassar, Michigan. John’s faithfulness and dedication in his work has made him an invaluable part of law enforcement in Vassar for over 30 years.

As Chief, John has made great strides in making and keeping Vassar a safe and enviable place to call home. Just last February, John put himself at great personal risk when he chased and apprehended a bank robbery suspect who had fled by car and later took off on foot. John’s valor, talent and dedication to duty have been a hallmark of his tenure.

He has helped establish the Vassar Police Department as a top shelf agency that others should seek to emulate. Moreover, the impact of his hard work and adherence to excellence have undoubtedly made a profound difference in the lives of countless people throughout his career.

EXTENSIONS OF REMARKS

John, however, has never been content to limit his contributions to the workplace. He has been an avid and frequent community activist who has worked tirelessly for friends, neighbors and strangers for many years. During the Persian Gulf War, John made it his mission to garner homefront support and display patriotism for our overseas troops. He also has often gone the extra mile in helping coordinate safety measures for scores of events in the Vassar area. In addition, John was one of the first to respond to the needs of his neighbors during the 1986 flood that devastated the community and he earned a special commendation for providing relief and support to the victims.

Those employed in law enforcement fully understand the important role family plays in supporting such work. John’s wife, Katherine, and four children, RaeAnn, Michael, Matt, and John Thomas, have willingly and generously shared John with the community and everyone is the better for it.

Finally, Mr. Speaker, I wish to praise John Horwath’s work ethic and steadfast dedication. He has been an outstanding asset to the Vassar Police Department and the entire community. His presence will be sorely missed. I ask my colleagues to join me in congratulating John for his 36 years of service and in wishing him the best in his retirement.

INTRODUCTION OF THE "THOMASINA E. JORDAN INDIAN TRIBES OF VIRGINIA FEDERAL RECOGNITION ACT"

HON. JAMES P. MORAN
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. MORAN of Virginia. Mr. Speaker, today I am joined by Representatives. J. O ANN DAVIS, RICK BOUCHER, TOM DAVIS, BOBBY SCOTT, and EDWARD SCHROCK in introducing the "Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act."

This legislation will grant federal recognition to six Indian tribes in Virginia: the Chickahominy Tribe, Chickahominy Indian Tribe Eastern Division, the Upper Mattaponi, the Rappahannock Tribe, the Monacan Tribe, and the Nansemond Tribe.

As we approach the 400th anniversary of the first permanent European settlement in North America, it seems appropriate that the direct descendants of the native Americans, who met these settlers, should be recognized by the federal government and that we acknowledge these historic tribes and the significance of their heritage. Together, the men and women of these tribes represent a long neglected part of our nation’s history.

The Virginia tribes have fought hard to retain their heritage and cultural identity. The legislation we are introducing today describes the history of the tribes and their early treaty rights with the Kings of England and the colonial government. Like much of our early history as a nation, the Virginia tribes were subdued, pushed off their land, and up to the mid 20th century, denied full rights as U.S. citizens. Despite their devastating losses of land and population, the Virginia Indians successfully overcame the years of racial discrimination that denied them equal opportunities to pursue their education and preserve their cultural identity.

Federal recognition would provide what the government has long denied, legal protections and financial obligations, including certain social services and benefits the federal government provides the 558 recognized tribes. At a time when our nation is trying to remedy past injustices to the Indians, Virginia’s Indians are denied these benefits because none are recognized by the federal government. Not one of the 558 tribes recognized by the federal government reside in Virginia.

I know that the gaming issue may be at the forefront of some members’ concerns. In response to this concern, we have worked to close any potential legal loopholes in the legislation to ensure that the state could prevent casino-type gaming by the tribes. Having maintained a close relationship with many of the members of these tribes, I believe they are sincere in their claims that gambling is inconsistent with their values. This position is already borne out by the fact that none of the tribes today engage in bingo gambling despite the fact that they have all established nonprofit organizations that are permitted under Virginia law to operate bingo games despite compelling financial needs that revenues from bingo could address.

The real issue for the tribes is one of recognition and the long overdue need for the federal government to affirm their identity as Native Americans. Coupled with this affirmation is an opportunity for the tribes to establish a more equitable relationship with the state and secure federal financial assistance for the tribes’ social services, health care and housing needs. Many of their older members face the prospect of retiring without pensions and health benefits that most Americans take for granted.

I urge my colleagues to support this legislation.

INTRODUCTORY COMMENTS: "MEDICARE RURAL AMBULANCE SERVICE EQUITY ACT OF 2001"

HON. JOHN P. MURTHA
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. MURTHA. Mr. Speaker, from an urban setting to the furthest reaches of rural America, Americans have come to expect and rely on health care that includes emergency ambulance service. Unfortunately, for many of us, our first exposure to medical care is, all too often, the EMS unit that responds to our call for help. Yet, for millions of Americans living in rural America this cornerstone of medical care is in danger of collapse.

Typically, rural EMS is a small one or two unit service, staffed by volunteers, not affiliated with a major medical facility, that responds to 350 to 500 calls per year within a large radius (37 miles average) who’s greatest danger to its existence comes from Medicare.

From the Pacific Northwest to the Florida panhandle to the rural setting of Pennsylvania,
A TRIBUTE TO SISTER SHARON BECKER
A HEALTH CARE COMMUNITY LEADER

HON. JERRY LEWIS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. LEWIS of California. Mr. Speaker, I would like today to congratulate Sister Sharon Becker of St. Mary Medical Center in Apple Valley, California, who has been elected to the leadership council of the Sisters of St. Joseph of Orange. Sister Sharon is one of five Sisters who are responsible for giving direction to this health care community.

Since she joined St. Mary Medical Center in 1993, Sister Sharon’s vision and leadership has helped make the hospital one of the most highly-regarded in the High Desert and recognized throughout San Bernardino County for its quality of care. Her dedication to serving the poor and disadvantaged has made St. Mary’s a leader in services to the needy in the area. She has been forceful in convincing other community leaders to also ensure that a safety net remains in place for the truly needy.

While in Apple Valley, Sister Sharon developed a program for at-risk pregnant women that is now a full-fledged outreach center. She opened a High Desert office for Catholic Charities, making its disaster relief and services to the poor available for the first time. She established a Food Resource Center that provides a range of counseling services for families receiving government food assistance. She started an annual “Share the Warmth” drive to acquire shoes and coats for needy children. And she started an annual Thanksgiving food drive for needy families. She was one of the original members of the San Bernardino County Children and Families Commission.

As a member of the leadership council, Sister Sharon will help direct the ministries of the Sisters of St. Joseph of Orange. Through the St. Joseph Health Care System, the council oversees the operation of 15 acute health care facilities, as well as an array of clinics, home-healthcare services and hospices in California, Texas and Arizona. The sisters have been ministering to the sick since 1912 in California, and their hospitals served 143,000 inpatients and 2.3 million outpatients in 2000.

Mr. Speaker, the patients who receive top-notch care at St. Mary’s Medical Center will enthusiastically endorse Sister Sharon as a good choice to help run the ministries health care system. We will miss her direct leadership in the High Desert, but have no doubt that she will ensure that the entire system improves over her five-year term. Please join me in congratulating her and wishing her well in this important new role.

INTRODUCING THE RENTERS RELIEF ACT

HON. ELIOT L. ENGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. ENGEL. Mr. Speaker, I rise today to introduce legislation that addresses a crisis in our country. My bill, the Renters Relief Act, provides a refundable tax credit of up to $2,500 for people paying more than 30 percent of their income toward housing costs.

Throughout our nation, millions of working families are being forced to pay rent they can’t afford. Housing costs are often the greatest drain on a family’s economic resources.

I would like to call to my colleagues’ attention some disturbing facts from around the country: In Atlanta, Georgia there are 11,907 families waiting for housing assistance from HUD. In Los Angeles Metro region more than 400,000 renters have, incomes less than 50 percent of the area median income, and pay over half of their income for rent or are living in severely substandard housing, the “worst” case scenario. In Boston, the average monthly fair market rent for a two-bedroom apartment in the metro area is $874, that means a family must earn at least $35,000 or else they will be spending more than 30 percent of their income on housing.

We have heard the statistics over and over. The fact is we are not producing enough housing that is guaranteed for low and moderate-income people. We are not building nearly enough public housing to accommodate our needs. Incomes are not keeping up with housing costs. I have been frustrated at not being able to help more of my constituents.

In fact, three years ago Secretary Cuomo said that “Not even families working full-time at minimum wage can afford decent quality housing in the private rental market. This is not just a big city problem but affects America’s growing suburbs as well.”

HUD’s own research indicates that a wide variety of market forces have contributed to this crisis of housing affordability through the 1990s. Among these are “continued suburbanization of population and employment, regulatory barriers to development of multifamily housing, underinvestment in affordable housing by local communities, continuing discriminatory barriers, and the simple economics of supply and demand in which rising incomes for higher income families drive up rents faster than the poorest families can afford. Also, the growth in the crisis during the 1990s can also be attributed to the elimination of Federal appropriation for additional rental vouchers between 1995 and 1998.”

I urge my colleagues to turn the tide. Join me in moving the Renters Relief Act forward!

HONORING DR. BOBBY JONES OF NASHVILLE, TENNESSEE FOR TWENTY-FIVE YEARS OF SERVICE TO THE GOSPEL MUSIC INDUSTRY

HON. BOB CLEMENT
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. CLEMENT. Mr. Speaker, I rise today to honor Dr. Bobby Jones of Nashville, Tennessee. For more than twenty-five years, he has promoted and performed gospel music during his “Bobby Jones Gospel” show worldwide. In fact, I have known him for a number of years and consider him to be a personal friend.

Bobby Jones is truly a pioneer in taking gospel music to a wider audience via tele­vision programming beginning with his local television show on WSMV–Channel 4 in Nash­ville, and over the past twenty years as a person­ality on Black Entertainment Television (BET). His programs have inspired, informed, and entertained a generation of Americans. In fact, “Bobby Jones Gospel” is credited with...
being the first and only nationally syndicated black gospel television show. Jones has also produced a wealth of new musical talent to the world through his television shows. Artists such as Yolanda Adams, Kirk Franklin, and Hezekiah Walker first came to the attention of the public after being showcased on “Bobby Jones Gospel.” Additionally, his video program on BET, is the only national black gospel video program to date. He also hosts a weekly syndicated gospel countdown show heard on radio stations across the nation.

Bobby Jones has always aspired to great things. The Henry County, Tennessee, native dreamed of a musical career at an early age, which drove him to graduate from high school at the age of 15 and to earn a bachelor’s degree from Tennessee State University (TSU) at the age of 19. An education major, he went on to earn a master’s degree from TSU, and doctorate from Vanderbilt University. Upon graduation, Jones successfully taught in both the Tennessee and Missouri school systems. He is also credited with forming the now familiar “Black Expo,”—fairlike events, which take place across the Nation and celebrate the many contributions of African Americans to the community in which they take place.

Bobby Jones has been honored numerous times by his peers. In 1980, he received The Gabriel Award and an International Film Festival Award for writing and performing Make A Joyful Noise. In 1982, he was nominated for a Grammy Award, along with his group, New Life. The Gospel Music Association (GMA) honored him in 1984, with a Dove Award for Black Contemporary Album of the Year. That same year he picked up a Grammy Award for “Best Vocal Duo for a Soul/Gospel Performance” for the single he recorded with Barbara Mandrell, “I’m So Glad I’m Standing Here Today.” He also won an NAACP Image Award in 1984. The GMA honored him with the “Commonwealth Award for Outstanding Con-tribution to Gospel Music” in 1990. In 1994, Jones was nominated for a Cable ACE Award. His autobiography, My 25 Years in Gospel Music: Make A Joyful Noise was recently released by Doubleday Books. Another recent venture is his new television program “Bobby Jones Presents . . .” for the Word Network. This show contains classic performances from “Bobby Jones Gospel.”

Jones is to be commended and honored for twenty-five years of outstanding service to the gospel music industry. He is a beloved figure in the gospel music industry. He is a beloved figure for many years to come.

TWENTY-FIVE YEARS OF THE HELSINKI COMMISSION

HON. STENY H. HOYER
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. HOYER. Mr. Speaker, twenty-five years ago this month, on June 3, 1976, a law was enacted creating the Commission on Security and Cooperation in Europe. We know it as the “Helsinki Commission.” One of the smallest and most unique bodies in the U.S. Government, it perhaps ranks among the most effective for its size. I have been proud to be a member of the Commission for the past 16 years.

When President Gerald Ford signed, in Helsinki in 1975, the Final Act of the Conference on Security and Cooperation in Europe, he said that “history will judge this Conference not by what we say here today, by what we do tomorrow—not only by the promises we make, but by the promises we keep.” That piece of rhetoric has not only been repeated in various forms by every United States President since; it has continually served as a basis for U.S. policy toward Europe.

Credit for this fact, and for the Commission’s establishment, first goes to our late colleague here in the House, Millicent Fenwick, and the late-Senator Cliffside Cove, both of New Jersey. Observing the foundation of human rights groups in the Soviet Union and Eastern Europe was hoped to encourage their governments to keep the promises made in Helsinki, she and other Members of Congress felt it would be good to give them some signs of support. Keep in mind, Mr. Speaker, that this was in the midst of detente, meeting dissidents, and other otherwise antagonistic great powers. It was a time when the nuclear B52 was thought to be more powerful than the human spirit, and the pursuit of human rights in the communist world was not considered sufficiently realistic, except perhaps as a propaganda tool with which to woo a divided European continent and polarized world.

The philosophy of the Commission was otherwise. Respect for human rights and fundamental freedoms is, as the Helsinki Final Act indicates, a prerequisite for true peace and true security. As such, it is also a principle guiding relations between states, a legitimate matter for discussion among them. This philosophy, broadened today to include democratic norms such as free and fair elections and respect for the rule of law, remains the basis for the Commission’s work.

Of course, the Commission was not meant to be a place for mere debate on approaches to foreign policy; it had actually to insert itself into the policy-making process. The Commission staff led during those early years by R. Spencer Oliver, was superb in this respect. It knew the Soviet Union and Eastern Europe. It worked with non-governmental organizations to increase public diplomacy and, subsequently, public support for human rights advocacy. The staff developed the ability to insert principle into policy at the negotiating table. Over time, as State Department and other Executive-brach officials would come and go, the Commission staff developed the institutional memory to recall what worked and what doesn’t, allowing human rights policy to be more powerful than the human spirit, and the pursuit of human rights in the communist world was not considered sufficiently realistic, except perhaps as a propaganda tool with which to woo a divided European continent and polarized world.

The Helsinki Commission also became the champion of engagement. Commission members did not simply speak out on human rights abuses; they also traveled to the Soviet Union and the communist countries of East-Central Europe, meeting dissidents, observing the arrests and seeking to gain access to those in the prisons and prison camps. At first, the Commission was viewed as such a threat to the communist system that its existence would not be acknowledged, but Commissioners went anyway, in other congressional capacities until such time that barriers to the Commission were broken down. The Commission focus was on helping those who had first inspired the Commission’s creation, namely the Helsinki and human rights monitors, who had been severely persecuted for assuming the mid-1970s that they could act upon their rights. Ethnic rights, religious rights, movement, association and expression rights, all were under attack, and the Commission refused to give up its dedication to their defense.

Eventually, the hard work paid off, and the beginning of my tenure with the Commission coincided with the first signs under Gorbachev that East-West divisions were finally coming to an end. Sharing the chairmanship with my Senate counterpart, first Alfonse D’Amato of New York and then Dennis DeConcini of Arizona—the Commission argued against easing the pressure at the time it was beginning to produce results. We argued for the human rights counterpart of President Reagan’s “zero option” for arms control, in which not only the thousands of dissidents and protesters, and millions of everyday people—workers, farmers, students—all felt more openings, real freedom, and a true security. As such, it is also a principle guiding relations between states, a legitimate matter for discussion among them. This philosophy, broadened today to include democratic norms such as free and fair elections and respect for the rule of law, remains the basis for the Commission’s work.

Of course, the Commission was not meant to be a place for mere debate on approaches to foreign policy; it had actually to insert itself into the policy-making process. The Commis-
Commission was among the first to suggest not as rhetoric but as a real possibility the holding of free and fair elections, tearing down the Berlin Wall, and beginning a new world order in Europe.

Of course, Mr. Speaker, those of us on the Commission knew that the fall of communism would give rise to new problems, namely the extreme nationalisms which communism swept under the rug of repression rather than neutralized with democratic antiseptic. Still, none of us fully anticipated what was to come in the 1990s. It was a decade of democratic achievement, but it nevertheless witnessed the worst violations of Helsinki principles and provisions, including genocide in Bosnia-Herzegovina and brutal conflicts elsewhere in the Balkans as well as in Chechnya, the Caucasus and Central Asia, with hundreds of thousands innocent civilians killed and millions displaced. Again, it was the Commission which helped keep these tragedies front and center in Western and other minds—through human rights, holding hearings, visiting war zones and advocating an appropriately active and decisive U.S. response. In the face of such serious matters, too many sought to blame history and even democracy, equated victim with aggressor and flippantly abandoned the principles upon which Helsinki was based. Again the Commission, on a bipartisan basis in dialogue with different Administrations, took strong issue with such an approach. Moreover, with our distinguished colleague, CHRISTOPHER SMITH of New Jersey, taking his turn as Chairman during these tragic times, the Commission took on a new emphasis in seeking justice for victims, providing much needed humanitarian relief and supporting democratic movements in places like Serbia for the sake of long-term stability and the future of the people living there.

In this new decade, Mr. Speaker, the Commission has remained actively engaged on the issues of the time. Corruption and organized crime, trafficking of women and children into sexual slavery, mass murders on religious and other grounds, legal and discrimination in society, particularly against Romani populations in Europe, present new challenges. Senator BEN NIGHTHORSE CAMPBELL of Colorado, the latest Commission Chairman, has kept the Commission current and relevant. In addition, there continue to be serious problem areas or widespread or systemic violations of OSCE standards in countries of the Balkans, Central Asia and the Caucasus, or reversals of democratization process as in Belarus. The Commission was born in the Cold War, but its true mission is to strive for a world where freedom, justice and development is so vitally important to this country.

To conclude, Mr. Speaker, I wish to erase any illusion I have given in my praise for the Helsinki Commission on its first quarter of a century that it had single-handedly vanquished the Soviet empire or stopped the genocidal policies of Slobodan Milosevic. No, this did not occur, and our own efforts pale in comparison to the courage and risk-taking of human rights activists in the countries concerned. But I would assert, Mr. Speaker, that the wheels of progress turn through the interaction of numerous cogs, and the Commission has been one of those cogs, maybe with some extra grease. The Commission certainly was the vehicle through which the United States Government was able to bring the will of the American people for morality and human rights into Euro-American diplomacy.

To those who were in the Soviet gulag, or in Ceausescu’s Romania as a recent acquaintance there relayed to me with much emotion, the fact that some Americans and others were out there, speaking on their behalf, gave them the will to survive those dark days, and to continue the struggle for freedom. Many of those voices were emanating in the non-governmental community, groups like Amnesty International, Freedom House and Human Rights Watch. Through the Helsinki Commission, the voice of the United States Congress was said to be heard as well, and I know that all of my colleagues who have been on the Commission or worked with it are enormously proud of that fact.

IN MEMORY OF MR. JAMES V. PSENICKA

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor the memory of a very fine man, Mr. James V. Psenicka, for his dedicated years of service and countless contributions to the community.

Mr. Psenicka was born in Maple Heights to Czech immigrants who met and married in the United States. The family then moved to Streetsboro to purchase land. Mr. Psenicka graduated from Kent State High School in 1950 and immediately joined the staff of “The Neighborhood News” where he served as a reporter and advertising salesman. He soon earned his bachelor’s degree in journalism from Kent State University in 1955.


Although his commitment to “The Neighborhood News” earned the newspaper countless awards and honors, Mr. Psenicka kept family and friends first. He enjoyed traveling with his wife and three sons to Canada, Greece, Europe, and many other places. He relished boating and gardening. You would often see Mr. Psenicka off the coast of Lake Erie fishing.

Mr. Psenicka also had an incredible dedication to his local community. He served as a member of Karlin Hall on Fleet Avenue and the Small Business Advisory Council to the U.S. Congress. In addition, Mr. Psenicka served as a dedicated member to the Kiwanis Club of South East Cleveland, the world’s largest service organization.

Mr. Speaker, please join me in honoring the memory of Mr. James V. Psenicka, a man that has touched the Cleveland and world community in many ways. His love, dedication, and honor will be greatly missed.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT OF 2002

SPEECH OF
HON. WES WATKINS
OF OKLAHOMA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 21, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2217) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

Mr. WATKINS. Mr. Speaker, I rise today in support of H.R. 2217, the Interior Appropriations Act for Fiscal Year 2002. Among the components of that act is funding for the Department of Energy’s Office of Fossil Energy and its program of oil and natural gas research and development. Few among us understand what an important role oil and natural gas research and development plays in our nation’s ability to produce critical quantities of those resources for our domestic consumption.

I would like to introduce into the RECORD today one of the recommendations contained in a report of the Interstate Oil and Gas Compact Commission (IOGCC) entitled A Dependent Nation: How Federal Oil and Natural Gas Policy is Eroding America’s Economic Independence. This report contains the IOGCC’s “governors’ own set of recommendations for a national oil and natural gas policy. It is my hope that this information will help explain why federally funded oil and natural gas research and development is so vitally important to this country.

RECOMMENDATION 2: PROMOTE THE EXPANSION OF RESEARCH TO RECOVER DOMESTIC OIL AND GAS RESOURCES

This far-reaching recommendation encompasses a number of initiatives designed to ensure the nation’s reserves are fully developed. First, to make informed decisions regarding the nation’s energy future, the public must have definitive information on the actual domestic petroleum resource.

For example, there are vast known reserves of oil in the United States. The IOGCC estimates that 361 billion barrels will remain in the ground after conventional recovery technologies have been applied. In addition, there are oil and natural gas reserves located on private and public lands and offshore that have not been analyzed or catalogued. Some of these reserves may exist in environmentally sensitive areas or in difficult-to-access locations that would require extraordinary exploration and production measures or advanced research to develop. Therefore, in addition to identifying the entire oil and gas resource base of the country,
DEFINING THESE RESOURCES IS ONLY A FIRST STEP. AS AN ADVOCATE-FOR OIL AND NATURAL GAS RESEARCH, THE IOGCC ALSO STRONGLY SUPPORTS PROGRAMS TO PROVIDE ADDITIONAL RESEARCH AND DEVELOPMENT (R&D) IN AN INVESTMENT IN THE COUNTRY'S FUTURE AND ITS ENERGY SECURITY. "TECHNOLOGICAL ADVANCE MIGHT BE THE MOST IMPORTANT FACTOR IN GUARANTEERING AMERICA'S NONRENEWABLE RESOURCES LAST FOREVER."

As noted by the Task Force on Strategic Energy Research and Development, "There is growing evidence of a brewing 'R&D crisis' in the United States—the result of cutbacks and refocusing in private-sector R&D and reductions in federal R&D. Support for research and development is indeed being simultaneously reduced in the private and public sectors. R&D cannot be turned on and off like a water tap. The acquisition of new knowledge and the embodiment of new knowhow and services in the economy is a cumulative process that requires continuous effort to sustain. The accumulation of cutbacks in public and private R&D costs the United States a major shortfall and setbacks in R&D in the United States—characterized by the lack of consistent attention to longer-term needs and problems, a shrinking population of scientists and engineers available to perform high-quality R&D, and a loss of incentives and opportunities for new generations of technologists." A 1997 report commissioned by the IOGCC confirmed the declining trend in oil and gas research and development. "When private R&D is federal expenditure of R&D in the outlook is more bleak. Private spending is substantially... but federal spending remains disproportionately small compared to the relative importance of oil and gas to U.S. energy requirements."

Enrollment in petroleum-related majors at America's colleges and universities has shrunk dramatically. According to the University of Texas at Austin, home of one of the largest petroleum engineering programs in the nation, undergraduate enrollment in the Department of Petroleum Engineering plummeted more than 80 percent from a high of 1,200 in 1982 to 222 in 1999. About 1,300 students currently are enrolled in undergraduate petroleum engineering programs in the U.S., down sharply from more than 11,000 in 1983. A 1997 study published by the IOGCC expressed alarm at the loss of experienced and entry-level technical personnel, noting "there is a 5- to 7-year gap between decisions to increase exploration budgets and resulting new oil production, even when experienced technical staff are available. However, few have considered the long-term effects of the 1986 petroleum jobs massacre (in which 500,000 jobs were lost) and how the events of 10 years ago will influence future energy policy and supplies...Any crisis in oil supply causing increases in domestic activity will be constrained by a lack of qualified staff. The federal government could fulfill a vital role in reversing the trend. The country's network of national laboratories, for example, could be used and suited for the mission of energy research.

In addition, the IOGCC supports a reallocation of U.S. Department of Energy resources to provide research and development funding for oil and natural gas. The DOE's budget request totals $18.9 billion for fiscal year 2001. For fossil energy research and development, $176 million, less than 2 percent of the budget. About $160 million is requested for oil and natural gas research. This represents slightly more than 1 percent of total DOE energy research expenditures. The DOE's Office of Fossil Energy highlights the importance of R&D. "Looking forward, the domestic oil and gas industry will be challenged to continue extending the frontiers of technology. Ongoing advances in exploration and production (E&P) productivity are essential if producers are to keep pace with steadily growing demands for oil and gas, both in the United States and abroad."

The NPC notes "producers are turning to private agencies to develop new technology for specific applications. Industry consortia have been formed to address critical technology challenges such as deep water development. While many of these changes improve the efficiency with which research and development dollars are spent, concern has been expressed that basic and long-term research are not being adequately addressed. Meanwhile, solar and renewables technologies, which provide less than 10 percent of U.S. energy, would receive more than $457 million. The 28 percent increase in funding ($99 million) for 2001 represents more than the total request for oil and natural gas research. Reality dictates that additional funding for oil and natural gas research and development is unlikely. However, the IOGCC supports a drastic shift in how available tax dollars are spent. In the early years of the DOE, large and expensive demonstration projects dominated R&D spending. "That early emphasis on demonstration projects, reflecting the turmoil of the late 1970s, was, in retrospect, misplaced." Despite billions of dollars spent on renewable energy R&D during the period of 1990-1999, there has been little impact by renewables on the nation's total energy consumption pattern (Figure 6). In fact, in 1999, renewables supplied a nearly identical percentage of the nation's total energy consumption as in 1975. According to Hodel and Deitz, "however important alternative sources eventually may be, our best estimate is that we will continue to meet our energy needs with oil and gas for at least the remainder of this and the next generation of Americans, and very possibly several succeeding ones as well. Without some kind of energy breakthrough or aggressive government mandates, oil and gas appear certain to be our predominant fuels for the next 40 to 100 years." A broad range of parties assembled by the National Petroleum Council to assess the future of the oil and gas industry expressed...surprisingly broad agreement...on the outlook for the next 21 years, including, "The United States and the world will still be using large amounts of oil and gas in 2030, not significantly different from the more than 60 percent share of world energy consumption these fuels represent today."

The case for redirecting R&D dollars to where they would provide more effective is especially compelling when one considers budget freezes and cutbacks. Past successes, including...three-dimensional seismic, polycrystalline diamond drill bits and horizontals...have increased lower costs and improved recovery, should be built upon.

To ensure that these limited resources are spent wisely, the IOGCC recommends the budgets for energy research and development be considered by the same congressional subcommittees. Current congressional structure oversimplifies fossil fuel and renewables research budgets to be evaluated in separate budget bills handled by separate subcommittees of the House and Senate Appropriations Committees. As a result, separate comparisons of expenditures and impacts are difficult, and there is a lack of flexibility in allocating finite resources."

The NPC notes the "past three decades, the petroleum business has transformed itself into a high-technology industry... Looking forward, the domestic oil and gas industry will be challenged to continue extending the frontiers of technology. Ongoing advances in exploration and production (E&P) productivity are essential if producers are to keep pace with steadily growing demand for oil and gas, both in the United States and worldwide. Continuing innovation will also be needed to sustain the industry's leadership in the intensely competitive international arena, and to retain high-paying oil and gas industry jobs at home."

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF HON. JAMES V. HANSEN OF UTAH IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2217) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes;

Mr. HANSEN. Mr. Chairman, H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, contained language under the National Park Service/Land Acquisition and State Assistance section regarding federal grants to the State of Florida for acquisition of lands or waters within the Everglades National Park, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area. This language begins on page 29, line 15 of the House engrossed bill and continues until page 30, line 11. This language does not constitute any new authority to acquire land or to obligate funds beyond existing law under Public Law 101-229, the Everglades National Park Protection and Expansion Act of 1989. The Committee on Resources has primary jurisdiction over this statute. The authority of the federal government to acquire land, directly or indirectly by eminent domain, must be specific. If I felt that this language in the Interior appropriations bill authorized new acquisition authority, I would be exercising more power than the rules of the House of Representatives to have the language struck on a point of order.

Similarly, nothing in this language from the Interior appropriations bill provides any new project authorization beyond that contained in the Everglades National Park Protection and Expansion Act. Again, I would have raised a point of order against the text if I believed that it constituted new or amended project authori-

I hope this clarifies any questions or concerns that my colleagues or the public might have regarding these provisions.

HON. ZOE LOFGREN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Ms. LOFGREN. Mr. Speaker, I rise to congratulate Reverend John L. Freeseemann of the Holy Redeemer Lutheran Church in San Jose, California, on the 25th Anniversary of his Ordination. On the 27th day of June, 1976, Reverend John L. Freeseemann was ordained in the Lutheran Church. For 25 years he has served both his parish community and the people of Santa Clara County faithfully and devotedly.

Reverend John Freeseemann has been a tireless advocate of ecumenism in San Jose and the surrounding communities; he has provided a decade of responsible leadership as a board member and past president of the California Council of Churches, and is a founding member and the current president of California Church Impact. Reverend Freeseemann has also served for eight terms as president of the Santa Clara County Council of Churches. Reverend John Freeseemann gives tirelessly of his time and talents to support children and families as a founding member, two-term vice president, and current president of Resources for Families and Communities in Santa Clara County.

As the pastor of Holy Redeemer Lutheran Church for 11 years, Reverend Freeseemann has established his San Jose parish as a place of safety, of compassion and of hope. Under his loving guidance, Holy Redeemer has expanded its ministries to the community at large.

I wish to congratulate Reverend John L. Freeseemann on this, the 25th Anniversary of his Ordination, and to thank him for his many years of service to the people of San Jose. Our community is the richer for his faithful service.

INTRODUCTION OF THE BIO-TECHNOLOGY AND AGRICULTURE IN THE DEVELOPING WORLD ACT OF 2001

HON. EDDIE BERNICE JOHNSON
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

My bill establishes a grant program under the Foreign Agricultural Service in the Department of Agriculture to encourage research in agricultural biotechnology. Eligible grant recipients include historically black colleges and universities, land-grant colleges, Hispanic serving institutions, and tribal colleges or universities. Non-profit organizations and consortia of for-profit and in-country agricultural research centers are also eligible.

I encourage my colleagues to support this important piece of legislation.

EXTENSIONS OF REMARKS

HON. E. CLAY SHAW, JR.
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

Mr. SHAW. Mr. Speaker, the U.S. Postal Service links together cities and towns, large and small, across America through delivery of the mail. Since our nation’s founding, mail delivery has been especially important to rural America, places that were at first a long walk away, then a long horse ride, and even for years a long automobile ride from the nearest post office. The Internet today has helped reduce the distance between cities, and even countries, but mail delivery continues to be an important function for all Americans.
Most Americans, probably, are unaware that for decades rural letter carriers have used their own transportation to deliver the mail. This includes all rural letter carriers who today drive their own vehicles in good weather and bad, in all seasons, in locations that can range from a canyon bottom to mountain top, ocean view to bayou. Rural letter carriers drive over 3 million miles daily and serve 24 million American homes, over 66,000 rural and suburban routes. The mission of rural letter carriers has changed little over the years, but the type of mail they deliver has changed substantially—increasing to over 200 billion pieces a year. And although everyone seems to be communicating by email these days, the Postal Service is delivering more letters than at any time in our nation’s history. During the next decade, however, we know that will change.

Electronic communication is expected to accelerate even faster than it has in the last five years. Some of what Americans send by mail today will be sent online. According to the General Accounting Office (GAO), that will include many bills and payments. In its study, U.S. Postal Service: Challenges to Sustaining Performance Improvements Remain Formidable on the Brink of the 21st Century, dated October 21, 1999, the GAO reports that the Postal Service’s core business—letter mail—will decline substantially. As a result, the revenue the Postal Service collects from delivering First-Class letters also will decline.

While the Internet will eventually reduce the amount of letter mail rural letter carriers deliver, the Internet will present some new opportunities for delivering parcels. Rural letter carriers have for decades delivered the packages we order from catalogs, and now they deliver dozens of parcels every week that were ordered online. For some rural and suburban Americans the Postal Service still remains the only delivery service of choice. Today, the Postal Service has about 33 percent of the parcel business. However, if the Postal Service is as successful as it hopes in attracting more parcels, that could create a problem for rural carriers. Most items ordered by mail are shipped in boxes that, once filled, are much more expensive to operate than traditional vehicles—especially with today’s higher gasoline prices. So without the ability to use the actual expense method and depreciation, rural carriers must use their pay to cover vehicle expenses. Additionally, the Postal Service has placed 11,000 postal vehicles on rural routes, which means those carriers receive no EMA.

All these changes combined have created a situation contrary to the historical Congressional intent of using reimbursement to fund the government service of delivering mail, and also has created an inequitable tax situation for rural letter carriers. If actual business expenses exceed the EMA, a deduction for those expenses should be allowed. I believe we must correct this inequity, and so I am introducing a bill that would reinstate the deduction for a rural letter carrier to claim the actual cost of the business use of a vehicle in excess of the EMA reimbursement as a miscellaneous itemized deduction.

In the next few years, more and more Americans will use the Internet to get their news and information, as well as receive and pay their bills. But mail and parcel delivery by the United States Postal Service will remain a necessity for all Americans—especially those in rural and suburban parts of the nation. Therefore, I encourage my colleagues to support this bill and ensure fair taxation for rural letter carriers.

EXTENSIONS OF REMARKS

June 27, 2001

Mr. MORAN, and the Chairman of the Judiciary Committee, Mr. SENSENBRINNER, the Class Action Fairness Act of 2001.

Mr. BOB GOODLATTE, of Virginia

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. GOODLATTE. Mr. Speaker, I am pleased to introduce today, along with my good friends from Virginia, Mr. BOUCHER and Mr. MORAN, and the Chairman of the Judiciary
class actions moot. This creates an incentive for each class counsel to obtain a quick settlement of the case. This offers an opportunity for the defendant to play the various class counsel against each other and drive the settlement value down. The loser in this system is the class member whose claim is extinguished by the settlement, at the expense of counsel seeking to be the one entitled to recovery of fees.

Our bill is designed to prevent these abuses by allowing large interstate class actions to be heard in federal court. It would expand the statutory diversity jurisdiction of the federal courts to allow class action cases involving minimal diversity—that is, when any plaintiff and any defendant are citizens of different states—to be brought in or removed to federal court.

Article III of the Constitution empowers Congress to establish federal jurisdiction over diversity cases—cases where the defendant is a citizen of a different State." The grant of federal diversity jurisdiction was premised on concerns that state courts might discriminate against out-of-state defendants. In a class action, only the citizenship of the named plaintiffs is considered for determining diversity, which means that federal diversity jurisdiction will not exist if the named plaintiff is a citizen of the same state as the defendant, regardless of the citizenship of the rest of the class. Congress also imposes a monetary threshold—now $75,000—for federal diversity claims. However, the amount in controversy requirement is satisfied in a class action only if all of the class members are seeking damages in excess of the statutory minimum.

These jurisdictional statutes were originally enacted years ago, well before the modern class action arose, and they now lead to perverse results. For example, under current law, a citizen of one state may bring in federal court a simple $75,001 slip-and-fall claim against a party from another state. But if a class of 25 million product owners living in all 50 states brings a class action, the federal court must decide which $25 million claim is the controlling one. In connection with this decision, the defendant will be required to show that the plaintiff was injured by a single defective product manufactured for the entire nation. This result is certainly not what the Framers had in mind when they established federal diversity jurisdiction. Our bill offers a solution by making it easier for plaintiff class members and defendants to remove class actions to federal court, where cases involving multiple state laws are more appropriately heard. Under our bill, if a removed class action is found not to meet the requirements for proceeding on a class basis, the federal court would dismiss the action without prejudice and the action could be refiled in state court.

In addition, the bill provides a number of new protections for plaintiff class members including a requirement that notices sent to class members be written in "plain English" and provide essential information that is easily understood. Furthermore, the bill provides judicial scrutiny for settlements that provide class members only coupons as relief for their injuries, and bars approval of settlements in which class members suffer a net loss. The bill also includes provisions that protect consumers from being disadvantaged by living far away from the courthouse. These additional consumer protections will ensure that class action lawsuits benefit the consumers they are intended to compensate.

This legislation does not limit the ability of anyone to file a class action lawsuit. It does not change anybody's rights to recovery. Our bill specifically provides that it will not alter the substantive law governing any claims as to which jurisdiction is conferred. Our legislation merely closes the loophole allowing federal courts to hear big lawsuits involving truly interstate issues, while ensuring that purely local controversies remain in state courts. This is exactly what the framers of the Constitution had in mind when they established federal diversity jurisdiction.

I urge each of my colleagues to support this very important bipartisan legislation.

HONORING HUGH LEE GRUNDY FOR HIS DEDICATED SERVICE TO THE UNITED STATES OF AMERICA

HON. ERNIE FLETCHER
OF KENTUCKY

Wednesday, June 27, 2001

Mr. FLETCHER. Mr. Speaker, today I rise to recognize Hugh Lee Grundy, a man who has devoted a lifetime of hard work and dedication to America’s Armed Forces in Southeast Asia. Mr. Grundy is the retired President of Air America, an organization that served a special and undercover purpose for our nation’s Central Intelligence Agency and allied countries in Asia and throughout the world. Hugh Grundy of Crab Orchard, Kentucky spent 50 to 60 years in the active world of aviation, and I am truly proud to stand here today and honor him here in the U.S. House of Representatives.

Mr. Grundy was born at Valley Hill, Kentucky on the Grundy family farm, which he now owns and operates. Mr. Grundy raised and showed saddle horses at state and county fairs while growing up. Throughout his schooling, he worked on the family farm, a farmstead, rising to the position of assistant General Manager. He learned to fly light planes in Central Kentucky in his teenage years. Mr. Grundy attended Aeronautical School in California and eventually became a teacher there. He then worked for Pan American Airlines.

Mr. Grundy faithfully served his country in various capacities for more than 30 years. During World War II, Mr. Grundy served his country as an Engineering Officer and Air Crew Member. He reached the rank of Major in the United States Army in 1945. At the close of World War II, Mr. Grundy exchanged active duty for the reserves and returned to Pan American. Later he was transferred to Shanghai, China to work for the China National Aviation Corporation.

Mr. Grundy served concurrently as President of Air America, Air Asia, and Civil Air Transport from 1954 to 1976. As President of Air America, Mr. Grundy commanded over 10,000 men and women serving in Vietnam, Cambodia, Laos, and Thailand. Mr. Grundy came out of retirement twice in order to return to preside over Southern Air Transport, a company based in Miami, Florida.

In June of 2001, the CIA presented Mr. Grundy with two citations, one in his capacity as President of Civil Air Transport and Air America, and one to him personally. This was the second time Mr. Grundy was given recognition by the CIA, the first being a medal for Honorable Service upon the occasion of his retirement from Air America.

Today I rise, Mr. Speaker, to salute Mr. Grundy for his commitment to aviation, his service to our country, and his patriotic leadership throughout the years.

INTRODUCTION OF ENERGY MARKETING MONITORING ACT—H.R. 2331

HON. STEPHEN HORN
OF CALIFORNIA

Wednesday, June 27, 2001

Mr. HORN. Mr. Speaker, for the past year, the energy markets in California have been in a state of turmoil that has produced periodic blackouts, soaring prices for electricity and natural gas and an atmosphere of uncertainty about energy supplies for the future. In addition to those serious concerns, there have been a wide range of charges that energy suppliers are engaging in illegal collusion to fix market prices and gouge consumers.

Earlier this year, on Wednesday, 22nd, I asked the General Accounting Office, our nonpartisan and highly professional source for detailed information on many subjects, to investigate what was happening in California and to provide an overview of information on prices and impacts on consumers, producers and electricity providers. I also requested information on the causes of price increases and problems with the reliability of energy supplies. Finally, I requested evaluation of actions taken by the Federal Energy Regulatory Commission, the state of California, and other parties involved.

Although GAO has been able to provide preliminary information regarding California’s supply, demand, and market problems, there has been a significant problem in obtaining the detailed market information necessary for comprehensive analyses or evaluation. GAO interviews with these market participants have yielded only general information and it is unclear at this time whether FERC has in its possession comprehensive market data.

In short, Mr. Speaker, at a time when Congress is wrestling with the complex and highly technical issues involved in both the California market and national energy supply, our own expert agency has limited access to the information it needs to provide analysis of what is happening and recommendations on what should be done to change federal laws and regulations.

In creating the Federal Energy Regulatory Commission (FERC) in 1977 under the Department of Energy Organization Act, Congress did not explicitly address the Commissioner General’s (GAO’s) authority to request and subpoena information from any body subject to FERC jurisdiction. Today, I am introducing legislation to correct this problem by making clear that the GAO and the Commissioner General have the authority to request...
and subpoena information from energy companies or other participants subject to the jurisdiction of the Federal Energy Regulatory Commission.

This legislation clarifies the functions of the Comptroller General to include: Monitoring and evaluating the functions and activities of FERC.

Access to market information from those subject to FERC jurisdiction including energy prices, costs, demand, supply, industry and market structure, auction processes, and environmental impacts.

Authority to issue subpoenas, and compliance with any issued subpoena, to those subject to FERC jurisdiction, including materials related to the jurisdiction of the Federal Energy Regulatory Commission, including materials related to energy prices, costs, demand, supply, industry and market structure, auction processes, and environmental impacts.

“(c) SUBPOENAS.—To assist in carrying out the Comptroller General’s responsibilities under this section, including any audit, investigation, examination, analysis, review or evaluation, the Comptroller General may issue subpoenas to any person described in subsection (b) requiring the production of any books, documents, papers, statistics, data, records, and information.

“(d) SECURING COMPLIANCE WITH SUBPOENA.—Upon petition by the Comptroller General or the Attorney General (upon request of the Comptroller General), any United States district court within the jurisdiction of which an inquiry under this section is carried out may, in the case of refusal to obey a subpoena of the Comptroller General issued under this section, issue an order requiring compliance therewith, and any failure to obey the order of the court may be treated by the court as a contempt thereof."

The text of H.R. 2331 is below:

H.R. 2331

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Market Monitoring Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) When Congress created the Federal Energy Regulatory Commission in 1977 under the Department of Energy Organization Act, it did not explicitly address the Comptroller General’s authority to request and subpoena information from facilities or businesses engaged in energy matters related to the Federal Energy Regulatory Commission’s activities. Closing gaps in the scope of the Comptroller General’s access to such information would facilitate the Comptroller General’s monitoring of the Nation’s energy programs.

(2) For a function properly to provide consumers with goods at a competitive price, and to protect consumers from unjust prices or price manipulation, the markets must be transparent in their transactions. Although the Federal Energy Regulatory Commission is responsible for market monitoring, it is unclear whether the Federal Energy Regulatory Commission has in its possession or has requested from market participants comprehensive market data.

(3) To ensure transparency of energy markets, and both consumers and suppliers, the General Accounting Office, as the investigative arm of Congress, must have full authority to examine all markets and market participants’ activities.

SEC. 3. FUNCTIONS OF COMPTROLLER GENERAL

(a) AMENDMENT.—Title IV of the Department of Energy Organization Act (42 U.S.C. 7171-7174) is amended by adding at the end the following new section:

"FUNCTIONS OF COMPTROLLER GENERAL

"Sec. 408. (a) SCOPE OF ACTIVITIES.—The Comptroller General shall monitor and evaluate the functions and activities of the Federal Energy Regulatory Commission.

"(b) ACCESS TO INFORMATION.—Any person owning or operating facilities or business premises subject to the jurisdiction of the Federal Energy Regulatory Commission shall provide the Comptroller General with access, including the right to make copies, of any books, documents, papers, statistics, data, records, and information where such material relates to the jurisdiction of the Federal Energy Regulatory Commission, including materials related to energy prices, costs, demand, supply, industry and market structure, auction processes, and environmental impacts.

"(c) SUBPOENAS.—To assist in carrying out the Comptroller General’s responsibilities under this section, including any audit, investigation, examination, analysis, review, or evaluation, the Comptroller General may issue subpoenas to any person described in subsection (b) requiring the production of any books, documents, papers, statistics, data, records, and information.

"(d) SECURING COMPLIANCE WITH SUBPOENA.—Upon petition by the Comptroller General or the Attorney General (upon request of the Comptroller General), any United States district court within the jurisdiction of which an inquiry under this section is carried out may, in the case of refusal to obey a subpoena of the Comptroller General issued under this section, issue an order requiring compliance therewith, and any failure to obey the order of the court may be treated by the court as a contempt thereof."

SEC. 408. Functions of Comptroller General.

INDIAN GOVERNMENT FOUND RESPONSIBLE FOR BURNING SIKH HOMES AND TEMPLE IN KASHMIR

HON. EDOULPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. TOWNS. Mr. Speaker, in March 2000 when President Clinton was visiting India, 35 Sikhs were murdered in cold blood in the village of Chitti Singhpora in Kashmir. Although the Indian government continues to blame alleged "Pakistani militants," two independent investigations, by the Movement Against State Repression and Punjab Human Rights Organization and the International Human Rights Organization based at Ludhiana, have proven that the Indian government was responsible for this atrocity.

Now it is clear that this was part of a pattern designed to pit Sikhs and Kashmiri Muslims against each other with the ultimate aim of destroying both the Sikh and Kashmiri freedom movements. The Kashmir Media Service reported that several thousand Indian soldiers were caught in Srinagar trying to set fire to a Sikh temple and some Sikh homes. Sikh and Muslim villagers overpowered the troops as they were about to sprinkle gunpowder on Sikh houses and the temple. The Border Security Forces rescued several other troops. The villagers even seized a military vehicle, which the army later had to come and reclaim.

At a subsequent protest rally, local leaders said that this incident was part of an Indian government plan to create communal riots. As such, it fits perfectly with the Chitti Singhpora massacre.

Mr. Speaker, India has been trying to commit atrocities in order to promote violence by minorities against each other. Now that the massive numbers of minorities, that the Indian government has murdered, have been exposed, the government is trying to get these same minority groups to kill each other. The plan to create more bloodshed is backfiring on the Indian government. Fortunately, the groups have joined together to oppose the government's plan.

Such a plan is an unacceptable abuse of power. As the leader for democracy in the world, we should take a stand against this government's actions, which target minority groups for violence and abuse.

Given these kinds of actions it makes it very difficult to advocate that this Administration should lift the sanctions against India. To ensure the survival and success of freedom in South Asia, our government should go on record strongly supporting self-determination for all the peoples and nations of South Asia in the form of a free and fair, internationally-monitored plebiscite. This is the best way to support democracy in all of South Asia and to create strong allies for America in that troubled region.

LOSS OF A TRUE HEROINE, MRS. SUSAN WADHAMS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. SCHAFFER. Mr. Speaker, Tuesday, Colorado lost one of its true heroines, Mrs. Susan Wadhams, of Littleton. Many of us on Capitol Hill also mourn the loss of Susan. She was my Chief of Staff and played an integral part in making many of our most celebrated legislative victories possible.

For most, Susan will be remembered for her boundless passion for America. She was an authentic patriot through and through. She enjoyed her work in the Congress and counted the opportunity a rare privilege. She utilized her station to advance the cause of freedom, liberty and human life every day she was here.

How tragic and ironic it is that her life with us has ended too soon. But Susan firmly persuaded all those around her to eventually share in her unwavering faith in God, and to take comfort in the promise of Heaven. From that standpoint, Mr. Speaker, we know that Susan's life has not ended. It is only different. She has surely joined the Community of Saints, and this I say with confidence, predicted upon what I learned about Susan as our friendship deepened.

First and foremost, Susan was a pious Christian whose devotion to the Lord was established in the ancient traditions of the Roman Catholic Church. She was a wife, a mother, and a grandmother. She lived her life within this context. Her professional accomplishments were all achieved through a consistent ethic wherein the magnanimous goal of
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improving the American environment for fam-
yli, faith, and children became the exclusive measure
remnant.
For me personally, I am deeply inspired by
Susan’s valor. She left Washington two years ago,
returning to Colorado in order to spend more
time with her husband, her family, and the
community she loved. Leaving the arena of pub-
lic leadership, however, was not an op-
tion for Susan.
You see, Mr. Speaker, Susan understood
America from the perspective of our Nation’s
Founders. She went to her grave convinced
that God has richly blessed the United States of
America and that his design for our coun-
try was of glorious expectation and hope. She
believes that each American shares a burden of
honor and loyalty to the Almighty and that the
essence of American citizenship entails a spir-
itual duty to lead through love. Susan’s love for
her family, friends, neighbors, and ac-
cquaintances was omnipresent though some-
times subtle or complex; yet when fully ap-
preciated was embraced and profound, certainly
invigorating, but more often, infectious.
That was especially the case in our
office.
Susan was a splendid woman—elegant in
every way, and pursuits were of no interest
to her. She would not be distracted. She was
dedicated and disciplined. She lived life the way
she engaged politics—no nonsense, nothing
to excess, just win. Mr. Speaker, there are
dozens of elected officials whose election vic-
tories were engineered by Susan Wadhams.
I’m only one among them all.

Of course, means that have been there
nearly as many whose public goals were
 thwarted by Susan’s political prowess. It’s
simple, Mr. Speaker, if Susan Wadhams was on
your side, your chances of winning were quite
good. If she was against you, you best think
of another line of work. Her opponents re-
pected her, too.

Susan’s passion for America was her ad-
antage, and her faith was her power. This
was a woman who knew herself and knew the
times she was in; whose confidence exuded
leadership and whose leadership caused ac-
tion.

Susan’s battle with cancer was no less he-
roic. If it was, it was in fear, it was well con-
cealed. She was a model of courage, even
before her affliction. Though too short, her life
was complete and her legacy is unmistakable.
I thank God for my acquaintance with Susan.
Our friendship is one I genuinely regard as a
gift of Providence. I miss Susan Wadhams,
and I will never forget her.

Mr. Speaker, others have shared with me
their sentiments on the passing of Susan. I am
deeply grateful for the outpouring of condo-
lement by so many, and I pledge to pass along
these comments to her survivors. Their appreci-
ation, I assure the House, will be great, too.
Mr. Speaker, at this point, I hereby submit for
the RECORD the comments I’ve so far re-
ceived, along with two press accounts of Su-
nan’s life.

For Susan, being tough as nails was second
nature to her, with politics, earning her
a reputation I truly admired. However,
what impressed me most about Susan was
her willingness to aid women in entering the
political arena. Not only was she a mentor
for me, but for many other women who have
crossed the Schaffer office threshold.

Susan loved life, the west, her family
and friends. She once loved daisies. Since
then, I have not looked at a daisy, nor
will I ever without remembering her. I have
lost a friend.—Brandi Graham

Susan Wadhams hired me for my first job
on Capitol Hill. In my interview she said,
‘Not many young women have the courage to
move 2,000 miles away from their friends
and family to pursue their ambitions. I think it’s
great that you are working to follow your
dreams and I would like to be a part of help-
ing young women like you in politics.’ She
continued, ‘We need more women in this
field, [you] would never forget that. I would not
be where I am today without her. Susan
left an indelible mark on all who knew her, she
would be greatly missed.—Melissa Carlson,
former staff member for
Congressman Bob Schaffer and current Dep-
uty Press Secretary for Governor George E.
Patakii, (R-NY).

The best memory Susan ever shared with
me was from her childhood in Colorado.
She had a pet lamb which stayed in a pen just
outside her house in Susan’s. When Susan
went to bed at night, she would open the
window and pull the lamb inside. When the
lamb became too big to pull through the
window, it would never learn how to under-
stand that it could no longer come in. I love
this story. I’m going to miss Susan.—Kriste
Kaefer, the Heritage Foundation.

I’ll like to add that Susan was very, very
happy to be back here in Colorado with her
family during this last year. We’ll miss her
dearly.—Kent Holmes

I think these sums up Susan pretty well:
Strong: Susan was perhaps one of the
strongest individuals I have ever had the
privilege of knowing.
Understated: She accomplished
much through sheer will and force of
personality.
Smart: She possessed a lightning quick wit
and a firm grasp of casuistry.
Activist: Her activist nature was con-
tagious.
Nationalist: A true patriot if there ever
was one.—Rob Nanfelt

When Susan first interviewed me for a Leg-
islative position with Bob, something just
clicked. She talked about how she valued
our lives and how much we missed Colorado.
She had accomplished so much in her life.
As a young staffer striving to make it in the
competitive Capitol Hill environment, I was
impressed by her. I wanted to learn from her
success. Once I started working with Bob, I
saw her as a mentor. We talked freely about
God, family and the importance of focusing
on the right priorities in life. She discussed
her previous bout with cancer and how im-
portant it was to have access to quality
health care. I am sorry she didn’t make it
through this time. My thoughts and prayers
go out to her family. We will miss her.—
Stacy Brooks

Right up to the very end, May 15 to be
exact, Susan was still thinking of others—
she’s son’s birthday was coming up and
she needed a flag flown over the Capitol, and she
needed it by June 17 to present to him for his
birthday. To me it really showed the love she
had for her family, as well as other people.—
Gwen Schwartz

I think that she was a deep down good
woman who loved politics and loved to be in-
volved. She will definitely be missed in CO
and here in DC.—Eric Price

Susan was a terrific Chief in that she pos-
sessed the management skills necessary for
the position but legislatively, she was as
green as the rest of us. Bob’s first staff, his
freshmen staff, had two people with prior
legislative experience and the rest of his
were fresh from Colorado. We knew tons
about the way Colorado’s government worked,
but were unfamiliar with the whole
process of introducing legislation, Whip
meetings, who to call if we needed a picture
hung—all the little things that make an of-
fice hum. The flow of information was al-
ways two ways and we never felt as if Susan
was above us, rather she was with us, learn-
ing together.

Under her guidance, our service to Colo-
radas was crafted to be responsive and dill-
gen. Always steady in her convictions,
Susan approached the challenges of man-
aging the boss, and his staff, with a common
sense approach. Never acting on her own self
interests, she skillfully advocated the staff
and their needs but maintained her author-
ity with a “buck stops here” mentality. She
was the best Chief a staffer could ask for.
Having worked for her, I am a better per-
son.—Marcus Dunn

I admired her very much—she was a great
mentor to me!—Marge Klein

[From the Rocky Mountain News, June 26, 2001]

GOP ACTIVIST SUSAN WADHAMS DIES AT AGE 55
CAMPAIGNER KNOWN FOR ASTUTE JUDGMENT
AND LOVE OF POLITICS

(by Lynn Bartels and Michele Ames)

Susan Wadhams, who campaigned on the
ground for Republican candidates while her
state patrolman father flew three Colorado
governors around the state, was known as a
strong-willed woman who stood by her con-
victions.

Wadhams, the former chief of staff for U.S.
Rep. Bob Schaffer and the spokeswoman for
the Colorado Department of Natural Re-
sources, died of cancer Monday.

She was 55.

“She is going to leave a terrible hole in the
politics of Colorado,” said Walt
Klein, a former campaign manager who hired
Wadhams.

Several friends say they knew of only one
other person whose interest in politics riv-
aled hers: her husband, Dick Wadhams,
spokesman for Gov. Bill Owens.

“They were perfect for each other,” said
Roy Palmer, Owens’ chief of staff. “We’ve
lost a great woman.”

Funeral services are pending.

Susan Marie McBreen was born May 4, 1946,
in Birmingham, Ala., to Lucille and Donald
McBreen, while her father was a military
pilot. After his stint in the service, Donald
McBreen returned to Colorado and Elbert
County and joined the Colorado State Pa-
trol.

Donald McBreen flew three governors:
John Love, John Vanderhoof and Dick
Lamm.

Each McBreen got her political start help-
ing former U.S. Sen. Bill Armstrong in his
first congressional run in 1972.

“She was a very astute judge of people and
candidates,” Armstrong said.

Susan and Dick Wadhams met in 1980 while
working on former Colorado Republican
Susan Wadhams, chief spokeswoman for the Colorado Department of Natural Resources, hired her as communications director.

She came home to Colorado in 1999. The next year, Greg Walcher, director of the Department of Natural Resources, hired her as communications director.

She is survived by her husband; her father; her brother; Craig, an officer with the Aurora Fire Department; two children; Khristie Barker, 33, and Gregory Farrell, 31; and two grandsons.

[From the Denver Post, June 26, 2001]
STATE FIGURE SUSAN WADHAMS DIES
DNR SPOKESWOMAN LOSES CANCER FIGHT
(By Fred Brown and Theo Stein)

Susan Wadhams, chief spokeswoman for the Colorado Department of Natural Resources, died Monday evening after a long struggle with cancer. She was 55.

Wadhams, the wife of Gov. Bill Owens' press secretary, Dick Wadhams, had worked for the state since January 1999.

"Susan was a close personal friend," Owens said. "Colorado has lost a very special person."

As the main public information officer for the Department of Natural Resources, Wadhams had to stay current on some of the state’s stickiest land management debates.

In the past year, she wrote press releases about the state’s support for the Animas-La Plata dam project, a challenge to federal population data on black-tailed prairie dogs and a controversial predator control study.

Susan Wadhams also served as head of the interdepartmental information team, which is responsible for coordinating information on oil and gas exploration, the state land board, forestry and parks.

She also was a member of the Judicial Nominating Commission for the Jefferson County district.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 28, 2001 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

JULY 10
2:30 p.m.
Foreign Relations
To hold hearings on the nomination of Lori A. Forman, of Virginia, to be Assistant Administrator for Asia and the Near East, United States Agency for International Development.

SD-419

JULY 11
9:30 a.m.
Governmental Affairs
To hold hearings on S.803, to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services.

SD-342

JULY 12
10 a.m.
Appropriations
Transportation Subcommittee
Business meeting to markup proposed legislation making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002.
The House met at 9 a.m.

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

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

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

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

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

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

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

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The gentleman from Ohio (Mr. NEY) is recognized for 1 minute and to revise and extend his remarks.

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

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

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

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

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

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

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IN THE COMMITTEE OF THE WHOLE

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

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Wednesday, June 27, 2001, a demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. BONIOR) had been postponed and the bill was open for amendment from page 22, line 19, through page 22, line 4.
CONGRESSIONAL RECORD—HOUSE  
June 28, 2001

CONGRESSMAN RODNEY T. TACREDO  
(20th District of Colorado)  

The CHAIRMAN. The gentleman from Colorado (Mr. TACREDO) and the defendant, the Chair, demand the aye or no vote on the amendment offered by the gentleman from Colorado (Mr. TACREDO) in order to bring the pending business to a vote.

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TACREDO) on which further proceedings were postponed and on which the ayes prevailed by voice vote. The Clerk will redesignate the amendment. The text of the amendment is as follows:

Amendment No. 4 offered by Mr. TACREDO  

In title I, strike section 105 (relating to shore protection projects cost sharing).
Amendment offered by Mr. HINCHY. In title III, in the item relating to "DEPARTMENT OF ENERGY PROGRAMS; ENERGY SUPPLY" after the aggregate dollar amount, insert the following: "(increased by $50,000,000)."

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

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 163, noes 258.

[Names of Representatives voting 'aye' and 'no' are listed here.]

[Vote result is announced.]

Mr. CAMP and Mr. ROHRABACHER changed their vote from "aye" to "no." Mr. SHERMAN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HINCHY.

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

The Clerk will designate the amendment.

The text of the amendment is as follows:

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

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

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

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

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

[Roll No. 201]

AYES—163

Akeredolu, Howard...

Bostic, Danny...

Bradley, Paul...

Barrett, Jerry...

Bell, Rod...

Becerra, G. K....

Berkley, Linda...

Berman, Bill...

Blumenauer, Earl...

Boehlert, Scott...

Bonior, Dan...

Bowser, Joyce...

Brown (FL), Allen...

Casas, Martin...

Carson (IN), Scott...

Coyne, Daniel...

Crowley, Dan...

Cummings, E. G. L....

Davis (CA), Rush...

Davis (FL), Joe...

DeFilippis, Frank...

Ehlers, James...

Ehoo, Ally...

Fattah, Chaka...

Ferguson, Mark...

Frank...

Frost, James...

Gephardt, Richard...

Gonzalez, Henry...

Gutiierrez, Charles...

Haller, Gary...

Hansen, Dina...

Harkin, Tom...

Harman, Charles...

Hastings (FL), Bill...

Hayes, Issa...

Hayworth, Duncan...

Helley, David...

NORAIN—358

Abercrombie, Charles...

Aderholt, Robert...

Jefferson, Tim...

Jenkins, Jim...

Johnson, J. B. (

Johnson, J. B. (OH)...

Jones, Edward...

Jones (NY)...

Kaptur, Marcy...

Keller, John...

Kennedy (MA), Joe...

Kennedy (RI), Dave...

Kilpatrick, Steny...

King (NY), Charles...

Kingston, Chet...

Kirk, Fred...

Kleczka, Ron...

Knollenberg, Pete...

Kucinich, Dennis...

LaFalce, Peter...

Lahood, Everett...

Lampson, Bill...

Lantos, Edward...

 Larson (CT), Jay...

Latham, Sally...

LaTourette, James...

Levin, Sander...

Lipinski, Daniel...

LoBiondo, Frank...

Lowey,办公室...

Lucas (KY), Steven...

Lloyd, William...

Manzullo, Edward...

Markey, Tom...

McCarty (MO), Jim...

McCarty (NY), Jim...

McCreery, Dave...

McDermott, James...

McHugh, Tom...

McInnis, Joe...

McNulty, Michael...

Meek, Edward...

Menendez, H. F.

Mica, Frank...

Millaender, Joseph...

McDonough, Tom...

Miller (FL), Sonny...

Mink, Scott...

Barton, Joe...

Barton (TX), Joe...

Burton, Gathering...

Buser, Paul...

Baca, Ed...

Bilirakis, Michael...

Bilott, David...

Boswell, Charlie...

Brown (OH), Ron...

Capps, G. K. ...

Caruso, Charles...

Clayton, Steve...

Conyers, John...

Cox, Ed...

Crowley, Steve...

Cummings, Eddie...

Davis (CA), Pete...

DeFilippis, Frank...

Delahunt, James...

DeGette, Ken...

Deutsch, Gary...

Doggett, Lloyd...

Ehlers, Jim...

Engel, Peter...

Eshoo, Zoe...

Fattah, Chaka...

Ferguson, Mark...

Frank...

Frost, James...

Gephardt, Richard...

Gonzalez, Henry...

Gutiierrez, Charles...

Haller, Gary...

Hansen, Dina...

Harkin, Tom...

Harman, Charles...

Hastings (FL), Bill...

Hayes, Issa...

Hayworth, Duncan...

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

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. KUCINICH

The CHAIRMAN. The unfinished business is the demand for a recorded vote on amendment No. 2 offered by
The gentleman from Ohio (Mr. KUCINICH), on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the aggregate dollar amount, the following: “(reduced by $112,500,000)”. In title III, in the item relating to “Defense Nuclear Nonproliferations”, after the aggregate dollar amount, the following: “(increased by $66,000,000)”. (Roll No. 202)

AYES—91

Allen
Andrews
Baird
Baladaic
Balduin
Barrett
Blumenauer
Bono
Brown (OH)
Carlson (IN)
Clay
Cryner
 Cummings
DeFazio
DeGette
DeLauro
DeVito
Dingell
Dodd
Duncan
Edwards
Einhorn
Everett
Falke
Foley
Ford
Fossella
Fleischmann
Frank
Filner
Ferguson
Doggett
Cummings
Clay
Armey
Akin
Aderholt
Allen
Andrews
Ayer
Baird
Ballenger
Barcia
Barr
Bartlett
Bass
Becerra
Benten
Berenger
Berkley
Berman
Berry
Biggert
Bilirakis
Blajovich
Bjarki
Boschwitz
Bonnet
Boehner
DeMint
Diaz-Balart
Dicks
Dingell
Driehaus
Dooley
Doolittle
Dole
Dunn
Edwards
Einhorn
Engel
English
Etheridge
Everett
Flake
Fletcher
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Gallivan
Gallot
Gephardt
Gilbons
Gibbons
Gillmor
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Gibbons
Gibson
Gilmore
Gilman
Gonzales
Goodlatte
Gordon
Gore
Gorelick
Gowdy
Graham
Grazzini
Grijalva
Gruesbeck
Gutierrez
Hale
Hall (OH)
Hansen
Harrington
Haskell
Hayworth
Helvey
Hepburn
Herrera
Hill
Hinchey
Honda
Hooley
Jackson (IL)
Jones (OH)

AYES—1001

DeVito
Dole
Doolittle
Dooley
Dingell
Dickerson
Dicks

NOT VOTING—11

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

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

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

AMENDMENT OFFERED BY MR. BONIOR

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

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BONIOR:

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

SEC. 803. No funds provided in this Act may be expended to issue any permit or other authorization under section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 463), or to issue any other lease, license, permit, approval, or right-of-way, for any drilling to extract or explore for oil or gas from the land beneath the water in any of Lake Huron, Lake Ontario, Lake Michigan, Lake Erie, Lake Superior, Lake St. Clair, the St. Mary’s River, the St. Clair River, the Detroit River, the Niagara River, or the Saint Lawrence River from Lake Ontario to the 46th parallel of latitude.
Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?  
Mr. VISCOSKY. I yield to the gentleman from Alabama.

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

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

There was no objection.

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

DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $945,231,000, to remain available until expended.

NAVAL REACTORS

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

OFFICE OF THE ADMINISTRATOR

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

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

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

DEFENSE FACILITIES CLOSURE PROJECTS

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

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental management activities authorized by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), $143,268,000, to remain available until expended.
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OTHER DEFENSE ACTIVITIES
For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility for or on plant or for faciltiy construction or expansion, $487,464,000, to remain available until expended.

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

POWER MARKETING ADMINISTRATIONS
BONNEVILLE POWER ADMINISTRATION FUND
Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for official reception and representation expenses in an amount not to exceed $1,500.
During fiscal year 2002, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION
For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $4,381,000, to remain available until expended, notwithstanding the provisions of 31 U.S.C. 3302, to up to $3,000,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION
For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services pursuant to the provisions of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $28,038,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, to not to exceed $5,200,000 in reimbursements, to remain available until expended: Provided, That up to $1,512,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION
For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable energy, that appropriated, there is authorized for including official reception and representation expenses in an amount not to exceed $1,500, $172,165,000, to remain available until expended, of which $166,651,000 shall be derived from the Bonneville Power Administration Fund: Provided, That the amount herein appropriated, $1,227,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That none of the funds collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to receive purchase power and wheeling expenditures shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND
For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $2,663,000, to remain available until expended, of which $166,651,000 shall be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $181,155,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed $181,155,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2002 shall be retained and used for necessary expenses in that fiscal year shall remain available until expended: Provided further, That the sum herein appropriated from the General Fund shall be reduced as revenues from fees and annual charges and other collections result in a final fiscal year 2002 appropriation from the General Fund estimated at not more than $3: Provided further, That none of the funds made available to the Federal Energy Regulatory Commission in this or any other Act may be used to construct the Gulfstream Natural Gas Project.

DEPARTMENT OF ENERGY

SEC. 301. (a) None of the funds appropriated by this Act may be used to award a management and operating contract, or award a significant enhancement or expansion to an existing management and operating contract, unless such contract is awarded using competitive procedures or the Secretary of Energy, grants, on a case-by-case basis, a waiver to the Secretary to award such a contract: Provided, That the Secretary may not delegate the authority to grant such a waiver.
(b) At least 60 days before a contract award for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committees on Energy and Water Development of the Committees on Appropriations, the Committee on Environment, Safety, and Health, the Committee on Agriculture, and the Committee on Commerce, and the Committee on Education and the Workforce of the House of Representatives, and to the Committee on Appropriations, the Committee on Energy and Water Development Appropriations, the Committee on Environment, Safety, and Health, the Committee on Commerce, and the Committee on Education and the Workforce of the Senate on behalf of such committees the Secretary of Energy, grants, on a case-by-case basis, a waiver to the Secretary to award such a contract: Provided, That the Secretary may not delegate the authority to grant such a waiver.
(c) In specificity, the substantive reasons why such a waiver should be granted.

SEC. 302. None of the funds appropriated by this Act may be used to:
(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or
(2) provide enhanced severance payments or other benefits for employees of the Department of Energy.

SEC. 303. None of the funds appropriated by this Act may be used to augment the $21,900,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 42 U.S.C. 7274h).

SEC. 304. None of the funds appropriated by this Act may be used to:
(1) from the Department of Energy to the Occupational Safety and Health Administration of the Department of Labor to provide enhanced severance payments or other benefits for employees of the Department of Energy; under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request approved by the appropriate Congressional committees.

SEC. 305. None of the funds appropriated by this Act may be used to:
(1) from the Department of Energy to the Occupational Safety and Health Administration of the Department of Labor to provide enhanced severance payments or other benefits for employees of the Department of Energy; under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request approved by the appropriate Congressional committees.

(2) from the Department of Energy to the Occupational Safety and Health Administration of the Department of Labor to provide enhanced severance payments or other benefits for employees of the Department of Energy.

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

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

SEC. 308. Not later than March 31, 2002, the Secretary of Energy, after consultation with the Nuclear Regulatory Commission and the Occupational Safety and Health Administration, shall transmit to the Committee on Appropriations, the Committee on Energy and Commerce, and the Committee on Education and the Workforce of the House of Representatives, and to the Committee on Appropriations, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report containing an implementation plan for the transfer, on October 1, 2002—
(1) from the Department of Energy to the Nuclear Regulatory Commission of regulatory authority over nuclear safety at the Department of Energy’s science laboratories; and
(2) from the Department of Energy to the Occupational Safety and Health Administration of regulatory authority over worker safety at such laboratories.

Out of funds appropriated by this Act for Environment, Safety, and Health, the Secretary of Energy shall transfer $4,000,000 to...
the Nuclear Regulatory Commission and $120,000 to the Occupational Safety and Health Administration. For purposes of this section, the Department of Energy’s science laboratories are the Argonne National Laboratory, the Lawrence Berkeley National Laboratory, the Oak Ridge National Laboratory, the Pacific Northwest National Laboratory, the Argonne National Laboratory, the Fermi National Accelerator Laboratory, the Princeton Plasma Physics Laboratory, the Stanford Linear Accelerator Center, and the Thomas Jefferson National Accelerator Facility.

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

TITLE IV
INDEPENDENT AGENCIES
APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended by section 309, notwithstanding section 405 of said Act, and, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Reclamation Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger cars, $1,290,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out its activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–203, section 5051, $3,100,000, to remain available until expended.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, to remain available until expended.

TITLE V
GENERAL PROVISIONS

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

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

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

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.407 and 9.409 of title 48, Code of Federal Regulations.

SIC. 503. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior of the National Reclamation law.

(b) The costs of the Kesterson Reservoir Cleanup Program, and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected pursuant to the “Cleanup Program—Alternative Repayment Plan” and the “SJVP—Alternative Repayment Plan” described in the report entitled “Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995”, prepared by the Department of the Interior, Bureau of Reclamation.

SEC. 508. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

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

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.407 and 9.409 of title 48, Code of Federal Regulations.

SIC. 503. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior of the National Reclamation law.

(b) The costs of the Kesterson Reservoir Cleanup Program, and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected pursuant to the “Cleanup Program—Alternative Repayment Plan” and the “SJVP—Alternative Repayment Plan” described in the report entitled “Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995”, prepared by the Department of the Interior, Bureau of Reclamation.

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

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

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

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

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

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

I therefore insist on my point of order.

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

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

The CHAIRMAN. Are there amendments by any other Member?

AMENDMENT NO. 1 OFFERED BY MR. TRAFICANT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. Traficant:
The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, I call on the gentleman from Ohio (Mr. TRAFICANT) to make a statement. A Member opposed each will control 10 minutes.

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

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

Let me tell my colleagues about the hypocrisy. Our Department of Natural Resources will not allow any drilling under the lake adjacent to the Mosquito Creek Reservoir because there are trumpet swans and Canadian geese habitat. I have 125,000 people who depend on this for drinking water with no backup water supply. And just on June 3, not counting last year, we had an earthquake of 3.6 in the district of the gentleman from Ohio (Mr. LATOURETTE), district to the north, not far from this lake.

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

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

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

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

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

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

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

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

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

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

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

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

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

The amendment was agreed to.

AMENDMENT OFFERED BY MS. BERKLEY

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

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

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MS. BERKLEY

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. BERKLEY: Page 37, after line 11, insert the following:

SALARIES AND EXPENSES

NUCLEAR WASTE TECHNICAL REVIEW BOARD

For additional expenses of the Nuclear Waste Technical Review Board, to be derived from the Nuclear Waste Fund, for the Board (1) to evaluate the technical and scientific validity of activities undertaken by the Secretary of Energy relating to the packaging and transportation of high-level radioactive waste and spent nuclear fuel, as authorized by section 503 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10283), (2) to hold hearings, sit and act, take testimony, and receive evidence, as authorized by section 504(a) of such Act (42 U.S.C. 10284(a)), and (3) to request the Secretary (or any contractor of the Secretary) to provide the Board with records, files, papers, data, and information, as authorized by section 504(b) of such Act (42 U.S.C. 10284(b)), and the aggregate amount otherwise provided in this Act for “Energy Programs—Nuclear Waste Disposal” is hereby reduced by: $500,000.

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

The Chair recognizes the gentleman from Nevada (Ms. BERKLEY).
CONGRESSIONAL RECORD—HOUSE

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

Mr. CALLAHAN. Mr. Chairman, I yield the gentleman from Nevada.

Ms. BERKLEY. Mr. Chairman, I yield the gentleman from Nevada.

Mr. CALLAHAN. Mr. Chairman, I yield to the gentleman from Nevada. So I think the gentleman is on the right track; I think she is just a little early, because in a sense, it is an admission that it is going to happen.

Mr. VISCOSKY. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. CALLAHAN. Mr. Chairman, I yield to the gentleman from Nevada. So I think the gentleman is on the right track; I think she is just a little early, because in a sense, it is an admission that it is going to happen.

Mr. VISCOSKY. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. CALLAHAN. Mr. Chairman, I yield to the gentleman from Nevada. So I think the gentleman is on the right track; I think she is just a little early, because in a sense, it is an admission that it is going to happen.

Mr. VISCOSKY. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. CALLAHAN. Mr. Chairman, I yield to the gentleman from Nevada. So I think the gentleman is on the right track; I think she is just a little early, because in a sense, it is an admission that it is going to happen.

Mr. VISCOSKY. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. CALLAHAN. Mr. Chairman, I yield to the gentleman from Nevada. So I think the gentleman is on the right track; I think she is just a little early, because in a sense, it is an admission that it is going to happen.

Mr. VISCOSKY. Mr. Chairman, I yield to the gentleman from Indiana.

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Mr. VISCOSKY. Mr. Chairman, I yield to the gentleman from Indiana.

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Mr. VISCOSKY. Mr. Chairman, I yield to the gentleman from Indiana.

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Mr. VISCOSKY. Mr. Chairman, I yield to the gentleman from Indiana.

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Mr. CALLAHAN. Mr. Chairman, I yield to the gentleman from Nevada. So I think the gentleman is on the right track; I think she is just a little early, because in a sense, it is an admission that it is going to happen.

Mr. VISCOSKY. Mr. Chairman, I yield to the gentleman from Indiana.

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Mr. VISCOSKY. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. CALLAHAN. Mr. Chairman, I yield to the gentleman from Nevada. So I think the gentleman is on the right track; I think she is just a little early, because in a sense, it is an admission that it is going to happen.

Mr. VISCOSKY. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. CALLAHAN. Mr. Chairman, I yield to the gentleman from Nevada. So I think the gentleman is on the right track; I think she is just a little early, because in a sense, it is an admission that it is going to happen.

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

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

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

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

For this body not to stand up and make a determination to keep our neighborhoods, our schools, our hospitals, and the people that we represent safe--

Mr. BACA. Mr. Chairman, I rise in support of the Berkley amendment to the Energy and Water FY 2002 Appropriations bill, H.R. 2311. We must study the problems associated with the transportation of nuclear waste and protect our communities.

The likelyest routes will truck much of California’s radioactive waste along Interstate 15 and along train tracks straight through San Bernadino County.

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

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

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

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

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

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

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

AMENDMENT OFFERED BY MRS. KELLY

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. KELLY:

In title IV, in the item relating to “Nuclear Regulatory Commission—Salaries and Expenses”, after the second and fourth dollar amounts, insert the following: “(reduced by $700,000);”.

In title IV, in the item relating to “Nuclear Regulatory Commission—Office of Inspector General”, after the first and second dollar amounts, insert the following: “(increased by $700,000).”

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

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

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

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

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

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

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

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

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

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

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

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

Mr. CALLAHAN. I thank the gentlewoman for her work on this issue, Mr. Chairman; and I share her feelings about the importance of ensuring that the NRC Inspector General is provided the resources it needs for conducting independent reviews. This additional $800 million that we have in this bill is available for this very purpose.

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

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

Mrs. KELLY. I thank the gentleman from Alabama very much, the distinguished chairman of the subcommittee. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

Mr. CALLAHAN. The amendment is withdrawn.}

AMENDMENT OFFERED BY MR. DAVIS OF FLORIDA

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Davis of Florida:

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

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentleman from Florida (Mr. DAVIS) and a Member opposed each other on the question of agreement.

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

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

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

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

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

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

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

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

Mr. Chairman, let me say that, as the gentleman from Florida just mentioned, yes, they did bring up this measure while I, along with the other members of the Alabama delegation, were traveling with the President last week, which is their prerogative. I think, out of deference to me and to my State and to my delegation, that they should have at least informed us the night before of their intent. But they failed to do that, which is their prerogative. They do not have to notify me of anything if they do not want to.

But I thought it awful strange they waited until we got out of town. When it was obvious we could not get back, they made no effort to do with permitting us the opportunity to defend our State.

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

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

Mr. Chairman, they have got to make up their mind. It is the height of hypocrisy to try to pull the wool over the Floridians’ eyes just because it might look good in the local newspaper, or statewide newspaper, if someone happens to be running for a public office statewide. It is the height of hypocrisy to say on the one hand, go ahead and build the pipeline and supply us with gas, but on the other hand, we do not have to do with permitting the drilling of oil off the coast of Alabama, which 181 does. It has nothing to do with that.

The gentleman from Alabama (Mr. CALLAHAN) is correct about that. I yield 4 minutes to myself to respond. Mr. Chairman, I am going to stick to the facts today. I think that holds us up to the standard that we should be held up to. First, I am flattered at the notion that I had the chance to control the timing of the debate last week. I wish I had that much influence. It is clear that the gentleman from Florida (Mr. SCARBOROUGH) and I do not.

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

Mr. Chairman, let me correct something the gentleman from Alabama said. Section 181 is 200 miles, not 270 miles, off the coast of Tampa Bay, my home. That is where I grew up. I remember an oil spill that happened there when I was a child. It was not a rig. It was a barge, but it had the same environmental impact. This is the same thing to Floridians, which is what is going to happen.

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

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

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

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

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

Mr. DAVIS of Florida. Mr. Chairman, I yield 4 minutes to myself to respond. Mr. Chairman, I am going to stick to the facts today. I think that holds us up to the standard that we should be held up to. First, I am flattered at the notion that I had the chance to control the timing of the debate last week. I wish I had that much influence. It is clear that the gentleman from Florida (Mr. SCARBOROUGH) and I do not.

Mr. Chairman, let me correct something the gentleman from Alabama said. Section 181 is 200 miles, not 270 miles, off the coast of Tampa Bay, my home. That is where I grew up. I remember an oil spill that happened there when I was a child. It was not a rig. It was a barge, but it had the same environmental impact. This is the same thing to Floridians, which is what is going to happen.

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

Mr. CALLAHAN. Mr. Chairman, I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, let me correct some-
Mr. CALLAHAN mentioned the Governor of the State of Florida. He supports my amendment, Mr. Chairman, and Floridians support this amendment.

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

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

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

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

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

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

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

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

Mr. SCARBOROUGH. Yes, sir, and they are beautiful, too, sir. Mr. Chairman, my grandmother would term what the gentleman from Alabama (Mr. CALLAHAN) is doing for us in northwest Florida as gracious plenty; but I have to say, I thought I could do one thing in return to help his constituents the way he is trying to help mine, and if we can get a unanimous consent later on, maybe after this vote, that is being moved yesterday by the gentleman from Florida (Mr. SCARBOROUGH), and the State of Florida, from Perdido Key all of the way over to Destin, Seaside. It is a wonderful place, is it not, Mr. Chairman; and Florida wants, we can have, maybe after this amendment passes, we can have a body of friendship. I would like to move an amendment to protect the workers of the district of the gentleman from Alabama (Mr. CALLAHAN) and the State of Florida from layoffs and firings that would occur if the Callahan language were to survive.

As much as I appreciate his love for the natural beauty of northwest Florida, I feel an equally pressing need to show my affection for the working men and women of the State of Alabama. Just as he wants to protect Florida jobs that would be lost if those who are currently employed working on the Gulf—where the guy gets up, he wants milk to complete their work. And that is in my district, too, at Berg Steel and across the States of Louisiana and Texas and Alabama.

I fear, though, that the precedent that is being set by what the chairman has attempted to do in this bill could be dangerous because, let us think about it. Just for 1 second, let us think about it. If we use this logic that is being used, like, for instance, communities that do not want drilling 17 miles off their beaches should not be able to get natural gas, well, let us see how that would apply to other things. If one likes chicken, under the amendment’s logic, community chicken farms would have to spring up on every block because it would be hypocritical not to have chicken coops in the back yards of everybody’s house that eats chicken. Think about sausage. In Pensacola, Florida, we have a place called The Coffee Cup. It is a coffee shop, you get bacon, and I will be the first to admit, I love bacon. I consume bacon. But I sure as heck do not want to have a self-sustaining Coffee Cup slaughterhouse in the parking lot behind that restaurant and every other restaurant, but, using this logic, would have to do it.

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

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

I want to say that I understand that the chairman was upset because we took this vote when the State of Alabama Caucus, most of them, were out of the Capitol. Mr. Chairman, as I said to him in the cloakroom before I hugged you for trying to protect my district so much, my staff worker that was responsible for tracking the whereabouts of the Alabama delegation must have been off that day. I know it will shock the gentleman, but I did not know that the delegation was down with the President in Alabama. I found out when we were on the floor, and if the gentleman from Alabama (Mr. CALLAHAN) wants, we can have, maybe after this amendment passes, we can have a body of friendship. I would like to move an amendment to protect the workers of the district of the gentleman from Alabama (Mr. CALLAHAN) and the State of Florida. I yield 5 minutes to the gentleman from Florida (Mr. SCARBOROUGH).

Mr. SCARBOROUGH. Mr. Chairman, the Davis-Scarborough amendment would have passed 247 to 191 instead of 247 to 188. It was not even close. Mr. Chairman, that is why I think the gentleman from Florida (Mr. DAVIS) nor I controls what happens on this floor.

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

ANNOUNCEMENT BY THE CHAIRMAN

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Chairman, you talk about the Davis amendment. “Forget the fact that this Nation is forgoing this energy,” my colleagues say, “our minds are made up.”

“Don’t confuse us with the facts,” someone says. “The chairman’s view on that. I do not think the amendment actually would do and why we are here.

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

Mrs. THURMAN. I thank the gentleman from Alabama.

Mr. CALLAHAN. No, that is not why we are here. This has nothing to do with the drilling. It has to do with the pipeline, not the drilling.

Mr. Chairman, I yield myself 1 minute. The gentleman who last spoke wants to reiterate his comments last week and the chairman does not and I respect the chairman’s view on that. I do not think we should redebate it. But since he brought it up, let me respond.

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

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

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

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

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

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

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

Mr. CALLAHAN. No, that is not why we are here. This has nothing to do with the drilling. It has to do with the pipeline, not the drilling.

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

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

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

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

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

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

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

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

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

I urge the defeat of the Davis amendment.

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

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

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

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

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

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

And with further respect to his indication that my words could be taken down for saying the word “hypocrisy,” maybe he is right. It is the height of arro
gance of arrogance. I did not want to use the word. This is the height of arrogance. Florida is happy to burn it, but they block the rest of America from securing a steady and adequate supply of natural gas.

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

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

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

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

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

Secondly, with respect to jobs. Last week, every Member of Congress that spoke in opposition to the Davis-Scarborough amendment from an oil-producing State and they were protecting jobs in their areas. As I said on the floor and I will say again today, they do not have to apologize for that.

But let me just say today, this is not about protecting jobs in Florida. This is about protecting jobs in Texas, Alabama, North Carolina and other States. Those are the States where there are hundreds of workers who have already spent time building a pipeline that is nearing completion. So this is not about protecting jobs in Florida today.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce, who is more impacted by this than Alabama, than Florida, than anybody else, because it is closer to his district than anywhere else; and he is about as knowledgeable of this industry as anyone in this body.

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

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

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

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

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

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

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

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

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

What was the answer? It would be pretty severe.

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

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

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

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

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

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

It is critical that construction of this pipeline be allowed to continue, especially at a time when we do recognize the need for improving our energy infrastructure. I think both of us on both
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CADES of the aisle would agree that improving and increasing our infrastructural and its ability to supply the country with energy is a keystone of any sensible energy policy. The completion of this pipeline will provide much needed natural gas throughout central and southern Florida, as well as providing many jobs for the people of the Gulf Coast region.

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

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

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

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

Let us not act in petulance or in haste just because we lost one vote. In this case, we worked together to improve our national energy policy. I strongly encourage a “yes” vote on the Davis amendment to strike this unfortunate language from the energy and water appropriations bill.

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

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

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

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

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

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

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

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

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

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

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

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

Also I just want to say to the gentleman from Louisiana (Mr. TAUSIN), certainly Louisiana does take the risk; but it takes an economic risk. That is what America is about. He says that this is about good politics. Possibly some of the proposals that have been put forth over the last couple of weeks have been good politics; but I can tell you, they are bad energy policy.

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

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

Mr. MICA. Mr. Chairman, the question has been asked, why are we here? We really should be here not to talk about good politics. Possibly some of the proposals that have been put forth over the last couple of weeks have been good politics; but I can tell you, they are bad energy policy.
from Alabama (Mr. CALLAHAN) is right in opposing the amendment and prohibiting the construction of this pipeline. Why do we need a pipeline if we ban gas development?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

However, the great debate about where we are to drill or not to drill has been the amendment. This amendment merely strikes three lines out of the bill. Let me tell you what those lines are: "Provided further, That none of the funds made available to the Federal Energy Regulatory Commission in this or any other Act may be used to authorize construction of the Gulf Stream natural gas project." That is the amendment, to strike that language.

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

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

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

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

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

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

But I am also the base where the pipeline comes ashore in Manatee County, at Port Manatee. Just as it
leaves the gentleman’s district, it comes ashore in my district and has a big economic impact. So I think we need to recognize the importance of the pipeline and its investors, who are spending over $1 billion on this pipeline. Now, if there was not enough gas, they would not be spending over $1 billion on this pipeline to build it from two areas.

This issue was brought up in a manager’s amendment on Monday which had something to do with Venice beaches, and I appreciate that in the manager’s amendment last week when we addressed the issue of this pipeline. So this is strictly about the pipeline. The investors, they are the ones putting the money at risk, so we do not even make that decision. We should go ahead with the pipeline.

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

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

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

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

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

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

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

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

□ 1145

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

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

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

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

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

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

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

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

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

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

The CHAIRMAN. All time has expired.

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

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

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

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

RECORDED VOTE

The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. Berkley), and the amendment offered by the gentleman from Florida (Mr. Davis).

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

RECORD VOTE

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

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

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

AYES—102

Berkley

Abercrombie

Ackerman

Baca

Berejiklian

Becerra

Berkley

Berman

Blagoperich

Blumenauer

Boswell

Bryant

Baca

Brady

Becerra

Berkeley

Berejiklian

Blagoperich

Blumenauer

Boswell

Bryant

Baca

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Bryant

Baca

Brady

Becerra

Berkeley

Berman

Blagoperich

Blumenauer

Boswell

Bremerton
Messrs. SMITH of Washington, BILIARAKIS, HOLDEN, SANDLIN, GANSKE, GRAVES, RODRIGUEZ, SCOTT and SHEHVIN, and Mrs. MYRICK and Mrs. BIGGERT changed their vote from "aye" to "no."

Messrs. STUPAK, KENYON, of Rhode Island, SHAYS, BOSWELL, SOUDER, RANGEL, and HINCHLEY and Ms. VELICLEIGH changed their vote from "no" to "aye."

So the amendment was rejected. The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

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

AMENDMENT OFFERED BY MR. DAVID OF FLORIDA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. Davis) on which further proceedings were postponed and on which the noes prevailed by vote of June 28, 2001.

The Clerk redesignate the amendment.

The Clerk redesignated the amendment.

NOT VOTING—10

Barton
Boucher
Hshown
McNulty
Smith (TX)
Spratt

The CHAIRMAN. A record vote has been demanded. A record vote was ordered.

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

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. Davis) on which further proceedings were postponed and on which the noes prevailed by vote of June 28, 2001.

The Clerk redesignate the amendment.

The Clerk redesignated the amendment.
Mr. GILMAN. Mr. Speaker, earlier today, I stated for: 

The result of the vote was announced for: 

So the amendment was rejected. 

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

I am very encouraged that the Brays project is on track to be fully funded at $5 million track for Fiscal Year 2002, rather than $4 million, as the Administration suggested. The project will improve flood protection for an extensively developed urban area along Brays Bayou in southwest Harris County including tens of thousands of residents. The project will provide the largest dredging project since the Hurricane Allison caused great damage to thousands of homes in this watershed several weeks ago.

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

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

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

The Houston Ship Channel expansion project calls for deepening the channel from 40 to 45 feet and widening it from 400 to 530 feet. The ship channel modernization, considered the largest dredging project since the construction of the Panama Canal, will preserve the Port of Houston's status as one of the premier deep-channel Gulf ports and one of the top transit points for cargo in the world. Besides the economic and safety benefits, the dredged material from the deepening and widening will be used to create 4,250 acres of wetland and bird habitat on Redfish Island.

I want to take this opportunity to urge those who will be conferees on this legislation to fund the Port of Houston project to its capability. This project is supported by local voters,
governmental, chambers of commerce, and environmental groups.

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

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

H.R. 2311 is an important appropriations measure that funds our Nation’s waterways, flood control, and irrigation infrastructure, as well as various important programs administered by the Department of the Energy.

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

Moreover, H.R. 2311 includes an appropriation of $3 million for the New York City Watershed Protection Program. Nine million New York’s: receive their drinking water from the New York City watershed. Accordingly, it is imperative that public health and environmental concerns be addressed along the New York City watershed. This appropriation will provide assistance for New York State for the design and construction of water supply storage, treatment, and distribution facilities, and surface water resource protection and development projects.

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

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

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

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

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

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

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

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

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

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

The amendments were agreed to.

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

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

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

The Clerk read the resolution, as follows:

H. Res. 183

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

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

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

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

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

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

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

Madam Speaker, H.R. 2330 appropriates $74.2 billion in fiscal year 2002 budget authority for agriculture and related programs through the Department of Agriculture and other agencies. This figure is $2.4 billion less than last year's appropriations, but $234 million more than the President's request. The bulk of the spending goes to food stamps, $22 billion; the Food and Drug Administration, $4 billion; child nutrition programs, $10.1 billion; supplemental nutrition for Women, Infants and Children, $4.1 billion; and the Federal Crop Insurance Program, $3 billion.

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

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

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

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

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

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

Madam Speaker, I reserve the balance of my time.

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

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

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

Madam Speaker, this is generally a good bill that serves America's farmers as well as the poor and hungry in this land. And I commend the ranking Democrat, the gentlewoman from Ohio (Ms.
I would like to thank the esteemed ranking member for yielding time to me on this rule on our agriculture appropriation bill for the year 2002. Let me say that it has been a pleasure to work with our new chairman, the gentleman from Texas (Mr. Bonilla). We think we have perfected the bill as it has moved through subcommittee and full committee. Nonetheless, I must rise reluctantly to oppose this rule.

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

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

I would very much like to have this Global Food for Education initiative extended directly by Congress as a part of the regular order in this appropriation bill.

The gentlewoman from Connecticut (Ms. DeLauro) will probably be speaking against the rule soon on the question of food safety and improved food inspection. On the surface, the bill before us looks like it provides more...
Mr. NUSSLE. The gentleman from Texas is correct. The gentleman that his understanding is correct. The gentleman from Texas (Mr. BONILLA), the chairman of the subcommittee, developed a bill that was within its 302(b) allocation as set by the Committee on Appropriations. However, the bill as reported from the Committee on Appropriations included a provision, which I opposed, by the way. This amendment included additional spending that really should be mandatory and under the jurisdiction of the Committee on Agriculture. However, the Committee on Appropriations adopted this amendment, which would provide an additional $150 million in emergency funding to assist apple producers.

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

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

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

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

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

Mr. OBEY. I thank the gentleman. This does not mean the committee is precluded from a later re-allocation as we work on these bills with the Senate during conference deliberations. Further, I would say to the gentleman from Iowa that it is my intention that the defense allocation will be preserved and maintained. Defense expenditures are critical to our national security, and I assure the gentleman that we will fully abide by the provisions of the Budget Act. However, this does not mean the committee is precluded from a later re-allocation as we work on these bills with the Senate during conference deliberations. Further, I would say to the
This is a bipartisan bill and it is brought to the floor with, I think, agreement that the real needs of the majority of the people who are needing assistance for food, is met and that it is a bill that I think we can all support in the House.

There are a couple items that I am very pleased that were included. One is funding for the National Animal Disease Center in Ames. This is in response to real concerns that we have with foot and mouth disease; mad cow disease; those types of problems that can be devastating to our livestock industry; and also for food safety for Americans. Also, they have increased the funding for the AgrAbility program, something that is very dear to me. What this program does is help people continue to farm even with disabilities. And $1.6 million in this bill for this very important program is very much appreciated.

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

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

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

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

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

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

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

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

Experts like Joe Levitt from the FDA are telling the press that, quote, we do have a real problem. To address this problem, I asked the committee to allow an amendment to provide $2.23 million in emergency funds, $90 million to increase inspection of imported foods from 1 to 10 percent, $73 million for over 600 new inspectors to inspect all high-risk and domestic farms twice a year and all other domestic farms every 2 years, and $5 million for the food safety and inspection service to ensure the implementation of new food safety procedures to strengthen our food safety efforts.

The Food and Drug Administration inspects all food except meat, poultry, and eggs. They inspect fruit juices, vegetables, cheeses, and seafood. These foods are the sources of 85 percent of food poisoning; and last year, recalls of FDA-regulated products rose to 313, the most since the mid-1980s, and 36 percent above the average.

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

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

The FDA has only 400 people to inspect all domestic food, and we have 5,000 food safety inspectors and food plants in the United States. They have less than 120 people to inspect imported food. Food Safety and Inspection Service has held public hearings on a wide
range of issues: procedures for imported food, risk management, emergency measures. We know what has happened in Europe with food and mouth. We know about the threat of mad cow. It is vital that the FSIS has the resources it needs. American families should be able to go out to dinner, to buy the foods they need in order to take care of their children or their families are going to be in jeopardy. In the 1920s, Upton Sinclair wrote in a novel, The Jungle, he highlighted the abuses of the meat packaging industry. It brought a wave of reform in this country. We need to move forward on food safety, not to move backward to the days that Sinclair wrote about. This is about providing the agency that is responsible for protecting our food supply, give them the resources to have the inspectors that they need in order that Americans will be safe. I urge my colleagues to oppose this rule.

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

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

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

Members may be aware that I am concerned and have been concerned that the reported bill designates $150 million in agricultural emergency for the purpose that is already accommodated in the budget resolution. This designation had the effect of increasing the levels of the budget resolution and the statutory caps by the same amount. The budget resolution clearly anticipated the need for additional agricultural assistance by increasing the Committee on Agriculture’s allocation by $5.5 billion in fiscal year 2001. Indeed, earlier this same week, the House passed a bill that provided that same $5.5 billion in agricultural emergency funding that was provided to agriculture. In addition, the budget resolution provided another $7.3 billion of agriculture spending in fiscal year 2002 and included a procedure that could increase the total to as much as $63 billion. The Committee on Agriculture is free to use that portion and allocation as it sees fit for specialty crops.

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

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

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

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

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

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

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

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

Agriculture is in a recession. This bill is extraordinary. It makes an awful lot of sense, I think, to pass the rule and certainly pass the bill. There will be some opportunities for some people to make modifications or offer amendments, and then there will be additional time, obviously later on, when there is a conference.

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

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

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

Madam Speaker, my colleagues and I understand what we are talking about today is the rule. That is what we are debating right now, about whether we are going to move forward on the rule,
an opportunity to put this on the floor, an opportunity to vote on this and get the appropriations bill done before we go home.

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

We should not go too far from understanding that this bill provides $2.2 billion for food stamps. This bill provides $1.2 billion for the Food and Drug Administration. They know how to administer their business. They know what they are doing, and $1.2 billion will cover that. Child nutrition programs, $10.1 billion. The Supplemental Nutrition Program for Women, Infants, and Children, known as WIC, $4.1 billion.

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

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

But we also recognize that part of the argument we are going to hear today is we are not spending enough money. Well, I might remind my colleagues that we cannot spend enough money to make sure that some people in this body will always be happy, but that we go back to the budget that we set in place earlier in the year, and that this program that we are doing for the 2002 agriculture appropriations act falls in line with what this body said it would do. Then, through the leadership of the gentleman from Texas (Mr. BONILLA), we have had an opportunity to craft through many discussions and through many votes a policy of this country that is good on a moving-forward basis.

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

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

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

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

Madam Speaker, I think this is a good rule. It is an open rule that we typically have for appropriations bills. As was mentioned earlier, there was some criticism by members of the Committee on Rules not allowing some amendments to be made in order. I think what the Committee on Rules really did was protect the product of the Committee on Appropriations.

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

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

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

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

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

The SPEAKER pro tempore. The aye side appeared to have it. The nay side appeared to have it. The ayes had it.

Mr. HASTINGS (WA). Madam Speaker, I yield the balance of my time, and I move the previous question on the resolution.

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

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

Mr. HALL of Ohio. Madam Speaker, I move that the Clerk strike from the previous question the word 'aye,' and strike the clerk's previous announcement that the ayes appeared to have it.
CONGRESSIONAL RECORD—HOUSE

June 28, 2001

Kilpatrick
Kind (WI)
Kieschnick
Kustich
LaFalce
Lampson
Langervin
Lantos
 Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoJore
Lowey
Lucas (KY)
Luther
Maloney (CT)
Markay
Mascara
Matheson
Matsui
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKINney
McNulty
Mechan
Meeks (NY)
Menendez
Millender-Thomas
McDonald
Miller, George

NOT VOTING—18

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

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

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The motion to reconsider was laid on the table.

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

SUNDAY MESSAGES FROM THE PRESIDENT

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

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

The SPEAKER pro tempore (Mrs. BIGGERT) laid before the House the following message from the President of the United States; which was read and, together with the accompanying parts, without objection, referred to the Committee on Energy and Commerce:

To the Congress of the United States:


GEORGE W. BUSH,

GENERAL LEAVE

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

The SPEAKER pro tempore. Is there objection?

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

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002

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

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole on the State of the Union for the consideration of the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, with Mr. GOODLATTE in the chair.

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

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

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

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

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

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

I believe we have produced a good bipartisan bill that deals with a lot of the specific issues that Members are concerned about in their districts across the country, ranging from research projects to inspection issues, to FDA issues, to just any possible issue that has come up. There have been 2,500-plus requests from individual Members, and we have done our best to accommodate that.

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

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

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

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

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

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

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

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

- Agricultural Research Service, $79 million;
- Animal and Plant Health Inspection Service, $55 million;
- Food Safety and Inspection Service, $25 million;
- Farm Service Agency, $201 million;
- Natural Resources Conservation Service, $77 million; and
- Food and Drug Administration, $120 million.

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

$15 million to prevent outbreaks of BSE, or Bovine Spongiiform Encephalopathy, which is commonly known as “Mad Cow disease”;

$10 million to increase the number of domestic and foreign inspections, and to expand import coverage in all product areas;
$10 million to reduce adverse events related to medical products;
$10 million to better protect volunteers who participate in clinical research studies;
$9 million to provide a safer food supply;
$23 million to complete construction of the replacement facility in Los Angeles that we initiated last year;
And full funding of increased pay costs for existing employees.

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

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

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

The bill is a bipartisan product with a lot of hard work and input from both sides of the aisle. I would like to thank the gentleman from Florida, (Chairman YOUNG), and the gentleman from Wisconsin, (Mr. OBEY), who serve as the distinguished chairman and ranking member of the Committee on Appropriations.

I would also like to thank all my subcommittee colleagues: the gentleman from New York (Mr. WALSH); the gentleman from Georgia (Mr. KINGSTON); the gentleman from Washington (Mr. NETHERCUTT); the gentleman from Iowa (Mr. LATHAM); the gentlewoman from Missouri (Mrs. EMERSON); the gentleman from Virginia (Mr. GOODE); the gentlewoman from Illinois (Mr. LAHOOD); the gentlewoman from Connecticut (Ms. DELAURO); the gentleman from New York (Mr. HINCHEN) the gentleman from Florida (Mr. BOYD).

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

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

Mr. Chairman, I include the following Comparative Statement of Budget Authority for the RECORD:
### AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)

**Title I: Agricultural Programs**

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<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. Enacted</th>
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<td>720,052</td>
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<td>Lab accreditation fees 1</td>
<td>(988)</td>
<td>(1,000)</td>
<td>(1,000)</td>
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<td>(Transfer from export loans)</td>
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<td>(790)</td>
<td>(797)</td>
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<tr>
<td>(Transfer from P.L. 480)</td>
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<td>(972)</td>
<td>(830)</td>
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<td>(Transfer from ACIP)</td>
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<td>(274,769)</td>
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<td>Subtotal, Transfers from program accounts</td>
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<td>(274,357)</td>
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<td>Subtotal, Farm Service Agency</td>
<td>830,006</td>
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### AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330) — Continued

(All amounts in thousands)

<table>
<thead>
<tr>
<th>FY 2001 Enacted</th>
<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. FY 2002 Request</th>
<th>Bill vs. FY 2001 Enacted</th>
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<tbody>
<tr>
<td>Agricultural Credit Insurance Fund Program Account:</td>
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<tr>
<td>Loan authorizations:</td>
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<tr>
<td>Farm ownership loans:</td>
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<tr>
<td>Direct</td>
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<td>Farm ownership loans:</td>
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<td>Operations and maintenance for hazardous waste management (limitation on administrative expenses)</td>
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<td>(5,000)</td>
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<td>(By transfer)</td>
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**TITLE II - CONSERVATION PROGRAMS**

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<th>Bill vs. FY 2001 Enacted</th>
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<td>Watershed surveys and planning</td>
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<td>Watershed and flood prevention operations</td>
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<td>Resource conservation and development</td>
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<td>Forestry incentives program</td>
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<td>Agricultural Conservation Program (rescission)</td>
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**TITLE III - RURAL DEVELOPMENT PROGRAMS**

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

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<td>Loan authorizations:</td>
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<td>Single family (sec. 502)</td>
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### AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330) — Continued

(Amounts in thousands)

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<td>Electric:</td>
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<td>Rural Telephone Bank Program Account:</td>
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### AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)—Continued

(Amounts in thousands)

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**TITLE V - FOREIGN ASSISTANCE AND RELATED PROGRAMS**

**Foreign Agricultural Service:**
- Salaries and expenses, direct appropriation: 115,170
  - (Transfer from export loans): (3,224)
  - (Transfer from P.L. 480): (1,033)
- Total, Program level: (119,427)

**Public Law 480 Program and Grant Accounts:**
- Program account:
  - Loan authorization, direct: (159,327)
  - Loan subsidy: 113,935
  - Ocean freight differential: 20,277
- Title II - Commodities for disposition abroad:
  - Program level: (835,159)
  - Appropriation: 971,217
- Salaries and expenses:
  - Foreign Agricultural Service (transfer to FAS): 1,033
  - Farm Service Agency (transfer to FSA): 813
- Subtotal: 1,848
- Total, Public Law 480:
  - Program level: (835,159)
  - Appropriation: 971,217
- CCC Export Loans Program Account (administrative expenses):
  - Salaries and expenses (Export Loans):
    - General Sales Manager (transfer to FAS): 3,224
    - Farm Service Agency (transfer to FSA): 568
  - Total, CCC Export Loans Program Account: 3,812
  - Total, title V, Foreign Assistance and Related Programs:
  - (By transfer): 1,090,199

**TITLE VI - FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration:**
- Salaries and expenses, direct appropriation: 1,066,173
  - Prescription drug user fee act: (149,273)
- Subtotal: (1,215,446)
- Export and certification: 2,682
- Payments to GSA: 104,736
- Drug reimportation: 2,950
- Buildings and facilities: 31,261
- Total, Food and Drug Administration: 1,087,454

**INDEPENDENT AGENCIES**

**Commodity Futures Trading Commission:** 67,650
**Farm Credit Administration (limitation on administrative expenses):** (36,719)

- Total, title VI, Related Agencies and Food and Drug Administration: 1,185,304

**TITLE VII - GENERAL PROVISIONS**

- Hunger fellowships: 1,996
- National Sheep Industry Improvement Center revolving fund: 5,000
- FDA drug reimportation: 20,949
- CCC Apple market loss (contingent emergency appropriations): 150,000
- Total, title VII, General provisions: 29,945

**TITLE VIII - FY 2001**

**NATURAL DISASTER ASSISTANCE AND OTHER EMERGENCY APPROPRIATIONS**

**CHAPTER 1**

**DEPARTMENT OF AGRICULTURE**

- Office of the Chief Information Officer:
  - Common computing environment (contingent emergency appropriations): 19,457
- Departmental administration (contingent emergency appropriations): 200
## AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)—Continued
(Amounts in thousands)

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<th>FY 2002 Request</th>
<th>Bill</th>
<th>Bill vs. FY 2002 Request</th>
<th>Bill vs. FY 2001 Enacted</th>
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<tbody>
<tr>
<td>Farm Service Agency</td>
<td></td>
<td></td>
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<tr>
<td>Salaries and expenses (contingent emergency appropriations)</td>
<td>46,690</td>
<td></td>
<td></td>
<td>-46,690</td>
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<tr>
<td>Emergency conservation program (contingent emergency appropriations)</td>
<td>74,824</td>
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<td></td>
<td>-74,824</td>
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<tr>
<td>Federal Crop Insurance Corporation</td>
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<td></td>
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<tr>
<td>Federal crop insurance corporation fund (emergency appropriations)</td>
<td>12,971</td>
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<td>-12,971</td>
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<td>Natural Resources Conservation Service</td>
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<td></td>
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<tr>
<td>Watershed and flood prevention operations (contingent emergency appropriations)</td>
<td>109,756</td>
<td></td>
<td></td>
<td>-109,756</td>
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<tr>
<td>Rural Development</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rural community advancement program (contingent emergency appropriations)</td>
<td>199,560</td>
<td></td>
<td></td>
<td>-199,560</td>
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<td>Total, Department of Agriculture</td>
<td>471,060</td>
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<td>-471,060</td>
</tr>
<tr>
<td>General Provisions</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conservation technical assistance (contingent emergency appropriations)</td>
<td>34,923</td>
<td></td>
<td></td>
<td>-34,923</td>
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<tr>
<td>CCC Disease loss compensation (contingent emergency appropriations)</td>
<td>19,000</td>
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<td>-19,000</td>
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<tr>
<td>Dairy assistance (contingent emergency appropriations)</td>
<td>473,000</td>
<td></td>
<td></td>
<td>-473,000</td>
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<tr>
<td>CCC Livestock assistance program (contingent emergency appropriations)</td>
<td>468,922</td>
<td></td>
<td></td>
<td>-468,922</td>
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<tr>
<td>WRP Additional acreage enrollments (contingent emergency appropriations)</td>
<td>117,000</td>
<td></td>
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<td>-117,000</td>
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<tr>
<td>CCC Sheep loss assistance (contingent emergency appropriations)</td>
<td>2,365</td>
<td></td>
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<td>CCC Citrus canker compensation (contingent emergency appropriations)</td>
<td>57,672</td>
<td></td>
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<tr>
<td>CCC Apple/peach market loss assistance (contingent emergency appropriations)</td>
<td>137,696</td>
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<tr>
<td>CCC Honey assistance (contingent emergency appropriations)</td>
<td>20,000</td>
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<td></td>
<td>-20,000</td>
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<tr>
<td>CCC Livestock indemnity program (contingent emergency appropriations)</td>
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<td></td>
<td></td>
<td>-9,876</td>
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<tr>
<td>CCC Wool/mohair assistance (contingent emergency appropriations)</td>
<td>19,956</td>
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<td></td>
<td>-19,956</td>
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<tr>
<td>CCC Crop loss disaster assistance (contingent emergency appropriations)</td>
<td>1,620,000</td>
<td></td>
<td></td>
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<tr>
<td>Total, General Provisions</td>
<td>3,167,289</td>
<td></td>
<td></td>
<td>-3,167,289</td>
</tr>
<tr>
<td>Total, title VII, FY 2001</td>
<td>3,638,849</td>
<td></td>
<td></td>
<td>-3,638,849</td>
</tr>
</tbody>
</table>

### TITLE X - ANTI-DUMPING

| Anti-dumping | 39,912 | | | -39,912 |

| Grand total (obligational) authority | 76,678,577 | 73,976,108 | 74,360,443 | 2,218,134 | +384,335 |
|Appropriations | (1,160,232) | (73,054,486) | (73,961,408) | (74,210,443) | (-1,175,815) | (-229,038) |
| Rescission | (-4,530) | | | | (-4,530) |
| Emergency appropriations | (12,860) | | | | (-12,860) |
| Contingent emergency appropriations | (3,800,976) | | | | (-3,800,976) | (+150,000) |
| (By transfer) | (7,987) | (764,774) | (772,761) | | (+50,818) | (+6,128) |
| (Loan authorization) | (1,463,765) | (12,028,476) | (13,713,692) | | (-2,401,912) | (+1,885,216) |

### RECAPITULATION

| Title I - Agricultural programs | 33,249,100 | 31,636,339 | 31,705,514 | -1,480,365 | +133,175 |
|Title II - Conservation programs | 87,156,566 | 928,605 | 903,032 | +32,076 | -24,873 |
|Title III - Rural economic and community development programs | 2,481,127 | 2,401,520 | 2,486,414 | +17,894 | +86,894 |
|Title IV - Domestic food programs | 34,111,665 | 36,826,391 | 36,848,928 | +2,536,537 | +19,237 |
|Title V - Foreign assistance programs | 1,090,199 | 1,096,953 | 1,106,701 | +15,602 | +9,748 |
|Title VI - Related agencies and Food and Drug Administration | 1,165,304 | 1,281,304 | 1,288,554 | +123,250 | +7,250 |
|Title VII - General provisions | 29,945 | 1,996 | 155,000 | +125,005 | +153,004 |
|Title VIII, FY 2001 | 3,638,849 | | | -3,638,849 |
|Title X, Anti-dumping | 39,912 | | | -39,912 |
|Total, new budget (obligational) authority | 76,678,577 | 73,976,108 | 74,360,443 | -2,318,134 | +384,335 |

1/ In addition to appropriation.
Mr. Chairman, I reserve the balance of my time.

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

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

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

This is the first bill managed by our new chairman, the gentleman from Texas (Mr. BONILLA). Let me congratulate our new chairman and thank the gentleman for his cooperation throughout.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In Title IV, Domestic Food Programs, the $18 million in increases above the request will help us to secure the Farm Bill today that can make this bill a hallmark of the 21st century.

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

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

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

Mr. YOUNG of Florida. Mr. Chairman, I first want to congratulate the gentleman from Texas (Mr. BONILLA). This is the gentleman’s first year as a chairman of a Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, and he has done an outstanding job.
The gentleman came as a seasoned Member. The gentleman took over this very important role as chairman of the subcommittee, and he not only has produced a good bill, but he produced it in record time.

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

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

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

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

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

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

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

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

Mr. Chairman, will the gentleman yield?

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

Mr. YOUNG of Florida. Mr. Chairman, I would like to ask the gentlewoman from Ohio (Ms. KAPTUR) to address these important issues and others as we debate the bill.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. TANCREDO).

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

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

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

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

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

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

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

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

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

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

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

I also want to say thank you to this subcommittee and the associate staff for all the hard work.

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

Connecticut is a leader in New England’s agriculture, in eggs, peaches, milk production per cow. The Nation’s oldest agriculture experiment station is just up the street from my home in New Haven. Like other farmers, Connecticut farmers face plunging commodity prices and soaring gas prices.

Urban sprawl puts it in the top 10 States in lost farmland. This spring, record low temperatures eliminated almost 40 percent of our peach, pear, grape and apple crops.

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

This bill also funds food safety efforts, but in my view, as I have expressed before in the House today, does not go far enough. It needs to do more. Americans are more likely to get sick from what they eat today than they were a half century ago, and outbreaks of food sickness are expected to go up by more than 15 percent over the next decade.

Each year 5,000 Americans die from food-borne illnesses, 76 million get ill, and 325,000 are hospitalized. Just 2 days ago, the Excel Corporation recalled 190,000 pounds of ground beef and pork because of possible contamination by deadly E. coli.

The Food and Drug Administration inspects all food except meat, poultry and eggs. Yet to cover the 30,000 U.S. companies that make this food, the FDA has only 400 inspectors. For the 4.1 million imported food items entering the country, the FDA has less than 120 inspectors. To address this crisis facing the families, I will offer an amendment to increase the funds for inspections and other food safety initiatives.

As we move toward the conference, I also would like to work with the chairman to address the funding shortage that threatens WIC. If the administration’s unemployment predictions come true, this essential nutrition program for low-income families, which yields more than $3 in savings to the government in reduced spending on programs such as Medicaid, will, in fact, not have enough funds to serve all who are eligible, all eligible women, infants and children.

I look forward to working with the gentleman from Texas (Chairman BONILLA) and the gentlewoman from Ohio (Ms. KAPTUR) to address these important issues and others as we debate the bill.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, I, too, want to rise in, in a way, admiration of the committee for their work...
on this particular piece of legislation, on this bill. It is truly commendable in a situation where profligate spending in the form of government checks and it is commendable to have a bill coming here that is only 1.5 percent above last year's spending and only 1.7 percent above the President's request.

There is no particular program in the bill with which I rise to take issue. I do wish, however, to just briefly discuss a point of concern that I have with the general tenor of our agricultural support payments. It is the fact that welfare, whether it is provided for able-bodied individuals or large corporate farmers, has a corrupting influence on both. The welfare farm subsidies keep land prices high, makes it harder for small farmers to enter into the market. Farm subsidies decrease the incentive to be efficient, and I urge the committee to think carefully about it.

The point of concern that I have with the gentleman from Texas (Chairman BONILLA) is that this bill has been a place where a win-win situation for the agriculture sector.

This is a list, by States, I have a list here from CBO of those States that receive a percentage of their net farm income as a result of government payments. It is quite astounding. In 1999, the State of Illinois had 112 percent of its net farm income a government check; Indiana, 93 percent; North Dakota, 93 percent; Iowa, 87 percent; Missouri, 78 percent; Montana, 77. At least 12 States have government checks representing more than 50 percent of their net farm income. This is an unsustainable activity, and I urge the committee to think carefully about it in the future.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. HINCHHEY), a member of our subcommittee who single-handedly turned this bill on end and was able to get language to deal with specialty crop producers across our country, a very large group and a distinguished member of our subcommittee.

Mr. HINCHHEY. Mr. Chairman, I thank the gentlewoman from Ohio (Ms. KAPTUR), ranking member, for her leadership on this committee and on this issue. I also want to express my appreciation to the chairman of the subcommittee. I think that the gentleman from Texas (Mr. BONILLA), in his first year as chairman of the subcommittee, has produced a very good bill, and it has a chance of being a bill that will greatly benefit the agriculture sector.

This bill adds $260 million to the President's request for the U.S. Department of Agriculture. It increases funding for farm programs, conservation, rural development, education and research, nutrition, and food safety. When you add in the $5.5 billion in emergency agricultural spending that the House passed earlier this week, total funding for these programs is substantially increased over last year. As with some of these bills, of course, it could be even better. I think we should have made in order the amendment of the gentlewoman from Connecticut (Ms. DeLAURO) to increase funding for food safety as well as the amendment of the gentlewoman from Ohio (Ms. KAPTUR) to fund the Global School Lunch Initiative.

But the gentleman from Texas (Chairman BONILLA) has written a balanced bill that addresses important priorities for rural America. The bill also includes $150 million for a market loss assistance program for apple growers. I offered this provision in committee with the gentleman from New York (Mr. SWEENEY) and the gentleman from New York (Mr. SWEENEY), and it was adopted by a strong bipartisan vote of 34 to 24.

I appreciate everything that the gentleman from Texas (Chairman BONILLA), the gentleman from Florida (Chairman YOUNG) and the gentleman from California (Chairman DREIER) have done to protect this funding.

I also would like to thank the gentleman from Oregon (Mr. HASTINGS) and the gentleman from New York (Mr. REYNOLDS) for their parts in writing the rule as well.

The U.S. apple industry is suffering serious financial hardships for the fifth straight year as a result of low prices, bad weather, and plant diseases. During this time, the total value of U.S. apple production fell more than 25 percent, and losses from the 2000 crop alone will probably top $500 million. This is a nationwide figure and includes losses, not only in New York, but also in Massachusetts, Michigan, Washington State, Pennsylvania, and every other place where apples are grown as a commodity crop.

Some of the apple losses can be blamed on foreign competition, the Chinese, for example, who were found guilty of dumping apple juice concentrate in the United States at prices below production costs. Increased tariffs have not significantly improved the price of apple juice in the last year.

Apple producers in New York and the Northeast watched the value of their crop decline as a result of severe hail damage. In Michigan, growers suffered a crippling epidemic of fire blight that destroyed thousands of acres of orchards.

Compared with the billions of dollars that Congress routinely sends to commodity producers, $150 million is a drop in the bucket. This payment, however, will mean the difference between life and death for many growers across the country.

Mr. Chairman, apple growers face the same market, regulatory, trade and weather conditions, and it would make the double AMTA payments necessary for row crop farmers. It is preposterous that our foreign policy differentiates so radially between them.

This is a good bill, Mr. Chairman. I am happy to support it.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Mr. Chairman, I have an amendment at the desk that I intend to withdraw, but first I would like to engage the chairman in a colloquy.

Mr. Chairman, I rise to acknowledge a job well done by the chairman and the ranking member. Agricultural programs are often arcane and seem to affect only the agricultural community, but through the chairman's leadership, the committee has produced a sound bill that benefits not only the agricultural community, but the Nation as a whole.

It is my understanding that the constraints placed upon the committee prevented funding for nearly all new research projects. One such unfunded project would have been undertaken by researchers at Auburn University, one of the leading agricultural research institutions in the country. This project sought to ensure public health through the development of improvements in poultry.

Mr. Chairman, this study, which I strongly support, will continue safely and efficiently producing poultry, and in an effort to address the environmental, human and animal concerns, I ask for your immediate consideration of a $1.3 million human health poultry-byproduct-study at Auburn University. This study will determine the risks associated with poultry production and the contributions the poultry community can make to environmental stewardship and food safety through the development of innovative techniques documenting the presence of pathogens in the various phases of the production cycle and instituting techniques to eliminate them. This study, Mr. Chairman, will safeguard public health, the end-use consumer and the environment, all at minimal taxpayer expense.

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

Mr. RILEY. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, first, I want to acknowledge that the gentleman from Alabama (Mr. RILEY) has worked very hard on this issue that is very important to Auburn University, and I would be pleased to work with the gentleman as we go to conference on this issue. It is going to be a difficult issue, and the gentleman and I have had discussions about that before, but we are going to give it our best shot. Again, I know how significant and how important it is to the folks in Alabama.

Mr. RILEY. Mr. Chairman, I thank the gentleman from Texas (Chairman BONILLA) for his time and his consideration. I look forward to working with him.

Mr. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. BOYD), a member of our subcommittee, a rancher, and one of the most knowledgeable members of our subcommittee.

June 28, 2001
Mr. BOYD. Mr. Chairman, I want to thank the gentlewoman from Ohio for yielding me this time. I want to commend the gentleman from Texas (Mr. BONILLA), my chairman, and the gentlewoman from Ohio (Ms. KAPTUR), my ranking member, and their staff for their good work they have done on this bill.

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

Mr. KAPTUR. Mr. Chairman, I would like to inquire as to our remaining time on both sides, please.

The CHAIRMAN. The gentlewoman from Ohio (Ms. KAPTUR) has 13 1/2 minutes remaining, and the gentleman from Texas (Mr. BONILLA) has 21 minutes remaining.

Ms. KAPTUR. Could I ask the gentleman if he has any additional speakers?

Mr. BONILLA. Not at this time, but there may be more coming.

Ms. KAPTUR. Mr. Chairman, I yield 1 1/2 minutes to the gentleman from Georgia (Mr. BISHOP), a distinguished member of the authorizing committee.

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

Mr. Chairman, this Congress can make historic progress in making agricultural programs that enable farmers to survive in today’s markets and to continue providing the highest quality commodities at the lowest cost to consumers.

The House has already passed a bill providing immediate farm relief, and the Committee on Agriculture has moved aggressively to draft a new multiyear farm bill to secure greater long-term stability. Today, we are considering a bill for the next fiscal year that provides $24 billion more than the President’s budget; more for research, including some $7 million more in Georgia; more for crop insurance; more in rural electric and communications loans; more for child nutrition and WIC programs; and sets aside more than $79 billion over 10 years in new emergency aid, including $7.4 billion for next year.

While I support a higher overall agriculture budget, it is time to move the process forward to close any remaining differences in House and Senate negotiations. Our goal is to save our agricultural system at a time of crisis, and today we can take another step in that direction.

Mr. Chairman, while I am concerned that the bill does not give enough help to small and disadvantaged farmers and research and capacity grants for the 1890 Land Grant Universities, I support the amendment of the gentlewoman from North Carolina (Mrs. CLAYTON) to do that.

Today, Mr. Chairman, we can move the process forward to bring more help to American agriculture. I urge my colleagues to join in support of this bill. It is a good bill. It moves the process forward, takes drastic steps in the right direction; and, hopefully, we can do what we need to do for America’s agriculture.

Mr. BONILLA. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. THORNBERRY).

Mr. THORNBERRY. Mr. Chairman, I thank the distinguished chairman, the gentleman from Texas (Mr. BONILLA), for yielding me this time; and I rise for the purpose of a brief colloquy.

I am sure the chairman is aware, a serious threat has sprung up in wheat growing areas making the lives of our already-struggling farmers even more difficult. A fungus called Karnal bunt has been found in my district as well as in one or two other districts by the gentleman from Texas (Mr. STENHOLM). While Karnal bunt poses no threat to humans or animals, it can make wheat kernels and flour ground from them unpalatable. At this time, a few counties have been quarantined. It appears it has been well contained, but we will have issues of compensation and appropriate action before us.

I have been working with the chairman and ranking member of the full committee, the gentleman from Texas (Mr. COMBEST) and the gentleman from Texas (Mr. STENHOLM), as well as the chairman of the Subcommittee on Conservation, Credit, Rural Development and Research, the gentleman from Oklahoma (Mr. LUCAS), but I would request the distinguished gentleman’s continued assistance in working with USDA and the administration to deal with this issue appropriately and to deal with those who have been affected fairly.

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

Mr. THORNBERRY. I yield to the gentleman from Texas.

Mr. STENHOLM. I thank my friend for yielding to me, and I would like to say that the situation the gentleman has described is accurate, but here are the facts to date:

Seven producers affected, 10 elevator operators affected, 17 fields tested positive, 1.4 million bushels contaminated, and 21 bushels yet to be tested. An elevator operator in my district first discovered the fungus and bunted kernels in a load of grain delivered to his facility.

For these and many other reasons, I join my colleagues in working with USDA to contain this outbreak and ensuring the critical assistance provided to producers, elevator operators, and others in agribusiness who have seen their livelihoods put on hold.

We look forward to working with my colleague, with the chairman, and with USDA, who are on top of this, and APHIS, to make sure that we contain it. It is extremely important to our industry.

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

Mr. THORNBERRY. I yield to the gentleman from Texas.

Mr. BONILLA. I thank my friend for yielding, and I would be more than happy and enthusiastic about helping my friend work on this problem. This is not a new problem for wheat producers. Accordingly, we will work to do everything possible to get USDA to act...
Ms. CAPTUR. Mr. Chairman, will the gentleman yield?

Mr. THORNBERY. I yield to the gentlewoman from Ohio.

Ms. CAPTUR. Mr. Chairman, I would like to thank my chairman for generously yielding that minute, and I just want to say that I share the gentleman’s deep concern about what this particular condition can do to our export market.

We had a situation a couple of years ago where we had USDA officials up before our committee and we asked where on the continent does Karnal bunt exist. I said was it Canada? No, we do not have it in Canada. Is it in the United States? No, it is not in the United States. I said, how very very well yield to that that is fair to all.

I would just express to the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, to the ranking member on the authorizing committee, and to the gentleman from Texas (Mr. THORNBERY) that this Member is vitally interested in that problem, and he has my full cooperation on it.

Ms. CAPTUR. Mr. Chairman, I yield myself 30 seconds to say, however, that the costs of remediating that should not only be borne by the public sector. That is something that we have to work together to try to deal with the conditions that can come in here from other countries.

I would just express to the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, to the ranking member on the authorizing committee, and to the gentleman from Texas (Mr. THORNBERY) that this Member is vitally interested in that problem, and he has my full cooperation on it.

Mr. Chairman, I yield 3 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON), a very, very esteemed member of the authorizing committee, and one of the hardest-working Members of this Congress.

Mrs. CLAYTON. Mr. Chairman, I thank the gentlewoman for yielding me this time. I want to commend both the chairman and the ranking member for their time and effort. They have been given a very difficult task of meeting the ever-demanding needs of the agricultural sector in the face of a difficult economic environment for agriculture, but also in the face of a number of environmental threats and trying to move us into the 21st century. They also have been given a very tight allocation, and I understand they are trying to work within the budget. I am on the Committee on the Budget, so I know the constraints that were imposed upon them.

There are many things they did very, very well; and I want to commend them on that. Indeed, they did increase allocations for APHIS, which I will talk a little more about, and that is desperately needed. There are some current threats that they are trying to provide sufficient funds to address those issues. They also recognized the ever-demanding need for research for agricultural communities and our institutions. Again, I think we have an opportunity to make sure as we increase those research dollars that there is some equity and parity among the institutions that we have. I will have a chance to discuss that a little later.

I want to commend them for all the things they have done. However, I do want to point out a couple of areas that I think we should give consideration to in the future. Although there may be new dollars there may be problems with the conditions that can come in here from other countries. I yield to the gentleman yield?

Mr. BONILLA. Mr. Chairman, I yield myself 4 minutes.

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

Mr. BONILLA. I yield to the gentlewoman from Connecticut.

CONGRESSIONAL RECORD—HOUSE

Ms. DeLAURO. Mr. Chairman, I thank the gentleman for agreeing to the colloquy. I want to address the pressing need of adequate funding for the WIC program. At current funding levels, States may be unable to serve approximately 200,000 low-income mothers, infants, and children. From my State of Connecticut alone, 1,300 people would not be served.

We know that the WIC program currently serves about 47 percent of all infants born in the United States, and we know the WIC dollars are excellent investments. Every dollar spent on WIC yields more than $3 in savings to the government in reduced spending on programs such as Medicaid.

WIC has contributed to better birth outcomes and reduction in childhood anemia, key indicators of the health of American children. The program provides mothers, infants, and children with nutritious supplemental food packages, nutrition education and counseling, and a gateway to pre- and post-natal health care. The program also reduces fetal deaths and infant mortality and reduces low birth-weight rates.

I might just say we have an average participation rate for this fiscal year at about 7.2 million. That reflects the average participation for the first half of the year through March. That historically is the kind of participation that we have seen in the past. December and February are always the lowest participation months. Last year, average participation for the first half of the year was nearly 50,000 below average participation for the year as a whole. According to the Center for Budget and Policy Priorities, average WIC participation for the first 8 months of fiscal year 2001 was 80,000 higher than average participation for the first 6 months of the year.

Mr. Chairman, I have a concern that when unemployment increases, as it is doing, so does the poverty rate. And we need to understand that the WIC participation cannot increase as unemployment rises if none of the families that are eligible for WIC as a result of increased unemployment enroll.

I think if we are looking at the kinds of unemployment rates where there is the view that that unemployment rate is going to rise, then we are going to see an additional number of people who need to take advantage of the WIC program. We should do this now. State WIC programs make their decisions this fall about how to run their programs. As we move toward conference, and there are 352(b) reallocations, I would like to work with the chairman to address the potential funding shortcoming for the WIC program. If the administration’s unemployment predictions come true, we will see that this very
essential program will not have enough funds to serve all eligible women, infants, and children. The food assistance program is supported by the Alliance for Retired Americans; the Children’s Foundation; Church Women United; The Communication Workers of America; Familles U.S.A.; The National Education Association; Network, a national Catholic social justice lobby; the Presbyterian Church; Public Citizen; The Service Employees International Union, SEIU; and the Universal Health Care Action Network.

Mr. Chairman, every time anyone comes up here to talk on the pharmaceutical industry, their disinformation campaign goes forward; and this issue in opposition to this amendment the issue is, quote/unquote, “safety,” “Every Member here should understand that Initiative program is implemented to compromise safety, it only makes it possible to move the reimportation bill that we passed last year forward.” Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, even the New York Yankees sometimes lose, and it has been known that on occasion the Los Angeles Lakers lose a ballgame. But, Mr. Chairman, one organization never loses, and that organization has hundreds of victories to its credit and zero defeats in the United States Congress, and that is the pharmaceutical industry.

For decades now, good people in the House and Senate, Democrats and Republicans, have attempted to do something about lowering the cost of prescription drugs in this country so that Americans do not have to pay by far the highest prices in the world for the medicine they need. And year after year with lies, distortions, well-paid lobbyists, massive amounts of advertising, and millions in campaign contributions, pharmaceutical industry always wins. Americans die and suffer because they cannot afford the outrageous cost of prescription drugs, and we remain the only country in the industrialized world that does not in one way or another regulate the cost of prescription drugs.

As part of this bill, the gentlewoman from Connecticut (Ms. DELAuro), the gentleman from New York (Mr. CROWLEY), the gentleman from California (Mr. ROHRABACHER) and I will be introducing an amendment which is exactly the same as the Crowley amendment that 363 Members of this House voted for last year. This amendment will serve as a placeholder so we can move the reimportation bill forward that was passed overwhelmingly last year, but was not implemented.

In a globalized economy, prescription drug distributors and pharmacists should be able to purchase and sell FDA safety-approved medicines at the same prices as in other countries. The passage of reimportation will lower the cost of medicine by 30 to 50 percent and enable Americans to pay the same prices as people in Canada, Europe, Mexico and all over the world.

Mr. Chairman, the amendment is supported by the Alliance for Retired Americans; the Children’s Foundation; Church Women United; The Communication Workers of America; Familles U.S.A.; The National Education Association; Network, a national Catholic social justice lobby; the Presbyterian Church; Public Citizen; The Service Employees International Union, SEIU; and the Universal Health Care Action Network.

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catch airplanes late tonight in order to period, I would hope that we can move ask for the membership's support. Senate it can be made even better. But Let us hope as we move toward the first place.

ice so we could have timely inspections Animal, Plant Health Inspection Serv-

spector general, additional help for the Associated Press on this question. RE-

RECORD a Sunday, June 24 article from

nation inside our country.

pated. Now we have this real contami-

uous issue. It essentially can make our wheat export limits as China now exports to us we are having trouble in our wheat expected that this fungus had moved into parts of California, where it was sus-

ected, immediately closed its borders and in Texas, and I believe even in

larly. As foot-and-mouth disease has been to Euro-

lowed the spread of a plant disease that curtains production to infected fields. The dis-

ease's main impact is economic: 80 countries ban imports of wheat grown in infected re-

That could be as crippling for American growers, who last year produced nearly $6 billion of wheat, as would be the discovery of foot-and-mouth disease in the U.S. livestock, said Brett Myers, executive vice president of the Kansas Wheat Growers Association. Europe's foot-and-mouth outbreak has cost millions of dollars for the slaughter of some 3 million animals and a ban on exports.

The suspected Karnal bunt contamination was first reported to the USDA on May 25, and Michael Bryant, co-owner of the elevator in Olney, Tex., that found it.

But it was seven days before the USDA's Animal and Plant Health Inspection Service (APHIS) confirmed the finding, and 15 days passed before it quarantined the first affected counties.

"Their reaction to the situation was not as timely as we would have liked," said Kansas Agriculture Secretary Jamie Clover Adams.

Charles P. Schwalbe, deputy director of APHIS's plant protection and quarantine program, said his agency sent the sample away for testing at a national lab instead of using a local one to make sure it had accu-

rate and legally defensible information before taking action.

"The decisions that emerge . . . mean live-

lihood to people from time to time," Schwalbe said.

The Karnal bunt found in Throckmorton and Young counties in Texas were the first confirmed cases in the nation's wheat belt, an area extending from central Texas to Alberta, Canada.

On June 19, concern grew as the USDA added neighboring Archer County to the quarantined area, followed by Baylor County the next day. The disease had been quarantined in Fort Worth, about 150 miles southeast.

Karnal bunt, which originated in India, was first detected United States in 1996 in Arizona and California. It has since spread to southern Texas and New Mexico.

In Arizona the amount of land used to grow wheat dropped almost 50 percent after a quarantine was imposed in 1996 in four counties, according to the Arizona Agricultural Statistics Service.

But Arizona is a minor durum wheat producer, and U.S. wheat growers have reassured overseas buyers that the disease was far from the nation's major winter wheat producing region. Winter wheat, which is planted in the fall and harvested in the spring, accounts for about two-thirds of U.S. wheat and is used primarily for bread. Durum wheat is used for pasta.

With half the winter wheat going to the ex-

port market, the discovery of the disease at the southernmost edge of the nation's bread-

basket just as the harvest was getting north sent shock waves through the wheat belt.

State regulators feared that custom har-

vesters—cutters who follow the ripening crops—would spread the fungus.

Oklahoma, just 50 miles from the two Texas counties where disease was first discovered, immediately closed its borders and ordered combinations coming into the state to be blocked and inspected. Harvesters from international wheat buyers use a USDA certification of cleanliness were turned back.

"We need to preserve our heritage and our wheat industry. The spread of Karnal bunt in the U.S. hand. His office said he has not decided whether to ask for an inquiry.

Mr. Chairman, I yield back the bal-

Mr. Bonilla. Mr. Chairman, I yield 2 minutes to the gentleman from Wash-

Mr. Nethercutt. Mr. Chairman, I thank the gentleman for yielding me this time and for his kind remarks.

Mr. Chairman, I am delighted to stand in support of this bill. We have had a lively and valuable discussion on both sides of the aisle on various issues.

Mr. Chairman, I think the sub-

committee chairman has done a won-

derful job to put this bill together in essentially record fashion. I am grate-

ful to him for his leadership.

I am supportive of this bill because it has a strong research component for agriculture, production agriculture, to be sure that it has the tools and the in-

formation and the technology nec-

essary to compete in a world market.

That is what we need for our farmers.

I am also pleased that this bill under 

the chairman's leadership has increased food safety and inspection. We have the safest, surest food supply in the world and we must make sure that we acknowledge what we have done and do not denigrate it in debate on the issue, because we have a very safe system. We need to keep it safe. We will keep it safe with the resources that are available in this bill.

At the subcommittee and the full committee level, I had raised the issue of ecoterrorism. When we spend multi-

millions of dollars on agriculture re-

search but yet some of that research gets destroyed by extremists, eco-

terrorists who seek to destroy ag-

riculture research, then we need to make sure we, as taxpayers and as Members of this body, protect that re-

search.

This is not the place or the time for that issue and the discussion sur-

rounding it, but it is an issue that we need to attend. My expectation is that we will attend to it as we go through the legislative process later in this year. I thank those of us who care deeply about agriculture need to be critically aware that ecoterrorism is a reality in this country. We need to pro-

tect the research and the researchers.
Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I want to thank the gentleman for this opportunity to express my strong support for his bill and point out a small provision of it that is extremely important to the farmers of the northeastern part of the Nation, particularly to those in Connecticut. I strongly support the increase in funding for the EQIP program, the Environmental Quality Incentives Program, because it will help us achieve our national attainment goals in the area of clean water.

The AFO/CAFO regulations are expensive. My State has adopted all of the in keeping the bill free of costly requirements for compliance with the AFO/CAFO regulations; and the only reason frankly, the only possible way that small farmers can survive these costly regulations is through the technical assistance that the EQIP funds provide to them to help them determine what projects will, in fact, contain runoff. These funds give them some help in offsetting the costs of developing manure management programs and other modern approaches that will enable them to make a significant contribution to the cleanliness of our waterways and also, in the long run, to the revitalization of Long Island Sound.

In New England, we have very steep, hilly farms. We also have more rainfall than other parts of the country. So the burden on us is, frankly, far higher than the burden on other parts of the country. We are not a part of the country that benefits much from the farm bill through its crop assistance and other programs but so some of its conservation dollars, and these EQIP dollars, are extremely important to us. I thank the chairman for uncapping them and making more resources available for compliance with the AFO/CAFO requirements.

Mr. BONILLA. Mr. Chairman, our Committee has worked hard to bring a good bill to the House. We have made prudent recommendations for the use of the budgetary allocation available to us, and we have done yeoman work on important issues such as trade policy, that have caused concern in prior years. I think we have a very good bill, and I know that we will have a good debate. In closing, I would certainly hope that everyone would support this bill on final passage.

Mr. KIND. Mr. Chairman, today the House is considering funding for the fiscal year 2002 Agriculture appropriations bill. This bill provides funding for U.S. Department of Agriculture and the Food and Drug Administration. As a Member of Congress from a large agribusiness district who is also concerned about this Nation’s long-term fiscal health, I am concerned that this measure is yet another repeat of past agriculture spending packages—where Congress is providing fewer-and-fewer farmers with financial assistance.

The failure of Congress to make fundamental changes to current agriculture policy, which had led to many farmers being driven off their land due to the perverse financial incentives, is beyond reasonable belief.

It is my hope that future agriculture policy will be equitable, providing federal assistance—when needed—to all producers. It is my hope that future agriculture policy respects the broad diversity of rural America. It is my hope that future agriculture policy provides for clean and safe drinking water, along with improved soil and air quality.

Mr. Chairman, this measure obviously covers more than just financial assistance to American farmers. In addition, it provides important funding for nutrition programs, food inspection, and safety. For these reasons, it is very important that this measure is passed.

Mr. BEREUTER. Mr. Chairman, this Member is grateful and pleased that this legislation includes funding for several important projects of interest to the State of Nebraska. First, this Member is pleased that H.R. 2330 provides $461,000 for the Midwest Advanced Food Manufacturing Alliance (MAFMA). The alliance is an association of 12 leading research universities and corporate partners. Its purpose is to develop and facilitate the transfer of new food manufacturing and processing technologies. The MAFMA awards grants for research projects on a peer review basis. These awards must be supported by an industry partner willing to provide matching funds. During the seventh year of competition, MAFMA received 39 proposals requesting a total of $1,382,555. Eleven proposals were funded for a total of $348,147. Matching funds from industry for these funded projects total $605,601 with an additional $57,115 from in-kind funds. These figures convincingly demonstrate how successful the program has been in leveraging support from the food manufacturing and processing industries.

Mr. Chairman, the future viability and competitiveness of the U.S. agricultural industry depends on its ability to adapt to increasing worldwide demands for U.S. exports of intermediate and consumer goods. In order to meet these changing worldwide demands, agricultural research must also adapt to provide more emphasis on adding value to our basic farm commodities. The Midwest Advanced Food Manufacturing Alliance can provide the necessary cooperative link between universities and industries for the development of competitive food manufacturing and processing technologies. This will, in turn, ensure...
The program provides guarantees for 30-year fixed-rate mortgages for the purchase of an existing home or the construction of a new home.

Mr. Chairman, in conclusion, this Member supports H.R. 2330 and urges his colleagues to approve it.

Mr. LARGENT. Mr. Chairman, I rise today to express my support for H.R. 2330, the FY 2002 Appropriations bill. I am pleased that the Appropriations Committee has both supported our farmers and displayed fiscal discipline by remaining close to the President's budget request. This responsible bill addresses the needs of our nation's farmers and ranchers while keeping in mind the desire of American consumers to buy affordable and safe agriculture products.

I want to commend the full committee for passing a number of important amendments. Specifically, I am pleased that employees of the Farm Service Agency will be better able to deliver farm ownership, farm operating, and disaster loans through improved salary and expense funding and through additional resources for agricultural credit programs. This assistance will provide much-needed relief as the workload of this vital agency has grown in response to a weakening farm economy.

I am also pleased with the investment this bill makes in the future safety and health of our citizens and our environment. The research that will be facilitated and advanced through this bill will ensure the continued quality of our food supply by improving safety guards. The conservation programs within the bill also reflect foresight. The desire of farmers to preserve American soil exemplifies the respect and attachment they have for the land in which they are invested.

Lastly, I am encouraged by the Distance Learning and Telemedicine Program which will link rural Americans with resources and opportunities previously available only in urban areas. As we seek a prosperous future for our rural residents, we must find ways to stimulate local economies. This bill advances that goal through education and enhanced services that will enable individuals and families to stay in their hometowns while receiving educational and health services. Using technology to provide useful links between rural and urban areas will slow the flight to cities and preserve smaller towns and municipalities, which are vital pieces of the American fabric.

I commend the chairman, and all of the members of the committee for crafting this responsible bill.

Mr. TANCREDO. Mr. Chairman, I rise in opposition to H.R. 2330, the Agriculture Appropriations Act, a bill considered on the floor today which makes appropriations for the Department of Agriculture and related agencies. But more specifically, I rise in strong opposition to the increase provided in the bill for the Food and Drug Administration (FDA) and the possible delay in approval of the PMA by a 90 vote. From this point onward, the FDA engaged in an obvious pattern of delay and deception and even went as far as to remove TMJ Implants' Fossa-Eminence Prosthesis from the market, which had been available for almost 40 years. This has done nothing more than to cause harm to patients and cost the company millions of dollars.

This was done at the same time that the application for TMJ Concepts, a competitor of TMJ Implants, sailed through the process. Several allegations have come to light over the last two years detailing the fact that several Agency employees have worked under the direction of TMJ Concepts' associates.

The agency went so far as to reconvene a new Medical Devices Advisory Committee late last year, with a clear majority of its members lacking the required expertise, which delayed the company's application.

It was not until Mr. Bernard Statland, the new Director of the Office of Device Evaluations (ODE) was brought in that the logjam was broken the PMA was quickly approved.

As the above demonstrates, several concerns remain about the process that has taken place over the last two years. It is no secret that everyone involved in this case believes that there have been significant questions raised about the process—the sluggish pace of the review of the engineering data for both the total and partial joint and, more importantly, the constant "moving of the goal posts" during the review of both PMAs.

Over the last 2 years, my office has received numerous letters from physicians all across the country—from the Mayo Clinic to the University of Maryland—each describing the benefit of the partial joint and the fact that the partial and total joint results in immediate and dramatic in pain relief in range of motion and increased function.

While I am, of course, pleased that the application has been approved by the FDA after...
much delay, the circumstances of the last 2
years calls into question the integrity of the
agency and, it is for this reason that I bring it
to the House’s attention.

Dr. Christensen is a true professional and a
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CONGRESSIONAL RECORD—HOUSE
June 28, 2001

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of various people and declarations are fine, but when you add up the numbers, I think that’s the take-home lesson.”

With TMJ Implants, Statland said, FDA played “a consultative role,” although he would not address Christensen’s complaints that the early stages of the review were far from consultative. “I’m pro-technology,” he stressed. “I want good devices to be out there to help people. At the same time, I want full disclosure, so people can make good decisions.”

Rosen acknowledged that after Statland began disagreeing with FDA’s issues dividing the company from reviewers, there were holes in the data (e.g., patients lost to follow-up) that the company had provided and that reviewers apparently didn’t know how to assess. After one round-table discussion, on 2/18, he and Mike Cole worked through the weekend to extract from the company’s prospective clinical study data a sufficient analysis of patients who had at least three years’ experience with the Fossa-Eminence implant. On 2/27, he presented this to the reviewers, and it answered all of their questions. That left only the labeling, which then moved quickly to completion.

Christensen, who had enlisted legal, political and media help in his frustration with the process, told us 2/27 he is now “very pleased” with the result, although he thinks FDA owes him for some of his extraordinary costs restoring two devices to market. He has resumed full marketing efforts. By his calculations, he has $6 million to $8 million in losses to make up.

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

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule and the amendment printed in House Report 107–118 is adopted.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $75,000 for employment under 5 U.S.C. 3109, $3,015,000: Provided, That not to exceed $11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: Provided further, That none of the funds appropriated otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 798(d) of Public Law 104–127: Provided further, That none of the funds made available by this Act may be used to enforce section 798(d) of Public Law 104–127.

AMENDMENT OFFERED BY MS. KAPTUR

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

The Clerk read as follows:

Amendment offered by Ms. KAPTUR.

In title I, under the heading “OFFICE OF THE SECRETARY” insert after the first dollar amount the following: “(increased by $1,700)”.

In title V, under the heading “FOREIGN AGRICULTURAL SERVICE”–“SALARIES AND EXPENSES” insert after the second dollar amount the following: “(increased by $1,700)”.

Ms. KAPTUR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered read and printed in the RECORD.

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

There was no objection.

Ms. KAPTUR. Mr. Chairman, through the amendment, this bill at the subcommittee level and full committee level, we very, very much wanted to have a straightforward appropriation for continuation of the Global Food for Education program. Thus far we have been unable to achieve that in the base bill and have only been able to achieve report language that essentially says that we, as the Congress, expect that the Secretary of Agriculture will continue a program begun last year that is moving our surplus commodities and food commodities around the world to 38 countries, feeding over 9 million needy children. This program is a win-win for America’s farmers and ranchers and definitely a win-win for hungry children around the world, including young girls who are supposed to go to school and receive a decent ration in whatever country they might live.

Unfortunately, in the base bill, there is not $300 million appropriated to continue this program straightforwardly. Rather, all we have is some language that says to the Secretary, “We think it’s a great idea; we hope you can figure out a way to continue the program; and we expect you to continue the program.”

The purpose of this amendment as drafted would be to symbolically take $1,700 from the Secretary’s own accounts and to make those available to the Foreign Agricultural Service. Now, we know $1,700 is not a whole lot, you might be able to buy some stationery with that, but the number 1700 happens to be the number of the McGovern-Emerson bill, which is the bill that would permanently authorize this program for which we would appropriate necessary funds in any fiscal year.

Now, the program as it currently operates is having a tremendous impact around the world. In fact, there are some countries where organizations are now building schools, albeit humble school buildings, maybe thatched roof schools, where children are coming to receive this food. It has tremendous support from so many of our non-governmental organizations, like Catholic Charities, like AC迪/VOCA, like Mercy Corps, like CARE, the very organizations that the World Food Program works through all across the world to feed those who are most in need.

So the purpose of this amendment as drafted really is to say, look, why are we involved in this budget charade of saying to the Congress: if we directly appropriate $300 million, we can’t do that because we break some sacrosanct budget rule here and, therefore, we can’t appropriate real dollars. So we’ll just put report language in the bill. Compare this to the other option that, we’re able to do that as a House. We can appropriate $300 million and she can spend the dollars out of the Commodity Credit Corporation and it doesn’t score.

I do not think there is a person in my district that would understand this kind of budget charade. So the purpose of this amendment is really to draw attention to what is happening here and to say that a large number of our Members on this side of the aisle really want this program to have permanently appropriated dollars. We want to be able to do that as a House. We are handcuffed in the procedures allowed through subcommittee and full committee in order to achieve that.

It is not my intention to move forward with this amendment because I do not want to do a fig leaf. I want to do a real appropriation. But I want to use this amendment as a mechanism to allow others who support this program to speak and to, in the strongest language possible, let the administration know that we are serious. Quite frankly, this bill is a nice piece, it is my intention, working with some of my other colleagues, to bring this up in the other body.

Mrs. EMERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to enter into a colloquy with the gentleman from Texas (Mr. BONILLA) as well as the gentleman from Massachusetts (Mr. MCGOVERN) and the gentlewoman from Ohio (Ms. KAPTUR) with regard to the continuation of the Global Food for Education Initiative.

Mr. Chairman, the Global Food for Education Initiative was implemented as a pilot program during fiscal year 2001. The Department of Agriculture used $300 million of discretionary funds from the Commodity Credit Corporation to start this pilot program.

Mr. Chairman, I have joined with the gentleman from Massachusetts (Mr. MCGOVERN) and others in introducing the George McGovern-Robert Dole International Food for Education and Child Nutrition
Act of 2001 so that we actually can authorize this program for a 5-year period. However, it is unlikely that this authorizing legislation will be approved in time to provide a seamless transition from the pilot to the authorized program for fiscal year 2002.

An amendment was offered to continue the pilot program at the current level of funding during our markup in the agriculture appropriations subcommittee, but we determined that, for lots of reasons, it would not be part of our bill today. However, I was pleased at the efforts of the gentleman from Texas to include language explaining that the House of Representatives expects the Department of Agriculture to continue the GFEI pilot program in the fiscal year 2002.

Mr. Chairman, it is my hope that the committee supports the international school feeding programs. I would like to see the GFEI continued for the next fiscal year. Is it the gentleman from Texas’ expectation that the Department of Agriculture will continue to fund this program at its current level in fiscal year 2002?

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

Mrs. EMERSON. I yield to the gentleman from Texas.

Mr. BONILLA. It is hard to speculate as to what the Department is going to do, but I can assure her that this is something that we are all concerned about. I know the gentlewoman from Ohio (Ms. KAPTUR) has worked on this as well, along with the gentleman from Massachusetts (Mr. MCGOVERN), the gentleman from New York (Mr. WALSH), and others. The subcommittee included report language that encourages the Secretary to continue this program at the same level as the current fiscal year. Accordingly, I will be pleased to work with the gentlewoman to seek that USDA continues a program that they initiated administratively.

Mrs. EMERSON. I thank the gentleman.

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

Mrs. EMERSON. I yield to the gentleman from Massachusetts.

Mr. MCGOVERN. First of all, I want to thank the gentlewoman from Missouri for her tremendous leadership on this issue and also the gentleman from Massachusetts, Mr. MCGOVERN. The two of them have been vigilant all through our efforts in subcommittee and full committee. I want to thank the gentleman from Texas, Mr. BONILLA, for trying to do as much as he could do. I would hope that we might even consider doing a joint letter to the Secretary as we move toward conference, if that is possible, in order that this program be given the serious attention that it demands at the Department of Agriculture. I want to thank all my colleagues for their tremendous efforts.

Also, I understand Senator Dole has gone through a bit of a procedure at the Cleveland Clinic recently. If he is watching this, I hope our remarks make him feel better. I also want to thank Senator McGovern who has been such a stalwart supporter and innovator, a genius really on this program. We thank him for traveling up here recently to join us in a press conference in front of the Capitol. We hope in their stead here today that we do what is necessary to continue this program.

Mrs. EMERSON. I thank the gentleman from Texas.

Mr. BOB DOLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to make a few observations about the conversation that we have just heard with respect to this proposal. I think the key words that Members ought to keep in mind were the words of the subcommittee chairman. When he was asked whether or not he did expect the Department to, in fact, continue this program, he correctly pointed out that it is always difficult to predict what any agency, including USDA, will do. That is precisely why, in my view, the committee should have adopted the amendment that we tried to attach in full committee and why this House should have acted on it today.

Here is the situation that we face on this issue. We have had, for the past year, a pilot program going on which in essence takes the value of surplus food in this country and uses it to provide nutrition for young children abroad.

We have been asked by former Senator George McGovern and former Senator Bob Dole, who each on occasion was honored with the nomination of his party to the Presidency of the United States, we have been asked by both of them to continue the program and to make it a long-term commitment. That is something we ought to do.

I would submit that no one in the history of the Congress knows more about child nutrition than George McGovern and Bob Dole. They devoted a great deal of time and effort to it and they are immediately interested in the fact that children in this country were adequately nourished, and they are trying to also do something to recognize that we have responsibilities to people around the world who are not as fortunate as we are.

The problem we have is that when the gentlewoman from Ohio (Ms. KAPTUR) and others sought to offer the amendment, we were told if we offer the amendment and if we do that in this bill, then this bill will be scored and that will hurt us vis-a-vis the Budget Act.

I would simply say I think this is a sad example of how we have been tied up by some of the ludicrous accounting rules that get in the way of our achieving the needed policy goals.

We are stuck in a battle of accountants and the lawyerly interpretation of what accountants tell us and, as a result, we are prevented from doing something which we obviously ought to do.

We have one problem. The agency has not decided to proceed. This Congress had a choice. It could tell the agency to get off the dime and proceed or it could pass the buck. I think that is unfortunate. It seems to me that if the Congress had indicated today, through an amendment on this legislation, that we were directing them to proceed, the agency would have proceeded. We would then have not had the accounting problem and we could have, in fact, delivered on this program.

We have a simple choice. We have surplus commodities in this country. The question is, will the taxpayers be asked to pay money in order to store them or will they be asked to pay money in order to ship them so they can be used to provide nutrition for young children abroad who need them?
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That is a win-win proposition, both for those kids and our farmers. It ought to be a no-brainer as well, and I think it is indeed unfortunate that we have been prevented from offering the amendment today.

Ms. KAPTUR. Mr. Chairman, if the gentleman will yield, I reserve the right, as we move toward conference, to reintroduce this issue into the debate as we further perfect this bill.

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

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

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

The Clerk will read.

The Clerk read as follows:

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agriculture Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622z), and including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $7,704,000.

Ms. LEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to enter into a colloquy with the chairman of the committee. I had intended to offer an amendment to provide funding to make it easier for students to purchase organic and whole foods in the school breakfast and lunch programs, but I will not offer my amendment today. I want to thank the gentleman from Texas (Mr. BONILLA), and the ranking member, the gentlewoman from Ohio (Ms. KAPTUR) for their support of my intention to assist schools in purchasing healthy foods for their school breakfast and lunch programs. This would include organic, locally grown and fresh produce. At a time when our children’s health is threatened by such conditions as obesity and type II diabetes, it is more important than ever to ensure that they have healthy options when they eat at school.

Currently, our tax dollars buy a high fat, high caffeine, fast food diet, which is turning into an extremely expensive public health problem. According to the Centers for Disease Control and Prevention, youth nutrition and obesity are an epidemic in the United States. The Healthy Farms and Healthy Kids Report states that the awful irony is that our multibillion dollar investment is yielding a multibillion dollar public health crisis in school-aged children while at the same time 83 percent of farmers who are perched precariously on the edge of urban sprawl are threatened with extinction. In many school districts in my State of California and around the Nation, urban, rural, and suburban, it is a real challenge to serve fresh, ethnically diverse meals prepared on-site from whole ingredients obtained by local farms.

With the commitment from the schools and the community, things can be better. In my district, for example, in Berkeley, California, they are facilitating a district-wide food systems-based curriculum supporting garden classrooms and cooking programs in every school.

In Berkeley, local funding has allowed the schools to have a garden in every school, and they are opening fresh salad bars with organic and other fresh foods. So this will help our schools and our local farmers, and, of course, of the purveyors like schools, we believe we will demonstrate that we can bring more healthy foods into our schools while lowering the costs but still supporting our farmers. So I would just like to ask the gentleman from Texas (Mr. BONILLA) for his help really in the future to secure funds to make it easier to get healthy foods from our farms to our children and to our schools, of course. I look forward to working with him and our ranking member, the gentlewoman from Ohio (Ms. KAPTUR), to ensure that this provision could possibly be contained in the final version of the fiscal year 2002 Agricultural Appropriations Act.

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

Ms. LEE. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I would be happy to work with the gentlewoman from California (Ms. Lee) and the folks at USDA to provide some positive direction in this area. There is not a parent out there that is not concerned about good nutrition for children so I thank the gentlewoman for bringing this up and would look forward to again trying to direct USDA, somehow working with the gentlewoman on this issue of organic foods.

Ms. KAPTUR. Mr. Chairman, will the gentlewoman yield?

Ms. LEE. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I just wanted to say to the gentlewoman from California (Ms. Lee) that I fully support her efforts. I think she has raised an exceedingly important issue for our country. Without question, the nutrition of our children will yield the health of the future generation. The high use of sugar and high fats in the diets of our youth are creating an untenable, extremely unhealthy situation in this country that even the Surgeon General has recognized.

One of the hardest challenges we face within the U.S. Department of Agriculture is to get the nutrition part of the agency, which has over half of its budget, to talk to the production side, which is the part the gentlewoman is talking about. That is producers, organic producers, small farmers, must be linked to our local school districts. This has been a tough job. I really support the gentlewoman on her efforts. Her goals of helping our children, I think, are commendable and also getting the Department of Agriculture to see its responsibilities toward our youth by working with farmers who can provide that fresh product in fruits and vegetables, with ethnic and racial sensitivity at the most local of levels, which is where we all live.

So I look forward to working with the gentlewoman as we move the bill in the other body and hopefully we can strengthen this measure as we move forward. I thank the gentlewoman so very much for bringing up this very important issue today.

Ms. LEE. Mr. Chairman, I want to thank the chairman and our ranking member for their colloquy and for their assistance and look forward to working with them. I come from an urban community. I look forward to working with our rural and suburban and urban legislators on this.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $10,325,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $10,325,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service and Rural Development mission areas for information technology systems, and services, $2,000,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 691-16 and 40 U.S.C. 1421-28: Provided, That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall require the concurrence of the Department’s Chief Information Officer.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $10,325,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $10,325,000.

CONGRESSIONAL RECORD—HOUSE
OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS (INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison with non-governmental organizations, $3,718,000: Provided, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level; Provided further, That no other funds appropriated to the Department by this Act shall be available for the Department for support of activities of congressional relations.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and for the coordination of information, work, and programs authorized by Congress in the Department, $8,975,000, including employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, $71,429,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, including not to exceed $50,000 for employment under 5 U.S.C. 3109, and including not to exceed $125,000 for certain confidential operational expenses, including the payment of informants, to be funded with appropriations made available pursuant to section 706(a) of the Organic Act of 1944 to the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $32,937,000.

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., $15,665,000, to remain available until expended: Provided, That funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

For Departmental Administration, $7,386,000, to provide for necessary expenses for maintenance and operation of offices of the Department and for general administration and disaster management of the Department, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, and for which this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 7 U.S.C. 551-554.

OFFICE OF RESEARCH, EDUCATION AND ECONOMICS

For Departmental Administration, $75,398,000, to provide for necessary expenses for maintenance and operation of offices of the Department and for general administration and disaster management of the Department, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, and for which this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 7 U.S.C. 551-554.
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the occupancy or use of land and facilities (including land and facilities at the Beltsville Agricultural Research Center) issued by the agency, as authorized by law, and such fees shall be credited to this account, and shall remain available until expended for authorized purposes.

AMENDMENT NO. 24 OFFERED BY MR. TIERNEY

Mr. TIERNEY. Mr. Chairman, I offer amendment No. 24.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Mr. Tierney:
In title I, under the heading “AGRICULTURAL RESEARCH SERVICE-SALARIES AND EXPENSES”, insert at the end the following:

SEC. 10. REPORT REGARDING GENETICALLY ENGINEERED FOODS.

(a) IN GENERAL.—Not later than one year after funds are made available to carry out this section, the Agency shall complete and transmit to Congress a report that includes recommendations for the following:

(1) DATA AND TESTS.—The type of data and tests that are needed to sufficiently assess and evaluate human health risks from the consumption of genetically engineered foods.

(2) MONITORING SYSTEM.—The type of Federal monitoring system that should be created to assess any future human health consequences from long-term consumption of genetically engineered foods.

(3) REGULATIONS.—A Federal regulatory structure to approve genetically engineered foods does not as of yet exist.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture $500,000 to carry out this section.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. The point of order is reserved.

Mr. TIERNEY. Mr. Chairman, there is probably no more important responsibility for a government than to protect the well-being of its citizens. For this reason, it is essential that we properly assess the best way to ensure the safety of genetically engineered foods.

This amendment presented at the desk seeks a National Academy of Sciences study to examine three important health-related aspects of genetically engineered foods. One, whether or not the tests being performed on genetically engineered foods really ensure their health safety and whether or not they are adequate and relevant; two, what type of monitoring system is needed to assess future health consequences from genetically engineered foods; and, lastly, what type of regulatory structure should be in place to approve genetically engineered foods for humans to eat.

In the year 2000, more than 100 million acres of land around the world were planted with genetically engineered crops. This is 25 times as much as was planted just 4 years before. In fact, genetically engineered food crops planted and marketed by United States farmers include 45 kinds of corn, canola, tomatoes, potatoes, soybeans, and sunflowers. In contrast, the growing presence of genetically engineered foods and despite industry assertions that the foods are safe to eat, the public remains unconvinced. The discovery last year of genetically engineered Starlink corn that was not approved for humans to eat in taco shells was a wake-up call. Now, that the cat is out of the bag, Starlink’s manufacturers want the Environmental Protection Agency to declare Starlink safe for human consumption.

Mr. Chairman, that is no way to protect our health. As the Centers for Disease Control noted earlier this month, we need to properly evaluate genetically engineered foods before they get into the food supply. In my home State of Texas, the Environmental Protection Agency is considering legislation that would impose a 5-year moratorium on the growing of genetically engineered foods. Similar legislation is pending in New York. In fact, according to the Grocery Manufacturers of America, as of March this year there were eight bills in six States that would ban or put a moratorium on the planting of genetically engineered crops.

We cannot afford to bury our heads in the sand and let the public’s concerns continue to grow. We need to develop a standard of tests that can be applied to all genetically engineered food to ensure that it is safe for our children and ourselves to eat.

The Food and Drug Administration does not conduct its own testing of genetically engineered products. Instead, the Food and Drug Administration provides guidelines and then relies upon the companies who produce genetically engineered products to test their safety. Companies voluntarily share the results of the tests on genetically engineered products with the Food and Drug Administration.

Under new rules proposed on January 17 by the last administration, companies in the future will have to give 120 days’ notice to the Food and Drug Administration before producing new genetically engineered products on the market. But even with these new rules, it remains the responsibility of the companies that create the market and market these products to test for their safety. We need to be sure that these companies are doing the right tests in the right way.

In addition to ensuring that testing methods are adequate, we need to ensure that our regulatory system is also sufficient to protect our health. The National Academy of Sciences has said, "A solid regulatory system and scientific base are important to acceptance and safe adoption of agricultural biotechnology, as well as for protecting the environment and public health.”

Our current regulatory system, in which the Food and Drug Administration, the Environmental Protection Agency, and the United States Department of Agriculture share jurisdiction over genetically engineered food, may not be the best way to ensure the health and safety of the foods we eat. We need to be certain that testing, regulation and monitoring of genetically engineered foods over the long term are effective and appropriate in determining the potential health effects of eating genetically engineered foods.

I think that is what we are looking for, Mr. Chairman. We want consumers to feel secure when they eat, and we want farmers to be confident when they market their products. We should heed the words from this study, and we should fund the study proposed in this amendment.

Mr. Chairman, I thank the chairman for his attention.

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) insist upon his point of order?

Mr. BONILLA. I continue to reserve my point of order, Mr. Chairman.

The CHAIRMAN. The gentleman continues to insist on his point of order.

Mr. KUCINICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Tierney amendment. I think the gentleman from Massachusetts raised an excellent point about the need for further study. The truth is that in 1999, more than 100 million acres of genetically engineered crops were planted in this country, and the consumption of genetically engineered crops is happening. Yet we really do not have much information about the effects; we really do not know much about how this might have some implications for public health. That is why many States are starting to look at this quite critically, and the issues that are raised here certainly merit more study.

The gentleman from Massachusetts (Mr. TIERNEY) should be congratulated for raising this issue and for asking for a more thorough review of this. I can say that I think most people
in this country would support such a call. People are concerned about the food they eat, and they are certainly concerned about new technology which may, in one way or another, change the functional characteristics of the food, as well as the properties of the food and the way in which the food interacts in the human medium.

I think the gentleman from Massachusetts (Mr. TIERNEY) for his work.

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

Mr. KUCINICH. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, I would hope that the chairman would just know, this is the second year we have presented this motion; and I think it is a pretty balanced motion.

We are seeking here to both give consumers confidence, that the gentleman from Ohio points out very clearly is a very big concern for people; but we also are trying to make sure that farmers know that they can go to the market with confidence. It is going to do us no good in terms of the economics of our society to have a bunch of farmers that are creating a product in which the consumers have no confidence, so there is no market there.

This particular amendment was a hope to strike the point where we get the National Academy of Science to determine for us what is the best testing regime, what is the best way to monitor this as it goes through, and what is the best way to make sure that we have a regulatory structure to give the confidence at both of those levels.

Mr. KUCINICH. Mr. Chairman, reclaiming my time, the gentleman is correct on that. As a matter of fact, American farmers are quite concerned about the safety of genetically engineered products on their markets, because if their markets begin to dry up, as they have in some countries, then American farmers are not able to sell what we know is the best agriculture in the world, here from America. But if the products are genetically engineered, if there has not been much study and there is concern about quality, safety and other things, then our farmers can endure economic loss.

I want to again thank the gentleman from Massachusetts (Mr. TIERNEY) for raising this issue, and I hope that the gentleman would respectfully consider his amendment as being in order.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) still insist on his point of order?

Mr. BONILLA. Mr. Chairman, I continue to reserve my point of order.

The CHAIRMAN. The gentleman continue to reserve his point of order.

Mr. SMITH of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I commend the gentleman for their interest in providing wholesome food. It is important. I would like to point out, however, that regarding the Starlink corn question, there had been no ill effects to humans. That is good news.

I would like to also point out that, because we have been cross-breeding for 1,000 years, every food item that we buy in a store, except a couple of varieties of fish, have been genetically modified. This has happened simply because farmers have been looking for ways to improve the quality and cost of food.

I think it is very important that we continue our scientific effort with this new technology of genetic modification. We must also consider the importance of its tremendous potential in developing better food products and more healthy and nutritious products that have vaccines. Also, especially in the developing countries of this world, we now have the potential of developing the kind of plants and seeds that can grow in those arid soils or those types of climatic conditions where they could not grow food before. So we need to proceed in our scientific research.

Just a point before I yield for a comment. We have the best regulatory system in the world in terms of our oversight of genetically engineered products. Between the United States Department of Agriculture, the Food and Drug Administration and the Environmental Protection Agency, we now have the ability to review, regulate and test these products that are coming to market to assure safety.

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

Mr. SMITH of Michigan. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. I might respectfully just disagree with the gentleman on the last point, as I think the National Academy of Science does, when they indicated that they think this idea of having three different agencies with overlapping and different responsibilities would be better served to look at what kind of regulatory structure that could put in place that would give us more confidence.

Also I want to draw a point on the study they would talk about on Starlink. One, I think we want that kind of information before the problem arises, and that is partly why I filed this bill; and, secondly, there is still some controversy swirling around the study the gentleman talked about and the results of it.

I suspect from the gentleman’s comments and the importance he puts on genetically engineered foods that he favors my bill, which would be a companion bill, and if we set up the right kind of test that people could have confidence in, if we set up the right kind of monitoring system that people would know would be some thing we could rely on, and if we had the right kind of regulatory structure, it would benefit people that take the right kind of position, as well as people that might be skeptical or more on that.

The idea is to follow the advice of the National Academy and do just that. Let them give us the advice through the gentleman’s amendment, I propose to tell us what would be the best testing regime, how would you monitor it, and how would you regulate it.

Mr. SMITH of Michigan. Mr. Chairman, reclaiming my time, I think it is important, and I hope everyone agrees that we have to depend on scientific information and testing, and not emotions, to be the basis of the decisions we make.

Mr. TIERNEY. Mr. Chairman, at this point I am not going to answer the gentleman’s objections on technical matters on this, and I ask unanimous consent to withdraw the amendment.

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

There was no objection.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

CONGRESSIONAL RECORD—HOUSE

June 28, 2001

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $8,757,000; to remain available until expended (7 U.S.C. 2299h): Provided, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing any research facility of the Agricultural Research Service, as authorized by law.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, $507,452,000, as follows: to carry out the provisions of the Hatch Act (7 U.S.C. 361a–1), $180,148,000; for grants for cooperative forestry research (16 U.S.C. 592a–a7), $21,884,000; for payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222), $32,604,000, of which $989,000 shall be made available to West Virginia State College in Institute, West Virginia; for special grants for agricultural research (7 U.S.C. 450(i)), $22,163,000; for competitive research grants (7 U.S.C. 450(b)), $15,721,000; for competitive research grants (7 U.S.C. 450(c)), $32,409,000; for special grants for agricultural research on improved pest control (7 U.S.C. 450(c)), $15,721,000; for competitive research grants (7 U.S.C. 450(b)), $105,767,000; for the support of animal health and disease programs (7 U.S.C. 3195), $5,098,000; for supplemental and alternative crops and products (7 U.S.C. 3318), $950,000; for grants for research pursuant to the Critical Agricultural Materials Act of 1981 (7 U.S.C. 178) and section 1742 of the Food and Agriculture Act of 1977 (7 U.S.C. 3318), $639,000, to remain available until spent; for the 1994 research program (7 U.S.C. 3318), $989,000; to remain available until expended; for grants for research pursuant to the Critical Agricultural Materials Act of 1981 (7 U.S.C. 178) and section 1742 of the Food and Agriculture Act of 1977 (7 U.S.C. 3318), $639,000, to remain available until expended; for the 1994 research program (7 U.S.C. 3318), $989,000; to remain available until expended; for enhancement fellowship grants (7 U.S.C. 3152(b)(6)), $2,995,000, to remain available until expended.
June 28, 2001

AMENDMENT NO. 22 OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. Smith of Michigan:

In title I under the heading “COMPETITIVE STATE RESEARCH, EDUCATION, AND Extension Service” – “RESEARCH AND EDUCATION ACTIVITIES” – insert after the dollar amount relating to “competitive research grants (7 U.S.C. 3152(b)(1))” the following: “including grants for authorized competitive research programs regarding enhancement of the nitrogen-fixing ability and efficiency of plants”.

Mr. SMITH of Michigan. Mr. Chairman, this amendment does is to include research to increase the efficiency of nitrogen fixation from plants.

We have a situation where the nitrogen fertilizer of this country is made out of natural gas. It is estimated that 3 to 6 percent of the natural gas produced in the United States is used to produce nitrogen. Farmers use that nitrogen fertilizer and therefore natural gas. If plants could do a better job of fixing "N" in the soil, we would save energy and reduce the cost to farmers.

This simply says let us include in our research effort research into the fixation of nitrogen. We now have plants that can put nitrogen back into the soil. We have started on this research. We need to move ahead. It is part of the whole renewable energy effort that we need to consider.

I thank the chairman and ranking member for supporting the amendment.

Mr. Chairman, I have an amendment today that would address the challenge of increased farm input costs due to continued high energy prices. Specifically, the amendment would direct the Cooperative State Research, Education, and Extension Service (CSREES) Competitive Grants Program better to the National Research Initiative, to include grants for research into improving nitrogen-fixation ability of crop plants.

As we are aware, higher energy costs over the last two crop years have further stressed farmers who have been on an extended period of low commodity prices. From 1999 to 2000, U.S. producers incurred an additional $2.4 billion in fuel costs. In the 2001 crop year, energy costs are expected to increase an additional $1.5 billion for farmers. As a result, agricultural bottom lines continue to suffer, and many farmers have gone out of business, despite increasing government support.

While we work to accomplish the larger goals set forth in the President’s comprehensive energy plan, I think we should also be sure that no stone is left uncovered with respect to finding new ways to improve our energy usage and consumption. One area where I believe there is great potential for improvements is the reduction of fertilizer input costs on farms through greater nitrogen fixation ability.

In the United States, nitrogen fertilizer production and use require 3 to 6 percent of the country’s natural gas production. Natural gas prices and nitrogen fertilizer prices are closely related, with over 70 percent of the cost of nitrogen fertilizer attributable to natural gas. The tripling of natural gas prices last winter highlights this relationship, as nitrogen fertilizer costs skyrocketed over 350 percent. This huge increase obviously left farmers scrambling to modernize planting decisions and find other ways to cut fertilizer input costs.

One way that we can do this is by developing plants that put nitrogen into the soil. For example, in a typical soybean-corn rotation—where people are attempting to burn their fruit trees to keep them away from their homes, and children are kept indoors.

The amendment was agreed to.

Mr. HANSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I come to the floor today on behalf of all the farmers and ranchers in Utah and other western States who are dealing with the devastating outbreaks of Mormon Crickets and grasshoppers. This outbreak, now under declaration of emergency by the Governor of Utah, is considered to be the worst in over 60 years and is spreading over 1.5 million acres.

These insects, which breed undisturbed and untreated on the vast acres of BLM and Forest Service land and then spread to neighboring State and private land, are devouring the crops and rangeland to the tune of what is expected to be at least $25 million worth of damage.

However, this is not all. In Oak City, Utah, for example, the mayor informs me that the crickets have now inundated the community water system at the sealed collection boxes and tanks. They are now moving into towns, where people are attempting to burn their fruit trees to keep them away from their homes, and children are kept indoors.

Line-item funding has been eliminated, and formerly available funds from previous years have all been expended in battling these insects. The plight of these lands has become such a critical concern, that I have asked our Subcommittee on Public Lands to hold oversight hearings on this issue next month. Timely and adequate funding has been a continual issue for us.

While I understand there are not any line-item funds for Mormon Cricket and grasshopper treatment in this bill as it stands today, I understand the chairman is aware of the problem we are facing and has instructed me to ensure there is sufficient APHIS funds for the 2002 fiscal year specific to Mormon Cricket and grasshopper treatment, as well as working with us to ensure the Secretary addresses our emergency problem with contingency funds.

I thank the chairman and look forward to working with him and obtaining emergency funds.

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

Mr. HANSEN. Mr. Chairman, I move to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I thank my friend for yielding. I appreciate the hard work that the gentleman has undertaken on this issue. I know it is a very serious problem.

The committee and this chairman are aware of the emergency conditions that exist in Utah and throughout the Great Basin region caused by the Mormon Crickets. The gentleman from Utah has my assurance that proper funding for this problem is obtained in a timely manner this year and that specific funding for addressing the Mormon Cricket and grasshopper
problem is identified to meet future needs in the FY 2002 bill.

Mr. HANSEN. Mr. Chairman, re-
claiming my time, I thank the chair-
man and appreciate his help on this
critical matter and look forward to ad-
dressing this issue in conference and
with the Secretary's help.

Mr. GEORGE MILLER of California.
Mr. Chairman, I move to strike the last
word.

Mr. Chairman, I rise in support of en-
suring that all warm-blooded animals
used in research receive the protection
for which the Animal Welfare Act enti-
tles them and, therefore oppose the
language that has been included in the
bill before us which will continue to
deny those protections to those species
that constitute the majority of the
animals used in research.

In 1970, the Congress specifically
amended the Animal Welfare Act to
provide for the protections of all warm-
blooded animals used in experiments.
Since then, however, the U.S. Depart-
ment of Agriculture has unfairly and
illegally denied those modest safe-
guards to a majority of the research
animals, over 20 million birds, rats, and
mice used each year.

When Congress amended the law, we
certainly did not intend to exclude 95
percent of the animals used in re-
search. This is confirmed by our es-
teeed former colleague from the
other body, Senator Bob Dole, who,
along with my great friend, the late
Congressman George Brown, further
improved the treatment of lab animals
in 1985.

I wish to enter into the RECORD the
letter from Senator Dole on this sub-
ject. To correct this 30-year-old wrong,
USDA committed the beginning of the rule-
making process to extend the Ani-
mal Welfare Act regulations to these
animals, I am disappointed that the
Agriculture Appropriations Sub-
committee chose to add language that
prohibits USDA from going forward
with this rulemaking which is long overdue.
The scientific community
must be held accountable to the public
for its treatment of animals. The
American public expects animal re-
search to be conducted as humanely as
possible. We in Congress cannot assure
them that if we not only allow, but also
encourage, USDA to exclude the major-
ity of research animals from this
law's protection.

Mr. Chairman, I urge that this lan-
guage be stricken in the conference
committee between the House and the
Senate.

The letter referred to previously fol-
lows:

CONGRESSIONAL RECORD—HOUSE
WASHINGTON, DC,

JOHN MCAIRDE,
Director, Alternatives Research and Develop-
ment Foundation, Eden Prairie, MN.

DEAR Mr. MCAIRLE: Thank you for your letter of 19 February requesting amend-
tus of laboratory animals under the Animal Welfare Act (AWA).

I support the use of animals in research but firmly believe that there is a responsi-
bility incumbent upon researchers to provide basic protections to the animals they use. It
is obvious that good animal care is essential to ensuring good quality research. Through
good animal treatment and minimizing pain-
ful tests, biomedical research gains in both
accuracy and humanity.

As someone deeply involved with the proc-
ess of revising and expanding the provisions
care to all laboratory animal laboratories, I
intend to exclude 95 percent of the animals
meant to include birds, mice, and rats. When
Congress stated that the AWA applied to “all
warm-blooded animals,” we certainly did not
mean to exclude the tendons and ligaments of the animals
used in biomedical research laboratories.

Although the National Institutes of Health and the Association for Assessment and Accredi-
tation of Laboratory Animal Care Interna-
tional provide oversight for some of the
birds, mice, and rats used for experimen-
tation, many research institutions fail out-
side their purview. With AWA regulations
soon extended to these animals, I believe
USDA, with its substantial experience in en-
forcement, is best suited to ensuring human
care for all laboratory animals, moreover,
neither NIH’s policy nor voluntary accredi-
tation includes legal consequences for failure
to perform. The Animal Welfare Act does.

I am aware of efforts by opponents of ani-
mal welfare to prevent coverage of birds,
mice, and rats as detrimental to research. This notion is preposterous. A similar strat-
agy was employed by opponents of my 1985
amendments to the Act. I am happy to ob-
serve that none of their predications about the
dire consequences for research ever ma-
terialized.

Indeed, those amendments have facilitated significant improvements in laboratory ani-
mal care and use, which in turn have bene-
itted research. In fact, I understand that
those members of the research community
best informed about laboratory animals sup-
port the inclusion of birds, mice, and rats.

From their work on the front lines, they rec-
ognize, as you and I do, that uniform protec-
tions not only are humane, but also ensure consistent experimental results and level the
playing field in vital scientific research.

Those who oppose USDA’s efforts to fulfill
its court settlement with your organization,
I believe, are overlooking the long-term ben-
et results to crafting better science.

We owe much to laboratory animals—that
were true in 1985 and is truer today. I would
hope that the Bush Administration and
Members of the present Congress, some of
whom stood with me in 1985 in advancing my
amendments, will recognize that all animals
used in experimentation deserve the benefit
of the modest requirements of the Animal
Welfare Act. I would urge them to allow
USDA to achieve this end by pursuing a full
and fair rulemaking as provided in the set-
tlement agreement.

I wish you the best of luck not only in de-
fending the Animal Welfare Act, but also in
your ongoing efforts to advance humane
methods of biomedical research.

Sincerely,

BOB DOLE.

THE CHAIRMAN. The Clerk will read.

The Clerk read as follows:

None of the funds in the foregoing para-
graph shall be available to carry out re-
search related to the production, processing
or marketing of tobacco or tobacco products:
Provided, That this paragraph shall not apply
To research on the medical, biotechnological,
food, and industrial uses of tobacco.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT
FUND
For the Native American Institutions En-
dowment Fund authorized by Public Law
103–382 (7 U.S.C. 301 note), $7,100,000.

EXTENSION ACTIVITIES
For payments to States, the District of Co-
lumbia, Puerto Rico, Guam, the Virgin Is-
lands, Micronesia, Northern Marianas, and
American Samoa, $18,648,000; for urban and
rural development, $103–382 (7 U.S.C. 301
note), $7,100,000; for the nutrition and family
education program, $275,940,000; payments
for extension work for the National In-
stitutions Endowment Fund authorized by
Public Law 103–382 (7 U.S.C. 301 note), $7,100,000.

For payments to States, the District of Co-
lumbia, Puerto Rico, Guam, the Virgin Is-
lands, Micronesia, Northern Marianas, and
American Samoa, $18,648,000; for urban and
rural development, $103–382 (7 U.S.C. 301
note), $7,100,000; for the nutrition and family
education program, $275,940,000; payments
for extension work for the National In-
stitutions Endowment Fund authorized by
Public Law 103–382 (7 U.S.C. 301 note), $7,100,000.
Samoan to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

**INTEGRATED ACTIVITIES**

For the integrated research, education, and extension competitive grants programs, including necessary administrative expenses, as authorized by section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), $43,355,000, as follows: payments for the water quality program, $12,971,000; payments for the food safety program, $14,967,000; payments for the national agriculture pesticide impact assessment program, $4,531,000; payments for the Food Quality Protection Act risk mitigation program, $1,497,000; payments for the methyl bromide phaseout program for major food crop systems, $12,971,000; payments for the Food Quality Protection Act implementation program for major food crop systems, $12,971,000; payments for the food security program under the laws enacted by the Congress for the Food Safety and Inspection Service, $71,774,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: Provided, That this appropriation shall be available for the control of outbreaks of insects, plant diseases, animal diseases, and to protect the environment, as authorized by law, $587,386,000, of which $4,096,000 shall be available for aircraft and the purchase of not to exceed $25,000 for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $33,117,000 for field employment pursuant to law (31 U.S.C. 9701).

**AMAND AND PLANT HEALTH INSPECTION SERVICE**

**MARKETING SERVICES**

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, including field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $90,000 for employment under 5 U.S.C. 3109, $71,774,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2225) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building. Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

**LIMITATION ON ADMINISTRATIVE EXPENSES**

Not to exceed $60,506,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: Provided, That if crop size is understated and/or other uncontrollable factors occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

**Funds for Strengthening Markets, Income, and Supply (Section 32)**

**INTEGRATED ACTIVITIES**

For necessary expenses to carry out services authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $15,995,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

**PAYMENTS TO STATES AND POSSESSIONS**

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packets and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and for the administration of the Poultry Products Inspection Act, the Poultry Products Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, in addition to not exceed $50,000 for representation allowances and for expenses pursuant to section 6 of the Egg Products Inspection Act, $720,652,000, and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102-237: Provided, That this appropriation shall be available for the Department of Commerce as authorized by section 102-237 of Public Law 102-237, $1,347,000.

**FOOD INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION**

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packets and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and for the administration of the Poultry Products Inspection Act, the Poultry Products Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, in addition to not exceed $50,000 for representation allowances and for expenses pursuant to section 6 of the Egg Products Inspection Act, $720,652,000, and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102-237: Provided, That this appropriation shall be available for the Department of Commerce as authorized by section 102-237 of Public Law 102-237, $1,347,000.

**GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION**

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packets and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and for the administration of the Poultry Products Inspection Act, the Poultry Products Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, in addition to not exceed $50,000 for representation allowances and for expenses pursuant to section 6 of the Egg Products Inspection Act, $720,652,000, and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102-237: Provided, That this appropriation shall be available for the Department of Commerce as authorized by section 102-237 of Public Law 102-237, $1,347,000.

**INFORMATION SERVICES**

For necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Agricultural Marketing Service and the Food Safety and Inspection Service, $90,000, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 for employment under 5 U.S.C. 3109, $33,117,000: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2225) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

**INSPECTION AND WEIGHING SERVICES**

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety and Inspection Service, $481,000.

**OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY**

**MARKETING SERVICES**

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety and Inspection Service, $481,000.

Mr. BONILLA (during the reading).

Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 25, line 1, be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

**FOOD SAFETY AND INSPECTION SERVICE**

**MARKETING SERVICES**

For necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Agricultural Marketing Service and the Food Safety and Inspection Service, $90,000, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 for employment under 5 U.S.C. 3109, $33,117,000: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2225), and not to exceed $25,000 for employment under 5 U.S.C. 3109, $33,117,000: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2225) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building. Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

**LIMITATION ON ADMINISTRATIVE EXPENSES**

Not to exceed $60,506,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: Provided, That if crop size is understated and/or other uncontrollable factors occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

**Funds for Strengthening Markets, Income, and Supply (Section 32)**

**INTEGRATED ACTIVITIES**

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety and Inspection Service, $481,000.
field employment pursuant to the second sentence of the Omnibus Budget Reconciliation Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3106: Provided further, That this appropriation will be available pursuant to law (7 U.S.C. 2225) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

AMENDMENT OFFERED BY MS. DELAURO

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

The Clerk read as follows:

Amendment offered by Ms. Delauro:

In title I, in the item relating to “FOOD SAFETY AND INSPECTION SERVICE”, insert at the end the following:

In addition, for the Food Safety and Inspection Service to improve food safety and reduce the incidence of foodborne illnesses, $50,000,000: Provided, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

In title VI, in the item relating to “FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES”, insert at the end the following:

In addition, for the Food and Drug Administration to improve food safety and reduce the incidence of foodborne illnesses, $183,000,000: Provided, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

Ms. Delauro (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. A point of order is reserved.

Mr. BONIOR. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 30 minutes and that the time be equally divided.

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

There was no objection.

The CHAIRMAN. The time will be equally divided between the proponent of the amendment, the gentlewoman from Connecticut (Ms. Delauro) and a Member opposed.

Mr. BONILLA. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN. The gentlewoman from Connecticut (Ms. Delauro) is recognized for 15 minutes.

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

Mr. Chairman, my amendment provides emergency funds to address the food safety crisis that faces our Nation today. Today more Americans are getting sick from the food that they eat. Outbreaks of food sickness are expected to go up by as much as 15 percent over the next 10 years. The outbreaks are reported across the spectrum: fish, eggs, beef and lettuce, to name a few. The statistics are staggering. Five thousand Americans die every year from foodborne illness, and 76 million get ill and 325 are hospitalized. Medical expenses and lost productivity cost us every year $5.6 billion and $9.4 billion respectively.

Two days ago the Excel Corporation recalled 150 million pounds of ground beef and pork because of possible contamination by deadly E. coli. Sara Lee pled guilty to selling tainted meat linked to a nationwide outbreak of Listeriosis in 1998, and 15 people were killed.

Grocery stores are afraid that their food is unsafe. Slaughterhouses are killing cattle before the animals are unconscious because there are not enough inspectors to ensure that the law is enforced.

George Grob, Deputy Director and Inspector General of Health and Human Services states that, and I quote, “Any reasonable person would worry about it. If the inspection process worked really well, there would be fewer recalls.”

To address the problem I asked the committee to allow an amendment that would provide a total of $213 million in emergency funds, $90 million for more inspections of imported foods, $73 million for additional inspections of domestic food products, and $50 million for the Food Safety Inspection Service to ensure that it has the resources that it needs to implement food safety procedures and regulations.

The Food and Drug Administration inspects all meat, poultry and eggs. This food, which includes fruit juices, vegetables, cheeses, seafood, is the source of 85 percent of food poisoning in this country. In the United States alone, there are 30,000 companies that produce these food items, and last year recalls of FDA-regulated products rose to 315, the most since the 1980s and 36 percent above average.

Mr. Chairman, FDA inspects less than 1 percent of imported food, and that market has expanded from 2.7 million items to 4.1 million items in just 3 years. In the domestic market, the FDA does not inspect all high-risk firms more than once a year; other firms are visited only once in 7 years. The FDA employs 400 people to inspect domestic food. It would need 300 more inspectors. To increase its inspection of imported food from 1 percent to 10 percent would require 1,600 employees.

The FDA needs resources in order to begin to meet its goal, and that is what this amendment does, is to begin the process of increasing the number of inspectors in order to look at imported foods and take the 1 percent of the inspections to 10 percent, and it would add 630 inspectors to guarantee that all high-risk firms are inspected. Once a year, all other firms every 2 years, and all food warehouses every 3 years.

The last part of the amendment says, let us have $50 million for the Food Safety Inspection Service to allow it to reach its goal of looking at reducing food-borne illnesses that are carried by meat and poultry by 25 percent.

The FSIS has held public hearings to look at how we deal with imported food and procedures, risk management, and emergency outbreaks. We only have to look at our European friends to see what they have gone through with foot and mouth and with mad cow illness to understand that what we need to do is to be able to meet any kind of emergency. We need to move forward on food safety, not backwards. If we continue to not provide the kinds of inspection services that are needed, in fact, we will move backwards and jeopardize the health of this country.

Mr. Chairman, I ask for support of this amendment and to provide the emergency assistance for food safety.

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

Mr. BONILLA. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin.

Mr. OBEY. Question: How many times have we all heard: "The government is too blasted big. Get the government out of our lives." I bet my colleagues have heard it a lot. Yet the first time that we have an outbreak of disease someplace, the first time that people die from contaminated food, all of a sudden people say, "Where is the government? What are they doing? Why don’t they get off their duffs? Why don’t they protecting the public interest?"

Well, there is very good reason for that. It is because we are not providing the resources necessary to provide an
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Mr. Chairman, 5,000 Americans are going to die this year because of contaminated food, and millions are going to become sick, and I do not believe that we cannot do better.

Mr. BONILLA. Mr. Chairman, I continue to reserve my point of order, and I reserve the balance of my time.

Ms. KAPTUR, Mr. Chairman, I yield 5 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the gentlewoman for yielding to me, and I want to commend her for her terrific efforts in subcommittee and in full committee, and now on the floor, to get appropriate attention to the important question of food safety in our country. It really is staggering to think that 76 million Americans every year have some type of food-borne illness.

As modern a society as we are, we question, why does this happen? Part of the reason for it is because our food system, in many ways, is moving very far away from home.

It used to be that you knew the farmer where your eggs came from. You knew the farmer who grew your strawberries. There was local accountability. You knew where your chickens came from. You knew where your beef for your sausage came from, because there was a small community and you went to the stores and the outlets that they operated.

Mr. Chairman, today we live in a very industrialized food system, and industrialized food processing has not necessarily brought with it a safer food system. In fact, last year, 315 Food and Drug Administration regulated food products were recalled, the most recalls in 1 year since the mid-1980s.

It was a 36 percent increase above the average. The reason for that is, even though we have certain scientific methods in place, the way in which our food is processed actually encourages food-borne illness.

For example, in the area of beef, if you go into some of our slaughter houses and meat-packing plants now, which are very, very mechanized, often, an intestine will be pierced and E. coli will be driven into flesh in the animal that is ultimately then cut up and sold on the supermarket shelf. That is a tremendous problem.

Mr. Chairman, some of that is not detected by the human eye. Industrial slaughtering is different than when animals were cut by hand and there were not so many animals slaughtered per day. It is really an oversight.

Mr. Chairman, some of that is not detected by the human eye. Industrial slaughtering is different than when animals were cut by hand and there were not so many animals slaughtered per day. It is really an oversight.

It has never been easy to work in a meat processing facility. At the beginning of the 20th century, books were written about what was going on inside these meat-packing plants, and through the 20th century, we tried to improve the situation.

In poultry, for example, if you look at the USDA inspectors who are on a line, the rate at which birds move by them has become so fast, the human eye cannot necessarily see the different types of salmonella and povereira and other bacterial microbes that can infect the meat product.

In spite of the fact that we seem to be so modern, some of the very problems that we have as a fact that food is grown and processed very far from home has made the system in some ways extremely vulnerable.

It is surprising to us also that in a country as bountiful as ours that we have increasing amounts of food imports.

Over the last 4 years alone, imported foods sold in the United States have increased by 50 percent, from 2.7 million items in 1997 to 4.1 million last year alone. But of all the foreign imports coming in here, as the gentlewoman from Connecticut (Ms. DeLAURO) has accurately described, only 1 percent are inspected.

So we all get sick from food poisoning, they do not report it to the Centers for Disease Control. A lot of times they do not really realize what is wrong with them until a couple of days later. At the local level, there is not an automatic reporting upstream to the CDC. So a lot of the food poisoning goes unreported.

The DeLauro amendment would provide additional funds for food inspection. The cost is $98 million more for imported food inspection, which we so desperately need at our borders; $73 million more for FDA inspections of domestic food processors. Many processors do not even get inspected once a year; sometimes it takes up to 2 years.

The FDA actually is the agency where 75 percent of the problem is, 75 percent of the outbreaks and problems relate to FDA-inspected facilities. This means inspection is inadequate.

The DeLauro amendment would provide $50 million for USDA food safety and inspection service to carry out new procedures and regulations for meat and poultry food products. For example, USDA is currently addressing port of entry procedures and the development of contingency plans for emergency breakouts. Remember, we had that problem of strawberries in Michigan causing children to become so ill.

To this day, we were never actually able to track back where the problem was. To those strawberries came from. We knew they were processed in southern California. Their origin was Mexico, California. Their origin was Mexico, and we knew they were processed in southern California. Their origin was Mexico, and we knew they were processed in southern California. Their origin was Mexico. The FDA actually is the agency where 75 percent of the problem is, 75 percent of the outbreaks and problems relate to FDA-inspected facilities. This means inspection is inadequate.

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We have an absolutely safe source of food in this country.

The purpose of this amendment is to, over a 3-year period of time, bring us to where the FDA says we should be in protecting the public health of this country.

When we had subcommittee hearings earlier in the year, here is what the FDA said in response to questions: “The inspection coverage of food manufacturers, particularly those risk-manufacturers, has been inadequate over the past several years.”

FDA estimated we would need at least $220 million for an optimum inspection schedule of domestic food facilities under our jurisdiction. This would provide inspection of high-risk farms twice each year, warehouses every 3 years, and all other food firms every 7 years.

Now, people can argue all day long about government priorities, but the fact is that we are here today unable to offer this amendment because the budget situation under which we are operating prevents us from even getting a vote on the amendment offered by the gentlewoman.

Why are we in this position? Because the majority party and the White House insisted early on to take virtually every dime of the surpluses that we were expecting to accumulate in those 10 years and pour all of those monies into tax cuts. They put the lion’s share of those tax cuts into the pockets of the very wealthiest people in this country.

So this Congress decided it was more important to give the wealthiest 1 percent of people in this country, who, over the last 20 years, have seen an after-tax rise in their income of $141,000 per family, than to give those people an additional tax cut of $35,000 a year than it is to meet our primary obligations to strengthen Social Security, to strengthen education, to strengthen Medicare, and to do all of these other little things that we need to do if we are going to protect the food supply of this country and the environment in which we all live.

So I simply take the well today, knowing full well that this amendment will not receive a vote because of the rule under which the bill is being considered, to suggest that this again is another example of how we are neglecting our responsibilities of stewardship in order to do the easy political thing and throw all of the money that we were expecting to accumulate in those surpluses to tax cuts for the most prosperous people in this society.

Mr. Chairman, I cannot believe this Congress could not achieve a better balance in priorities. I cannot believe that intelligent people on both sides of the aisle cannot figure out a way to guarantee that we do provide at least the minimum coverage that the Agency itself says we ought to provide in order to protect the health of the American people.
of the agencies that we charge with protecting our food, our food supply, which is ultimately about the man, it is about the safety of every man, women and child in this country. That is all that we are asking about here.

Given the statistics, which are staggering, 5,000 deaths, 73 million people ill, 350,000 people hospitalized, it is unconscionable that we do not recognize this as a crisis and as an emergency.

We cannot allow this to continue. We can do something about it.

Parliamentary inquiry

Mr. BONILLA. Mr. Chairman, I have a parliamentary inquiry. Is the gentlewoman from Connecticut (Ms. DeLAURO) withdrawing her amendment?

The CHAIRMAN pro tempore (Mr. WHITFIELD). Is the gentlewoman from Connecticut withdrawing her amendment, or does she continue to want to move forward on her amendment?

Ms. DE LAURO. Mr. Chairman, I would like to continue to move forward with my amendment.

Point of Order

The CHAIRMAN pro tempore. Does the gentleman from Texas (Mr. BONILLA) insist on his point of order?

Mr. BONILLA. Mr. Chairman, I do.

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

Mr. BONILLA. Mr. Chairman, I make a point of order against the amendment, because it proposes to change existing law and constitutes legislation in an appropriations bill, and, therefore, violates clause 2 of rule XXI. The rule states, in pertinent part, an amendment to a general appropriation bill shall not be in order if changing existing law.

The amendment includes an emergency designation under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, as such, constitutes legislation in violation of clause 2 of rule XXI. I ask for a ruling from the Chair.

The CHAIRMAN pro tempore. Does the gentlewoman from Connecticut want to be heard on the point of order?

Ms. DeLAURO. No, Mr. Chairman.

The CHAIRMAN pro tempore. Then the Chair is prepared to rule on the gentleman’s point of order.

The Chair finds that this amendment includes an emergency designation under section 251(b)(2)(a) of the Balanced Budget and Emergency Deficit Control Act of 1985, the amendment therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. The amendment is not in order.

The CHAIRMAN pro tempore (Mr. WHITFIELD). The Committee will rise informally.

The SPEAKER pro tempore (Mr. LATHAM) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

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

The Committee resumed its seating.

The CHAIRMAN pro tempore. The Clerk read as follows:

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, $561,000.

FARM SERVICE AGENCY SALARIES AND EXPENSES (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $990,506; Provided, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for programs administered by Agency: Provided further, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: Provided further, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 shall be available for employment under 5 U.S.C. 3109.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 1928c–2), $4,993,000.

DAIRY INDENMITY PROGRAM (INCLUDING TRANSFER OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, $100,000, to remain available until expended: Provided, That such program is carried out by the Secretary in the same manner as the dairy indemnity programs described in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-367; 114 Stat. 154A-13).

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT (INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: Farm ownership loans, $1,128,000,000, of which $1,000,000,000 shall be for guaranteed loans and $128,000,000 shall be for direct loans; operating loans, $2,600,000,000, of which $1,500,000,000 shall be for subsidized guaranteed loans, $500,000,000 shall be for subsidized guaranteed and $600,000,000 shall be for direct loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; for emergency insured loans, $25,000,000 to meet the needs resulting from natural disasters; and for both unsubsidized and subsidized guaranteed loans as authorized by 7 U.S.C. 5101-5106.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $7,806,000, of which $4,508,000 shall be for guaranteed loans and $3,298,000 shall be for direct loans; operating loans, $174,030,000, of which $52,650,000 shall be for unsubsidized guaranteed loans, $67,800,000 shall be for subsidized guaranteed loans, $38,860,000 shall be for direct loans; and Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $118,000; and for emergency insured loans, $3,363,000 to meet the needs resulting from natural disasters.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $274,769,000 shall be transferred to and merged with the appropriation for “Farm Service Agency, Salaries and Expenses”.

For administrative expenses, as authorized by the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 6893), $75,142,000: Provided, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506b(4).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each corporation or agency and in accordance with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Contract Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act, such sums as may be necessary, to remain available until expended (7 U.S.C. 2209b).

COMMODITY CREDIT CORPORATION FUND REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 2002, such sums as may be necessary to reimburse this Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a-11).

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 2002, the Commodity Credit Corporation shall not expend more than $5,000,000 for site investigation and cleanup expenses, and operating and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and section 102 of the Resource Conservation and Recovery Act, 42 U.S.C. 6901.
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TITLe II
CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service, the Rural Development, the Natural Resources Conservation Service, $736,000.

NATURAL RESOURCES CONSERVATION SERVICE CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including permanent and conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials centers; operation and maintenance at a nominal cost not to exceed $100 per day of an evaluation or purchase of citrus trees for the purpose of determining the suitability of citrus trees for planting in the western United States, and for such purposes as may be necessary to improve irrigation and drainage, and for the development of water storage, diversion, and reclamation systems; and for research, investigation, and surveys of water resources and environment to administer the laws enacted by the Congress for the Forest Service, the Rural Development, the Natural Resources Conservation Service, $736,000.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures that are not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in the distribution of water, or the establishment of watershed protection and flood prevention programs authorized by the Act of April 27, 1944 (7 U.S.C. 2225), and not to exceed $25,000 shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $110,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION PROGRAMS

For necessary expenses to carry out preventive measures that are not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in the distribution of water, or the establishment of watershed protection and flood prevention programs authorized by the Act of April 27, 1944 (7 U.S.C. 2225), and not to exceed $25,000 shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $200,000 shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $30,500,000 is for technical assistance or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $782,762,000, to remain available until expended (7 U.S.C. 2229b), or which not to exceed $7,000,000 is for survey and water forecasting, and of which not to exceed $30,500,000 is for the establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials centers; operation and maintenance at a nominal cost not to exceed $100 per day of an evaluation or purchase of citrus trees for the purpose of determining the suitability of citrus trees for planting in the western United States, and for such purposes as may be necessary to improve irrigation and drainage, and for the development of water storage, diversion, and reclamation systems; and for research, investigation, and surveys of water resources and environment to administer the laws enacted by the Congress for the Forest Service, the Rural Development, the Natural Resources Conservation Service, $736,000.

ARCTIC AND ANCHORAGE KILL PROGRAMS

For the purpose of the Arctic and Anchorage Kill Program, $50,000,000: Provided, That this appropriation shall be available for those Arctic and Anchorage kill operations that may be necessary to carry out the provisions of the Organic Act of 1957 (16 U.S.C. 1862) and the U.S.-Canada Joint Commission Agreement of June 28, 2001.
Secretary of Agriculture as Rural Economic 

Communities and enterprise communities designated by the 

empowerment zones and enterprise communities described in section 381E(d)(1) of such Act, of which $27,431,000 shall be for the rural communities programs described in section 381E(d)(2) of such Act, and of which $9,030,000 shall be for the rural business and cooperative 

development programs described in section 381E(d)(3) of such Act; Provided further, That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 901(19)) shall be transferred to and merged with the 

Rural Development Account.

RURAL DEVELOPMENT SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agriculture and rural communities, as authorized by title IV of such Act, and for cooperative 

agreements; $134,733,000, Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 may be used for employment under 5 U.S.C. 3109; 

Provided further, That not more than $10,000 may be provided to provide modest non-

monetary awards to non-USDAA employees: 

Provided further, That any balances available from prior years in the Rural Utilities 

Service, Rural Housing Service, and the Rural Business-Cooperative Service salaries and 

expenses accounts shall be transferred to and merged with this account.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: 

$1,202,650,000 for section 502 loans to section 502 borrowers, as determined by the Secretary, of which $1,064,650,000 shall be for direct loans, and of which $3,137,968,000 shall be for unsubsidized guaranteed loans; $32,324,000 for section 504 housing repair loans; $114,068,000 for section 515 rental housing; $90,770,000 for section 538 guaranteed multi-family housing loans; 

$5,000,000 for section 524 site loans; $11,776,000 for credit sales of acquired property, of which up to $1,776,000 may be for multi-family credit sales; and $5,000,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in Cooperative Credit Insurance Account, Fiscal Year 1974, as follows: 

section 502 loans, $180,274,000 of which $140,108,000 shall be for direct loans, and of which $40,166,000 shall be for unsubsidized guaranteed loans; section 504 housing repair loans, 

$10,386,000; section 515 rental housing, $48,274,000; section 538 multi-family housing guaranteed loans, $3,921,000; section 524 site loans, $28,000; multi-family credit sales of acquired property, 

$750,000; and section 523 self-help housing land development loans, $254,000; 

Provided, That for the total amount appropriated in this paragraph, $11,656,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

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work out whatever needs to be done with the majority.

Mr. BONILLA. Mr. Chairman, if the gentlewoman will yield, we would have no objection to that, and she would be allowed to do that.

Ms. KAPTUR. Mr. Chairman, I thank the gentlewoman.

The CHAIRMAN pro tempore (Mr. WHITFIELD). Without objection, the gentlewoman from North Carolina (Mrs. CLAYTON) withdraws her amendment and, without prejudice, will be able to reoffer at an appropriate time.

There was no objection.

Mrs. CLAYTON. At a later time?

The CHAIRMAN pro tempore. At a later point in the reading, the gentlewoman from North Carolina will be able to reoffer her amendment.

Mrs. CLAYTON. Do I need further 

information at this time, or do I have to make sure, have I reserved my 

right? Is my amendment protected? All 

right? Is my amendment protected? All 

the Chair will read.

The Clerk read as follows:

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, $693,504,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental 

assistance program under section 521(a)(2) of the Act: Provided, That in any fiscal year, no more than $10,000,000 shall be available to debt 

forgiveness or payments for eligible 

households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: Provided fur-

ther, That agreements entered into or renewed during fiscal year 2002 shall be funded for a 5-year period, although the life of such agreement may be extended to fully utilize amounts obligated.

MUTUAL AND SELF-HHELP HOUSING GRANTS

For grants and contracts pursuant to section 523(h)(1)(A) of the Housing Act of 1949 (2 U.S.C. 1490c), $35,925,000, to remain available until expended (7 U.S.C. 2209(b)): Provided, That of the total amount appropriated, $1,000,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and reimbursement made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1474c, 1490, and
For the cost of direct loans, $16,494,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which $1,724,000 shall be for Federally Recognized Native American Tribes and of which $3,449,000 shall be for Delta Region counties (as defined by Public Law 100–460): Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 302 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans of $38,176,000: Provided further, That of the total amount appropriated, $2,730,000 shall be available through June 30, 2002, for the cost of direct authorized empowerment zones and community enterprises and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, $7,361,000 shall be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”.

For the amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation, $6,316,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $3,616,000.

Of the funds derived from interest on the cushion of credit payments in fiscal year 2002, as authorized by section 313 of the Rural Electrification Act of 1936, $3,616,000 shall not be obligated and $3,616,000 are rescinded.

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), $7,500,000, of which $2,600,000 shall be for cooperative agreements for the appropriate technology transfer for rural areas program: Provided, That not to exceed $1,507,000 of the total amount appropriated shall be available to cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, minority producers.

For grants in connection with a second round of empowerment zones and enterprise communities $14,967,000, to remain available until expended for empowerment zones and rural enterprise communities as authorized in the Taxpayer Relief Act of 1997.

For the principal amount of direct distance learning and telemedicine loans, $300,000,000; and for the principle amount of broadband telecommunication loans, contingent upon the enactment of authorizing legislation, $100,000,000.

For the cost of direct loans and grants, as authorized by 7 U.S.C. 950aaa et seq., $121,107,000; municipal rate rural electric loans, $794,358,000; loans made pursuant to section 306 of that Act, rural electric, $2,600,000; Treasury rate direct electric loans, $500,000,000; and guaranteed electric loans, $100,000,000; 5 percent rural telecommunications loans, $74,827,000; cost of money rural telecommunications loans, $300,000,000; and rural telecommunications loans, $120,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 935 and section 305(d)(2), and as follows: cost of rural electric loans, $3,889,000; and the cost of telecommunication loans, $2,036,000: Provided, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, the guaranteed rate interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $36,322,000, which shall be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”.

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized functions during the fiscal year ending June 30, 2002 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $174,615,000.

For the cost, as defined in section 302 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 950, $2,584,000.

For the principal amount of direct learning and telemedicine loans, $300,000,000; and for the principle amount of broadband telecommunication loans, contingent upon the enactment of authorizing legislation, $100,000,000.

For the cost of direct loans and grants, as authorized by 7 U.S.C. 950aaa et seq., $26,941,000, to remain available until expended for the definition of “rural area” used for the Distance Learning and Telemedicine Program authorized by 7 U.S.C. 950aaa: Provided further, That the cost of direct loans shall be defined in section 502 of the Congressional Budget Act of 1974.

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $10,988,746,000, to remain available through September 30, 2003, of which $4,748,038,000 is hereby appropriated and $5,340,708,000 shall be derived by transfer from funds available under the Act of August 24, 1955 (7 U.S.C. 612c): Provided, That except as specifically provided under this heading, none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That up to $4,507,000 shall be available for independent verification of school food service claims: Provided further, That of the funds provided under this heading, $2,000,000 shall be available for new activities to enhance integrity in the National School Lunch Program.

For amendment offered by Mrs. Davis of California. Mr. Chairman, I offer an amendment. The Clerk read as follows: Amendment offered by Mrs. Davis of California: In title IV under the heading “Child Nutrition Programs”, insert before the period at the end the following: “Provided further, That the Secretary of Agriculture may not take into account the availability of a basic allowance for housing for members of the Armed Forces when determining the eligibility of persons for free or reduced-price lunch programs”.

Mr. BONILLA. Mr. Chairman, I reserve a point of order. We have not seen this amendment.

The CHAIRMAN pro tempore. The point of order is reserved.

Mrs. DAVIS of California. Mr. Chairman, I realize this amendment will most likely not be ruled in order, but I offer it to raise awareness to a critical problem.

In an effort to leverage its limited quality-of-life resources, the armed services are privatizing military family housing. I support this effort. In fact, we have some wonderful projects online in San Diego. But as you know, obviously there are unintended consequences of a good program. I would like to point out two in particular.

This is creating a loss of income to school districts, and it is affecting the eligibility for free and reduced school

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Amendments to the Agriculture Bill of 2002

Mr. BONILLA. Mr. Chairman, I would like to point out two in particular.

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transmission and local dial-up Internet service in areas that meet the definition of “rural area” used for the Distance Learning and Telemedicine Program authorized by 7 U.S.C. 950aaa: Further, that the cost of direct loans shall be defined in section 502 of the Congressional Budget Act of 1974.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, $592,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

INCLUSIVE TRANSFER OF FUNDS

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $10,988,746,000, to remain available through September 30, 2003, of which $4,748,038,000 is hereby appropriated and $5,340,708,000 shall be derived by transfer from funds available under the Act of August 24, 1955 (7 U.S.C. 612c): Provided, That except as specifically provided under this heading, none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That up to $4,507,000 shall be available for independent verification of school food service claims: Provided further, That of the funds provided under this heading, $2,000,000 shall be available for new activities to enhance integrity in the National School Lunch Program.

Amendment offered by Mrs. Davis of California. Mr. Chairman, I offer an amendment. The Clerk read as follows: Amendment offered by Mrs. Davis of California: In title IV under the heading “Child Nutrition Programs”, insert before the period at the end the following: “Provided further, That the Secretary of Agriculture may not take into account the availability of a basic allowance for housing for members of the Armed Forces when determining the eligibility of persons for free or reduced-price lunch programs”.

Mr. BONILLA. Mr. Chairman, I reserve a point of order. We have not seen this amendment.

The CHAIRMAN pro tempore. The point of order is reserved.

Mrs. DAVIS of California. Mr. Chairman, I realize this amendment will most likely not be ruled in order, but I offer it to raise awareness to a critical problem.

In an effort to leverage its limited quality-of-life resources, the armed services are privatizing military family housing. I support this effort. In fact, we have some wonderful projects online in San Diego. But as you know, obviously there are unintended consequences of a good program. I would like to point out two in particular.

This is creating a loss of income to school districts, and it is affecting the eligibility for free and reduced school

transmission and local dial-up Internet service in areas that meet the definition of “rural area” used for the Distance Learning and Telemedicine Program authorized by 7 U.S.C. 950aaa: Further, that the cost of direct loans shall be defined in section 502 of the Congressional Budget Act of 1974.
lunch programs for the children of military families.

Let me also tell my colleagues some background. When a family lives in a military family housing community, they basically forfeit their basic housing allowance. But when that community housing becomes privatized, this basic allowance housing is included on the servicemembers' pay statement. That is called an LES. Servicemembers do not actually receive this income, however. It is basically pass-through.

Unfortunately, under the Department of Defense rules, this amount is included as income in determining eligibility for free and reduced school lunches.

The Department of Defense adds the allowance to the pay statement to assist them in accounting, but the servicemember is not getting any additional pay for the family, and certainly not for their children.

This could happen. Perhaps, on a Sunday in December, a military housing community is owned and operated by the military. But on Monday, that housing community is operated by a private company, still on the Federal land, but the servicemember has never moved, but has less money really in his pocket if his child does not become eligible for free and reduced lunch. They had that eligibility before.

So families are losing some assistance, children are losing their free lunches, and school districts are losing Federal funds. It is the smaller school districts particularly that are especially affected by this. So we need to take a look at this issue, and I think we need to change the rules. This is no way to believe the gentlewoman has really brought us up on an issue that we never have considered, never were asked to consider during our regular hearings and so forth.

I think this does involve also the authorizing of the Committee on Education and the Workforce since they have jurisdiction over the school lunch program, the free and reduced lunch program, although we have jurisdiction over the expenditures for that.

Knowing that some of our military personnel are extremely pressed, even some eligible for food stamps when serving the Government of the United States at points around the world, it would seem to me that we should find a way to encourage the Department of Education, the Department of Agriculture to treat our military personnel with the respect that they deserve.

I want to compliment the gentlewoman for bringing this issue to the attention of our subcommittee and pledge my own cooperation with her in resolving this in the weeks and months ahead, and certainly also encourage her to testify before the Committee on Education and the Workforce as well as the authorizing Committee on Agriculture.

We here on the Committee on Appropriations will continue to work with the gentlewoman from California (Mrs. Davis) as we move to conference with the other body.

The CHAIRMAN pro tempore. Does the gentleman from California (Mr. Bonilla) insist on his point of order?

Mr. Bonilla. Mr. Chairman, I would ask the Chair if the gentlewoman from California (Mrs. Davis) is going to take this issue and I certainly will ask to withdraw my amendment.

Ms. Kaptur. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just like to say to the gentlewoman from California (Mrs. Davis) and to the chairman of the subcommittee that I do believe the gentlewoman has really brought us an issue that we never have considered, never were asked to consider during our regular hearings and so forth.

I think this does involve also the authorizing of the Committee on Education and the Workforce since they have jurisdiction over the school lunch program, the free and reduced lunch program, although we have jurisdiction over the expenditures for that.

Knowing that some of our military personnel are extremely pressed, even some eligible for food stamps when serving the Government of the United States at points around the world, it would seem to me that we should find a way to encourage the Department of Education, the Department of Agriculture to treat our military personnel with the respect that they deserve.

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We here on the Committee on Appropriations will continue to work with the gentlewoman from California (Mrs. Davis) as we move to conference with the other body.

The CHAIRMAN pro tempore. Does the gentlewoman from California (Mrs. Davis) intend to withdraw her amendment?

Mrs. Davis of California. Yes, Mr. Chairman, I will do that. I know that there are colleagues on the other side of the aisle who have confronted this problem in their community, and I appreciate their help and support on this as well.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was objection.

Mr. Schrock. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to take this opportunity to speak on behalf of this amendment that was introduced by the gentlewoman from California (Mrs. Davis). At a time when retention in the military is down, we need to find as many ways as possible to support our sailors, soldiers, airmen, marines and their families.

The Department of Agriculture’s current policy of counting the basic allowance for housing as part of income is unfair to the young men and women of the military who have dedicated their lives in service to our country.

Many military families, many new military families are finding it difficult just to make ends meet. Many are living just above the poverty level. The long hours, the months away from loved ones and low-paying jobs for spouses is often the norm for these families. When military communities introduced privatized housing to help military families save on living costs, it, unfortunately, does not always save money for the servicemembers.

When a member lives on base, they forfeit their basic allowance for housing. When a member lives in a privatized community, the Department of Defense adds the allowance to their pay statement, but this is money they never see.

When the Department of Agriculture includes this amount as income, it affects many families’ eligibility for free or reduced school lunches. Schoolchildren lose their free lunches, families lose their assistance, and school districts lose Federal funds that receive this money to assist for free and reduced school lunch programs.

At the Naval Amphibious Base Little Creek in Virginia Beach, they were working with the Department of Housing Authority to plan for privatized housing in Virginia Beach and Norfolk, which I represent. I do not want to see what is happening as the debate of the gentlewoman from California (Mrs. Davis) happen to the military families in our area.

I urge my colleagues to support this amendment. I thank the gentlewoman from California (Mrs. Davis) for introducing it.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC) (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $4,137,086,000, to remain available through September 30, 2003: Provided, That none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That of the total amount available, the Secretary may obligate up to $25,000,000 for the farmers’ market nutrition program and up to $15,000,000 for senior farmers’ market activities from any funds not needed to maintain current caseload levels: Provided further, That notwithstanding section 17(h)(10)(A) of
such Act, up to $10,000,000 shall be available for expenses specified in section 17(h)(10)(B), no less than $6,000,000 of which shall be used for the development of electronic benefit transfer systems: Provided further, That none of the funds made available in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: Provided further, That none of the funds provided shall be available to pay administrative expenses that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $21,991,966,000, of which $1,000,000,000 shall be placed in reserve for use only in such amounts and at such times as may become necessary for the purchase of rice to carry out the market price support program operations: Provided, That none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That funds made available for Employment and Training block grants shall remain available until expended, as authorized by section 16 of the Food Stamp Act: Provided further, That funds provided under this heading may be used to procure food coupons necessary for program operations in this or subsequent fiscal years until electronic benefit transfer implementation is complete.

COMMODITY ASSISTANCE PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 1771 et seq.) and the Emergency Food Assistance Act of 1983, $12,018,313,000, to remain available until September 30, 2003: Provided, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program: Provided further, That of the total amount available, the Secretary may obligate up to $15,000,000 for senior farmers’ market activities from any funds not needed to maintain current caseload levels: Provided further, That notwithstanding section 5(a)(2) of the Agriculture and Consumer Protection Act of 1973 (Public Law 88–366; 7 U.S.C. 1621c note), $20,820,000 of this amount shall be available for administrative expenses of the commodity supplemental food program.

FOOD DONATION PROGRAMS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973; special assistance for the purchase of food as authorized by section 10(i)(2) of the Comacts of Free Association Act of 1985, as amended; and section 311 of the Older Americans Act of 1965, $150,790,000, to remain available through September 30, 2003.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $126,656,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp benefit delivery, and assisting in the prevention, identification, and prosecution of fraud and other violations of the Act; not to exceed $4,500,000 shall be available to improve integrity in the Food Stamp and Child Nutrition programs: Provided, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 1107.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to carry out the agreements with the Commodity Credit Corporation for the export of agricultural commodities under this Act, $158,000 for representation allowances and for necessary expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1765), $122,631,000: Provided, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the Agricultural Trade Development Program at any time when the applicable international activity agreement for such program is in effect: Provided further, That none of the funds appropriated in this account may be used to pay the salaries and expenses of personnel to disburse funds to any rice trade association under the market access program or the foreign market development program at any time when the applicable international activity agreement for such program is in effect: Provided further, That none of the funds appropriated in this account may be used to promote the sale or export of tobacco or tobacco products.

PUBLIC LAW 80 GRANT ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation’s export guarantee program, GSM 102 and GSM 103, $4,021,000, to cover previous expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1765), $122,631,000: Provided, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the Agricultural Trade Development Program at any time when the applicable international activity agreement for such program is in effect: Provided further, That none of the funds appropriated in this account may be used to promote the sale or export of tobacco or tobacco products.

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hiring and purchasing of passenger motor vehicles; for pay- ment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration that are included in the rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary’s certificate, not to exceed $25,000; $1,342,339,000, of which not to exceed $211,716,000 to be derived from prescription drug user fees authorized by 21 U.S.C. 379(h), including any such fees assessed prior to the current fiscal year but credited during the current year, in accordance with 21 U.S.C. 379(k)(4), and shall be credited to this appropriation and remain available until expended: Provided, That the total amount appropriated $6,000,000 for costs related to occupancy of new facilities at White Oak, Maryland, shall remain available until September 30, 2003.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of Ohio: In title VI, in the item provided for “DEPARTMENT OF HEALTH AND HUMAN SERVICES-FOOD AND DRUG ADMINISTRATION-SALARIES AND EXPENSES”, insert before the
Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BONILLA. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The Chairman recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 3 minutes and 15 seconds.

Within the next 5 years, patents on brand-name drugs with combined U.S. sales approaching $20 billion will expire. Given the tremendous cost savings with generic competition, it has never been more important to reduce unnecessary delays in FDA approval of generic drugs.

The amendment I am offering today, along with the gentleman from California (Mr. WAXMAN), the gentleman from Michigan (Mr. DINGELL), the gentleman from Arkansas (Mr. BERRY), and the gentleman from New Jersey (Mr. PALLONE), would increase funding for the Office of Generic Drugs by $2.5 million. Our amendment builds on the $1.5 million increase already allocated to this office under the leadership of the chairman, the gentleman from Texas (Mr. BONILLA), and the ranking member, the gentlewoman from Ohio (Ms. KAPTUR).

I am pleased the gentlewoman from Ohio (Ms. KAPTUR) supports this amendment. While I understand how difficult it is to allocate limited FDA resources, this amendment will pay for itself many times over. Additional dollars committed to the Office of Generic Drugs will generate enormous returns for American consumers, for Federal and State governments, and for employment-sponsored health plans.

Prescriptions increased by 18.8 percent last year, accounting for half the increase in national health spending and a third of the increase in employer-sponsored health coverage. Generic drugs cost on average 40 to 80 percent less than their brand name counterparts. Sometimes they are 90 percent cheaper.

To get a sense of the savings inherent in approving these drugs more rapidly: brand-name drug companies receive 6 additional months of market exclusivity when they conduct pediatric clinical trials. That 6 months, on the average, represents $695 million in lost consumer savings each year. It takes 6 to 12 months, on average, to review a new drug application. It takes 18 months, on average, to review a generic drug application. Multiply that $695 million, Mr. Chairman, times the full universe of generic drugs, and the 6-month difference means tens of billions of dollars in lost savings.

There are 300 scientists on staff today to review generic drug applications. There are more than 2,100 scientists on staff to review new drug applications. By giving the Office of Generic Drugs the resources it needs, we can make a tangible difference in easing the prescription drug spending burden. Opportunities to reduce both public and private spending on prescription drugs without sacrificing access or quality are very hard to come by.

Our amendment provides an additional $250,000 to fully fund a national campaign to raise public awareness about generic drugs. Generic drugs are as safe and as effective as brand-name drugs; they are just cheaper. But there is clearly an information gap when it comes to generics. Forty-three percent of Americans report no bias against generic drugs, but only 54 percent fill prescriptions with the generics. There is a misperception that as conditions become more serious, the use of generic drugs becomes more risky. The greatest bias against generic drugs exists when cost savings, unfortunately when cost savings are potentially the greatest for serious conditions requiring expensive long-term treatment.

If we can get generic drugs to market on a more timely basis and encourage more widespread use of these products, the public and private sector savings will quickly dwarf our investment. I ask the Members of this Congress to support the amendment.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment. The bill that the committee has presented to the House includes a very carefully balanced recommendation for funding for the Food and Drug Administration. The $39 million provided in this bill for generic drug activities includes a 17 percent increase for generic drug review, generated by any savings.

I should also note that the funding for generics includes the only FDA program increase above the President’s budget, which certainly demonstrates our commitment to affordable, effective, and safe generic drugs. So, again, I rise in opposition to the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. BERRY), who has fought for low-cost prescription drugs for several years in this body.

Mr. BERRY. Mr. Chairman, I want to thank the distinguished gentleman from Ohio for his leadership in this effort.

The American people, Mr. Chairman, are continuing to be robbed by the brand-name prescription drug manufacturers in this country. The reason that happens is because they have patient protection, they have trade barriers, they can protect themselves, and they have limited access to generic medicine. It is time that we do something about that. It is time that we make reasonably priced prescription medicine available to the American people. We know that they could be saving $20 billion a year today if they had access to generic medicine that is not available to them today.

What we are asking in this amendment is that we provide $2.5 million to the FDA so they can have the ability to approve more generic medicine to the American people that would be offered at a much more reasonable price and create competition in the prescription medicine market that we have to deal with today. Generic drugs cost, on average, 75 percent less than brand names.

As I said, we know that we can save the American people $20 billion a year if we do this. It takes 6 to 12 months to review a new drug application, but it takes 18 months today, because of FDA’s limited ability, to approve a generic drug application. This does not make any sense that this would be the case.

I urge the Members of this House to vote for this amendment and support the effort of the gentleman from Ohio to provide the American people with reasonably priced prescription medicine.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PALLONE), who has been very involved in health care issues, especially prescription drug and managed care issues.

Mr. PALLONE. Mr. Chairman, I rise in support of the Brown amendment. There is a need for statutory or legislative initiatives that allow timely access and availability of generic drugs once the patent on a brand-name drug
I want to thank both the chairman of the subcommittee and also the ranking member because this amendment actually builds for the $1.5 million increase they have in the bill. This would help move generic drugs to the market quicker. We are talking about $2.5 million. It typically takes 6 to 12 months to review a new drug application, but 18 months for generics.

This will help all our people, but particularly our seniors, who take more prescription drugs and spend billions every year on prescription drugs. Let us see if we can get generics there to save our seniors some dollars.

Mr. BROWN of Ohio. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Ohio has 2 minutes remaining.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him so very much for bringing up this important amendment.

I think it is important for the membership to know this does not involve any new money but merely a reallocation of funds within the Food and Drug Administration itself. So this is a very, very worthy amendment.

We have had to try to fight in this bill and the bill last year to try to get more attention to the approval of generic drugs, which so many Americans obviously need. They are a lot less expensive. I can remember when Claude Pepper used to stand on this floor trying to get generic drug incentives put into the law.

So I want to thank the gentleman from Ohio, as always, taking the leadership in health questions and certainly trying to get medicine to people who need it. In my neighborhood, there are many citizens who make a choice between food and medicine every weekend when they shop at the local supermarket. This will help families like them.

We need to get FDA working more quickly. And I am so happy that the gentleman from the Committee on Energy and Commerce has brought this to our attention and has given us additional drive to get additional generic drugs approved. So I fully support his amendment. It is within the budget resolution and within our allocation, and I would urge the membership to support him.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentlewoman from Toledo.

In summary, Mr. Chairman, this amendment increases funding for the Office of Generic Drugs, to speed the approval process for generic drugs, to get them on the market more quickly, because generic drugs save money; all ways 40 to 60 to 80 percent over the price of a name-brand drug, sometimes as much as 90 percent. Consumers deserve access to generic drugs as quickly as possible. It will save money for America’s consumers; it will save money for all levels of government that provide prescription drugs to employees and to citizens of this country; it will save money for employer health care plans.

Mr. Chairman, I ask for support of the Brown amendment on generics.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. BROWN) will be postponed.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of Ohio:

In title VI, in the item relating to “DEPARTMENT OF HEALTH AND HUMAN SERVICES—FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES”, insert before the period at the end of the first paragraph the following:  

: Provided further, That of the total amount appropriated, $5,000,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to antibiotic drugs, in addition to other allocations for such purpose made from such total amount.

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. The Chair would seek clarification. The time divided is between the gentleman from Ohio (Mr. BROWN) and the gentleman from Texas (Mr. BONILLA)?

Mr. BONILLA. The Chair is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. BROWN) and the gentleman from Texas (Mr. BONILLA) each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BROWN).
Mr. BROWN of Ohio. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the amendment allocates funds to carry out the FDA’s antimicrobial resistance plan. On January 18, 2001, the FDA, the Centers for Disease Control and Prevention, and the National Institutes of Health unveiled an action plan developed by an interdepartmental task force that provides the United States with a comprehensive approach to combat the emerging threat of antimicrobial resistance. The plan designated 13 near-term priorities to deal with the problem of antibiotic resistance.

The introduction of antibiotics in the 1940s gave the medical community an overwhelming advantage in its fight against infectious diseases, against TB and pneumonia, against cholera and typhoid, against many other long-term killers. But as bacteria have been exposed to antibiotics, resistant strains have emerged as a real threat to the efficacy of antibiotic drugs and to human health. The recent experience of the global medical community with tuberculosis is an excellent example of what can happen when an infectious disease develops antibiotic-resistant strains, and the threat that this poses to public health in the United States and around the world.

Mr. Chairman, multidrug-resistant TB is as a result of antibiotic overuse, incorrect or interrupted treatment, and an inadequate supply of effective drugs. While outpatient treatment for standard TB costs a few thousand dollars, treatment of multidrug-resistant TB, MDRTB, costs as much as $250,000, and it may not be successful.

Mr. Chairman, we do not want to see this scenario of increased costs and increased mortality repeated with other infectious diseases. The first step in addressing the problem of antibiotic resistance is to identify the true scope of the problem. We know that AR infections are seen more often in emergency rooms. We know that antibiotic resistance occurs wherever antibiotics are used, and we know that overuse and misuse of antibiotics exacerbates the problems of antibiotic resistance.

But we need to know which drugs are being affected most, and when, how and why antibiotic drugs are being prescribed. We must educate the American public on the proper use of antibiotics, and we must encourage the development of new antimicrobial therapies.

The amendment I am proposing today does not seek to ban the use of any antibiotics, it would simply appropriate the funds necessary to implement those near-term priorities of the government’s action plan that would take these problems seriously. These priorities were not set by me. They were not set by my colleagues. They were not set by any special interest groups. They were established by doctors and scientists and public health officials from FDA, CDC, NIH and other Federal agencies.

The Committee’s Appropriations has recommended a $1.1 million budget increase for FDA over last year. This $5 million set aside would allow FDA to begin to execute the portions of the antimicrobial resistance action plan within its responsibility and would leave the decision on the sources of the offset to the Agency.

Mr. Chairman, I ask for Members to support the Brown amendment on antibiotic resistance.

Mr. Chairman, I reserve the balance of my time.

Mr. LATHAM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment. The bill that the committee has before us includes a very carefully balanced recommendation for funding for the Food and Drug Administration, including $27 million for antimicrobial resistance activities. This is an increase of over 70 percent from just 2 years ago, which clearly demonstrates our commitment in this area.

The gentleman’s amendment proposes to increase funding for certain purposes, but it makes no proposal on where the money should come from. I would like to say that I am very happy that we were able to provide significant increases for the FDA. It is vitally important that the agency to have the resources to perform its public health mission. We were able to provide them the following increases above last year’s level: $15 million to prevent BSE, or bovine spongiform encephalopathy, which is commonly known as mad cow disease; $10 million to increase the number of domestic and foreign inspections; $10 million to expand import coverage in all product areas; $10 million to reduce adverse events related to medical products; $10 million to better protect volunteers who participate in clinical research studies; $9 million to provide a safer food supply; $1.75 million to improve the timeliness of generic drug application review and to provide generic drug education; and full funding of increased payroll costs for existing employees.

I want to stress how important this is. In the past, FDA and all other agencies in this bill were forced to reduce the level of services provided to the public in order to absorb payroll increases. This year we want to be sure that does not happen. I am sure that all of us want to see that there is no slippage of activities at FDA involving research, application review, inspections, and all of the other payroll-intensive operations that are financed through our bill. We worked hard to find these resources. I am glad we were able to do it, and I am sure FDA will put them to good use.

Now here is my point. In the real world, when we go to conference with the other body, the increase that the gentleman’s amendment proposes would have to come out of other functions. The one thing that does not happen. I am sure that we reduce protection for people participating in clinical trials, or reduce resources for blood safety or BSE prevention.

Mr. Chairman, I ask all Members to support the committee’s recommended increases in FDA. I oppose the gentleman’s amendment, and I ask for its defeat.

Mr. Chairman, I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentleman from New York, Mr. Slaughter.

Ms. SLAUGHTER. Mr. Chairman, I rise in strong support of the Brown-Slaughter amendment. This amendment would set aside $5 million in the FDA’s budget for the purpose of implementing FDA’s portion of the public health action plan to combat antimicrobial resistance. As a former microbiologist with a master’s degree in public health, I am profoundly concerned over the rising number of infections that do not respond to the majority of antibiotics in our medical arsenal.

In my judgment, the resistance of bacterial infections to antibiotics represents a major public health crisis in the Nation today. According to the Centers for Disease Control and Prevention, in some parts of the country more than 40 percent of streptococcus pneumoniae infections are highly resistant to penicillin. Moreover, approximately 70 percent of the bacterial infections acquired in a hospital setting are resistant to at least one antimicrobial drug. As long ago as 1997, at least one strain of staphylococci developed resistance against the last and strongest antibiotic available: vancomycin.

These facts have a real impact on patients. According to the WHO, 1 American dies every 38 minutes because of a drug-resistant infection. When frontline drugs against these infections are not available, patients are sicker for longer periods of time. In the case of patients with suppressed immune systems, or those recovering from surgery or injury, a delay in effective treatment of infection can be fatal. Children are particularly susceptible. In 1999, the CDC reported that four otherwise healthy children had died of drug-resistant staphylococcus aureus infections.

If we fail to slow the rise of resistance to these infections, we could find ourselves returning to a day when common infections like tuberculosis and salmonella could become untreatable, and potentially fatal.
A wide range of factors are contributing to the rise of resistance of antimicrobial agents. They include the overuse of antibiotics, viral infections which do not respond to antibiotics; the misuse of antibiotics, such as the use of a newer, broad-range antibiotic when a less recent version would be equally effective; and the decline in simple sanitation measures, like effective handwashing.

The various agencies responsible for the many aspects of the antimicrobial resistance issue have come together and issued a comprehensive plan of attack against this problem. “A Public Health Action Plan to Combat Antimicrobial Resistance” was developed in partnership with the FDA, the CDC, and the National Institutes of Health, with input and assistance from the Agency for Health Care Policy and Research, the Department of Agriculture, the Department of Defense, Department of Veterans Affairs, the Environmental Protection Agency, the Health Care Financing Administration, and the Health Resources and Services Administration.

This was an exhaustive and overarching effort to show the advance of antimicrobial resistance. As one of the lead agencies in developing this plan, the FDA has a crucial role to play in its implementation. The Brown-Slaughter amendment would set aside $5 million for the FDA to begin to stem the rising tide of antimicrobial resistance. This modest investment has the potential to save untold numbers of lives.

I urge my colleagues in the strongest possible terms to support the Brown-Slaughter amendment. Antimicrobial resistance is a quiet crisis growing in the United States, and we ignore it at our own risk.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for yielding me this time, and thank him for his leadership on this issue.

Mr. Chairman, how many times have Americans gone to a doctor, been prescribed an antibiotic only to find out it did not work, that it was not effective for the disease? This is routine and costly, taking medication, hoping it is going to be of value to fight infection is something that is repeated many times around the world. Yet we know for some reason antibiotics are not effective because of certain resistance. What the gentleman from Ohio (Mr. BROWN) is doing is trying to get an additional $5 million to fund components of the action plan to combat antimicrobial resistance.

Mr. Chairman, this money will be money well spent because this is not only a health problem in this country, this is a world health problem. I thank the gentleman for his dedication.

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR), who is the ranking member of the subcommittee.

Ms. KAPTUR. Mr. Chairman, I want to compliment the gentleman from Ohio (Mr. BROWN) for taking leadership on this important issue of antimicrobial research.

Mr. Chairman, it has been amazing to me among families and friends, staff members and their families back home, how many individuals go into a hospital and are the victims of an infection. In spite of some of the best knowledge we have with modern medicine, yet we find that there is this antimicrobial resistance that in some ways is as a result of the technologies that we brought on board in the 20th century.

As we now embark on the 21st century, this research to add funding to help to expedite the action plan to combat antimicrobial resistance is essential. We need to ensure that every action has an equal and opposite reaction. I am sure that is the case, that scientists note every day, whether we are talking about HIV/AIDS or whether we are talking about antibiotics. I have been amazed at people who have taken antibiotics and find their systems having to readjust anywhere from 6 months to a year.

Mr. Chairman, I want to compliment the gentleman. The amendment would simply authorize funding for priorities already set by the health agencies of this government. I urge my colleagues for a “yes” vote on this important amendment.

Mr. Chairman, I yield myself such time as I may consume.

Mr. BROWN. Mr. Chairman, my amendment sets aside $250,000, which in the totality of this budget is very, very small, for the FDA to develop labeling requirements indicating that no child slave labor was used in the growing and harvesting of cocoa.

Forty-three percent of the world’s cocoa beans come from small scattered farms in the Ivory Coast. The beans are prized for their quality and abundance. In the first 3 months of 2001, more than 47,300 tons of them were shipped to the United States to be processed by U.S. cocoa processors.

There are more than 600,000 small farms and no corporate or government agency in the Ivory Coast is monitoring them for slave labor. The United Nations estimates that approximately 200,000 slaves are working in various trades in West Africa and the State Department has estimated that about...
15,000 children between the ages of 9 and 12 have been sold into forced labor in northern Ivory Coast in recent years. Let me repeat that. The State Department has estimated that about 15,000 children between the ages of 9 and 12 have been sold into forced labor in northern Ivory Coast in recent years.

On many of the farms, the fields are cleared and the crops are harvested by boys between the ages of 12 and 16 who were sold or tricked into slavery. Some are even as young as 9. These boys come from neighboring countries, including Mali, Burkina Faso, Benin, and Togo and do not speak the most common language used in the Ivory Coast, French. They are children, who, out of respect, will do anything to help their parents. The boys are uneducated, comb like cows and are woody of offers of money, bicycles, and trade jobs. “Locateurs” offer them work as welders or carpenters, and they are told falsely that they will be paid $170 a year. As soon as they accept the offer, they are sold into slavery and are forced to clear the fields and harvest the cocoa crop. They live on corn paste and bananas, work 12 to 14 hours a day for no pay, suffer from whippings, are locked up at night in small, windowless rooms, and are given cans to urinate in.

One of these boys, Aly Diabate, was sold into slavery when he was barely 4 feet tall. He said, “Some of the boys were taller than me. It took two people to put the bag on my head. And when you didn’t hurry, you were beaten. The beatings were a part of my life. Anytime they loaded you with bags and you fell while carrying them, nobody helped you. Instead, they beat you and beat you until you picked it up again.”

Mr. Chairman, this must be stopped. Just like we cannot accept slave labor in factories in Asia, we must not accept products being sold in this country that are made by enslaved child labor. In 1999, former President Clinton issued an executive order prohibiting Federal agencies from purchasing products made by enslaved child labor. In 2000, the Agriculture Department estimated that there are currently some 15,000 children working on cocoa and similar plantations in the Ivory Coast alone. That is the source of about 43 percent of the cocoa that is imported into this country. I think that if people in this country knew that they were buying products that were the result of slave labor, particularly the labor of children as young as 8 or 9 years old, they would not buy it. And I think that this amendment which proposes a simple labeling mechanism to indicate where this cocoa is coming from and the slave conditions under which it is being farmed and harvested is a good amendment and it ought to be adopted.

Mr. ENGEL. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Ms. KAPUR), the ranking member on the agriculture subcommittee.

Ms. KAPUR. Mr. Chairman, I thank my esteemed colleague the gentleman from New York for yielding me this time and rise in opposition to the amendment which is a very straightforward and simple amendment to ask FDA to develop a label indicating that enslaved child labor was not used to harvest the cocoa beans. That is all this does. We want to ensure that when people of this country eat chocolate, they are not eating chocolate that was processed by child slavery.

I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.
And a 1998 report from UNICEF, the United Nations Children's Fund, confirmed that some Ivory Coast farmers use enslaved children, many of them from the poorer neighboring countries of Mali, Burkina Faso, Benin and Togo. A report by the Geneva-based International Labor Organization, released June 15, found that trafficking in children is widespread in West Africa.

SOME OF THE BAGS WERE TALLER THAN ME

Ali Diabate and 18 other boys labored on a 494-acre farm, very large by Ivory Coast standards, in the southwestern part of the country. Their days began when the sun rose, which at this time of year in Ivory Coast is a few minutes after 6 a.m. They finished work about 6:30 in the evening, just before nighttime, trudging home to a dinner of burned bananas. A treat would be yams seasoned with saltwater “gravy.”

After dinner, the boys were ordered into a 24-by-20-foot room, where they slept on wooden planks. The window was covered with hardened mud except for a baseball-size hole to let some air in. “Once we entered the room, nobody was allowed to go out,” said Mamadou Diarra of the Malian consulate in Bouake, the capital city of the region. “In Ivorian law, and adult who orders a minor to hit and hurt somebody is automatically responsible as if he has committed the act.”

Le Gros, 46, said he did not order any beatings. “I only beat one boy who had run away,” he said. “This one, his face showed what was happening. He was sick; he had (excrement) running down his shirt. This one, his face showed what was happening.”

“Once we entered the room, nobody was allowed to go out.”

When the boys were 7 years old, Le Gros said, he bought one of them for 25,000 francs (about $35), the farmer said. “Anytime they loaded you with bags and you couldn’t carry them, nobody helped you. Instead, they beat you and beat you until you picked it up again.”

Le Gros, whose name is Lenkipo Yeo, de- nied that he bought the boys for the work that he had in the fields. “I bought each of you for 25,000 francs” (about $35), said Le Gros. “I bought each of you, and then I bought you for 25,000 francs.”

Le Gros said he ordered the boys to work from 5 a.m. until 4 p.m. in the hot sun. They worked without breaks. He said they were treated “like animals.”

One of Le Gros’ overseers beat him, said the boy. “One of the worst I did,” Le Gros said. “A hand to the face.”

There were a few instances of children escaping from the farm. According to medical records, other boys had healed scars as well as open, infected wounds all over their bodies. Police freed the boys, and a few days later the Malian consulate in Bouake sent them all home to their villages in Mali. The sick boy was treated at a local hospital, and then he was sent home, too.

Ivory Coast is known as one of the world’s largest cocoa producers. The beans that they harvest go to places like Hershey, Pennsylvania; Milwaukee, Wisconsin; and San Francisco. America’s biggest users of these beans are ADM Cocoa in Milwaukee, a subsidiary of Illinois-based Archer Daniels Midland; Barry Callebaut, which has its headquarters in Zurich, Switzerland; Minneapolis-based Cargill; and Nestle USA of Glendale, California, a subsidiary of the Swiss food giant.

It talks about these boys being beaten, and held, being tired, slim with no smiles, and many boys having healed scars as well as open infected wounds all over their bodies. It talks about the reasons that there is no law enforcement in the countries which are the suppliers. And it talks about the amount of money being made by the firms that use this kind of indentured servitude.

I think $250,000 out of a multibillion-dollar budget is almost nothing to ask to have proper labeling of a product. If we can have happy faces on carpets that come from the Indian subcontinent, we can certainly have proper labeling of chocolate products that come into this country from places like Ivory Coast. I really want to thank the gentleman from New York (Mr. Engel), who is a member of the Committee on International Relations, for bringing this issue to us.

It is always difficult for us to get labeling legislation passed by this subcommittee and full committee, but, my goodness, do we not have a moral responsibility to do this? It is within budget, what he is asking to do. It is asking FDA to meet not only its scientific responsibilities to this country but its moral responsibilities.

Mr. Chairman, I rise in strong support of the Engel amendment and commend the gentleman for bringing this again to the House floor so that the American people can understand what is going on.

Mr. ENGEL. Mr. Chairman, I yield myself such time as I may consume.

CONGRESSIONAL RECORD—HOUSE

12271

JUNE 28, 2001

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Mr. Chairman, I rise in strong support of the Engel amendment and commend the gentleman for bringing this again to the House floor so that the American people can understand what is going on.

Mr. ENGEL. Mr. Chairman, I yield myself such time as I may consume.
I think that the gentlewoman from Ohio made two very, very good points at the end. Throughout her speech she made good points, but I want to raise two that she made at the end. This is only $250,000. It is a very, very small amount, and such a small amount to ensure that the cocoa and the chocolate in this country has not come to be by slave labor of children. I think that is a very, very small price to pay.

There is a moral responsibility as the gentlewoman points out, a moral responsibility for us not to allow slavery, child slavery, in the 21st century. This is a small amount of money, it is in the budget, it will not do any harm whatsoever; and I think that it will certainly bring us to the point that this Congress can look with pride and say that we are making an attempt to stop something that we thought did not exist anymore and only now are we being made aware of the fact that slavery is continuing to rear its ugly head in the year 2001.

I want to just again urge my colleagues to support this. This should have bipartisan support because again we are talking about children and we are talking about slavery. I do not think the American people would want to knowingly eat chocolate or cocoa that was harvested by children who have been tricked into slavery.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from New York (Mr. ENGEL).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ENGEL. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. ENGEL) will be postponed.

Mr. BONILLA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ISAACSON) having assumed the chair, Mr. Bass, pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

LIMITING AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 2330, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. BONILLA. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2330 in the Committee of the Whole pursuant to House Resolution 183, no further amendment to the bill may be offered except the following amendments, each of which shall be debatable for 10 minutes:

An amendment offered by Mrs. CLAYTON related to rental assistance, which may be offered at any time during consideration; an amendment offered by Mr. TRAFFICANT related to Buy American; an amendment offered by Mr. ALLEN related to the total costs of research and development and approvals of new drugs; an amendment offered by Ms. KAPTUR related to biofuels; an amendment offered by Ms. KAPTUR related to BSE; an amendment offered by Ms. KAPTUR related to 4-H Program Centennial; an amendment offered by Mr. LUCAS of Oklahoma related to watershed and flood operations; an amendment offered by Mrs. MINK of Hawaii related to the Hawaii Agriculture Research Center; an amendment offered by Mrs. MINK of Hawaii related to the Oceanic Institute of Hawaii; an amendment offered by Mr. BLUMENAUER related to price supports; an amendment offered by Mr. ROYCE related to allocations under the market access program; an amendment offered by Mr. SMITH of Michigan related to the Food Security Act; an amendment offered by Mr. SMITH of Michigan related to the Agriculture Market Transition Act; an amendment offered by Mr. SMITH of Michigan related to the nitrogen-fixing ability of plants; an amendment offered by Mr. BACA related to Hispanic-serving institutions; an amendment offered by Ms. PELOSI related to HIV.

Two, the following additional amendments, each of which shall be debatable for 20 minutes:

An amendment offered by Mr. BROWN related to abbreviated applications for the approval of new drugs under section 505(j) of the Food, Drug and Cosmetic Act; an amendment offered by Mr. STUPAK or Mr. BOEHLENT related to elderly nutrition; an amendment offered by Mrs. CLAYTON related to socially disadvantaged farmers.

Three, the following additional amendments, each of which shall be debatable for 30 minutes:

An amendment offered by Mr. HINCHey related to American Rivers Heritage; an amendment offered by Mr. KUCINICH related to transgenic fish; an amendment offered by Mr. GUTKNECHT related to drug importation.

Four, the following additional amendments, each of which shall be debatable for 40 minutes:

An amendment offered by Mr. SANDERS related to drug importation; an amendment offered by Mr. WEINER related to mohair.

Five, the following additional amendment, which shall be debatable for 60 minutes, and which may be brought up at any time during consideration:

An amendment offered by Mr. OLVER or Mr. GILCHREST related to Kyoto.

Each additional amendment may be offered only by the Member designated in this request, or a designee; shall be considered as debatable for the time specified equally divided and controlled by the proponent and an opponent; shall not be subject to amendment; and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

Mr. YOUNG of Florida. Mr. Speaker, reserving the right to object, I only do so to advise the House what we are doing.

After the approval of the unanimous consent request, we will go back to the Committee of the Whole and we will have the votes that were rolled to this time. At the conclusion of that time, I believe we are to deal with the amendment of the gentlewoman from North Carolina (Mrs. CLAYTON) briefly. At that point then, the subcommittee chairman will move to rise; and we will have concluded the business for the day. We will return to this bill the day after we return from our July 4 Independence Day recess.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

Mr. OBEY. Mr. Speaker, reserving the right to object, I would just like to clarify what that means is that after the disposition of the Clayton amendment, we will have the three votes, that will be it for the evening. And then when we return after the July 4 recess, this bill will be the first order of business. We will take it up on Wednesday, and we will debate it to its conclusion?

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentlewoman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, this bill would be considered on the day after we return from the recess.

Mr. OBEY. We mean Wednesday by that; do we not?

Mr. YOUNG of Florida. Yes.

Mr. OBEY. That will be the first bill up, and it will be debated to its conclusion?

Mr. YOUNG of Florida. I would expect that it would be first, and I know one reason why it will not be first.

Mr. OBEY. If I could also clarify the language of the unanimous consent request, the last paragraph reads, "Each
additional amendment may be offered only by the Member designated in this request. By that word "additional," you mean the amendments previously cited, does not the gentleman?

Mr. BONILLA. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Speaker, that is correct.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore. Pursuant to House Resolution 183 and rule XVIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the further consideration of the bill, H.R. 2330.

Amendment Offered by Mrs. CLAYTON

Mrs. CLAYTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

Mrs. CLAYTON. Mr. Chairman, yes. Mr. Chairman, the amendment I have offered amends title III of the Rural Housing Insurance Act. Mr. Chairman, this is an amendment that allows us to speak to the issue of rural housing, particularly rental housing, that are not available in our area. What this particular amendment does, it allows for monies that were not spent, that were allocated by this Congress during the floods, on the rental housing. It provides the opportunity to redirect some balance of dollars available. It simply gives authority of those monies to use up to $5.9 million of the balance it has. Originally in the year 2000, the Supplemental Appropriation Act provided $32 million to section 515 and $13.6 million for 1,000 units in section 521.

At the end of this year, they spent $20 million. There remains $12 million unspent.

Mr. BONILLA. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. Mr. Chairman, I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I apologize for the confusion that we had a few minutes ago, and we would be delighted to accept the amendment of the gentlewoman from North Carolina.

Mrs. CLAYTON. Without me explaining it, the gentleman will accept it? I like that.

Mr. Chairman, I shall not go further as I understand that he is willing to accept my amendment, which gives the opportunity for the five States to now have rental assistance to senior citizens and single family members can have an apartment. I am delighted.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from North Carolina (Mrs. CLAYTON).

The amendment was agreed to.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment by the gentleman from Ohio (Mr. BROWN); amendment by the gentleman from New York (Mr. ENGEL).

Mr. OBAMA. Mr. Chairman, the amendment I have offered amends title III of the Rural Housing Insurance Act. Mr. Chairman, this is an amendment that allows us to speak to the issue of rental housing, particularly rental housing, that are not available in our area. What this particular amendment does, it allows for monies that were not spent, that were allocated by this Congress during the floods, on rental housing. It provides the opportunity to redirect some balance of dollars available. It simply gives authority of those monies to use up to $5.9 million of the balance it has. Originally in the year 2000, the Supplemental Appropriation Act provided $32 million to section 515 and $13.6 million for 1,000 units in section 521.

At the end of this year, they spent $20 million. There remains $12 million unspent.

Mr. BONILLA. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. Mr. Chairman, I yield to the gentleman from Texas.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier to take up a recorded vote on the amendment by the gentleman from New York (Mr. ENGEL) had been postponed and the bill was open for amendment from page 49 line 9 through page 57 line 15.

Amendment Offered by Mrs. CLAYTON

In title III, in the item relating to "Rural Housing Insurance Fund Program Account" add at the end the following:

Of the amounts made available under this heading in section 515 of title II of Public Law 106-256 (114 Stat. 540) for gross obligations for principal amount of direct loans authorized by title V of the Housing Act of 1949 for section 515 rental housing, the Secretary of Agriculture may use up to $5,986,197 for rental assistance agreements described in the item relating to "Rental Assistance Program" in such chapter.

The Speaker pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment by the gentleman from Ohio (Mr. BROWN); amendment by the gentleman from New York (Mr. ENGEL).

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment by the gentleman from Ohio (Mr. BROWN); amendment by the gentleman from New York (Mr. ENGEL).
CONGRESSIONAL RECORD—HOUSE

June 28, 2001

TANCREDO, HOEKSTRA, BASS, DUNN, GALLEGLY, KIRK, TIBERI, MCCRERY, TAUZIN, GOODLATTE, and TERRY, and Ms. PRYCE of Ohio changed their vote from "no" to "aye." So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. Brown) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment. The Clerk designated the amendment.

The CHAIRMAN pro tempore. A recorded vote has been demanded.

The vote was taken by electronic device, and there were—ayes 271, noes 140, not voting 22, as follows:

[Vote List]

NEOS—89

Akin
Arney
Ballenger
Barr
Bigdger
Boehner
Bonilla
Brown
Bryant
Burke
Canter
Chabot
Chaffetz
Craite
Cranz
Crow
DeLeuw
Dempsey
Doolittle
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Mr. BARR of Georgia changed his vote from "aye" to "no." Messrs. SENSENBRINER, JOHNSON of Illinois, WAMP, HYDE, QUINN, HEFLEY, JENKINS, McINTYRE, ROGERS (TX), CRAMER, and TAUZIN of Ohio changed their vote from "no" to "aye." So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BARR of Georgia changed his vote from "no" to "aye." So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. Brown) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment. The Clerk designated the amendment.

The CHAIRMAN pro tempore. A recorded vote has been demanded.

The vote was taken by electronic device, and there were—ayes 271, noes 140, not voting 22, as follows:

[Vote List]
So the amendment was agreed to.

The result of the vote was announced as above recorded.

CONGRESSIONAL RECORD—HOUSE

A recorded vote was ordered.

The CHAIRMAN. A recorded vote has been demanded.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 291, noes 115, not voting 27, as follows:

[Ayers Roll No. 210]

AYES—291

Baker (OK)    Wicker (FL)
Barton (TX)   Young (AK)
Bell (CA)     Wolf (MO)
Costello (IL)  Young (FL)
Coyne (NY)   Crumley (FL)

The CHAIRMAN. This will be a 5-minute vote.

A recorded vote was ordered.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. BONILLA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tem (Mr. LAHOOD) having resumed the chair, Mr. GOODLATTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2360) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregen, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the following title:

H: Con. Res. 176. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

HEARTFELT THANKS TO ANNE HOLCOMBE, CINDY SEBO, AND VICKY STALLSWORTH

(Mr. EHlers asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EHlers. Mr. Speaker, I hope you will be kind on the time allotted, because I want to take a few moments to recognize a very special person who has worked in this Chamber for some time, who has graced this Chamber and has helped us a great deal, and she will soon be leaving, and that is Ms. Anne Holcombe, who is seated at the front desk.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. EHlers. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank the gentleman from Michigan (Mr. EHlers), my friend, for yielding to me. I join today in recognizing Anne Holcombe. This is her last day as the senior legislative clerk, so I, along with my colleagues, thought it appropriate that we take 1 minute, since
you enjoy them so much, Anne, a special order.
I know that you enjoy sitting here through special orders. If you had a chance of a 1 minute or a special order, I suspect that you might prefer a 1 minute.
Anne is moving to Charlotte, North Carolina to be closer to her family and to start a new chapter in her life. I want to wish her well. Our colleague, the former Mayor of Charlotte, North Carolina, a distinguished member of the Committee on Rules, Sue Myrick, will become your representative here in the House.
Anne’s professionalism on the dais has been a steady source of confidence that the records of the House will always be in order, that is why we are all very sad to see her leave.
I cannot think why Anne would want to leave the House. I know that you greatly enjoy sitting here waiting until 3 o’clock in the morning until the committee that I am privileged to Chair reports a rule down here.
As I said, I think why Anne would want to leave the House. I know that you greatly enjoy sitting here waiting until 3 o’clock in the morning until the committee that I am privileged to Chair reports a rule down here.
I cannot think how much you enjoy special orders that often extend up to, under our great reform process, midnight we know, but you do, obviously, grace the dais extraordinarily well.
You have worked here for many years. Anne started in September of 1996, Mr. Speaker, as a legislative information specialist and was responsible for researching, editing, and maintaining the legislative database that we, in the House, as well as the general public, depend on for information about what is happening here in the Congress.
In October of 1997, Anne was promoted to assistant chief floor clerk, where she made sure that the bills we spoke on the House floor were transposed into marvelous eloquence, of course, while still complying with the rules of the House.
Then in January of 2000, Anne was promoted again to senior legislative floor clerk. She has done a terrific job in serving this institution and her country very well.
Mr. Speaker, if the gentleman will continue to yield, I would also like to note that we also have two official reporters out of whose right here, who is actually finishing her last day, Cindy Sebo, who has worked long and hard, and also Vicky Stallsworth, who is also completing her last day here.
I guess the place is going to be empty when we come back. No one will be here to do any work. I hope very much that these positions are filled.
Let me say to all three that we wish them well in their future endeavors, and I thank my friend for yielding.
Mr. EHLLERS. Mr. Speaker, reclaiming my time, I want to add my congratulations to all three of them and especially my heartfelt thanks. I have always made a point of trying to get to
I am delighted that both of the reporters who are leaving us are here present so we can say thank both Cindy and Vicky as well. I hope you spell your names properly as you transcribe this.
They work tirelessly. They are going on to other things and other lands. I cannot imagine why Vicky, who is moving to Fort Collins, Colorado; and Anne, who is moving to North Carolina, if you are going to leave Washington to find a better place, I can understand that; but I would certainly recommend Grand Rapids, Michigan, especially this time of year. So come up there and stop in and see us.
Cindy will be leaving for the private sector. She will remain in this area, and we hope we see her around here occasionally.
So from the bottom of my heart, thank you to all of you. Congratulations. God bless you in your future endeavors and employment.
Mr. HOYER. Mr. Speaker, will the gentleman yield?
Mr. EHLLERS. I yield to the gentleman from Maryland.
Mr. HOYER. Mr. Speaker, I appreciate the gentleman yielding.
I did not rise to defend the Washington metropolitan area as a place to live, notwithstanding his observations. But I did rise to say thank you on behalf of all of us, not on a partisan sense, although I am on this side of the aisle, and there are others on the other side of the aisle, but to, again, remind ourselves that the people who serve in the operations of the people’s House are those who never rise and speak. They also serve who stand and record, the poet might have said.
To Anne and Cindy and Vicky, we appreciate very much, what you have done. You have at times been asked to spend long, long, long hours. You have fought fatigue; and I am sure, although you do not have to admit this, fought boredom as well in the operations that you have been responsible for.
You make it possible for the American public, even if they cannot see us on C-SPAN, even if they cannot be in the gallery, even if years later they are trying to find out what happened on the floor of the House, their House, doing their business, you make it possible for them to find out. You do so with incredible accuracy and efficiency. We thank you for that, and we acknowledge how critically important you are to the operations of this House.
I am not surprised that one of you is going into the private sector. Maybe both of you are going into the private sector, I am not sure, our two reporters, or Anne returning to North Carolina to be closer to her family, because there are, in my opinion, no more talented, no more highly motivated, no more productive individuals hired by the private sector than those who work on this Hill and certainly, all those who work at the desk and who record our debates.
It is a hallmark of American democracy that we want to be open to the public. We want to make sure that we have an accurate and accurate record of proceedings. You have enabled us to continue to do that.
We thank you. We wish you Godspeed. We hope that you take with you very positive feelings about this House, that you know firsthand that, although there are fights and disagreements, and sometimes we are much smaller than we ought to be, that, at bottom, almost everybody, indeed everybody in this House, cares about their country and cares about their constituents. You have had the opportunity to see that firsthand. As I tell the pages, I hope you will tell that story wide and far.
We thank you, and we wish you the best of everything in the days ahead. Thank you for yielding.
Mr. SKELTON. Mr. Speaker, will the gentleman yield?
Mr. EHLLERS. I am happy to yield to the gentleman from Maryland.
Mr. SKELTON. Mr. Speaker, I, too, would like to add my best wishes to Anne Holcombe as she leaves and also say farewell to Cindy and Vicky for the work that they have done.
Regarding Anne, I was sitting here thinking of the old Irish tune that has the melody of “When Johnny Comes Marching Home.” A phrase in there is “Johnny, we hardly got to know you.” It just seems like you came last week, and time flies so fast, and we hardly got to know you.
You have done so well. You have been very friendly. You have been very particularly kind to me in making sure the podium is at the right height. Your professionalism, your competency is beyond match. So we thank you for your efforts, your hard work. We wish you the very best in your next chapter of life, and do not forget us. God bless.
Mr. EHLLERS. Mr. Speaker, reclaiming my time, I want to thank all three of the speakers, the gentleman from California (Mr. DREIER), the gentleman from Maryland (Mr. HOYER), and the gentleman from Missouri (Mr. SKELTON) for their eloquent comments.
Frankly, they stole my speech, and there is not much I can add to it other than to say, on behalf of all of those who use this Chamber and rely on you as well as the broader American public who sees your work constantly on the news, I commend you to the Congressional Record. I want to thank all of you for your hard service here. I wish you well. God bless you wherever you go.
ELECTION OF MEMBER TO COMMITTEE ON ARMED SERVICES AND COMMITTEE ON SCIENCE

Mr. FOLEY. Mr. Speaker, I offer a resolution (H. Res. 194), and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore (Mr. LaHood). The Clerk will report the resolution.

The Clerk read as follows:

H. Res. 194

Resolved, That the following Member be and is hereby elected to the following standing committees of the House of Representatives:

Armed Services: Mr. Forbes.
Science: Mr. Forbes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, FRIDAY, JULY 6, 2001 TO FILE REPORTS ON H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, AND H.R. 2137, CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2001

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until midnight on Friday, July 6 to file the reports to accompany H.R. 2215 and H.R. 2137.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING THE SPEAKER, THE MAJORITY LEADER, AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS AUTHORIZED BY LAW OR THE HOUSE WITHOUT STANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, July 10, 2001, the Speaker, Majority Leader, and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 11, 2001

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 11, 2001.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1613

Mr. SIMMONS. Mr. Speaker, I ask unanimous consent to remove my name from H.R. 1613.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

APPOINTMENT OF THE HONORABLE TOM DAVIS TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JULY 10, 2001

The SPEAKER pro tempore laid before the House the following communication from the Speaker:


I hereby appoint the Honorable Tom Davis to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 10, 2001.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is agreed to.

There was no objection.

REPORT ON EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–93)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Enclosed is a report to the Congress on Executive Order 12938, as required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)).

GEORGE W. BUSH,

PRESIDENT'S COMPREHENSIVE NATIONAL ENERGY POLICY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science, the Committee on Resources, the Committee on Ways and Means, the Committee on Transportation and Infrastructure, and the Committee on Education and the Workforce:

To the Congress of the United States:

One of the first actions I took when I became President in January was to create the National Energy Policy Development Group to examine America's energy needs and to develop a policy to put our Nation's energy future on sound footing.

I am hereby transmitting to the Congress proposals contained in the National Energy Policy report that require legislative action in conjunction with executive actions that my Administration is already undertaking, these legislative initiatives will help address the underlying causes of the energy challenges that Americans face now and in the years to come. Energy has enormous implications for our economy, our environment, and our national security. We cannot let another year go by without addressing these issues together in a comprehensive and balanced package.

These important legislative initiatives, combined with regulatory and administrative actions, comprise a comprehensive and forward-looking plan that utilizes 21st century technology to allow us to promote conservation and diversify our energy supply. These actions will increase the quality of life of Americans by providing reliable energy and protecting the environment.

Our policy will modernize and increase conservation by ensuring that energy is used as efficiently as possible. In addition, the National Energy Policy will modernize and expand our energy infrastructure, creating a new high-tech energy delivery network that increases the reliability of our energy supply. Further, it will diversify our energy supply by encouraging renewable and alternative sources of energy as well as the latest technologies to increase environmentally friendly explo- ration and production of domestic energy resources.

Importantly, our energy policy improves and accelerates environmental protection. By utilizing the latest in pollution control technologies to cut harmful emissions we can integrate our desire for a cleaner environment and a sufficient supply of energy for the future. We will also strengthen America’s energy security. We will do so by reducing our dependence on foreign sources of oil, and by protecting low-income Americans from soaring energy prices and supply shortages through programs like the Low Income Housing Energy Assistance Program.
My Administration stands ready to work with the Congress to enact comprehensive energy legislation this year.

GEORGE W. BUSH.


ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain 1 minute requests.

CONSERVATION IS CRITICAL PIECE OF PUZZLE

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Mr. Speaker, while we all know we cannot conserve our way out of the energy crunch, conservation is a critical piece of the puzzle if we are going to solve this problem. In times like these, each and every American must do their part. This means turning out the lights when leaving a room, walking more often instead of driving, and investing in new technologies and alternative renewable energy sources.

While some in this Chamber merely talk about conservation, President Bush is actually doing something about it.

Today, President Bush announced $77 million in Federal conservation grants which will help accelerate the development of fuel cells in new technology for tomorrow's cars and buildings. These grants will play a critical role in lowering emissions and improving energy efficiency.

Mr. Speaker, instead of throwing rocks and using America's energy problems for political gain, President Bush is providing leadership and solutions.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HIGH COST OF PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, today I rise to talk about an issue that is of great concern to all Americans, but is of particular concern to the 53 million Americans that have no health insurance and to the 14 million American seniors that do not have prescription drug coverage under their Medicare benefit. What I am talking about is the high cost of prescription drugs.

I want to show a chart for the benefit of the Members that begins to illustrate just how serious this problem is. The first chart shows the Members begins to talk about the differentials or the difference between what we pay in the United States and what they pay in Europe for some of the most commonly prescribed drugs.

We have heard a lot over the last several years about how much difference there is between Canada and the United States and how much difference there is between Mexico and the United States. But many Americans do not realize there are enormous differences between what we pay for exactly the same drugs made in the same plants here in the United States compared to what they pay in Europe.

For example, the first drug on this list is a drug called Allegra, 120 milligrams. It is triple in the United States what they pay in Europe for the same drug. Some people will say, well, they have price controls in Europe. In some countries in Europe, that is true. But in Germany and Switzerland, it is not true.

Take a look at the drug Coumadin, which is a drug that my father takes. In the United States, it is quadruple the $8.22, which they charge for the average price in Europe.

Mr. Speaker, my colleagues need to understand that, once a person is diagnosed, it is likely that they will stay on that drug for the rest of their lives. So we are talking about an enormous difference over the life-span of a patient who needs this drug.

Take a look at a drug Zithromax down here at the bottom. It is a new wonder drug in terms of being an antibiotic. It is a marvelous drug. But I wonder whether Americans should really have to pay three times what consumers in Europe have to pay.

As my colleagues can see, it is $486 for a month's supply here in the United States compared to $176.19. That is seven times more than Americans are required to pay.

Mr. Speaker, my colleagues need to understand that, once a person is diagnosed, it is likely that they will stay on that drug for the rest of their lives. So we are talking about an enormous difference between the United States and Europe.

In the United States, it is quadruple the $8.22, which they charge for the average price in Europe.

Mr. Speaker, I am not asking for the world. The amendment I intend to offer is very narrowly focused. It simply says that the FDA cannot stand between law-abiding citizens who have legal prescriptions and allowing them to bring into the United States drugs which are otherwise approved by the FDA. In fact, we even go further. We say it cannot be a controlled substance. It can be a non-codine. The drugs we are talking about are drugs that are commonly prescribed. I will appreciate my colleagues' support on that amendment.

Mr. Speaker, I submit herewith for the RECORD a few fact sheets regarding the Medicare drug benefit argument.

Some say that the FDA lacks the resources to inspect mail orders. The truth is that the FDA is focusing its inspections in the wrong places. Instead of stopping illegal drugs reported by illegal traffickers, the FDA concentrates on approved drugs being brought in by law-abiding citizens. So far this year the FDA has detained 18 times more packages from Canada than they have from Mexico. This is outrageous. They are spending all of their resources chasing law-abiding citizens.

One of the biggest arguments of the people who oppose my amendment is that they say, well, we are going to ultimately have a Medicare benefit, a prescription drug benefit. There will be no need to import drugs. But for a lot of people right now, that will not be the case. The problem is there is no real competition.

But the biggest concern that a lot of people raise is what will this do in terms of public safety. Let me say this. More people have been killed in the United States from unsafe tires being brought into the United States from other countries than by bringing legal drugs into the United States by law-abiding citizens. As a matter of fact, there is no scientific study that demonstrates that there is a threat of injury to patients importing medications, legal medications, with a prescription, from an industrialized country.

What is more, millions of Americans have no prescription drug coverage. Stopping importation of FDA-approved drugs only threatens their safety. Remember, Members, a drug that an individual cannot afford is neither safe nor effective, and too many Americans are put in the position where they simply cannot afford the drugs that they need.

Mr. Speaker, I am not asking for the world. The amendment I intend to offer is very narrowly focused. It simply says that the FDA cannot stand between law-abiding citizens who have legal prescriptions and allowing them to bring into the country drugs which are otherwise approved by the FDA. In fact, we even go further. We say it cannot be a controlled substance. It cannot be a codine. The drugs we are talking about are drugs that are commonly prescribed. I will appreciate my colleagues' support on that amendment.

Mr. Speaker, submit herewith for the RECORD a few fact sheets regarding the Medicare drug benefit argument.

Some say a Medicare drug benefit will eliminate the need for importation. The truth is that simply shifting high prices to the government only transfers the burden to American taxpayers. Moreover, Medicare...
coverage won't help the millions of Americans without health insurance.

Some say importation is merely an indirect way of enacting price controls. The truth is—Importing prescription drugs to the United States will lower prices here and, in the long run, force Europe to pay more for drug research and development costs. The best way to break down price controls is to open up health care markets.—Stephen W. Schondelmeyer, Pharm.D., Ph.D., Professor and Director, PRIME Institute, Head, Dept. of Pharmaceutical Care & Health Systems, College of Pharmacy, University of Minnesota.

Some say the FDA lacks the resources to inspect mail orders. The truth is—The FDA is focusing its inspection resources in the wrong places. Instead of stopping illegal drugs imported by illicit traffickers, the FDA concentrates on approved drugs imported by law-abiding citizens. So far this year, the FDA detained 18 times more packages coming from Canada than from Mexico. Last year, the FDA detained 90 times more packages than Mexico. Worse, last year Congress appropriated $23 million for border enforcement, but the Secretary of Health and Human Services refused to use the funds.

Some say importation jeopardizes consumer safety. The truth is—No known scientific study demonstrates a threat of injury to personal health from medications or a prescription from industrial countries. What’s more, millions of Americans have no prescription drug coverage. Stopping importation of FDA-approved drug threatens their safety. A drug you can’t afford is neither safe nor effective.

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CONGRESSIONAL RECORD—HOUSE

June 28, 2001

The SPEAKER pro tempore (Mr. LAHood). Under a previous order of the House, the gentleman from Iowa (Mr. Nussle) is recognized for 5 minutes.

Mr. Speaker, pursuant to Sec. 314 of the Congressional Budget Act and Sec. 221(c) of H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002, I hereby submit for printing in the CONGRESSIONAL RECORD revisions to the allocations for the House Committee on Appropriations.

As reported to the House, H.R. 2330, the bill making appropriations for Agriculture and Related Agencies for fiscal year 2002, includes an emergency-designated appropriation providing $150,000,000 in new budget authority and $143,000,000 in new outlays. Under the provisions of both the Budget Act and the budget resolution, I must adjust the 302(a) allocations and budgetary authority and $143,000,000 in new outlays. Under the provisions of both the Budget Act and the budget resolution, I must adjust the 302(a) allocations and budgetary authority and $143,000,000 in new outlays. This changes the 302(a) allocation for fiscal year 2002 to $661,450,000,000 for budget authority and $683,103,000,000 for outlays. The increase in the allocation also requires an increase in the budgetary aggregates to $1,626,638,000,000 for budget authority and $1,590,801,000,000 for outlays.

The rule providing for consideration of H.R. 2330 strikes the emergency designation from the appropriation. Upon adoption of the rule, Sec. 314 of the Congressional Budget Act provides that these adjusted levels are automatically reduced by the amount that had been designated an emergency. Should the rule (H. Res. 183) not be adopted, these adjustments shall apply while the legislation is under consideration and shall take effect upon final enactment of the legislation. Questions may be directed to Dan Kowalski at 67270.

MICROBIDES DEVELOPMENT ACT OF 2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mrs. Morella) is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, I rise today to introduce the Microbicides Development Act of 2001. I am pleased that so many of my good friends and colleagues have signed on as original cosponsors of this legislation which I am dropping in this evening. My thanks go to them.

Mr. Speaker, this week the United Nations convened a special session of the U.N. General Assembly to address how to combat the spreading HIV and AIDS epidemic. We have entered the third decade in the battle against HIV and AIDS. June 5, 1981, marked the first reported case of AIDS by the Centers for Disease Control, and since that time 400,000 people have died in the United States, and globally 21.8 million people have died of AIDS.

Tragically, women now represent the fastest growing group of new HIV infections in the United States, and women of color are disproportionately at risk. In the developing world, women now account for more than half of the HIV infections, and there is growing evidence that the position of women in developing societies will be a critical factor in shaping the course of the AIDS pandemic.

So what can women do? Women need and deserve access to a prevention method that is within their personal control. Women are the only group of people at risk who are expected to protect themselves without any tools to do so. We must strengthen women’s immediate ability to protect themselves, including providing new women-controlled technologies; and one such technology does exist, called microbicides.

The Microbicides Development Act, which I am introducing, will encourage Federal investment for this critical research with the establishment of programs at the National Institutes of Health and the Centers for Disease Control and Prevention. Through the work of NIH, nonprofit research institutions, and the private sector, a number of microbicide products are poised for successful development. But this support is no longer enough for actualizing microbicides through the development pipeline and into the hands of millions who could benefit from them. Microbicides can only be brought to market if the Federal Government helps support critical safety and efficacy testing.

Health advocates around the world are convinced that microbicides could have a significant impact on HIV and AIDS and sexually transmitted diseases. Researchers have identified almost 60 microbicides, topical creams and gels that could be used to prevent the spread of HIV and other sexually transmitted diseases such as chlamydia and herpes. But interest in the private sector in microbicide research has been lacking.

According to the Alliance for Microbicide Development, 38 biotech companies, 28 not-for-profit groups, and seven public agencies are investigating microbicides and phase III clinical trials have begun on four of the most promising compounds. The studies will evaluate the compounds' efficacy and acceptability and will include consumer education as part of the compounds' development. However, it will be at least 2 years before any compound trials are completed.

Currently, the bulk of funds for microbicides research comes from NIH, nearly $25 million per year, and the Global Microbicide Project, which was established with a $35 million grant from the Bill and Melinda Gates Foundation. However, more money is needed to bring the microbicides to market. Health advocates have asked NIH to increase the current budget for research to $75 million per year.

Mr. Speaker, today the United States has the highest incidence of STDs in the industrialized world. Annually, it is estimated that 15.4 million Americans acquired a new sexually transmitted disease. STDs cause serious, costly, even deadly conditions for women and their children, including infertility, pregnancy complications, cervical cancer, infant mortality, and higher risk of contracting HIV.

This legislation has the potential to save billions of dollars in health care costs. Direct cost to the U.S. economy of sexually transmitted diseases and HIV infection is approximately $8.4 billion. When the indirect costs, such as lost productivity, are included, that figure will rise to an estimated $20 billion. With sufficient investment, a new microbicide could be available around the world within 5 years, a small fraction of the difference that would make it happen.
Mr. GANSKE. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Iowa.

Mr. GANSKE. Mr. Speaker, I just want to commend the gentlewoman from Bethesda, Maryland, for her long-time concern on issues related to women’s health. I think this is a vitally important bill. It is something that this Congress should pass. It will affect millions and millions of women in a positive way. Sexually transmitted disease is a tremendous problem in this country. My hat is off to the gentlewoman, and I am happy to be a cosponsor of her bill.

Mrs. MORELLA. Mr. Speaker, I was just going to thank the gentleman from Iowa (Mr. GANSKE) for being a cosponsor and for his work in making sure that we have appropriate access to health care.

EDUCATION IN AMERICA

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we are about to enter our July recess for the 4th of July holiday, and it must be noted that this Congress has completed two major legislative developments to date. One of those, of course, has been fully completed: the tax bill. That is fully completed, signed into law, and checks will begin to move soon.

Those checks will be going to the people at the very bottom of the rung as a result of legislation which was first proposed by the Progressive Caucus that every American should get some benefit from this tax cut. That did not exactly happen, but every taxpayer is getting a small benefit as a result of the action taken early in the session by the Progressive Caucus. The idea got out there and kept moving until finally it was incorporated in another form in the tax bill. So people at the bottom are going to get some small amount of money from the tax bill. That is real. It is completed.

The other piece of legislation that has not yet been completed is the education bill, the leave-no-child-behind legislation of the President. The new President, of course, made this a high priority; and we have moved in both Houses, with both parties cooperating extensively, to pass the leave-no-child-behind legislation separately in the House and in the Senate. But there has been no conference, and the bill is now on hold.

I think it should be noted that there are rumors that the bill will be held deliberately until we have a chance to negotiate the major question of financing for the education bill. Education is on the legislative back burner right now; but in the hearts of the people who are polled out there, legislation is still a number one concern.

Education has to remain on the front burner. The fact it is being held here is a good development in that the critical question in the legislation that passed the House versus the legislation that passed the Senate is the amounts of money that are appropriated to carry out the features of the bill. The amounts of money are critical.

We do state in the legislation that passed the House that there will be an increase in an authorization for an increase in title I funds of double the amount that exist now in 5 years. In 5 years, in other words, we will have twice as much funding for title I as we have today. It will move from the present amount to about $72.2 billion in authorization year by year. Authorization is there. That does not guarantee that the appropriation, of course, will keep pace.

The Senate bill has even more money earmarked for increases, but they do not have a commitment from the White House that the appropriation is going to follow the authorization. The big question is will the authorizations be honored. We had a great deal of effort to get bipartisan agreements.

I reluctantly voted for the education legislation because of the fact it did two things: one, it got rid of the consideration of vouchers for private schools as a Federal policy. And I think to clear the board and have vouchers off the discussion table was good for Federal legislative policy.

However, the critical question of will we have more resources was also addressed. And the fact that the bill does promise to double title I funds, which are the funds that go most directly to the areas of greatest need, impressed me to the point where I voted for the bill, even though there were some other features, which I will discuss later, which I do not consider to be desirable.

The critical point is, are there more resources? The need to have resources to maintain what I call opportunity-to-learn standards is a critical point that I have been trying to make for all these years. Opportunity to learn is the most important factor if we really want to improve education and have more youngsters who are attending our public schools benefit from the process. What we are trying to do, however, is force a process of accountability, insist that schools measure progress by the tests that are taken by the students and the scores on the tests, and that that is the way we should measure accountability. A school system is held accountable for improved test scores.

On the other hand, the opportunity-to-learn standards are ignored completely. Opportunity to learn means that before the test is given we must guarantee that the student will have an adequate place to learn; classrooms that are not overcrowded, libraries that have up-to-date, laboratories that have science equipment. The opportunity to learn means that we have the right equipment, the right facilities. It means that we have certified teachers in the classroom. It means that all the resources that are needed are there before we start the testing.

But the process that we have pushed here is a process which tries to ignore the opportunity to learn as a major factor.

So we need to hold the education legislation because that vital component is missing. Let us hold it until we can negotiate an increase in the resources, an increase in the amount of money we use to purchase resources, and those resources will provide the opportunity to learn. It may be that it will be end-game negotiations all of the way to the end of the session. Legislation has benefited greatly over the last few years through the end-game negotiation process, right down to the very last hours of the session. When the White House and the Congress came together and they had their priorities on the table, education has fared very well.

Mr. Speaker, I hope that by holding the legislation this time until we get to that end-game negotiation, we will get the kind of funding necessary to make the legislation that we have passed have some real significance. If we do not get some additional funding for the Leave No Child Behind funding, then it is a fraud. It has no substance if it is not going to provide additional resources.

There is a need to refresh ourselves and come back to an understanding of the fact that we have passed these two pieces of legislation in the House of Representatives and the Senate. There is no reason to rest on our laurels. We still have a basic problem of that bill that passed having great gaps in it, and those great gaps are not going to be closed in the end-game negotiation unless the people that we represent, our constituents, understand where we are and why there is a great need for more Federal involvement in the improvement of education.

I want to use as an example a series of articles that have appeared in the Daily News in New York City to talk about the New York City school system, and I want to use New York City as a negative model. It is not the way it should be, but it is the way that it is in most of our large cities. I would not bore my colleagues with a discussion of what is going on in New York City unless I did not think that it was applicable all over the country in other big cities, and it is also applicable in rural areas.
Yesterday we voted on a bill to establish a commission to plan for the anniversary, 50th anniversary, of the Brown v. Board of Education. The commission explicitly relates to the question of segregation in public schools and whether or not it was legal. The Supreme Court struck down the fact of segregation and clearly made it illegal. Our concern with segregation has begun to fade as far as segregation by race is concerned. The phenomenon we face now is a more subtle phenomenon. We have segregation in another way; not by race, but segregation of the people who have no power away from those who do have power. It turns out in many cases that the people who do not have power in the big cities are people who happen to be minorities also.

In the rural areas there are large numbers of schools scattered primarily throughout the country; these are poor people who are in the same position because they have poor schools as a result of having no power. Folks who have money, who have power, always guarantee that their children get the best schooling possible. People with money in larger and larger numbers are sending their children to private schools; and, of course, there are not enough private schools to accommodate 53 million children. Others who have money and are in control of their schools and of the budget-making processes of their counties or cities or their school districts, they make certain that they have good schools. Where they have the power to do that, they have done it for their children.

We have a problem, however, because many of the people who have power, who have control about the decision-making with the budget are not involved to the point where their children or grandchildren are in the schools. The people who have the power, the people who have the most influence do not care about public schools enough to allow through on guaranteeing that you have the best schools possible.

We have a serious situation where we have schools that are stuck in a time bind. One of the greatest problems of our society is that in scattered primary of them are so old. When one looks at the physical age of the structures, one gets a good visible manifestation of the way in which education and schooling gets a good visible manifestation of the physical age of the structures, one of them are so old. When one looks at our schools is that physically so many of them are stuck in a time bind. One way in which education and schooling gets a good visible manifestation of the physical age of the structures, one of them are so old. When one looks at our schools is that physically so many, of big cities, are failing in the same way, at the same rate, for the same reason, and that is why I want to bring to your attention what this Daily News series has pointed out, and how the implications read in the New York City. Reading from their own editorial page, “This week in a Daily News special report entitled Save Our Schools, you have been reading about the meltdown of the New York City educational system. As documented in chilling detail in more than 20 articles, the crisis has reached critical mass.”

Now, Daily News is not a radical newspaper. They very seldom use extreme words like “meltdown.” When they say “meltdown,” you have to consider that they have been shocked, and this is truly a serious situation.

“This laboratory of failure, this culture of catastrophe, puts 1.1 million school children at risk. It must end. That is why the Daily News has launched a campaign, no, a crusade, to rescue what was once a world-class system that created opportunities for millions.” I think it is important to point out that the New York City school system was once considered a world-class system. It gave a lie to the notion that any big system, any bureaucratic system is automatically a wasteful system and a nonproductive system. The New York City school system produced the young people who went on to city colleges and who created a record of achievement and higher education in science and you name it; every scholarly endeavor that you can mention were the products of the New York City system. In the best public-financed colleges. At one point City University had the highest percentage of Ph.D.s of any college in the Nation.

This was a system that was once a world-class system, and I submit it was a world-class system at a time when the people who were in charge of the system also had children who were attending the schools in the system; when the power, the power to make the system work was in the hands of the people whose children were attending the system. We have lost the kind of concerns and the kind of scrutiny and the kind of effective application of resources because of the fact that the people who are in charge and the people whose children are in the schools are the decision-makers.

Continuing with the statement in the Daily News, “How abysmal is the situation? Sixty percent of the students in public elementary and middle schools cannot read at grade level. A third are functionally illiterate, and 70 percent lack proficiency in math. Nearly 50 percent finish high school in 4 years. In the original class of 2000, 19.5 percent dropped out before graduation, a 12 percent leap from the class of 1998.” This percentage who dropped out before graduation represents a 12 percent change from the class of 1999.

A mere 35 percent of the kids take the Scholastic Assessment Test required for college. A mere 35 percent take the SAT, versus 73 percent of the rest of the children in New York State who take that same test. Only a broken system produces such a rock bottom number. It is appalling.

Just 44 percent of teachers hired last year for city schools had credentials, down from 1999. Meanwhile, 16 percent of all teachers are uncertified, the most in a decade.

Ten percent of parents did not bother to pick up their kids’ report card. Fifteen percent do not know what grade their child is in, and the PTA at one school has only two members.

Oh, yes, they say in passing, “The buildings are falling down. Eighty-five percent of schools need major repairs.” I am going to repeat that paragraph because herein lies the story of denial of opportunities to learn.

How can the children of the New York City school system score well on the series of tests that are being proposed? The Leave No Child Behind legislation was pushed by the White House and now passed by both Houses has a testing regimen which starts in the third grade. From the third to the eighth grade, children will be tested. If you test children who are going to school under these conditions, I can tell you now without looking at the tests, most of them will fail.

Here are the conditions that the school, the children in the schools of New York will be facing as they take the tests. I am repeating this paragraph because herein lies the story of denial of opportunity to learn by the children in the schools of New York.

I am going to make it simple by reading from an excellent editorial that appeared in the Daily News which accompanied their series on the New York City school system. I think it was a most important editorial. It appeared in the Daily News on the day that the series got started and it was forthright in dealing with the exposure of rampant waste and corruption and inadequacies. At the same time every day this series sought out uplifting models that could be replicated, and it sought out models which contradicted the general notion that poor neighborhoods cannot have good schools. There were examples all over New York City which prove this not to be true.

But in the end the Daily News pinpoints the fact that the school system is in great trouble. In terms of service to the majority of the children attending the schools of New York City, we are falling at a faster and faster rate, and it is likely that school systems in Los Angeles, Philadelphia, a number of big cities, are failing in the same way, at the same rate, for the same reason, and that is why I want to bring to your attention what this Daily News series has pointed out, and how the implications read in the New York City. Reading from their own editorial page, “This week in a Daily News special report entitled Save Our Schools, you have been reading about the meltdown of the New York City educational system. As documented in chilling detail in more than 20 articles, the crisis has reached critical mass.”

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“This laboratory of failure, this culture of catastrophe, puts 1.1 million school children at risk. It must end. That is why the Daily News has launched a campaign, no, a crusade, to rescue what was once a world-class system that created opportunities for millions.” I think it is important to point out that the New York City school system was once considered a world-class system. It gave a lie to the notion that any big system, any bureaucratic system is automatically a wasteful system and a nonproductive system. The New York City school system produced the young people who went on to city colleges and who created a record of achievement and higher education in science and you name it; every scholarly endeavor that you can mention were the products of the New York City system. In the best public-financed colleges. At one point City University had the highest percentage of Ph.D.s of any college in the Nation.

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Here are the conditions that the school, the children in the schools of New York will be facing as they take the tests. I am repeating this paragraph because herein lies the story of denial of opportunity to learn by the children in the schools of New York.
fact that only 44 percent hired were
certified. That is down from 59 percent
the year before. I want to stress that if we
had many more who were certified. We are
rapidly losing all the qualified teachers
needed in schools where the best teach-
ing is needed.

"Meanwhile, 16 percent of all teach-
ers are uncertified, the most in a deca-
das. As for parents, 10 percent didn't
bother to pick up their kids' report
cards. And 85 percent of schools need
major repairs."

What they do not tell you is that of
this 85 percent, quite a number of these
schools are 100 years old and should
have been replaced a long time ago.

There are honeycomb success stories
among the failures. They give exam-
plies of public schools that are doing a great
job.

Continuing to read from the Daily
News editorial statement of June 22:

"Unfortunately, such efforts are but
seeds of real reform. To truly trans-
form education, activist moms and dads
must team up with better trained
teachers and with principals who don't
double as building managers. Schools
must no longer be fettered by the
United Federation of Teachers' crip-
pling work rules and its lifetime pro-
tection program for inept instructors.
Finally, the Board of Education must
be abolished so that accountability—
and mayoral control—can reclaim the
system.

"Those 1.1 million kids deserve a gen-
uine chance to become beacons for the
city's future, a chance they will have
only if New Yorkers unite to save our
schools."

I disagree with the remedies. The
New York Daily News set of articles
clearly related the problem and is to be
applauded for that. It leaps to conclu-
sions that have no basis in fact or expe-
rience as to remedies. To abolish the
board of education is to throw away
any opportunity for this generation of
New York children to get an education.
It would take more than a generation
to rebuild anything that is half as good
as what you have already. The board of
education obviously has serious prob-
lems at present, but most of these
problems are problems which are di-
rectly related to a lack of resources, the
denial of the resources.

We have just gone through a situa-
tion where a clear statement was made
by a judge after months of considering
a case that was brought against the
State of New York in terms of its allo-
cation of resources to the City of New
York. That case sums up the need for
opportunity to learn in a way which is
far simpler than I could state it else-
where. But it is important that we un-
derstand that nothing would be more
beneficial to the well being and progress of the Nation than the pro-
vision of the opportunity to learn that I
am talking about.

Opportunity to learn for all would
mean that we understand that brain-
power is the greatest need of the Na-
tion and the world. Education for all,
including the least among us, is a vital
investment in the future of the Nation.
Economic power, technology power,
the power of cultural influence and
influence are entirely dependent on
our reserve of brainpower. About 2 years ago, we launched the last
super high-tech aircraft carrier that we
launched and the Navy admitted at
that time that it was about 300 crew
member short because they did not
have the necessary trained personnel.
There was a lack of brainpower. There
was a lack of young crewmen who had
the aptitude to be trained to run the
high-tech equipment on the aircraft
carrier.

I am saying again that New York
City schools are examples of what is
happening all over the country. They
are frozen in time in terms of providing
a basic education not even do
as well as they were doing 50 years ago.
But here is the challenge that faces us
in terms of going into the future,
where the challenges are much greater
and the education system needs to be
equipped to do a far better job. Brain-
power is the key to where this Nation
is going. Unless we have a system
that can educate all of the young people
and guarantee that there are pools of
trained personnel to draw from, then
our entire society is in serious trouble.
We do not just have a shortage of sci-
entists, we do not just have a shortage
of trained computer personnel, infor-
mation technology personnel, we have
shortages right across the board.

Half of the graduate students in our
big universities are foreigners. More
than half of the graduate students
studying science at the highest levels
are foreigners. Whether you focus on
chemistry or physics or engineering, or
all of the technical and scientific pur-
suits, more than half are foreigners,
which means you have a problem in
terms of theoretical and scientific
know-how. When you come down to
the next level of technicians, there is a
great shortage. If you look at any area,
whether you are talking about auto
mechanics or sheet metal workers,
even carpenters, there is a tremendous
shortage of people who can do the ordi-
ary jobs in our society because those
jobs have become more and more com-
plex. They need more and more skills.

I visited a sheet metal training facil-
ity in Queens more than a year ago,
and I was surprised at the use of com-
puters. They make extensive use of
computers. They need more and more
skills. As for parents, 10 percent didn’t
do the homework.

We presently have a growing short-
age of teachers and educated super-
visors and administrators. That is the
most critical shortage. This will great-
ly hamper any meaningful education
reform. But similar shortages, as I said
before, are appearing among numerous
other categories of professionals.

Right now there is a great negotia-
tion taking place in New York City in
respect to teachers' salaries. It is seen
as a collective-bargaining problem, and
really it is far beyond a collective-barg-
gaining problem. The salaries of New
York City teachers is a major public
policy issue. The kingpin of the school
system is the leadership, the quality of
the teachers and the principals, the as-
sistant principals and the other per-
sonnel. If we do not get higher salaries
for the people who are running that
education system we should consider
that we are competing with salaries in all
the surrounding suburbs and cities
and towns who draw off the best personnel
from New York City, then the rapidity,
the speed with which we are losing the best teachers and administrators, will greatly handicap it will be very close to impossible to change the system. When you talk about meltdown, nothing will speed the meltdown of the system faster than the failure of the present negotiations to greatly increase the salaries of the teachers and the education personnel in New York City in order to allow it to keep pace with the personnel salaries in the surrounding areas.

We have pinpointed that one of the most important opportunity-to-learn factors, the provision of qualified and trained teachers. That is number one. Without the leadership, without qualified trained teachers, without principals and administrators, the system does not go anywhere. No study and experimentation will be necessary to understand what maximum opportunity to learn means. To provide an adequate and elementary and secondary education, we already know what works. There is no need for a great deal of discussion and controversy. There is a need for more resources. We need the money to pay the teachers decent salaries.

We need to raise the standards, raise the morale, stop thebrain drain and improve in all the other opportunity-to-learn areas, like the physical facilities, the equipment, the books, etc.

Before we begin to search for the most suitable pedagogical approaches, we must first put in place this set of opportunity-to-learn standards. The physical environment of the class, the building, the library, the cafeteria, laboratories and of these must be safe and conducive to learning. The first negative by-product of overcrowded classrooms and hallways is usually an exacerbated discipline problem. Constantly we hear complaints about discipline problems. There is no silver bullet for solutions for discipline problems; but one thing is certain, if you have overcrowded classrooms and overcrowded schools, the hallways, the cafeteria, the auditorium, then certainly you are going to have greater discipline problems. And, of course, you cannot honestly lower the pupil-teacher ratio unless you have more classrooms.

Right now we have a situation in New York City where we cannot honestly make use of the funds that were appropriated by the efforts of the last administration. We did get some movement in terms of funds to lower the pupil-teacher ratio in each class. But got as it was in the right direction, many teachers were employed; but the honest truth is that in New York City, instead of them having a lower pupil-to-teacher ratio in the classroom, they put another teacher in a crowded classroom because there were no classrooms.

If you do not build additional classrooms, then you cannot have a lower pupil-teacher ratio in the classroom. They added a teacher to a crowded classroom which is not what the legislators intended for any place. We have done some creative maneuvers to get the money and use the money; but actually the benefit sought, a classroom where you had fewer pupils per teacher in order to be able to maintain greater order and give more attention to the students at a younger age, that did not happen and it is not happening in many cases.

This is a self-evident requirement, that you have trained teachers and you have trained supporting personnel. We refuse to take our children to untrained, uncertified dentists or pediatricians, so why not pay and seek the best teachers? Why should any child be subjected to the efforts of an untrained teacher? We do not normally expect successful outcomes when unqualified staff are in charge. It is an unfortunate factor in big-city school systems that the substitute teacher who could not pass the test, who is not regularly on the rolls, who is not paid fully and who does not get full benefits, that substitute teacher becomes the teacher that children see the most often in the worst neighborhoods. In other words, in the poorest neighborhoods where other teachers do not want to teach, it is the substitute teacher, the unqualified teacher, that is usually brought in to fill the classrooms.

In one of my sections of my district, District 23, at one point they had more than half of the teachers who were not certified, who were substitutes, teaching in the same area, where the reading scores were very low and they needed the very best teachers.

What I am attempting to explain is summarized with shocking simplicity at the end of the court order just handed down by the New York State Supreme Court Judge DeGrasse in New York State. The New York State civil judge heard the case that was brought which challenged the fact that the State of New York had been short-changing the City of New York in terms of education funds. The court case went on for almost a year, testimony was heard, and the judge finally made a decision.

I will read just a few excerpts from that decision. Quote, and this is Judge Leland DeGrasse, New York State Supreme Court, this court has held that a sound basic education, mandated by the education article, that is the education article of the constitution, consists of the foundational skills that students need to become productive citizens capable of civic engagement and sustaining competitive employment. In order to ensure that public schools offer a sound basic education, the State must take steps to ensure at least the following resources which, as described in the body of this opinion, are, for the first time, available to children in New York City public school students.

Number one, sufficient numbers of qualified teachers, principals and other personnel; two, appropriate class sizes; three, adequate and accessible school buildings with sufficient space to ensure appropriate class size and implementation of a sound curriculum; four, sufficient and up-to-date books, supplies, libraries, educational technology and laboratories; five, suitable curricula including an expanded platform of programs to help at-risk students by giving them more time on task; six, adequate resources for students with extraordinary needs; and seven, a safe, orderly environment.

Now these items were laid out by Judge Leland DeGrasse, in the opinion of the New York State Supreme Court against the State of New York, accusing the State of not supplying these items, there is an exact parallel to the opportunity-to-learn standards, which I have been discussing. These are statements in another way of what opportunity to learn means. You are not provided sufficient teachers, qualified teachers and principals. You do not have appropriate class sizes. You do not have adequate school buildings. You do not have sufficient supply of up-to-date books, libraries, educational technology and laboratories, and as a result, your curriculum is not suitable. You do not have a safe, orderly environment. All of these are stated in the court decision.

I might add that the judge gave the State of New York until the first of June, I think, to come forward with some kind of plan to respond to his decision, that has not happened. I might also add that the Governor of New York appealed the decision of the court, and the Governor in essence stated what the lawyers had been arguing for the Governor all along, and that is that in New York City the children are too poor to learn. The poverty is the reason they cannot learn.

There is a condemnation out of which there can be no solution; that is to say, children cannot learn because they are too poor, and, therefore, we should not put resources in to try to teach children who are too poor to learn dooms the children forever. It is like condemning slaves for being illiterate, nonfunctional when they came out of slavery after having a series of laws in every confederate State which made it a crime to teach a slave to read. It is a crime to teach you to read. At the same time, of course, there was a big contradiction there because slaves were considered inferior, not quite human, and, therefore, why did they have to worry about teaching them to read? Evidently they were human enough, smart enough to learn how to
read, so much so that laws were made. In every Confederate State there was a law that said it is a crime to teach a slave to read.

Now we have a situation where a Governor of one of the most advanced States of the Union, the great Empire State of New York, is arguing that the problem of education in New York City is that the children are too poor to learn, and, therefore, do not expect the State to solve the problem by providing more resources because they are too poor to learn; more resources will not help the situation. It is a State where we spend $25,000 per year for an inmate to be kept in prison. In New York City we spend only $7,000 per year to educate each student. You can see the direction of the reasoning of the Governor. If you cannot educate them, and only do the best to fud up the children, they are going to cost far more later on, but I suppose there are some profits to be made in the prisons that we do not know about.

Anyway, I can think of no more confused or illogical reasoning than that of a Governor of a State to say we cannot solve the problem because the children are too poor to learn.

In the course of reforming the school finance system, a threshold task that must be performed by the State to the extent possible, the actual costs of providing a sound basic education in districts around the State has to be decided, but certainly you are going to have to ensure that every school district has resources necessary to provide opportunity for a sound basic education. Taking into account variations in local costs and all the other things, the State should be in a position to provide what is necessary.

The New York Daily News article does not pinpoint the Governor’s position, the fact that the Governor is now spending State funds to appeal the decision of the court, which called upon the Governor to provide more funding for New York City. The New York Daily News article does not finger that as one of the great reasons why we have the problem.

We have a meltdown in New York City schools. A meltdown is taking place right now, and the meltdown is primarily due to the fact that children are too poor to learn. If that was the case, then New York City would not have produced some of the greatest scholars in our Nation.

The City College, the city universities, would not have turned out so many Ph.Ds. They are spread all over the world. Poor youngsters who came out of the ghettos of New York in the past have learned and performed well. The poverty is not the problem. The problem, that the people in charge of the system have allowed the system to degenerate and not provide the opportunities to learn that should be provided.

One great controversy raging right now is around the opportunity-to-learn standard as reflected in school construction. Now the availability of the provision of adequate facilities is a major part of the problem. It is highly visible, and when you provide for adequate school facilities, you make a statement about the importance that you attach to education. If you refuse to provide for adequate facilities, you are also making a statement, and the continuing refusal to provide adequate schools is a statement that the people who are in power have made over the last 10 years. The Daily News recognizes the problem, but they do not pinpoint the fact that the mayor of the city of New York has been a major problem.

The decision-making process at city hall has been a major problem in the provision of adequate school facilities. We have a problem now where it is another Catch-22. They are saying that the high cost of construction in the year 2001 is so great that we cannot go ahead to begin to remedy the problem of overcrowded schools. We have to wait. We have run into a situation where the money projected to build schools would not go as far as anticipated because the cost has gone up. Some people are proposing that we call a halt and not build any more schools, not repair any more schools because the costs are too great.

Eight years ago there was a major confrontation between the present mayor and the chancellor of schools at that time because he proposed a $7 billion capital funding program. He proposed $7 billion, and the mayor said that was real, and there was such a clash until they drove that chancellor out of town.

A few years later a second chancellor proposed an $11 billion capital expenditure program, and there was a clash with the mayor, who said that was unreal, and the clash became so heated until that chancellor was forced to resign.

Now we are at a point where we are finding that because of all of these delays and all of the roadblocks that have been placed in the way of the decision-makers at the board of education in terms of moving forward with a meaningful capital expenditure program and building the schools at a time when it probably would have cost less, we now have a logjam, and the prices are going up.

The cost of construction has gone up. Well, is the cost of construction really up all over the Nation? Are we in a recession? Are we going toward a recession? Has the economy not slowed down? If they want to solve the problems of overcrowded New York City schools, and keep the costs from rising, can we not appeal for some Davis-Bacon unionized contractors from all over the country to come in? We have no problem if they are willing to abide by Davis-Bacon. They can come into New York City and take the contracts and help us build and not build more.

There are a dozen ways to solve the problem, yet there seems to be a willingness to point the finger at the board of education, at the current chancellor, and to play the kind of game that city hall has played all along; in other words, poor decision-making, incompetent decision-making, decision-making by people whose motives are questionable. After all, this is a mayor who has said that the school system, the board of education, should be blown up. The best way to get better education in New York City is to destroy the board of education. If you want to take that attitude, then it would be a contradiction for you to provide money for the board of education, at the current chancellor, and to play the kind of game that city hall has played all along; in other words, poor decision-making, incompetent decision-making, decision-making by people whose motives are questionable.

The mayor has been consistent. The question is why have the leaders of New York allowed him to be so consistent? Why have the members of the city council not challenged the mayor? This is the point that this point has. Just 3 years ago we had $3 billion in surplus. New York City had a $3 billion surplus. Not a single penny of the surplus funds were used to repair schools or build schools or to do anything else for education, for that matter.

So we have a situation again which has clearly been delineated by the Daily News. If you live in New York City and you are interested in education, for that matter. Thirteen percent of this year’s high school seniors, that is about 4,100 students, failed the math Regents test. More than 13,000 students from the class of 2000 dropped out between the 9th and the 12th grades. That is 15 percent of the class. Between 1996 and 1999, 30 percent of New York City students took Scholastic Aptitude Tests, a standardized exam for admission to most colleges. Seventy-three percent passed statewide and scored 40 to 50 points higher than the New York City students.

Sixty percent of elementary schools and 67 percent of high schools are overcrowded. Sixty percent of elementary schools and 67 percent of high schools are overcrowded. The board of education’s master plan for the year 2003 concedes that 85 percent of the schools need major repairs. Deterioration is occurring at a rate faster than we can
save the systems, the board documents revealed. I think that that physical deterioration is the best visible manifestation of what is happening in general. When you talk about meltdown, look at the physical deterioration. I quote: Deterioration in the actual school buildings is occurring at a rate faster than we can save systems, the board documents reveal. In recent years about half of public school students have completed high school in 4 years; 9 percent have graduated later, by the age of 21, and the rest have been lost completely. Is this an example, a model for where we dare go in terms of education in America? I am using the New York City school system because it is an example of where our big cities are. Now, there was a lot of hype and a lot of public relations, but underneath the improvements have been minimal, and the improvements have been minimal because, again, the opportunity-to-learn standards have not been addressed sufficiently. They have not provided the kinds of quality facilities, trained teachers, adequate supplies and equipment, laboratories for science, library books and libraries. It is so simple, the opportunity-to-learn standards have not been addressed sufficiently.

Yes, we have two new pieces of legislation, one in the Senate, one in the House, which are professing to be the last word on education reform. A lot of people are already applauding the legislation because it is finalized, and before the President signs it. It is not the final word, I hope. If that is the final word, we are in serious trouble.

The final word has to be dictated by the insistence of the American people out there, who have made education the number one priority for the last 5 or 6 years. When you ask the question, what is the most Federal dollars be used for, where is the most Federal assistance needed, education continues to score right up there with other concerns like crime and Medicare and Medicaid. Usually education is ahead of them all.

So the public is way ahead of the leadership. We must run to catch up with the leadership. What is happening right now gives us an opportunity to do that. As long as the bill is being held, as long as we do not go to conference, as long as we do not have a final signature by the President, then there is room for negotiation, as long as we are dealing with the appropriation process and it is understood that the glaring inadequacy of the present education legislation is in the area of resources, there is not enough money being guaranteed.

Oh, yes, the money is authorized. There is a reasonable amount authorized. If you are going to double the title I funding from the present $622 billion in 5 years, that is a great increase. That is an increase worth voting for. But at the same time the authorizing legislation says we can do that, the appropriation and budget process says there is no money.

I started by saying we have had two great legislative developments up to now in this session of Congress. One was the passage of the tax legislation, and the other was the passage of education legislation by both Houses, although the education legislation is not complete.

They do relate to each other. The passage of the tax legislation has put us in a situation where, despite the fact we have authorized more money for education, and the other body, the Senate bill authorizes even more than the House bill, we cannot actually get the money and the resources unless there is a change in the appropriation process.

Somehow between now and the end of this session, more money has to be found in that budget; some new device has to be developed to increase the revenue; some changes have to be made, decreases in expenditures and other areas that are less important. Somehow we have to continue to press forward and make the case that brain power is the number one need for this Nation at this time. Brain power and the pools of people produced to qualify to run a more and more complex society is the major resource we are going. Nothing else is going to move forward unless we have the appropriate brain power. Therefore, brain power should be number one.

If budget cuts have to be made somewhere else, we should make those budget cuts, or if we have to find some new source of revenue dedicated to education, then that has to be the case. We must save our schools, not only in New York City, from a growing meltdown; but we must understand that, the same process, the meltdown process, is occurring elsewhere, and only Federal funds can be utilized to stop it.

HMO REFORM

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker’s announced policy of January 3, 2001, the gentleman from Iowa (Mr. GANSEK) is recognized for 60 minutes as the designated chairman and the chairman.

Mr. GANSEK. Mr. Speaker, I especially want to thank you for the time that you are spending in the Chair tonight, as you have many evenings with your spare time. The Members of this House of Representatives who come to the floor to give Special Orders are especially appreciated. But for the last few years, other Members have volunteered their time to sit in the Chair so that we could do our Special Orders.

This is the beginning of our July 4th recess, and I will try to make it somewhat briefer than the hour time that I am allotted for this.

Well, we have had, Mr. Speaker, a great debate going on in the Senate this week on the Patients’ Bill of Rights; and I have been watching this with great interest, because for the past 5 years I have been working on this issue, and I have been coming to the floor frequently, just about every week, in order to give a Special Order talk on the status of legislation to help protect patients from abuses by HMOs. I am looking forward to the day when we pass a strong Patients’ Bill of Rights piece of legislation on this floor to go along with what will be a strong Patients’ Bill of Rights coming out of the Senate, that we marry those two bills together, that we add some important access provisions, such as an expansion of medical savings accounts, tax deductibility for the self-employed, and we move that down to the President’s desk.

I strongly encourage the President to sign that, because there have been some significant compromises over the past few years on this legislation that I believe meet the President’s principles, and yet retains principles that he enunciated during the Presidential campaign, such as allowing for important State laws on patient protection to continue to function, laws like those in Texas, which appear to be working pretty well.

Mr. Speaker, why are we continuing to talk about this? Well, we have had a lot of news here in Washington for several years on this; and it has been a shame, because every day the HMOs make millions and millions of decisions that can significantly affect the well being of the patients they are supposed to be serving.

Remember a few years ago, there was a movie, “As Good as It Gets.” It had Helen Hunt, who had a child with asthma, talking to a friend, Jack Nicholson, in the movie, and her little boy was being denied needed treatment for his asthma, which prompted Ms. Hunt to run a string of expletives together about that HMO. And I saw something I never saw happen before in a movie that I saw or seen since: I saw people stand up and clap in agreement with Ms. Hunt on that.

Then we saw a few years ago a large number of jokes and cartoons about HMOs. You do not see it so much anymore because, you know what? Everybody knows that this is a problem. In order for something to be humorous, there needs to be some element of surprise. But it is not surprising anymore
that people have problems. You talk to your friends, family members, colleagues, and practically everyone can come up with a story about how their HMO has appropriately denied treatment to a patient.

Remember the problem that we had a few years ago when one of the HMOs said, well, you know what? We do not think you need to stay in the hospital if you deliver a baby. Our plan guidelines say outpatient deliveries.

So you had this type of cartoon. The maternity hospital, drive-through window: “Now only 6-minute stays for new moms.” The person at the window saying, “Congratulations, you will like fries with that,” as the mom holds a crying baby, and she looks more than a little frazzled.

Well, it was not so funny when you start to look at the newspapers around the country, like this one from the New York Post which said “What his parents didn’t know about HMOs may have killed this baby.” Or this headline from the New York Post that says “This woman was supposed to be able to read the tea leaves?”

Was she supposed to be able to read the tea leaves? Oh, and this was an issue. This was one of the first issues we talked about on HMOs. Back in 1995 I had a bill called the Patient Right to Know Act, because it became known that HMOs were requiring doctors to phone them in order to get permission to tell the patient about some of their medical treatments that might be possible. So you would have a situation, for instance, where a woman comes in to see a doctor; she has a lump in her breast. Before the doctor tells her three options, he says, “Oh, excuse me,” goes out in the hallway, gets on the phone and says, “HMO, can I tell this lady all about her treatment options?”

So here we have a doctor saying, “Your best option is cremation; $359, fully covered.” And the patient is saying, “This is one of those HMO gag rules, right?”

That HMO gag rule was not so funny to this woman. Her HMO tried to gag the doctors treating her. She needed treatment for breast cancer. She did not get it, and she died. And, do you know what? Under the current Federal law, if you receive your insurance from your employer and the HMO makes a decision like that, under Federal law, current Federal law, they are liable for nothing except the cost of care denied. And if the patient is dead, then they are not responsible for anything. Now this little girl and boy and the woman’s husband, they do not have their mom, because of what that HMO did.

Here is another cartoon. The doctor is taking care of a patient on the operating table. The doctor says “scalpel.” The HMO bean counter says “pocket knife.” The doctor says “suture.” The HMO bean counter says “band-aid.” The doctor says “treatment,” and the bean counter says, “Call a cab.”

Let me tell you about a real case that was sort of a call-a-cab response. Down in Texas, after they passed the patient protection bill down in Texas, there was a fellow named Mr. Palosika. He was suicidal. He was in the hospital. His doctor thought he needed to stay in the hospital because, if he left, he might commit suicide. But the HMO said, no, we do not think he needs to stay in the hospital because we are not going to pay for it. If he wants to stay, fine. The family can pay for it themselves.

Well, when an HMO says that to most families, they do not have the money to pay for it. It is from themselves, so they just took him home.

□ 1945

That night, Mr. Palosika drank half a gallon of antifreeze and committed suicide.

Now, under Federal law, that HMO was supposed to, if they disagreed with the treating doctor’s advice, they were supposed to go to an expedited, independent review panel, but they did not do that, they just ignored the law. And they did this at a time when we are dealing with patient protection legislation that we have a strong enforcement mechanism; not to create new lawsuits, but to prevent those lawsuits by making sure that the HMOs know that they will be responsible at the end of the day so they do not make decisions or so that they do not follow the rules, or, I should say, in order to ensure that they do follow the rules.

Here is another one of those cartoons. This is the HMO claims department. The claims reviewer is saying, “No, we don’t authorize that specialist; no, we don’t cover that operation; no, we don’t pay for that medication,” and then apparently somebody says something to the operator, and she says, “No, we don’t consider this assisted suicide.”

Mr. Speaker, I hope I do not have to talk about this case much longer. I hope we really do pass a strong Patients’ Bill of Rights, Dingell-Dingell bill, on this floor. This is a little boy that I know. He is now about 8 years old, but when he was 6 months old, he had a fever of about 104, and he was sick one night, and his mom phoned the HMO, a 1-800 number, probably thousands of miles away, and said, my baby is sick, we need to go to the emergency room. And the medical reviewer said, well, under our contract, I will only authorize you to take little James to this one emergency room. That is all we have a contract with. Mom and Dad lived way on the outside of Atlanta, Georgia. Mom said, well, where is it? This voice over the phone said, I don’t know, find a map. Made a medical decision, medical judgment, the reviewer did not authorize enough to withstand a very long drive through Atlanta and bypass three hospitals with emergency rooms.

So Mom and Dad wrap him up. It is the middle of the night. They start their trek, they pass those emergency rooms where they could have stopped if they had authorization, but they were not health care professionals, they did not know how sick little James was, but he then suffered a cardiac arrest. Fortunately, they were able to keep him going until they pulled into the emergency room. Mom leaped out of the car screaming, save my baby, save my baby, A nurse ran out. She started an IV, they started mouth-to-mouth resuscitation, they gave him medicines, they saved his life, but they did not save all of this little boy. Because of that cardiac arrest, he ended up with gangrene in both hands and both feet, and, consequently, both hands and both feet had to be amputated.

Under current Federal law, an employer health plan that makes that kind of medical judgment that results in that kind of injury to this patient is
Mr. Speaker, do you know what I say to those people? I say, you know what? If this little anecdote had a finger, and if you pricked it, it would bleed. I say, this anecdote has to pull his leg prostheses with his arm stumps every day. This anecdote needs help putting on those pieces to meet this little anecdote and look him in the eye and tell him that we do not need a Patients’ Bill of Rights.

I will tell my colleagues this: There are not just a few anecdotes around the country. I get phone calls and letters from people all over the country. Just recently in Des Moines, Iowa, a woman came up to me and she said, I tell you what. I am fed up with our HMO. I have breast cancer. I have been battling this for a while. The treatments have made me worn out. But my doctor told me that I needed a test to see if the cancer had come back, and the HMO would not authorize it. Other doctors said the same thing, but I told my colleagues, I want those people who write those opinions to put on my hand. He will never be able to play basketball. Now, he is a pretty well-adjusted kid, considering everything. He is a good kid. But I tell my colleagues, I want those people who write those opinions to meet this little anecdote and look him in the eye and tell him that we do not need a Patients’ Bill of Rights.

Mr. Speaker, there is a real need to pass this. People pay a lot of money and their employers contribute a lot of money for their health care. They work a lot of hours to earn that health care. When they finally get sick, it ought to mean something. They ought to be treated with justice and human compassion and not by green eyeshades looking at the bottom line and coming up with some arbitrary definition of medical necessity.

Mr. Speaker, under this Federal law I am talking about that passed 25 years ago, an employer health plan can define medical necessity as anything they want to. Some health plans have defined medical necessity as the cheapest, quote/unquote. Well, before coming to Congress, I was a reconstructive surgeon. I took care of children with cleft lips and palates. More than 50 percent of the surgeons in this country that do that kind of work in the last several years have had cases denied for kids with cleft lips and palates by the HMO saying, oh, that is not medically necessary. And under Federal law, they can define it any way they want.

That is why they had a big debate on this yesterday in the Senate, and they have managed to preserve language that says, if there is a dispute, an independent panel will make that decision and not be bound by the plan’s arbitrary denials. That is, if there is a denial of care, you get an honest-to-God chance that you will get the treatment you need.

I commend the Senators who voted to preserve that very, very important component to our legislation saying, oh, that financing themselves because it was not written into law. If an employer wants to purchase a plan where the plan says explicitly in the contract language, we do not provide heart-lung transplants, that is fine. It is not what I would recommend, but they can do that, and we do not change that. If a patient came along and needed that, then they would have to come up with that financing themselves because it has been made explicitly clear. But if it has not been made clear that is part of the package, and if the patient does need that and believe that they would get that under that type of agreement, then they should, they should.

We say in our bill, the Ganske-Dingell bill, the Bipartisan Patient Protection Act of 2001, we say that businesses are protected from liability. We have a standard in our bill that says, businesses will not be liable unless they enter into direct participation in the denial of care. And if the patient does need that and believes that they would get that under that type of agreement, then they should, they should.

We say in our bill, the Ganske-Dingell bill, the Bipartisan Patient Protection Act of 2001, we say that businesses are protected from liability. We have a standard in our bill that says, businesses will not be liable unless they enter into direct participation in the denial of care. And if the patient does need that and believes that they would get that under that type of agreement, then they should, they should.

I had a good friend who is a businesswoman from Des Moines, Iowa, phone me today, and he wanted to know whether he would be liable under our bill, and I said, well, we hire BlueCross BlueShield. We take one of their plans or another plan. I said, I am not involved in BlueCross BlueShield’s decisions? He said, oh, no. Oh, no. That is a matter of personal privacy for our employees. We do not want to know what is happening to their personal lives, and, quite frankly, they do not want us to know what is going on, and we do not want them to know what is going on, that maybe we would have an employee at some time that is not performing up to par, and we might have to let that employee go, and we do not want that employee coming in and saying, well, you just let me go because you know, I found out that I have diabetes or that I had to see a psychiatrist.

Under our bill, the Ganske-Dingell bill, employers are protected from liability, unless, unless they directly participate. Furthermore, there has been additional protective language now adopted on the Senate side on this issue, and we think that that is a positive. We just want to make sure, not that there will be a lawsuit at the end of the day, but that there is a dispute on care where the HMO says no, but the patient’s doctors say yes, that there is a mechanism for resolving that dispute before anyone is injured, if necessary, going to an independent panel where the decision would be binding on the health plan, an independent panel where the decision would be binding on the health plan.

In that circumstance, in the Ganske-Dingell bill, you know what? We give total punitive damages relief to the health plan. We say, if this dispute goes to an independent panel, and a health plan follows the decision, then they cannot be held liable at all for punitive damages. That has been one of the major concerns, large punitive damage awards by the business community.

Some people attack our bill by saying, oh, it is going to increase the costs for health insurance premiums. We hear that a lot in the debate that has been going on in the Senate. My answer to that is that is the Congressional Budget Office has looked at our bill, the McCain-Edwards bill is the companion bill that is being debated in the Senate, they have looked at our bill and they say that the total cost would be 4 percent increase in premiums over 5 years, so less than 1 percent per year. The alternative, Frist-Breaux bill, the GOP bill in the Senate, would increase premiums by about 3 percent over the same period of time. That is, if the decision on the liability would result in a total increase in premiums of only .8 percent over 5 years. That is less than two-tenths of a percent. The analysis of that would show in practical terms that the cost of our bill would be about the cost of a Big Mac meal per month per employee.

Mr. Speaker, the surveys around the country show that people think that that would be well worth it to know that they would be treated fairly.

Now, just this week there has been a big roll-out of an opposition bill to the Ganske-Dingell bill. It is called the Fletcher bill, the Fletcher-Thomas bill.
It is called the Fletcher bill, the Fletcher-Thomas bill. As a doctor, I know that you do not do a complete physical examination of the body under the clothing. So there were a lot of good words said by the opponents to our bill about the Fletcher bill, but I have looked at the body of that Fletcher bill.

I will tell my colleagues something, it is not pretty, except to the HMOs. When the Fletcher bill is stripped of its spine, the bones, and the sinews look like the old HMO protection bills that the opponents to real patient protection have tried to confuse the public with for several years.

For example, in the Fletcher bill, there are significant constraints on the independence of the medical reviewer. The standards of review would actually codify negli

The Fletcher bill’s designated decisionmaker language could be gamed by the HMO. They are working on designated decisionmaker language on the Senate side right now. Senator Snowe is working on that, and there is a way to write that language that is fine, it adds language that is protective for employers, but at the same time prevents that language from being used to deny patients the care they need.

Mr. Speaker, my friend, the gentleman from Georgia (Mr. NORWOOD) said. The Fletcher bill, imposed the responsibility of allowing a choice of the doctor on the patient, the employer and the HMO, and then it disqualifies the majority of employees from having the right to begin with. It contains nothing on adding prescription drug reform.

The list goes on and on so far, in fact, that patients would be better off with no bill than with the Fletcher bill, quote, unquote.

Mr. Speaker, my friend, the gentleman from Georgia, goes on in his press release and says the Fletcher bill further proposes that all suits over improperly denied care be removed to Federal court, with the exception of cases in which HMOs violate Federal law by refusing to comply with legally binding decisions of medical review panels.

If the injury or death of a patient occurred prior to the ruling or through the delay imposed by the ruling, the patient loses their legal rights under the Fletcher bill, even their current limited right to sue under State law gained through the recent fifth court decision, upholding a portion of the liability provisions in the Texas patient protection act.

The gentleman from Georgia continues in his press release, the new bill would according preemp

Let me give you five quick comparisons between the Ganske-Dingell bill and the Fletcher bill. Number one, the Ganske bill is a state rights bill. It continues in his press release, the new bill will preempt patient protection laws in Texas, Georgia, Arizona, California, Louisiana, Maine, Missouri, New Mexico, Oklahoma, Oregon, Washington, and West Virginia. Let me repeat that. My friend, the gentle

Here is what the gentleman from Georgia (Mr. NORWOOD) goes on and says any Member who supports this package, i.e., the Fletcher bill, does so for the exclusive benefit of the HMO lobby, quote, unquote.

Number two, the Ganske-Dingell bill ensures a fair review process. The Fletcher bill allows health plans to choose the reviewer at external review. Number three, the Fletcher bill forces the patient to get approval from an external reviewer before they can seek damages for injury in court. The Ganske-Dingell bill says that a reviewer’s decision must be considered as evidence, but does not create an absolute bar from damages.

Number four, the Fletcher bill will preempt 12 State laws that have been passed that allows HMOs to be held liable in State courts. The Ganske-Dingell bill protects those State laws, and

Number five, the Ganske-Dingell bill is working on that, and there is a way to write that language that is fine, it adds language that is protective for employers, but at the same time

Here is what is in the Ganske-Dingell-Norwood bill. Fletcher claims the plans face unlimited punitive damages in State court and $5 million punitive damages in Federal court, regardless of compliance with review process under the Ganske-Dingell bill. This bill, speaking about the Fletcher bill, imposes the responsibility of allowing a choice of the doctor on the patient, the employer and the HMO, and then it disqualifies the majority of employees from having the right to begin with. It contains nothing on adding prescription drug reform.

The list goes on and on so far, in fact, that patients would be better off with no bill than with the Fletcher bill, quote, unquote.

Mr. Speaker, my friend, the gentleman from Georgia (Mr. NORWOOD) said. The Fletcher bill, imposed the responsibility of allowing a choice of the doctor on the patient, the employer and the HMO, and then it disqualifies the majority of employees from having the right to begin with. It contains nothing on adding prescription drug reform.

The list goes on and on so far, in fact, that patients would be better off with no bill than with the Fletcher bill, quote, unquote.
that is exactly one of the principles that President Bush said was essential on HMO reform during the campaign.

Number two, the Ganske-Dingell bill allows cases regarding medical decisions to be heard in State courts. The Fletcher bill allows patients to go to State court when a plan does not follow external review and erroneously causes a medical decision. We call that breaking the law.

Further, the Fletcher bill allows the patient to forum shop, the Fletcher bill allows the patient to forum shop between Federal and State court, not the Ganske-Dingell bill.

These are some of the important differences that we are talking about between the Ganske-Dingell bill and the Fletcher bill.

That is why over 500 health groups, consumer groups, professional groups have endorsed the Ganske-Dingell bill and very few have said much about the Fletcher bill, other than in some cases, in some parts of the language, maybe it is okay. But if you look at the real patient protection bill is the Ganske-Dingell bill.

Mr. Speaker, I believe, we will see this in large part passed with the McCain-Edwards-Kennedy bill, which is the companion bill to our bill. I think in large part, it will pass in the Senate. I think with a pretty big vote.

Mr. Speaker, I applaud the hard work of the Senators who have worked on that and have shown a real concern for patient protections. I believe that will give us a big boost as we move into debate here on the House floor.

I am appreciative of the work that Senators like MIKE DEWINE and OLYMPIA SNOWE, LINCOLN CHAFEE, and others, who have put into this bipartisan bill, and the debate has moved forward. Those changes, as far as I have seen so far, look very acceptable to the gentleman from Georgia (Mr. NORWOOD) and myself and the gentleman from Michigan (Mr. DINGELL).

In the Senate, it would have been nice if they had added the expansion of medical savings accounts and the 100 percent deductibility for the self-insured. That is in our House bill, but under the rules in the Constitution, those types of provisions have to originate in the House so they did not debate those or pass those; but I believe they have wide bipartisan support.

Mr. Speaker, I think it showed that the Democrats were willing to move to a compromise on this bill. It is no secret, a lot of Democratic Members are not real keen on medical savings accounts, but under the Ganske-Dingell bill we expand those medical savings accounts. That is part of the compromised process. That is how you get things done in Washington.

I will tell you what, a purely partisan vote in this House will not pass. The Fletcher bill is a partisan bill. There is one Democrat that supports it, maybe two, but what we have is a real core of Republicans who have been stalwarts for patient protection, who have withstood the blows of the $150 million campaign by the HMOs in this country trying to beat them down.

They have shown independence and courage, and I salute them. I look forward to this debate when it comes to the House floor after the July 4th recess.

I know that the gentleman from Georgia (Mr. NORWOOD) is going to go off his diet and will eat a little bit of red meat steak before we hit the floor. I am looking forward to working with the gentleman from Michigan (Mr. DINGELL) as we work on this bill here on the floor.

I am convinced that, if the Members will truly look at the bills, look at the bones and the sinews and the muscles, not just the clothing and the nice words, they will see that there is a significant difference. They should listen to the National Consumer League, Medical Association, and they should look at all the other groups that have looked at these bills and have said in very strong words the real patient protection bill, the bill that will help prevent situations like happened to this poor little boy is the Ganske-Dingell bill.

I ask my colleagues over the July 4th recess to examine their consciences, to talk to some of the patients and the health care advocates and the health care professionals that have to deal with HMOs that make those types of arbitrary decisions that result in problems for patients.

Talk to them over the July 4th recess. Listen to them. They represent an awful lot of people in my colleagues' districts. I believe that if my colleagues do, they will come to the conclusion that it is time to get this off the congressional calendar. It is time to join the Senate, to pass a bipartisan and a bicameral bill.

Do not let it get hung up in committee, in a conference committee. Send it to the President's desk. I would love nothing better than for the President to look at the changes that we have done in the Senate debate and come to the conclusion that this bill, as I truly think it does, meets his principles and that he will sign it. That would be a very bright day for millions and millions of Americans.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. McNULTY) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. FALLONE, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today.

Mr. NUSSELE, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, today.

ADJOURNMENT TO TUESDAY, JULY 10, 2001

Mr. Ganske, Mr. Speaker, pursuant to House Concurrent Resolution 176, I move that the House do now adjourn.

The SPEAKER pro tempore. Pursuant to House Concurrent Resolution 176 of the 107th Congress, the House stands adjourned until 2 p.m. on Tuesday, July 10, 2001.

Thereupon (at 8 o'clock and 19 minutes p.m.), pursuant to House Concurrent Resolution 176, the House adjourned until Tuesday, July 10, 2001, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2719. A communication from the President of the United States, transmitting requests for Fiscal Year 2002 budget amendments for the Department of Defense; (H. Doc. No. 107–92); to the Committee on Appropriations and ordered to be printed.


2721. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Fiduciary Activities of National Banks; Bank Activities and Operations; Leasing (Docket No. 01–13) (RIN: 1557–AB94) received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2722. A letter from the Deputy Assistant Secretary for Policy, Planning and Innovation, Department of Education, transmitting Final Regulations—Federal Work Study Programs, Federal Supplemental Educational Opportunity Grant Program, and Special Leveraging Educational Assistance Partnership Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.


2724. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval of section 112(d) Authority for Hazardous Air Pollutants; Chemical Accident Prevention Provisions; Risk
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Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1407. A bill to amend title 49, United States Code, to provide for appeals for veterans by third parties in certain patent reexamination proceedings (Rept. 107–121). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CALVERT (for himself, Mr. HERGER, Mrs. BONO, Mr. FOLEY, Mr. RADANOVICH, Mr. FAAR of California, Mr. THOMPSON of California, Mr. REINSCHMEITER of Texas, Mr. SHAYS (for himself and Mr. MEEHAN):

H.R. 2356. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisanship campaign reform; to the Committee on House Administration, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as may fall within the jurisdiction of the committee concerned.

By Mr. JONES of North Carolina (for himself and Mr. HOSTETTLER):

H.R. 2357. A bill to amend the Internal Revenue Code of 1986 to allow for charitable contributions by Churches, Temples, and other houses of worship to engage in political campaigns; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland (for himself, Mr. UDALL of Colorado, Mr. BOHLERT, Ms. JACKSON-LEE of Texas, Mr. SMITH of Texas, Mr. SMITH of Michigan, Mrs. MOCHELIA, Mr. EHNLEIS, Mr. DELAHUNT, and Mr. WAMP):

H.R. 2358. A bill to authorize appropriations for environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology bioenergy programs, projects, and activities of the Department of Energy, and for other purposes; to the Committee on Science.

By Mr. SMITH of New Jersey (for himself, Mr. HUMPHREY, Mr. CHRISTOPHER of California, Mr. DAVIS of California, Mr. PALLONE, Mrs. McCAIN, Mr. HUTCHISON, Mrs. HARRIS, Mr. ZIRKELBAUGH, Mr. STOCKTON, Mr. SCHWARTZ, Mr. COTULAN, Mr. MEDICAL COSTS

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1407. A bill to amend title 49, United States Code, to provide for appeals for veterans by third parties in certain patent reexamination proceedings (Rept. 107–121). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on International Relations. H.R. 2331. A bill to reauthorize the Tropical Forest Conservation Act of 1996 (Rept. 107–115). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on International Relations. H.R. 2331. A bill to reauthorize the Tropical Forest Conservation Act of 1996 (Rept. 107–115). Referred to the Committee of the Whole House on the State of the Union.
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to the Court of Appeals for Veterans Claims; to the Committee on House Administration.
By Mr.NEY (for himself, Mr. Wynn, Mr. Sweeney, Mr. Mica, Mr. Reynolds, Mr. La Tourette, Mr. Peterson, Boucher, Mr. Hoehn, Ms. Dunn, Mr. Cunningham, Mr. Taylor of North Carolina, Mr. Trajanic, Ms. Phuy of Ohio, Mr. Blunt, Mr. Emery, Mr. Ballenger, and Mr. Norwood):
H.R. 2360. A bill to amend the Federal Election Campaign Act of 1971 to restrict the use of non-partisan national political parties, to revise the limitations on the funding of political parties, to revise the limitations on the contribution of certain political candidates, to increase the number of independent candidates, to establish an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities, so as to allow coal to help meet the growing demand for energy, and for other purposes; to the Committee on Science, Space, and Technology.

By Mrs. Biggert:
H.R. 2366. A bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and to provide for the Committee on Education and the Workforce, and in addition to the Committees on House Administration, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. Sessions (for himself and Mr. Weldon of Florida):
H.R. 2367. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide for accountability of health plans; to the Committee on Education and the Workforce, and in addition to the Committee on Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. Smith of New Jersey (for himself, Mr. Brady of Pennsylvania, Mr. Coyne, Mr. Doyle, Mr. English, Mr. Fattah, Mr. Geakas, Mr. Greenaway, Ms. Brown, Mr. Norcross, Mr. Holden, Mr. Kanjorski, Mr. Mascara, Mr. Murtha, Mr. Peterson of Pennsylvania, Mr. Platts, Mr. Sheehan, Mr. Shuster, Mr. Wisniewski of Pennsylvania, and Mr. Pitts):
H.R. 2362. A bill to establish the Benjamin Franklin Tercentenary Commission; to the Committee on Government Reform.

By Mr. Greenwood (for himself, Ms. Kaptur, Ms. Lee, Mr. Stark, Mr. Bonior, Mr. Waxman, Mr. Lantos, Mr. Balducchi, Mrs. Jones of Ohio, Mrs. Tauscher, Mrs. Johnson of Connecticut, Mr. English, Mr. Hinchey, Mr. Bartlett, Mr. Hall, Mr. Neal, Mrs. Morella, Mr.morgan of Missouri, Mr. Prost, Mr. Andrews, Ms. DeFazio, and Mrs. Roukema):
H.R. 2364. A bill to provide for the establishment of regional centers to assist State and local governments, health maintenance organizations, nonprofit organizations, and other organizations in the development of peer-support activities and other nonprofessional services to assist persons to cope with and overcome persistent mental illnesses; to the Committee on Energy and Commerce.

By Ms. Kaptur (for herself, Mr. Greenwood, Ms. Lee, Mr. Stark, Mr. Bonior, Mr. Waxman, Mr. Lantos, Mr. Balducchi, Mrs. Jones of Ohio, Mrs. Tauscher, Mrs. Johnson of Connecticut, Mr. English, Mr. Hinchey, Mr. Bartlett, Mr. Hall, Mr. Neal, Mrs. Morella, Mr. Morgan of Missouri, Mr. Prost, Mr. Andrews, Ms. DeFazio, and Mrs. Roukema):
H.R. 2365. A bill to amend and title XIX of the Social Security Act to provide States with the option of covering intensive community mental health treatment under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. Costello (for himself, Mr. Akin, Mr. Whitfield, Mr. Mollohan, Mr. Boucher, Mr. Shimkus, Mrs. Capito, Mr. Phelps, and Mr. Lipinski):
H.R. 2368. A bill to authorize Department of Energy programs the Department of Energy to implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities, so as to allow coal to help meet the growing demand for energy, and for other purposes; to the Committee on Science, Space, and Technology.

By Mrs. Biggert:
H.R. 2366. A bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and to provide for the Committee on Education and the Workforce, and in addition to the Committees on House Administration, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. Sessions (for himself and Mr. Weldon of Florida):
H.R. 2367. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide for accountability of health plans; to the Committee on Education and the Workforce, and in addition to the Committee on Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. Smith of New Jersey (for himself, Mr. Tom Davis of Virginia, Ms. Sanchez, Mr. Rohrabacher, Mr. Logue, Mr. Royce, Mr. Wolf, and Mr. Gilman):
H.R. 2388. A bill to promote freedom and democracy in the Western Hemisphere, to provide assistance to the free people of the Western Hemisphere to ensure their freedom, to improve human rights and the quality of life in the Western Hemisphere, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Financial Services, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. Issa (for himself, Mr. Barlet of Maryland, Mr. Lewis of California, Mr. McGovern, Mr. Ehrlich, Mr. McDermott, Mr. Lewis of Georgia, Mr. Barlow, Mr. Morella, Mr. Cox, Mr. Hunter, and Mr. Cunningham):
H.R. 2369. A bill to amend title 23, United States Code, relating to the use of high occupancy vehicle lanes by hybrid vehicles; to the Committee on Transportation and Infrastructure.

By Mr. Weller (for himself and Mr. Neal of Massachusetts):
H.R. 2370. A bill to amend the Internal Revenue Code of 1986 to modify the exemption from withholding of tax refunds for 10-or-more employer plans; to the Committee on Ways and Means.

By Mr. Balducchi (for himself and Mr. Allen):
H.R. 2371. A bill to authorize the transfer and conveyance of real property at the Naval Academy, United States, for development and public use; to the Committee on Armed Services.

By Mr. Obey:
H.R. 2372. A bill to direct the Secretary of the Army to convey the remaining water supply storage allocation in Rathbun Lake, Iowa, to the Rathbun Regional Water Association; to the Committee on Transportation and Infrastructure.

By Mr. Brady of Texas (for himself, Mr. Doggett, Mr. Scarborough, Mr. Turner, Mr. Sessions, Mr. Sununu, Mr. James, Mr. Baxley, Mr. Sessions, Mr. Kirk, Mr. Moore, Mr. Tauberger, Mr. Shays, Mr. Abercrombie, Mr. Andrews, Mr. Barrett, Mr. Berman, Mr. Blumenauer, Ms. Capp, Mr. Capuano, Ms. Carson of Indiana, Mr. Coyne, Mr. Crowley,

...
Mrs. Morella, Mrs. Davis of California, Mr. Davis of Illinois, Mr. Dooley of California, Mr. Engel, Mr. Ferguson, Mr. Evans, Mr. Farr of California, Mr. Filner, Mr. Frank, Mr. Gutierrez, Mrs. Harris, Mr. Hanlon, Mr. Harkin, Mr. Helm, Mr. Hooley of Ohio, Mr. Smith of New Jersey, Mr. Horn, Mr.Israel, Mr. Jackson of Illinois, Ms. Jackson-Lee of Texas, Mrs. Johnson of Connecticut, Ms. Schakowsky, Mr. Langevin, Mr. Lantos, Mr. Larson of Connecticut, Mr. Lipinski, Mrs. Lofgren, Mr. Maloney of New York, Mr. Markley, Ms. McCollum, Mr. Meek, Ms. Millender-McDonald, Mr. George Miller of California, Mrs. Minx of Hawaii, Mr. Moran of Virginia, Mr. Nadler, Mr. Neal of Massachusetts, Mr. Norton, Mr. Pastor, Mr. Payne, Ms. Rivers, Mr. Sanchez, Mr. Schiff, Mr. Sherrman, Ms. Solis, Mr. Tierney, Mr. Towns, Mrs. Jones of Ohio, Ms. Velázquez, Mr. Wexler, Mr. Woolsey, and Mr. Wynn.

H.R. 2377. A bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for firearm screening for glaucoma; to the Committee on Energy and Commerce.

H.R. 2378. A bill to amend section 8 of the Social Security Act to ensure that the health benefits program for Federal employees covers screening for glaucoma; to the Committee on Government Reform.

By Mr. Rush (for himself, Mr. Frost, Mr. Norton, Ms. Hart, Mr. Frank, Mr. Bonior, Mr. McNulty, Mrs. Thurman, Mr. Gillmor, Mr. Honda, Mr. Honda, Mr. Rangel, Mr. LaTourette, Mr. Lantos, and Mr. Platts):

H.R. 2379. A bill to amend title II of the Social Security Act to increase the maximum amount of the lump-sum death benefit and to allow for payment of such a benefit, in the absence of an eligible surviving spouse or child, to the legal representative of the estate of the deceased individual; to the Committee on Ways and Means.

By Mr. Cummings (for himself and Mr. Davis of Illinois):

H.R. 2379. A bill to amend title 5, United States Code, to ensure that the health benefits program for Federal employees covers screening for glaucoma; to the Committee on Government Reform.

By Mr. Rush (for himself, Mr. Towns, Mr. Waxman, Mrs. Christensen, Mr. Hyde, Mr. Manzullo, Mr. Costello, Mr. Davis of Illinois, Mr. Phelps, Ms. Schakowsky, Mr. Pallone, Ms. Kaptur, Mr. Bogdahn, Mr. Engel, Mr. Brown of Ohio, Mrs. Capps, Mrs. Eddie Bernice Johnson of Texas, Ms. Millender-McDonald, Mr. Bishop, Mr. Wynn, Mr. Udall of Colorado, Mr. Hinchey, Mr. Sanders, Mrs. Clayton, Mr. Evans, Mr. Nadler, Mr. Holden, Mr. Bunn of North Carolina, Ms. Eshoo, Mr. Barrett, Mr. Kirk, Ms. Pryce of Ohio, Mr. Greenwood, Mr. Stupak, Mrs. Maloney of New York, Ms. Watson, Mr. Lofgren, Ms. Dunn, Ms. DeLauro, and Mrs. Kelly):

H.R. 2380. A bill to provide for research on, and services for individuals with, postpartum depression and psychosis; to the Committee on Energy and Commerce.

By Mr. Deal of Georgia:

H.R. 2381. A bill to amend the Internal Revenue Code of 1986 to provide that distributions from higher education tax accounts are exempt from the 10-percent early distribution tax even after annuitization of account; to the Committee on Ways and Means.

By Mr. Doyle:

H.R. 2382. A bill to extend the deadline for commencement of construction of a hydroelectric project in Pennsylvania; to the Committee on Energy and Commerce.

By Ms. Dunn (for herself, Mr. Matsui, Mr. Tom Davis of Virginia, Mr. DeFazio, and Mr. Weller):

H.R. 2383. A bill to amend the Internal Revenue Code of 1986 to increase and modify the exclusion relating to qualified small business stock and to provide for any exclusion relating to incentive stock options will no longer be a minimum tax preference; to the Committee on Ways and Means.

By Mr. Green of Texas:

H.R. 2384. A bill to amend the National Flood Insurance Act of 1968 to provide a 50 percent discount in flood insurance rates for the first 5 years that certain low-cost properties are included in flood hazard zones; to the Committee on Financial Services.

By Mr. Hansen:

H.R. 2385. A bill to convey certain property to the city of St. George, Utah, in order to provide for the protection and preservation of certain rare paleontological resources on that property for the public purposes; to the Committee on Resources.

By Mr. Hansen (for himself, Mr. Otter, Mr. Young of Alaska, Mrs. Cubin, Mr. Young of Iowa, Ms. Hayes, Mr. Simpson, Mr. Radanovich, Mr. Cannon, Mr. Gibbons, Mr. Peterson of Pennsylvania, Mr. Rehberg, and Mr. Duncan):

H.R. 2386. A bill to establish terms and conditions for use of certain Federal lands by outfitters and to facilitate public opportunities for the maximum and continuous enjoyment of such lands; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. Harmen (for herself, Mr. Lewis of California, Mr. Sheehan, Mr. Gary G. Miller of California, Mr. Gephardt, Ms. Eshoo, Mr. Rohrabacher for California, Mr. Dreier, Ms. Waters, Mr. Cuningham, Ms. Solis, Mr. Graves, Mr. Filner, Mr. Thompson of California, Mrs. Capps, Mr. Condit, and Ms. Lofgren):

H.R. 2387. A bill to amend title 49, United States Code, to preserve nonstop air service to and from Ronald Reagan Washington National Airport for certain communities in cases of airline bankruptcy; to the Committee on Transportation and Infrastructure.

By Mr. Heffley:

H.R. 2388. A bill to establish the criteria and mechanism for the designation and support of national heritage areas; to the Committee on Resources.

By Mr. Herger (for himself and Mr. Walden of Oregon):

H.R. 2389. A bill to provide for the compensation of aviation personnel who were economically harmed as a result of the implementation of the Endangered Species Act of 1973; to the Committee on the Judiciary.

By Mr. Hostettler (for himself, Mr. Largent, Mr. Schaffer, Mr. Tiahrt, Mr. DeMint, Mr. Bartlett of Maryland, Mr. Garamendi, Mr. Kind, Mr. Mica, Mr. Shuster, Mr. Shuster, and Mr. Wamp):

H.R. 2390. A bill to prohibit the District of Columbia from using any funds to issue, implement, administer, or enforce any order in violation of the policy of the United States regarding the employment or voluntary service of homosexual troop leaders; to the Committee on Government Reform.

By Mr. Hostetler (for himself and Mr. Young of Alaska):

H.R. 2391. A bill to prohibit any Federal agency from issuing or enforcing certain rules that may be applied to restrict the transportation or possession of a firearm on a public Federal road; to the Committee on Resources.

By Mr. Inslee (for himself, Mr. Shay, Mr. Udall of Colorado, Mr. Baird, Mr. Allen, Mr. Oliver, Mr. Smith of Washington, and Mr. Wilson of Washington):

H.R. 2392. A bill to amend the Internal Revenue Code of 1986 to provide, expand, or extend tax incentives for renewable and alternative electric energy, alternative fuels and automobile exhaust emissions; to the Committee on Ways and Means.

By Mr. Israel (for himself and Mr. Crowley):

H.R. 2393. A bill to amend the Internal Revenue Code of 1986 to allow individuals a credit against income tax for energy conservation expenditures in residences and for purchases of other energy efficient appliances; to the Committee on Ways and Means.

By Mr. Kucinich (for himself, Mr. Brown of Ohio, Mr. LaTourette, and Mrs. Jones of Ohio):

H.R. 2394. A bill to amend the Defense Production Act of 1950 to establish the National Defense Preparedness Domestic Industrial Base Board, and for other purposes; to the Committee on Financial Services.

By Mr. LaFalce:

H.R. 2395. A bill to provide grants for FHA-insured hospitals; to the Committee on Financial Services.

By Mrs. Maloney of New York:

H.R. 2396. A bill to amend the Communications Act of 1934 to require candidates for election for Federal office who refer to other candidates in their television or radio advertisements to include pictures or images in the advertisements as a condition for receiving the lowest unit charge available for advertisements broadcast immediately before the election to the Committee on Energy and Commerce.

By Mrs. Maloney of New York (for herself, Mr. Tom Davis of Virginia, Mr. Wynn, Ms. Morella, Mr. Hoyle, and Mr. Moran of Virginia):

H.R. 2397. A bill to require the Office of Personnel Management to conduct a study to determine the approximate number of Federal employees and annuitants who are eligible to participate in the health benefits program under chapter 89 of title 5, United States Code, but who are covered neither by such program nor by any other health insurance, and for other purposes; to the Committee on Government Reform.

By Ms. McCARTHY of Missouri (for herself and Mr. Dreier):

H.R. 2398. A bill to establish a grant program to provide assistance to States for modernizing and enhancing voting procedures and administration, and for other purposes; to the Committee on House Administration.

By Ms. McCarty of Missouri (for herself and Mr. Shimkus):

H.R. 2399. A bill to require the General Services Administration to certify all potential electrical capacity at Federal facilities available from existing installed backup
generators, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. McHUGH:

H.R. 2347. A bill to provide job creation and assistance for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, the Judiciary, Agriculture, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McHUGH:

H.R. 2401. A bill to bridge the digital divide in rural America; in addition to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLER-QUEZADA (for herself and Mr. HINOJOSA):

H.R. 2463. A bill to provide for the extension of the sunset provision for the Medical Prescription Drug Importation Repeal Act of 2007 for the purpose of increasing the availability of prescription drugs and providing for the effective administration of the law; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCDERMOTT:

H.R. 2468. A bill to amend the Federal Power Act to establish a new global top-level Internet domain for the promotion of online behavior to prevent the commercialization of children's online personal information, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MILLER of California:

H.R. 2469. A bill to authorize Federal agency participation and financial assistance for programs and for infrastructure improvements for the purposes of increasing deliverable water supplies, conserving water and energy, restoring ecosystems, and enhancing environmental quality in the State of California; to the Committee on Resources.

By Mrs. MORELLA (for herself, Mr. ERSKINE, Ms. FLEISCHMANN, Mr. DAVIS, Mr. PAYNE, Ms. PARKER, Mrs. LOWEY, Mr. SAVAGE, Ms. DEGETTE, Mr. UPTON, Ms. THURMAN, Ms. SLAUGHTER, Mr. JACKSON of Illinois, Mr. WAXMAN, Ms. MILLENDER-McDONALD, Mrs. MALONEY of New York, Ms. DELAURA, and Mr. GEORGE MILLER of California):

H.R. 2470. A bill to amend the public buildings legislation of 1959 to direct the Administrator of General Services to provide for the procurement of solar electric systems for use in public buildings, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MURDOCH:

H.R. 2478. A bill to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska, for certain lands; to the Committee on Resources.

By Mr. OTTER (for himself and Mr. SIMPSON):

H.R. 2480. A bill to amend the Endangered Species Act of 1973 to vest in the Secretary of the Interior the authority to enter into agreements with States, private entities, and individuals to conduct activities that will ensure the survival of species of fish that spawn in ocean waters and migrate to fresh waters; to the Committee on Resources.

By Mr. MARKESON (for himself, Mr. BARTLETT of Maryland, Mr. GRAHAM, Ms. HART, and Mr. TIAHRT):

H.R. 2481. A bill to amend the Internal Revenue Code of 1986 to allow the Hope Scholarship Credit to be used for elementary and secondary expenses; to the Committee on Ways and Means.

By Mr. PAUL (for himself, Mr. BARTLETT of Maryland, and Mr. TIAHRT):

H.R. 2481. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to farmers' investment in value-added agricultural businesses, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLER-QUEZADA (for herself and Mr. MANZULLO):

H.R. 2483. A bill to direct the head of each executive agency to conduct a study on the improvement of employment readiness in the respective agency; to the Committee on Government Reform.

By Mr. GEORGE MILLER of California:

H.R. 2484. A bill to authorize Federal agency participation and financial assistance for programs and for infrastructure improvements for the purposes of increasing deliverable water supplies, conserving water and energy, restoring ecosystems, and enhancing environmental quality in the State of California; to the Committee on Resources.

By Mrs. MORELLA (for herself, Mr. ERSKINE, Ms. FLEISCHMANN, Mr. DAVIS, Mr. PAYNE, Ms. PARKER, Mrs. LOWEY, Mr. SAVAGE, Ms. DEGETTE, Mr. UPTON, Ms. THURMAN, Ms. SLAUGHTER, Mr. JACKSON of Illinois, Mr. WAXMAN, Ms. MILLENDER-McDONALD, Mrs. MALONEY of New York, Ms. DELAURA, and Mr. GEORGE MILLER of California):

H.R. 2485. A bill to amend the Public Health Service Act with respect to reducing the transmission of HIV and other sexually transmitted diseases; to the Committee on Energy and Commerce.

By Mr. NEAL of Massachusetts:

H.R. 2486. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for farmers' investment in value-added agricultural businesses; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THURMAN, Ms. S LAUGHTER, Mr. J ACKSON of Ohio, and Mr. G EORGE MILLER of California:

H.R. 2486. A bill to provide for the creation of a new global top-level Internet domain that will be a haven for material that will promote positive experiences of children and families using the Internet, to provide a safe online environment for children, and to help prevent children from being exposed to harmful material on the Internet, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SIMMONS (for himself, Mrs. CHRISTENSEN, Mr. ABERECHERMEYER, Mr. GRUCCI, Mr. ALLEN, Mr. BAIRD, Mr. JONES of North Carolina, Mr. BAKSHI, Mr. BURBANK of California, Mr. GREEN of Wisconsin, and Mr. FRANK):

H.R. 2489. A bill to amend the Internal Revenue Code of 1986 to provide a business credit against income tax to professional school personnel in grades K–12, to the Committee on Ways and Means.

By Mr. RAHALL (for himself, Mr. YOUNG of Alaska, Mr. GEORGE MILLER of California, Mr. KILDEE, Mr. FALEOMAVAEGA, Mr. ABERECHERMEYER, Mr. PAUL, Mr. SCHULTZ of Washington, Mr. UDALL of Colorado, Ms. McCOLLUM, and Mr. KENNEDY of Rhode Island):

H.R. 2492. A bill to establish programs to improve energy development on Indian lands, and for other purposes; to the Committee on Resources, and in addition to the Committees on Energy and Commerce, Ways and Means, Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RILEY (for himself, Mrs. TAUSCHER, Ms. MCKINNEY, Mr. KENNEDY of Rhode Island, Mr. FROST, Mr. MCGOVERN, Mr. EVANS, Mr. LAURIENTE, Mr. HUNTINGTON of Connecticut, and Mr. SIMMONS, Mrs. JONES of Ohio, and Mr. FORBES):

H.R. 2493. A bill to amend title 10, United States Code, to establish a program of employment assistance and employment-related tuition assistance, for military spouses; to the Committee on Armed Services.

By Mr. ROEMER (for himself, Mrs. TAUSCHER, Mr. SCHULTZ of Washington, Mr. KENNEDY of Rhode Island, Mr. HUNTINGTON of Connecticut, and Mr. SIMMONS, Mrs. JONES of Ohio, and Mr. FORBES):

H.R. 2494. A bill to establish a program to exercise authority to conduct a study on the peopling of America, and for other purposes; to the Committee on Resources.

By Mr. STEARNs (for himself, Mr. TOWNS, Mr. BASS, Mr. DEAL of Georgia, and Mr. WALDEN of Oregon):

H.R. 2501. A bill to modify and clarify the authority under Article 1, section 8, clause 10 of the Constitution of the United States to clearly establish jurisdictional boundaries over the commercial transactions of digital goods and services conducted through the Internet, and to foster stability and certainty over the treatment of such transactions; to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STRICKLAND:

H.R. 2522. A bill to amend the Public Health Service Act to establish an Office of Correctional Health; to the Committee on Energy and Commerce.

By Mr. TRUNE (for himself, Mr. GUTENRECHT, Mr. OSBORNE, and Mr. GANSKE):

H.R. 2523. A bill to provide for the energy security of the United States and promote environmental quality by enhancing the use of motor vehicle fuels from renewable sources, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TRUNE (for himself, Mr. GUTENRECHT, Mr. OSBORNE, and Mr. GANSKE):

H.R. 2524. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal...
minimum wage by $1.62 over 3 years; to the Committee on Education and the Workforce.

By Mr. Traficant:
H.R. 2425. A bill to authorize assistance to establish a water treatment plant in Tirana, Albania; to the Committee on International Relations.

By Mr. Udall of Colorado (for himself and Mr. Greenwood):
H.R. 2426. A bill to encourage the development and integrated use by the public and private sectors of remote sensing and other geospatial information, and for other purposes; to the Committee on Science.

By Mr. Udall of New Mexico (for himself, Mrs. Mink of Hawaii, Mr. Baldacci, Mr. Meeks of New York, Mr. McGovern, and Ms. Solis):
H.R. 2427. A bill to provide emergency assistance for families receiving assistance under part A of title IV of the Social Security Act and low-income working families; to the Committee on Ways and Means.

By Mr. Underwood (for himself, Mr. Acevedo-Vila, and Mrs. Nydia Velázquez):
H.R. 2428. A bill to require that the Director of the Office of Management and Budget explain any omission of any insular area from the budget and supplemental appropriation requests as fall within the jurisdiction of the committee concerned.

By Ms. Waters:
H.R. 2429. A bill to amend title 49, United States Code, to require the operator of Los Angeles International Airport to establish annual noise mitigation reports to residents in the area surrounding an airport; to the Committee on Transportation and Infrastructure.

By Ms. Waters:
H.R. 2430. A bill to amend title 49, United States Code, to require air carriers to make contrail-related noise reductions and report the impact of those actions to the Committee on Transportation and Infrastructure.

By Ms. Waters:
H.R. 2431. A bill to amend the Internal Revenue Code of 1986 to provide that certain steam utilities shall be excluded from gross income Code of 1986 to provide that certain steam utilities shall be excluded from gross

By Mr. Balanced (for himself and Mr. Burch of North Carolina):
H. Con. Res. 178. Concurrent resolution expressing the sense of Congress regarding the establishment of a National Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers; to the Committee on Government Reform.

By Mr. Delahunt (for himself, Mr. Gilchrest, Mr. George Miller of California, and Mr. Smith of New Jersey):
H. Con. Res. 180. Concurrent resolution expressing the sense of Congress regarding pressing the sense of the Congress that the United States should reaffirm its opposition to, and to any commercial and lethal scientific whaling and take significant and demonstrable actions, including at the International Whaling Commission and meetings of the Convention on International Trade in Endangered Species, to provide protection for and conservation of the world's whale population to prevent trade in whale meat; to the Committee on International Relations.

By Mrs. Emerson (for herself, Mrs. Clayton, Mr. Shows, Mr. Murtha, Mr. Faloromavakis, Mrs. Jackson-Lie of Texas, Mr. McDermott, Mr. Green of Wisconsin, Mr. Graves, Mr. Hoeffel, Mr. Hinojosa, Mr. Towns, Mr. Pomeroj, Mr. Pastors, Mr. English, Mr. Peterson of Minnesota, Mrs. Christensen, Mr. McGovern, Mr. Watt, Mr. Strickland, Mr. Hulslof, Mr. Gihons, Mr. Udall of New Mexico, Mr. Lucas of Oklahoma, Mr. Baldacci, Mr. Evans, and Mr. Blumen):
H. Con. Res. 181. Concurrent resolution expressing the sense of the Congress regarding the need to protect post offices; to the Committee on Government Reform.

By Mr. Rangel:
H. Con. Res. 182. Concurrent resolution expressing the sense of Congress that the United States Postal Service should issue a postage stamp commemorating Juan Nepomuceno Seguin; to the Committee on Government Reform.

PRIVATE BILL AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. Bereuter:
H.R. 2452. A bill for the relief of Richard W. Schaffert; to the Committee on the Judiciary.

By Mr. Biorion:
H.R. 2453. A bill for the relief of Thair Biham, Christine Biham, Jaime Alan Biham, and Natasha Biham; to the Committee on the Judiciary.

By Mr. Petri:
H.R. 2454. A bill for the relief of Mohamed Abshir Musse; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. Wolf.
H.R. 12: Mr. Kears.
H.R. 46: Ms. Baldwin and Mrs. Lowey.
H.R. 61: Mr. Brown of Ohio and Mr. Bonior.
H.R. 68: Ms. Hooley of Oregon, Mr. Traficant, Mr. Duncan, Mr. Caruso of Oklahoma, Mr. Largent, Mr. Ortiz, Mr. Peterson of California, Mr. Ryan of Kansas, Mr. Bryant, Mr. Cantor, Mr. DeFazio, Mr. Phillips, Mr. Mascara, and Ms. Ros-Lehtinen.
H.R. 97: Mr. Oberstar.
H.R. 122: Mr. Toomey, Mr. Wamp, Mr. Keller, Mr. Graham, Mr. Shimkus, Mr. Boucher, and Mr. Hoibon.
H.R. 123: Mr. LaHood, Mr. Souder, and Mr. Watkins.
H.R. 218: Mr. LaHood.
H.R. 228: Mr. Pascarell.
H.R. 236: Mr. Frelinghuysen.
H.R. 267: Ms. Kilpatrick, Mr. Hall of Texas, and Mr. Weldon of Florida.
H.R. 274: Mrs. Jones of Ohio.
H.R. 269: Mr. Myrick.
H.R. 393: Mrs. Jones of Ohio.
H.R. 439: Mr. Quinn.
H.R. 448: Mr. Lucas of Kentucky.
H.R. 510: Mr. Rangel, Mr. Pascarell, and Mr. Kears.
H.R. 526: Mr. Phillips.
H.R. 572: Mr. Gilman.
H.R. 609: Mrs. Northup, Mr. Tom Davis of Virginia, Mr. Matson, and Mr. Holt.
H.R. 612: Ms. Berkly, Mr. Meeks of New York, and Mr. Langevin.
H.R. 619: Mr. Bionor.
H.R. 684: Mr. Lee and Mr. Horn.
H.R. 688: Mr. Luehr.
H.R. 687: Ms. Waters.
H.R. 709: Mr. Bionor, Mr. Davis of Illinois, and Mr. Lantos.
H.R. 717: Mr. Brown of South Carolina and Ms. Baldwin.
CONGRESSIONAL RECORD—HOUSE

H.R. 2148: Mr. Filner, Mr. LaFalce, and Ms. McNulty, Mr. Roybal-Allard, Mrs. Napolitano, Ms. Lofgren, Mr. Farr, Mr. Pitts, Mr. Doggett, Mr. Moran of Virginia, Ms. Eddie Bernice Johnson of Texas, Mr. Matsui, Ms. Solis, and Mr. Hilliard.

H.R. 2149: Ms. Granger, Mr. Bachus, Mr. Forbes, Mr. Ehlers, and Mr. Grucci.

H.R. 2155: Mr. McNulty, Mr. McHugh, and Ms. Pelosi.

H.R. 2157: Mr. DeFazio, Mr. Blagojevich, Mr. Frost, Mr. Gibson, Mr. Baker, Mr. LaHood, Mr. Schaffner, Mr. Young of Alaska, Mr. Bryant, Mr. Cooksey, Mrs. Crenin, Mr. Osk, Mr. Walden of Oregon, and Mr. DeMint.

H.R. 2160: Mr. Horska and Mr. DeMint.

H.R. 2161: Mr. Shimkus, Mr. Wynn, Mr. Bonior, Mr. McGovern, Mr. Frost, Mr. Traficant, Ms. Lofgren, Ms. Eddie Bernice Johnson of Texas, Ms. Woolsey, and Mr. Lantos.

H.R. 2166: Ms. Velázquez, Mr. Jackson of Illinois, Mr. Barrett, and Ms. Waters.

H.R. 2167: Ms. DeLauro.

H.R. 2172: Mr. Stark.

H.R. 2173: Mr. Goode.

H.R. 2181: Mr. McDermott and Mr. Stupak.

H.R. 2182: Mr. Mascara and Ms. Hart.

H.R. 2185: Mr. Dicks.

H.R. 2189: Mr. Goode.

H.R. 2200: Mr. Sensenbrenner.

H.R. 2203: Ms. Tauscher, Mr. McGovern, Ms. DeLauro, Ms. Farkas, Ms. Falcón, Mr. Clement, and Mr. Frost.

H.R. 2211: Ms. McCaity of Missouri and Mr. Waxman.

H.R. 2212: Mr. Sessions, Mr. Kerns, and Mr. Hobson.

H.R. 2222: Mr. McGovern, Mr. McKinney, Mr. Frost, Mr. Rangel, and Mrs. Jones of Ohio.

H.R. 2235: Mr. Lampson.

H.R. 2240: Mr. Shaw.

H.R. 2242: Mr. Sensenbrenner.

H.R. 2246: Mr. Lucas of Kentucky.

H.R. 2258: Mr. Reyes.

H.R. 2281: Mr. Jackson of Illinois.

H.R. 2291: Mr. LaFalce, Mr. Kucinich, Mr. Payne, Mr. Rahall, Mr. Birman, and Mr. Gilman.

H.R. 2294: Mr. Brown of Ohio, Mr. McNulty, Ms. Rivera, and Mr. Baldacci.

H.R. 2308: Ms. LaFalce.

H.R. 2310: Mr. Moran of Virginia, Mr. Brady of Pennsylvania, Ms. Meek of Florida, Mr. do a, Ms. Davis of California, Mrs. Thurman, Mr. Rahall, Mr. Etheridge, Mr. Kennedy of Rhode Island, Mr. Clyburn, Mr. Rangel, Mr. Mollohan, Mr. Fattah, Mr. McNulty, Mr. Mascara, Mr. Filner, Mr. Andrews, Mr. Oliver, and Ms. McCollum.

H.R. 2315: Mr. Kolbe, Mr. Lentz, Mr. Taylor of North Carolina, Mr. Upton, Mr. Cox, and Mr. Wittfeld.

H.R. 2316: Mr. Crane, Mr. Ramstad, Mr. Hayworth, Mr. Hergen, Mr. Brady of Texas, Mr. Shay, Mr. Condit, Mr. Armey, Mrs. Johnson of Connecticut, Mr. Kerens, and Mr. Thornberry.

H.R. 2322: Mr. Ehlers.

H.R. 2329: Mr. Flatt, Mr. Shaw, Mr. Kind, and Mr. Smith of New Jersey.

H.R. 2335: Ms. Kilpatrick.

H.R. 2339: Mr. Rahall, Mr. Wamp, and Mr. Brady of Pennsylvania.

H.R. 2340: Mr. Runyan.

H.R. 2341: Mr. Riley.

H.J. Res. 20: Mr. English and Mr. Pence.

H.J. Con. Res. 17: Mrs. Tauscher and Mr. DeFazio.

H. Con. Res. 33: Mr. Weldon of Florida.

H. Con. Res. 77: Mr. Evans, Mr. Underwood, Mr. Abercrombie, Ms. McKinney, Mr. Crowley, Mr. W. C., Mr. Ackerman, Mr. Sheehan, Mr. Honda, Mr. Falcón, Mr. Kirk, Mr. Filner, Ms. Pelosi, Ms. Roybal-Allard, Mrs. Napolitano, Ms. Lofgren, Mr. Pitts, Mr. Doggett, Mr. Moran of Virginia, Ms. Eddie Bernice Johnson of Texas, Mr. Matsui, Ms. Solis, and Mr. Hilliard.

H. Con. Res. 89: Mr. Nethercutt and Mr. Hagedorn.

H. Con. Res. 97: Mr. English and Mr. Levin.


H. Con. Res. 144: Mr. Dingell, Mr. Stupak, Mr. Coyne, Mr. Davis of Illinois, Mr. Puckett, Mr. Rogers of Michigan, and Mr. McHugh.

H. Con. Res. 169: Mr. Dicks, Mrs. Christensen, Ms. Watson, Mr. Gephardt, Mr. Levin, Mr. Jefferson, Mr. Waxman, and Mr. Rush.

H. Con. Res. 173: Mr. Tierney, Mr. Larson of Connecticut, Ms. McKinney, Mr. Waxman, Mr. Capuano, and Mrs. Lowey.

H. Con. Res. 177: Mr. Farr of California, Mr. Sanders, Mr. Acevedo-Vilá, Mr. Tierney, Ms. Woolsey, Mr. Frost, Mr. Evans, Ms. Melon, and Ms. Eddie Bernice Johnson of Texas.

H. Res. 65: Mr. Kildee.

H. Res. 72: Mr. Blagojevich, Mr. Maloney of Connecticut, Mr. Pocan, Mr. Filner, Mr. Fossella, Mr. Boggs, and Mr. Garamendi.

H. Res. 152: Ms. Kilpatrick and Mr. Goode.

H. Res. 154: Mr. Hinchey, Mr. Costello, Mr. Meeks of New York, Mr. Frost, Mr. Garamendi, Mr. Kucinich, Mr. Manzullo, Mr. Frank, Ms. DeGette, Mr. Baldacci, Mr. Filner, Mr. Bonior, Mr. Holt, Mr. Hall of Ohio, Mr. Benten, Mr. Abercrombie, and Ms. Charlie. Ms. Napolitano.

H. Res. 181: Mr. Lantos, Ms. Ros-Lehtinen, Mr. Kennedy of Rhode Island, and Mr. Payne.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1280: Mr. Simmons.

H.R. 2180: Mr. Ferguson.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petitions were filed:


Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2330

OFFERED BY: MR. BROWN OF OHIO

AMENDMENT No. 26: In title VI, in the item relating to "DEPARTMENT OF HEALTH AND HUMAN SERVICES—Food and Drug Administration—SALARIES and EXPENSES", insert before the period at the end of the first paragraph the following:

Provided further, That of the total amount appropriated, $5,000,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to antibiotic drugs, in addition to other allocations for such purpose made from such total amount.

H.R. 2330

OFFERED BY: MR. BROWN OF OHIO

AMENDMENT No. 27: In title VI, in the item relating to "DEPARTMENT OF HEALTH AND HUMAN SERVICES—Food and Drug Administration—SALARIES and EXPENSES", insert before the period at the end of the first paragraph the following:

Provided further, That of the total amount appropriated, $5,000,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to antibiotic drugs, in addition to other allocations for such purpose made from such total amount.

H.R. 2330

OFFERED BY: MR. BROWN OF OHIO

JUNE 28, 2001
In addition, for the Food Safety and Inspection Service to improve food safety and reduce the incidence of foodborne illnesses, $50,000,000: Provided, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

In title VI, in the item relating to “Food and Drug Administration—Salaries and Expenses”, insert at the end the following:

In addition, for the Food and Drug Administration to improve food safety and reduce the incidence of foodborne illnesses, $163,000,000: Provided, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

None of the funds appropriated or otherwise made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who permit the payment limitation specified in section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(2)) to be exceeded pursuant to any provision of law, except, in the case of a husband and wife, the total amount of the payments specified in section 1001(3) of that Act that they may receive during the 2001 crop year may not exceed $150,000.
The Senate met at 9:15 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER
The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Thank You, dear Father, for infusing Your nature in the Senators You have called to lead our beloved Nation. You have reproduced in them Your concern and caring for the health and healing of all of our people. Thank You for Your compassion expressed in the legislation for patient protection in America.

The Senators may differ on aspects of the implementation of this concern but are one in seeking unity on what is best for citizens across our land. Be with the Senators today as all aspects of this crucial legislation are focused and voted upon. Thank You for the managers on both sides of the aisle who have worked so long and tirelessly to review all possibilities for the best potential for all Americans.

Now as the Senators seek to complete debate and take conclusive votes, may they sense the unity of a common concern for a crucial cause of caring for our people. Place Your hand upon their shoulders and remind them that You are the magnetic center who draws them to unity for the welfare of our Nation. You are the healing power of the world who uses the medical professions to heal. Help the Senators to complete legislation that will assure the best care for the most people.

You, dear God, are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE
The Honorable HARRY REID, a Senator from the State of Nevada, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE
The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,

To the Senate:
Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME
The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

BIPARTISAN PATIENT PROTECTION ACT
The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1052, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1052) to amend the Public Health and Welfare Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

Pending:
Thompson amendment No. 819, to require the exhaustion of administrative remedies before a claimant goes to court.
Collins amendment No. 826, to modify provisions relating to preemption and State flexibility.
Breaux amendment No. 830, to modify provisions relating to the standard with respect to the continued applicability of State law.

recogni{tion of the acting majority leader.

The ACTING PRESIDENT pro tempore. The Senate from Nevada is recognized.

Mr. REID. Mr. President, I ask that the time I use not be charged against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE
Mr. REID. Mr. President, we will resume consideration of the Patients’ Bill of Rights. We are going to have a vote at approximately 10 to 10. We have a unanimous-consent agreement in effect that will take us throughout the early afternoon, with votes scheduled throughout that period of time. We expect votes all evening. The leader would very much like to finish this bill today. Certainly the end is in sight. If not, we will work through the night—into the night, not through the night—we will come back tomorrow, and hopefully we don’t have to come back Saturday.

What the leader has said is that we are going to complete this legislation.

We are going to complete the legislation, plus the supplemental appropriations bill before we go home.

He said he would work Saturday, Sunday, Monday, and Tuesday and Wednesday, the 4th—take that off—and come back after that to complete our work. We are cooperating and doing our very best to meet the requests of Senators BYRD and STEVENS. Their last unanimous consent request has been cleared on this side as far as the filing of amendments. We applaud the four managers who have been working on this bill. We look forward to continuing to work today.

AMENDMENT NO. 826
The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 30 minutes for debate to be equally divided between the Senator from Maine, Ms. COLLINS, and the Senator from Louisiana, Mr. BREAUX, prior to a vote on or in relation to the Collins amendment No. 826.

Who yields time? The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from Virginia, Mr. ALLEN, be added as a cosponsor of the Collins-Nelson amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. COLLINS. I yield 6 minutes to the Senator from Kansas, Mr. ROBERTS.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, here is the issue: The ability of States to determine what is best for themselves. That is the issue. Sure, the issue is the Patients’ Bill of Rights. But if Kansas or Nebraska or Maine or Massachusetts or Louisiana or Connecticut—as I look at Members in the Chamber—have an effective patient protection system that is working, why impose new Federal regulations that will force them to overhaul the system they have in place?

The Collins-Nelson-Roberts, and others, amendment would simply give the States the flexibility to provide patient protection required under this bill in a way that best fits each State. For example, last year in Kansas we implemented a new law that assists patients who get into a dispute with their insurance company over the refusal to pay for medical procedures. It is a long process, but the independent reviewer will make a decision and reply within 30 business days after an appeal procedure.

● This ‘bullet’ symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
According to Kathleen Sebelius, our very good Kansas State Department of Insurance Commissioner, there were 22 cases that had been filed with the Kansas Insurance Department. Simply put, our State commissioner, Kathleen Sebelius, and the Kansas State Department of Insurance are doing a good job looking out for the best interests of Kansans covered by HMOs.

So the question is, Why does the Federal Government need to tell our State we have to completely scrap what we are doing and put into place a Federal layer of new Washington-knows-best requirements? How good is this really for Kansans, or your State’s families? In fact, Kansas has a large number of patient protections that have been in place for years, and the list is impressive. The list includes a comprehensive bill of rights, the internal and external appeals I have already described, consumer grievance procedures, emergency room services, OB/GYN access, prompt payment, continuity of care, a ban on gag clauses and financial incentives, screening and breast reconstruction, prostate cancer screening, maternity stay, drug and alcohol abuse treatment, standing referral, and the list goes on and on and on.

Under the bill we are debating today, many of these effective consumer protections Kansas has in place will have to be thrown out and we will have to start all over.

Our Kansas State Insurance Commissioner, Kathleen Sebelius, also serves as the president of the National Association of Insurance Commissioners. Kathleen Sebelius has written a letter that clearly lays out the devastating effects the Washington one-size-fits-all plan will have on State insurance markets, and she warns—listen to this, colleagues—that this is going to be ad

I think she nailed it right on the head. I am an original cosponsor of the Collins-Nelson amendment because it is an amendment that are already doing well. If these standards are not met, only then would the Federal Government come in and impose its standards, and the State would then be required to meet a higher standard in order to be made eligible for the Patient Quality Enhancement Grant Program. Other amendments will have a stick; this is acarrot. I prefer a carrot; other Senators may prefer a stick.

Let me just say, in summing up, can any other Member of this body honestly tell me what is in this bill is better than what the State of Kansas already has in terms of patient protection? Do you know better than our commissioner, Kathleen Sebelius, or Governor Graves, and the Kansas State Legislature? The answer is no.

My colleagues, support this amendment and give States a chance to apply the standards they have currently in place, that are working. The external and internal appeals process is working. Don’t make us reinvent the Federal wheel.

I thank the Chair and my colleagues. The ACTION PRESIDENT pro tempore. Who yields time?

Mr. BREAUX. I yield myself 5 minutes.

Mr. President, I rise in strong support of the so-called Breaux-Jeffords compromise amendment. We are dealing with a question of how are we going to allow the States to continue to operate their own patient protection bills that many of them have already instituted. My own State of Louisiana has passed over 35 different patients’ bills of rights guarantees, and they are working fairly well. I think my colleague, Senator Jeffords, wants to continue to allow those States to have their State plans in effect when they are substantially complying with what we are trying to do here on a national level.

As Senator KENNEDY said last night, if you had the Collins amendment, there would be no guarantee that States would have a Patients’ Bill of Rights. They would not have to do anything if they so chose. A State could say they don’t need in guaranteeing patients within their borders any rights at all, period. We don’t think it is the right thing to do. We are not doing it. The only thing that they would suffer, if they decided to take that approach under the Collins-Nelson amendment, is that they would lose grant money that is being authorized in this legislation.

Well, I think that is unfortunate in the sense that we are talking about a national program to guarantee patients the rights they should have under this legislation. I think there is strong agreement nationwide that there is a need to have some kind of a national guarantee that covers all Americans, not just some Americans, not just a few Americans, not just a handful of Americans, but all Americans, in dealing with their health insurance program.

Our compromise amendment does accomplish that goal, and it does it in a way that gives the maximum ability of the States to do what they think is necessary in crafting their Patients’ Bill of Rights. The language that we have put forth says that State plans would not be superseded. They will continue to operate the way they do today, if they substantially comply with the patient protection requirements that we are instituting on a national level for all Americans.

That doesn’t mean their plan has to be exactly the same as the Federal requirements. It has to substantially comply. That is a legal term used in Congress on many other occasions. On the SCHIP program for providing insurance to children, which we have enacted nationally, the requirement is that a State can run their own program if it substantially complies with the Federal requirements for all Americans that were instituted by this Congress.

On the Medicare Program, folks here in Washington understand how to apply that terminology. It is working. My State of Louisiana runs its own plan. I am very confident that my State of Louisiana will continue to run the plan we have in place right now under the Breaux amendment because it clearly would, in my opinion, substantially comply with what we are talking about here.

There is a definition of what “substantially comply” means by saying a State law would have the same or similar features as the patient protection requirements and would have a similar effect. That is not an unbearable standard at all. It does not have to be exactly. It just has to have the same or similar features.

They can design those rights on States that will be tailored to the needs of that particular State, and the only requirement is that it have the same or similar features. That is not too strong a guideline to the States or a requirement on behalf of the States. I think it can work. Most of the States, if not every single State, that have adopted a Patients’ Bill of Rights will find their plans in their respective States will stay intact and will still be the State Patients’ Bill of Rights under that legislation.

If a State decides for some reason they do not care, they are not going to do anything, there should be the ability for us to make sure all Americans are guaranteed the rights we are talking about today; that they are enforceable; there is an opportunity to go to court to enforce them; and that there is an appeals process when they are being abused.
This is what the Breaux-Jeffords amendment will allow. That is why it is a realistic compromise compared to the extremes of my good friends, Senator Nelson and Senator Collins, with whom I have worked on many occasions and will continue to do so in areas such as health. They are trying to do the right thing. Their amendment will allow some States to do nothing. Potentially thousands of Americans will not have any coverage whatsoever if that is the decision of the State.

We are writing legislation for all Americans, and I suggest the Breaux-Jeffords bill is a proper compromise that can bring this about.

I yield the floor.

The Acting President pro tempore. The Senator's time has expired.

The Senator from Maine is recognized.

Ms. Collins. Mr. President, how much time is remaining on our side?

The Acting President pro tempore. Nine minutes.

Ms. Collins, I yield 5 minutes to the Senator from Nebraska.

The Acting President pro tempore. The Senator from Nebraska is recognized for 5 minutes.

Mr. Nelson of Nebraska. I thank Senator Collins for her strong support for this amendment, and I commend my colleague, Senator Breaux from Louisiana, for his strong support and consistent efforts to find a compromise.

Certainly, the effort is an improvement over where we had been. One area I want to point out I disagree with my friend from Louisiana is his suggestion that maybe the States will not do anything. If you take a look at the charts that maybe the States will not do any-thing. If you look at all the checks, I suggest the States have been doing something and they will continue to do something if the Federal Government does not come in and take away both the incentive and the opportunity by putting in what is termed affectionately “a floor,” a minimum.

The problem is these minimums very often become the ceiling or they become, if you will, the top of whatever is being done because the States will not have the same opportunity, nor will they have the same willingness with the Federal deregulation, of the federalization of the regulation of State insurance as it applies to these health plans.

Generally preemption occurs when the States have not acted. I cannot imagine we are now pre empting what the States have done on the basis of their own job that we were able to pick and choose from the best of those protections to create this bill and now we say to them: It’s a job well done; thank you very much, and, by the way, we will impose these on you and we will make sure your laws will have to be either substantially equivalent or consistent with, according to Frist-Breaux, or, with the compromise, sufficiently compliant. I can understand our desire to take over the role of the States in this area if the States have not done anything, but I cannot understand the desire to do it when the States have done such a good job that we have picked and chosen from the best of those efforts to comprise our bill.

It does not make sense to preempt under these circumstances. That is why many of us would like to see the States have the opportunity to opt out so we will have continuing experimentation under the Jefferson principle that the States are the laboratories of democracy. I am not against all pre-emptions, but I do have a question about this. If we allow the States to continue to make sense under the circumstances with the progress that the States have made.

The charts will show the States have been active. They have worked very hard, diligently and are continuing to do so. Delaware just last week enacted additional patient protection laws. What we need to do is make sure we continue to permit the States to experiment.

I am also worried that with the application of these standards to the States, we will not have further experimentation, we will not have further development of patient protections. I hate to think we are at a point where the status quo will be sufficient for today as well as for tomorrow. I worry this effort in having a floor will result in it becoming a ceiling.

If you look at the charts, you will see to one degree or another, whether it is emergency preemption or not; it is either the external appeals or the internal ap-peals, that nearly every State is doing it. Many States have decided not to do everything under every set of cir-cumstances. I do not think they ought to be penalized where they have made a conscious decision that that is not going to work within their State. We ought not to have, in my judgment, a one-size-fits-all approach. We have not found, if you will, the Holy Grail as it relates to what patient protection truly is. I believe if States continue to experiment, we will find that they will be innovative and they will come up with new methods of providing even better patient protections. After all, this is coming from the grassroots; this is coming from the bottom up.

I think we are making a mistake trying to drive it from the top down which will stifle and create the opportunity for stagnation rather than experimentation. I hope that will not be the case, but I do not see it really any other way.

The National Association of Insurance Commissioners, the president of the National Association of Insurance Commissioners, the National Council of State Legislators all agree with this approach.

The Acting President pro tempore. The Senator’s time has expired.

Who yields time?

Mr. Breaux. I yield 5 minutes to Senator Jeffords.

The Acting President pro tempore. The Senator from Vermont is recognized for 5 minutes.

Mr. Jeffords. Mr. President, I commend the Senator from Maine for keeping this issue alive. It is critically important that we defer as much as we can to the States because they are already set up for it. Why not let them do it?

On the other hand, this is a Federal Patients’ Bill of Rights. That means equal rights to everyone in this country, so I differ with that sentiment.

A lot has been said about HIPAA and using HIPAA as an example of bad policy. I think HIPAA was totally different. HIPAA dealt with portability of insurance in the case of people being laid off work.

They said, if you do not do it, HCFA will come in and do it, and five States said let HCFA do it, and it made a mess of it. This is different. We are talking about the enforcement of rights, an even enforcement across the country.

Yet we do recognize it is important for the States to do it themselves. Many, if not most of them, are already doing a legislative enforcement to require the appropriate and fair enforcement of the rights of individuals on health care.

This is an important difference. HIPAA was a mess, but this has nothing to do with HIPAA. This is quite different from HIPAA.

We all support the Patients’ Bill of Rights. The question is who ought to enforce it. We say, yes, let the States that want to do it do it. On the other hand, we need to make sure it is done fairly and uniformly across this country.

We do give the authority to the Secretary to review it, and we also say he should lean over backwards to make sure the States do it if at all possible. It is not a HIPAA-type situation; we ought to be different in that regard.

It is important that we also recognize that the compromise requires States to have protections that are “substantially compliant with” Federal protection and defines this standard as having the same or similar provisions and the same or similar effect.”

The Secretary must approve the State’s certification of compliance in a manner that is in deference to existing State laws. If he does not act on the State application within 90 days, it is automatically approved. States that have their certification disapproved may challenge that disapproval in court.
The amendment developed by Senator Breaux and myself requires States to provide additional flexibility to implement strong patient protections while guaranteeing a basic level of protection for all Americans in all health plans. Requiring the States to be in substantial compliance with the Federal law—not exact compliance but substantial compliance—provides States with the flexibility they need to implement strong patient protections while ensuring that all patients receive the Federal floor of protections. Under this amendment, States can keep their own laws as long as their basic intent is similar to the Federal standard and will have a similar effect.

The Secretary is required to be deferential to the States—give them every break you can but make sure that the bill of rights will be enforced. Give them every possible opportunity to do it themselves rather than having to go to court. However, this requirement does not infringe upon the Secretary’s authority to determine whether current State laws will provide the basic level of protection promised to all Americans in the health plans under the Patients’ Bill of Rights.

So HIPAA is just a totally different situation. It is a mess; we agree with the Patients’ Bill of Rights. The Secretary is required to be deferential to the States—give them every break you can but make sure that the bill of rights will be enforced. Give them every possible opportunity to do it themselves rather than having to go to court. However, this requirement does not infringe upon the Secretary’s authority to determine whether current State laws will provide the basic level of protection promised to all Americans in the health plans under the Patients’ Bill of Rights.

The amendment developed by Senators Collins and Nelson offers an alternative approach that allows States to keep their own laws while ensuring that all patients receive a basic level of protection. Under this amendment, States can keep their own laws as long as their basic intent is similar to the Federal standard and will have a similar effect. The amendment developed by Senator Breaux and myself requires States to provide additional flexibility to implement strong patient protections while guaranteeing a basic level of protection for all Americans in all health plans. Requiring the States to be in substantial compliance with the Federal law—not exact compliance but substantial compliance—provides States with the flexibility they need to implement strong patient protections while ensuring that all patients receive the Federal floor of protections. Under this amendment, States can keep their own laws as long as their basic intent is similar to the Federal standard and will have a similar effect.

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Government, and they are doing a good job with the protections they have put in place. They debated them in their State capitularies. Their insurance departments are doing a good job of enforcing those laws. The Breaux amendment and the underlying bill gets the States out of their role. We will have a dual system of enforcement—State insurance commissioners and HCFA. And I can tell you, anyone who knows anything about HCFA in terms of the responsibilities they have, knows they have a hard-enough time doing their job now. We should not get them involved in a system that is already working on the State level.

I beg my colleagues not to go along with federalizing this issue. Let's take care of the Federal people who have been exempted over the years because we haven't done the job we are supposed to do, and let the States continue to do the job they have been doing.

I thank the Chair. The ACTING PRESIDENT pro tem, Mr. BREAUX. I yield 2 1/2 minutes to my good friend, the Senator from Connecticut.

The ACTING PRESIDENT pro tem. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank my colleague from Louisiana. I commend him and the Senator from Vermont for their compromise proposal we will be voting on shortly. I reluctantly oppose my friend from Maine, my fellow New Englander. I have joined with her on so many issues and have such great respect for her.

There is a title to this bill. It is not titled casually; it is called the Patients’ Bill of Rights. We take title from a bill of rights. Obviously we are all most familiar with our Constitution and the Bill of Rights we embrace and cherish so richly as American citizens. But if we are going to have a bill of rights when it comes to basic fundamental health care, as has been pointed out by the Senator from Louisiana and the Senator from Massachusetts and others, then there ought to be a floor that applies across the country to all 50 States. That is what we are really advocating.

If the Collins amendment is adopted, then what you are developing is a trapdoor in that basic floor that exists. Let me make the case just by pointing to one particular provision of this bill. That is the access to emergency room care, Mr. President.

I have this chart to make the point. In the States that are in red in this chart, they have laws that are weaker than the underlying bill when it comes to access to emergency rooms. We are not talking about some grandiose new plan. We are talking about a fundamental right that you can have access to the closest emergency room. In 27 States, they have a much weaker provision than is in this law. We are saying when it comes to a Patients’ Bill of Rights, to clinical trials, specialists, emergency rooms, this is the floor across the country. If you want to pass laws at the State level that are substantially in compliance with that, we welcome that. If you want to do something more than we are doing here, we welcome that. But if you are going to say that we are going to allow weaker laws to exist in the access to a gynecologist, to a pediatrician, to a clinical trial, to a specialist, or to an emergency room, then we don't think that is right.

If you are for the Collins amendment, in many ways you are going against this bill. I understand that. I appreciate the fact that people do not want to pass Patients’ Bill of Rights and just leave it up to each State to decide. But if you believe, as a majority of us do, and an overwhelming majority of the American public, that there ought to be a Patients’ Bill of Rights, a basic floor that provides those basic standards, then you must vote to adopt the Breaux-Jeffords compromise amendment and retain the integrity of this bill.

The ACTING PRESIDENT pro tem. The Senator’s time has expired. Who yields time?

Mr. KENNEDY. I imagine the Senator would like to close the debate, would she not?

I believe I have 2 1/2 minutes.

Mr. President, the issue is very simple and very basic and very fundamental. It is whether all Americans are going to be covered as included in this legislation. We do not believe it should depend upon where you live. We believe it should be mandated necessarily on where you work. If a child needs a specialist to treat cancer, he or she ought to be entitled to see the specialist and receive the treatment. If a woman needs to be enrolled in a clinical trial that could be lifesaving, she ought to be entitled to participate. If a breadwinner who is crippled with arthritis needs a specialty kind of drug from a formulation, he or she ought to be able to obtain it.

Now, our bill guarantees these kinds of protections, but with the Collins amendment it is a roll of the dice. President Bush believes that all Americans should be covered. Every Republican that was introduced and considered in the House of Representatives said all Americans are covered. She covers about 40 percent of them; 60 percent of Americans are left out. We believe if you are interested in assuring that all Americans be covered, you ought to support the Breaux-Jeffords amendment. That will be doing the right thing.

The ACTING PRESIDENT pro tem. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, one of the myths in this debate is that unless the Federal Government preempts State insurance laws, millions of Americans will be unprotected in their disputes with HMOs. That is simply untrue. Ironically, my friend from Connecticut makes the point on emergency room care. Forty-four States have enacted legislation guaranteeing access to the nearest emergency room. But they have crafted their laws in different ways depending on the needs of those States. Why should the Federal Government second-guess those laws, substitute its judgment for the judgment of State legislators and Governors’ offices all over this country? It does not make sense. The proposal of the Senator from Louisiana would be both burdensome to States and ineffective for consumers.

Does anyone really believe that a consumer with a problem with his or her insurance policy is better off calling the HCFA office in Baltimore than dealing with their own State bureau of insurance?

The States have more than 50 years of experience in regulating insurance. They have acted without any prod or mandate from Washington to enact good, strong patient protection laws. Let’s honor their work. Let’s build upon the good works of the States rather than preempting, second-guessing, and superseding their laws.

The ACTING PRESIDENT pro tem. Who yields time?

Mr. BREAUX. I yield back the remainder of my time if the other side is ready to yield back.

I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tem. All time is yielded back. Is there a sufficient second?

There is a sufficient second.

Mr. COLLINS. I yield back the remainder of my time if the other side is ready to yield back.

The yeas and nays were ordered.

Mr. REID. Mr. President, I move to table the Collins amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tem. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I move to table the Collins amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tem. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alabama (Mr. SHELDY) are necessarily absent.

Mr. REED. The PRESIDING OFFICER (Mr. REED). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 44, as follows:
Mr. President, I understand the need to compromise, and I think we are moving forward in a very positive way. I do want to point out for the record that what we are now saying is that a State need only be ‘substantially compliant’ with Federal protections as opposed to ‘substantially equivalent to.’ My big worry is that if you look at this amendment, we are also saying we need to give deference to the State’s interpretation of its own law and its compliance with Federal protections.

I say two things to colleagues. No. 1, I think, in the best of all worlds, consumers would also have a right to appeal if they believe the State is in error.

To be fair, we want to give deference to what States are doing, as long as we have strong consumer protections for everyone regardless of where they live. I also believe if we are going to do that, we have to make sure not only that the States are given their proper due but so are consumers.

This amendment weakens the bill somewhat as it relates to Senator Breaux. Frankly, more than anything, it would be helpful to have an ombudsman office or something such as that in every State, where people would know where to make a phone call, know what their rights are. There are ways we can strengthen this.

I do not believe this amendment takes us in a strong consumer direction. It is a good compromise in terms of where we are. I wanted to speak out and express my concerns.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. KYL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. The assistant legislative clerk will report.

Mr. BOND. Mr. President, I send an amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of myself, Mr. Roberts, and Mr. Helms, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. Bond], for himself, Mr. Roberts, and Mr. Helms, proposes an amendment numbered 831.

Mr. BOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that patients receive a minimum share of any settlement or award in a cause of action under this Act.)

On page 154, between lines 2 and 3, insert the following:

‘(11) Minimum share of settlement of award.—

‘(A) In general.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorney’s fees from the total amount of such award.

‘(B) Exception.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

The amendment (No. 830) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire, or his designee, is recognized to offer an amendment relative to liability on which there will be 1 hour of debate.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that patients receive a minimum share of any settlement or award in a cause of action under this Act.)

On page 154, between lines 2 and 3, insert the following:

‘(11) Minimum share of settlement of award.—

‘(A) In general.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorney’s fees from the total amount of such award.

‘(B) Exception.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.
"(C) DEFINITIONS.—In this paragraph:

"(i) ATTORNEYS’ FEES.—The term ‘attorneys’ fees’ means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any:

"(aa) final court decision;

"(bb) court order;

"(cc) settlement agreement;

"(dd) arbitration procedure; or

"(ee) alternative dispute resolution procedure (including mediation); less

"(ii) AWARD.—The term ‘award’ means the sum of—

"(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

"(aa) final court decision;

"(bb) court order;

"(cc) settlement agreement;

"(dd) arbitration procedure; or

"(ee) alternative dispute resolution procedure (including mediation); plus

"(II) any attorney’s fees awarded under subsection (g)(1) with respect to the participant or beneficiary (or the estate under this subsection).

"(I) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.

On page 169, between lines 12 and 13, insert the following:

"(II) MINIMUM SHARE OF SETTLEMENT OF AWARD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys’ fees from the total amount of such award.

"(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

"(C) DEFINITIONS.—In this paragraph:

"(i) ATTORNEYS’ FEES.—The term ‘attorneys’ fees’ means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection. Such term shall not include reimbursements for any expenses incurred in connection with such representation or work.

"(ii) AWARD.—The term ‘award’ means the sum of—

"(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

"(aa) final court decision;

"(bb) court order;

"(cc) settlement agreement;

"(dd) arbitration procedure; or

"(ee) alternative dispute resolution procedure (including mediation); less

"(II) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.

Mr. BOND. Mr. President, several days ago in debate in this Chamber, I talked about how employees of small businesses might lose their health care coverage if the provisions of McCain-Kennedy went into effect unamended. The junior Senator from North Carolina indicated that I was interested only in protecting the businesses. Unfortunately, he misconstrued my arguments because we are concerned about patients. We hope the employees of small businesses will continue to get the benefit of health insurance coverage by their employers.

I spoke about employees, however, because if this bill is not significantly amended, there are not going to be patients covered by this bill; they are going to be thrown out of health care coverage. We are concerned about patients.

It is not only small businesses that should be worried about this bill, but employees of small businesses should also be worried about this bill.

This amendment I offer today provides additional protection to patients. It provides protection to patients from trial lawyers, so we will find out whether my colleagues are more interested in taking care of patients or ensuring that the rights to sue by trial lawyers are unabated.

There are a lot of words in the McCain-Kennedy bill, but there are also some heavy-duty new lawsuits that are authorized.

The Federal claim of action really begins on page 140. It starts off:

"IN GENERAL.—In any case in which

"(A) a person is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or agent of the plan, issuer, or plan sponsor—

"(B) any cause of action starts off, No. 1, regarding whether an item of service is covered under the terms; No. 2, regarding in taking care of patients or ensuring that the rights to sue by trial lawyers are unabated.

There are tons of laws that are covered under this bill if it is not amended. The amendment effectively prohibits obscene contingency fees whose large judgments are won and the plaintiff’s attorney. I realize lawyers perform useful services when someone is harmed. They should be justly compensated.

However, this amendment says enough is enough. The amendment is very simple. Any patient who gets a monetary award through all the new lawsuits permitted in the McCain-Kennedy bill must get at least 85 percent of the award. If you are hurt, doesn’t it make sense to receive 85 percent of it? I can’t see that being objectionable. The amendment effectively prohibits

Some may say lawyers will not take the cases. When we talk about setting a patient minimum, we need to be cautious. Just as it doesn’t help to have a right to sue your HMO when your employer drops health care coverage, as would happen under this bill if it is not amended, it doesn’t help to have a minimum statute of time if it means no attorney will take your case. This amendment includes two strong protections to make sure access to attorneys is not threatened.
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First, before the patient minimum is applied, the amendment allows the attorney to be reimbursed for expenses incurred during the case. Only after expenses are deducted from the award will a patient minimum apply. In practice, this means an attorney can never lose money on a lawsuit that results in an award.

Second, we exempt certain lower level awards from the patient minimum requirement. This ensures that the simpler cases that don’t promise large awards can still be pursued and are not limited by the requirement that the patient gets 85 percent. We have set $100,000, which is above the median judgment normally entered in malpractice cases, as the limit.

I am not sure any State has taken the exact approach this amendment establishes. The Patient’s Bill of Rights, which 14 States have established caps on attorney fees. The strictest cap is in New York where lawyers are limited to 10 percent of awards over $1.25 million. That is the equivalent of a 90-percent patient minimum. California has the most well-known cap on attorney fees. In California, lawyers are limited to 15 percent of any award in excess of $500,000. When you add Florida and Indiana, which also have a 15-percent cap for the highest level awards, 4 of the 14 States that established caps on awards of attorney fees essentially require that plaintiffs get at least 85 percent of an award.

Have these caps served as a barrier for plaintiffs? Have they denied access to the courts? From the data we have, we conclude they definitely have not. The State with the toughest cap, New York, produces almost twice as many malpractice awards per capita and California’s rate is about the average. Indiana, with a 15-percent cap, falls below the national average.

It is hard to argue that the caps threaten access to the courts through attorneys. The patient minimum has existed for at least a decade. By not changing the law, the State legislature seems to have come to the same conclusion.

What do we take 85 percent? When you take out expenses and exempt lower level awards, patients should get the overwhelming amount of an award. For a patient who has been harmed, it is perfectly reasonable to ask that that patient get 85 percent. For States with similar requirements, there does not seem to be a barrier to finding attorneys and bringing a lawsuit if you believe you have been harmed. To my knowledge, none of these States has repealed their caps, demonstrating that at least the State legislatures think they are working. By choosing 85 percent, the lowest minimum amount to which a patient is entitled, this amendment simply reconciles Federal law with laws that seem to be working in four of the largest States in this country.

We know of the horror stories. We have heard too many horror stories. I point out an August 16, 2000, article in the Los Angeles Times about Rodney King, who was brutally beaten by Los Angeles police. He is taking a beating, and from his lawyers, he says. They made more money on his case than he has. By his reckoning, they cheated him out of more than $1 million. In a nutshell, the man whose 1991 videotaped beating made him an international symbol of police brutality and civil rights, who had a deal with his lawyer to pay them only 25 percent of the award but they wound up showing King’s lawyers received $2.3 million while he got only $1.9 million.

Another lawyer in California won a class action suit for police brutality. He says he thought he had a deal with his lawyer to pay them only 10 percent of the award but they wound up showing his lawyer received $19,800 as a contingency fee, and collected $378,000 in fees awarded by the trial court; the client received $310.

I have other examples. But one of my favorites is the Lawyers Weekly report that a growing number of lawyers are putting arbitration clauses in the fine print, shielding them from being sued by another trial lawyer if the clients say they botched a case. The lawyers themselves who are making the money off the large judgments prefer their disputes go to private arbitration because arbitration is faster, cheaper, decisions are made by other lawyers rather than juries, and there is no public record. So there are certain instances in which it does not make sense to allow unfettered access to the courts for people with a claim.

If a patient is harmed and wins an award through a lawsuit, it is perfectly reasonable to expect the patient will receive at least 85 percent of the money. Almost 180 pages of the bill protect patients from trial lawyers. I see the Senator from North Dakota is on the floor. I ask after the other Senator to see in a Congressional Research Service report No. 94-870-8. I commend anyone to that CRS report which describes these laws.

I have not found any Federal law on attorney’s fees that is as restrictive as is proposed in this amendment. I repeat, there isn’t any Federal law on attorney’s fees that is as restrictive as that proposed this morning on the Patient Protection Act.

Why, when we have this issue of managed care organizations not providing the care required for patients and we have the opportunity in this legislation to hold the managed care organization accountable, why is it that those who don’t like this Patient Protection Act try to carve the ground out from under patients once again with a restrictive proposal that almost certainly would diminish the opportunity of a patient to acquire access to an attorney to make that HMO accountable?

I find it also interesting that the concern behind this Bond amendment is apparently excessive attorney fees. There are striking excesses with respect to managed care organizations. Let me mention just a couple.

What about excessive salaries, excessive stock options? I don’t hear anyone coming to the floor of the Senate complaining about $50 million in compensation that the CEO of a managed care organization receives. I don’t hear anybody saying that is an excessive salary for an individual to receive. How is it these CEOs get to be rewarded in amounts a large as $50 million? By pinching on access to care that ought to be delivered to patients.

The opponents of our patients protection bill are not here on the floor saying that $50 million paid to the president of a managed care organization is excessive. We just hear them come out here to say we are worried about an excessive fee received by an attorney who is representing a patient trying to hold an HMO accountable.

Mr. REID. Will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield, of course.
Mr. REID. Is the Senator aware that William McGuire of UnitedHealth Group held $41.1 million last year?

Mr. DORGAN. I am aware of that.

Mr. REID. Is the Senator aware that there were unexercised stock options worth an additional $88 million by various people with that company, but McGuire held the most stock options, worth $358 million? Is the Senator aware of that?

Mr. DORGAN. I am aware of published reports that say that, yes.

Mr. REID. Did I hear the Senator say he had not heard any debate on the Senate floor this past 10 days about this excessive, exorbitant amount of dollars to the people who run these companies and not helping the patients? I have not heard that; has the Senator?

Mr. DORGAN. The Senator from Nevada is correct. We have not heard one word from opponents to our patients protection bill about the salaries, stock options, and the compensation paid to those who run the managed care companies.

Let me go back to the intention of our Patients Bill of Rights, and then bring it to this amendment. The reason we are here in the first instance is because too many people in managed care organizations are not getting the care they need. Too many people do not get the care they need or expect from their health care plan, and they are not able to hold the health care plan accountable for it.

This legislation says there ought to be protections in place for patients. Patients ought to be able to know all their options for medical treatment, not just the cheapest option. That is a patient's right. That is what we say in this legislation.

Some people do not want that. The managed care group does not want that. The insurance companies do not want that. We say a patient ought to have a right to emergency room treatment when they have an emergency. That is a right that is in this bill that we are trying to get passed. I understand why the managed care groups don't want that. I understand why there are some who oppose it here in the Senate because they stand with the insurance companies and the managed care groups. We stand with the patients saying there ought to be basic protections in place.

This amendment is one more attempt, by our opponents, in a series of attempts just to undermine this bill, to say no, we don't stand with patients, we don't stand with patients in order to allow them to exercise the rights that are in this bill. What our opponents would like to do is chip away and carve away at the foundation of this bill so at the end of the day the patients do not have these protections and the patients do not have these rights.

This amendment, if it were genuine, if it were really concerned about fees, would not just address attorney's fees. They are trying to make the compensation paid to those who run these organizations, who make $50 million, $10 million, or $250 million in stock options. Is that excessive? We don't hear anyone on the floor of the Senate talking about that. Why? Because this is not about fees. It is about with whom do you stand. It is about people who really do not want this legislation to pass. They have been dragging their feet now, day after day after day, bringing out amendments to try to defeat the Patients Protection Act. In every case, in every circumstance, they have failed. This amendment is the latest attempt to do that. The amendment limits attorney's fees as, I understand it, to an amount below all other attorney's fees that are now written in Federal law. We have it in a number of places in Federal law. I have referenced the CRS report. All Senators can look at it.

This amendment proposes we limit attorney fees below all those other areas mandated by federal law. Why? Because here we are talking about patients. We are trying to advocate on behalf of patients. Why would anyone want to take away the patients' rights when they are confronting big organizations?

One of the interesting things is I hear all this talk about a patient who would hire an attorney to make a managed care organization accountable. I hear no discussion about the legion of attorneys who are hired by managed care organizations to deal with patients. Do you think the big insurance companies and big managed care organizations do not have a battalion of lawyers they pay? Of course they do. Maybe you want to limit their opportunity to use lawyers? I don't think so. I don't propose that.

Then why would you want to limit the opportunity of patients to use attorneys to make an HMO accountable? This just makes no sense on its face. It is one more step, one more attempt to try to defeat this bill. We have had it day after day after day, amendment after amendment. I hope my colleagues will understand the last thing we ought to do is weaken the ability of the American people, who as medical patients expected certain care but did not get it, to be able to hire an attorney and make that managed care organization accountable.

I would say one more thing. I would like those who offered this amendment, who are indeed concerned about "fees," to be concerned about all fees. If they are concerned about lawyer's fees, good for you. Then be also concerned about $50 million, and $250 million in compensation paid to a CEO who runs a managed care organization. Be concerned about those fees as well. You would be concerned, bring both amendments to the floor and let's debate both amendments.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The two leaders are on the floor. I think they are about ready to propose a unanimous consent request. If they are not now, would the Senator mind yielding when they are ready?

Mr. GRASSLEY. I would rather wait. Hopefully, they will do it right now.

Mr. REID. Madam President, I suggest the absence of a quorum and I ask unanimous consent that the time run equally on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, I support the Bond amendment and want to speak specifically to that point. It also deals with the point I have made in other speeches—that this is a very good bill. But during the process of considering giving patients a bill of rights against insurance companies, I think we always have to keep our eye focused upon the fact that we want to give treatment for patients and not tribute for lawyers.

This amendment takes a very good approach in fixing the Kennedy-McCain bill's provisions dealing with the liability parts of the bill, which, in my view, amount to nothing less than a trial lawyer's pot of gold.

I have always believed that medical malpractice liability laws should provide adequate compensation for those who are truly injured while reducing frivolous lawsuits.

I firmly believe that it is a principle of any case, including patients against insurance companies, that people who are harmed ought to be made economically whole. But there has to be a balance between frivolous lawsuits and making sure that people can be made whole if harmed.

I think the Kennedy-McCain bill fails to strike that very carefully needed balance and instead creates a lottery for trial lawyers, which not only inflates the cost of health insurance for all of us but also leads to more and more hard working Americans losing health coverage.

We shouldn't do anything in this bill that will cause people to lose their
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health insurance. We already have 42 million uninsured Americans. The best opportunity for affordable health insurance is at employer-related health insurance programs.

Don’t forget that we have over 50 million insured Americans under the self-insured plans that employers offer. The case is that most of these self-insured plans come from small business more so than large corporations. We should not be putting these employers and their employees in a situation where that employer, because of the threat of suit under this bill and losing a generation and a lifetime of savings in that family business, will not want to take a chance of losing his investment which has been built up through a family working together and investing everything they have into the business because of a threatened lawsuit. If that is a threat, then you can understand why the employer might just eliminate their self-insurance and in the process throw the employees into a situation of having no health insurance, resulting in increases in the number of 42 million people in this country who now do not have health insurance.

Here is how I believe this will inflate costs, and thus cause employers and employees to not have health insurance coverage. Except for the $5 million cap that is in this bill on punitive damages in Federal courts, the Kennedy-McCain bill sets absolutely no limits on what damages trial lawyers can collect.

When it comes to patients and those harmed because of lawsuits, it ought to be an axiom of all of our public policy that the people harmed, not lawyers, should get most of the money from a lawsuit.

Of course, the Bond amendment then makes this more true than under the existing practice. You have to consider that trial lawyers generally collect 40 percent of their clients’ recoveries. In fact, in many cases, you can have the lawyer’s fees plus other court costs work out to where the person harmed is getting less than 50 percent of what the jury might award.

Trial lawyers generally collect 40 percent of their clients’ recoveries. Incentives for bringing a case regardless of merit are then extremely high. It is a perverse incentive to go to court and to go to trial.

But the real jewel in the trial lawyer’s crown is this bill’s provision that allows the same suits for the same claims brought by the same trial lawyers, whether they proceed in State or Federal courts.

Even though this debate is supposed to be about patients, the Kennedy-McCain liability scheme isn’t about patients at all. It is about trial lawyers. In fact, as you can see, I call this the “trial lawyers lottery ticket.” I want to show where five out of six opportunities for monetary awards are virtually jackpots for lawyers.

Take a closer look. I would like to just scratch the trial lawyer’s lottery ticket and see what the lawyer gets. Let’s start with medical costs.

Peel off the lottery ticket top, both for State court and Federal courts, you will see “bingo”—no limit on what trial lawyers can collect in both State and Federal court. That is a jackpot that ought to make any lawyer happy. But why quit when you are ahead? Let’s take a look at what is in store on pain and suffering. Peel that lottery ticket, and you can see what you get on pain and suffering. It is another jackpot—unlimited damages in State and Federal courts.

The sky is the limit. That is where the trial lawyers are really winning big.

Now, for the trial lawyer’s favorite damages, punitive damages, they stand to reap tens of millions of dollars. Let’s see what this ticket offers the trial lawyers. So we pull off the punitive damage square. You can see unlimited damages in State court, and up to a $5 million cap in damages as far as the Federal courts are concerned.

This is another big win. Talk about good luck: unlimited punitive damages in State courts, and in the Federal courts almost unlimited—a $5 million cap. If you ask me, that is hardly any limit at all.

Mrs. BOXER. Will the Senator yield for a question?

Mr. GRASSLEY. No, I will not. I only have 10 minutes. And we lost some other time on this situation of waiting for the leader.

Mrs. BOXER. On my time. I would ask a question on my time.

Mr. GRASSLEY. Finally, if I could, let’s not forget about class action lawsuits where multimillion-dollar damages are the name of the game. So here again we peel off the lottery ticket. You can have class action lawsuits in State courts. You can have class action lawsuits in Federal court.

So bingo again. Kennedy-McCain has no limits on class action lawsuits. It even creates new grounds for bringing class action cases.

As you can see, everybody wins—every lawyer, that is—with the trial lawyers’ lottery ticket.

What we get back to then is that we are more concerned about treatment for trial lawyers, not treatment for patients. It seems ironic that the very individuals this bill claims to protect are the ones who lose. Despite what its sponsors say, the bill before us exposes employers to the constant threat of litigation, even for simple administrative tasks and clerical errors.

Mr. GRASSLEY. What is the ultimate result? What everybody says they do not want to happen. People lose coverage. When this sort of perverse incentive is put out there to threaten small business, particularly those that are self-insured—because they do not want to put in jeopardy their lifetime of work but the people that are the biggest losers in this bill are the people in this community, so they can have good workers and pay their workers well—and, most importantly, workers want good fringe benefits; and the No. 1 fringe benefit they want is health insurance—it puts it in jeopardy employer-based coverage. Then the ranks of the uninsured go up tremendously.

I yield myself more time.

Mrs. BOXER. Reserving the right to object, I would ask for 1 minute as well upon the conclusion of the Senator’s remarks.

Mr. GRASSLEY. I object to that. There is plenty of time on that side for the Senator to take her time. I am taking time off our side.

Madam President, how much time do I have left?

The PRESIDING OFFICER. There are 3½ minutes left for the sponsor.

Mr. GRASSLEY. I would like to take 1 minute of that 3½ minutes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. So the ranks of the uninsured are going to go up. There are 42 million uninsured now. Do we want to increase that? No, nobody wants to increase that, but that is going to be the end result when these self-insured plans are dropped. Then, of course, the employees become the biggest losers in this lottery.

So I urge my colleagues to reject this lottery and to support the Bond amendment, which creates much needed patient minimums and ensures that patients, not lawyers, get fair compensation for their losses.

I reserve the remainder of the time and yield the floor.

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. DASCHLE. Madam President, I will use my leader time and not take any time off the agreed-upon time allocated for the amendment.

Madam President, I would just say on the amendment, there is nothing in there that would limit the lawyers’ fees for the insurance industry. Those are unlimited. While they limit the legal fees for lawyers defending patients, there is nothing to limit the legal fees for lawyers defending HMOs and insurance companies. I find that quite ironic.

Mr. DASCHLE. Madam President, I want to propose a unanimous consent request. I will not do that at this time because I have been talking with the distinguished Republican leader. But I want to propose a request, as I had indicated, I would, to lock in the debate for the supplemental.

There are a number of amendments that have been suggested. I know the unanimous consent agreement has been
cleared on our side now for I think 3 days. We have been unable to get consent from our Republican colleagues for the last 3 days.

Now I am told they may object to even going to the supplemental, at least initially. If that happens, of course, I will be forced to file a motion to proceed. But I think it is important. There was a story in the Washington Times dated June 26, and I think for the RECORD it would be helpful if I just read it because I think it does capture the urgency with which we address the supplemental. So I will take just a moment to read it:

The U.S. military would be forced to curtail or cancel training exercises, facility repairs and equipment maintenance if Senate Majority Leader Tom Daschle holds up a pending emergency budget until late July, according to Pentagon projections.

The Pentagon provided a list of hardships at the request of Senate Minority Leader Trent Lott, R-Miss., used the list yesterday to criticize Mr. Daschle for threatening to delay action on a $6.5 billion supplemental budget bill until the Senate completes work on a contentious patients’ bill of rights. That delay would push approval of the fiscal 2001 defense legislation until late July or beyond.

“If we don’t get this bill completed by mid-July, we’re going to have canceling of base-property maintenance, and holding some of our deployed units where they are overseas until the end of the fiscal year,” Mr. Lott said. “So we’re really pushing the envelope when it comes to the needs of our military personnel in health as well as in training housing.”

Picking his first confrontation with Democrats since they took control of the Senate, Mr. Lott also accused Mr. Daschle of sacrificing the nation’s urgent energy needs in order to push through the health care bill.

Near the end of the bill’s funding goes for replenishing military training accounts depleted by peacekeeping missions in the Balkans and elsewhere. Without emergency funding soon, the military would be forced to:

Cut all nonessential operations such as pilot training, steaming hours, fleet exercises and air combat training maneuvers. The Air Force and Navy would ground some pilots and aircraft.

Perhaps hold deployed units overseas until the new fiscal year begins Oct. 1.

Cancel training for units getting ready to deploy for peacekeeping duties.

Stop or slow down maintenance of equipment at large regional depots.

“This will lead to the loss of jobs for many Americans,” Mr. Lott’s office said.

The Joint Chiefs of Staff originally wanted about $9 billion in emergency funding in January, but incoming Defense Secretary Donald Rumsfeld cut the request. The White House scrubbed the numbers and presented the $6.5 billion proposal. The House already has approved that number, as did the Senate Appropriations Committee.

Mr. Lott said he suggested the Senate OK the emergency defense bill by unanimous consent, since both chambers approved Mr. Bush’s list of spending requests without adding home-state projects, as was the practice

Madam President, I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

From the Washington Times, June 26, 2001

DASCHLE DELAYS; MILITARY WAITS FOR EMERGENCY FUNDS

By Rowan Scarborough and Dave Boyer

The U.S. military would be forced to curtail or cancel training exercises, facility repairs and equipment maintenance if Senate Majority Leader Tom Daschle holds up a pending emergency budget bill late July, according to Pentagon projections.

The Pentagon provided a list of hardships at the request of Senate Minority Leader Trent Lott, R-Miss., used the list yesterday to criticize Mr. Daschle for threatening to delay action on a $6.5 billion supplemental budget bill until the Senate completes work on a contentious patients’ bill of rights. That delay would push approval of the fiscal 2001 defense legislation until late July or beyond.

“If we don’t get this bill completed by mid-July, we’re going to have canceling of base-property maintenance, and holding some of our deployed units where they are overseas until the end of the fiscal year (Sept. 30),” said Mr. Lott, “So we’re really pushing the envelope when it comes to the needs of our military personnel in health as well as in training housing.”

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Mr. Lott said he suggested the Senate OK the emergency defense bill by unanimous consent, since both chambers approved Mr. Bush’s list of spending requests without adding home-state projects, as was the practice with supplemental bills the past few years. But Mr. Lott said Mr. Daschle, South Dakota Democrat, rejected that idea.

Mr. Daschle, despite earlier indications that he would allow a speedy vote on the spending bill, told colleagues Friday that he would not bring the floor to the floor until the Senate completes work on a patients’ bill of rights.

Republicans have been slowing down final passage of that legislation, raising concerns about employment and increasing premiums. Their tactics could derail Mr. Daschle’s stated goal of finishing the bill by Friday.

The fate of the health care bill is particularly sensitive for Mr. Daschle because it is his first test of his ability to move legislation since becoming majority leader. Senate committee reports take up new legislation due to prolonged negotiations between the parties on how to reorganize and whether to guarantee votes on Supreme Court nominees.

Daschle spokeswoman Molly Rowley said Mr. Daschle wants to complete the patients’ bill of rights, the spending bill and the reorganization before the Senate adjourns for the Fourth of July recess.

“We think all three of these things can be done this week before we leave,” she said.

Sen. Robert C. Byrd, West Virginia Demo- crat and chairman of the Appropriations Committee that approved the spending bill last week, said yesterday he was “not in a position to comment” on Mr. Daschle’s intentions.

“The leader has to balance a lot of things,” Mr. Byrd said, “I’m sure he’ll get to the [spending bill] when he thinks he can.”

Mr. Lott said Mr. Daschle rejected his suggestion to approve the spending bill by today, making it unlikely that a conference bill could be worked out before the House ad- journs Friday for a weekend Independence Day vacation.

“We need to get this defense and other emergency supplemental done as soon as possible because it is critical for nonessential operations like pilot training, steaming hours, fleet exercises,” Mr. Lott said, “I’m very worried by that by not approving the defense supplemental appropriations bill we’re asking for more delay and even more problems with our defense needs.”

Mr. Daschle has been threatening to cancel the Senate’s vacation to compel Republicans to finish work on the health care bill.

Republicans and Democrats have been sniping politely about legislative priorities ever since the power shift in the Senate. Re- publican lawmakers have been pressing for passage of President Bush’s energy plan, but Mr. Daschle has expressed more interest in the health-care legislation, as well as increas- ing the minimum wage and passing a hatecrimes bill.

Mr. Lott said yesterday that Democratic leaders do not intend to address the energy issue by the end of July.

Congress is in recess for the entire month of July, meaning the Senate would not take up the administration’s energy plan until September at the earliest.

House and Senate Republicans met with White House representatives yesterday and agreed to call attention to Democrats’ inaction on an energy plan over the recess next week. The meeting took place in the of- fice of House Majority Whip Tom DeLay, Texas Republican.

Mr. DASCHLE. Madam President, Senator STEVENS and Senator BYRD came to me a couple of weeks ago and asked for a special exemption from the understanding we have been working under here in the Senate that no offi- cial action can take place on any legis- lation until we have broken the im- passe on the organizing resolution and assigned each committee its full com- plement of members. I, of course, agreed, especially in the lousy state of urgency, to allow the Appropriations Committee to work its will and to finish this supple- mental, which is what it did. I applaud both of them for taking the action they did.

Mr. LOTT. The House, of course, has now acted. Now it is up to us. A couple of days ago the President called me and said: Above all, I hope that you will pass the supplemental before you leave. I gave
The President my personal assurance that we would pass the supplemental here in clearly—and forcefuly—the alternative to not acting is to risk what the Washington Times has reported, to wreak havoc with the military, to keep them from getting their job done, to actually endanger our military personnel in same ways. We are not going to be accused of endangering the military. We have to do what the President, the Commander in Chief, requested. That is what we are doing here.

We will offer the unanimous consent request to proceed. If that fails, I will file a cloture motion on the motion to proceed, and when it ripens we will have the vote. But we will have the vote.

Mr. DORGAN. Will the Senator from South Dakota yield?

Mr. DASCHLE. I am happy to yield.

Mr. DORGAN. I ask the majority leader to ask the case that the three issues that are outstanding—finally the Patients Protection Act, passing the supplemental, and the organizing resolution—could be done rather quickly? We have, after all, been debating the Patients Protection Act for some long while. We have gone through most of the major amendments. We started debating this issue 5 years ago. It has now been on the floor for some while. We have done most of the major amendments. If we could complete the Patient’s Bill of Rights later today we could move on to other business. I am a member of the Appropriations Committee. When we passed the supplemental bill, it was passed almost with no amendments in the House of Representatives; that bill is very important—we did it with very little debate in the full Appropriations Committee. The organizing resolution can be completed, I understand, with perhaps one vote.

It is the case, isn't it, that all of this could be done perhaps this evening if we had cooperation? Is that not the case?
right now to consider this very important supplemental appropriations resolution. I would like that to be considered.

Failing that, I think we are not going to object to agreeing to this unanimous consent request, but there are 35 amendments now—45 or 55. Some of them clearly are important to Senators involved on both sides of the aisle. Senator BOND has a couple of them. Senator BOXER has one, I think she probably feels very strongly about. Senators CLELAND, ROBERTS, and others have amendments with regard to the B–1 bomber. Senator CONRAD, I haven't talked to him, but he has one on Turtle Mountain Indians. As you look down the list, some of them are not just relevant, some of them are amendments about which Senators are going to care greatly and it is going to take us as long as we are talking about an extended period of time at this point to complete action on this legislation. I regret that.

If we could get an agreement to go to it now—I see Senator MCCAIN, I know he hasn't been here, I feel very strongly about—if we could do that now, maybe we could get some time agreements and move to completion.

I see the distinguished Senator from Alaska, the senior member of the Appropriations Committee on the Republican side, who wants to speak. I am glad to yield under my reservation, Madam President.

Mr. STEVENS. Madam President, I am here to urge that the Senate take the bill up now. I think if we took it up now, working with the people who have those amendments, we ought to be able to finish it today. I think if we finish today, the House will stay, and we could complete this before the recess. If we wait until Monday after the House goes home, it will be very difficult to get them back, even from the point of view of getting travel arrangements for the House to come back on Monday or Tuesday. I cannot speak for the chairman, but I can say that we both have sought for the last 2 weeks to try to have this bill become law in time to meet the needs of the armed services. Very clearly, they have been demonstrated now. There is no question that if we do not get this thing passed, there is going to be an impact on the armed services. I will commit myself to both leaders to work with all Members to see what we can work out, to constrict the time and finish it tonight, if we can take it up now. That might put pressure on the other bill, too.

I urge that the organization resolution get resolved. I personally say to both leaders, my Kenai Peninsula is on fire. That is where I want to go fishing next week, too. So there is a disaster and the urgent call of the pink salmon to respond to.

I pledge myself to work even harder than Senator REID does to find some way to constrict this time so we can vote on this and get it to the House and bring it back so we can all vote on the bill. I will urge the leaders to let us have the reins for a few hours and see what we can do. I think we can finish this bill tonight.

Mr. LOTT. Madam President, under my reservation, I will propound as an alternative unanimous consent agreement the same proposal the majority leader has made, except that in the first paragraph under consultation with the Republican leader, I would add “may proceed immediately to the consideration of Calendar No. 76, S. 1077.” I make that in the form of a unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Madam President, reserving the right to object, I have offered this to our Republican colleagues now for several days. I have said, give me a definitive list that will allow us to finish our work on the Patients' Bill of Rights. We will proceed immediately to the supplemental and then return to the Patients' Bill of Rights with the understanding that we will complete work on that as well.

Unfortunately, our Republican colleagues have been unable to do that. My offer still stands. Give me a definitive list that we can complete before we leave, and I will go immediately to the supplemental. I have offered it privately to Senator LOTT. I have offered it to our other colleagues. That offer still stands. Until we get that assurance, I will object.

Mr. LOTT. Under my reservation, I have one inquiry. I thought we had a definitive list. It may be big, but I thought we had a list of amendments still pending out there. Mr. HATCH, I have not seen it.

Mr. LOTT. We will work on that.

The PRESIDING OFFICER. Is there objection to the original request?

Mr. REID. While the two leaders are here, if I may chime in, first of all, Senator DASCHLE has read the importance of this supplemental. If it is as important as has been read into the RECORD, it would seem to me the House should hang around a little while longer.

I say to the Republican leader and our majority leader, I haven't seen a list of amendments. Everybody knows we have just a few important amendments to finish the Patients' Bill of Rights. If we are given a list of amendments that is large in number, I don't think that is in keeping with what I think should be the general agreement to finish the legislation. If we are given a list of 10, 20, 30, 50 amendments, I suggest to the majority leader, that is not the consensus of the legislation. We have a few amendments left to go.

Mr. LOTT. If Senator DASCHLE will yield to respond briefly, I thought you had been given a list. I am going to make sure you have it and then we can evaluate that and work on it.

Mr. DASCHLE. Madam President, I object to that. Obviously, I have to consult with the managers of the legislation on our side about the amendment list, which is very long, and I have it now, and about what is possible in terms of completing it. I don't think it is possible at all to set an arbitrary time, in view of the very serious amendments that are pending on the Patients' Bill of Rights. So I object to that request.

Mr. LOTT. Madam President, I object to that. Obviously, I have to consult with the managers of the legislation on our side about the amendment list, which is very long, and I have it now, and about what is possible in terms of completing it. I don't think it is possible at all to set an arbitrary time, in view of the very serious amendments that are pending on the Patients' Bill of Rights. So I object to that request.

Mr. STEVENS. Reserving the right to object, Madam President, I am constrained to say with due respect to the majority leader and the majority leader and majority whip, I find it very difficult to deal with the concept putting ahead of this supplemental the completion of two very controversial items. We know the House is going home, and having spent 8 years here on the floor as leader, I can tell you I have never seen the time when any Senate could dominate the House. We have a bipartisan agreement to go home. They have told me they will stay if we get this bill done and over there today.

I do believe that the interest of national defense should come ahead of concepts that are dealing with here in terms of whether it is the Patients' Bill of Rights or organization of the Senate. We know they told they cannot train in July and August unless we get this bill done this week. It is not something on which we have been dilatory. We have been trying for a long time.

I have great respect for the leader and the assistant leader, but I cannot stay silent and have a concept that because the leader has stated these things must be done, they must be done before the supplemental is brought up. That is unacceptable to this Senator. I think it is unacceptable to the Senate. I hope it is.

I say with great humility now that the needs of our people in the armed services must come ahead of concepts of scheduling or prerogatives here on the floor. These needs are very real. We have twice held hearings now where the chiefs have told us what is going to happen if this bill is not signed by the President before the Fourth of July.

Even the concept of taking up and putting it now and letting it wait for the House to come back is unacceptable to me because, again, we all travel and we know you can't let the House go home and expect they will come back
here on July 3 just before the Fourth of July. You can’t travel in this country that easy during that period.

So, Mr. President, let us proceed with this bill. We should put aside all other desires. There is no timeframe on the Patients’ Bill of Rights that matters to this country. It is a bill that must be passed, and I am going to vote for it. But it does not have the urgency of this supplemental.

This supplemental deals with more than that. It now deals with matters that are emergencies coming out of the disasters that have happened in this country this spring.

I hope the leader will accept my comment that I mean no offense to him. I have served under several leaders, and I admire both Senator DASCHEL and Senator REID for what they are doing. But this is an undue delay in terms of a request that has come on a bipartisan basis to put this bill aside for a few hours and pass a bill as important to the military of this country as is this supplemental.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHEL. Madam President, I remind my dear friend and colleague, the Senator from Alaska, in 1999, we took up the Patients’ Bill of Rights under a unanimous consent request and passed it in 4 days, with 17 amendments. Now we are told we can’t do it in 2 weeks. While we may differ on whether the supplemental is more or less important than the Patients’ Bill of Rights, I would hope we could all agree that completing action before we leave on a supplemental dealing with the safety of our troops is a top priority. The Pentagon places an extraordinary priority on this legislation—so much so that the Commander in Chief called to make sure that it be done this week. Certainly we can agree it is more important than fishing or any other kind of vacation we could be taking next week. While there may be some differences on other issues, I would think there would be unanimity that getting the supplemental done is more important than taking a vacation.

So that is what the issue is. We are not going to take a vacation until we have completed action on the supplemental. We are not going to leave until this is done. This is something that not only has been requested by the Pentagon but by the Commander in Chief as well; I would hope if the President makes additional calls, he will call the House and say: Don’t leave until we get this done. You have heard the Pentagon. Don’t leave until this is done. Vacations are secondary to work. We have to get it done.

I yield the floor.

Mr. STEVENS. Reserving the right to object, that is a little bit of a cheap shot. I am not talking about a vacation. I am willing to stay here as long as any other Senator. I am talking about the realities of the House. Leader, I am not going to forget that. That was a cheap shot, and for the time being, I object to the request.

The PRESIDING OFFICER. Objection is heard.

The AMENDMENT NO. 83

The PRESIDING OFFICER. Who yields time on the amendment? The Senator from Missouri.

Mr. BOND. Madam President, I reserve the remainder of my time. I believe there is more time on the other side. I want to give the other side another 19 minutes, but I believe we only have 2 minutes. I reserve those 2 minutes for the end of the debate, and I do have a couple of minutes after they have had an opportunity to present their views.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, with the consent of Senator KENNEDY, I yield myself such time as I may consume recognizing the Senator from North Dakota wishes to be recognized. I will not take long.

Many years ago, before I came to Congress, I practiced law. I was a lawyer. I was a trial lawyer. I am very proud of that fact.

With that brief background, I received a call last night from a lifetime friend. I have not talked with him in a while, but we went to high school together. We played ball together. We were inseparable friends. He did not have my phone number. I had moved. He called my office and said it was urgent.

He called because his son was in trouble. Why? Because they had hired a cheap lawyer. His son was in trouble, and he hired the cheapest lawyer. The young man is now in jail.

My friend from Missouri is a lawyer, a fine lawyer, I am sure. I refer to the pending amendment as the “cheap lawyers amendment.” You cannot find decent lawyers to take a case for 15 percent. Almost 50 percent of the cases in our Federal court system take 4 years to litigate, with files stacked as high as my desk. People work to prepare those papers representing people who are injured, hurt, and need an attorney. That is why we have contingent fees. It is hard to find lawyers to take even a good contingent fee case because they have to consume so much time and effort.

Of course, there are some people who are paid too much. I am sure, because they put in the time and it is a contingent fee. I sold my home in Virginia within the past year. The woman who sold my home was a good realtor. I tried to pay her a cent. I signed a contract with her. She made a ton of money on my home. She worked about a week. I don’t know, but she probably took a lot of time off during that week.

My home sold in a week. She made a lot of money for the few hours she spent on my home, but that is the way America works.

If we have people who need help, we need to have the full panoply of lawyers available so they can get a good lawyer.

My friend from Iowa had a chart and pleaded off medical bills: These people are going to get their medical bills. Well isn’t that too bad. If someone does something wrong, should they not pay your medical bills? Do you need to have a lottery, as he says, a lottery to get your medical bills paid? I hope not.

We have heard mentioned several times, if we are concerned about attorney’s fees, how much are these attorneys for these big HMOs making to prevent people from getting medical care? Let’s talk about that.

We talk about these cases in the abstract, but the fact is that attorneys, whom everyone wants to hate, are necessary; they help. I am proud of the fact I was a lawyer. I have four sons. Everyone of them is a lawyer, and I am proud of the fact that they followed in the footsteps of their father. My daughter is a schoolteacher. She married a lawyer. I am very happy for that.

We do not have to be shameful, concerned, or embarrassed about some lawyers getting paid a contingent fee. That is how people who are injured and hurt are allowed to take those cases.

Fifteen percent will discourage representation by good lawyers. My friends on the other side of the aisle talk about the sanctity of contracts. Why do we want to step in and tell States what lawyers can be paid based on a contract they get?

This amendment is only to protect HMOs as all the amendments on the other side, to try to derail this legislation. This amendment is a frivolous amendment. It has nothing to do with the merits of this legislation.

Mr. DORGAN. Mr. President, will the Senate from Nevada yield?

Mr. REID. I will be happy to yield to my friend from North Dakota.

Mr. DORGAN. The Senator from Nevada and I had a brief discussion previously about this issue. He is correct that this amendment attempts to limit the liability of patients to hold HMOs accountable.

The discussion by those on the other side who have offered this amendment talks about lawyers in a pejorative way on behalf of patients. Does the Senator know of any attempts by those who have offered this amendment to limit HMOs, managed care organizations, from using attorneys, or is this just saying we will limit patients from using an attorney to go after a managed care organization that did not provide the care they promised, but we will not limit managed care organizations from using attorneys to do whatever they want to do?
Mr. REID. Madam President, I answer as follows: Of course, there is nothing in the way of amendment to limit what attorneys for these wealthy, big, sometimes brutal HMOs are paid. But remember, I say to my friend, that people who are seeking help from a lawyer are looking for a lawyer who will do it not on an hourly basis but who will do it on what is called a contingent-fee basis. They have no money to hire one of the big HMO lawyers, so they look around and find somebody who will take their case on a contingent-fee basis.

I say to my friend, a 15-percent contingent fee will not get a good lawyer. It will be like my dear friend who called me last night. In effect, the client will not wind up in jail but will end up with no compensation.

Mr. DORGAN. I ask my friend from Nevada to yield further for a question.

Mr. REID. I will be happy to yield to my friend for a question.

Mr. DORGAN. Is it not the case that this entire process, this debate on the Patient Protection Act, is an attempt to balance things a bit; that patients do not have the ability to confront a big managed care organization?

The Senator from Nevada knows the story we have talked about coming from his State: Christopher Roe, a circumstance where a 16-year-old boy was fighting cancer at the same time he was fighting his managed care organization for treatment and care he needed. That is not a fair fight, asking a young boy to fight an insurance company and fight for his life at the same time. That young boy lost his life on his 16th birthday.

The question is, Do those patients and their families have the right to get an attorney to hold the managed care organization accountable to deliver the care they promised? Do they have that right?

We have an amendment pending that says: No, we are going to limit the rights of the patients, we are going to limit the rights of citizens, but we are not interested in limiting the rights of the managed care organizations because we want to stand for them rather than standing for patients, and that is the issue.

Mr. REID. In answer to my friend, I have a CRS report that talks about awards of attorney's fees by Federal courts and Federal agencies. It is big. I know of no other Federal attorney fee statute that affects a State system.

This amendment is wrong. I appreciate very much my friend from North Dakota, who is not a lawyer, standing up and speaking for the injured people and the potentially injured people of America.

Mr. KENNEDY. Madam President, I ask for 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I rise in opposition to the amendment that has been offered. We have seen the efforts of the HMOs to undermine this legislation in different ways over the last few days. We are unable to bring this matter up for consideration by the Senate and get full consideration of the bill when we wanted to. This happened even during the last term when a majority of the Members would have supported a good, tough, effective Pa- tients' Bill of Rights. We have seen over the past days constant efforts to undermine this legislation.

We see another effort to try to appeal to the Members about the excessive- ness of decisions made in the courts to reimburse individuals in terms of wrongdoing by other industries.

The fact is, as we are reminded by our colleagues, we have spent 3 days talking about the sanctity of the contract between the patient. We have had amendment after amendment saying, look, this is enormously important. We do not want to permit any changes in that contract. We want to stick with that contract. We want to stick with it. Not only with the Senator's amendment we are saying basically that we are going to ride roughshod over contracts that are decided, permitted, and authorized by law in the States between attorneys and their clients.

I have listened a great deal to talk about how Washington doesn't know best; how we don't want just one solution to solve all of our problems. We had that debate early this morning and last night. We now have one solution: to override States in terms of what decision the States make for compensation going to court.

The fact is, how many working families, and how many middle-income families are able to go out and hire lawyers? For the time it will take to get some kind of recovery after they have been wronged, how many are going to be able to do that and follow this through the State courts? How many will be able to do it after they have been hurt, after their child has been disabled, after a wife or husband has been killed? How many? Very few. The fact is, they are not going to be able to be compensated unless they are able to convince a jury they are right, that there has been wrongdoing.

Does that bother people in the Senate? Evidently it does. There are only a very few Americans who can afford the high-priced lawyers to go into court and pursue this. This amendment undermines it for the rest of the people. It undermines it for working families, undermines it for middle-income families. That is the record. That is what has been done.

It doesn't surprise me. We have seen the powerful special interests over turn ergonomic regulations which were there to protect working families. Then we have the undermining of funding for the enforcement for protecting our air. There has been undermining of funding for protecting OSHA, effect- ively cutting back on the protection for workers. We are undermining regula- tions to protect workers, undermining the enforcement mechanism to protect consumers, and now they want to take this right away from individuals who will be harmed because of HMOs.

It is a common pattern. It is all tar- geted by the major financial special inter- ests versus the consumer. That is what this is about. They don't like to hear about it. They keep offering amendments that are couched in other language about all the people that will be unemployed. However, it is the power of the HMOs against the little guy.

This amendment says the little guy will not be able to defend their inter- ests in court. That is what this is about.

Make no mistake. They can't deal with us in giving protections to the consumers. They are going to take them away by denying them the rights to hold them to force them. That is what this is about.

Expect that after we have this per- centage, it will go a little higher, and then try to go even higher. Every time it does, it is an insult to middle-income and working families and individuals who will be harmed. Make no mistake, it is another assault on the funda- mental protections of this act. That is what this amendment is about. I hope it will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. How much time remains?

The PRESIDING OFFICER. The Senator from Missouri has 3 minutes.

Mr. BOND. I want to respond. Does the other side desire more time?

Mr. KENNEDY. I don't, no. It depends on what the Senator says. We don't intend to at this time.

Mr. BOND. How much time remains on the other side?

The PRESIDING OFFICER. Five and a half minutes.

Mr. BOND. I yield myself the remaining time. I think some of the things that have been said deserve to be an- swered.

Our efforts are not to undermine a bill but to deal with very bad provi- sions in the bill which skipped the committee, did not go through committee markup. We are marking up a bill now which we should have marked up in committee. It has come to the floor and we are a committee of the whole.

There are things that are in there that are very bad for patients, employ- ees, particularly of small business. Why are we inserting the Federal Gov- ernment into restricting attorney's fees? The States in this Nation have limited attorney's fees because they recognize the abuses of the trial law- yers. Under this bill, we are inserting
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the Federal Government into areas that the States have already acted on, and I do not want to risk them and provide limits on the amount that trial attorneys can take so the injured party can recover.

We have heard about the powers of special interests. Let me state who the special interests are that have a big stake in this, the four top trial lawyer PACs: Trial Lawyers Association of America; Williams & Bailey; Ness, Motley; and Angelos Law Offices, have given over $8 million, more money than all the HMOs together have given in politics.

If you want to talk about special interests, there are special interests on the other side, as well.

We believe the measures we brought forth are good for employees; for people who do not only want to be able to appeal the decision of an HMO, but they want to have health coverage.

Somebody suggests there have been problems with fee structures. They are not in this bill. We know from the State experiences that there can be a tremendous amount of wasted money.

I urge my colleagues to support this measure.

I yield to my distinguished colleague from Tennessee.

Mr. FRIST. Madam President, I rise in support of the Bond amendment. This is a Patients’ Bill of Rights and we should focus on the patient. We are talking about a patient who has been harmed or injured, gone through an appeal process and through the court. If there is a multimillion-dollar suit, it should be to help the patient, not to fund the pockets of the trial lawyers.

This is not a Patients’ Bill of Rights, not a trial lawyer bill of goods.

Mr. KENNEDY. Madam President, every time you pay the HMO lawyers, that comes out of patient protections. So the point raised is, if you put a limitation on the trial lawyers because they are going to get the benefits, why not put a limitation on the attorneys for the HMOs so it doesn’t come out of patient protections?

But they won’t do it. They won’t do it.

I yield the remainder of our time.

Mr. REID. What is the matter before the Senate now?

The PRESIDING OFFICER. Amendment No. 831.

Mr. REID. All time is yielded back?

The PRESIDING OFFICER. Time has been yielded back.

Mr. REID. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS — 62

Alaska        DeWine        Lincoln        McCaskill

Bacon         Dodd         Mikulski

Bayh          Domenici      Miller

Biden          Dorgan        Murray

Bingaman       Dunham        Nelson (FL)

Boxer          Edwards       Nelson (NE)

Breaux         Feingold       Reed

Byrd           Feinstein      Reid

Cantwell       Graham        Rockefeller

Carnahan       Karrin        Sarbanes

Carper         Hollings      Specter

Chafee         Inouye        Shelby

Cleland         Jefford       Snowe

Clinton        Johnson       Stabenow

Collins        Kennedy       Thompson

Conrad         Kohl          Torricelli

Corzine        Landrieu      Warner

Crapo          Leahy         Wyden

Daschle        Levin

Dayton         Lieberman

NAYS — 38

Allard         Gramm         Mankin

Allen          Grassley       Nickles

Bennett        Gregg         Roberts

Bond           Rangel        Santorum

Brownback      Reich        Sessions

Buning         Rehling       Smith (NH)

Burns          hatchett       Smith (OR)

Campbell       Harrison       Snowe

Craig           Inhofe        Stevens

Emminger        Kyl          Thomas

Enzi           Lott          Thurmond

Fitzgerald      Lugar         Voinovich

Frist          Borenoff      Wyden

Mr. REID. Madam President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

Mr. REID. The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The assistant legislative clerk continued the call of the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

AMENDMENT NO. 831

Mr. WARNER. Madam President, in consultation with the managers of the bill, it has been indicated to me this will be an appropriate time for this amendment to be raised. I send it to the desk as I believe it be given immediate consideration. However, we have to set aside, as I understand it, the standing order with regard to the Snowe amendment, I first ask unanimous consent that it be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object—and I will not object—we have been in consultation for the last hour or so. Senator Snowe of Maine is in the process of having her amendment drafted. She is a half hour away from being able to present something in writing that we can give to the Senator from New Hampshire. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 831.

Mr. WARNER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the amount of attorneys’ fees in a cause of action brought under this Act)

On page 154, between lines 2 and 3, insert the following:

‘‘(11) LIMITATION ON AWARD OF ATTORNEYS’ FEES.—

‘‘(II) IN GENERAL.—Subject to subparagraph (C), with respect to a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that action, the amount of attorneys’ fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action) may not exceed the sum of the amounts described in subparagraph (B).

‘‘(B) AMOUNTS DESCRIBED.—For purposes of subparagraph (A), the amounts described in this subparagraph are as follows:

‘‘(i) With respect to a recovery in a cause of action described in subparagraph (A) that does not exceed $100,000, the amount of attorneys’ fees awarded may not exceed an amount equal to ¼ of the amount of the recovery.

‘‘(ii) With respect to a recovery in such a cause of action that exceeds $100,000 but does not exceed $500,000, the amount of attorneys’ fees awarded may not exceed an amount equal to 25 percent of such excess recovery above $100,000.

‘‘(iii) With respect to a recovery in such a cause of action that exceeds $500,000, the amount of the attorneys’ fees awarded may not exceed an amount equal to 15 percent of such excess recovery above $500,000.

‘‘(C) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of an award of attorneys’ fees required under subparagraph (A) as equity and the interests of justice may require.

On page 170, between lines 21 and 22, insert the following:

‘‘(9) LIMITATION ON ATTORNEYS’ FEES.—

‘‘(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys’ fees subject to subparagraph (B), a court shall limit the amount of attorneys’ fees that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under paragraph (1) to the amount of attorneys’ fees that may be awarded under section 502(n)(11).

‘‘(B) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of attorneys’ fees allowed under subparagraph (A) as...
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Mr. WARNER. Madam President, I will do something unusual. I am actually going to read the amendment myself, because I think that colleagues and those observing floor operations from their offices can have a clearer understanding of exactly what is in the amendment.

Further, I do not desire to consume a great deal of time in the debate because we have just had a very thorough debate on the generic subject of attorney's fees. Therefore, the Senate has pretty well framed in their minds the parameters in which they will or will not accept an amendment that has the effect of, in my judgment, preserving a reasonable amount of attorney's fees and at the same time allowing such awards as those attorneys obtain for their clients to be given; again, with the thought that it is a Patients' Bill of Rights and they have a right to get a reasonable amount of such recovery as is obtained from them.

I shall read from the amendment—it is very short—I say a few words, and then rest my case.

On page 154, insert the following: Limitation on award of attorneys' fees—

(A) In general.—Subject to subparagraph (C), with respect to a participant or beneficiary who brings a cause of action under paragraph (1), the amount of attorneys' fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action)—

In other words, that would be awarded by the court without any restriction except to the court itself—may not exceed the sum of the amounts described in paragraph (2)

The sums I am about to recite, we carefully researched all types of actions similar to this to get a scale of attorney fees which I felt was clearly reasonable.

(B) Amounts Described.—For purposes of subparagraph (A), the amounts described in this subparagraph are as follows:

(i) With respect to a recovery in a cause of action described in subparagraph (A) that does not exceed $100,000, the amount of the attorneys' fees awarded may not exceed an amount equal to one-third of the amount of the recovery.

In years previous to coming to the Senate and on various jobs, I was actually a member of the bar and practiced law. I was assistant U.S. attorney in a modest trial practice myself. That has sort of been a standard for many years in the bar, the one-third.

(ii) With respect to recovery in such a cause of action that exceeds $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 15 percent of such excess recovery above $500,000.

(C) Equitable discretion.—A court in its discretion may adjust the amount of an award of attorneys' fees required under subparagraph (A) as equity and the interests of justice may require.

In other words, a judge may look at this fee schedule and decide, this particular counsel has done a great deal of work and therefore, I believe I should raise his fee within the parameters of the section itself.

Further:

(9) Limitation on Attorneys' Fees.—

(A) In general.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' fees, subject to subparagraph (B), a court shall limit the amount of attorneys' fees that may be awarded as the representation of a participant or beneficiary who brings a cause of action under paragraph (1) to the amount of the attorneys' fees that may be awarded under section 502(n)(11).

(B) Equitable discretion.—A court in its discretion may adjust the amount of attorneys' fees awarded as described in subparagraph (A) as equity and interests of justice may require.

This amendment simply sets, in my judgment, a reasonable category of fees. I have tried, as best I can, not to tread, by virtue of States rights, on the rights of the States to administrate its own bar and the like. I felt that discretion should be given to the trial judges, Federal and State, such as they can adjust that schedule of fees as they see fit.

The Senate, again, has, in a very thorough discussion under the Bond amendment, covered these issues and has in mind, again, its own framework wherein we can legislate on this matter by amendment or not legislate.

At this point, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, thank the Senator from Virginia for his efforts. I think there is an agreement that there needs to be a cap on attorney's fees. It is my strong sense and belief that if we had a cap of 33.3 percent that applied to Federal and State courts, that would be accepted by the majority of this body.

What I worry about is we just going back and forth with escalating amendments. There are very few benefits of old age. One of them is to remember what happened in the past. When we were doing the tobacco bill, we had amendment after amendment, a series of amendments, on caps on lawyer's fees. It got a little ludicrous. We finally had a majority vote for $1,000 an hour. It was clearly not an effort at legislating, but it was an effort at some kind of political advantage. I know that is not the intention of the Senator from Virginia.

I hope that once this is debated and, if it is not accepted, that perhaps we could move to an amendment after Senator Snowe's amendment that would be around 33.3 percent, State, Federal court, and end it. That is going to please everybody, but I think it would be something that we could all support and then get this issue off the table and get to the very important issues such as resolution of exhaustion of appeals that Senators Thune and Edwards are working on. On liability issues, Senator Frist has some important amendments, again, on liability issues, which we are narrowing down.

Hopefully, we can move forward. I thank the Senator from Virginia for his input.

Mr. WARNER. Madam President, if I might reply to my friend and colleague, there was no intention of the Senator from Virginia to repeat what is an historically important case on tobacco. I studied that case very carefully. There were three votes. My recollection is it was $4,000 per hour, at which time the Senate finally accepted. I would not participate in such a process. I just struck the first for the lower amounts of the recovery and basically scaled it to 25 and the other percentage as the rate of recovery increase. I would be happy to work with colleagues.

It goes to the question of just how much will be eventually given to the recipients who need these funds.

Mr. REID. Will the Senator yield for a question?

Mr. WARNER. Yes, of course.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The Senator from Arizona and the Senator from Virginia are on the right track.

This amendment, with all due respect to my dear friend from Virginia, is really—we have another 15-percent limitation in here above a certain amount. I think that the most expeditious thing to do would be to set this aside, for the time being, and get some of the lawyers and nonlawyers to sit down and see if they can work out something acceptable to the managers. I am sure if it were acceptable to the managers, we could accept this.

I ask my friend from Virginia, who believes he has talked enough on this, that we withdraw this amendment, for the time being, in anticipation of working something out that is clear and can be agreed upon.

Mr. WARNER. That is exemplified by the leadership the Senator shows time and time again on this floor. I don't view this as a partisan issue. This is an honest effort by the Members of the Senate to recognize that individuals should be given their rewards, but the attorneys should be given fair compensation. Therefore, Madam President, unless other Senators wish to speak at this time, I will—
Mr. McCAIN. If the Senator will yield, I say to my colleague from Virginia, the outcome of this amendment is not to the Senator's satisfaction, then I hope we can enter into negotiations that on a reasonable level—again, I just plucked 33 1/3 percent because it is in there in one category, across the board, simple, two lines, and perhaps move on.

I know the Senator from Virginia, as well as the rest of us, doesn't want to be hung up on a series of votes that are iterations over the same issue. It seems that we can sit down and come to some reasonable agreement, which the other side of the aisle would strongly resist applying to State court, and this side would resist it on Federal court. It is something to have a substantial majority vote for. I hope the Senator agrees to enter into those negotiations.

Mr. WARNER. Madam President, I ask for the yeas and nays before I take the action.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. REID. Madam President, if the Senator really wants a vote on this, we will be happy to give it to him right now. I don't think it is the right thing to do. I suggest to the manager and my friend from Virginia, why don't we set this aside for a few minutes to see if we can work something out to get the matter resolved. I think as the Senator from Arizona indicated—

Mr. WARNER. I am agreeable. I ask unanimous consent that this amendment be set aside.

The PRESIDING OFFICER. Without objection, the amendment is set aside.

The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Mr. REID. Madam President, it is my understanding, under the order that is in effect, we will go to the Snowe amendment with the purpose of offering the amendment under a 4-hour time agreement.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Maine.

AMENDMENT NO. 834

(Purpose: To modify provisions relating to causes of action against employers)

Ms. SNOWE. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Ms. SNOWE), for herself, Mrs. LINCOLN, Mr. DEWINE, Mr. NELSON, and Mr. McCAIN, proposes an amendment numbered 834.

Ms. SNOWE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

Ms. SNOWE. Madam President, I rise today to offer an amendment along with my colleagues Senator DeWINE, Senator LINCOLN, and Senator NELSON, who worked so hard, so diligently in crafting this compromise. Senator McCAIN and Senator SPECKER are co-authors of this amendment.

The amendment we are offering today is designed to bridge the gap that exists between the supporters of the McCain-Edwards-Kennedy approach to employer liability in the Breaux-Frist-Jeffords bill. I commend Senators McCAIN, EDWARDS, and KENNEDY for their willingness as well as their patience to work with us on resolving the many issues that are associated with employer liability.

Everyone involved has had the same goal essentially, and that is to protect employers from liability when they are not participating in making decisions concerning the health care of employee beneficiaries.

The discussion has really focused on how best to achieve that goal. This is an incredibly complex liability issue that has far-reaching consequences, and everyone who has been part of this discussion and this effort to reach this consensus recognizes that fact and has worked in good faith to arrive at a solution that we can live with and, more importantly, employers can live with and not denying care that patients rightly deserve.

This is an issue that is significant on a number of different levels. First of all, to what extent will employers that voluntarily offer health insurance be exposed to liability. To what extent will employers be involved in the decision-making process in terms of the provisions of health care for their employee beneficiaries, and perhaps more important, will patients have legal recourse should they have a grievance concerning the care they receive through their health care plan?

The goal we all share in designing and crafting this amendment to the McCain-Kennedy-Edwards legislation is how best to protect patients for their medical care without creating an expansive bureaucracy adding to the cost of providing that health care and generally creating an incentive to drive away employers from providing health care to their employees which, as I said earlier, they do so on a voluntary basis. We should be commending employers for providing these benefits, not penalizing them.

We should also take great care to write a provision under which employees remain insured through their employers while also protecting the employees' rights under their health insurance plans. What we do not want to do is create unintended consequences for employers by leaving legal questions open that can leave employers exposed to liability over matters in which they have no control and over matters in which they have not participated and having the resulting decision.

That is all the more significant when we realize there are more than 45 million Americans who remain without any insurance, and of those who have insurance, employers voluntarily provide health coverage to more than 172 million Americans. Obviously, what we do today is significant, and it will matter.

We cannot afford to have employers suddenly opting out of providing insurance to their employees because we do not want to create the unintended consequence that adds to the rolls of the uninsured in America. I think that is something on which we all can agree, and that is a very real risk. In fact, there was a recent poll taken of businesses in America, and it said that 57 percent of small businesses said they would drop coverage rather than risk a lawsuit.

As one businessman in my State wrote to me recently:

We're not an HMO or an insurance company. We are an employer. We cannot afford the time, expense, and aggravation of litigation. And, please, make no mistake, that is what this is about.

So we approach the issue of reconciling the differences between the two approaches by addressing the question: What language will deliver us to that mutual goal? We assess what was really the best qualities of the McCain-Edwards-Kennedy legislation, as well as the Breaux-Frist-Jeffords issues.

Ultimately, the solution we came to was a melding of the two approaches. The result was to provide employers with varying levels of liability protection depending on their involvement in the decisionmaking process but regardless, patients will have the legal recourse they deserve, no matter what.

There are many other issues that need to be resolved in this legislation. I realize this represents one facet, the liability question, that has been raised by others with respect to this legislation, and this is not intended to address all of those questions, but clearly it does address a most important issue when it comes to subjecting employers to litigation and liability.

Let me take a moment to explain the differences between the McCain-Edwards-Kennedy legislation and the Breaux-Frist-Jeffords approach and the approach we are taking in the amendment we have offered to S. 1052 and
how our amendment affects the underlying legislation and addresses the concerns that have been raised about the net legal impact on employers.

Essentially, there are several categories we are attempting to address today when it comes to employer-sponsored health care insurance.

First, there are employers that contract with an insurance company that, in turn, pays beneficiary claims and administers the plans and the benefits.

Second, there are employers that fund a plan but leave the actual administration of the plan to an outside entity, generally an insurance company.

Third, there are those who both self-insure and self-administer, in essence creating their own insurance company within their existing business.

The McCain-Edwards-Kennedy legislation as written allows a suit against any employer if it directly participates in a decision that harms or results in the death of a patient. Direct participation is defined as the actual making of a medical decision or the actual exercise of control in making such a decision or in the conduct constituting the failure.

The bill then goes on to offer specific circumstances that do not constitute direct participation, including any participation by the employer or other plan sponsor in the selection of the third party administrator or other agent, or any engagement by the employer or other plan sponsor in any cost-benefit analysis undertaken with the selection of or continued maintenance of the plan or coverage involved.

While the bill language does not provide an exhaustive list of exceptions, it does allow an employer to offer into evidence in their defense that they did not directly participate in decisions affecting the beneficiaries of the health care plan.

That suggests while employer protections would be provided under the legislation, an employer would still have to go to court to make its defense. As with any such legal language, direct participation obviously can be open to legal interpretation, and that precisely is the circumstance which we are seeking to avoid and prevent.

Under the Breaux-Frist-Jeffords legislation that was introduced, the language provides for a designated decisionmaker, or DDM, which in most cases would be the insurance company an employer contracted with to be the party to administer medical decisions and, therefore, the party could be subject to liability. In other words, the employer would designate the DDM as the responsible party to shield itself from that liability. If an employer chose not to designate a DDM, they would have no protection from that liability.

An argument that has been made against the Breaux-Frist-Jeffords legislation is if the DDM is a person designated within a company that self-insures, for example, they could under the existing law escape liability by claiming that ultimate decision came from the employer; that they, as a DDM, did not make a final decision on a particular beneficiary’s case. In an effort to improve the Breaux-Frist-Jeffords legislation, that when a contract is signed with the employer, the DDM cannot mount any such defense, that somehow they defer the liability, defer the suggestions that the employer somehow participated in making the decision.

In an effort to improve the employer liability provisions, we encompassed key provisions of both models in the legislation while addressing their inherent weaknesses so we can attain our shared goals.

First, our amendment allows employers that turn their health care coverage to outside insurance companies, that their insurance company will automatically be their designated decisionmaker unless they specifically choose not to have a DDM. This is built directly on the Breaux-Frist-Jeffords model in which the decisionmaking authority shifts to the DDM, which will in most cases be the insurance company. Under this approach, an employer would not have to take the extra steps to secure a designated decisionmaker and would not be required to go to court to file papers or to make defenses against any actions they may have taken. In other words, they would not have to do anything different than what they are doing today with a contract with an insurance company.

When they sign up with an insurance carrier that will provide benefits to their employees and administer the benefits, they are signing up with, essentially, a designated decisionmaker, and they are signing up as well for a safe harbor from liability in both medical as well as contractual decisions.

Where we depart from the existing Breaux-Frist language is we clarify since the DDM, which is also the insurance company, has assumed full responsibility at the time the employer and the insurance company signed a contract, the designated decisionmaker would be prevented from turning around and assigning the employer for some failure that resulted in a lawsuit from a beneficiary. In other words, the dedicated decisionmaker can’t transfer liability to the employer because of something the employer does or failed to do.

The legislation we have introduced today to modify the McCain-Edwards-Kennedy legislation delineates specifically the responsibility to the employer to assign liability to a dedicated decisionmaker which will, in all likelihood, be your insurance company when you sign your contract with your insurance company. There is
nothing more you need to do to protect your business from liability for the decisions that arise.

For those self-insured and for those who do not self-insure as an employer, you would still have the protections afforded under the underlying legislation if you don’t directly participate in those decisions. In other words, employers who contract out their health insurance have a clear choice under our amendment, although once again I stress that under this amendment patients will still have the legal recourse regarding questions over appropriate medical care and medical decisions related to the beneficiary’s plan, no matter which option the employer chooses.

The bottom line is we seek to protect employers from liability in cases where they are not making the medical decisions, and not that represents or result in death while still protecting parents rights, which after all is the goal of this legislation.

Finally, let me assure my colleagues, under this amendment, dedicated decisionmakers and policies are not required to demonstrate that they are financially capable of fulfilling their responsibilities as the party liable in causes of action. They could not be shell entities or sham individuals or organizations without the ability to actually pay the event of lawsuits.

The criteria the Secretary of Health and Human Services will require relating to the financial obligations of such an entity for liability should also include an insurance policy or other arrangements secured and maintained by the dedicated decisionmaker to effectively insure the DDM against losses arising from professional liability claims, including those arising from services provided by employees.

A DDM would have to show evidence of minimum capital and surplus levels that are maintained by an entity to cover any losses as a result of liability arising from its service as a designated decisionmaker. It would have to show that they themselves have coverage adequate to cover potential losses resulting from liability claims or evidence of minimum capital and surplus levels to cover any losses.

Once again, I think we have designed an amendment that represents a workable approach, that addresses some of the more serious and significant concerns that had arisen in the various pieces of legislation that had been introduced here in the Senate and with the underlying legislation we are seeking to amend today.

We try to meld the best of both approaches, to balance the concerns of businesses that do seek to voluntarily provide this most important, critical benefit to their employees. That is an incentive we want to maintain and re-inforce in every possible way. But we also understand there are going to be those circumstances in which the employee has received inappropriate care that has resulted in significant harm, injury, or even death, and that they would have to seek legal redress for that inappropriate care or denial of care. That is the kind of consideration we want to ensure in this legislation, without creating the unintended consequences or the disincentive for employers to say we just simply cannot afford to provide this health insurance for our employees anymore because we are going to be subject to litigation, to endless losses, and we do not want to put ourselves in the position of that kind of exposure.

I think this approach has been examined on both sides of the political aisle. More important, I think it has been embraced by this bipartisan group in the Senate, my colleague Senator Snowe, based on the premise I had laid out to Senator Lincoln whom I see on the floor, and Senator Nelson. They have worked very diligently on behalf of this amendment to assure that we address all facets, all potential implications and ramifications associated with this approach, to hopefully address it in a way that will ultimately yield the best effect for both the employer as well as the employees.

I yield the floor. I will be glad to yield time to my colleague.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, let me thank my colleagues, Senator Snowe and Senator Lincoln, whom I see on the floor, and Senator Nelson, who have worked long and hard on this amendment.

The issue in front of us today is how do we help shield businessmen and businesswomen from liability at the very core of how they operate. It is to go to the courts for people to sue HMOs. Everyone I think agrees, one of the things we worry about as we deal with this legislation is that we will do something that would cause businesses in this country to decide not to insure employees. That would be a very bad unintended consequence, so we have to be very careful as we write this legislation.

The amendment in front of us today is really a compromise. It is a compromise on the Frist-McCain bills. It is a compromise on the issue of employer liability, how we best protect the employers while at the same time ensuring people their right in court. I think we have really blended these bills. I think we have the best of both worlds. The situation and the language are clarified and made simpler.

We started this debate with some basic principles on which everyone agreed. In both bills we agreed we wanted to try to protect businesses. But at the same time we wanted to allow suits in limited circumstances against HMOs. The President agreed to that principle, and the two underlying bills do as well. This amendment, I believe, achieves that. This amendment effectively takes out 1 percent of business providers that provides them great protection. When you compare our amendment versus the underlying bill, it helps and improves the situation for the other 99 percent. We will talk about that in a moment.

My colleague from Maine has talked about this concept of the designated decisionmaker. What do we mean by that? What we mean is let’s just make it simple and let’s make it plain; let’s have the employer say who is going to make those decisions and therefore who will be sued. In essence, what we are saying is once that decision is made, that employer is no longer going to be subject to suits; the designated decisionmaker will be.

How will this work in the real world? Let’s say we have a small hardware store in Greene County, Ohio. They say they employ 12 people, and let’s say what they do is they provide some health insurance and they do that by going out in the market, finding the best deal they can, and buying this group coverage for their 12 employees. Under this amendment, if they contracted with that insurance carrier, they would have automatically made that designated decisionmaker decision. They would have designated that automatically, that group as being the designated decisionmaker. They would have to do nothing. They cannot make a mistake. It takes no affirmative action on their part. That is going to improve the language we have in front of us.

The other way of doing it, the way the underlying bill did it, was to talk about direct participation. Frankly, I think the language in the bill was pretty good. But I think it needs to be improved. By having the designated decisionmaker, it is a lot more clear. What was open as a matter of law is this. As we all know, anybody can sue anybody. We cannot prevent suits, but we certainly can discourage them, and we certainly can provide when suits are filed against a business, the business has the ability to get out of that lawsuit very quickly. So by using the concept of the designated decisionmaker, as a practical matter, if a suit were brought against a businessperson, if a lawyer were foolish enough to file that suit, the business would simply have to go into court and file a copy of that designated decisionmaker decision and would be dismissed from the case. As a practical matter, this language significantly improves the underlying bill and will make a big difference.

Our amendment does build on the two bills in front of us, the two bills we have been talking about and have been considering, the Frist-Breaux bill and the underlying bill we have in front of us today, the McCain-Kennedy bill.
I believe our amendment would protect business owners from needless lawsuits as well as protect patients who rely on employer-sponsored health care plans for their medical needs. I believe this amendment brings together the best of all worlds by providing certainty, much-needed certainty to employers, employees, and, yes, to health care providers. That is why we know that is desperately needed in any patient protection bill.

Based on the designated decisionmaker concept in the Frist-Breaux-Jeffords bill, our amendment would automatically, as I have indicated, remove liability from small business owners and shift it to health care providers or other designated entities. In addition, our amendment stipulates this designated decisionmaker must follow strict designated decisionmaker rules in order to be liable for the liability coverage. This means the designated decisionmaker could not be a straw man, cannot be a sham that has no ability to pay a patient in the event a lawsuit is filed and that damages and be able to satisfy those losses. Our language ensures that the designated decisionmaker cannot be a straw man, cannot be a sham that has no ability to pay a patient in the event a lawsuit is filed and that damages and be able to satisfy those losses.

In creating the designated decisionmaker process, it makes it easier for employers that provide health insurance coverage to be protected. We think that is a major step forward for businesses, and especially for patients.

I say that because the fear of being sued often becomes so great that employers simply stop offering health care coverage. We don’t want that to happen under this bill. We simply can’t let that happen. The reality is in this country that already there are more than 42 million Americans, including 10 million children, who have no health care coverage. The last thing we want to do is add to this number.

Our amendment greatly diminishes the likelihood that employers will stop offering health care coverage. Again, we believe it is the best of both worlds as it allows patients the ability to sue the designated decisionmaker on liability for the liability for a lawsuit. But at the same time it protects employers from unnecessary and costly lawsuits.

Under our amendment, employees would have the comfort of certainty and the comfort of knowing that the designated decisionmaker is ultimately responsible for health care decisions and, therefore, that individual or that entity bears the liability for a lawsuit. In another effort to keep employees insured, our amendment also adds language to the underlying McCain-Kennedy bill to limit the liability of businesses to self-insure and self-administer their health care plans. The fact is that these employers are assuming additional by choices by not by administering health care coverage to employees. To that extent, I believe we must take our unique circumstances into consideration. This amendment does that.

Ultimately, our objective is to encourage employers to offer and to continue to offer their employees health care coverage. We don’t want to discourage them out of fear that they will be sued.

The reality is that these self-insured and self-administered plans are doing some very good things for their employees. We want them to continue to do these good things. Our amendment will help them keep their employees, their families, and their children insured. That is what the Patients’ Bill of Rights should be all about.

Further, our amendment improves the original Frist language by making it clear exactly who is liable. The amendment eliminates ambiguity because it would not allow the designated decisionmaker to be broken into sub-decisionmakers. One, and only one, entity would be the sole bearer of liability. We think that is an improvement.

Finally, our language would strike vague and ambiguous language in the underlying McCain-Kennedy bill that is of great concern to employers. This language is a catch-all section of the bill that could open employers to a flood of lawsuits simply because of the imprecise nature of the language.

Let me read the exact language currently in the McCain-Kennedy bill in regard to the cause of action relating to provisions of health benefits. There is (ii) section. This is what is in the definition section it draws union plans in, and they are being given a special status which is really higher than a self-employed plan is given. I am wondering why union plans are suddenly being raised to a special status under the amendment. Mr. DeWINE. I would be more than happy to answer the question.

In the original language that we have been working on this issue as well. It does not deal with the class action issue. I intend to have an amendment later today or tomorrow in regard to the class action issue.

We want to say what it does. It helps businesses do the right thing. It encourages people to continue to insure their employees. But there are many things it does not do.

I would be more than happy to yield to my colleague, Mr. GREGG. Madam President, I appreciate the Senator’s effort. I haven’t had a chance to digest all of it. I understand the intent and the thrust as described by the Senator from Ohio, which I think is appropriate and good.

As I look at the first section, I am wondering. It appears to me that under the definition section it draws union plans in, and they are being given a special status which is really higher than a self-employed plan is given. I am wondering why union plans are suddenly being raised to a special status under the amendment.

Mr. DeWINE. I would be more than happy to answer the question.

In the original language that we have been negotiating for the last few days, we could not figure out any way to really help the roughly 6 percent of businesses that self-insure and self-administer.

My colleague Senator LINCOLN has brought to our attention and businesses have brought to our attention the fact that this amendment as originally written really did not help those 6 percent. Why? Why originally didn’t it help? The basic problem is they do not have medical decisions. They are really effectively operating as their own HMO.

We thought about how to protect them and give them some help while at the same time preserving their employees’ rights to sue just as everybody else has. We came up with a compromise. My colleague Senator LINCOLN may want to get involved in this and explain it a little bit. But basically it
says for those self-insured, self-administered plans, we carve out a special exemption for them because of the special circumstances they are in. They are unions, and exempted from lawsuits brought in the Federal court on the nonmedical decisions based on the contract decisions. That is a break they are getting. We think it can be justified by what they do because we want to encourage them to continue to do what they do.

Why is the other group that you have mentioned included? They are included because they operate basically the same way the self-insured, self-administered businesses do. They basically take the risk. They basically make the medical decisions.

I appreciate the question, but I would disagree with my colleague the way he has categorized it. This is no special break to go out and get their health care, and then they come back and get their approval. And that exemption makes sense, but that exemption is not consistent with what unions do. So don’t come here and represent to this Senate that it is because it is not. You have raised the unions to a brand new level of independent liability protection. So please do not make that representation.

Mr. DeWINE. I will reclaim my time. I thank my colleague for his comments.

The intention of the language is to treat people equally. If a union does in fact make the medical decisions and if they are operating in the same way that the Wal-Marts of the world are, they ought to be treated the same way. But if they are operated one way, then they should not be treated the same.

Ms. SOWE, Will the Senator yield?

Mr. DeWINE. Yes. The PRESIDING OFFICER. The Senator from Maine.

Ms. SOWE. The Senator from Ohio is exactly correct. We are treating all employers the same. In this instance, in this particular category, it is those employers who do not have a designated decisionmaker. That is the intent of this particular provision: To treat them equally so they are not subjected to liability when it comes to contractual matters, whereas other employers are not who contract with insurance companies and have a designated decisionmaker. But we are helping them. We are not helping them, because we like very much more the designated-decision-maker model. I think the question I think the Senator from New Hampshire and I wish to ask you, because we have just seen the language for the union plans that you are self-insured and self-administered. That is the intent is of this legislation. It is to treat them all equally and to draw that bright line.

We could say, let’s not address the self-insured and self-administered programs. I do not think that is fair either because, obviously, they have a different kind of program, and we want to encourage that. We commend them for the kind of benefits they are providing to their employees. They happen to be large employers, and they want to design their own internal program. But we don’t want to subject them to litigation to which other employers are not going to be subjected. So that is the reason for the intent of this particular provision that happens to include union plans that are designed similarly.

Mr. FRIST. Will the Senator yield?

Mr. DeWINE. I am more than happy to yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. This is an important point, and therefore I think the colloquy is important so we can address it.

We have just seen the language for the first time a few minutes ago. The way I understand it, we have about 170 million people out there we are talking about in an employer-sponsored plan. There are about 6 million people who are in what are called self-insured, self-administered plans. Over the last 2 to 3 years, as we have tried to figure out how to treat these 6 million people in a fair way, we have struggled because it is hard. We have produced the designated-decision-maker model—which I am a great believer in—and I believe most people in this body, if they step back and look at it, are great believers in—but what you have in your bill is you have carved out those 6 million people who addressed the issue directly, but in addition to that, you carve out the unions.

The argument that was made is that the unions are self-insured, self-administered plans like the other 6 million; that these are union plans, and therefore they should be treated the same as self-insured, self-administered plans.

I think the Senator from New Hampshire and I would argue that the unions should not be carved out as well because—while a few may be self-insured and self-administered—the majority of union plans are not self-insured and self-administered. Therefore, why are you giving this privileged position to the unions that are not self-insured and self-administered like the 6 million whom you targeted initially? That is the question I think the Senator from New Hampshire and I wish to ask you, because we have just seen the language for the union plans that you are self-insured and self-administered plans?

Mr. DeWINE. If I could reclaim my time to answer the question.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DeWINE. I can tell you what the intent was. And, as you know, we have been drafting the language, and it has been going on and on. I can only tell you what the intent was.

I am more than happy to take a minute and look at that language again with your comments in mind.

The intent was to treat people who operated one way equally. In regard to unions, the intent was we would cover union plans that were the same as the Wal-Marts of the world which are self-insured and self-administered. That was the intent. It was not the intent to go one inch beyond that or to cover one group or one plan beyond that.

I will bluntly say, if the language in here is not consistent with that intent, then we need to go back and look at the language. That was the intent of the four or five of us who were working on this issue. That was the specific intent, and that was the instruction that was given to staff. If the lawyers did not come back with that language, and I did not catch it when I read it, I apologize, and we will look at that. But it is going to take us a few minutes to get the language out.

My understanding of what my colleague has said is that if a union does in fact operate a plan, and they are in fact self-insured and self-administered, he believes they should be treated the same way; anybody who runs a plan with those two qualifications should be treated the same way. Is my understanding correct?

Mr. FRIST. We have to be very careful.

Mr. DeWINE. If those are the facts, then we are careful whom we carve out. And then whatever definition we use for the carve-out, we need to apply consistency to it.

Mr. DeWINE. I agree.
Mr. PRIST. I believe we should go back and look at the way the bill is written.

Mr. DEWINE. Let me suggest we take a look at that as we continue this debate. We have a little time to debate. Let us look at the language.

I again want to reiterate something, though. And I do not want any of my colleagues who are watching this back in their office or who are in this Chamber to misunderstand this. This is a limited carve-out. This is not a huge carve-out.

Basically, what this carve-out says is, because of the unique situation of the self-insured, self-administered plans, we are going to exempt them from lawsuits, based on contract, in Federal court—they are not going to be exempt from other lawsuits and in State courts, and based on medical decisions. So it is a limited carve-out. I do not want anybody who is watching this debate to think this is some huge carve-out. It is a carve-out on a limited basis. Our intent was to treat people equally who were in that unique circumstance.

I know my colleague from Tennessee has been wrestling with this for a couple years: How do you deal with these folks who have this unique problem?

I will say to my colleague from New Hampshire, this may not be perfect, but we think it improves the status quo. That is sort of what we are about today: Trying to improve the status quo.

Mr. GREGG. Will the Senator yield?

Mr. DEWINE. No, I will not yield yet.

We have had criticism of this amendment from people who say it does not solve all the problems. I came to this Chamber and said, no, it does not solve all the problems, but we are trying. And we are trying with this amendment. If we can improve the amendment, and if we can get the language more precise that does it, I will be more than happy to do it.

Yes, I yield to my colleague.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I think the language, as presently drafted, is in your definitional section of the amendment where you find "(ii) (II)." It says:

- a group health plan that is maintained by one or more employers or employee organizations described in this section.

That essentially encompasses all union plans. Very few union plans do not use a third-party administrator, very few. So I think you want to tighten up that definition to make it clear that you are applying it to the self-insured, self-funded, self-administered plans, and then you would be picking up the same people that you are picking up under the Wal-Mart exception.

Mr. DEWINE. Reclaiming my time, that was our intent. If that is not reflected in the language, we will change the language.

I yield to my colleague from Maine.

Ms. SNOWE. The Senator from Ohio is making exactly the same point. There is a particular provision was intended for those insurers, self-insured and self-administered plans, that obviously do not have a designated decisionmaker. I should further emphasize, all employers are treated equally when it comes to the idea that they participate in medical decisions on behalf of their employees. They are all treated the same. This particular area of the legislation is with respect to contractual decisions. We are attempting to craft out for self-administered, self-insured plans, and that includes union health plans that conform to that particular organization, that they would not be subjected to litigation that other employers would not be subjected to because they had designated decisionmakers.

We know self-insured, self-administered plans do not have designated decisionmakers. So we did not want to expose them to that kind of litigation in this particular section that delineates the causes of action. We were trying to treat all of the employers equally.

Mr. DEWINE. Madam President, I reclaim my time.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, we have stated our intent. I think we ought to get about our business and come up with the language to do that, some possible language that we could use. It is always dangerous to try to draft language on the fly on the Senate floor.

I will at least throw this out for possible discussion. We could add "to the extent the Taft-Hartley Plan Act are self-insured, self-administered plans," something to that effect of basically qualifying so that you would get down to whatever the number is—I don't know what the number is—that are self-insured and self-administered. We certainly could do that, "There is no reason that cannot be done.

Mr. GREGG. Is the Senator suggesting that additional definition? Is the Senator suggesting that definition, that expansion of the definition, that expanded language be placed on the definition section?

Mr. DEWINE. We could do it that way. If the Senator has a suggestion of how better to do it, I would be more than happy to take the suggestion.

Mr. GREGG. That may well resolve the problem.

Mr. BREAUX. Will the Senator yield for a question?

Mr. DEWINE. I yield to my colleague from Louisiana.

Mr. BREAUX. I ask the Senator from Ohio, I think the discussion has been very helpful. Two points are important to have on the record. A self-insured and self-administered plan by this amendment would not relieve themselves of being subject to litigation for doctor mistakes based on medical necessity under the Patients’ Bill of Rights bill we are adopting.

Mr. DEWINE. The Senator is absolutely correct. We believe the language does reflect that, but that is clearly our intent.

Mr. BREAUX. If the Senator would further yield, the point made by the Senator from New Hampshire is absolutely correct in the sense that on page 3 of the Senator’s amendment, line 18, when he talked about that group health plan—basically the Taft-Hartley group health plans, as I understand it—you didn’t have that limitation of those that would also be self-insured and self-administered. I think if you added that to that definition, you would correct the problem. I think it would be in keeping with what the Senator wants to do and certainly something I could support.

Mr. DEWINE. I appreciate my colleague’s comments. I think they are well taken. We will get about the business of dealing with that. The point is very well taken.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. FRIST. Madam President, I yield myself approximately 15 minutes on the opposition time for the time being.

The PRESIDING OFFICER. The Senator from Maine has 7 minutes remaining in her time on the proponent’s side.

Mr. FRIST. Madam President, is this 4 hours evenly divided?

The PRESIDING OFFICER. There are four 1-hour segments. The Senator from Tennessee controls 1 hour of the 4-hour time. The Senator from Maine controls 1 hour. She has 7 minutes remaining on her hour. The Senator from New Hampshire controls 1 hour, and the Senator from Massachusetts controls 1 hour.

Mr. FRIST. Madam President, I ask unanimous consent that for the first hour, it be equally divided so we can continue the debate for those in opposition.

Mr. REID. Madam President, I am sorry. What was that request?

Mr. FRIST. For the first hour of the debate, which we are about, I guess, 20 or 30 minutes into the opposition has not had the opportunity to speak. I was saying for the first hour, in which about 25 minutes has been used, if we can have 30 minutes on either side.

The PRESIDING OFFICER. The debate has already consumed 53 minutes of the proponents’ time controlled by the Senator from Maine.

Mr. REID. The Senator from Tennessee has an hour. He can use it any way he wants.

Mr. FRIST. Madam President, I understand I have an hour on my side. I will use time off our side at this juncture. I yield myself such time as necessary.
The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, first of all, let me put perspective on this because we have had the amendment introduced, and there are basically three points I want to make.

No. 1, I applaud the Senator from Ohio and the Senator from Maine because they have, for the first time in the debate, addressed this issue of suing employers—this issue of who is responsible, who gets sued, if there is harm or injury or cause of action. As one can tell from their earlier discussion, there has been a lot of debate in struggling with how best to address who you sue and when you sue them and what entity. There is not very much certainty out there. Do you sue the plan? Do you sue the employer? Do you sue the administrator? In the Senator from Maine’s amendment, which is very positive, in the exposure to these unlimited lawsuits for those sort of indications, you don’t have just compensation, and you are exposed to these unlimited lawsuits out there. So it is very positive, in the amendment that has been put on the floor by the Senators from Maine and Ohio, to take that cause of action out of the underlying bill.

The third point is that the Senator from Ohio made the point that this is not the answer to liability. Liability involves exhaustion of appeals. And we have an amendment pending on the floor addressing whether there should be caps; and that entire debate, once you get to courts, whether it is non-economic damages or punitive damages, involves whether you go to Federal court or State court and then this whole idea of who do you sue. Can the employer be sued? And that last point is what the designated decisionmaker selectively looks at, that sliver of the pie of liability.

So far in the debate, over the last 4 or 5 days has made it clear that you can sue the employers if they directly participate. And what has now been brought to the floor in a very positive way, I believe, is this concept of giving certainty to all that through a model that is called the designated-decision-maker.

Really all that means is that since somebody is going to be sued—and the way it is designed now, you don’t know who it is; that doesn’t give anybody certainty—the easiest thing to do is for an employer to walk away. It might be me that is sued. It might be the entity that is administering my plan. It might be an agent of that plan. That is so counter to so much risk out there, and you never know whether you are at risk or not, or somebody else, or who the lawyers will be going after. The designated-decision-maker says: We are going to all get in a room and say there is one entity responsible. If there is a lawsuit, you are going to go after that entity. That entity has to bear the risk, and also whatever value there is for that risk will have to be either purchased or sold. That gives certainty to the overall liability issue.

The second point—I will come back to this—that is very positive in the underlying amendment is this broad cause of action which is being struck from the underlying bill. That is where the underlying bill, when you go to the Federal level in the underlying bill, there is a cause of action called “duty under the plan.” Unfortunately, if you leave that cause of action in there, it sweeps in all sorts of things, whether it is the HIPAA regulations or the COBRA regulations, and all of a sudden for those sort of indications, you don’t have just compensation, but you are exposed to these unlimited lawsuits out there. So it is very positive, in the certainty to the employer and also certainty to the employee, at both levels. That is the way that proponents of there being an internal and external appeals process. Under the Frist-Breaux-Jeffords bill, you can’t opt out of that and go directly to the court as you can in the McCain-Edwards-Kennedy bill. We are trying to fix that through another bill.

In the Frist bill, once you go through the internal and external appeals and you go to court, you are going to end up going to Federal court. If there is a lawsuit in advance, prospectively—not after the fact—a designated-decision-maker has been identified. If there is a lawsuit, there is no question of whether you sue the employer or the HMO or the agent of the plan or the hospital or the doctor. Indeed, you sue one person. That is who you sue. The Senators from Maine and Ohio made that point. It is critically important to address. If you read the press on this, this decision-maker model will take care of the liability. But it does not answer the questions on the part of myself and many others.

The history of the designated-decision-maker model is interesting as well. It is in the Frist-Breaux-Jeffords bill. The amendment on the floor is very similar to what is in the Frist-Breaux-Jeffords bill in that you give certainty; you have to name an entity to be the designated-decision-maker. That is who you sue. The Frist-Breaux-Jeffords bill bailed that on what already passed the Senate about a year and a half ago. A designated-decision-maker amendment passed this body. That amendment came from the conference between Demo- crats and Republicans sitting around a table addressing how to come up with a system that best addresses this problem of having employers being sued out here when you really want to go after HMOs. How do you delink employers versus HMOs?

Basically, you make one entity responsible. It could be the employer, if they meet certain financial criteria; it could be the HMO; or the HMO might contract with another entity. But some somebody has the risk. They have to have the financial wherewithal that equals that risk or the potential of that risk. So I love the designated-decision-maker model. It is clearly need ed and necessary.

Let me take a minute. We keep drawing references to the Frist-Breaux-Jeffords bill and the way that worked, because whether or not I can actually end up supporting the amendment of the Senators from Maine and Ohio really depends on how close in my own mind we get to the underlying model that is in the Frist-Breaux-Jeffords bill. I believe that gives the most certainty—
Portability and Accountability Act, which we passed in this body several years ago, and COBRA, whereby employers allow administrative duties, under those laws, to anyone else, by law. You can’t. So the liability for those administrative duties, because you can’t delegate, would fall on the employer, thus allowing the employer to be sued. So that is very positive, I think. It was addressed directly in the amendment, and I commend them for that.

Third is that we need to understand throughout this debate, as we hopefully can refine this amendment and pass it if we can resolve some of the specific issues in the language. We need to be crystal clear again that addressing the designated-decision-maker addresses the employer aspect of liability but does not address the other factors of liability, which I think we have a responsibility to address on this floor, since this bill never went through committee and, in truth, we are marking up and writing this bill for the first time on this floor. We need to talk about Federal versus State courts, class action suits, whether or not there should be caps in a noneconomic damage or should there be punitive damages. All of those other issues have not yet been addressed. Now I am quite pleased we are addressing the designated-decision-maker aspect of employers being sued.

Several quick examples. There need to be clear and effective limits, I believe, on class action lawsuits. There need to be firm requirements that we fully exhaust internal and external reviews before initiating any lawsuits. There are a lot of broad exceptions. We talked about some of them as the Thompson amendment was on the floor, and we rejected it. There need to have complete exhaustion as we go through.

Second, if an independent external medical reviewer, who is a doctor, which is in the Frist-Breaux-Jeffords plan, as well as in the McCain-Edward-Kennedy plan, upholds the plan’s denial, then the plan should not be subject to liability. We need to discuss that on the floor. In the underlying McCain-Edward-Kennedy bill, a patient with even though that independent medical reviewer, a physician with age-appropriate expertise, has decided that the plan made the right decision in internal and external appeals and the physician says everything was right going through. I believe the Frist-Breaux-Jeffords bill says, no, you can sue for care, injunctive relief, but not for extraordinary rewards. That has to be addressed.

Also, the underlying McCain-Edward-Kennedy bill would allow the independent reviewer to “modify”—I believe that is the word used—the plan’s denial. And this is just as a physician. What it means is that in a paper review you never see the patient. You read records and hope they are complete, and the reviewer is going to have to talk to the thousands of these, maybe hundreds, maybe 10. I don’t know. I was with a doctor a few minutes ago who has done thousands of these reviews.

The point is that you never see the patient. You never get the subtleties of clinical diagnosis, which all of us know is science, but there is also art to it. You are asking somebody to look at this paper and review it and say, yes, it was right or, no, it was wrong.

With the information written on that paper, you are allowed to come in and modify the treatment of that patient. I can say as a physician the fact that on that paper review, a reviewer could require that the plan cover treatment that the current treating physician nor the plan ever contemplated or ever recommended, this reviewer who maybe over the telephone is reading it, is going to be able to modify it bothers me.

It bothers me because it becomes binding, and we all know it becomes binding. When it becomes binding and you have not had that direct experiential observation, to me it is not right. It needs to be corrected.

I will give another example: The employer in the plan would be subject to simultaneous litigation in Federal and State court. Again, speaking to the underlying bill, we have to address that because we all know when we have lawsuits which result in—take a $120 million damage award such as there was 2 years ago. A $120 million award is a large award. Some will say it is too much; some will say it is too little. But a $120 million damage award results in total premiums being paid for about 55,000 enrollees, $2,000 for each enrollee who could go out and buy insurance.

I do not want to correlate the two, but $120 million is a lot of money, and, at least in my mind, I come back to the uninsured and the number of enrollees who could go out and buy insurance.

We need to be careful about encouraging shopping between the Federal courts and State courts, and once you get to the State courts, from State to State. Maybe tomorrow, Saturday, Sunday, or Monday we will come back to that and talk about it. Clearly, if you are an attorney, for a single event, you have multiple causes of action, you can question that, but in addition to that, you have multiple venues: the Federal court, the State court, or from State to State to State. That is our interpretation. That is our attorneys’ interpretation. It has to be fixed.

In closing, I support the designated-decision-maker model. The Senators from Maine and Ohio are to be congratulated in this Chamber addressing in a sophisticated, appropriate way how to clarify the uncertainty about suing employers versus suing HMOs.

I support the model. It is in the underlying Frist-Breaux-Jeffords bill. We are looking at the language, as we have to, the issue of waivers, and why they are specifically carved out. That needs to be addressed. We hope to have factual information. We will read the language, and I look forward to working aggressively with the authors of this amendment so we can all rally around it.

Mr. DeWINE. Will the Senator yield? Mr. FRIST. Yes.

Mr. DeWINE. If I can respond to the Senator’s comments about why we crafted the bill, it was to give the employer a choice as to whether or not they would go under the designated decisionmaker or under the language of the other bill, which is direct participation.

Frankly, I do not think this is a huge deal. The reality is that the vast majority of businesses will go under designated decisionmaker, and, in fact, we provide in the bill that it is automatic. That will just happen unless they make a decision to say: We do not want to go under the designated decisionmaker; we want to go under the direct participation language.

We are in an unknown area, and I do not think anyone knows how this is going to play out entirely in the real world and what decisions they are going to make. Some people come up with some scenarios under which they would not want to designate someone as a designated decisionmaker. The vast majority are. We wanted to provide this as a fallback position, more options.

I do not think it is going to make it more ambiguous or less definite because we provide automatically it is going to be designated decisionmaker unless they make an action and say: No, we do not want designated decisionmaker; we want to go with our model because for some reason it works that way. We can look at the language and talk about it.

In explanation to our colleague from Tennessee, that is what our thinking was. We do not know where the world is going with this new language, and we wanted to give as many options to businesses as we could. That is why we did it.

Mr. FRIST. Mr. President, I claim my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. I guess this decision of certainty—I usually like choice coming through, and it appeals to me. I am a 50-person convenience store operator and have three or four convenience stores in the area, and I have people barely scraping by, working minimum wage, and I recognize giving people some insurance goes a long way. Some people say it does not matter; you still have your care. If you have insurance, you end up getting better care in the
The PRESIDING OFFICER. The Senator from Tennessee has consumed about 22 minutes.

Mr. FRIST. How much has the other side used since we have been on the amendment?

The PRESIDING OFFICER. The other side has used 53 minutes.

Mr. FRIST. They have used 53 minutes, and we have used 22 minutes.

Mr. KENNEDY. How much have we used?

The PRESIDING OFFICER. The Senator from Massachusetts has used none.

Mr. FRIST. I was speaking in opposition to the amendment.

Mr. KENNEDY. I think the presenters ought to be entitled to whatever time they have remaining. I am a strong believer in that. I would like to make for purposes of clarification, a written word.

The PRESIDING OFFICER. The Senator from Tennessee still has the floor.

Mr. FRIST. Thank you, Mr. President. A matter of clarification, in speaking in opposition to the amendment, pursuant to Senator Gregg, we have used how much time?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. FRIST. Twenty-three minutes since we have been on the amendment. Clarification: The proponents have used how much?

The PRESIDING OFFICER. Fifty-three minutes.

Mr. FRIST. I will be happy to yield the floor in a moment. Clarification on the designated decision-maker model: We would not necessarily assume the insurance company is the designated decision maker. You would have to designate that, and that is part of our Frist-Breaux legislation, just to clarify that.

Ms. SNOWE. Will the Senator yield? The PRESIDING OFFICER. Who yields time?

Ms. SNOWE. Will the Senator yield on that point?

Mr. FRIST. I will be happy to.

Ms. SNOWE. It is important to emphasize in this amendment as we have drafted it includes a provision that starts out with automatic designation: That a health insurance issuer shall be deemed to be a designated decision maker. The purpose of this amendment is to be able to provide additional rights and opportunities for insurance. This does it.

Specifically, this amendment narrows it down to not being brought into Federal courts. It does not give any sort of liability to the health care providers. And it also makes it clear that employers are not involved in litigation.

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Specifically, this amendment narrows it down to not being brought into Federal courts. It does not give any sort of liability to the health care providers. And it also makes it clear that employers are not involved in litigation.
I applaud the work of my colleagues. I have enjoyed working with them. I appreciate everyone's patience and encourage everyone to do their best to move this process along. We are hoping to be very inclusive, to bring others in to make sure this language is exactly that: It is giving the protection and the comfort level to the employers of this Nation that are doing an excellent job in providing health care to their employees.

I also ask unanimous consent that Senator BAUCUS be added as a cosponsor to this amendment, and I yield.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. I yield the Senator from Michigan 5 minutes.

Ms. STABENOW. Mr. President, I rise first of all to ask unanimous consent to add my name as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, I thank my colleagues on both sides of the aisle for their hard work and the innovative language that is put together in this amendment. For those of us who are sponsors of the Patients' Bill of Rights, we have said since the beginning this was in no way intended to allow lawsuits to be brought against employers, this was about making sure those who make medical decisions were held accountable for those medical decisions.

As we said so many times on the floor, it is really about closing a loophole in the law as well. We have indicated over and over again, when you have only two groups of people in this country who are not held accountable for their behavior and their decisions, one being foreign diplomats, the other being HMOs, it doesn't make any sense. We know this was a loophole that was created by the outgrowth of HMOs and development of new ways of managing health care, and basically the Patients' Bill of Rights is meant to clarify that and make sure those who are making medical decisions are held accountable for the outcomes of those medical decisions, just as are doctors and nurses and other medical professionals.

What I think is important about this amendment is it very clearly states to each and every employer, large and small, that in fact we will make sure if they are not making medical decisions—and in the vast majority of times an employer is not making a medical decision—the intent of the Patients' Bill of Rights is meant to clarify that and make sure those who are making medical decisions are held accountable for their behavior and their decisions.

I yield my colleagues from both sides of the aisle who have put in
a tremendous amount of work on this amendment. There has been a wonderful job done clarifying this. I hope we have now been able to put to rest what was unfortunately a common misperception, something said over and over again to employers of this country, that somehow this opens them up to lawsuit. It never was the intent. This amendment clarifies that and reiterates it.

I hope this will allow us to move forward, to pass this very strong Patient Protection Act that says to each and every family: When you have insurance you can have the confidence, whether it is in the emergency room or the doctor’s office or the hospital, that you will have the care available that your family needs.

I will yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

Both the Snowe amendment and the Frist amendment attempt to protect lawyers using the designated decisionmaker language. However, the fact that they use similar names can’t mask the dramatic differences between these two amendments. Senator Snowe’s amendment helps employers without hurting patients.

There are two important differences between the designated decisionmaker language in the Snowe amendment and the Frist amendment. Senator Snowe’s amendment ensures that the person an employer designates as responsible and will be liable for all damages caused by any wrongful benefit determinations the patient gets under our bill. This is exactly what employers want and deserve, a clear way under the law to protect themselves.

The Snowe amendment allows employers to name an HMO or health insurer or plan administrator as their designated decisionmaker and not have to worry anymore about being sued. That is what President Bush wants, and that is what we want. If employers give up all control over medical decisions in individual cases such as this, Senator Snowe’s language helps guarantee employers will not be sued, period.

Senator Frist’s designated decisionmaker language is much weaker. Under his proposal, the only entity that can be sued is the designated decisionmaker. While the designated decisionmaker is supposed to have exclusive authority to make benefit determinations, a court or jury remains free to find in fact another person or company influenced the decision that caused the harm. People who are not designated decisionmakers may in fact influence decisions and share liability. But the Frist language leaves victims no way to hold these outsiders accountable. That is because, unlike the amendment of Senator Snowe, the Frist amendment never deems the designated decisionmaker liable for the acts or omissions of parties who affect benefit determinations. This is the most critical difference between the two proposals.

The other important difference is that under Senator Snowe’s amendment, only employers can name designated decisionmakers; HMOs cannot. After all, the entire point of having designated decisionmakers is to ensure employers have a clear, easy way to avoid all possibility of being sued, not to protect HMOs.

Of course, the effect of allowing HMOs to have a designated decisionmaker is to enable them to escape liability for part or all of their actions. Under the Frist-Breaux amendment, if a judge finds someone in an HMO harmed a patient and that person working for the HMO was not a designated decisionmaker, the HMO escapes liability.

I think the amendment is sound. I think it has been a matter of discussion and debate. I think those of us who were involved in the development of the initial legislation sought to achieve what this amendment does enormously fairly. It also treats the various Taft-Hartley aspects equally with the other parts, so we have equality for one and equality for the other.

Another important feature of Senator Snowe’s amendment is that it protects employers and Taft-Hartley plans which self-insure and self-administer claims. The Frist alternative contained in S.889 fails to address this issue. The Taft-Hartley plans have a long history of providing quality health care for their members. In their unique structure, employee advocates comprise half the management board. The record shows that this has been an excellent protection even for beneficiaries who have extraordinary health care needs. In structuring this legislation, we wanted to be certain that we didn’t impose any inappropriate burdens on these plans.

I commend the Senators. They spent a great deal of time on this amendment. One would think it would be easy in the drafting of it, but I know they have been challenged with it. I commend them for really advancing this whole issue in a very positive, constructive way, a way which really reflects what this President has enunciated and a way which we had hoped to include in our legislation. There was a significant question about it. Legitimate issues were raised. I think this is one of the important contributions in helping move this process. I commend all those on both sides who were very much involved in its development.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 5 minutes.
means the small employers that we have talked about are 100-percent protected. They cannot have liability under the current law of this appeals process, which is crucial. It is a goal and a principle that we have all shared from the beginning but, again, couldn’t have been done without their work. They have also managed to do it in a creative and innovative way that, while protecting employers, does not leave the patients and the families high and dry, which is exactly what needed to be done.

Honestly, it is a very difficult task, but they have worked doggedly on this issue. All of them managed to reach a bipartisan agreement.

The most important thing from the perspective of the overall legislation is that this is another in a series of obstacles language—we have now been able to reach some consensus.

They have followed sort of one by one by one, starting with the issue of scope, which Senator Breaux, Senator Jeffords, I, and others worked on, reaching a crucial compromise going to the issue of independence of medical panel to make sure that those panels are, in fact, independent.

We have reached a resolution of that issue. On the issue of medical necessity, the Presiding Officer from Delaware, along with my friend, the Senator from Indiana, were crucial in being able to reach a resolution that shows proper respect for the sanctity of the contract and the specific language of the contract but some flexibility, where necessary, for the independent review panel with respect to patients, keeping in mind the interest of patients on the one hand, which I know you care about deeply, and the importance of the contract in keeping costs under control.

Without your work and Senator Bayh’s work, that would not have been achieved.

The Senator from Tennessee and I, as we speak, are attempting to finalize an agreement on the exhaustion of appeal. Both of us believe, as do most Members of this body, that it is a sensible thing to have a patient go through the internal and external appeal before any case goes to court. We have tightened up that language, working together on it. We know it is important.

The Senator from Tennessee, Mr. Thompson, and I are resolving this issue of the exhaustion of appeal. All of us believe that the appeals process is crucial to getting patients the care they need.

If this bill works the way Senator McCain and Senator Kennedy and I believe it should, the ultimate goal will be achieved if there were never a lawsuit involved. What would happen is the appeals process would have worked and the patients would have received the care they needed. That is what this is about.

We want patients to use this appeals process. The Senator from Tennessee and I are finalizing an agreement on exhaust of appeal, which is crucial.

I also want to thank our colleagues on this specific amendment because that is another crucial obstacle. Scope, independence of the panel, protecting employers, medical necessity, and exhaustion of appeals are crucial issues in this legislation about which we have been able to reach consensus.

As I said earlier, the important result is not what is happening within this Chamber but that the families of this country will have more control over their health care, and we will actually have a more realistic possibility of getting the legislation they so desperately need passed.

I thank all of my colleagues for all of their hard work. Without them, this could not have been achieved.

I yield the floor.

The Presiding Officer. The Senator from New Hampshire.

Mr. Gregg. Mr. President, let me begin by saying that this amendment is moving in the right direction. I believe, with some of the changes which we have discussed with the Senator from Ohio and the Senator from Maine, that we can make real progress on improving it. Unfortunately, the amendment came late. It is complicated. The issues involved are considerable. But before getting into the specifics of the amendment and how it may or may not play out in a positive way relative to producing a quality bill, let me make the point that this amendment addresses an important but not a broad part of the issue.

This amendment doesn’t, for example, address some very real and significant issues of area of liability. It doesn’t address the issues of the 56 million people who are in self-insured plans.

It does not, therefore, solve the overall liability question, which if you were to rate the five issues that I think the Senator from North Carolina has appropriately highlighted, although I am not sure he mentioned liability—he probably wasn’t thinking in those terms, but he certainly hit the floor if you put liability on the table—liability is probably the most important for a lot of people in this Chamber.

Issues such as forum shopping, class action, damages, punitive versus compensatory damages, are major issues that we still have to address. I think we recognize that there is still a fair amount of distance to go in the liability area.

But this amendment takes up the designated decisionmaker language. It takes a portion of the Frist-Jeffords-Breaux bill in this area and tries to basically grant that on to what is the McCain-Kennedy bill—a good and appropriate attempt, although I must admit that with just a quick reading of it I think there is going to be some real confusion on the part of employers between what they can do as a designated decisionmaker and direct participation. I had hoped that the language would have a firewall in there. But as a practical matter, at least the movement is in the right direction to give some insulation for designated decisionmakers and people who use designated decisionmakers.

As to the issue of union liability, there has been a lot of talk around here about making businesses liable. And they are liable. Small businesses and large businesses are all liable—and making HMOs liable.

If you are a union employee and have a union plan, and your union tells you can’t get some sort of treatment that you need and should get, unfortunately, the amendment, as originally drafted, you would not have been able to sue that union plan, any more than if you had been employed by a company, and the company had sponsored your plan, and you would be able to sue them with a union. But ironically the unions ended up, under the original draft, of being completely taken out of the picture.

The Senator from Ohio and the Senator from Maine made clear that was not their intent. I understand they are going to adjust some language so union plans, which are in the same basic position as those plans which are self-funded and self-administered, will be the ones which are taken out of the liability picture. That is reasonable. That is the way it should be. We look forward to that modification.

Another issue that this bill raised, which has not been really talked about at all, is the fact that it basically has Federal usurpation of what has been a very traditional State responsibility of determining the liability of the insurance agency, whether the insurance agency has adequate financial strength to cover the projected losses which may occur. This has been something on which States have spent a huge amount of time. It is a real specialty. It is an art form to look at these insurance companies and determine whether or not they have the depth and the ability to cover the costs if they get hit with a whole series of claims.

I would hate to see the Federal Government step into this arena where the States have been responsible and suddenly take it over. But under this amendment, as originally drafted, that would be the case; the Federal Government would now basically take all that responsibility away from the States.

We discussed this with the Senator from Maine and the Senator from Ohio and their staffs to try to straighten this out. They reconceived the issue.

I think the Frist model in this area is the right model. It essentially says: Where the States have responsibility, where they are the insurer, then they
Mr. GREGG. I believe there is still approximately an hour and a half left on the amendment. I would hope that once we reach an agreement, and we have the language from Senator Snowe and Senator DeWine relative to the issue of coverage for union plans and liability. There is one other responsibility for reviewing the adequacy of liability, and there is one other issue—one we have that language, I personally would think we could start yielding back time and go to a vote. I think it would be hard to get to a vote before 4 o'clock because of other commitments. It would be my hope we could vote at around 4 o'clock on this amendment.

The PRESIDING OFFICER. The Senator from Wyoming.
Mr. ENZI. Mr. President, this bill is really a strange one for me to be working on at all. Wyoming has one HMO. It is owned by some doctors. So far as I know, there are not any complaints on it. But there are some basic problems here that people in Wyoming are asking about.

Because of Wyoming's makeup, I usually talk about small companies, because under the Federal definition of "500 employees or less," we do not have a single company headquartered in Wyoming that would be considered "big business." But on this amendment I have to talk about big business.

I have been hearing from the accountants of a number of these companies. They are a little bit concerned about what is going to happen to their health care. They work for those companies. They can see what the costs are going to be on their companies. I have to say that this amendment before us now does not address the problem. I would like to think that it did.

I would like to be able to pass this. I would like to not have to talk about a big company. There are the Caterpillars and Motorolas and the Packards. There are about a dozen of these big companies in the United States.

Again, none of them is headquartered in Wyoming. I am pretty sure that none of them operates in Wyoming. They do partly because they have employees who they have, who are more concerned about their ability to sue than they are about the current benefits that they have, would have a choice. In exchange for that choice, this company would not have to hire a designated liability holder because that is what a designated decision-maker would be.

For most of the firms that have the Cadillacs of the industry, most of them will have to change to a designated decision-maker. That additional cost will be considerably more than the 5 percent they are currently paying to handle administration, that 5 percent that they do partly because they have employee committees that get involved in the decisions. And those employee committees are not going to want to be sued, so they are going to need some relief. I am here in the uncomfortable position of speaking up for the companies that are in your States, not mine, to protect the kind of health insurance they have at the present time and not drive up the cost, forcing them to go to a lower benefit plan with a designated decision-maker.

This is not the solution. I hope you will pay attention to the solution when that amendment comes forward.

Mr. DEWINE. Will the Senator yield for a moment?
Mr. ENZI. I will yield on the time from the Senator from Ohio. I was just given pretty limited time.

The PRESIDING OFFICER (Mrs. Lincoln). Who yields time? The Senator from Wyoming still has the floor.
Mr. ENZI. I yield the floor and reserve the remainder of my time.

Mr. REID. OBJECTION. Who yields time? The Senator from Maine has approximately 7 minutes remaining.

Ms. SNOWE. Madam President, we are awaiting modifications to the underlining amendment. Unless there are any other speakers on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Ms. SNOWE. I ask unanimous consent that the time not be taken from either side at this point.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object. We have to move this thing along.

The PRESIDING OFFICER. Objection is sustained.

Ms. SNOWE. I yield the floor.

The PRESIDING OFFICER. The Chair notes, if no one yields time, time is charged equally to all sides of the debate.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from New York is recognized.

(The remarks of Mrs. CLINTON pertaining to the introduction of S. Res. 117 are located in today’s RECORD under “Submission of Concurrent and Senate Resolutions.”)

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent the Senator from Wyoming be recognized to offer an amendment and that debate that for up to 30 minutes with the time equally divided and no second-degree; that thereafter, we go to an amendment from Senator GRAMM, which I understand is agreed to, and that debate will be up to 10 minutes; then we go to an amendment from Senator SPECTER.

Mr. REID. Reserving the right to object, we have been told the Gramm amendment is substantially agreed to and that two other people have to look at it first. I am sure that will work out fine.

Mr. GREGG. I didn’t say it was agreed to; I just said they had 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is temporarily set aside, and the Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I ask unanimous consent of the amendment No. 840.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk reads as follows:

The Senator from Wyoming [Mr. ENZI] proposes an amendment numbered 840.

Mr. ENZI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(A) Purpose: To provide immunity to certain self-insured group health plans that provide health insurance options.

On page 317, between lines 15 and 16, insert the following:

SEC. 304. IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.

(a) In general.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

``(p) IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.—

(1) In general.—No liability shall arise under subsection (n) with respect to a participant or beneficiary against a group health plan described in paragraph (4) if such plan offers the participant or beneficiary the coverage option described in paragraph (2).

(2) Coverage option.—The coverage option described in this paragraph is one under which the group health plan, at the time of enrollment or as provided for in paragraph (3), provides the participant or beneficiary with the option to—

(A) enroll for coverage under a fully insured health plan; or

(B) receive an individual benefit payment, in an amount equal to the amount that

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would be contributed on behalf of the participant by the plan sponsor for enrollment in the group health plan (as determined by the plan actuary, including factors relating to participant or beneficiary's age and health status), for use by the participant in obtaining health insurance coverage in the individual market.

(3) **TIME OF OFFERING OF OPTION.**—The coverage option described in paragraph (2) shall be offered to a participant or beneficiary—

(a) during the first period in which the individual is eligible to enroll under the group health plan; or

(b) during any special enrollment period provided by the group health plan after the date of enactment of the Patients' Bill of Rights Plus Act for purposes of offering such coverage option.

(4) **GROUP HEALTH PLAN DESCRIBED.**—A group health plan described in this paragraph is a group health plan that is self-insured and self-administered prior to the general effective date described in section 401(a)(1) of the Bipartisan Patient Protection Act.

(b) **AMENDMENTS TO INTERNAL REVENUE CODE.**—

(1) **EXCLUSION FROM INCOME.**—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following:

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(2) the receipt by the individual of an individual benefit payment described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, or
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(2) **NONDISCRIMINATION RULES.**—Section 100(h) of such Code (relating to self-insured medical expense reimbursement plans) is amended by adding at the end the following:

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(1) TREATMENT OF CERTAIN COVERAGE OPTIONS UNDER SELF-INSURED PLANS.—No amount shall be included in the gross income of an individual by reason of—

(11) **Individual's right to elect a coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, or**

(2) the receipt by the individual of an individual benefit payment described in section 502(o)(2)(A) of such Act.
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(d) **TREATMENT OF CERTAIN COVERAGE OPTIONS UNDER SELF-INSURED PLANS.**—The Employee Retirement Income Security Act of 1974, as amended, is further amended by adding at the end the following:

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We can reasonably expect the fully insured employer plan to be able to designate the final decision on a claim for benefit because that is generally how they function now, having the insurance company administer the plan, with the employer participation ranging from full plan design to advocating for a sick employee. That is not the way the self-administered plan operates. So none of the proposals protects them.

My fear is that none of the proposals even preserves that kind of a plan. Let me explain why that is a problem. There are many self-administered plans. They don't have to be insured, so they can design a wide, often unique range of benefits that are providing health care coverage to frivulous lawsuits needs to be

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fixed. The Senators are now talking about how we protect the good actors. Those are employers that are doing right, offering comprehensive health coverage but not playing a role in denying medical care to which their employees are entitled under the insurance contract.
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My hope is that in the course of these discussions everyone will settle on a comprehensive liability fix that includes the designated decisionmaker model presented in the Frist-Breaux-Jeffords bill. As many of my colleagues have said, that certainly seems to do the job. I agree it certainly seems to. In fact, I agree that the designated decisionmaker mechanism must be part of an amendment to successfully resolve the problems in the underlying bill.

However, while the designated decisionmaker model does present itself as the most reliable proposal for protecting most employers, there remains a small segment of the market that will continue to go unprotected. Ironically, this segment of employers could argue that the ERISA plans may represent the best of the best. These are the plans that we all should envy. They are plans better than we have in the Senate. They are referred to as the self-insured, self-administered employer plans. They comprise roughly 5 percent of the entire ERISA market.

Five percent is not a small number because that is still 6 million people, but the problem under the Kennedy-McCain direct participation model and even a designated decisionmaker model as we have been debating in the last few minutes is that these employers will have to dramatically alter their health plan because they do the plan administration in-house. That means they are participating in everything, and it means they cannot just designate their third party administration insurance company because they don't currently contract with such entities for the purpose of processing claims. That is the difference between the self-administered and the fully insured employer plan.

We can reasonably expect the fully insured employer plan to be able to designate the final decision on a claim for benefit because that is generally how they function now, having the insurance company administer the plan, with the employer participation ranging from full plan design to advocating for a sick employee. That is not the way the self-administered plan operates. So none of the proposals protects them.

My fear is that none of the proposals even preserves that kind of a plan. Let me explain why that is a problem. There are many self-administered plans. They don't have to be insured, so they can design a wide, often unique range of benefits that are providing health care coverage to frivulous lawsuits needs to be
Under the amendment, self-administered, self-insured employers would be required to offer at least one of the following options. The first would be a fully insured product, under which an employee could exercise the cause of action in this bill against the insurance company administering the health plan; or, the employer would provide a self-administered plan; or, the employer would provide a self-administered plan in the form of an “individual health benefit,” the amount of their employer’s annual premium contribution under the self-administered employer plan. This would have to be used to buy health care, which is done in the State regulated individual market. They have the right to sue.

If an employer offers one or both of these choices to employees, then the employer would not be subject to the new law that provide the self-insured, under the Patients’ Bill of Rights. Any new civil monetary penalties would apply to these employers for violations of the act, and the external appeals determination would be binding on the employer, but enrollees would not be able to pursue damage awards against the employer under the new cause of action. As under the Frist-Breaux-Jeffords bill, this provision would not preempt any medical malpractice action currently available in state court.

It would not do that. This is very clear. An employee makes the choice to either keep the caliber of benefits under the self-administered plan, or to choose a plan specifically for the right to sue. Those employees that choose the fully insured product will be able to hold their plan accountable under the new cause of action. And, those employees that choose to purchase their own plan through the “individual health benefit” are similarly able to hold their plan accountable under state law.

The argument has always been that ERISA is unfair because it “traps” employees in the employer sponsored plan, affording that option alone, where damage lawsuits aren’t available. This proposal solves that dilemma without jeopardizing access to top-notch employer sponsored health care for those employees. Have any of you been hearing from the major companies that provide the self-insured, self-administered employer plan? No, you have not. They have not been asking for that right to sue. They like the range of benefits they have, they like the personal way it is handled.

The arguments you will hear against the amendment, I believe, actually make the case for it. It is very simple. It will be argued that employees will never be able to get the rich benefit packages that their employer’s self-administered plan has. They will opt into the individual market by taking the “individual benefit,” and, while it may be better than the individual market under the fully insured option, surely it won’t compare to the self-administered option.

There is another right. If they spend the same amount of money and add a liability part to it, you do not get as much insurance. I am trying to preserve their insurance, not the right to sue, by giving them the flexibility. Any employer that ever had a bad actor incident in their company would have all of their people go out into the individual market under this plan.

This bill would eliminate the best employer plans out there because we feel compelled to sue them instead of making the decision to eliminate self-administered plans by a lawsuit from Washington. Why don’t we let the employees make the choice for themselves? Every time a window of choice comes open they can opt into this other plan if they think it is a good way to go.

But I will tell you why the businesses cannot do what is being mandated under this bill. If they have to have a designated decisionmaker, they are hiring somebody to take the liability risk. They are not just hiring somebody to administer the plan. That is only a 5-percent cost. This will drive their prices up dramatically if we do not give this option, and people who are receiving the best care in the United States at the present time will have to settle for something else.

I believe we have made a concerted effort through the amendment. It is one we talked about a lot last year in the Patients’ Bill of Rights conference committee. We made an attempt to amend the process, to remedy the problems of the entire liability section under the underlying bill, including protecting employers and including protecting small employers.

It is not the small ones; this is worry about the big ones who are providing the best of the best. I do not believe we will be doing a good job unless we include this amendment.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. If no one yields time, time will be charged against both sides.

The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I understand what my friend from Wyoming is trying to do. We appreciate his work on this issue. This is a subject matter that was covered previously by the Snowe-Nelson-DeWine-Lincoln amendment on which we reached consensus on the floor a few hours ago. That amendment was specifically designed to strike the proper balance between protecting employers on the one hand and making sure we also protected the rights of employees. So this is a follow-up to that amendment and the provision from covered, about which there has already been great discussion, work, and compromise across party lines, Democrats and Republicans, and about which we are soon to have a vote. It is an issue about which we already have consensus. We have widespread support for that consensus.

The reason for that widespread support is we have protected employers while at the same time kept alive the rights of employees and patients. We have sought in a very creative way a solution to that problem.

This specific amendment has at least two major problems. No. 1, what it does is take away the rights of employees, patients, and families, to hold anybody accountable if one of two things occurs. The problem with that concept is that it is in violation of the President’s principle, which we have talked about at great length on the floor of the Senate, which is that employers be protected but that somebody be held accountable if the employee, the patient, is injured as a result of a medically reviewable decision. The President specifically said that in his principle. That principle is completely complied with in this amendment. That is the Snowe-Nelson amendment because in that amendment we create a situation where we protect the employees right to recover if, in fact, they are injured by a medically reviewable decision, while at the same time providing protection for employers. So that is the reason that consensus was reached. That is the reason both Democrats and Republicans support it across party lines, and that consensus is consistent with the President’s principle.

This is an issue about which we have already talked and an issue about which we have reached some agreement.

In addition to that, there are at least two other problems with this specific amendment.

No. 1, it provides the employees with a false option. It says for self-insured, self-administered plans if either of two things occurs, the employee, the family, and the patient lose their right to hold anybody accountable. One of those options is that they go out, get a voucher, and buy their own health insurance. But there is absolutely no requirement that the voucher be adequate to buy quality health insurance plans.

Second, they may provide a comparable plan. But there is nothing to require that the benefits of that plan be equal to the benefits the employee would otherwise have.

The bottom line is there are no protections that require that under these options the employee or the patient end up with the same quality health care plan. In many regards, it is a false option that is being provided to them.

Another fundamental problem is that there is a provision in the amendment—this is the B-1 exclusion from income—which says section 106 of the Internal Revenue Code of 1986 is amended by adding at the end the following. Of course, an amendment to
the Internal Revenue Code creates a blue slip problem. This issue has to originate in the House, which means, if adopted, this entire legislation could be sent back to the Senate from the House.

We have a number of problems. I understand what my colleague is trying to do. I think his purpose is very well intentioned. But I say to my colleagues, No. 1, this is an issue about which we have already reached consensus in the Snowe-DeWine-Nelson amendment. We have reached that consensus for an important reason. We have complied with the President's principle. We have complied with the fundamental principle, with which many of us on both sides of the aisle agree, which is we need to protect employers and provide the maximum protection for employees. The third way, is that if employed employees love their plan, and they want to keep it and agree to not require Wal-Mart to be liable to be sued, and if Wal-Mart gives them the option of going into a fully-insured plan with liability so that they do not have to be in the Wal-Mart self-insured plan, they can choose to remain in it, and Wal-Mart will not be forced by liability costs to cancel their plan. This is an important issue that addresses a very real shortcoming in this bill. The incredible paradox is that this bill will do the most damage to the best health care plans in America—plans that are self-insured—plans that are large—and that provide terrific coverage. Under this bill, there is no question about the fact that the employee is liable. That liability fear will end up forcing them out of these plans.

The Senator has offered us a third way. The third way is if every employee is offered an alternative plan, and Wal-Mart employees love their plan, then those who choose to stay in their health plan and say, I love my Wal-Mart plan and I don't want to sue Wal-Mart, would have a right to do it. That is what the Senator’s amendment does. All of the rest of these arguments have nothing to do with the amendment.

Do you want to destroy the best health care systems in America? If you do, you want to vote against the Enzi amendment. If you do not, vote for the Enzi amendment which guarantees that a Wal-Mart employee will have an option of another health care plan where everybody is liable. But if they choose a better plan with fewer lawsuits, aren’t they just better off by definition by choosing?

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Mr. EDWARDS. Mr. President, let me respond briefly to a couple of the comments that were made about the Enzi amendment.

First of all, no argument was made that I heard about the blue-slip problem, so I presume there is agreement that if this amendment is included, it would require the entire Patient Protection Act to be sent back.

Second, I say to my friend from Wyoming, I actually did listen to his comments in the debate. And not only that, I sat in hours of meetings with Senators SNOWE and DEWINE, and others, working out the language of the Snowe-DeWine-Nelson amendment.

The Senator is factually incorrect about one thing; that is, that what Snowe-DeWine-Nelson does is, No. 1, provides this country in the Snowe amendment for 94 percent of the employers in the country. Almost every small employer is totally protected. But we left in place for patients. The employers are completely protected.

For the self-insured, self-administered employers, we have also provided specific protections in this amendment, which we have been working on for several days now. No. 1, they are completely carved out. Self-insured, self-administered plans are totally carved out of the Federal cause of action in the Bipartisan Patient Protection Act. They cannot be held responsible for contractual, administrative responsibilities, period. They are out.

Second, we have provided that if they choose to do so, they can pick a third party designated decisionmaker and send all liability to that decisionmaker by which they are completely protected.

And finally, we have provided that if they have what many of these large employers have, which is a system where they simply make a decision, yes or no, on paying the claim after the treatment has already been provided—that the patient goes and gets the treatment; then they decide whether they are going to pay for it or not—they cannot be held responsible.

So I say to my friend and colleagues, what we have done is provide complete protection for 94 percent of the employers and the Snowe amendment, while at the same time not removing the rights and protections of patients.

For the self-insured, self-administered employers, we provided three protections: No. 1, they are completely out on the Federal cause of action, which is contracts, administrative issues.

No. 2, we have specifically said they can use a designated third party decisionmaker and remove all liability by doing that if they so choose.

No. 3, we have said if they operate the plan by saying: we decide after the treatment just simply whether we are going to pay for it or we are not going to pay for it, they are completely protected.

So after lots of work, and many hours, I say to my colleagues, we believe we struck the right balance in both cases—for providing maximum protection for the employers and keeping in place the rights of patients, employees, and families.

So in addition to the blue-slip problem, which in and of itself would be enormous, we believe that we have dealt with this issue. We have dealt with it in a proper and adequate fashion. And we have addressed the concerns of the self-insured, self-administered plans, and the issues raised by small employers around the country who will be completely protected by this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time on this amendment?

The Senator from Wyoming.

Mr. ENZI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. It is my understanding that the managers of the bill, including Senator Feist, would ask that this vote be put over until a later time. So I ask unanimous consent that be the case.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Chair advises the Senator from North Carolina he has 4 minutes remaining in opposition to this amendment.

The Senator from Texas.

Mr. GRAMM. Mr. President, under the previous unanimous consent agreement, I believe I had 10 minutes to offer an amendment with Senator Mccain, but he is not here. I am waiting for him to come back. So I would just like to suggest that perhaps we could modify the unanimous consent agreement so that when he does come back, whoever is speaking at that point, whenever they are finished, we would be recognized to do the amendment. But there is no reason we cannot conduct other business while we are sitting here.

Mr. KENNEDY. Why not talk now?

Mr. GRAMM. I am offering this with Senator McCain. I think he wants to be here as well. It is my understanding he is on his way.

Let me just suggest we let Senator Nickles speak, if he would like to speak. We could all learn something from listening to him. And then, when he is finished, hopefully Senator McCain will be back, and we will do this long-awaited amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I just appreciate my friend and colleague from Texas. I will be very brief. I understand the Senator from Pennsylvania wants to come and speak on his amendment. I would just like to make a couple general comments.

Just for the information of our colleagues, I believe at 6:30 we will have three votes. So people should be cognizant of the fact we are going to have two or three votes—three votes, I believe—at around 6:30.

One, I wish to compliment the Senator from Wyoming, Mr. Enzi, for his enrollee choice proposal. I think it is an outstanding proposal. I urge my colleagues to be in favor of it.

I would also like to make a couple comments and speak of the designated decision maker. Some people are acting like this is a grand compromise, that this is going to save employers: Employers are going to be exempt now because we are going to give this decision to a third party.

When I ran a company, Nickles Machine Corporation, we had a third party administrator. They handled all the administrative claims. They did a decent job. So I didn’t have to do it, our company didn’t have to do it. We hired them to pay the benefits, to harass the providers, to make sure that benefits were paid or weren’t paid. They paid the right benefits, didn’t pay the right benefits. They were hired guns to run the plan, to make the decisions, to negotiate with the hospitals, negotiate with the doctors—all those kinds of things. That is what third party administrators do.

Now we are talking about saying: They have that responsibility, and now they have liability, too. That’s what this amendment does. Some people said: It is going to hold employers harmless. It will not. I will tell you, the net result is third party administrators are going to say: What am I liable for? Under the McCain-Kennedy-Edwards proposal, they are liable for anything and everything. They are liable for unlimited economic damages. They are liable for unlimited noneconomic damages, pain and suffering. They are liable for punitive damages—up to a cap of $5 million—in Federal courts. They are liable for unlimited economic and noneconomic damages in State courts.

It has never been said that State court limitations for doctors and so on would apply to the plans and/or to the States. So now we are saying to a third-party administrator, we want you to assume the liability but the extent of the liability is not defined. It is unlimited. One good lawsuit and they are going to have to write a great big check. What are they going to do? They are going to have to charge a lot of money. They are going to have to
The PRESIDING OFFICER. The amendment is as follows:

AMENDMENT NO. 843

The PRESIDING OFFICER. Under a previous order, the Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, I send to the desk and ask for its immediate consideration.

Mr. GRAMM. Mr. President, I send to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The amendment is as follows:

(Purpose: To ensure the sanctity of the health plan contract)

Insert at the appropriate place:

Notwithstanding any other provision of this Act, any exclusion of an exact medical procedure, any exact time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined (in the plain language of the plan or coverage) under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 204(b)(1) shall be considered to govern the liability of the party administrator which is usually designated decision maker with no liability, unlimited noneconomic, unlimited economic.

The net result is that this designated decision maker that some people think is going to exonerate employers will show that this is a very expensive provision, and the cost of this bill, the cost of this bill, the operation of health care and, therefore, ultimately the number of uninsured will rise dramatically as a result of this bill and because of this provision.

I urge my colleagues to vote no on the underlying amendment that deals with this provision.

I want to mention—I hope it gets fixed—I think it is outrageous we could exempt union plans from this provision. I hope it is fixed.

I yield the floor.

Mr. REID. That the Senator from Texas will withhold, and no time will be charged against him. I would propose an unanimous consent request.

Mr. President, I ask unanimous consent that Senator SPECTER be recognized to offer an amendment regarding Federal courts with an hour for debate equally divided in the usual form; further, that Senator SPECTER be permitted to modify her amendment; further, that the Senate vote in relation to the other amendments in order prior to the vote: further, that following disposition of the Snowe amendment, there be 2 minutes for debate prior to a vote in relation to the Enzi amendment with no second-degree amendments in order prior to the vote: further, following disposition of the Enzi amendment, there be 2 minutes for debate prior to a vote in relation to the Spector amendment with no second-degree amendment in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, I reserve the right to object. I entered the Chamber and I heard my name mentioned. I would ask that the unanimous consent be repeated.

Mr. REID. That the Senator from Pennsylvania would have one hour evenly divided in the usual form.

Mr. SPECTER. Mr. President, I do object to that. I was asked if I thought I could do it in an hour, and I said I would do my best. This is a complicated bill. I am not prepared to enter into a unanimous consent request which limits my presentation to 20 minutes.

Mr. REID. Will the Senator from Pennsylvania agree to have 45 minutes for him and 15 for us? We have Members who want to know when they are going to vote.

Mr. SPECTER. That is not satisfactory. I am being importuned over here about what a good deal it is. This amendment, Mr. President, involves a question of whether there will be both Federal jurisdiction and State jurisdiction. It is a matter I have discussed with the managers of the bill again this morning and with Senator Edwards. I believe there is going to have to be some discussion. There are going to have to be some issues raised and
some questions answered. It simply does not lend itself to that kind of time constraint.

Mr. REID. If I could say to the Senator from Pennsylvania, how about if he has an hour and we have 20 minutes?

Mr. SPECTER. Mr. President, I am prepared to start the debate and to make it as expeditious as possible. But I am not prepared to negotiate time to an hour and 20 minutes total. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Texas is recognized for 5 minutes on his amendment.

Mr. GRAMM. Mr. President, I have sent an amendment to the desk. The amendment has been read.

Let me explain to my colleagues what the amendment does, why it is important, and then I will thank our distinguished Arizona senator for his amendment.

Under the bill that is now before us, under the language of the current bill on page 35, the bill says that contracts are binding. But then it makes those contracts binding unless they are subject to mutual consent or medical facts and they are subject to medical review.

This creates an extraordinary ambiguity and, for all practical purposes, makes the contract not binding. That creates a situation where every health insurance company in America will realize that these outside medical reviewers, based on medical necessity, could invalidate every health insurance contract in America and, as a result, put everybody under the high option plan whether they pay for it or not. The net result would be an explosion in health care costs. In fact, if this provision is not fixed, it is at least as explosive in potential cost as the liability section, which we have talked about very much in recent days.

The amendment I have offered makes the contract binding, and it provides language that says the contract is binding as long as the contract does not violate the language of the bill. Let me explain very briefly what that means. If, as we do under the bill, we say that if you provide emergency room coverage, you have to have a prudent layperson standard for that emergency room coverage, so you have to do that if you provide the coverage no matter what this amendment says; or if we say under the bill that if the plan has pediatric care for children, that can be the primary physician, then it would have to be the law that would govern.

Within that very limited proviso, this amendment makes the contract binding. I think it is a dramatic improvement in the bill.

I thank our distinguished colleague and my old and dear friend from Arizona for helping me work this provision out. It is something I have worried about. I do think it improves the bill, and it certainly would not have happened without the reasonableness of our dear colleague from Arizona. I thank him for that.

I yield.

Mr. MCCAIN. Mr. President, I thank the Senator from Texas for causing this amendment to happen. It really is to ensure the sanctity of the health care contract. Concerns were raised that under the pending McCain-Kennedy legislation, independent medical reviewers can order a health plan to provide items and services that are specifically excluded by the plan.

That was not the intention of the law. The Senator from Texas pointed out that it could have been interpreted in another way, and clearly this amendment I think tightens that language to the point where it is clarified that the bill doesn’t do this and its specific limitations and exclusions on coverage must be honored by the external reviewers.

There are numerous safeguards already in the bill to ensure that external reviewers cannot order a group health plan or health insurer to cover items or services that are specifically excluded or expressly limited in the plain language of the plan document and that do not require medical judgment to understand.

So I think this language is important in its clarification. I understand Senator Gramm’s concerns. I know this will not bring him to the point where he is willing to vote for the bill, but I do hope it satisfies many of his concerns, and we will continue to work with him to try to satisfy additional concerns. I appreciate his cooperation and that of his staff. I believe my friend from Texas would agree this is probably the 35th draft we have of this maybe 9-line amendment, but each word is important nowadays as we work our way through this bill. I believe the appropriate place is on page 36, line 5.

By the way, I thank Senator Kennedy and Senator Edwards and their staffs for agreeing to this amendment. I share the opinion of the Senator from Texas that it is an important amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I urge that we accept this amendment. As in other areas, there has been a desire to provide clarification to the language we had in the bill. One of the issues that has been debated is the power and authority of the review medical officer in the review process. It was never the intention to include benefits that were not outlined in the contract. It was going to be limited to the contract, but it was also going to give discretion in terms of medical necessity. So this is a clarification of that, and I think it is a useful and valuable clarification. I hope the Senate will accept it.

Mr. GRAMM. Mr. President, I seek only to do good, not to have it recorded through a recorded vote. So I ask unanimous consent that the amendment be adopted.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 843) was agreed to.

Mr. MCCAIN. The amendment that I offered today with Senator Gramm helps to clarify the intent of how this bill deals with medically reviewable decisions.

Mr. KENNEDY. The Senate should understand that the language in the McCain-Edwards-Kennedy bill is based on language from a bipartisan compromise between John Dingell and Charlie Norwood. Every member of our conference signed off on our approach the last Congress, from Donnelly through Phil Gramm to John Dingell and me.

Our approach is based on a very important concept. It assures that the external reviewer cannot be bound by the HMO’s definition of medical necessity. That does not mean that the reviewer cannot sign off on anything that is explicitly excluded by the health plan. If the plan covers 30 days in the hospital the reviewer cannot approve 100 days. However, where a coverage decision requires medical judgment to determine whether of not what the patient is requesting is the type of treatment or services that is explicitly excluded, we intend for that determination to be eligible for independent review.

Mr. MCCAIN. The amendment we are drafting here—that merely restates what is in the underlying bill—is not intended to change our fundamental approach, just to clarify our intent.

Our overall bill still clearly states that coverage decisions that are subject to interpretation or that are based on applying, medical facts and judgment should be reviewed. This includes those decisions that require the application of plan definitions that require that interpretation.

Mr. KENNEDY. Absolutely—the reviewer should be looking at those cases. The amendment is intended to clarify that we never meant to have the independent reviewer approving a benefit that is explicitly excluded in all cases. However, in the case where there is some dispute about whether it is a medically reviewable benefit, we do want the case reviewed.

Mr. MCCAIN. Right, just as in the case we have heard about a child with a cleft palate. The plan says they do not cover cosmetic surgery, but the doctor argues that there is specific health risks for not having this surgery. That is something the independent reviewer would look at to determine if it is covered in this case.

Mr. KENNEDY. Under the bill the external review process is first designed to determine whether a denial by the plan or issuer is based on a particular

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On page 156, strike lines 15 and 16 and insert the following:

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(1) LIMITATION ON CLASS ACTION LITIGATION.

(A) In general.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, derivative action, or group of claimants is limited to the participants, beneficiaries, or enrollees with respect to a group health plan established by only 1 plan sponsor or with respect to coverage provided by only 1 issuer. No action maintained by such class, such derivative action claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative action claimant, or group of claimants or consolidated for any purpose with any other proceeding.

(B) Definitions.—In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply to all actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act, and all actions that are filed not earlier than 180 days after such date.

(3) RACKETEERING INFLUENCED AND CORRUPT ORGANIZATIONS ACT.—Section 1962(i)(c) of title 18, United States Code, is amended—

(A) by inserting '(1) after the subsection designation; and

(B) by adding at the end the following:

'(2) No action may be brought under this subsection, or alleging any violation of section 1962, if the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated or provided a group health plan, or health insurance coverage issued in connection with a group health plan. Any such action shall be brought under the Employee Retirement Income Security Act of 1974.

'(3) In this subparagraph, the terms 'group health plan' and 'health insurance issuer' have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

(4) CONFORMING AMENDMENT.—Section 1513 of the Employee Retirement Income Security Act of 1974 is amended by striking 'and' before the period at the end of subsection (c) and inserting a semicolon.',
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Bauman v. U.S. Healthcare, 1 F. Supp. 2d 420, a case which was heard in the United States District Court for the District of New Jersey in 1998. In that case, and this illustrates the kind of an issue I am referring to, the HMO plan had policies which encouraged the discharge of a mother and a newborn within 24 hours after birth. Mrs. Bauman was discharged after that time elapsed, and the next day the Baumann’s daughter fell ill.

The Baumanns contacted the HMO and requested a home visit by a nurse. The HMO refused to send a nurse, and the daughter died of meningitis the same day. On appeal, the United States Court of Appeals for the Third Circuit in a case called Bauman v. U.S. Healthcare, 1 F. Supp. 2d 420, reversed the district court on one liability count and remanded the case to the district court.

That is legalese, obviously, and very hard to present in the course of a floor statement in a Senate debate on this subject, but it is illustrative of a point that where you have a situation where an HMO covers certain kinds of treatments for medical illness and you have a question of malpractice, under the McCaig bill that claim would go to the Federal court, but if there is a claim on malpractice, failure of the doctor to exercise ordinary care, that case would go to the State court.

There is no doubt that with the long history which the Federal courts have had on interpreting ERISA that there is going to be the first line of jurisdiction, and appropriately so, in the Federal court.

My amendment would provide that the Federal court would have exclusive jurisdiction over all of the claims. In a situation where the HMO would have its case heard in the Federal court, the Federal courts frequently will retain jurisdiction over the doctors, the nurses, and the hospital, and the other parties where the matter would ordinarily go to State court on what is called pendent or supplemental jurisdiction.

Again, it is very complicated. It does not lend itself to a short time agreement, but the upshot of it is that if you have the provisions of the McCaig bill which give jurisdiction to the Federal courts on contract interpretation or “quantity of care” and jurisdictions in the State court on malpractice or “quantity of care”, a plaintiff is going to have to go to two courts to get both of the claims adjudicated which is, as I say, a procedural quagmire.

The amendment which I have proposed would not be a complete deference to State law by providing that it would be the law of the State where the incident occurred which would govern the lawsuit. That is to say that the damages would be determined by State law and damages vary among the 50 States.

Also, if the State had a cap or a limit on the amount which could be collected, that would be determinative when the case is brought in the Federal court.

This is very much like the diversity cases where jurisdiction resides in the Federal court, where the plaintiff is a resident of one State and the defendant is a resident of another State. A simple illustration would be if a patient from Camden, NJ, is treated in a Philadelphia hospital, and there is a billing dispute with anesthesiologist. If the physician and there is an allegation of malpractice, negligence on the part of the physician and the hospital, then the case is going to be the State court of Pennsylvania with requisite jurisdictional amount, but it would be the law of Pennsylvania which would govern, or the plaintiff could sue in the State court of Pennsylvania. State courts would have jurisdiction.

Once you bring the HMO into the picture and you have what is traditionally under ERISA, it has to start out in the Federal court at least as the contract interpretation and “quantity of care.” That is why it is my point, and legal judgment, that it is necessary to avoid the procedural quagmire to have the Federal court have jurisdiction over the entire matter.

The question has been raised as to choice of law and venue, the question raised by my distinguished colleague from Tennessee, and I specified in the legislation that it would be the place of the incident which would determine the applicable law. Again, liability varies from State to State and venue has an important place. We want to avoid the potential of judge shopping so that the choice of law and the determination of venue would be where the incident occurred.

There is another important aspect to the litigation in the Federal court because of a feeling of a greater confidence in the Federal judicial system than in some State court judicial systems. This is a touchy point, but it is one which the Judiciary Committee examined in some detail last year in considering the question of amending diversity jurisdiction in class action cases. Class action is when plaintiffs join to sue a defendant. In order to have a class action, all you have to do to avoid diversity in a class action is to avoid diversity in a class action case and had the class action certified.

Diversity jurisdiction is easily defeated in a class action matter because if you have many plaintiffs, as you do in a class action, and a single defendant, all you have to do to avoid diversity is to have one of the plaintiffs a resident of the same State as the defendant. In order to have a diversity jurisdiction in the Federal court, all the plaintiffs have to be from the State other than the resident of a defendant.

In the Judiciary Committee report on this subject, the following facts of findings were made:

Some State court judges are less careful than their Federal court counterparts about applying the procedural requirements that govern class actions.
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That appears on page 16 of the report of the Judiciary Committee reporting this bill in its amended form. On the next page, page 17, appears the following statement:

A second abuse that is common in State court class actions is the use of the class device as "judicial blackmail." That is a fairly strong condemnation in citing that criticism of the State courts. I do not suggest the impugning of all State court judges everywhere. But there is a considerable difference in quality of justice in the courts where you have electoral process in many States, contrasted with the Federal system of life tenure, where I believe it is fair to say that generally the caliber of the Federal courts is better, at least as a generalization.

There has been a great deal of concern expressed by some about the unlimited potential liability that would be present in a Patients' Bill of Rights in exposing defendants, HMOs, and employers to very high verdicts which would increase the cost of health care. So there is some assurance, I think fairly stated, by having the cases brought in the Federal courts.

I think it is useful to cite a couple of other illustrations about the underlying concern which I have about the procedural quagmire which occurs. One of the two cases I intend to cite additionally—but I shall not cite many of the other cases, and there are many illustrative of this proposition—is the case of Pryzbowski v. U.S. Healthcare, Inc., 245 F.3d 266, decided by the Court of Appeals for the Third Circuit earlier this year. The plaintiff had back problems, sought surgical treatment, the HMO delayed a decision for months, the plaintiff went to State court, suing the HMO for medical complications occurring by having the cases brought in the Federal courts.

I am a cosponsor of the bill and I, too, intend to support the bill. But I do not intend to litigate a case out of the same occurrence, which in my understanding of the case, the facts we have to date with that particular issue, following the Supreme Court holdings in the Pegram case, this would be tried in the State court.

Mr. SPECTER. Madam President, I would press the question as to the interpretation of the insurance contract, which defined the rights of the parties under the contract. Isn't it true that under his bill a claim which calls for interpretation of covered benefits, such as so-called "quantity of care" would be brought in the Federal court, and a claim which might—would that not, under his bill, be brought under the State court?

Mr. KENNEDY. I say to the Senator, it is my understanding of the case, the facts have to date with that particular issue, following the Supreme Court holdings in the Pegram case, this would be tried in the State court.

Mr. SPECTER. Madam President, I suggest that is at variance with the provisions of the Senator's bill. I will cite the exact citation here.

At page 140, if I might call it to the attention of the Senator from Massachusetts, section 502 of ERISA, which is brought in the Federal court, and at the bottom, line 24, (1) regarding whether an item of service is covered under the terms and conditions of the plan or coverage.

So that is a section where you have Federal court jurisdiction, and that
would be the issue, as to interpretation of a contract to determine coverage.

I asked the Senator from Massachusetts if that is not an accurate citation of the Senator’s bill?

Mr. KENNEDY. No. No, it is not. The Senator would be reading it out of context.

Cause of action must not involve a medically reviewable decision.

The Federal cause of action excludes the medically reviewable decision. That is on page 142, line 6.

Mr. SPECTER. If I might have the attention of the Senator from Massachusetts, on the preceding page, 139, section 302 talks about the “availability of civil remedies.”

(a) Availability of Federal Civil Remedies
In Cases Not Involving Medically Reviewable Decisions

Mr. KENNEDY. Yes.

Mr. SPECTER. Going on to 140.

Mr. KENNEDY. The Senator is correct, and that is consistent with my earlier remarks.

Mr. SPECTER. If I may be permitted to finish my sentence, since I do have the floor——

Mr. KENNEDY. If the Senator wants a response, I am trying to respond to those highly technical questions the best way we can.

Mr. SPECTER. I do want a response, but not in the middle of my sentence of the middle of my question.

But to go forward here on the availability of Federal civil remedies in cases not involving medically reviewable decisions, this covers, line 24–25: regarding whether an item of service is covered under the terms and conditions of the plan or coverage,[

My question to the Senator from Massachusetts: Isn’t that an explicit conclusive statement that, if it is a matter for a contract, to what extent a contract applies to what service is covered under the terms and conditions of the plan or coverage, that is a Federal remedy? That is what it says in black and white, doesn’t it? I ask Senator KEN

Mr. KENNEDY. The Senator is wrong. That is taking it out of context. The fair way is to read the complete paragraph and go on to the next page.

Mr. SPECTER. Madam President, if the Senator cares to read the next paragraph, where he makes a claim of being taken out of context, I would be interested in hearing him read any such paragraph.

Mr. KENNEDY. I have referred to that earlier, page 142, line 6. The coverage decision depends on a medically reviewable issue. On the matters dealing with the medically reviewable issue, the Supreme Court has indicated that it would be decided in the State courts. That is essentially what we have included in this language.

Mr. SPECTER. Madam President, I agree with the general delineation that it was a medically reviewable decision.

That is called “quality of care,” as I have said before, and is a malpractice issue. But the question which I have directed to the Senator from Massachusetts is a much narrower question.

To repeat, is this not a question on the interpretation of the contracts, specifically where an item of service is covered under the terms and conditions of the plan for coverage? That is the Senator’s question. The interpretation of “an item of service is covered under the terms and conditions of the plan for coverage” is a matter for the Federal court.

I believe it is plain from the language on 139 to 141 that it is a Federal matter. But if you move to an interpretation of what is medical malpractice or a breach of duty by a doctor on what is a medically reviewable decision, then that is not a matter which goes to the State courts. And this legislation does not continue the preemption of existing law.

If I might have the attention of the Senator from North Carolina, Madam President, this is an issue which my distinguished colleague from North Carolina and I have been discussing for several days. And this morning in my hideaway we discussed the complications at least as I saw them, on having the provisions of the pending bill which deal with this complex dichotomy of an interpretation of contract coverage, which is set forth at line 24, 25 on page 140 over to lines 1 and 2 on 141. The comment regarding an item of service covered under the terms and conditions of the plan for coverage which comes under the category of availability for Federal civil remedies. Then if you move over to a medically reviewable decision on medical malpractice, there is the different.

Is my interpretation correct that the legislation provides for cause of action in different courts, No. 1? It is the coverage of the contract, or what the courts have called “quantity” malpractice and what the courts have called “quality.”

Mr. EDWARDS. If the Senator would repeat the question, it is difficult for me to hear.

Mr. SPECTER. I would be glad to repeat the question. As the Senator and I were talking this morning, isn’t it accurate that the courts have made a distinction in ERISA, section 502, on what is contract coverage or “quantity” with complete preemption under existing law?

Mr. EDWARDS. My understanding is—as the Senator said, we talked about this earlier today—that has traditionally been the case. I think there has been, I think, some erosion on that during the last few years. I think the courts are still correct. There have been a number of court rulings in that respect.

Mr. SPECTER. Madam President, I agree with the Senator from North Carolina. There has been erosion on the preemption of 514 where the courts have really seen the inequities of denying injured parties relief and instead of being under 502 with “quantity,” they have tried to move the cases into “quality” with the broader interpretation where some relief has been granted.

I am a cosponsor of the amendment. As I said earlier, one of the concerns that I candidly expressed a decade ago was my surprise over the reach of the preemption of ERISA. It seemed to me to be unfair to deny injured plaintiffs redress in the courts because of the preemptions which were really designed originally under other kinds of benefit plans and not under health maintenance organization plans. When the HMOs came into being, they took some benefit of the same kind of preemption.

But in this legislation you have the dichotomy where some cases are heard in the Federal courts as they relate to “quantity care” or interpretation of the contract, and the same case or the same issue on the same court as it relates to a medical malpractice or the “quality of care.”

My question to the Senator is, isn’t that an accurate statement?

Mr. EDWARDS. Again, I am having a little trouble hearing you. If the Senator said that the separation under our legislation between the contract causes of action, which have traditionally been considered ERISA causes of action, go to Federal court and in the case of the medically reviewable decision to the State court, would that be accurate?

Mr. SPECTER. The concern I have, having gotten an understanding on the dichotomy of the statute which the Senator and I are in agreement with, is, how is it going to work? I characterized it, while the Senator was off the floor, as a procedural quagmire.

If you have a case—and I cited a couple of them—where a child is born, and the mother has an HMO which encourages release from the hospital within 12 hours, and the child, unfortunately, dies—and I cited a specific case—and then you have a series of claims which were brought by the plaintiff and one of the claims involves interpretation of the contract, is that care covered by the contract?

Then if there are other claims for negligence on the part of the doctor or hospital, that would then fall under the amendment of the Senator from North Carolina under State court jurisdiction.

I cited another case where you had a woman who was suicidal, she was released from the hospital, the doctor refused to put the HMO wouldn’t let him do that. She committed suicide. A suit was brought and the HMO defended it on the ground that it wasn’t covered. That went from
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I ask the Senator, through the Presiding Officer, then in your bill what do you do if the situation where you have Federal factors—"whether an item or service is covered under the terms and conditions of the plan or coverage" and other aspects of the same set of facts are covered under medically reviewable factors?

Mr. GREGG. Madam President, will the Senator yield for a question?

Mr. SPECTER. I would be glad to yield as soon as I get this answer.

Mr. GREGG. It is just a technical question. The answer might be better if he has time to think about it.

Mr. SPECTER. Well, it is too late now to retain the continuity without yielding, so I do yield.

Mr. GREGG. I thank the Senator and apologize for my question. After your amendment is completed, we will have three votes lined up. I wonder if we could agree that we would begin the vote on those amendments at sometime around 6:45.

Mr. SPECTER. Madam President, I am not able to specify when because the Senator from North Carolina and I are in the midst of what I consider to be an important colloquy. But I will try to keep it as brief as possible.

Mr. GREGG. I thank the Senator.

Mr. SPECTER. The question, Madam President, that I ask the distinguished Senator from North Carolina is, in taking his conclusion that there are some cases which would involve contract interpretation, and the same case would involve medical malpractice determination, what do you do when the contract interpretation has jurisdiction in the Federal court and the medical malpractice has jurisdiction in the State court?

Mr. EDWARDS. Madam President, I would say, in answering my colleague's question, that in fact I am having difficulty imagining a case right now. The vast majority of cases similar to what we have just been discussing would fall under the examples that occur to me as I stand here, those cases would all end up in State court.

So it seems to me it is very hard for my colleague from North Carolina to argue that it is not a commonplace occurrence to have specific cases arise which under his bill they would go to different courts. And then the express language of the Edwards bill has a delineation between medically reviewable decisions on medical malpractice and a category—"whether an item or service is covered under the terms and conditions of the plan or coverage."

So I would direct perhaps only two more questions to my colleague from North Carolina—and I say perhaps.

The first question is—maybe I address this question through the Chair—isn't it conclusive where the Edwards bill has language which distinguishes "whether an item or service is covered under the terms and conditions of the plan or coverage," as distinguished from medically reviewable decisions, that the Edwards bill contemplates these two categories, which under the Edwards bill are going to go to two different courts?
Mr. EDWARDS. Again, if I correctly understand the Senator’s question—
Mr. SPECTER. I can understand the difficulty, Madam President, when people are whispering to him all the time. That is why I keep my people off the floor.
Mr. EDWARDS. I am trying very hard to listen to the Senator.
Madam President, if I may respond to the Senator’s question, the answer to the question is: I really think there is a fundamental question that the Senator and I may have some disagreement about, which is contract interpretations that involve medically reviewable facts under our legislation go to State court. I believe that all of the examples the Senator has mentioned and all the examples I can think of would fall in that category.
Specifically as related to his concern about the possibility of there being two separate courts with jurisdiction, I think, in fact, that is not only highly unlikely, but I can’t think of a fact situation, as I stand here now, that would meet that criteria.
What we have done is to have a principle, and we have designed this bill around that principle. The Senator knows very well that this is the principle that was discussed in the Pegram case, a U.S. Supreme Court case, principle supported by the State attorneys general, the American Bar Association, this separation. It is a concept that makes sense in this context.
No legislation is perfect. We certainly can’t eliminate the possibility that there may be in a hypothetical case some joint jurisdiction, but I can’t think of such an example.
Mr. SPECTER. Madam President, I will direct this question to my colleague from North Carolina: How do you account for the many, many cases which have been litigated and distinguishing between contract coverage, where really the language in the Edwards bill “whether an item for service is covered under the terms and conditions of the plan,” and a medically reviewable decision, where so many courts on so many cases labored with those distinctions, if, in fact, there aren’t many cases where they are going to end up in different courts under the Edwards bill?
Mr. EDWARDS. Madam President, if I may respond to the Senator’s question briefly, I believe it is because we have created a presumption that if the contract interpretation involves a medically reviewable fact, which is going to be the majority of cases—all the cases I can think of, as I stand here—those cases go to State court.
Those are the kinds of cases to which I believe the Senator is referring. I don’t think the problem the Senator is addressing is one that is likely to occur in real life. We have specifically dealt with the issue of when there is a question, if it involves a medically reviewable fact, those cases go to State court.
Mr. SPECTER. Madam President, if it is unlikely, even with the brilliance and conceptual imagination of the Senator, or any other Senate—I can’t think of one—to occur in real life, why put this jurisdictional provision in the bill?
Mr. EDWARDS. Because there are two separate categories, if I may answer the Senator’s question. There are two potential causes of action. If it involves any issue relating to medical care, specific medical fact, those cases go to State court. We treat the HMOs just as the doctor because they are engaging in the practice of medicine. If, on the other hand, the issue is one of whether they covered for 60 days as the contract provided, do they meet some other specific contractual requirement, those are purely contractual issues that have been decided in Federal court for many years under ERISA. So we left those cases where they have traditionally been decided, which I think is the appropriate place to leave them.
Mr. SPECTER. Madam President, if you do have those contract decisions, isn’t it entirely possible that there may be a factual situation arise where there is a matter of malpractice or a medically reviewable decision involved in the same occurrence?
Mr. EDWARDS. I would answer my colleague’s question exactly the way I have before, which is, absent a presumption in our bill that if there is an involvement of a medically reviewable fact, I think the Senator’s concern would be one that I would share. But we have dealt with that issue by specifically saying where the contract interpretation involves a medically reviewable fact, those cases go to State court. Those, in my experience and in my judgment, I believe will be the same cases that the Senator is describing as cases. I think he used the term, of medical malpractice.
Mr. SPECTER. Madam President, as they say in Oklahoma, we have gone about as far as we can go on this colloquy. I would advise the managers of the bill that I will be prepared to conclude my argument by 6:45.
The PRESIDING OFFICER. The Senator from New Hampshire.
Mr. GREGG. Madam President, I ask unanimous consent that if the other side does not require any additional debate, we begin the votes on the three pending amendments, which would be, in order, the Snowe amendment, the Enzi amendment, and the Specter amendment, beginning at 6:45.
The PRESIDING OFFICER. Is there objection?
Mr. REID. Madam President, reserving the right to object, we need Senator Snowe to have 10 minutes, and she needs to conclude her presentation.
Mr. GREGG. We also need to have 2 minutes on Senator Enzi’s amendment prior to his vote. So we would have 10 minutes prior to the Snowe amendment and 2 minutes prior to the Enzi amendment. And Senator Snowe would have the right to modify her amendment.
Mr. REID. I accept that as a unanimous consent agreement in line with what we previously offered except for the time.
Mr. GREGG. I would have to add that it is my understanding Senator Enzi may divide the question on his amendment. That is his right, as I understand it; is that correct?
The PRESIDING OFFICER. The Senator is correct.
Mr. REID. If the Senator desires to divide his amendment, he may so do.
The PRESIDING OFFICER. Does the Senator wish the 10 minutes dedicated to Senator Snowe to start at 6:45 or to begin now?
Mr. GREGG. It should begin prior to the vote.
Mr. REID. We are going to vote on the Specter amendment at 6:45.
Mr. GREGG. We are going to vote on the Specter amendment.
Mr. REID. At 6:45.
Mr. GREGG. We are going to vote on Snowe and then Enzi and then Specter.
Mr. REID. We do need Senator Snowe here.
Mr. GREGG. She will be here. So 10 minutes on the Snowe amendment would begin at 6:45.
Mr. REID. Or when she arrives.
Mr. GREGG. Or when she arrives.
And the votes would begin thereafter.
The PRESIDING OFFICER. Without objection, it is so ordered.
Mr. REID. Madam President, these are on or in relation to the amendments as per the previous oral agreement?
Mr. GREGG. Right.
Mr. REID. I think the Chair. The Senator from Pennsylvania has the floor.
The PRESIDING OFFICER. The Senator from Pennsylvania.
Mr. SPECTER. Madam President, I believe the colloquies with the Senator from Massachusetts and the Senator from North Carolina have made my point. That point is that there is jurisdiction created under the McCain-Edward-Kennedy bill in two courts. There really is no doubt about that because section 302 provides for the availability of Federal civil remedies, and that covers whether an item of service is covered under the terms and plans and conditions, and later there are medically reviewable decisions in State courts.
Although there can be an inconclusive colloquy, as there is no confession or admission on the floor of the U.S. Senate, I think it is pretty plain that there are cases—and I have cited a whole series of specific cases in my presentation. Bauman, Pryzbowsi, Lazorko, and Corcoran—where you had factual situations where you have an interpretation of a plan which would
come under Federal jurisdiction—such as the mother’s stay covered for more than 21 hours, the suicidal woman’s coverage extended for hospitalization under that circumstance—then a combination of failure to have a plan coverage and also medical malpractice. And you have both claims brought. And under the McCain-Kennedy-Edward bill, it is plain that those two claims would be brought in separate courts beyond any question. It is not a matter of what the distinguished Senator can imagine. You have case after case which have had these interpretations, contract interpretation and ‘quantity of care,’ and that goes to the Federal court. And then you have ‘quality of care,’ and that goes to the State court.

I am not unaware of the realities of voting in this Chamber where a coalition has been formed, and there is a mindset. But I do hope that the managers of this bill will revisit this situation after this vote and when the bill goes to conference because having both these courts liable is going to double the burden on plaintiffs who are injured—to make a contract interpretation claim in the Federal court and to go to the State court to make a medical malpractice claim—and it is going to require double expenses by the HMOs, by the doctors, and by the hospitals—although you might have the doctors and hospitals eliminated from the Federal litigation, but the HMOs will certainly be there; and that is highly undesirable.

I have a grave concern about the speed of passage of this bill. Now, it is true we have been considering the Patients’ Bill of Rights for a long time—many years. Too long. But this bill has come without the benefit of committee action, without the benefit of a markup; and what there has been is sort of a moving target markup of this bill on the floor by the committee of the whole, as we have gone through many amendments. But it simply cannot be denied that there are two sections of this bill, one conferring Federal jurisdiction and one conferring State jurisdiction, and the same factual situation would raise questions under both court systems, and this bill would require litigation in two courts. That is very wasteful and very confusing. To call it a procedural quagmire is not an overstatement. The answer is fundamental, and that is to provide for exclusive Federal court jurisdiction, which I have in this legislation. You might argue that it could go to the State court and that would be an improvement rather than have both State and Federal courts. But it is very hard to move exclusively to the State court except you lose the long arm of law built up under ERISA as to what is a plan’s coverage. So given the fact that you are going to inevitably end up in the Federal court, the Federal court ought to be exclusive jurisdiction. And as the amendment provides, the damages will be determined by State law. No more Federal caps, but whatever State caps there were would be in effect.

I see my colleague from Illinois on the floor. He commented to me that he agreed with the provision that there ought to be unitary jurisdiction, but thought it ought to be in the State court. I will yield to the Senator from Illinois if he cares to use the limited time remaining.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. FITZGERALD. Madam President, I did want to, in part, agree with my colleague from Pennsylvania. I think he has identified an important problem that exists in the underlying bill. I have long favored creating liability for HMOs that harm someone because of their negligence. Right now, HMOs are protected. They are immune from liability, and that is a protection that almost no other individual or corporation has in this country, and I don’t think it is defensible.

For the last 2 years, I have been voting regularly to make HMOs liable where they have been negligent. But I do think we have a problem in this bill in that we create State court tort liability by repealing the ERISA immunity in one part of the bill. That is on page 157, I believe. But then, at the same time, we create also tort liability, as well as more contract liability, and there already is contract liability under ERISA in Federal court.

The problem I see is that there are tort causes of action authorized in this bill both in State court and in Federal court. I have always thought the playing field was tilted in favor of HMOs, and that playing field needs to be level. But I am concerned now that if this effect in the underlying bill is not remedied, the playing field will be tilted in the opposite direction.

The PRESIDING OFFICER. The hour of 6:45 having arrived, under the previous order, the Senator from Maine is to be recognized.

AMENDMENT NO. 834, AS MODIFIED

Ms. SNOWE. Madam President, I ask unanimous consent to modify the amendment that has been offered by Senator DeWINE, Senator LINCOLN, and Senator NELSON and send a modification to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is so modified.

The amendment (No. 834), as modified, is as follows:
(Purpose: To make technical corrections concerning the application of Federal causes of action to certain plans)

On page 2 of the amendment, between lines 9 and 10, insert the following:
On page 144, lines 7 and 8, strike ‘‘or under part 6 or 7’’.
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Mr. GREGG. Madam President, unless somebody else is seeking that time, I will speak. I congratulate the Senator from Maine and the Senator from Ohio for adjusting this amendment. The changes they made in this amendment are very positive. The amendment moves in the right direction.

However, it must be made clear this amendment targets one narrow aspect of the concerns of this bill, and, in fact, there are still some issues in that aspect. Specifically, employers are going to have a very difficult problem figuring out whether they are a direct participant or whether they fall under the designated decisionmaker safe harbor.

There are issues within this narrow issue that are very significant. The greater issues on the question of liability still remain very viable. It is of serious concern to those of us who look at this as extremely expensive legislation in the sense it will drive up health care costs and result in a lot of people losing their health insurance. Employers will drop the health insurance because of the liability aspects being thrown at employers in this bill and the costs employers simply are not going to bear. They will drop health insurance or reduce the quality of health insurance.

The estimates of CBO are in the range of 3.1 million, and OMB estimates are in the range of 1 million to 4 million people will lose health care. I think it will be literally tens of millions of people who will see the quality of their health care insurance degraded as their employers start to adjust.

As to this specific amendment, which is a narrow amendment, not an expansive amendment, the movement by the Senators from Ohio is to be congratulated. I thank them for it.

I yield back my time, and I yield the floor.

The PRESIDING OFFICER. Time is called.

The result was announced—yeas 96, nays 4, as follows:

YEAS—96

Akaka
Allen
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Burns
Byrd
Chafee
Collins
Conrad
Craig
Cox
Cox

The amendment (No. 834), as modified, was agreed to.

Mr. GREGG. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Ms. STABENOW). There are now 2 minutes equally divided on the Enzi amendment.

The Senator from Wyoming is recognized.

AMENDMENT NO. 840

Mr. ENZI. Madam President, under the amendment we just agreed to, we made some progress on handling liability. But there is a group of businesses that were left out. You will never hear me in this Chamber talk about big businesses. I always talk about the small ones. None of these is headquartered in Wyoming. But I am compelled to put in an amendment that will take care of a major problem which will take care of health care at the level they know it for 6 million people in the U.S. who work for the big, self-insured, self-administered companies, such as Hewlett-Packard, Caterpillar, Wal-Mart, and Pitney Bowes. None of those is in my State.

This provides an option to allow one of two ways of providing insurance to their people so individuals can get the right to sue if they want that right or they can stay with the plan which they presently get all the benefits from without any difficulty. This provides that option for them.

This is providing an option so that the company can avoid liability by providing a liability option for their people.

I ask for your support on this amendment to clear up what the people in your State need.

I also believe it is my right to divide the amendment on page 3, line 13.

The PRESIDING OFFICER. The amendment is so divided.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, let me mention what this amendment is all about.

If an employer gives options to any employee, it can offer a program that
is very inferior or it can provide a voucher that is inferior. You can’t buy a good health insurance policy. If it offers those two options to an em-
ployee, and that employee denies it, then the employee who stays with that
company is virtually excluded from bringing any action against the em-
ployer, no matter how involved the em-
ployer is in making medical decisions that can cause adverse reaction to that
employee—either death or injury.

That is a lousy choice. This is an op-
tion many companies will take. It will be at the expense of the employees.
Their can get two inferior options. If they reject it and stay with the com-
pany, they are excluded from the bene-
fits and the protections of this bill. It is going to open up a great exclusion
for millions of hard-working Ameri-
cans and their families. It should be re-
jected.

Mr. ENZI. Madam President, I ask for the yeas and nays.
The PRESIDING OFFICER. The yeas
and nays have already been ordered.
The question occurs on division I.
The Senator from Nevada.
Mr. REID. Madam President, I move to table the whole amendment, and I ask for the yeas and nays.
The PRESIDING OFFICER. The yeas
and nays have been ordered.
Mr. GREGG. Madam President, parl-
liamentary inquiry: As I understand it, the question was divided. Is this a mo-
tion to table on the first part?
Mr. REID. Yes. That is true.
The PRESIDING OFFICER. That is
correct.
Mr. GREGG. I thank the Chair.
The PRESIDING OFFICER. The question is on the motion to table divi-
sion I.
The yeas and nays have been ordered, and the clerk will call the roll.
The assistant legislative clerk called the roll.
The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—45

Akaka  Durbin  Lincoln  Brown
Baucus  Durbin  McCaskill  Grassley
Bayh  Edwards  Mikulski  Lott
Biden  Feinstein  Miller  Lugar
Bingaman  Feingold  Murray  Boxer
Byrd  Harkin  Murray  Breaux
Cantwell  Hollings  Reid  Byrd
Carnahan  Inouye  Rockefeller  Bunning
Carper  Jeffords  Rockefeller  Bunning
Chafee  Johnson  Sarbanes  Burns
Clayton  Kennedy  Specter  Cardin
Conrad  Kohl  Stabenow  Dodd
Corzine  Landrieu  Torricelli  Daschle
Dayton  Levin  Wyden  Dodd
Dodd  Lieberman

NAYS—58

Akaka  Bingaman  Rockefeller  Bailey  Baucus  Sessions  Bayh  Bentsen
Biden  Jeffords  Sarbanes  Bunning  Bond  Smith (OR)
Bingaman  Feingold  Specter  Boxer  Graham  Smith (RI)
Cardin  Johnson  Stabenow  Chafee  Kohl  Snowe
Clayton  Kennedy  Specter  Conrad  Landrieu  Thune
Corzine  Landrieu  Torricelli  Daschle  Dayton  Voinovich
Dodd  Lieberman  Dodd  Lieberman

The amendment (No. 844) was re-
jected.

Mr. KENNEDY. I move to reconsider
the vote.
Mr. SANTORUM. I move to lay that
motion on the table.

The motion to lay on the table was agreed to.

(Mr. DURBIN assumed the chair.)
Mr. KENNEDY. Mr. President, in just a few moments, I believe there will be a consent requested by the minority floor leader to outline a series of amendments to consider and outline the order in which to take them up this evening, with disposition of those on the morrow.

Mr. WARNER. Mr. President, we are not prepared to say that until we have an opportunity to see those amendments. We are trying to work through the amendments at the present time. I hope perhaps we can get started on the discussion, and then in a few moments time when we have a chance to see each of the amendments, we can come back with the leadership proposal for an agreement on time and order this evening.

Mr. Grassley. Mr. President, we are ready to enter into an agreement relative to time and reserve the issue of second-degree amendments until the Democratic leader has had the opportunity to review the amendments. If we can get times locked in, that will be very helpful.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, parliamentary inquiry: Does the Senator from Virginia have an amendment pending that I do not see?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 833, AS MODIFIED

Mr. WARNER. Mr. President, I send to the desk a modification to that amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 833), as modified, is as follows:

On page 154, between lines 2 and 3, insert the following:

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(II) NUMEROUS HOURS.—The court shall determine the number of hours reasonably expended by each attorney.

(III) HOURLY RATE.—The court shall determine a reasonable hourly rate for each attorney, taking into consideration the actual fee that would be charged by each such attorney and what the court determines is the prevailing rate for other similarly situated attorneys.

(iv) CONSIDERATION OF OTHER FACTORS.—A court may increase or decrease the product determined under clause (i) by taking into consideration any or all of the following factors:

(I) The time and labor involved.

(II) The novelty and difficulty of the questions involved.

(III) The skill required to perform the legal service properly.

(iv) The preclusion of other employment of the attorney due to the acceptance of the cause of action.

(v) The customary fee of the attorney.

(vi) Whether the original fee arrangement is a fixed or contingent fee arrangement.

(vii) The time limitations imposed by the attorney’s professional relationship with the client.

(viii) The amounts recovered and attorney’s fees awarded in similar cases.
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The amendment as modified has been read. It is now the desire of the Yeas to proceed with the Santorum amendment. I therefore order that amendment until we see the amendments, and we are going to operate on a good faith measure.

We are thankful for the leadership of the Senator from New Hampshire proceeding with those first two.

There are some others we might be able to get a time agreement on, as well, if the Senator wants to mention them.

Mr. GREGG. Of course, at this time we cannot proceed past the Santorum amendment until we get an agreement on that. At least I renew my request subject to the reservations of the Senator from Massachusetts, to which I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous consent request, as modified, for consideration of the amendments of Senators DeWine and Grassley?

Without objection, it is so ordered.

AMENDMENT NO. 82

(Purpose: To limit class actions to a single plan)

Mr. DEWINE. Mr. President, I have an amendment at the desk.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, it will be voted on whenever the managers desire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that the following Members be recognized this evening:

-- Senator DeWine, 15 minutes, with the time equally divided, on class actions; Senator Grassley for 30 minutes, with the time equally divided, on customs fees and other matters; Senator Santorum for 30 minutes, with the time equally divided, on the Born Alive Infant Protection Act; Senator Brownback, 1 hour equally divided on a germinal genetic amendment.

Mrs. BOXER. I ask my friend to repeat the Santorum amendment.

Mr. GREGG. Born Alive Infant Protection Act.

Mrs. BOXER. The Born Alive Equal Protection Amendment.

Mr. GREGG. Born Alive Infant Protection Act.

I presume it passed the House. Mr. KENNEDY. On that there will be an objection to a time limit.

The PRESIDING OFFICER. Objection is heard.

Mr. GREGG. Why don’t we begin with the DeWine amendment for 15 minutes, followed by the Grassley amendment for 30 minutes, and we will work on the rest.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, and I do not intend to object, I appreciate what the Senator from New Hampshire is attempting to do. We have every inclination to support that proposal up to this point, but we reserve possible second-degree amendments and a tabling motion. We do not intend at this time to exercise those until we see the amendments, but we are going to operate on a good faith measure.

We are thankful for the leadership of the Senator from New Hampshire proceeding with those first two.

There are some others we might be able to get a time agreement on, as well, if the Senator wants to mention them.

Mr. GREGG. Of course, at this time we cannot proceed past the Santorum amendment until we get an agreement on that. At least I renew my request subject to the reservations of the Senator from Massachusetts, to which I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous consent request, as modified, for consideration of the amendments of Senators DeWine and Grassley?

Without objection, it is so ordered.
June 28, 2001

The PRESIDING OFFICER. The clerk will report. The legislation the clerk read as follows:

The Senator from Ohio (Mr. DeWine) proposes an amendment numbered 842.

Mr. DEWINES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 171, between lines 14 and 15, insert the following:

SEC. 303. LIMITATION ON CERTAIN CLASS ACTION

DESIGNATION.

(a) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

“(o) LIMITATION ON CLASS ACTION LITIGATION.—

(1) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with such plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms ‘group health plan’ and ‘health insurance coverage’ have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

“(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.”.

(b) RICO.—Section 1964(c) of title 18, United States Code, is amended—

(1) by inserting “(1)” after the subsection designation;

(2) by inserting at the end the following:

“(2)(A) No private action may be brought under this subsection, or alleging any violation of section 1962, where the action seeks relief in a manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated a group health plan, or health insurance coverage in connection with a group health plan. Any such action shall only be brought under the Employee Retirement Income Security Act of 1974. In this paragraph, the terms ‘group health plan’ and ‘health insurance issuer’ shall have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

“(B) Subparagraph (A) shall apply to private civil actions that are filed on or after January 1, 2002.”.

Mr. DEWINES. Mr. President, I allowed the clerk to read because I wanted my colleagues to hear the essence of the amendment. It is a very simple amendment.

My amendment in a very rational way would strike class action suits that could be filed as a result of this bill. The goal of the patient protection legislation under consideration, both the McCain-Kennedy bill and the Frist-Breaux-Jef-

fords bill, is, of course, to protect patients. We cannot be unmindful of the cost. Obviously, we have to be concerned about the cost, and we have to worry if any parts of this bill do in fact drive up the cost because ultimately this will impact how many employers do in fact offer health insurance. It is something with which we have to be concerned.

I believe my amendment offers a very simple way to curtail some of these increased costs. The problem is that the underlying bill will increase the cost of health care because the bill currently contains no language to limit the scope of class action lawsuits. This very possibility could lead to increases in the filing of onerous, burdensome, costly class action suits.

My amendment ensures that class action lawsuits that are filed in a responsible way. I think my colleagues would agree that class actions can be very effective and can be efficient and can be a valuable tool to achieve justice.

As we also know, unfortunately, these suits sometimes are subject to abuse. That is why I believe we need to limit the target of these class actions. That is what our amendment does.

The reality is that within every company there exists unique relationships between the company, the employees, and the health care plans. Because of that, it is impossible to compare different companies that happen to offer similar health care plans. The fact is that every company negotiates every contract differently. There may be similarities. Every situation is, obviously, different.

Now, at the same time, employees within the same company, with the same health care plan, who suffer the same way as a result of being denied entitled benefits, should have the right to band together to form a class and to file suit. This amendment would recognize class actions within one company against one plan.

Our language essentially says this: One employer, one health care plan, one class action suit. It is that simple. Here is how our amendment works if adopted. Suppose Ford Motor Company offers its employees the hypothetical Aetna Health Care Plan A. General Motors has this plan. Assume, also, that Chrysler has the same plan. Now, if employees at Ford or General Motors band together in a class action against Aetna because they all believe they suffered harm because of the same denial in entitled benefits, they can go ahead under our amendment and do that. Similarly, if employees at GM or Chrysler also believe they have suffered a result of denial of the same benefits, GM and Chrysler employees can file their own class actions against Aetna. But employees at Ford, GM, and Chrysler can’t join together in one suit against the health care provider.

This means class actions would be limited to employees within one company against one health care plan. Ultimately, we need this because abuse of class action lawsuits is not a road to assuring access to quality health care. If we want the bill before the Senate not to add unnecessary litigation and costs, I encourage my colleagues to adopt this amendment.

I reserve the remainder of my time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. McCAIN. I repeat the request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. REID. If the Senator from Ohio wishes the yeas and nays, we would be happy to give those to him with the agreement that we will vote tomorrow.

Mr. DEWINES. I renew my request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are Senators prepared to yield back time on the amendment?

Mr. DEWINES. I believe we have an understanding to reserve several minutes tomorrow morning for summation.

Mr. EDWARDS. Mr. President, there are a couple of issues and I have just seen this amendment—a couple of issues raised immediately.

One, the entire Patients’ Bill of Rights is about treating everybody the same. This, of course, carved out a special treatment for HMOs on the issue of accountability.

Second, this amendment makes a special exception under RICO for HMOs and under rules of procedure.

Third, it has been some time since I looked at the rules, I confess. But I seem to recall under class action law, rule 23 of the Federal Rules of Civil Procedure, there is a numerosity requirement, that you have to have a sufficient number of employees involved to justify the class action requirement, and I am not sure under the language the Senator has drafted that would be possible because I believe, if I understand the Senator’s amendment correctly, he has limited it to one employer for purposes of class actions.

Mr. DEWINES. Obviously, the amendment does not change what the rules say as far as the number of people required for a class action. The Senator
is correct; it does limit it to one company.

Mr. EDWARDS. I thank the Senator for his answer.

There is at least a serious question about that and we would need to go back and look. Under the Class Action Rules of Civil Procedure, it is my recollection there is a numerosity requirement that means a class has to be of sufficient size to be able to be certified as a class action, and I am not certain, if you limit the actions to one employer, that you don’t effectively eliminate the possibility of a class action because that requirement cannot be met.

I confess to the Senator, that is from memory, and I will have to go back and look to be certain.

I have concerns about the fundamental principle that the principle of this legislation is that we treat HMOs, for accountability purposes, as everybody else. And the notion of doing something specifically to protect them from class actions and to limit class actions and to carve out civil RICO, I believe it is correct in saying there are some State medical societies that have pending actions against them, civil RICO actions against HMOs, where they believe, obviously, the requirements of that statute have been met and there have been improper and illegal activities by the HMOs. Particularly as we go forward, if any State medical society believes those problems continue to exist, they may want to avail themselves of the civil RICO statute, a law that exists in part for that purpose.

Again, what you would be doing is we are carving out special treatment for HMOs. Having said that, I do not disagree with the fundamental principle that is part of this process; it is public policymaking. We hope to balance the interests on both sides. I think that notion makes sense. My concern is we are not carving out the HMOs from this particular statute when we are not carving anyone else out from this particular statute.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. DEWINE. Just to respond to my colleague—and I do appreciate his comments about RICO—again it is a balancing question each Member is going to have to decide.

Just to clarify things, I want to make it clear, the way this is drafted, we do not affect any pending issues, so those suits would not in any way be affected.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I yield my time.

Mr. DEWINE. I wonder if I may inquire, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. DEWINE. I will respond to my colleague and I appreciate his comments. He is closer to the courtroom in time than I am, and it has been many years since I have practiced law.

What this comes down to is that we are creating new opportunities for lawsuits to come in this bill. Whether we are about is a balancing test, a balancing question. It is a matter of public policy. We have to decide. As we create new causes of action, new opportunities to file lawsuits, I think it is legitimate to look around and say: How expansive do we want to allow class actions to be under this new cause of action?

It seems to me language we have included, which is basically—basically, I say—what was in the Frist bill originally, is a rational way to do it. It doesn’t ban class actions but basically says we are going to limit them. I think it is a balancing test and Members are going to have to make their own decision whether they think it is worth providing people with the opportunity to have nationwide class actions. Candidly, with the tremendous cost this is probably going to incur, that ultimately is going to be paid and ultimately going to drive up health care costs. I think Members have to make that decision.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio yields the remainder of his time. The Senator from North Carolina has 10 minutes 48 second.

Mr. EDWARDS. If I may respond briefly to the comments of my colleague, the one issue he did not address, at least in his last answer—he may have discussed it earlier—is the issue of civil RICO, I believe I am correct in saying there are some State medical societies that have pending actions against them, civil RICO actions against HMOs, where they believe, obviously, the requirements of that statute have been met and there have been improper and illegal activities by the HMOs. Particularly as we go forward, if any State medical society believes those problems continue to exist, they may want to avail themselves of the civil RICO statute, a law that exists in part for that purpose.

Again, what you would be doing is we are carving out special treatment for HMOs. Having said that, I do not disagree with the fundamental principle that is part of this process; it is public policymaking. We hope to balance the interests on both sides. I think that notion makes sense. My concern is we are not carving out the HMOs from this particular statute when we are not carving anyone else out from this particular statute.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I wonder if I may inquire, whether or not there was an unanimous consent agreement.

Mr. REID. That is right.

Mr. DEWINE. I yield the floor and thank my colleague from Nevada.

Mr. EDWARDS. We yield the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back. Under the unanimous consent agreement, the Senator from Iowa, Mr. GRASSLEY, is recognized.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator sending an amendment to the desk?

AMENDMENT NO. 845

Mr. GRASSLEY. I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Iowa (Mr. GRASSLEY) proposes an amendment agreed to.

Mr. GRASSLEY. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is in the record.

(Purpose: To strike provisions relating to customs user fees and Medicare payment delay)

On page 179, strike lines 1 through 14.

Mr. GRASSLEY. Mr. President, I think three times during the debate on this bill I have been trying to make the point that bringing this bill to the floor usurped the consideration of the Senate Finance Committee of two provisions that are in the bill and another provision that ought to be in the bill that is not in the bill. My amendment today deals with striking sections 502 and 503. It is another way of my saying, as I tried to in an amendment 2 days ago on this legislation, to the Finance Committee, that people writing this legislation ought to keep their hands off subject matter that comes within the jurisdiction of the Senate Finance Committee. If people are writing a piece of legislation that comes out of Health, Education, Labor, they ought to find sources of revenue out of programs within their own jurisdiction to fund bills that they think up, rather than robbing another committee. That is basically what has happened.

I am opposed to both provisions on jurisdictional grounds because they are within the control of the Finance Committee, not the Health, Education, Labor, and Pensions Committee. But I also want to make it very clear it is not just jurisdictional, I also have concerns about what it does to policy, dealing with customs on the one hand and Medicare on the other hand. I want to review each of these in turn.

Section 502 of the bill extends the jurisdiction of the Senate Finance Committee to review each of these in turn. It is another way of my saying, as I tried to in an amendment 2 days ago on this legislation, to the Finance Committee, that people writing this legislation ought to keep their hands off subject matter that comes within the jurisdiction of the Senate Finance Committee. If people are writing a piece of legislation that comes out of Health, Education, Labor, they ought to find sources of revenue out of programs within their own jurisdiction to fund bills that they think up, rather than robbing another committee. That is basically what has happened.

I am opposed to both provisions on jurisdictional grounds because they are within the control of the Finance Committee, not the Health, Education, Labor, and Pensions Committee. But I also want to make it very clear it is not just jurisdictional, I also have concerns about what it does to policy, dealing with customs on the one hand and Medicare on the other hand. I want to review each of these in turn.

Section 502 of the bill extends the customs user fees from the year 2003 to 2006. Mr. Chairman, I want to find sources of revenue out of programs within their own jurisdiction to fund bills that they think up, rather than robbing another committee. That is basically what has happened.
June 28, 2001

CONGRESSIONAL RECORD—SENATE

to underline the costs of customs commercial operations. But today in this bill, the fees are not being used for customs. They are being used to offset the cost of the Patients’ Bill of Rights to the tune of $7 billion. I think this is unacceptable and violates the comity that one committee ought to have towards the other.

It is unacceptable because when you have constituents who pay customs user fees for the purpose of having an efficient and effective operation of the Customs Service, so you can enter this country in an expeditious way, for those fees not to be used for what they were intended—for expedited entry to the country, to police illegal entry to the country, to police illegal drugs coming into the country, generally to make the customs agency’s personnel more efficient and better able to do their job so the United States can be a sovereign nation protecting its borders the way it should—if these fees are extended, and I want to emphasize the word ‘‘if,’’ they should be extended in a thoughtful way, not as some budget trick to make the costs of this bill fit within the confines of the Federal budget.

I am not the only one who thinks so. I have received numerous letters from companies, from associations that are very concerned about this—Liz Claiborne, Inc., the National Association of Foreign Trade Zones, the Joint Industry Group, the National Retail Federation, the American Electronics Association, and also a memo from the U.S. Customs Service. They are all raising concerns because these are folks who pay this customs user fee, a fee that is meant to pay for bringing things into the country, for those fees not to be used for the improvements in the customs operation that were anticipated when these fees were put in place. I ask unanimous consent these letters and memos be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIZ CLAIBORNE INC.


Hon. Charles E. Grassley,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: We write in opposition to a provision in the Patients’ Bill of Rights (S. 1052) that would extend the merchandise processing fee, or ‘‘mpf,’’ for eight additional years. This is a trade-related measure, a user fee levied against importers like ourselves, that has no place in this debate.

It is completely inconceivable that the U.S. Customs Service, so you can enter this country in an expeditious way, for those fees not to be used for what they were intended—for expedited entry to the country, to police illegal entry to the country, to police illegal drugs coming into the country, generally to make the customs agency’s personnel more efficient and better able to do their job so the United States can be a sovereign nation protecting its borders the way it should—if these fees are extended, and I want to emphasize the word ‘‘if,’’ they should be extended in a thoughtful way, not as some budget trick to make the costs of this bill fit within the confines of the Federal budget.

I am not the only one who thinks so. I have received numerous letters from companies, from associations that are very concerned about this—Liz Claiborne, Inc., the National Association of Foreign Trade Zones, the Joint Industry Group, the National Retail Federation, the American Electronics Association, and also a memo from the U.S. Customs Service. They are all raising concerns because these are folks who pay this customs user fee, a fee that is meant to pay for bringing things into the country, for those fees not to be used for the improvements in the customs operation that were anticipated when these fees were put in place. I ask unanimous consent these letters and memos be printed in the RECORD.

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This legislation was experienced a serious deficit, the reasons for its passage have since disappeared. Now, it is simply a tax on American citizens who buy imported products, whose price is the mpf. It is unconscionable to continue to tax Americans in this manner and we intend to seek repeal in the appropriate committee jurisdiction.

In the meantime, we ask that you assist us in removing the mpf funding from the Patients’ Bill of Rights. The merchandise processing fee has no place in this debate. The fee will not be viewed on the merits in these proceedings, but is instead being used—cynically—as a ‘‘pay-for’’ a totally unrelated program.

Sincerely,

FRANK KELLY,
Vice President, International Trade Compliance and Government Affairs.

NATIONAL ASSOCIATION OF FOREIGN-TRADE ZONES,

Hon. Charles Grassley,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: The National Association of Foreign Trade Zones (NAFTZ) has learned that S. 872, Sec. 602 the ‘‘Bipartisan Patient Protection Act’’ provides for the extension of the Merchandise Processing Fee (MPF) beyond the date that is currently scheduled for 2003. Congress established the fee to offset the cost of the commercial operations of the U.S. Customs Service. Not only does the proposed legislation continue the practice of allocating the MPF to the general fund of the U.S. Treasury with no relationship to the purpose of the fee, it completely eliminates the relationship of the fee to the Customs Service. We have serious reservations as to whether this is permissible through the General Agreement of Tariffs and Trade, and the World Trade Organization.

The NAFTZ is not opposed to the imposition of a fee for services rendered. We do believe, however, that any such fee must correlate to a discernible cost associated with the service provided. We are concerned that at a time when Congress is struggling to find the necessary funding to cover the cost of new and improved programs, that funding is already designated by Congress for that purpose and is being diverted.

Since the purpose of the MPF, as established on the importance of the U.S. Customs Service, we are strongly opposed to any extension of the MPF without designating the revenue to that purpose. If Congress accordingly requests that you drop the merchandise processing fee extension from S. 872.

Thank you for your attention and consideration of our views. If you have any questions, please feel free to contact me.

Sincerely,

RANDY P. CAMPBELL,
Executive Director.

JOINT INDUSTRY GROUP,
June 20, 2001, Washington, DC.

Hon. John McCain,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The Joint Industry Group (JIG) expresses its opposition to a provision in the Bipartisan Patient Protection Act (S. 1052) that would automatically extend the U.S. Customs user fee from 2003 to 2011 (Sec. 502). This 8-year extension would represent an unacceptable and violates the comity in the appropriate committee jurisdiction.

In the meantime, we ask that you assist us in removing the mpf funding from the Patients’ Bill of Rights. The merchandise processing fee has no place in this debate. The fee will not be viewed on the merits in these proceedings, but is instead being used—cynically—as a ‘‘pay-for’’ a totally unrelated program.

Sincerely,

FRANK KELLY,
Vice President, International Trade Compliance and Government Affairs.

NATIONAL ASSOCIATION OF FOREIGN-TRADE ZONES,

Hon. Charles Grassley,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: The National Association of Foreign Trade Zones (NAFTZ) has learned that S. 872, Sec. 602 the ‘‘Bipartisan Patient Protection Act’’ provides for the extension of the Merchandise Processing Fee (MPF) beyond the date that is currently scheduled for 2003. Congress established the fee to offset the cost of the commercial operations of the U.S. Customs Service. Not only does the proposed legislation continue the practice of allocating the MPF to the general fund of the U.S. Treasury with no relationship to the purpose of the fee, it completely eliminates the relationship of the fee to the Customs Service. We have serious reservations as to whether this is permissible through the General Agreement of Tariffs and Trade, and the World Trade Organization.

The NAFTZ is not opposed to the imposition of a fee for services rendered. We do believe, however, that any such fee must correlate to a discernible cost associated with the service provided. We are concerned that at a time when Congress is struggling to find the necessary funding to cover the cost of new and improved programs, that funding is already designated by Congress for that purpose and is being diverted.

Since the purpose of the MPF, as established on the importance of the U.S. Customs Service, we are strongly opposed to any extension of the MPF without designating the revenue to that purpose. If Congress accordingly requests that you drop the merchandise processing fee extension from S. 872.

Thank you for your attention and consideration of our views. If you have any questions, please feel free to contact me.

Sincerely,

RANDY P. CAMPBELL,
Executive Director.
S. 1052 violates the WTO provisions to which the United States is a signatory.

We therefore urge that the user fee extension be removed from S. 1052. We need the opportunity to debate the merits of this fee when it comes up for renewal in 2003. If you have any questions about our views on this issue or wish to discuss the matter further, please contact Alan Atkinson at (202) 466–4580. Thank you for your consideration.

Sincerely,

RONALD SCHOOF, Chairman, Joint Industry Group.

NATIONAL RETAIL FEDERATION,
Liberty Place,

Hon. CHUCK GRASSLEY,
Ranking Member, U.S. Senate Committee on Finance, Dirksen Bldg., Washington, DC.

DEAR SENATOR GRASSLEY, The National Retail Federation (NRF) is surprised to learn that section 502 of the Bipartisan Patient Protection Act (S. 1052) contains an eight-year extension of the Customs Merchandise Processing Fee (MPF). The MPF is an administrative fee levied on imports into the United States, through which U.S. retailers and other importers pay hundreds of millions of dollars per year.

NRF and the U.S. retail industry object most strongly to inclusion of this provision and, for the following reasons, we urge that the provision be stricken from the bill.

The Senate Finance Committee, which has jurisdiction over the MPF and other customs issues, was not consulted about this provision in S. 1052, and has had no opportunity to consider the merits of extending the fee as currently structured.

The MFPS was created to offset the administrative costs of U.S. Customs services' commercial operations, and any attempt to use it for other purposes, as this bill would do, is against the rules of the World Trade Organization.

The Finance and Ways and Means Committees have been working for some time with Customs and the importing community on mechanisms to restructure the MPF program to make sure it is used for its proper and intended function—for commercial operations, including customs modernization funding.

It is critical that the reauthorization of the MPF be moved into a health bill without the approval of the Committee of Jurisdiction or the knowledge of those in the private sector that will be most directly affected as a result. At the same time, we are struggling to provide Customs Service with sufficient funds for a new computer system to allow Customs to modernize its operations and protect our nation's borders. If this provision in S. 1052 is allowed to stand, it will be impossible for the Senate Finance Committee to restructure the MPF program in the way it was intended—to finance the costs of Customs' operations. Accordingly, we ask for your help in insisting on the removal of this provision when S. 1052 comes to the full Senate for consideration.

The National Retail Federation (NRF) is the world's largest retail trade association representing retailers across all formats and channels of distribution including department, specialty, discount, catalog, Internet and independent stores. NRF members represent industry that encompasses more than 1.4 million U.S. retail establishments, employs more than 20 million people—about 1 in 5 American workers—and registered 2000 sales of $1.1 trillion. NRF's international members operate stores in more than 50 nations. In its role as the retail industry's umbrella group, NRF also represents 22 national and 50 state associations representing retailers abroad.

Sincerely,

STEVE PFISTER,
Senior Vice President, Government Relations.

AEA,

Hon. CHUCK GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY, AEA, the nation's largest high-tech trade association, is opposed to the provision (section 502) in the Bipartisan Patient Protection Act (S. 1052) that would extend the application of the U.S. Customs user fee from September 30, 2003, to September 30, 2011.

The U.S. importing community currently has full expectation that this import tax will expire as scheduled in 2003. As the leading U.S. importing sector, the U.S. high-tech sector would be particularly impacted by such a tax. The companies we represent already pay tens of millions of dollars annually in customs user fees. In addition, there are additional administrative costs associated with this fee, since Customs authorities impose complex reporting and accounting requirements on importers in the course of collecting the user fee payments. An unexpected, eight-year extension of the user fee, with its associated administrative costs, would be an unwelcome and unnecessary additional cost burden on our industry.

While section 502 of S. 1052 does not earmark user fees for health care purposes, it does use the fee as de facto justification for the revenue neutrality of the bill. We believe that this provision introduces the potential that the U.S. Customs user fee will again be found contrary to U.S. international obligations under the WTO. In the late 1980's, a GATT panel found that the user fee was GATT-illegal because it was being collected in amounts exceeding the cost of customs services rendered, and that it contravened the WTO's requirement that fees be used only for customs services rendered. A recent U.S. Customs Service study addressed problem by placing certain caps on the fee, it was clear from the panel finding that linkage of the fee to the cost of customs services is of seminal importance to the question of GATT legality. If our trading partners believe customs user fees are being used to achieve health care related goals, the GATT challenge could well surface in the WTO.

For the reasons stated, AEA urges you to remove the customs user fee extension from S. 1052. This Patient Protection Act is an appropriate forum for any consideration of extending the customs user fee. If you have any questions about our views on this issue or wish to discuss the matter further, please contact me at 202-682-4423.

Sincerely,

TIM BENNETT,
AEA Senior Vice President Governmental Affairs.

[From the Executive Office of the President,
Office of Management and Budget, June 21, 2001]

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

S. 1052—Bipartisan Patient Protection Act. (Sen. Frist [R], Sen. Breaux [D] MA, En¬wards [D] NC) The President strongly sup¬ports passage of a patients' bill of rights this year and has been working with members of both parties in the Administration to forge a compromise. Con¬gress has been divided on this issue for far too long at the expense of patients and their families. The President believes that it is important for Congress to pass a strong patients' bill of rights this year that provides meaningful protec¬tions for patients, not a windfall for trial lawyers or a threat to Americans' ability to obtain and afford quality care. On February 7, 2001, the President transmitted to Congress his principles for a bipartisan patients' bill of rights and urged Congress to move quickly on this important issue.

The President's principles called for pas¬sage of a patients' bill of rights that ensures Americans enjoy protec¬tions, including: access to emergency room and specialty care; direct access to obstetri¬cians, gynecologists, and pediatricians; ac¬cess to needed prescription drugs and ap¬proved clinical trials; access to health plan information; a prohibition of "gag clauses"; consumer choice provisions; and continuity of care protections. The President also rec¬ognizes, however, that many States have passed strong patient protection laws al¬ready, some of which have been in force for over a decade. The President firmly be¬lieves that Senators Frist, Breaux, and Jervis, to develop a common sense compromise that forges a middle ground on this issue and meets the Presi¬dent's principles.

The President is encouraged by efforts in the Senate, like those of Senators Frist, Breaux, and Jervis, to develop a common sense compromise that forges a middle ground on this issue and meets the Presi¬dent's principles.

The President strongly supports a comprehensive and enforceable patients' bill of rights and has been working with mem¬bers of both parties to enact legislation this year that provides protections that do not encourage costly and unnecessary litigation that would seriously jeopardize the ability of many Americans to afford health care cov¬erage.

The President objects to the liability pro¬visions of S. 1052. The President will veto the
bill unless significant changes are made to address my concerns. In particular, the serious flaws in S. 1052 include:

— S. 1052 circumvents the independent medical review process in favor of litigation. The President believes that patients should be given the right to sue in state court, and that the federalization should be the last resort. Patients should exhaust the medical review process first, allowing doctors, trial lawyers, to make decisions about medical care.

— S. 1052 jeopardizes health care coverage for workers and their families by failing to avoid increasing premiums. S. 1052 overturns more than 25 years of Federal law that provides uniformity and certainty for employers who voluntarily offer health care benefits for millions of Americans across the country. The liability provisions of S. 1052 would force employers and unions to at least 50 different, inconsistent State law standards. The result will inevitably be that employers and unions will be forced to pay for different benefits from State to State, even within a particular State, based on various legal mess in State courts and leading to inconsistent standards of care for patients. Further, S. 1052 imposes no limitations on State court damages, and it is not at all clear that the caps which would apply to the broad, new causes of action in State courts that S. 1052 creates.

S. 1052 also would allow causes of action in Federal court for a violation of any duty under the claim, creating open-ended and unpredictable lawsuits against employers for administrative errors. These new federal claims do not have time limitations on the amount of noneconomic damages, creating virtually unrestrained damage awards that are limited only by an excessive $5 million cap, thus anything.

Moreover, S. 1052 would subject employers and unions to frequent litigation in Federal court under the vague “direct participation” standard, which would require employers and unions to defend themselves in court in virtually every case against allegations that they “directly participated” in a decision to take $7 billion out of Customs to do this. He wrote on June 20, this year:

I would like to raise one other issue, and that is it is not at all clear that using Customs user fees to offset revenue is consistent with the World Trade Organization rules.

Think about that. We are making a decision to take $7 billion out of Customs user fees under the jurisdiction of the Senate Finance Committee, and we may be doing this in a way that does not meet our obligation under the World Trade Organization. Under that organization, Customs fees are to be used as payments for Customs services, not as a source of general revenue to the Federal Government.

In a sense, as we would say to our constituents back home, you pay a gas tax, and you pay for border protection, to build highways. When people pay Customs fees, they pay those Customs fees for facilitating entry of product into the country and Customs modernization is a very important priority.

My point is that there are important Customs modernization issues that should no longer be ignored. Let’s not have a rush to pay for this Patients’ Bill of Rights today and blind us towards the real public policy questions we have on the Customs Service and their problems tomorrow.

Are you concerned about drugs at our borders? Are you concerned about illegal transshipment of textiles, import restrictions on steel and lumber, and backup of trucks at our borders? If you vote for extending fees, there will be no public debate or committee consideration if Customs is using the fees for these or other Congressional priorities.

I would like to tell you that extending these fees will definitely have an adverse impact on the activities of the Customs Service and its operations around the borders of our country, even in the interior of the country where we have Customs operations.

I would like to read what the acting Customs Commissioner had to say about this. He wrote on June 20, this year:

Any scoring which would limit in any way the ability to fund or offset Customs activities would likely cause a critical funding shortfall for the Customs Service.

Section 502 of the bill states: Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (U.S.C. 56c(j)(3)) is amended by striking “2003 and incurring damage, expenses may not be charged under paragraphs (9) and (10) of such subsection after March 31, 2006”.

The COBRA fees collected by Customs are used here to reimburse Customs appropriations for certain costs, such as overtime compensation, and to offset a portion of the Customs Service Salaries and Expenses Appropriation (54.0). As an example, our FY 2001 collections will offset approximately $1 billion or almost 50 percent of Customs appropriation this year. Authorizing a COBRA extension to offset costs for something other than the Customs Service could negatively impact our available funding. Additionally, the Merchandise Processing Fee authorized in the Customs modernization acts could aid importers for the processing of merchandise by the Customs Service. Directing the funds collected from this fee for something other than Customs operations could pose GATT interpretation issues.

While Customs supports the extension of the COBRA fees, we also acknowledge that changes are warranted with the manner in which we collect those fees. We intend to review this issue in the near term.

Mr. GRASSLEY. I want to speak specifically to what one company wrote:

The merchandise processing fee has no place in this debate. The fee will not be viewed on the merits in this proceeding, but is instead being used—cynically—as a “pay-for” for a totally unrelated program.

Obviously, the totally unrelated program is the Patients’ Bill of Rights that is before us.

Our experience today—in other words, how we handle this issue of customs user fees today—will only hurt us in our deliberation of what ought to be done to make our ports more efficient and secure to the transient entry into our country. It is going to hurt us when that policy debate comes up sometime down the road—weeks, months, but sometime.

Extraneous User Fee Provision. The Administration objects to inclusion in S. 1052 to an extraneous-user fee provision (section 502), which extends for multiple years Customs charges on transportation, passengers, and merchandise arriving in the country.

PAY-AS-YOU-GO SCORING

S. 1052 would affect direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990, OMB’s preliminary scoring estimate of the bill is under development.

U.S. CUSTOMS SERVICE,
Memorandum from: John R. Sloan, Acting Under Secretary (Enforcement).
From: Acting Commissioner
Subject: Pay-go Offset for the Patient Bill of Rights

Congress will soon consider passage of the Patient Bill of Rights. The Customs Service offers no opinion of the legislation. However, we have concerns with the bill’s potential impact on future Customs appropriations.

Section 502 of the bill would extend our collection of COBRA fees from 2003 to 2011, but would use the revenue to offset the cost of implementing this new legislation. Although we support extending the collection of COBRA fees, any scoring of the COBRA extension, which is an option, the ability to fund or offset Customs activities would likely cause a critical funding shortfall for the Customs Service.

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the policing of that entry of product into the country. A fee levied for a certain purpose ought to be used for that purpose or it might violate the WTO because it should not be a source of general revenue any more than taking money from the gas tax and putting it into the general fund of the United States.

Here is what the Customs Service writes on this issue.

The merchandise processing fee is a fee that is paid by importers for the processing of merchandise by the Customs Service. Displacing the funds collected from the fee for something other than Customs’ operations could pose GATT interpretation issues.

While it is not clear that a WTO case would arise or that a challenge would be successful, it seems to me that this is a warning bell that should certainly be heard.

No Senator should vote against this motion to strike unless they are prepared to face the possibility of a WTO challenge and take responsibility accordingly.

We could strike this provision from the bill. Before blindly supporting section 502, we should have time to consider its broader implications.

I urge my colleagues to support this amendment to strike.

Turning to the other provision of their bill that my amendment strikes, section 503, that would delay payments to Medicare contractors by one day thereby shifting $235 million in Medicare part B spending from fiscal year 2002 to fiscal year 2003 is simply a budget gimmick.

I am troubled by this provision because it comes within the jurisdiction of the Senate Finance Committee and also because we are trying to work to make Medicare a better program, not do things to harm it.

First, I point out to my colleagues that again, the Finance Committee has jurisdiction, not the Committee on Health, Education, Labor and Pension. It is the Finance Committee that authorizes and oversees the Medicare Program and the Federal agency that runs it, now known as the Center for Medicare Services.

It is the Finance Committee and not the Health, Education, Labor, and Pension Committee that is in the best position to know how changes in the Medicare Program, such as this one-day payment delay in section 503 of the bill that will affect our senior citizens, will affect our health care providers and will affect the integrity of the Medicare trust fund.

With all due respect, when it comes to Medicare and Medicaid and other Federal entitlement programs, it seems terribly ridiculous to ignore the committee that has the very expertise in these programs, meaning the Senate Finance Committee.

The second reason that I am proposing to strike the Medicare payment delay in section 503 of the bill is that the delay itself, which may not seem serious to some, could actually have serious consequences for Medicare contractors and providers.

Delaying payments by one day and moving them into the next fiscal year just to finance this bill is fuzzy math, to say the least. But it unfairly subjects the already fragile Medicare Program and its health care contractors to accounting disruptions and to administrative uncertainties.

Medicare providers already have it hard enough just dealing with the Medicare Program in the first place. They are overwhelmed by paperwork, confused by conflicting regulations, and frequently left hearing that “the check is in the mail.”

Can you imagine the Federal Government saying “the check is in the mail” when it comes to timely payments of their reimbursements?

Subjecting those providers to any additional delay, even if just for a short period of time, is simply unfair. We need to make Medicare a better business for providers to do business with Medicare.

Think about it. No one wants to do business with late payers, and health care providers are no exception.

Think about it for a minute. No one wants to do business with late payers, and health care providers are no exception. We should not be giving Medicare an additional opportunity to delay for one minute—let alone a longer period of time—their obligations to promptly pay providers.

For the last 3 months, Senator Baucus and I have been working hard to develop a Medicare reform proposal that strengthens and improves the program by adding prescription drug coverage and making the entire benefit package more cohesive.

Part of this bipartisan effort also includes an initiative to make Medicare more responsive and accountable to both seniors and providers. We want to send a message to providers that they will be treated fairly and professionally by Medicare.

Unfortunately, the delay provision in section 503 does exactly the opposite. It sends an entirely wrong message and undercuts our bipartisan effort to make Medicare a better business partner for today’s providers.

For these reasons, I cannot support the inclusion of section 503 in this bill. Neither 502 nor 503 belong in this bill. They are both outside the jurisdiction of the Health, Education, Labor Committee and a long way away from the subject of this debate, which is patients’ rights. Both sections should be stricken from this bill entirely.

Consequently, I urge my colleagues to support my amendment:

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time in opposition? The Senator from Massachusetts.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I will take just a few moments of the Senator’s time.

The fact is, this provision, as stated on page 179, does not even go into effect until the year 2003. There is plenty of time for the Finance Committee to work it out if this isn’t a satisfactory way of dealing with this issue. It is basically a bookkeeping issue. There is a judgment that is made by CBO that the value of a wage package is “X,” and if you are going to guarantee additional kinds of benefits in terms of health care, then the wages are going to go down, which is going to mean less money in terms of Social Security.

This is actually a balance from the Budget Committee’s point of view to make sure that the bookkeeping will be balanced.

To the time we will hear from the chairman of the Finance Committee who will describe this and, at the appropriate time, make the point of order.

I point out, though, that it is my understanding that this has no impact or effect on the Customs Service. They will still receive the money. If they want to go through with their modernization, they will still be able to do that. But it basically ensures that this is going to conform to the budget consideration. That is the reason that this was put in there. There will be sufficient time for the Finance Committee to make any other kinds of adjustments and changes.

To make it very clear, the resources that are collected in this are not to pay for the bill. It is basically a bookkeeping offset to what will be anticipated to be the shortfall in terms of the payments under the CBO estimate of the wage package because of the enhanced value, which I think ought to be encouraging for workers of their health benefits. So we will hear more from the Budget Committee tomorrow. At that time, the chairman of the Budget Committee will make a further comment speaking for the Budget Committee. They are in support of our position.

Mr. GREGG. Is the Senator yielding back his time?

Mr. KENNEDY. I am glad to yield back the time.

The PRESIDING OFFICER. The Senator from Massachusetts yields back the remaining time on the Grassley amendment.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I ask unanimous consent that this amendment and all amendments that have the yeas and nays ordered tonight be stacked for a vote tomorrow morning, with the appropriate time of 2 minutes to each
side, or whatever is agreed to, before each amendment is voted on.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, at this time I would like to outline the remainder of the evening, if acceptable to the parties, relative to our side, which would be that Senator SANTORUM would go next with his amendment. He would have 10 minutes; the Senator from California, Mrs. BOXER, would have 10 minutes. Then we would go to Senator NICKLES. He would have 10 minutes; and 10 minutes to whoever is in opposition. Senator BROWNBACK would come next. He would have an hour divided, as is traditional. And Senator ENSIGN would then follow with two amendments, the physician pro bono amendment, and the genetic discrimination testing amendment.

I believe the Democratic membership has all these amendments. I would hope we could also agree there would be no second degree.

Mr. KENNEDY. The Ensign amendment we have just received. I have no objection to the earlier request. I am sure we will agree with this, but we would like for that, as far as it being locked in terms of no second-degree amendments, just to have an opportunity to—

Mr. GREGG. I would reserve my request on the second degrees relative to the Ensign amendments but ask unanimous consent that the unanimous consent agreement include that there be no second degrees on DeWine, Grassley, Nickles, Santorum, or Brownback.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from Pennsylvania is recognized.

AMENDMENT NO. 814

Mr. SANTORUM. Mr. President, I have amendment No. 814 at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM], for himself, Mr. SMITH of New Hampshire, and Mr. DeWine, proposes an amendment numbered 814.

Mr. SANTORUM. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect infants who are born alive)

On page 179, after line 14, add the following:

SEC. 1. DEFINITION OF BORN-ALIVE INFANT.
(a) In GENERAL—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:


(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words ‘person’, ‘human being’, ‘child’, and ‘individual’, shall include every infant member of the species homo sapiens who is born alive at any stage of development.

(b) As used in this section, the term ‘born alive’, with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.

(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section.

(b) CEREMONIAL—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item: ‘8. ‘Person’, ‘human being’, ‘child’, and ‘individual’ as including born-alive infant.’.

The PRESIDING OFFICER. Under the unanimous consent agreement, the Senator from Pennsylvania is recognized for 10 minutes.

Mr. SANTORUM. Mr. President, this is an amendment that I think really goes to the heart of this bill: Patient protection. This bill is purported to deal with trying to take care of patients. What this amendment does is make sure that every living human being is protected by this act as well as all other acts of Congress.

This is a very simple amendment that says—I am quoting from the amendment—

In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words ‘person’, ‘human being’, ‘child’, and ‘individual’, shall include every infant member of the species homo sapiens who is born alive at any stage of development.

That is a rather simple amendment. Obviously, I think it is an amendment that should be broadly accepted.

The reason I offer this amendment is really twofold. No. 1 is the concern about how certain little children—little infants—are treated. Particularly those who are born alive after an abortion, an abortion that was not successful in the sense that the child was not killed before the child was delivered outside of the mother’s womb.

So what we want to do is make sure those children in particular, as well as others, are treated with the same dignity and are covered by the same laws as all other people in America.

There are, unfortunately, many disturbing examples of how these little children are not treated the same and are not given the proper respect that is required under the laws that we have passed in this Congress.

I am going to use a couple of examples that were given by nurses in congressional testimony.

Last year, we had testimony from Alison Baker, who is a registered nurse, who witnessed three induced abortion survivor incidents. For one of them, she says:

I happened to walk into a ‘soiled utility room’ and saw, lying on the metal counter, a fetus, naked, exposed and breathing, moving its arms and legs. The fetus was visibly alive, and was gasping for breath. I left to find the nurse who was caring for the patient and this fetus. When I asked her about the fetus, she said that she was so busy with the mother that she did not have time to wrap and place the [baby] in the warmer, and she asked if I would do that for her. Later I found out that the fetus was 22 weeks old, and had undergone a therapeutic abortion because it had been diagnosed with Down’s Syndrome. I did wrap the fetus and place him in a warmer and for 2½ hours he maintained a heartbeat, and then finally expired.

The second incident involved a 20-week-old fetus with spina bifida who lived for an hour and 40 minutes until she died.

She continued:

The third case occurred when a nurse with whom I was working was taking care of a mother waiting to deliver her 16 week Down’s Syndrome fetus. Again, I walked into the soiled utility room and the fetus was fully exposed, lying on the baby scale. I went to find the nurse who was caring for this mother and fetus, and she asked if I could help her by measuring and weighing the fetus. I took the chart and the baby. When I went back into the soiled utility room, the fetus was moving its arms and legs. I then listened for a heartbeat, and found that the fetus still was alive. I wrapped the fetus and in 45 minutes the fetus finally expired.

We have other stories, disturbing stories of cases where children were born alive and basically discarded as trash in soiled utility closets or laying on tables fully exposed at a very tender age.

This is a story from Jill Stanek, another registered nurse:

One night, a nursing co-worker was taking an aborted Down’s Syndrome baby who was born alive to our Soiled Utility Room because his parents did not want to hold him, and she did not have time to hold him. I couldn’t bear the thought of this suffering child lying alone in a Soiled Utility Room, so I cradled and rocked him for the 45 minutes that he lived. He was 21 to 22 weeks old, probably about ½ pound, and was about 10 inches long. He was too weak to move and very much expending any energy he had to breathe.

This is the current problem, and this is the reason we are introducing this legislation. Frankly, I have concerns that this may be even more of a problem in the future based on court decisions. The court decision I refer to is
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concurring. I am going to quote two

Mrs. BOXER. Mr. President, my col-

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v. Wade which simply said, in the

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vate, medical, and moral decision a woman and her family and her doctor and her God

would make without the interference of
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His amendment makes it very clear

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any rights that are not yet afforded to

a fetus. Therefore, I, as being a pro-

choice Senator on this side, repre-

specting my colleagues here, have no

problem whatsoever with this amend-

ment. I feel good about that. I feel good

that we can, in fact, vote for this to-

together. It is very rare that we can.

Simply put, this amendment says it

all in its purpose: 'To protect infants

who are born alive.'' Of course, of

course. My colleague goes on to say

that simple statement, which is very

important, is in fact, he said, the heart

of this bill. I think the heart of this

bill is even more than that. The heart

of this bill is yes, protecting infants: it

is also protecting children, protecting

teenagers, protecting people as they

get older, until they are very old and

very frail and are fighting for their life.

So this bill really should protect us

all at every stage of our life, from the-

earliest days until the final days. I

hope that my colleague will join with

us in supporting this Patients' Bill of

Rights because it does, in fact, protect

all of us. And it will, in fact, give all of

us the protections that we need against HMOs that often-
times put dollar signs ahead of our vital signs. That is wrong to do. Some

infants, very young infants, are born alive. They are an elderly person who is fighting

and struggling against illness.

If 100 people vote for this amend-

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and struggling against illness.

I heard my colleagues on the other

side—some of them against this bill—

say: We can't legislate by anecdote.

Well, I have to tell you, when you hear

one story, and then another and an-

other, from people you never heard of,

and you hold hearings and the people

come out and tell the stories, then we

know there is a need to pass this Pa-

tients' Bill of Rights. So I would vote

the recent decision by the U.S. Su-

preme Court in the Nebraska partia-
birth case. In that case, in a concuring

opinion, two Justices said two things:

One, Justice Stevens with Justice

Ginsburg concurring, and the other,

Justice Ginsburg with Justice Stevens

concurring. I am going to quote two

things that should send a chill down the

spine of those people here when it comes

to what the future could have in store

for us if we do not pass legislation such

as this.

This is what Justice Stevens said in

this decision:

The holding [of Roe]—that the word "lib-

erity" in the 14th Amendment includes a

woman's right to make this difficult and ex-

tremely personal decision—makes it impos-

sible for me to understand how a State has

any legitimate interest in requiring a doctor to

follow any procedure other than the one

he or she reasonably believes will best pro-

tect the woman in her exercise of this con-

stitutional liberty.

For the notion that either of these two equally grumin [abortion] procedures

former, this latter act of gestation is more akin to infanticide than the other, or that

the State furthers any legitimate interest by

banning one or not the other, is simply irratio-

nal.

What that says very clearly is, ac-

tording to these two Justices, that any

procedure that the doctor determines

is in the best "health interest of the

mother" can be used without question.

So it gives the best way to safely perform this abortion is to de-

liver a live baby and then subsequently

kill it because it is the safest way for

the mother's health to have that done,

under this rationale, under this rea-

soning, that would be legitimate. I

think we have to make it very clear

that is not legitimate; that after

delivering a baby, once the baby is out-

side the mother, it is no longer legiti-

mate to consider that child just a piece

of property, of disposal of, or mass-

sive cells to be disposed of when it is a

living, breathing individual.

Justice Ginsburg's opinion says the

following:

Such an obstacle [to abortion] exists if the

State stops a woman from choosing the pro-

cedure her doctor "reasonably believes will

protect the woman in [the] exercise of [her]

constitutional liberty.''

Again, it is an open door to whatever

procedure the doctor wants to use, irre-

spective of the baby, which again

leaves the door open certainly for the
doctor to say that he or she reasonably

believes that the mother's health will be

served if the baby is delivered and then

decides that is the best way.

This was not the majority opin-

ion, thankfully, of the Court, but it

does show that there is a possibility,
at least, out there for this kind of ruling

within our court systems at the high-
est level, much less what some district

or appellate court might do.

I think it is important for us to

clearly draw the line, if that is called

drawing the line, that once a child is

born, it is no longer a health threat to

the mother, and that we have a legiti-

mate interest in protecting this child

from being killed at that point or, shall

we say, treat that child within the con-
text of the law as we would treat any

other child or any other person in

America.

With that, I reserve the remainder of

my time.

WHO. The PRESIDING OFFICER. Who

yields time in opposition?

The Senator from California.

Mrs. BOXER. Mr. President, my col-

league, in his discussion of this amend-

ment, does attack the landmark case of

v. Wade which simply said, in the

1970s—and women have had the right

since then—that in the early stages of

a pregnancy, the government should

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say: We can't legislate by anecdote.

Well, I have to tell you, when you hear

one story, and then another and an-

other, from people you never heard of,

and you hold hearings and the people

come out and tell the stories, then we

know there is a need to pass this Pa-

tients' Bill of Rights. So I would vote
for this to protect the infants, and then I will vote to protect everyone in this country because everyone deserves protection. Those HMOs who put these bottom line ahead of people’s health.

The PRESIDING OFFICER (Mrs. Feinstein). The Senator from Massachusetts is recognized.

Mr. Kennedy. Madam President, I am going to urge the Senate to accept the amendment tomorrow. I think we have had a good discussion about it. I hope that we will move ahead and accept it. I am prepared, when the Senators yield the time or use the time, to do that.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. Santorum. Madam President, I thank the Senator from California for her comments and support of this amendment. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The amendment is as follows:

The assistant legislative clerk read the amendment as follows:

Mr. Nickles. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

Amendment No. 866

Mr. Nickles. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Nickles. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Nickles. Madam President, I will be brief. I hope this amendment can be accepted. In the underlying bill on page 173, it has “effective dates” for implementation of the legislation. The effective date for everybody, all plans in America, is by October 1, 2002. So that is when all the plans in America will have to comply with this bill. They will have to have the patient protections in line, the appeals process, the liability sections—all are mandated to be effective by October 1 next year. That is about 14 months from now.

If you continue reading on page 173, you find out that the plans that are covered by collective bargaining agreements are exempt. They are exempt from the legislation. It says they “shall not apply to plan years beginning before the later of—(A) the date on which the last collective bargaining agreements relating to the plan terminate.”

Some of these plans may not terminate for months. Some may not terminate for years. As a matter of fact, looking at a couple of examples, one is the Plumbers and Pipefitters Union, with 2,000 employees, has a 126-month contract. It doesn’t expire until 2010.

The point is that there are about 30 million lives that would be exempt from this bill for years. If we are going to make it apply to everybody else in the private sector, I think we should make it apply for collective bargaining plans as well.

There is also something else that is troubling to me. It says it would not apply until the plan terminates, and then the language says if they adopt these patient protections, that still doesn’t count as a plan termination, a collective bargaining agreement termination. So, in effect, even though a plan adopts it, it hasn’t terminated and, therefore, it is still not covered or enforced by the terms of this bill. I find that troubling. I also am troubled by the fact that when it says “relating to the plan terminates,” a lot of plans or contracts don’t terminate. They are renegotiated. So they never get to termination. They are actually renegotiated contracts that is well and good. That means there is peace and harmony and no labor shortages and so on.

My point is that it is very important for us not to be exempting 30 million workers who happen to be in collective bargaining agreements from the protections in these plans. If we are going to give these protections to 170 million workers in the private sector, in that 170 million are included 30 million who happen to be members of a collective bargaining unit. We should have the patient protections that Congress is in the process of determining which are so vital for everybody else in the private sector. They should not be exempt because they happen to be members of a collective bargaining unit. We are asking every other plan in America to comply by October 1.

Why would we not ask members of collective bargaining agreements to also comply? Why should we have these protections that have different expiration dates, some of which might be 5, 10 years, or even longer? Maybe this is an oversight, a mistake from a previous drafting; but, clearly, if these are such valued protections that we want to extend them to the private sector, we should certainly extend them to members of collective bargaining agreements as well.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. Kennedy. I direct my colleagues’ attention to the lines 15 and 16 on page 173. They talk about “for plan years.” That is an art of words that applies to insurance companies, and it says, “beginning on or after” plan years. As we know, the insurance starts generally at the first of every year. So with regard to insurance companies, the Senator is completely correct. The insurance companies have different expiration dates, some are longer and they will be respected in that way just as we do regarding collective bargaining. I hope this amendment will not be accepted.
Mr. NICKLES. Madam President, I appreciate my colleague’s statement, but I totally disagree. Some of us have argued for bargaining agreements, but we haven’t been totally successful. I might add. Almost all those contracts would begin, if not by October 1, certainly by January 1 of the year 2003. So maybe there are a few more months. But under no circumstances should we not apply to Federal file bargaining agreements, if you read the language on page 174, it is not until the contract or the agreement terminates. And then the second part of it says that even if they comply, it shall not count as a termination.

You could have collective bargaining agreements exempt under this provision indefinitely for 12 years. They may never terminate the agreement. They may continue rolling it over, so it is 10 years, but in five we are going to renegotiate it; it might be renegotiated; but it is never terminated. Are we going to take 30 million Americans and say: You are not covered by these patient protections?

Some of these contracts will last 10 years, 15 years. The average contract I was looking at had a schedule of 5 to 6 years. One I mentioned does not expire until the year 2010. If they renegotiate it between now and next year, the duration of the contract will be exempt. We are telling everybody else in the private sector: Get your act in order, and by the end of next year you have to have these new patient protections, oh, unless you are a member of a collective bargaining agreement.

This is not the only exemption we found. We did not cover Federal employees. Maybe I will have an amendment dealing with Federal employees. All these great patient protections do not apply to Federal employees. They do not apply to Medicare. They do not apply to Indians in our hospitals. They do not apply to veterans.

These are patient protections that are so important for the country, but we do not give them to publicly funded plans; we only do it for private sector plans.

What about unfunded mandates? What about union plans, collective bargaining? We leave them out. We leave out Government plans; we leave out union plans; but it is five we are going to hit the private sector. Unions, this does not apply for the duration of your collective bargaining agreement, and if it does not terminate, you are never covered.

I think that is a serious mistake, so I urge my colleagues to support the amendment.

I thank my friend and colleague from Nevada for his support of the amendment as well.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, the Senator ought to read page 174 because this language is very clear, precise, and exact. It does not permit what he just said it permitted, and that is the rollovers. It just does not permit it. The Senator can state it, and he can misrepresent it, which he just has, but it is not the fact. On line 5, it says: “relating to the plan terminates,” and that is when it ends. That is when it has to be implemented.

This idea that it can roll over and over, for 10, 15 years, is not what the legislation says. The fact is, with insurance, many start in January, many others start in July. We have tried to say when that contract plan year, which is a term of art that refers to when that insurance transitions, we will implement it at that time, and the same should be true with the collective bargaining agreements.

I would think the overwhelming majority of the workers and employers would be eager to get these protections. We are going to find out many will work out arrangements so they get the protections.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I yield to the Senator from Nevada such time as he desires.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Madam President, I have a story that was told by the junior Senator from North Dakota on the Senate floor the other day. It is about a young man named Christopher Roe, who is from Nevada. He was attending Durango High School and was diagnosed with acute lymphocytic leukemia. As anybody who has had a child with that terrible disease knows, sometimes the treatments are not very successful.

During the course of his treatment, the doctors were recommending a certain type of experimental treatment, and throughout this bill, sometimes that experimental treatment has to be had at a certain time of treatment, and waiting for its approval sometimes leads to that treatment not being able to be given to that patient. That is exactly what happened to Christopher Thomas Roe. He was not able to receive this type of a treatment in a timely manner.

His father is a school district employee in the State of Nevada. He is not a teacher, but he is an employee of the school district. There is an employee trust fund that has been set up to provide health insurance to school district employees. Based on our discussions with the Department of Labor, it appears that because of the way it was set up, would not be covered under the provisions of this bill.

Similarly, the 30 million people Senator Nickles is talking about who deal with collective bargaining agreements are not covered under this bill. If we are going to say to other people that they deserve these rights, we believe that people who are in unions deserve the same patient protections.

These patient protections right now do not just deal with lawsuits, they deal with provisions that everybody should be on the right side of a woman to choose an OB-GYN as her primary doctor; the right of a family to say their children’s primary care doctor is a pediatrician; the right to a reasonable layman’s interpretation of whether emergency room care should be paid for when they have an emergency.

These patient protections we believe are very important to give not only to the 170 million people who are covered by the underlying bill, but also those who are covered in collective bargaining agreements.

If there is tweaking of the language that needs to happen with this amendment, then let’s tweak the language. That is what Congress is for. That is why we have some of the legal experts look at the bill, collective bargaining agreements would supersede and not allow union workers who are covered under those collective bargaining agreements to be covered under this Patients’ Bill of Rights.

I urge our colleagues to work with us and to make sure those union workers get the same protections as other people in America are going to receive.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, how much time do I have?

The PRESIDING OFFICER. Six minutes.

Mr. KENNEDY. I did not understand, did the Senator say that public employees were not covered? Does he understand that to be the case?

Mr. NICKLES. The Senator is correct. Federal employees are not covered by the underlying McCain-Kennedy bill.

Mr. KENNEDY. I understand he was talking about teachers in Nevada; public employees is the example he gave. I find this enormously interesting because both Senators voted for the Collins amendment that excluded 139 million Americans. They only included 56 million. They were going to have the protections. The others were going to be dependent upon whether the States actually moved ahead and passed the various protections.

Mr. NICKLES. Right.

Mr. KENNEDY. One of the groups that was left out of the Collins amendment was public employees, such as firefighters, schoolteachers, and others. We resisted that. No one has fought harder to make sure
we are going to have comprehensive coverage since day 1 of this program. Now, they are being flyspecked because somehow the States who, under certain circumstances, are going to come into these protections on a different calendar.

Madam President, we have tried to include people who are going to have coverage from insurance. We are going to respect the contract. When those insurance contracts expire, whether it is in January, whether in July, the protections go into effect. The same is true of the collective bargaining agreement. We have done that in other times. It has worked, and worked effectively. As I say, I believe the consumers, as well as employers—the employers from whom we have heard, and we have had many examples—indicate they want to wait to get these protections in place. It isn't that people will delay getting in; it will be because they want to get in and get in more quickly.

The PRESIDING OFFICER. Leader time has expired.

Mr. NICKLES. I ask unanimous consent for 2 additional minutes.

Mr. KENNEDY. Then I ask for 4, 2 each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. A couple comments. The average length of collective bargaining agreements: 66 percent of collective bargaining agreements with over 1,000 employees—that is over 1,200 collective bargaining agreements—the average length is 3 to 5 years; 28 percent are 2 to 6 years; an additional 7 percent are 6 to 8 years.

My point is these things last for years. People renegotiate their health care plan. Federal employees do this every year. Nobody does it every day. So for the health care plan for everybody else in the private sector, you have to comply by next October, 12 months from now, maybe even January of next year; you will have to comply. But if you are in a collective bargaining plan, you wait until the plan terminates. We asked the Department of Labor, does the plan terminate if renegotiated and rolled over? Not necessarily.

In collective bargaining, you are talking about 30 million Americans who will not receive the so-called benefits under this bill. That is a fact.

Another fact: My colleague said we supported an amendment by Senator Collins that said let the States use their State protections. I strongly agree with that. That is a reason we will vote against the underlying bill, because I don't think we should preempt States as the Kennedy-McCain bill does. I believe in that strongly. I know my colleagues from Massachusetts have a different belief. We could debate that for hours.

My point is, if the patient protections are so good—and I heard many sponsors say we should cover all Americans—the bill does not cover all Americans. As a result of the language we have among collectively bargaining agreements are exempt for years. The bill we are debating now does not cover public plans; it does not cover Medicaid; it does not cover Medicare; it does not cover public employers; it does not cover military; it does not cover veterans; it does not cover Federal employees.

We have control over Federal employees. If the patient protections are so good for the private sector, why not for collective bargaining plans as well?

Mr. KENNEDY. Madam President, it is interesting to listen to my friend and colleague. The fact is, the last President, President Clinton, put those into Executive orders to cover those delays of the Republican leadership in letting us get through this bill over the last 5 years. So rather than wait and wait and wait, we had a Democratic President put them into effect.

Now if a collective bargaining unit or contract expires on October 2, they go in prior to the time of the insurance coverage. They will go in months ahead of the insurance. If the contract expires on October 5, that goes in before July of the next year. So they get more protections than those being covered by the insurance.

This is just a way of saying if the contracts are out there, we are going to respect the termination of those contracts, whether it is in the insurance or in collective bargaining. Evidently, the Senator wants to use this as a device to punish some of their enemies, the unions in this case, to try to use the legislative process to do so. I hope we will reject that.

Mr. NICKLES. I yield myself 5 minutes off the leader time.

The PRESIDING OFFICER. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I thank my friend, Senator BROWNBACK. I am the third Senator from Kansas. I think you have shown great patience. I will be brief.

My colleague from Massachusetts said President Clinton gave these protections to Federal employees because he could not wait for the Republican Congress to pass them.

The facts are, Federal employees do not have patient protections that are nearly as expensive, as aggressive, as intrusive as we are getting ready to impose on the rest of the private sector. I may have an amendment tomorrow to address that so we can save that for tomorrow's debate.

The patient protection that President Clinton passed is not nearly as big. It cannot be rolled over. When they have an appeal process, they do not go to an independent party; they go to OPM, Office of Personnel Management; they go to their employer. We do not do that in this bill. Maybe we will debate that tomorrow.

Finally, he said in collective bargaining plans, they have to be covered when the plan terminates. My point is the plan can be renegotiated. You are talking years. Sixty-six percent of collective bargaining plans are 3 to 5 years.

Then it says if they go ahead and implement it, it is not counted as a plan termination; therefore, it is not effective. Let's give union members the same protections we give all other private sector employees.

I thank my colleagues and my colleague from Massachusetts and particularly my colleague from Kansas for his patience in allowing us to go forward.

Mr. KENNEDY. I am prepared to yield back the time.

The PRESIDING OFFICER. All time is yielded back.

Mr. NICKLES. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 87

Mr. BROWNBACK. I send an amendment to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 87.

Mr. BROWNBACK. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit human germline gene modification)

At the end of the bill, add the following:

TITLe—HUMAN-GERMLINE GENE MODIFICATION

SEC. 01. SHORT TITLE.

This title may be cited as the "Human Germline Gene Modification Prohibition Act of 2001".

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) Human Germline gene modification is not needed to save lives, or alleviate suffering, of existing people. Its target population is "prospective people" who have not been conceived.

(2) The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fall short of some technically achievable ideal would be seen as "damaged goods"; while the standards for what is genetically desirable will be those of the society's economically and politically dominant groups. This will only increase prejudices and discrimination in a society where too many such prejudices already exist.

(3) There is no way to be accountable to those in future generations who are harmed
or stigmatized by wrongful or unsuccessful human germline modifications of themselves or their ancestors.

(4) The negative effects of human germline manipulation would not be fully known for generations, if ever, meaning that countless people will have been exposed to harm probably often fatal as the result of only a few instances of germline manipulations.

(5) No one has the right to have been conceived, gestated, and born without genetic modification.

SEC. 3. PROHIBITION ON HUMAN GERMLINE GENE MODIFICATION

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

"CHAPTER 16—GERMLINE GENE MODIFICATION"

"Sec.

"301. Definitions

"(a) IN GENERAL.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce—

"(1) to perform or attempt to perform human germline gene manipulation; or

"(2) to intentionally participate in an attempt to perform human germline gene manipulation; or

"(b) IMPORTATION.—It shall be unlawful for any person, public or private, to import the product of human germline gene modification for any purpose.

"(c) PENALTIES.—Any person or entity that is convicted of violating any provision of this section shall be fined under this section or imprisoned not more than 10 years, or both.

"(2) CIVIL PENALTY.—Any person or entity that is convicted of violating any provision of this section shall be subject to, in the case of a violation of a provision relating to the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by 2, if that amount is greater than $1,000,000.

"(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended—after the item relating to chapter 15, the following:

"16 Germline Gene Modification ......... 301":

Mr. BROWNBACK. Madam President, I rise today to offer an amendment to the Patients’ Bill of Rights. This amendment is about human germline gene modification. That is a long way of saying—and I will go into this for a period of time—stopping people from attempting to modify the human species with outside genetic material. It may seem strange. It happens in livestock, genetically modified organisms. Some people are researching and discussing doing this within the human species to create better people. I think it should be stopped, prohibited, removed.

I looked for a better vehicle for this amendment, for another bill that was a closer fit. It is a medical issue on the medical front. If we get an agreement that I will do it that way. Having not been able to do that, we offer it as an amendment now.

My amendment prohibits human germline gene modification. What is that? Technically, it is the process by which the DNA of an individual is permanently changed in such a way that it permanently affects his or her offspring. Normally this is a DNA modification either the egg or the sperm within the human species, so when they are transferred outside the human species to create better people. I think it should be stopped, prohibited, removed.

This is not about genetic therapy; it is not about stem cell research; it is not about human cloning. All those are other issues for another day that do need to be considered but not here. My amendment in no way hinders genetic therapy or other medical interventions that treat patients suffering from diseases.

My amendment is about eugenics. For those not familiar, that is the process or means of race improvement previously tried by many diabolical methods or schemes, generally looked at as restrictions of mating, of so-called superior people together, and now being attempted, talked about, pressed forward by adding genetic material of humans from outside the species.

This is ugly stuff, and it should be stopped. It is about what we as a society are willing to allow and not to allow. The issue of germline genetic modification is about our ability to change design by changing eye color, height, or IQ. I offer this amendment, well aware that many of my colleagues understandably may be unaware of these so-called advances being made in the field of biotechnology and the impact those advances will inevitably have on the human race.

I come from an agricultural background. I used to be a Secretary of Agriculture in Kansas. These are things we commonly do now in plants, and we are having research done extensively in animals. People are talking about bringing some of the same technology to humans. It has to be stopped and should be stopped.

Many of the advances promise great achievement for mankind and a betterment of human conditions. Some of the advances in biotechnology do not. Human germline gene manipulation is one of those. It is one of those advances discussed mostly in theoretical terms until recently. More disturbingly, it is the realization of the age-old quest to design better people. Germline gene manipulation is the summit of the eugenics movement. One of the groups we have consulted with prior to preparing this amendment is a group chaired by Claire Nader, the sister of former Presidential candidate Ralph Nader. It is a group she has been associated with, the Council for Responsible Genetics. They are unequivocally opposed to human germline gene modification.

The Council states this:

We strongly oppose the use of germline gene modifications in humans.

They continue:

Today, public discussion in favor of influencing the genetic constitution of future generations has gained new respectability with increased popular intervention. Although it is once again espoused by individuals with a variety of political perspectives, modern eugenic programs are now designed in an effort to fit the needs of a free choice. But the doctrine of social advancement through biological perfectibility underlying the new eugenics is even more potent than the older version. Its supporting data seem more scientifically sophisticated and the alignment between the state, through its support of the market and the individual expression so-called free choice, is unprecedented.

The Council goes on to state further:

These considerations make the social and ethical problems raised by germline gene modification very different from those raised by human gene manipulations, that target certain nonreproductive deficiencies in organs of patients, again in somatic cell gene modification.

As the Council states in very clear terms:

The underlying political philosophy of those who support germline gene modification has been sanitized with new terms, but is in reality the same old eugenic message which the 20th century was designed and directly targeted. In numerous conversations that I have had with Dr. Francis Collins, who
heads the National Human Genome Research Institute in Washington, who has had a fantastic report that was out last year on the Human Genome Project, reported out a beautiful array of the complexity of the genetic structure in every one of our 10 trillion cells and if we printed out that genetic structure and had it in front of us, it would be a stack of paper 100 feet taller than the Washington monument.

We have talked about the beauty of the human genome and also talked about the potential for problems in its manipulation, as that could be carried onto future humans.

Madam President, human germline gene modification is not needed to save lives or alleviate suffering of existing people. Its target population is prospective people who have not been conceived. The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fall short of some technically achievable ideal would be seen as damned goods, while the standards for what is genetically desirable would be those of the society’s economically and politically dominant group. We have heard these themes before. This will only increase prejudices and discrimination in a society which already has too many of these.

There is no way to be accountable to those in the future generations who are going to be harmed or stigmatized by the wrongful or unsuccessful human germline gene modification of their ancestors. The negative effects of human germline modification would not be fully known for generations, if ever, meaning that countless people will have been exposed to harm, probably often fatal, as a result of only a few instances of germline manipulation.

All people have the right to be conceived, gestated, and born without genetic manipulation. Human germline gene manipulation will only serve to turn human beings into commodities with attributes that are determined by technicians, and parents who want to exert genetic tyranny over their offspring. This is a step too far. This is grossly unethical for it to happen. I urge the Senate to adopt my amendment to prohibit it once and for all.

Again I put forward, in layman’s terms, what this is about. This is about getting and adding outside genetic material into the human species, whether getting and adding outside genetic material into the human genome and also talked about genetic manipulation.

I think everybody would look at this and say that is not a road we want to go down. Yet some people today are contemplating doing this. I want to add a couple of other points. The European Council on Biomedics has stated its opposition to this human germline gene modification. I think the civilized world really needs to step up right now, before people get going and that is forward saying: We could make people taller. We could make people live longer by this modification. We found a gene line in trees that we could put in earlier, to the human species, and cause this to happen. We have a way to manipulate or change this—without knowing in any way down in future generations what this impact is.

We can send a strong, clear signal at this point in time that we want nothing to do with this, that this is wrong, this is eugenics, this is the height of eugenics, and it should not take place. The Europeans are moving that way. We should as well as much of the rest of the civilized world, and say we want nothing to do with that with a clear, I hope unanimous, vote of the Senate, saying this is wrong.

I know people differ on some of these other biotechnology issues, such as cloning, but I think that the public knows this amendment serves a thoughtful and measured response to the sweeping prohibitions that the Brownback amendment would impose. A recent study funded by the NIH conducted by the University of Michigan found that 65 percent of the public opposed a ban on prenatal gene therapy, and only one in five of those support such a ban.

The European people do not support the sweeping prohibitions that the Brownback amendment would impose. The Brownback amendment is opposed by a wide range of organizations representing patients, doctors, scientists, and the biotechnology industry. They know this amendment would have a chilling effect on the biomedical research that gives hope to millions of Americans at risk for genetic diseases.

The amendment is so broad that it will criminalize several promising areas of biomedical research, even including gene therapy in adults.

This important, complex topic deserves a thoughtful and measured response, and not the indiscriminate prohibition that the Brownback amendment proposes.

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We can easily understand where the language that is included may not be the purpose of the Senator, but certainly this language is sufficiently vague as to prohibit some promising research. At this time, I think this is a matter of enormous importance. I don’t think we really ought to be dealing with this issue on this bill. I can understand the Senator’s frustration in not being able to have the debate in the Senate and to hear the different views on this issue. But I believe we ought to defeat the amendment for now, have additional review and study and hearings, and that we ought to then consider the various public policy issues and the ethical issues that surround it.

Mr. REID. Madam President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. REID. I would like to ask the Senator a question. A couple of years ago when I was chairman of the Democratic Policy Committee, one of the issues that took time was cloning, for lack of a better description. We had a luncheon at the Democratic Policy Committee. This may not be directly in point, but it points up what the Senator is saying. This is a very complex issue. We need more time and medical expertise to respond to this.

But the Senator will remember that we had a hematology professor from Harvard. We had the leading expert on gene therapy at NIH. The Senator will recall a number of things. The thing that is so vivid in my mind is the Harvard professor, who was of course a practicing physician, gave an example of how progress is being made in the medical field and in the areas that need more study.

He recorded that a young woman with leukemia was referred to him. I do not know the scientific name nor the type of leukemia. He did the examination and looked at the information he had been given.

The Senator will recall that the doctor asked this young lady if she had a brother or sister. She said no. He said that right then he knew she was in big trouble. She probably couldn’t make it and would die.

The next day, the Senator will recall, another teenager came in with leukemia. It was the same process. He asked this young man if he had a brother or sister. He said no, and paused for a second. He said: I am a twin. The doctor said that he knew right then that the young man was going to live as long as anybody in this room because they could do a bone marrow transplant and regenerate those cells.

I do not fully understand what the Senator from Kansas is advocating with his amendment. I know he is candid and is well placed. I know after having listened to the woman from NIH and the professor from Harvard that I have great hope progress is being made on some of the most dreaded diseases that face especially children in America today.

The Senator from Massachusetts and I know how well-intentioned the Senator from Kansas is. I think we should defeat this amendment and wait for a later day so we can have more opportunity to examine this more closely.

The Senator remembers that meeting in the room right down the hall here?

Mr. KENNEDY. I do remember. All of us as Members of this body get a chance to go out to NIH and visit with the researchers and listen, watch, and hear about those extraordinary, dedicated men and women who are dealing with so much of the cutting edge research.

I think we want to make sure that we are very careful in the steps we are going to take that in some way would inhibit research. There are obviously strong ethical issues which we constantly have to examine and consider.

But I am very much concerned about the kind of prohibition that this type of amendment would include.

I want to make it clear that the amendment that the Senator from Kansas puts forward does not ban cloning, but it would ban similar cutting edge research.

That is what our concern is and why we will oppose it tomorrow.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I would like to correct some miscalculation with the Senator from Massachusetts. I want to read from the amendment because he represented a couple of examples that we specifically state in the bill we are not prohibiting.

On page 4 of the amendment under ‘‘construction,’’ it states specifically that:

Nothing in this Act is intended to limit somatic cell gene therapy, or to effect research involving human pluripotent stem cells.

This somatic cell gene therapy is what you are talking about where you have already the sperm and egg, and you have a full chromosome. That is where you may want to make changes, and that is where the research is focused. Now they can deal with some of the most dreaded diseases the Senator from Massachusetts says we should rightly try to deal with. I agree that we should.

We specifically added that. We covered that point the Senator raised and about which he has concern because we don’t want to impact that area. We talk about this on page 3. It says:

The term ‘‘human germ line gene modification’’ means the intentional modification of DNA in any human cell for the purpose of producing a genetic change which can be passed on to future individuals.

In this amendment we are saying: Do we really want to change the human species without knowing what the impact is going to be down the road? Maybe we have a shot at changing this bill through to passage—I appreciate both his work and the work of the Senator from Nevada on just continuing to press forward. They have done a very good job. But I point out to them that we have significant limitations on doing this to animals. Right now, if you wanted to take a fish and put a tomato germline in it, or something from a tomato gene—actually this is being done—this is a heavily regulated area by FDA, and the USDA, as well it could be that a tomato could swim and do things and take over a whole area of species? They are actually concerned. It may sound scientific, like this is just off the wall. But this is happening today.

We have these deep concerns within our society. You do not have to listen to me. The Senator from California knows what is taking place this week in southern California. People are deeply concerned about this being done with animals and plants.

All I am talking about with this amendment is to say, the careful thing for us to do right now is to prohibit it in humans.

As the Senator from Massachusetts knows, in any future legislative session we can remove that prohibition. We could do that next year. But wouldn’t the careful, thoughtful thing be to say right now: ‘‘We don’t want to modify the human species’’? It has no regulation. We just limit the review on it today. People are out there doing these things.

Wouldn’t the really thoughtful position be that we should stop this because we don’t know its impact down the road—stop this now—and then, if the researchers really convince us this is the right thing to do, we can open it back up? I think we open up an incredible Pandora’s box if we allow this unregulated area of human experimentation to continue at this time. And that is what is being defended here.

I think this should give us some thoughtful consideration. This is limited in its drafting. We have worked with a number of groups on its drafting. It is very specific. This has to do with it being passed down to future generations. This is something that we should prohibit at this time.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, there are several organizations that draw different conclusions about the Senator’s amendment. You have the
Biotechnology Industry Organization that says:

Unfortunately, the Brownback amendment reaches far beyond germ line modification. It attempts to regulate genetic research—a complex and dynamic field of science that holds great potential for patients with serious and often life-threatening illnesses.

And from the Association of American Medical Colleges:

Much more troubling, however, the amendment extends to all human germ line activity. Taken on its face, the amendment would prohibit other areas of research into gene therapy as well.

I ask unanimous consent an analysis be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

MEMORANDUM


To: Michael Werner, Esquire, BIO Bioethics Counsel.

From: Edward L. Korwek, Ph.D., J.D.

Re: Some Initial Comments/Analysis of the Brownback Amendment.

The Brownback Amendment is poorly worded and confusing as to its precise coverage. It uses a variety of scientific terms and other complex language both to prohibit and allow certain genetic modification activities. Many of the sentences are composed of language that is incorrect or ambiguous from a scientific standpoint. A determination needs to be made of what each sentence of the Amendment is intended to accomplish.

As to a few of the important definitions, the term “somatic cell” is defined in proposed section 301(i) of Chapter 15, “as a diploid cell (having two sets of the chromosomes of almost all body cells) obtained or derived from a living or deceased human body at any stage of development.” What does “of almost all body cells” mean? Is this an oblique reference to the haploid nature of human sex cells, i.e., sperm and eggs? Also, why is it important to describe in such confusing detail from where the cells are derived?

The term “genetic modification” is defined as “a process, procedure, or practice by which genetic change which can be passed on to future individuals . . .” That ought to be a matter of concern to parents because that is an area of very great potential in terms of parents who have the gene—in terms of transgenic livestock or in creating transgenic livestock—trying to impact that kind of DNA so that they will not pass this on. Yet this is talking about restricting the research for “producing a genetic change which can be passed on to future individuals . . .” That area is a matter of enormous importance and consequence.

I know the Senator has given this a lot of thought. It is enormously important. I respect him for it. I know that he revisits these issues continuously. We will look forward to continuing to work with him. I know he is incredibly concerned about the broad areas of ethical issues. In those areas of ethical concern, we need to have modern, thoughtful and one of the most productive Members of this body, probably in the history of this body. But I would really seriously ask him to look at this area, is this something we want to do in this society? This is not only technologically or theoretically feasible today; it can be done today. It has been done in the animal line for years now. This has been going on for 10 years-plus, 15 years in animals. The genetic lineage in animal versus human is not that much different. Totally unregulated, no limitations—go ahead and do it in humans, not in cattle.

I think we should balance the question of the impact of this on patients. That is another concern in opposing this. This is a serious matter. We have more and more people in the streets protesting about this very thing.

This is a matter of seriousness. We have more and more people in the streets protesting about this very thing.
Mr. KENNEDY. I will include the regulations which are in existence now. I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Pages 90–92—NIH Guidelines for Research Involving Recombinant DNA Molecules]

Appendix K–VII–K. Pathogen. A pathogen is any microbiological agent or eukaryotic cell containing sufficient genetic information, which upon expression of such information, poses a threat to human health in healthy people, plants, or animals.

Appendix K–VII–L. Physical Barrier. A physical barrier is considered any equipment and/or interest that is directly applicable to a specific gene therapy research issue.

At least one member of RAC will serve as Co-chair of each GTPC and report the findings of each meeting to the NIH Director, who will convene a GTPC in conjunction with a RAC meeting. GTPCs will be administered by NIH/OBA. Conference participation will not involve a standing committee membership but rather will offer the unique advantage of assembling numerous participants who possess significant scientific, ethical, and legal expertise in relevant areas.

In order to enhance the depth and value of public discussion relevant to scientific, safety, social, and ethical implications of gene therapy research, the NIH Director will convene GTPCs at regular intervals. As appropriate, the NIH Director may convene a GTPC in conjunction with a RAC meeting. GTPCs will be administered by NIH/OBA. Conference participation will not involve a standing committee membership but rather will offer the unique advantage of assembling numerous participants who possess significant scientific, ethical, and legal expertise in relevant areas.

Appendix L. Gene Therapy Policy Conferences (GTPCs)

RAC continues to explore the issues raised by the potential of in utero gene transfer, and concludes that, at present, it is premature to undertake any in utero gene transfer clinical trial. Significant additional preclinical and clinical studies addressing vector transduction efficacy, biodistribution, and toxicity are required before a human in utero gene transfer protocol can proceed. In addition, a thorough understanding of the development of human organ systems, such as the immune and nervous systems, is needed to better define the potential efficacy and risks of human in utero gene transfer. Requirements for considering any specific human in utero gene transfer procedure include an understanding of the pathophysiology of the candidate disease and a demonstrable advantage to the in utero approach. Once the above criteria are met, the RAC would be willing to consider proposals involving somatic cell gene transfer. The purpose of somatic cell gene therapy is to treat an individual patient, e.g., by inserting a properly functioning gene into the subject's somatic cells. Gert line alteration involves a specific attempt to introduce genetic changes into the germ (reproductive) cells of an individual, with the aim of changing the genes passed on to the individual's offspring.

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site) has been obtained; irb approval has
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submited to nih oba compiles with the re-
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onclusion, namely, to protect the health and well
ng of human subjects being treated while at
cluding generally all knowledge. two possible undesirable con-
quences of the transfer of recombinant dna would be unintentional: (i) vertical transmission of genetic changes from
individual to his/her offspring, or (ii) hori-
transmission of viral infection to
other persons with whom the individual comes in contact. accordingly, appendices m–i through m–v request information that will enable rac and nih/oba to assess the possibility that the proposed projects will inadvertently affect reproductive cells or lead to infection of other people (e.g.,
medic personnel or relatives).
appendix m–i through m–v, description of the proposal, informed consent, privacy and confidentiality, and special issues. responses to appendices m–ii through m–v may be provided either as an appendix to the clinical protocol or incor-
pated in the clinical protocol. if responses to appendices m–ii through m–v are incor-
pated in the clinical protocol, each re-
sponse must refer to the appropriate appendix m–ii through m–v.

mr. kennedy. finally, the reason there is a sign of such experiments is there isn’t reason to believe that this kind of re-
search is safe today. but it may very well be safe tomorrow or the next day. and the possibilities, as i say, are un-
limited. the action of the senator may
effectively close that window, close that
door. i do not think that we ought to be in the position of doing that. so i have included the current state of the regulations that are in effect now in
nih and the reasons for those regula-
tions.

unless there is someone else who wants to speak on this

the presiding officer. the senator from kansas.

mr. brownback. madam president, i would like to respond on this point as well. the fda is saying they have au-
hority over this. one of the groups they are seeking to regulate is saying they do not have authority, and they are going to sue them to keep the fda from regulating them. so we can put those on forward.

the fact is, this has not been dealt
with, and it is of utmost importance to
people in this country and around the
world, and it should be. this should not
happen again.

the presiding officer. does the senator yield the remainder of his time?

mr. brownback. madam president, i ask for the yeas and nays

the presiding officer. the yeas and nays have been requested.

is there a sufficient second?

there is a sufficient second.

the yeas and nays were ordered.

mr. brownback. madam president, i yield back the remainder of my time.

the presiding officer. does the senator from massachusetts yield back his time?

mr. kennedy. i yield back the re-
mainder of my time.

the presiding officer. who seeks recognition? the senator from nevada is recognized.

amendment no. 849

(purpose: to provide for genetic information nondiscrimination)

mr. ensignon. madam president, i call up amendment no. 849 and ask for its immediate consideration.

the presiding officer. the clerk will report.

the senior assistant bill clerk read as follows:

the senator from nevada [mr. ensignon] proposes an amendment numbered 849.

mr. ensignon. madam president, i ask unanimous consent that reading of the amendment be dispensed with.

the presiding officer. without objection, it is so ordered.

(see the text of the amendment is printed in today’s record under “amendments submitted.”)

mr. ensignon. madam president, the amendment that i have proposed really is entitled the “protection against ge-
netic discrimination act.” the senator from massachusetts is one of the co-
sponsors of a bill that contains this particular amendment, along with 22 other senators.

amending the genome of the human genome is one of the most amazing scientific
breakthroughs in recent history. inform-
ation that is embedded in the genome
holds the key to understanding the ill-
nesses and diseases that affect millions of
people across the world every day.

i would like to note, this has nothing
to do with the amendment that sen-
ator brownback just proposed. we
want to keep the controversies sepa-
rate. what our amendment deals with
is whether you can take this genetic
information and use it to determine
whether or not to provide health insur-
ance coverage.

when the map of the human genome is
completed, we will have all of the in-
formation that is contained in the 23
pairs of chromosomes in the human
body. this information will be instru-
mental for finding the cure for diseases
such as breast cancer, cystic fibrosis,
alzheimer’s disease, and hundreds of
other debilitating illnesses.

however, this breakthrough also car-
ger great dangers. current law does not
provide any protections for individ-
uals to keep their own genetic informa-
tion private. currently there is no law
prohibiting a health plan from requir-
ing an applicant to provide genetic in-
formation prior to the approval for
insurance. in other words, any individual with a genetic marker for a specific
disease would most likely not be able
to receive health insurance coverage for the treatment of that disease.

a joint report by the department of labor, department of health and human services, the equal employ-
ment opportunity commission, and the department of justice summarized the
various studies on discrimination based on genetic information and argued for the
enactment of federal legislation.

the report stated that:

genetic predisposition or conditions can
lead to work force discrimination, even in
cases where workers are healthy and un-
lucky to develop disease, or where the ge-
netic condition has no effect on the ability
to perform work.
Because an individual's genetic information has implications for his or her family members and future generations, misuse of genetic information could have intergenerational effects that are broader than any individual incident of misuse.

Dr. Francis Collins, the director of the National Human Genome Research Institute, has stated:

While genetic information and genetic technology hold great promise for improving human health, they can always be used in ways that are fundamentally unjust. Genetic information can be used as the basis for insidious discrimination.

The misuse of genetic information has the potential to be, and is, a very serious problem both in terms of people's access to employment and health insurance and the continued ability to undertake important genetic research.

This amendment takes the first step toward providing individuals with the protections they need for their individual genetic information.

This amendment, as I mentioned before, is part of a larger bill that Senator DASCHLE has introduced on this very same subject. Simply put, this amendment prohibits health insurance companies from using genetic information when deciding whether or not to provide health insurance for an individual.

Insurance companies would not be able to use genetic information to deny an individual's application for coverage or charge excessive premiums.

Think about diseases such as Tay-Sachs, sickle-cell anemia, breast cancer, colon cancer, cystic fibrosis, and other diseases in which we have identified genes that predispose people to these diseases. Just think about how many Americans this affects now and will affect in the future as we discover new genes that predispose people to certain diseases. It is because of this that we must include this amendment if we are truly going to call this bill a Patients' Bill of Rights.

Madam President, my wife and I helped co-found the Breast Cancer Coalition of Nevada. Many of the women who are actively involved in this wonderful organization are breast cancer survivors or family members of women who have died from breast cancer. A wonderful friend of my wife and I, one of the most incredible women I have ever met, died in my wife's arms several years ago. She died of breast cancer.

To think about women such as her who have had a gene identified, or maybe her daughter the same, to think about someday being discriminated against getting health insurance is just unconscionable. I encourage all of my Senate colleagues, including the sponsors of the bill, to accept this amendment. It is the right thing to do. I urge its adoption.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from North Carolina.

Mr. EDWARDS. Mr. President, we yield back the remainder of our time.

Mr. ENNSIGN. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide that health care professionals who provide pro bono medical services to medically underserved or indigent individuals are immune from liability for malpractice. And sometimes it is something the doctor had nothing to do with, yet they can still be taken to court.

Our amendment says that if health care professionals are going to do this, we want to protect those people from lawsuits.

It seems to me that if somebody is providing something out of the goodness of their heart on a pro bono basis, they could not be sued. In fact, I would support a similar proposal that granted lawyers the same protection.

Mr. ENNSIGN. Mr. President, I ask that this amendment be dispensed with.

The amendment is as follows:

(A) IN GENERAL.—Notwithstanding any other provision of law, no health care professional shall be liable for the performance of, or the failure of duty in providing pro bono medical services to medically underserved or indigent individuals are immune from liability for malpractice.

(B) DEFINITIONS.—In this section:

(i) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any medical practitioner of any person licensed, registered, or certified to practice medicine or human medicine, veterinary medicine, or to __________.

(ii) MEDICALLY UNDERSERVED OR INDIGENT INDIVIDUAL.—The term "medically underserved or indigent individual" means an individual that does not have health care coverage under a group health plan, health insurance, or any other health care coverage program, who is unable to pay for the health care services that are provided to the individual.
Mr. President, I don’t know if anybody is going to oppose this amendment. I can’t understand why they would oppose this amendment. It is my view that we have the privilege of engaging in a debate on this if anybody has a problem with it.

I yield the floor at this time.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. First, I say to the Senator from Nevada that Senator Coverdell had a bill that he passed called the Volunteer Protection Act of 1997. It specifically provides protection for volunteers, including physicians, who provide pro bono services. So I suggest to my colleague, I don’t know if he thinks there is a problem with that law or the way it is written. There is no way for me to know that based on this amendment. But a specific law already covers this subject matter.

It was passed by the Senate and signed into law in 1997. So, first, I suggest that my colleague look at that law and make sure what he is concerned about is not covered by it.

Second, the bipartisan Patient Protection Act is about HMO reform. It is not about physician liability or the lack thereof—either of those. We would certainly have a problem with adding an amendment to this legislation that is not related to the issue of HMO reform.

So I say to my colleague, again, understanding that we are just seeing his amendment, in fairness, I will be happy to talk with him about it, but those were my immediate concerns. There appears to be a law that already covers this subject matter. We would always be concerned, of course, even under those circumstances, about a health care provider who acted recklessly. I don’t know whether his amendment covers that.

Third, the general issue of adding these kinds of provisions to an HMO reform bill, which is what this bill is about, would also be a concern.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. First of all, physicians I have spoken to do not think the bill the Senator is talking about adequately covers them. That is why they still have to carry malpractice insurance, similar to what Senator Frist has to carry. My amendment would help lower the cost of this type of coverage, so we think this bill is necessary. I don’t understand—if this is already covered in law, why would it be a problem to include it to make sure we are saying to the courts that we absolutely want to cover people who are providing pro bono services to the needy.

Mr. EDWARDS. I say to my colleague that if there is already a law in place that covers this issue, it seems as a matter of procedure that the appropriate thing to do would be to amend the already existing law that covers the subject matter, as opposed to adding this measure to an HMO reform piece of legislation.

So I guess, just as a matter of orderly process, that would make sense to me. Mr. ENSIGN. We have been looking for a vehicle to include this in. We have wanted to deal with this for some time. This is a Patient’s Bill of Rights, and I know it deals mostly with HMOs, but we are looking at our health care system and providing rights to patients. This is part of the health care bill that I think appropriately should have an amendment such as this, simply because I don’t think there is any question that we are driving up health care costs in this country. If anything can help drive down, even a small amount, the cost of health care, I think we should do it.

If between now and tomorrow morning, if there is other language the Senator thinks we need to massage into our amendment, I would be more than happy to work with the Senator from North Carolina. But it stands, we think this is an important amendment.

Mr. EDWARDS. Mr. President, I say to my colleague, I appreciate his comments. He and I are friends, and I would like to find a way to work on this. I will be happy to talk to him about this when we adjourn.

Having said that, I continue to have a significant concern about raising an issue on the HMO reform bill that is not related to HMO reform. We have pretty consistently throughout this debate opposed and defeated amendments unrelated to the coverage of this bill.

There are obviously many subject matters that are related to the general area of health reform and health care. If we start adding amendments on all sorts of subjects we would never get this legislation completed and passed. I continue to have that concern.

I am happy to work with my colleague and listen to his concerns and work on language, although at this moment this is an amendment we would be compelled to oppose. Mr. ENSIGN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. REID. Mr. President, I ask unanimous consent that the order for the yeas and nays be ordered.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest that any other language in it be stricken.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I indicated earlier in this debate that I would complete reading into the RECORD the names and titles of organizations that support the Patient Protection Act. Therefore the following is the final list:

Gateway; Gateways for Youth and Families in WA; George Junior Republic in Indiana; Gibrailt; Girls and Town in NE; Goodwill Industry for Boys; Greenbrier Children’s Center; Growing Home in St. Paul, MN; Haddasah; Heart of America Family Services; Hemochromatosis Foundation; Hereditary Colon Cancer Association; Highfields, Inc. in Onondaga, MI; Holy Family Institute of Pittsburgh, PA; Home on the Range in Sentinel Butte in Sentinel Butte, SD; Hubert H. Humphry, III—Former Minnesota Attorney General; Human Services, Inc.; IARCA An Association of Children.

Idaho Youth Ranch; Indian United Methodist Children; Infectious Disease Society of America; International Association of Psychosocial Rehabilitation Services; Jackson Feild Homes in VA; Jane Addams Hull House Association; Jeffrey Modell Foundation; Jewish Board of Family & Children in New York, NY; Jewish Community Services of South Florida; Jewish Family & Career Services; Jewish Family Service of Chicago; Jewish Family and Children’s Service in Minnetonka, MN; Jewish Family and Children’s Services; Jewish Family and Children’s Service; Jewish Family and Communitarian Service; Jewish Family Service of Providence, RI; Jewish Family Service in Teen neck, NJ; Jewish Family Service in TX; Jewish Family Service of Akron, OH; Jewish Family Services of Los Angeles; Julia Dyckman Andrus Memorial Children’s Center in NY; June Burnett Institute; Kemmerer Village; Kentucky United Methodist Homes; KidsPeace National Centers, Inc. in PA; Lakeside, Kalamazoo, MI; Lakeside School, Inc. in Albany, NY; League of Women Voters; Leake and Watts Services, Inc. in Yonkers, NY; Learning Disabilities of America; Lee and Beulah Moor Children’s Home in TX; Lupus Foundation of America; Lutheran Child & Family Services in Bay City, MI; Lutheran Child & Family Services; Lutheran Social Services of Wisconsin; Manisses Communications Group in RI; Maryland Coalition for Children; Maryland Coalition for Youth Services; Maryland Council on Mental Health; Maris Mental Health AMERICA, Inc.; Methodist Children’s Home in TX; Metropolitan Family Services of Portland, OR; Metropolitan Family Services of Chicago.

Michigan Federation of Private Child & Family Agencies; Mid-South Chapter of the
Mrs. FEINSTEIN. Mr. President, I rise today in support of the Bipartisan Patient Protection Act of 2001. Put simply, I believe this is a good bill.

If the Senate approves this bill, we could expect to lift the lid of protection on all 190 million Americans in private health plans within a week. It's that simple.

Congress has a duty to pass a comprehensive Patients' Bill of Rights, to make the medical system work better and to ensure less HMO interference with medical decision making. We need to ensure, for example, access to emergency rooms, specialists, and clinical trials. Patients should be able to go to the emergency room closest to their home in the event of a medical emergency. This bill does that.

Each day, 10,000 physicians see patients harmed because a health plan has refused services. Patients and doctors feel that getting quality care is a constant battle. It is time for this to stop. And the time is now.

Each day we wait to approve a comprehensive Patients' Bill of Rights, 35,000 patients are denied access to the speciality care they need to manage or diagnose their illness.

I want to read to you a heart-wrenching letter I received from a California mother who has had difficulty getting her health plan to approve medically necessary services for her disabled daughter.

I believe this letter really highlights the humane reasons Congress must enact a strong Patients' Bill of Rights this year. This mother writes:

My daughter is a total-care patient. She was in a terrible car accident approximately 14 years ago and sustained severe injuries and is a quadriplegic. I chose to keep her at home. Her licensed care coverage is to be 24 hours a day. In the past two years, her insurance company has unilaterally cut back on her nursing care to 5.5 hours a day.

This is one of many unilateral decisions the insurance provider has made regarding her care—disregarding her doctor's and other medical providers' assessments.

I, as her mother and conservator, who is not trained in medical practices or care, am expected to cover the remainder of the 18.5 hours a day. This has caused me to quit my job, file bankruptcy, and most importantly, it has seriously affected my health.

I am a senior citizen and am not supposed to lift, however, because of the practices of the insurance company, I have no choice. I cannot tell you when I last had a full night's sleep in the past several years.

I commend this mother for her commitment to providing her daughter with the best care available.

I received a letter from her current insurer stating the patient was not a candidate to be a normal employee and in August of 2001 all the aforementioned items would be stopped.

This is not based on my daughter's current doctor's orders nor her needs. This is not based on an assessment from an independent medical establishment or by an experienced, licensed nurse that was conducted by the insurance company for a complete assessment which supported the necessity of 24-hour nursing care.

The decision is being made unilaterally by the insurance company officials. Is this what our patients harm because a health plan has refused services. Patients and doctors feel that getting quality care is a constant battle. It is time for this to stop. And the time is now.

I strongly believe that doctors should be making the medical decisions. This
At the same time, this bill protects employers. If an employer does not make medical decisions, the employer can’t be held liable. It is that simple. This bill does not overturn or preempt existing State liability laws. It specifically exempts doctors and hospitals from new causes of action. These are reasonable provisions. In States like California that have strong patient protections there has not been an explosion of lawsuits.

In fact, since the inception of California’s right-to-sue law in January 2001 and the unlimited damage it provides for, there has not been a single lawsuit filed.

Instead, HMOs appear to be deferring more to patients’ requests for treatment, according to the first data to emerge from the State’s HMO regulator.

California has the longest history in managed care and the highest number of insured people in HMOs nationwide. Over 70 percent of Californians are enrolled in either a commercial HMO or a preferred provider organization. PPOs. Approximately 20 million non-elderly Californians have access to health insurance through their job or privately purchase coverage.

So for California, these protections are critical.

Due in part to the high penetration of managed care, California’s health care system is on the verge of collapse. Resources are stretched to the limit and patients, as a result, are not getting the services they need.

For example, California’s capitation rate, the rate paid to doctors for treatment, is one of the lowest in the Nation. The average capitation rate in California reached its peak in 1993 at $45 per month. Last year, the rate dropped to $29 (PriceWaterhouse Coope rs).

These low reimbursement rates undoubtedly impact quality of care and access to services.

Many California hospitals and other health care providers have been forced to limit hours of operation and discontinue services. The burden to provide care is put on those that have remained open, and many of these facilities are now facing financial problems of their own.

I know that California’s health care system is not unlike other systems across the country. The bottom line is that patients should not be the one’s made to suffer at the hands of a failing health care system.

People pay monthly premiums. They expect their health insurance to be there when they need it. That is what insurance is. It insures against loss from an unforeseen illness or injury.

But without HMOs to pay, the certainty of good health care is being seriously eroded. Many people feel that every time they need care, it is a tremendous hassle.

The bottom line is that people feel they have to fight to get the quality care they have paid for. Americans are trapped in a game of musical hoops to get good care.

People should not have to fight for their health care. They pay for it out of their monthly paycheck. It should be there for them when they need it.

I would like to close with a very tragic story about a young, 16 year old girl from Irvine, California who did not get the care she needed from her HMO in a timely manner. I think her story provides a poignant summary of the problem with managed care providers. Unfortunately, her story does not have a happy ending.

Serenity Silen was diagnosed with acute myeloid leukemia, or AML, in late February 1998. She had gone to her HMO four times, to four different HMO doctors, since the beginning of 1998. Each time she complained of the exact same symptoms, all of which could indicate leukemia.

Over the course of the four visits, Serenity’s condition was never diagnosed. Finally, in the middle of February 1998, Serenity was taken to the emergency room of an out-of-network hospital because her mother was so frustrated with the care at their HMO.

The emergency room doctor was the first doctor, in the five weeks since the symptoms arose, to order a complete blood count test. The blood count test indicated a dangerously high white blood cell count that was symptomatic of leukemia. With a much delayed diagnosis, Serenity’s leukemia was now going to be much more difficult to treat.

Fed up with the HMO, Serenity’s parents sought a second opinion from a highly recognized oncologist at an out-of-network hospital. Serenity was transferred to that hospital to be under the oncologist’s care. After being at the new hospital only a few days, Serenity explained to her parents that she did not realize how much pain she was in until the new hospital helped to take it away. After 2 1/2 months at the new hospital, Serenity died. The disease had not been diagnosed in time.

I urge my colleagues to support this bill. Support this bill for the children like Serenity in your State. The constituents who battle with their HMOs daily to get the quality care they need and deserve. Many of these patients are too sick to fight with their HMOs to get access to the services necessary to treat their illnesses. How many more lives are we going to have to lose to the HMO battle before Congress wises up and passes a Patients’ Bill of Rights that protects the patient?

This bill has been a long time in the making. Let’s get it done this session.
HONORING NEW YORK FIREFIGHTERS—JOHN J. DOWNING, BRIAN FAHEY, AND HARRY FORD, WHO LOST THEIR LIVES IN THE LINE OF DUTY

Mrs. CLINTON. Mr. President, let me state for the RECORD that the request I am about to make has been cleared on the Republican side. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 117 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title. The assistant legislative clerk read as follows:

A resolution (S. Res. 117) honoring John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. CLINTON. Mr. President, I rise today to introduce a resolution honoring John J. Downing, Brian Fahey, and Harry Ford, who gave their lives this past Father's Day while protecting the lives of others. Together, these brave men left behind three widows and eight children whom we also honor today for their sacrifice.

On June 17, as a treacherous five-alarm blaze at the Long Island General Supply Company in Queens, NY, without hesitation, as they have done countless times before, nearly 350 firefighters and numerous police officers responded to the call for help. Two civilians and dozens of firefighters and police officers were injured. And three courageous fathers lost their lives. It was the last time their children would be able to spend Father's Day with them.

John Downing was 40 years old, an 11-year veteran of the New York Fire Department when he responded to the five-alarm blaze. He was a valiant public servant who had been recognized for his bravery. John left behind his wife Anne, his 7-year-old daughter Joanne, and his three-year-old son Michael.

Brian Fahey, 46 years old, and a 14-year veteran of the department from East Rockaway, NY, was also a husband and father of three. His years of service to his community were made proud by his courage. He is survived by his wife Mary and their three sons: Brendan, 8; and twins, Patrick and James, 3’s years old.

Harry Ford, age 50, gave nearly three decades of service to the New York City Fire Department. During his exemplary career, he received nine bravery citations. He is survived by his wife Denise; his daughter Janna O'Brien, age 24; and two sons, Harry, 12, and George.

Mr. President, I paid a call on the two firehouses early Sunday morning who had lost these brave patriots, and I spent time talking to the men who go to work every day not knowing what is going to be asked of them, who sometimes go for, thankfully, days, or was months and months without ever having to put themselves in danger. But when the call comes, they are ready. And whether it is a call to respond to an emergency need because of an illness, an accident, or a huge raging fire that is about to get out of control, they represent the very best we have in our society.

We live in a society that seems to be in perpetual search for heroes, whether in the form of sports figures or screen idols. But to find true heroes, sometimes we don't have to look so very far from home. We certainly don't have to look any farther than the brave men we are honoring today.

The unmistakable courage and the incredible heroism that these fires and their families have made for the good of their neighbors and their community are the kinds of virtues and values that should be held up to our children and ourselves as something we should all aspire to.

Finally, in so honoring these men, we honor the hundreds of thousands of public safety officers across this country that, every single day, risk their lives and put them and their families at risk to keep us safe from harm. Their strong tradition of bravery and sacrifice keeps our communities safe and fills our hearts with pride for their selfless acts of courage for others.

I hope that next year when Father's Day comes around, the children who have lost their fathers in this fire and those who have lost fathers and mothers because they were serving us will know how grateful we are for their sacrifice. I hope all of my colleagues will join me in supporting this resolution.

I yield back the remainder of my time.

Mr. DODD. Mr. President, I rise in support of Senator CLINTON's resolution honoring the fallen firefighters of New York and to join with her in acknowledging the bravery and commitment of Harry Ford, Brian Fahey, and John Downing. These men were firefighters—firefighters who risked their lives and gave their lives to protect the public. These men died on Sunday, June 17th, while fighting a fire in Queens, New York. The price they paid on our behalf was as great a price as any citizen can pay. We owe these men our deepest appreciation and respect.

On Sunday, the 17th—Father's Day—firefighters Ford, Fahey and Downing worked quickly to fight a fire in a local hardware store. Thirty minutes after leaving the fire station, responding to what they thought was a routine call, an explosion buried the men under a pile of rubble. Dozens of firefighters worked to rescue the men, but they could not be reached in time.

These men were husbands and fathers. Harry Ford leaves behind his...
wife, Denise and two sons, Harry, age 12, and Gerard, age 10. Brian Fahey leaves behind his wife, Mary and three sons: Brendan, who is 8 years old, and 3-year-old twins, Patrick and James. John Downing is survived by his wife Anne, his daughter Joanne, age 7, and his son Michael, who is 3. My thoughts and prayers are with these families.

I am humbled by their devotion to public service. Their deaths represent the ultimate sacrifice a person can make for his or her fellow human beings. They died while fighting a fire and it is not hyperbole to say that they died while making America a safer place to live.

I am always saddened to realize that it takes a tragedy like this to bring attention to the needs of fire departments and firefighters nationwide. I hope the funds we appropriate will help mend the damage of traffic accidents and construction accidents. When a natural or man-made calamity strikes—from hurricanes to school shootings to bombings—firefighters are there without fail, restoring order and saving lives.

Unfortunately, fire departments across the Nation struggle to find resources to help keep our communities safe. As the demands placed on fire departments have grown in volume and magnitude, the ability of local residents to support them has been put to a severe test. As a result, towns and cities throughout the country are struggling mightily to provide the fire departments with the resources they require.

For these reasons I have strongly supported helping localities meet their critical objectives. Communities need more firefighters and community firefighters need the resources to ensure that they have the training and equipment to protect themselves and the public.

Last year we passed an important piece of legislation called the Firefighter Investment and Response Enhancement Act which authorized the Federal Emergency Management Agency to provide grants to local firefighters so they could purchase the equipment they need. Congress appropriated $100 for the program last year and the FEMA has just completed the first grant competition under the program. The demand is extraordinary. FEMA received nearly $3 billion worth of grant applications—that’s 30 times more in requests that is currently available. No amount of funding can bring back Firefighters Ford, Fahey, and Downing. New fire trucks or better training programs or even more firefighters cannot even begin to compensate for the loss suffered by the people of Queens and the families of these brave men. For their lives, we are forever indebted, and the members of this chamber to say that these men and their families shall not be forgotten. They have sacrificed their lives for us, and for this they deserve no less than the highest degree of honor and respect. We here today cannot compare our own deeds to those of Harry Ford, Brian Fahey, and John Downing, but we can bring honor to ourselves and justice to their memories by keeping them and the needs of the fire service in mind as we perform our own duties.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 117) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 117

Whereas on June 17, 2001, 350 firefighters and numerous police officers responded to a 911 call that sent them to Long Island General Supply Company in Queens, New York; Whereas a fire and an explosion in a 2-story building had turned the 128-year-old, family-owned store into a heap of broken bricks, twisted metal, and shattered glass; Whereas all who responded to the scene served without reservation and with their personal safety on the line; Whereas 2 civilians and dozens of firefighters were injured, including firefighters Joseph Vossila and Brendan Manning who were severely injured; Whereas John J. Downing of Ladder Company 163, an 11-year veteran of the department and resident of Port Jefferson Station, and a husband and father of 2, lost his life in the fire; Whereas Brian Fahey of Rescue Company 4, a 14-year veteran of the department and resident of East Rockaway, and a husband and father of 3, lost his life in the fire; and Whereas Harry Ford of Rescue Company 4, a 27-year veteran of the department from Long Beach, and a husband and father of 3, lost his life in the fire: Now, therefore, be it

Resolved—That the Senate
(1) honors John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters, and recognizes them for their bravery and sacrifice;
(2) extends its deepest sympathy to the families of these 3 brave heroes; and
(3) pledges its support and to continue to work on behalf of all of the Nation’s firefighters who risk their lives every day to ensure the safety of all Americans.

A CALL FOR ACTION

Mr. LEVIN. Mr. President, a new poll conducted by the Opinion Research Corporation International and released by the Brady Campaign to Prevent Gun Violence confirms once again that the American people support sensible gun safety legislation. Eighty-three percent of those polled said they support criminal background checks on all gun purchases at gun shows. Nearly four out of five respondents voiced support for preventing gun dealers from selling guns to anyone who has not passed a background check, even if it takes more than 3 days to complete the check. And more than 8 out of every 10 people polled believe that all guns should be sold with childproof safety locks.

The message here is clear. People are fed up with the reports of gun violence that dominate the front page and the evening news. America wants a solution.

The Brady Campaign’s poll and countless other studies demonstrate our mandate. The incidents of gun violence that plague our neighborhoods and endanger our children confirm our moral obligation.

We should ignore neither. We cannot let another Congress go by without action. Let’s close the loopholes in our gun laws and remember the 107th Congress as a time when we made America a safer place for our children and our grandchildren.

GENERAL ACCOUNTING OFFICE REPORT ON DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Mr. MCCONNELL. Mr. President, when the 107th Congress passed the Transportation Equity Act for the 21st Century, TEA–21, there was a vigorous and close debate about whether to convert the Disadvantaged Business Enterprise Program into a race neutral program helping all small disadvantaged business. It troubles many members of both Houses that we lacked basic information about the characteristics of DBEs and non-DBEs and about alleged discrimination in the transportation industry. Consequently, I introduced, with widespread bi-partisan support, an amendment to TEA–21, requiring the GAO to gather the information Congress was missing that is essential to understanding the DBE program. As Congressman SHUSTER, Chair of the House Committee on Transportation and Infrastructure and the floor manager for the transportation bill, emphasized during the House debate, the Act “also requires a GAO study that would examine whether there is continued evidence of discrimination against small business owned and controlled by socially and economically disadvantaged individuals. I believe such a study will lay the groundwork for future reform.”

Three years later, the GAO has produced a comprehensive report on the questions Congress asked it to investigate. This objective, impartial report...
entitled, “Disadvantaged Business Enterprises: Critical Information is needed to understand program impact.” GAO Report GAO-01-586, June 2001, is highly significant to the continuing legislative and judicial debate over the DBE program. Professor George R. La Noue, one of the distinguished scholars in this field, has analyzed the GAO’s report. He notes that the “DBE program has been continuously subject to litigation during its almost two decades of existence.” Professor La Noue concludes that “the picture of the DBE program that emerges from the GAO report is one of essential information that is missing, or if available, does not support any finding of a national pattern of discrimination against DBEs.” I am pleased to provide Professor La Noue’s analysis of the GAO report, and I request that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN ANALYSIS OF “DISADVANTAGED BUSINESS ENTERPRISES: CRITICAL INFORMATION IS NEEDED TO UNDERSTAND PROGRAM IMPACT” GAO Report [GAO–01–586 June 2001] (By George R. La Noue, Professor of Political Science) DIRECTION, PROJECT ON CIVIL RIGHTS AND PUBLIC CONTRACTS, UNIVERSITY OF MARYLAND, BALTIMORE

During the 1998 consideration of the Transportation Equity Act for the 21st Century (TEA–21), there was extensive debate in both Houses about whether to make the DBE program race-neutral. In the end, a compromise was reached to retain a race conscious DBE program, while requiring the General Accounting Office to make a three year study of the characteristics of the DBEs and non-DBEs participating in federal transportation programs and to gather existing evidence of discrimination. The study was intended to provide a solid basis of facts for courts, legislators, and others grappling with the complex issues of the constitutionality of the DBE program.

The report has been released and its conclusions are highly significant. GAO performed its three year study by obtaining data from 52 state DOT recipients (including the District of Columbia and Puerto Rico) and 31 of the largest (accounting for two-thirds of transit grant funds obligated in 1999) transportation districts in the country. In addition GAO staff interviewed representatives of interest groups on both sides of the DBE question and analyzed the results of 14 transportation related disparity studies. Following are GAO’s major conclusions.

1. DISCRIMINATION COMPLAINTS

GAO conducted a survey of discrimination complaints received by USDOT and recipients. GAO found that, while USDOT sometimes referred complaints of alleged discrimination, the agency does not compile or analyze the information in those complaints. GAO could not supply information on the number of complaints filed, investigations launched, or their outcomes. (p. 33) GAO also asked state and local transit recipients about complaints they received and they had better results. While about a third of the recipients had no complaints, while a total of 31 complaints were received by the other recipients. Of these, 28 were investigated and mediation/evaluation were made only 4 times across the nation.

The report concluded: Other factors may also limit the ability of DBEs to compete for larger contracts. The majority of states and transit districts we surveyed had not conducted any kind of analysis to identify these factors. Using anecdotal information or informal data, factors or barriers, such as a lack of working capital and limited access to bonding, that may limit DBEs’ ability to compete for larger contracts are little agreement among the officials we contacted on whether these factors were attributable to discrimination. (p. 7)

In fact GAO reported there were few if any studies by government agencies or industry groups regarding barriers to DBE contracting. “USDOT officials, however, stated that they believe contract bundling is one of the largest barriers for DBEs in competing for transportation contracts.” (p. 35) That, of course, is not a problem caused by discrimination.

2. DISPARITY STUDIES

GAO also reviewed 14 transportation-specific disparity studies completed between 1996 and 1998 as part of its three year study. Because they might be a source of evidence about discrimination against DBEs and because these studies do not use disparity studies to set annual goals and to determine the level of discrimination these goals purportedly are remedying. GAO found that about one third of the recipients surveyed used disparity studies to set their FY 2000 goals. (p. 29)

GAO found that: the limited data used to calculate and find disparities, limitations to use disparity studies to set annual goals, and the methodological weaknesses, create uncertainties about the studies findings. While not all studies suffered from every problem, each suffered enough problems to make its findings questionable. We recognize there are difficulties inherent in conducting disparity studies and that such limitations are common to social science research; however, the studies we reviewed did not sufficiently address such problems or disclose their limitations.

GAO then detailed disparity study problems, particularly in calculating DBE availability. These problems are important not only because of the weakness of the disparity studies involved, but because these same problems exist in the regulations USDOT issued regarding annual goal setting. USDOT as a practical matter permits recipients to use a wide variety of sources to measure availability on which goals are then based.

GAO made other specific criticisms of the studies. For example, the studies did not have information on firm qualifications or capabilities; they failed to analyze both the dollar and contract awarded and sometimes did not have subcontracting data. This was important: Because MBE/WBEs are more likely to be underutilized when the focus is on the DBE share of subcontracting only in dollars, not contracts, and annual goals are set based on total dollars rather than on the DBE share of subcontracting only in dollars.

Finally GAO notes that although USDOT advised recipients that disparity studies should be “reliable,” USDOT provided no guidance on what would be “reliable.” USDOT concluded that: USDOT’s guidance does not, for example, caution against using studies that contain the types of data and methodological problems identified above. Without explicit guidance on what makes a disparity study reliable, states and transit districts may not provide accurate information in setting DBE goals. (p. 32)

GAO’s finding about the unreliability of disparity studies is consistent with the findings of every court that has examined the merits of such studies after discovery and trial.

3. DISCONTINUING PROGRAMS

One of the arguments used in the TEA–21 debates and defendant’s trial briefs is the assertion, often anecdotal, that without goals, DBE participation would decline precipitously. The difficulty, even if true, is that the decline in DBE participation may be the result of previous overutilization caused by goals set too high or because when a program is struck down DBEs may have little incentive to seek or maintain certification.

Is the basic assertion true? It turned out that 10 of 12 recipients with discontinued programs did not know what the DBE participation result was. For instance, although Michigan was cited by DBE proponents in the congressional debate as an example of DBE utilization decline after Michigan Road Builders Assn. v. Millikin (1987) struck down the state highway MBE program, GAO reports: Michigan could not provide us with minority and women owned business participation data in state highway contracting for the years immediately before and after it discontinued its program. Furthermore, Michigan officials stated that the analysis showing the decline that is often cited was a one-time analysis and that data is no longer available. Consequently we can not verify the number cited during the debate. (p.37)

4. MISSING INFORMATION

Much of the above criticisms GAO cast in terms of a lack of information, but there were other key items missing as well. GAO had planned to survey all transit authorities receiving federal funds, but FTA does not have a complete list. (p. 74) When the 83 state and transit recipients were surveyed, only 40% or less of the respondents could report the gross revenues of the DBEs that won contracts. Less than 25% of the respondents could report the gross revenues of the DBEs that did not win contracts. (pp. 52-55) Only about a third of the agencies could report dollars and type of personal net worth of DBE owners, although TEA–21 regulations require that such owners net worth not exceed $750,000.

Only a handful of respondents could respond to data on the gross revenues or owner net worth characteristics of non-DBE firms. (p. 68) While 79 respondents could report data on the personal net worth of DBE owners, only 6 respondents could report similar data for non-DBEs. That means that most respondents did not regard comparing DBE and non-DBE owners net worth in setting goals or in determining whether discrimination exists.

GAO’s conclusion here is significant because the USDOT regulations measure utilization only in dollars, not contracts, and annual goals are set based on total dollars rather than on the DBE share of subcontracting. (p. 51)
Nor are respondents acquiring relevant information, nor are they conducting study determining if awarding prime or sub contracts to DBEs affects contract costs; 67.5% no study on discrimination against DBE firms; 94.2% no study of discrimination against DBEs by financial credit, insurance or bond markets; 79.5% no study of factors making it difficult for DBEs to compete; and 92.8% no study on the impact of the DBE program on competition and the creation of jobs. (pp. 66-68). Only 26.5% of the respondents have developed and implemented use of a bids list, although the regulations require such.

The DBE program has been continuously subject to litigation during its almost two decades of existence. Overall, the picture of the DBE program that emerges from the GAO report is one of essential information that is missing, or if available, does not portray any finding of a national pattern of discrimination against DBEs.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred April 18, 1998 in New York City. A man who used anti-gay epithets allegedly slashed a gay man in the face with a knife. Mr. Rodriguez, 22, was charged with attempted murder, assault, and criminal possession of a weapon.

I believe that government’s first duty is to defend its citizens, to defend them against whatever harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

RAILROAD CROSSING DELAY REDUCTION ACT

Mr. DURBIN. Mr. President, earlier this month I introduced the Railroad Crossing Delay Reduction Act, S. 1015, with my colleagues, Senators LEVIN and STABENOW.

This legislation would accelerate efforts at the U.S. Department of Transportation to address the issue of rail safety by requiring the Secretary of Transportation to issue specific regulations establishing maximum times that block automobile traffic at railroad crossings. Currently, there are no Federal limits on how long trains can block crossings. The Railroad Crossing Delay Reduction Act would simply minimize automobile traffic delays caused by trains blocking traffic at railroad grade crossings.

In northeastern Illinois, there are frequent blockages at rail crossings. These blocked crossings prevent emergency vehicles, such as fire trucks, police cars, ambulances, and other related vehicles from getting to their destinations in the times of need. This is a serious problem and one I hope to address by passage of this important legislation.

Blocked rail crossings also delay drivers by preventing them from getting to their destinations. Motorists, knowing they will have to wait for a train to move at blocked crossings, sometimes try to beat the train or ignore signals completely. This is a threat to public safety, and one that must stop. Motorists must act responsibly, but we can reduce the temptation by reducing delays.

Trains stopped for long periods of time also tempt pedestrians to cross between the train cars. I’ve heard from local mayors in my State that children, in order to get from school, cross between the rail cars. This is a terrible invitation to tragedy.

Trains blocking crossings cause traffic problems, congestion, and delay. These issues are very real. They are serious. And more importantly, they are a threat to public safety. To address these problems, I’ve introduced with my colleagues the Railroad Crossing Delay Reduction Act. I’m hopeful this legislation will provide for a safer Illinois and a safer Nation. I urge my colleagues to join the effort to reduce blocked rail-grade crossings by cosponsoring and supporting S. 1015.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 27, the Federal debt stood at $5,655,167,264,852.88. Five trillion, six hundred fifty-five billion, one hundred forty-two million, one hundred sixty-four thousand, eight hundred eighty-eight cents.

One year ago, June 27, 2000, the Federal debt stood at $5,650,720,000,000, Five trillion, six hundred fifty billion, seven hundred twenty million.

Five years ago, June 27, 1996, the Federal debt stood at $5,118,104,000,000, Five trillion, one hundred eighteen billion, one hundred four million.

Ten years ago, June 27, 1991, the Federal debt stood at $3,502,028,000,000, Three trillion, five hundred twenty-eight billion, two hundred eighteen million.

Fifteen years ago, June 27, 1986, the Federal debt stood at $2,040,977,000,000, Two trillion, forty billion, nine hundred forty-seven million, seven hundred eighty-twelve million.

Twenty years ago, June 27, 1981, the Federal debt stood at $502,615,000,000, Five hundred billion, six hundred fifteen million.

The Federal debt has increased at a staggering rate during the past fifteen years. These blockages prevent the ability of the school to maintain the citizens in Michigan, Dr. Richard W. McDowell. Today, many people will gather to pay tribute to Dr. McDowell for his service as President of Schoolcraft College, in Livonia, MI, for the past twenty years.

Dr. McDowell has dedicated his life, both professionally and personally, to the service of his community. Dr. McDowell has served capably and honorably as the President of Schoolcraft College during a period of incredible growth for this institution. He has presided over programs and projects that have reshaped the campus, and enhanced its ability to meet the needs of students at Schoolcraft College.

During his tenure as President, Dr. McDowell has presided over the construction of numerous structures including additions to the Campus Center, the Child Care Center and the student center that bears his name. In addition to enhancing the physical facilities, he has greatly enhanced the economic structure of the campus by forming the Schoolcraft Development Authority, and by expanding the endowment of the campus. These efforts will secure the ability of the school to maintain a world-class campus while providing students with access to an affordable education.

In addition to these activities, Dr. McDowell is a leader in his profession and in numerous civic institutions. His love of academia and education translated into his desire to serve the educational community with large...
McDowell has served as President of the Michigan Community College Association, and he has been a member of the Michigan Educational Trust Board, the National Advisory Panel for the Community College Program at the University of Michigan, the American Association of Community Colleges and the North Central Association of Colloquey and Schools.

He has further assisted his community by serving on the board of Wayne County Private Industry Corporation, St. Mary Mercy Hospital and the City of Livonia Ethics Board. This selfless leadership has been recognized by many organizations, including his alma maters—Indiana University of Pennsylvania and Purdue University. Both of these institutions awarded him their distinguished alumni awards. In addition, he was selected one of the top fifty college community presidents in the United States by the Community College Leadership Program at the University of Texas at Austin.

I hope my Senate colleagues will join me in saluting Mr. McDowell for his career of public service, particularly the commitment to education which he has exhibited for the last two decades.

CONCRETE CANOE COMPETITION

Mr. SESSIONS. Mr. President, I join with my colleagues in support of the Concrete Canoe Competition.

Civil Engineers design the backbone of our Nation’s infrastructure. By designing, building, and maintaining our infrastructure, these engineers have quietly helped to shape the history of our Nation and its communities. Civil Engineers contribute daily to our standard of living through their designing, building, and maintaining our transportation, clean water, and power generation systems.

A great example of civil engineering ingenuity is manifested through the National Concrete Canoe Competition. The Concrete Canoe Competition provides college and university students an opportunity to use the engineering principles learned in the classroom, and apply them in a competitive environment where they further learn important team and project management skills.

I am very pleased to announce that on June 16, 2001, the University of Alabama at Huntsville won an unprecedented fifth national Championship in the Concrete Canoe Competition.

RETIREMENT OF JOHN C. HOY AS PRESIDENT OF THE NEW ENGLAND BOARD OF HIGHER EDUCATION

Mr. KENNEDY. Mr. President, it is an honor today to recognize the outstanding accomplishments of John C. Hoy, president of the New England Board of Higher Education, who is retiring this month. Mr. Hoy has dedicated the past twenty-three years to serving the higher education institutions of New England, and his leadership will be greatly missed.

Since he became president of the Board in 1978, Mr. Hoy has led the effort to provide an accessible and affordable education for every New Englander. To accomplish this goal, he established reforms in his own organization, and he also involved individuals and businesses throughout New England in effective partnerships that served students and institutions alike.

Among his primary achievements was the publication of numerous important books, including studies on the relationship between higher education and economic well-being in New England, the links between U.S. competitiveness and international aspects of higher education, and the effects of legal education on the New England economy.

In addition, John Hoy offered much-needed support to minority communities. He entered into partnership by Blacks and Hispanics in higher education, and he worked effectively to increase the number of ethnic minorities completing PhD programs. He also created a scholarship program for Black South African students at South Africa’s open universities under apartheid.

John Hoy also cared deeply about the way technology was changing higher education in New England and around the country. Under his initiative, the Board explored the promise of biotech industries and manufacturing in New England, and worked to improve technical education, with the help of both professional educators and the private sector. In addition, he worked with the national boards of higher education to coordinate telecommunications among higher educational institutions.

John C. Hoy deserves great credit for all he has done to enhance higher education in New England. His accomplishments are deeply appreciated by all of us who know him, and I welcome this opportunity to wish him a long and happy retirement.

HONORING DR. BERNARD MEYERS

Mr. CRAPO. Mr. President, I rise today to say thank you to Dr. Bernard “Bernie” Meyers, President and General Manager of Bechtel BWXT Idaho, LLC (BBWI). BBWI manages the Idaho National Engineering and Environmental Laboratory (INEEL) for the United States Department of Energy.

The INEEL is the third largest employer in the state of Idaho and the largest employer in the hometown of Idaho Falls. For the past 2 years Bernie’s professional and personal skills have helped lead the INEEL in its mission to be an enduring national resource that delivers science and engineered solutions to the world’s environmental, energy and security challenges.

On August 1, 2001, Bernie will retire as President of BBWI and assume additional duties on behalf of Bechtel. In addition to his duties as President of BBWI, Bernie is also Senior Vice President in the 30,000 employee worldwide Bechtel organization.

Bernie’s 39-year professional career includes 26 years spent with Bechtel, where he has risen through the nuclear engineering ranks while serving as an Engineer, Supervisor, Project Manager, Vice President, and finally as Senior Vice President.

Bernie’s stewardship of Bechtel BWXT Idaho represents a strong demonstration of Bechtel’s commitment to provide customer satisfaction and operational excellence for the eastern Idaho community. In addition to being a Senior Vice President, Bernie has in the past directed major Bechtel companies, managed North American operations, headed up the firm’s Engineering and Construction operations, managed Bechtel’s nuclear business line and served as an “in-the-trenches” project manager for some $30 billion worth of nuclear power jobs.

During that same time, Bernie gained INEEL-applicable experience in integrating safety through diverse workforces and in serving as a leader in nuclear technologies and nuclear operations. Over the years, he has managed large, complex and highly technical entities; overseen research and development organizations, and helped expand new and existing business lines into both national and international markets. He also has integrated technical, management and business systems across multiple offices, companies, sites, and disciplines.

Bernie is a Fellow in the American Society of Civil Engineers and the American Concrete Institute, and has authored a textbook, as well as more than 60 professional papers. He holds a master’s degree in civil engineering from the University of Missouri and a doctor’s degree in civil engineering from Cornell University.

During his time in Idaho, Bernie Meyers has provided sound thinking, decisive leadership and an intelligent vision for the future of the INEEL. He has provided honest and frequent communications about INEEL activities with Idaho’s Congressional delegation, Idaho elected officials, key stakeholders, business and community leaders and the site’s employees.

Under Bernie leadership, BBWI has proven to be a solid corporate neighbor throughout the state of Idaho. His advocacy for science education has helped to firmly establish the JASON Science Education program in the state, creating an awareness of science
and technology careers for Idaho's elementary and secondary school students. His support of art, cultural and civic causes have contributed to the financial well being of many of organizations in Idaho.

On behalf of the people of Idaho, I want to say thank you to Bernie Meyers for a job well done. I want to wish Bernie and his wife Rita all the best as they tackle new challenges in the years ahead.

WE THE PEOPLE COMPETITION

• Mr. MILLER. Mr. President, I would like to congratulate the following students for their outstanding performance in the national finals of the 'We the People: The Citizen and the Constitution' contest in Washington, D.C. on April 21-23, 2001.

Joey Angel, David Connor, Darrell Davis, Eric Eloise, Jesse Gelbaum, Lindsey Green, Kyle Hale, Matthew Hall, Charles Jones, David Lee, Jennie Long, Greer Pasmanick, Benjamin Riddick, Emily Rubinson, Matthew Snyder, Sanjay Tamhane, Jordan Tritt, and Scott Visser.

The leaders of this exceptional group of students are: Celeste Boemker, Teacher, Parker Davis, State Coordinator, and John Carr, District Coordinator.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer referred the Senate messages from the President of the United States submitting sundry nominations where were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING FOR FISCAL YEAR 2000—MESSAGE FROM THE PRESIDENT—PM 32

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources.

To the Congress of the United States:

One of the first actions I took when I became President in January was to create the National Energy Policy Development Group to examine America's energy needs and to develop a policy to put our Nation's energy future on sound footing.

I am happy transmitting to the Congress proposals contained in the National Energy Policy report that require legislative action. In conjunction with executive actions that my Administration is already undertaking, these legislative initiatives will help address the underlying causes of the energy challenges that Americans face now and in the years to come. Energy has enormous implications for our economy, our environment, and our national security. We cannot let another year go by without addressing these issues together in a comprehensive and balanced package.

These important legislative initiatives, combined with regulatory and administrative actions, comprise a comprehensive and forward-looking plan that utilizes 21st century technology to allow us to promote conservation and diversify our energy supply. These actions will increase the quality of life of Americans by providing reliable energy and protecting the environment.

Our policy will modernize and increase conservation by ensuring that energy is used as efficiently as possible. In addition, the National Energy Policy will modernize and expand our energy infrastructure, creating a new high-tech energy delivery network that increases the reliability of our energy supply. Further, it will diversify our energy supply by encouraging renewable and alternative sources of energy, as well as the latest technologies to increase environmentally friendly exploration and production of domestic energy resources.

Importantly, our energy policy improves and accelerates environmental protection. By utilizing the latest in pollution control technologies to cut harmful emissions we can integrate our desire for a cleaner environment and a sufficient supply of energy for the future. We will also strengthen America's energy security. We will do so by reducing our dependence on foreign sources of oil, and by protecting low-income Americans from soaring energy prices and supply shortages through programs like the Low Income Housing Energy Assistance Program.

My Administration stands ready to work with the Congress to enact comprehensive energy legislation this year.

GEORGE W. BUSH.


REPORT ON THE EMERGENCY REGARDING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 34

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing and Urban Development.

To the Congress of the United States:

Enclosed is a report to the Congress on Executive Order 12938, as required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1841(c)).

GEORGE W. BUSH.


MESSAGES FROM THE HOUSE

At 10:21 a.m., message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 691. An act to extend the authorization of funding for child passenger protection education grants through fiscal year 2003.

H.R. 2113. An act to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 176. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

At 5:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2311. An act making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

The message also announced that pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431), as amended by Public Law 104-135, and upon the recommendation of the Minority Leaders, the Speaker appoints the following members on the part of the House of Representatives to the Commission on
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International Religious Freedom to fill the existing vacancies thereon, for terms to expire May 14, 2003: Ms. Leilah Sadat of St. Louis, Missouri and Ms. Felice Gaer of Paramus, New Jersey.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 691. An act to extend the authorization of funding for child passenger protection education grants through fiscal year 2003; to the Committee on Commerce, Science, and Transportation.

H.R. 2133. An act to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education; to the Committee on the Judiciary.

H.R. 2261. An act making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; to the Committee on Appropriations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 28, 2001, he had presented to the President of the United States the following enrolled bill:

S. 657. An act to authorize funding for the National 4-H Program Centennial Initiative.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-123. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to the Interstate highway system; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 106

Whereas, safety rest areas located on the rights of way of the Interstate highway system provide necessary services for Louisiana motorists, as well as visitors to Louisiana; and

Whereas, there are currently thirty-four rest areas along interstate highways in Louisiana; and

Whereas, the annual cost of upkeep and maintenance of these rest areas is approximately three and one-half million dollars; and

Whereas, the state is required by federal law to maintain these rest areas; and

Whereas, the Louisiana Department of Transportation and Development has scheduled approximately fifteen of these rest areas for closure; and

Whereas, these rest areas scheduled for closure could remain open if private entities were charged with the responsibility of maintenance and upkeep; and

Whereas, Federal law currently prohibits privatization of safety rest areas located on the rights of way of the Interstate highway system. Therefore be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to allow states to privatize safety rest areas located on the rights of way of the Interstate highway system. Be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. LEVIN. Mr. President, for the Committee on Armed Services.

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general
Brig. Gen. Dale W. Meyerrose, 0000
Brig. Gen. Wilbert D. Pearson, Jr., 0000

The following Air National Guard of the United States officers for appointment in the Reserve of the United States Air Force to the grade indicated under title 10, U.S.C., section 62203:

To be brigadier general
Col. Rex W. Tanberg Jr., 0000

The following named officers for appointment in the United States Army to the grade indicated under assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general
Lt. Gen. John A. Van Antwerp

The following named officers for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general
Brig. Gen. James P. Collins, 0000

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general
Brig. Gen. Edward L. Correa Jr., 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general
Lt. Gen. James C. Riley, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general
Maj. Gen. William S. Wallace, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general
Maj. Gen. Erneston S. Griffin, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general
Lt. Gen. Leon J. LaPorte, 0000

The following named officer for appointment as Chief of the Bureau of Medicine and Surgery and Surgeon General and for appointment to grade indicated under title 10, U.S.C., sections 601 and 5137:

Rear Adm. Michael L. Cowan, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral
Vice Adm. Patricia A. Tracey, 0000

Maj. Gen. Edward Hanlon Jr., 0000

(The above nominations were reported with the commendation that they be confirmed.)

Mr. LEVIN. Mr. President, for the Committee on Armed Services, I report favorably the following nominations listed which were printed in the RECORDS of the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary’s desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning STEVEN L. ADAMS and ending JANNETTE YOUNG, which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2001.

Army nominations beginning KEITH S. ALBERTSON and ending ROBERT K. ZUEHLKE, which nominations were received by the Senate and appeared in the Congressional Record on January 3, 2001.

Army nominations beginning ERIC D. ADAMS and ending DAVID S. ZUMBRU, which nominations were received by the Senate and appeared in the Congressional Record May 21, 2001.

Army nominations beginning GREGORY R. CLUFF and ending STEVEN W. VINSON, which nominations were received by the Senate and appeared in the Congressional Record May 21, 2001.

Army nominations beginning GILL P. BECK and ending MARGO D. SHERIDAN, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2001.

Army nominations beginning CYNTHIA J. ABBADINI and ending THOMAS R. YARBER, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2001.

Army nominations beginning JAMES E. GELETA and ending GARY S. OWENS, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Army nominations beginning FLOYD E. BARBER and ending STEVEN N. WICKSTROM, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Army nominations beginning ROBERT E. ELLIOTT and ending PETER G. SMITH, which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2001.

Army nominations beginning BRUCE M. BENNETT and ending GRANT E. ZACHARY

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Jr., which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2001.

Navy nomination of William J. Diehl, which was received by the Senate and appeared in the Congressional Record on May 21, 2001.

Navy nominations beginning James W. Adkisson III and ending Mike Zimmer-MAN, which nominations were received by the Senate and appeared in the Congressional Record on June 21, 2001.

Navy nominations of Christopher M. Rodriquez, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Navy nominations beginning Robert T. Banks and ending Carl Zeigler, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Maritime Corps nominations of Donald E. Gray Jr., which was received by the Senate and appeared in the Congressional Record on June 12, 2001.

Maritime Corps nominations beginning Jésica L. Acosta and ending Joseph J. Zwiller, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

By Mr. Inouye for the Committee on Indian Affairs.

Neal A. McCaleb, of Oklahoma, to be an Assistant Secretary of the Interior.

(The above nomination was reported with the recommendation that it be confirmed subject to the nominee’s commitment to respond to the requests to appear and testify before any duly constituted committee on the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. Bingaman (for himself and Mr. Enzi): S. 1118. A bill to amend the Interalmodal Surface Transportation Efficiency Act of 1991 to identify certain routes in New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System; to the Committee on Commerce, Science, and Transportation.

By Mr. Leahy (for himself), Mr. DeWine, Mr. Daschle, Mr. Cochran, Mrs. Carnahan, Ms. Snowe, and Mr. Johnson: S. 1121. A bill to suspend temporarily the duty on certain R-core transformers; to the Committee on Finance.

By Mr. Torricelli: S. 1122. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit against tax with respect to education and training of developmentally disabled children; to the Committee on Finance.

By Mr. Feingold (for himself, Mr. Craig, and Mr. Kohl): S. 1123. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all participants in the dairy production and research program contribute to the cost of the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. Thompson: S. 1124. A bill to amend section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 to provide for a user fee to cover the cost of customs inspections at express courier facilities; to the Committee on Finance.

By Mr. McConnell (for himself, Mr. Akaka, Mr. Allard, Mr. Bayh, Mr. Bingaman, Mr. Cleland, Mr. Cochran, Mr. Edwards, Mr. Fitzgerald, Mr. Frank, Mr. Graham, Mr. Helms, Mr. Inhofe, Mr. Jeffords, Mr. Kennedy, Mr. Kerry, Mr. Kohl, Mr. Kyl, Mr. Leahy, Mr. Levin, Mr. Reed, Mr. Smith of Oregon, Mr. Smith of New Hampshire, Mr. Specter, Mr. Torricelli, and Mr. Wyden): S. 1125. A bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, the provision of coverage of outpatient services by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes; to the Committee on Environment and Public Works.

By Mr. Brownback (for himself and Mr. Enzi): S. 1126. A bill to facilitate the deployment of broadband telecommunications services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. Brownback (for himself and Mr. Enzi): S. 1127. A bill to stimulate the deployment of advanced telecommunications services in rural areas, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. Clinton: S. 1128. A bill to provide grants for FHA-insured hospitals; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. Warner: S. 1129. A bill to increase the rate of pay for certain offices and positions within the executive and judicial branches of the Government, respectively, and for other purposes; to the Committee on Governmental Affairs.

By Mr. Craig (for himself, Mrs. Feinstein, and Mr. Corzine): S. 1130. A bill to require the Secretary of Energy to develop a plan for a magnetic fusion burning plasma experiment for the purposes of accelerating the scientific understanding and development of fusion as a long term energy source, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. Leahy: S. 1131. A bill to promote economically sound modernization of electric power generation capacity in the United States, to establish requirements to improve the combustion heat rate efficiency of fossil fuel-fired electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitrogen, oxides, and sulfur dioxide, to require that all fossil fuel-fired electric utility generating units operating in the United States meet new sources review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and fuel cells; to the Committee on Finance.

By Mr. Craig: S. 1132. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. Boxer (for herself, Mrs. Carnahan, and Mr. Bond): S. 1133. A bill to amend title 49, United States Code, to preserve nonstop air service to and from Ronald Reagan Washington National Airport for certain communities in case of airline bankruptcy; to the Committee on Commerce, Science, and Transportation.

By Mr. Lieberman (for himself and Mr. Hatch): S. 1134. A bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock; to the Committee on Finance.

By Mr. Graham (for himself, Mr. Chafee, Mr. Conrad, Mrs. Lincoln, Mr. Miller, Mr. Rockefeller, Mr. Bingaman, Mr. Kerry, and Mr. Carper): S. 1135. A bill to amend title XVIII of the Social Security Act to provide comprehensive reform of the medicare program, including the provision of coverage of outpatient prescription drugs under such program; to the Committee on Finance.

By Mr. Sarbanes (for himself, Mr. Baucus, Mr. Bayh, Mr. Cleland, Mr. Corzine, Mr. Dodd, Mrs. Feinstein, Mr. Reid, Mr. Schumer, Ms. Snowe, Ms. Stabenow, Mr. Thompson, and Mr. Wyden): S. 1136. A bill to provide for mass transportation in certain Federally owned or managed areas that are open to the general public; to the Committee on Energy and Natural Resources.

By Mr. Harkin (for himself and Mr. Grassley): S. 1137. A bill to direct the Secretary of the Army to convey the military supply storage allocation in Rathbun Lake, Iowa, to the Rathbun Regional Water Association; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 1122

At the request of Mr. Bingaman, the name of the Senator from Arkansas (Mrs. Lincoln) was added as a cosponsor of S. 155, a bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians.

S. 1132

At the request of Mr. Campbell, the name of the Senator from California (Mrs. Feinstein) was added as a cosponsor of S. 212, a bill to amend the Rural Health Care Improvement Act to revise and extend such Act.

S. 280

At the request of Mr. Johnson, the name of the Senator from Michigan
(Mr. LEVIN) was added as a cosponsor of S. 280, a bill to amend the Agriculture Marketing Act of 1966 to require retailers of branded pork, and perishable agricultural commodities to inform consumers, at the final point of sale to consumers, of the country of origin of the commodities.

At the request of Mr. SANTORUM, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 592, a bill to amend the Internal Revenue Code of 1986 to create Individual Development Accounts, and for other purposes.

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 634, a bill to amend section 2007 of the Social Security Act to provide grant funding for additional Enterprise Communities, and for other purposes.

At the request of Mr. THOMPSON, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 661, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

At the request of Mr. HATCH, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

At the request of Mrs. LINCOLN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 775, a bill to amend title XVIII of the Social Security Act to permit expansion of medical residency training programs in geriatric medicine and to provide for reimbursement of care coordination and assessment services provided under the Medicare program.

At the request of Mr. HAGEL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings.

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 814, a bill to establish the Child Care Provider Retention and Development Grant Program and the Child Care Provider Scholarship Program.

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 818, a bill to amend the Internal Revenue Code of 1986 to provide a long-term capital gains exclusion for individuals, and to reduce the holding period for long-term capital gain treatment to 6 months, and for other purposes.

At the request of Ms. SNOWE, the names of the Senator from Delaware (Mr. CARPER), the Senator from Maryland (Mr. SARBANES), and the Senator from Colorado (Mr. GILLIBRAND) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of all oral anticancer drugs.

At the request of Mr. DODD, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 940, a bill to leave no child behind.

At the request of Mr. NICKLES, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 992, a bill to amend the Internal Revenue Code of 1986 to repeal the provision taxing policy holder dividends of mutual life insurance companies and to repeal the policyholders surplus account provisions.

At the request of Mr. FRIST, the names of the Senator from Utah (Mr. HATCH) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1032, a bill to expand assistance to countries seriously affected by HIV/AIDS, malaria, and tuberculosis.

At the request of Mr. HUTCHISON, the names of the Senator from Alaska (Mr. MUKOWSKI) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1037, a bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes.

At the request of Mr. JEFFORDS, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 1038, a bill to amend the Internal Revenue Code of 1986 to improve access to tax-exempt debt for small nonprofit health care and educational institutions.

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1075, a bill to extend and modify the Drug-Free Communities Support Program, to authorize a National Community Drug-Free Coalition Institute, and for other purposes.

At the request of Mr. CONRAD, the names of the Senator from Texas (Mr. GRAMM) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1087, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period of the depreciation of certain leasehold improvements.

At the request of Mr. HARKIN, the names of the Senator from Florida (Mr. GRAHAM), the Senator from Florida (Mr. NELSON), and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

At the request of Mr. CAMPBELL, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from New Jersey (Mr. CORZINE), the Senator from North Dakota (Mr. DORGAN), the Senator from Illinois (Mr. FITZGERALD), and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. Res. 99, a resolution supporting the goals and ideals of the Olympics.

At the request of Mr. FITZGERALD, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

At the request of Mr. CORZINE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. Con. Res. 52, a concurrent resolution expressing the sense of Congress that reducing crime in public housing should be a priority, and that the successful Public Housing Drug Elimination Program should be fully funded.

At the request of Mr. SANTORUM, the names of the Senator from New Hampshire (Mr. SMITH) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of amendment No. 814 proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of amendment No. 826 proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.
In 1998 Congress identified the corridor from the border with Mexico to Denver, CO, as a High Priority Corridor on the National Highway System. Last year, a comprehensive study was undertaken to determine the feasibility of creating a four-lane highway along the corridor. The New Mexico alignment would serve a population of nearly 2 million persons, compared to 1.5 million for the alternative.

The traffic volume in 2025 would be 150 percent higher on the New Mexico corridor than on the alternative, including 25 percent more trucks.

The benefit-to-cost ratio of the New Mexico route was 75 percent better than for the route bypassing New Mexico.

The alternative route had a very slight advantage over the New Mexico alignment only in economic development benefits.

With the feasibility study results now complete, The New Mexico Highway Commission last week voted unanimously to support the designation of the southern leg in the Omnibus Appropriations Act of 2001, though the Congressional designation of the southern route was enacted long before we had the results of the feasibility study. The Texas Transportation Commission is voting today to confirm Congress’ designation of the southern leg.

The studies have now been completed. The results are in. The route south of Amarillo has been set. Congress should now complete the designation of the final leg of the Ports-to-Plains Trade Corridor by passing our bill.

The time to act is now. Once the route is established the States can move forward with their regional and statewide transportation plans, environmental studies, design work, acquisition of rights of way, and initial construction of the most critical segments.

I thank Senator DOMENICI for cosponsoring the bill, and I hope all senators will join us in support of this important legislation.

I ask unanimous consent that a copy of the New Mexico State Highway Commission’s resolution and the text of the bill be printed in the RECORD.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

S. 1118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IDENTIFICATION OF PORTS-TO-PLAINS HIGH PRIORITY CORRIDOR ROUTES IN NEW MEXICO AND COLORADO.

Section 1105(c)(38) of the Intermodal Surface Transportation Efficiency Act of 1991
CONGRESSIONAL RECORD—SENATE
June 28, 2001

S. 1119. A bill to require the Secretary of Defense to carry out a study of the extent to the coverage of members of the Selected Reserve of the Ready Reserve of the Armed Forces under health benefits plans and to submit a report on the study of Congress, and for other purposes; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, I rise today to introduce important legislation that will impact the health and readiness of the Selected Reserve. The Selected Reserves includes over 900,000 dedicated men and women divided between the National Guard and the Reserves. Over the past ten years, this force has become increasingly critical to carrying out our Nation’s defense, whether deploying to far-flung regions of the globe or backfilling for other units making those deployments.
The country simply cannot meet its commitments without these proud citizen-soldiers. It follows, then, that steps to increase the readiness of the Selected Reserves will have a positive effect on the readiness of the entire force. It was this goal in mind that I introduce the Health Care for Selected Reserve Act.

This legislation will ensure that all members of the drilling reserves have adequate health insurance. The legislation acknowledges our reserves' continuing contributions to the defense of the Nation and expresses the need for full medical coverage. The legislation will commission an independent study on the extent of insurance shortfalls and examine the feasibility of extending the TRICARE or FEHB program to the reserves.

Currently, when a member of the Selected Reserve goes on active duty over 60 days, they are provided full coverage under the TRICARE Prime program conducted through the active military's medical treatment facilities. But when reservists are not on active duty, they are left to gain insurance through their civilian employers. Like the rest of society, most gain adequate coverage through their employers like the rest of society, but, mirroring broader shortfalls in the wider population, many go without any health coverage at all. This shortfall has an even more noticeable affect on the country because it affects military readiness.

There is also an underlying issue of fairness here. It seems wrong to me that one week someone can be patrolling the skies over Iraq with full coverage and the next week they can have no health coverage at all. That situation gives the impression that the National Guard and the Reserves are the poor relations of the military. We cannot let this continue. If we really believe in the Total Force, we cannot let the members of the Selected Reserve and their families have health care benefits that are adequate—

SEC. 3. STUDY OF HEALTH CARE BENEFITS COVERAGE FOR MEMBERS OF THE SELECTED RESERVE.

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall enter into a contract with a federally funded research and development center to carry out a study of the needs of members of the Selected Reserve of the Ready Reserve of the Armed Forces and the member's family for health care benefits and that it can relieve some of the burdens faced today by National Guard

(b) Report.—(1) Not later than March 1, 2002, the Secretary shall submit a report on the results of the study to Congress.

(2) The report shall include the following matters:

(A) Descriptions, and an analysis, of how members of the Selected Reserve and their dependents currently obtain coverage for health care benefits, together with statistics on enrollments in health care benefits plans and covered under each option.

(B) At least three recommended options for Congress to consider. Each should be accompanied by an estimate of the costs of individual coverage and family coverage under each option.

(c) Funding.—The Secretary shall consider an expansion of the TRICARE program or the Federal Employees Health Benefits program to cover the members of the Selected Reserve and their families.

(d) Mr. DASCHLE. Mr. President, today I have presented to Congress a bill that can improve and that can improve readiness; that it can help service members and their families, especially in coping with mobilization; and that it can relieve some of the burdens faced today by National Guard
Congressional Record—Senate
June 28, 2001

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employers, particularly small businesses.

This bill lays the groundwork for a solution. S. 1119 would authorize a study by a non-government research center to explore the extent of the problem and recommend at least three cost-effective solutions, including the possibility of opening the TRICARE program or the Federal Employees Health Benefits Program to reservists and their families. The study would look at disruptions to health coverage caused by mobilizations and analyze the likely impact of enhanced health care on recruitment and retention.

We have developed this bill in consultation with the Military Coalition and several of its members. I appreciate their concern for this problem and their work to help develop a solution.

I would particularly like to acknowledge the role of the Enlisted Association of the National Guard of the United States, the Reserve Officers Association, the National Guard Association of the United States, and the Retired Officers Association.

I hope and believe that today's bill introduction can be an important step toward providing adequate health care for members of the South Dakota National Guard and other reservists around the Nation, who do so much on behalf of their communities, their States, and this Nation.

By Mrs. BOXER (for herself and Mr. SMITH of Oregon):

S. 1120. A bill to amend the Foreign Assistance Act of 1961 to increase the authorization of appropriations for fiscal year 2002, and to authorize appropriations for fiscal year 2003, to combat HIV/AIDS and, for other purposes; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, this week, as the United Nations meets to prepare a global strategy to combat the growing worldwide HIV-AIDS crisis, I am proud to introduce legislation aimed at ensuring that the United States continues to be a leader in the fight against this deadly disease.

I am pleased to once again join my good friend and colleague from Oregon, Senator SMITH, in support of this bill.

Last year, we teamed up to offer the Global AIDS Prevention Act that doubled funding for the United States Agency for International Development's HIV-AIDS programs. Not only was this legislation included in broader international health legislation which became law, it was also fully funded for the current fiscal year. This year, we are looking to build upon last year's success by again doubling the amount USAID spends on fighting the global HIV-AIDS epidemic.

The Global AIDS Research and Relief Act would authorize $600 million in each of the next two fiscal years. It is designed to complement international HIV-AIDS relief efforts so that a truly global response can be implemented in sub-Saharan Africa, Latin America, Southeast Asia, Russia, and all places where people are suffering from this epidemic.

In the 20 years since AIDS was first recognized, 22 million people worldwide have died from the disease, and 36 million more are living with HIV or AIDS today. Of those living with the disease, 95 percent live in the developing world where advanced technology to combat AIDS is not readily available. It is predicted that AIDS will soon become the deadliest infectious epidemic in world history, surpassing the Plague, which killed an estimated 25 million people.

This new chapter in the AIDS epidemic is especially tragic because its growth is preventable. While there is no cure for this horrible disease, progress is being made. New medical breakthroughs afford HIV-positive people a much greater life expectancy than they had 20 years ago. Unfortunately, these efforts are not reaching the Nations whose people need the help the most. By increasing authorization for USAID to establish and expand these valuable initiatives in developing countries, our bill helps to remedy this disparity in the quality of care.

Specifically, the bill addresses the need for increased voluntary testing and counseling, so that we can educate people and keep its spread in check.

With this funding authorization, the USAID will be able to provide more for the most vulnerable constituencies, children and young adults. The money will be used for drugs like nevirapine, which is given to expectant HIV-positive mothers to prevent the spread of the infection to their unborn children. The United States is a trendsetter in efforts to address the pandemic of HIV-AIDS. Through the work of USAID, we have invested prevention, care, and treatment programs in some of the hardest-hit countries in sub-Saharan Africa. The Centers for Disease Control and Prevention has worked with partners in other countries to expand treatment programs; the Department of Labor, the Department of Agriculture and the Department of Defense are contributing to the effort to end the spread of AIDS.

But far more remains to be done.

I urge my colleagues to support this measure and ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Global AIDS Research and Relief Act of 2001".

SEC. 2. DEFINITIONS.

In this Act:

(1) AIDS.—The term "AIDS" means the acquired immunodeficiency syndrome.

(2) Association.—The term "Association" means the International Development Association.

(3) Bank.—The term "Bank" or "World Bank" means the International Bank for Reconstruction and Development.

(4) HIV.—The term "HIV" means the human immunodeficiency virus, the pathogen, which causes AIDS.

(5) HIV/AIDS.—The term "HIV/AIDS" means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) According to the Surgeon General of the United States, the epidemic of human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) will soon become the worst epidemic of infectious disease in recorded history, eclipsing both the bubonic plague of the 1300s and the influenza epidemic of 1918-1919 which killed more than 20,000,000 people worldwide.

According to the United Nations Programme on HIV/AIDS (UNAIDS), more than 36,100,000 people in the world today are living with HIV/AIDS, of which approximately 95 percent live in the developing world.

(3) UNAIDS data shows that among children age 15 and under worldwide, more than 4,300,000 have died from AIDS, more than 1,400,000 are living with the disease; and in 1 year alone—2000—an estimated 600,000 became infected, of which over 90 percent were babies born to HIV-positive women.

(4) Although sub-Saharan Africa has only 10 percent of the world's population, it is home to more than 25,300,000—roughly 70 percent—of the world's HIV/AIDS cases.

(5) Worldwide, there have already been an estimated 21,800,000 deaths because of HIV/AIDS, of which more than 80 percent occur in sub-Saharan Africa, and are thus considered AIDS orphans.

(6) According to UNAIDS, by the end of 1999, 13,200,000 children have lost at least one parent to AIDS, including 12,100,000 children in sub-Saharan Africa, and are thus considered AIDS orphans.

(7) At current infection and growth rates for HIV/AIDS, the National Intelligence Council estimates that the number of AIDS orphans worldwide will increase dramatically, potentially increasing threefold or more in the next 10 years, contributing to economic decay, social fragmentation, and political destabilization in already volatile and strained societies. Children without care or hope are often drawn into prostitution, crime, substance abuse, or child soldiers.

(8) The discovery of a relatively simple and inexpensive means of interrupting the transmission of HIV from an infected mother to the unborn child—namely with nevirapine (NVP), which costs $4 a tablet—has created a great opportunity for an unprecedented partnership between the United States Government and the government of African, and Latin American countries to reduce mother-to-child transmission (also known as "vertical transmission") of HIV.

According to UNAIDS, if implemented this strategy will decrease the proportion of orphans that are HIV-infected and decrease infant and child mortality rates in these developing regions.

(10) A mother-to-child antiretroviral drug program can increase access for members of the South Dakota National Guard and other reservists around the Nation, who do so much on behalf of their communities, their States, and this Nation.

By Mrs. BOXER (for herself and Mr. SMITH of Oregon):

S. 1120. A bill to amend the Foreign Assistance Act of 1961 to increase the authorization of appropriations for fiscal year 2002, and to authorize appropriations for fiscal year 2003, to combat HIV/AIDS, and for other purposes; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, this week, as the United Nations meets to prepare a global strategy to combat the growing worldwide HIV-AIDS crisis, I am proud to introduce legislation aimed at ensuring that the United States continues to be a leader in the fight against this deadly disease.

I am pleased to once again join my good friend and colleague from Oregon, Senator SMITH, in support of this bill.

Last year, we teamed up to offer the Global AIDS Prevention Act that doubled funding for the United States Agency for International Development's HIV-AIDS programs. Not only was this legislation included in broader international health legislation which became law, it was also fully funded for the current fiscal year. This year, we are looking to build upon last year's success by again doubling the amount USAID spends on fighting the global HIV-AIDS epidemic.

The Global AIDS Research and Relief Act would authorize $600 million in each of the next two fiscal years. It is designed to complement international HIV-AIDS relief efforts so that a truly global response can be implemented in sub-Saharan Africa, Latin America, Southeast Asia, Russia, and all places where people are suffering from this epidemic.

In the 20 years since AIDS was first recognized, 22 million people worldwide have died from the disease, and 36 million more are living with HIV or AIDS today. Of those living with the disease, 95 percent live in the developing world where advanced technology to combat AIDS is not readily available. It is predicted that AIDS will soon become the deadliest infectious epidemic in world history, surpassing the Plague, which killed an estimated 25 million people.

This new chapter in the AIDS epidemic is especially tragic because its growth is preventable. While there is no cure for this horrible disease, progress is being made. New medical breakthroughs afford HIV-positive people a much greater life expectancy than they had 20 years ago. Unfortunately, these efforts are not reaching the Nations whose people need the help the most. By increasing authorization for USAID to establish and expand these valuable initiatives in developing countries, our bill helps to remedy this disparity in the quality of care.

Specifically, the bill addresses the need for increased voluntary testing and counseling, so that we can educate people and keep its spread in check.

With this funding authorization, the USAID will be able to provide more for the most vulnerable constituencies, children and young adults. The money will be used for drugs like nevirapine, which is given to expectant HIV-positive mothers to prevent the spread of the infection to their unborn children. The United States is a trendsetter in efforts to address the pandemic of HIV-AIDS. Through the work of USAID, we have invested prevention, care, and treatment programs in some of the hardest-hit countries in sub-Saharan Africa. The Centers for Disease Control and Prevention has worked with partners in other countries to expand treatment programs; the Department of Labor, the Department of Agriculture and the Department of Defense are contributing to the effort to end the spread of AIDS.

But far more remains to be done.

I urge my colleagues to support this measure and ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1120

Be it enacted by the Senate and House of Representaives of the United States of America in Congress assembled,
providing the opportunity and impetus needed to understand the profound stigma associated with HIV-infection and the AIDS disease. Strengthening the health infrastructure to combat the epidemic in developing regions is essential.

(11) A January 2000 United States National Intelligence Estimate (NIE) report on the global infectious disease threat concluded that the economic costs of infectious diseases—especially HIV/AIDS—are already significant and could reduce GDP by as much as 20 percent or more by 2010 in some sub-Saharan African nations.

(12) The HIV/AIDS epidemic is of increasing concern in other regions of the world, with UNAIDS estimating that there are more than 5,800,000 cases in South and Southeast Asia, that the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa, and that the rate in Eastern Europe has doubled in just 2 years in the former Soviet Union.

(13) Russia is the new "hot spot" for the pandemic, as Russian officials are expected to be diagnosed with HIV/AIDS by the end of 2001 than all cases from previous years combined.

(14) Despite the discouraging statistics on the spread of HIV/AIDS, some developing nations—such as Uganda, Senegal, and Thailand—have implemented prevention programs that have substantially reduced the rate of HIV infection.

(15) Accordingly, United States financial support for medical research, education, and disease prevention in developing nations as a global strategy has beneficial ramifications for millions of Americans and their families who are affected by this disease, and the entire population, which is potentially susceptible.

(b) PURPOSES.—The purposes of this Act are to—

(1) help prevent human suffering through the prevention, diagnosis, and treatment of HIV/AIDS; and

(2) help ensure the viability of economic development and stability, and national security in the developing world by advancing research to—

(A) understand the causes associated with HIV/AIDS in developing countries; and

(B) assist in the development of an AIDS vaccine.

SEC. 3. ADDITIONAL ASSISTANCE AUTHORITIES TO COMBAT HIV AND AIDS.

Paragraphs (4) through (6) of section 106(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) are amended to read as follows:

"(4)(A) Congress recognizes the growing international dilemma of children with the human immunodeficiency virus (HIV) and the merits of intervention programs aimed at this problem. Congress further recognizes that mother-to-child transmission prevention strategies can serve as a major force for change in developing regions, and it is, therefore, a major objective of the foreign assistance program to control the acquired immunodeficiency syndrome (AIDS) epidemic.

(B) The agency primarily responsible for administering this part shall—

(i) coordinate with UNAIDS, UNICEF, WHO, national and local governments, other organizations, and other Federal agencies to develop and implement effective programs to prevent transmission of HIV; and

(ii) coordinate with those organizations to increase intervention programs and introduce voluntary counseling and testing, antiretroviral drugs, replacement feeding, and other strategies.

"(6)(A) Congress expects the agency primarily responsible for administering this part to—

(i) provide technical assistance to the states to develop national immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) programs—

(1) that have suffered an increase in the spread of HIV/AIDS; and

(2) that have established programs to address other epidemics—especially HIV/AIDS—such as Uganda, Senegal, and Thailand.

(ii) coordinate with those organizations to increase intervention programs and introduce voluntary counseling and testing, antiretroviral drugs, replacement feeding, and other strategies.

"(B) Assistance described in subparagraph (A) shall include help providing—

(1) information and education;

(2) voluntary testing and counseling;

(3) medications to prevent the transmission of HIV from mother to child;

(4) programs to strengthen and broaden health care systems infrastructure and the capacity of health care systems in developing countries to deliver HIV/AIDS pharmaceuticals, prevention, and treatment to those affected with HIV/AIDS; and

(5) care for those living with HIV or AIDS.

"(6)(A) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President for family planning purposes—

(i) programs to strengthen the capacity of developing countries to deliver comprehensive, coordinated efforts to combat HIV and AIDS.

(iii) medications to prevent the transmission of HIV from mother to child;

(iv) programs to strengthen and broaden health care systems infrastructure and the capacity of health care systems in developing countries to deliver HIV/AIDS pharmaceuticals, prevention, and treatment to those affected with HIV/AIDS; and

(v) care for those living with HIV or AIDS.

"(7)(A) Assistance under this subsection, and assistance made available pursuant to this part of this Act in support of activities described in paragraphs (4) and (5), may be made available to—

(A) direct assistance programs that have been coordinated and approved by the agency primarily responsible for administering this part;

(B) organizations that have applied for and received Federal assistance under this Act to provide care for children who have lost their parents to AIDS orphans and other vulnerable children, and prevention strategies for vertical transmission of HIV/AIDS; and

(C) medical facilities.

"(8)(A) Congress expects the agency primarily responsible for administering this part to make the human immunodeficiency virus (HIV) and the acquired immune deficiency syndrome (AIDS) epidemic a priority in the foreign assistance program and to undertake a comprehensive, coordinated effort to combat HIV and AIDS.

"(9)(A) The agency primarily responsible for administering this Act shall—

(i) provide appropriate training and education on HIV/AIDS to the personnel of the United States government.

(ii) publish a list of approved organizations and programs, including private and voluntary organizations, for-profit organizations, religious affiliated organizations, educational institutions, and research facilities.

(iii) give priority to programs that address the special needs of children, women, and other vulnerable populations.

(iv) programs to strengthen the capacity of developing countries to deliver HIV/AIDS pharmaceuticals, prevention, and treatment to those affected with HIV/AIDS; and

(v) care for those living with HIV or AIDS.

"(10)(A) The United States government and its agencies and instrumentalities shall provide—

(i) the necessary tools, information, and other resources needed to address the problem of children orphaned by AIDS,

(ii) the necessary tools, information, and other resources needed to address the problem of children orphaned by other civil wars and other regions of conflict, and

(iii) the necessary tools, information, and other resources needed to address the problem of children orphaned by civil wars and other regions of conflict.

"(11) A January 2000 United States National Intelligence Estimate (NIE) report on the global infectious disease threat concluded that the economic costs of infectious diseases—especially HIV/AIDS—are already significant and could reduce GDP by as much as 20 percent or more by 2010 in some sub-Saharan African nations.

(12) The HIV/AIDS epidemic is of increasing concern in other regions of the world, with UNAIDS estimating that there are more than 5,800,000 cases in South and Southeast Asia, that the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa, and that the rate in Eastern Europe has doubled in just 2 years in the former Soviet Union.

(13) Russia is the new "hot spot" for the pandemic, as Russian officials are expected to be diagnosed with HIV/AIDS by the end of 2001 than all cases from previous years combined.

(14) Despite the discouraging statistics on the spread of HIV/AIDS, some developing nations—such as Uganda, Senegal, and Thailand—have implemented prevention programs that have substantially reduced the rate of HIV infection.

(15) Accordingly, United States financial support for medical research, education, and disease prevention in developing nations as a global strategy has beneficial ramifications for millions of Americans and their families who are affected by this disease, and the entire population, which is potentially susceptible.

(b) PURPOSES.—The purposes of this Act are to—

(1) help prevent human suffering through the prevention, diagnosis, and treatment of HIV/AIDS; and

(2) help ensure the viability of economic development, stability, and national security in the developing world by advancing research to—

(A) understand the causes associated with HIV/AIDS in developing countries; and

(B) assist in the development of an AIDS vaccine.
The prevalence of HIV/AIDS in the young will have a significant impact on the economies of the world. The pandemic is contributing to economic decay, social fragmentation, and political destabilization in already strained and volatile societies. These factors are of particular concern in South and Southeast Asia, the Caribbean, Eastern Europe, and the former Soviet Union where the pandemic is just beginning to become a problem. It is estimated that there are more than 5.8 million cases in South and Southeast Asia and the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa. Russia is the new “hot spot” for HIV/AIDS. More Russians are expected to be diagnosed with HIV/AIDS by the end of 2001 than all cases from previous years combined. Many of these countries do not yet have prevention, treatment and care programs in place and we must equip our federal agencies with the resources and flexibility needed to address the pandemic in all of these areas.

The United States is seen as a leader in efforts to address the epidemic. We contributed almost $500 million to fight HIV/AIDS in fiscal year 2001. Through programs at the U.S. Agency for International Development, we have instituted prevention, care and treatment programs in some of the worst hit countries in sub-Saharan Africa. At the Centers for Disease Control and Prevention, we have worked with partners in other countries to expand treatment and home-based care programs. Other agencies, including the Department of Labor, the Department of Defense, and the Department of Agriculture, have contributed in their areas of expertise.

This legislation recognizes the growing problems encountered by children around the world and instructs USAID to make it a priority to prevent mother-to-child transmission and orphan programs a major objective of their program. Through coordination with UN agencies, national and local governments, non-governmental organizations and foundations, the U.S. government shall implement effective strategies to prevent vertical transmission of HIV. Further, the bill states that the agency must strengthen and expand all of its primary prevention and education programs.

This bill also calls on USAID to continue to provide support to research that will help the world to understand the causes associated with HIV/AIDS in developing countries and assist in the development of an effective AIDS vaccine.

I believe the “Global AIDS Research and Relief Act of 2001” can make a profound difference in the lives of millions of people facing the HIV/AIDS epidemic. I ask all my colleagues to join us and support this legislation at this critical moment in the spread of the disease.
CONGRESSIONAL RECORD—SENATE

June 28, 2001

SEC. 1. SHORT TITLE.

This Act may be cited as the "Bear Protection Act of 2001.""}

SEC. 2. FINDINGS.

Congress finds that—

(1) all 8 extant species of bear—Asian black bear, brown bear, polar bear, American black bear, spectacled bear, giant panda, sun bear, and sloth bear—are listed on Appendix I of II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249); (2) Article XIV of CITES provides that Parties to CITES may adopt stricter domestic measures regarding the conditions for trade, taking, possession, or transport of species listed on Appendix I or II; and (B) the wild Asian bear population has declined significantly in recent years as a result of habitat loss and poaching due to a strong demand for bear viscera used in traditional medicines and cosmetics; (4) Federal and State undercover operations have revealed that Asian bears have been poached for their viscera; (5) while most American black bear populations are generally stable or increasing, commercial trade could stimulate poaching and threaten certain populations if the demand for bear viscera increases; and (6) prohibitions against the importation into the United States and exportation from the United States, as well as prohibitions against the interstate trade, of bear viscera and products containing, or labeled or advertised as containing, bear viscera will assist in ensuring that the United States does not contribute to the decline of any bear population as a result of the commercial trade in bear viscera.

SEC. 3. PURPOSES.

The purpose of this Act is to ensure the long-term viability of the world’s 8 bear species—by—

(1) prohibiting interstate and international trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera; and (2) encouraging bilateral and multilateral efforts to eliminate such trade; and

I continue to believe that these types of targeted, bipartisan conservation efforts that are rooted in consensus building efforts rather than conflicting politics, can, in the end, make the most noticeable strides toward protecting our national wildlife and environmental treasures.

I ask unanimous consent that the text of the bill be printed in the RECORD, and I further ask unanimous consent that the RECORD include letters of support from the Humane Society of the United States, the Society for Animal Protective Legislation, and the American Zoo and Aquarium Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bear Protection Act of 2001.""

SEC. 2. FINDINGS.

Congress finds that—

(1) all 8 extant species of bear—Asian black bear, brown bear, polar bear, American black bear, spectacled bear, giant panda, sun bear, and sloth bear—are listed on Appendix I or II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249); (2) Article XIV of CITES provides that Parties to CITES may adopt stricter domestic measures regarding the conditions for trade, taking, possession, or transport of species listed on Appendix I or II; and (B) the wild Asian bear population has declined significantly in recent years as a result of habitat loss and poaching due to a strong demand for bear viscera used in traditional medicines and cosmetics; (4) Federal and State undercover operations have revealed that Asian bears have been poached for their viscera; (5) while most American black bear populations are generally stable or increasing, commercial trade could stimulate poaching and threaten certain populations if the demand for bear viscera increases; and (6) prohibitions against the importation into the United States and exportation from the United States, as well as prohibitions against the interstate trade, of bear viscera and products containing, or labeled or advertised as containing, bear viscera will assist in ensuring that the United States does not contribute to the decline of any bear population as a result of the commercial trade in bear viscera.

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SEC. 2. FINDINGS.

Congress finds that—

(1) all 8 extant species of bear—Asian black bear, brown bear, polar bear, American black bear, spectacled bear, giant panda, sun bear, and sloth bear—are listed on Appendix I or II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249); (2) Article XIV of CITES provides that Parties to CITES may adopt stricter domestic measures regarding the conditions for trade, taking, possession, or transport of species listed on Appendix I or II; and (B) the wild Asian bear population has declined significantly in recent years as a result of habitat loss and poaching due to a strong demand for bear viscera used in traditional medicines and cosmetics; (4) Federal and State undercover operations have revealed that Asian bears have been poached for their viscera; (5) while most American black bear populations are generally stable or increasing, commercial trade could stimulate poaching and threaten certain populations if the demand for bear viscera increases; and (6) prohibitions against the importation into the United States and exportation from the United States, as well as prohibitions against the interstate trade, of bear viscera and products containing, or labeled or advertised as containing, bear viscera will assist in ensuring that the United States does not contribute to the decline of any bear population as a result of the commercial trade in bear viscera.

SEC. 3. PURPOSES.

The purpose of this Act is to ensure the long-term viability of the world’s 8 bear species—by—

(1) prohibiting interstate and international trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera; and (2) encouraging bilateral and multilateral efforts to eliminate such trade; and

I continue to believe that these types of targeted, bipartisan conservation efforts that are rooted in consensus building efforts rather than conflicting politics, can, in the end, make the most noticeable strides toward protecting our national wildlife and environmental treasures.

I ask unanimous consent that the text of the bill be printed in the RECORD, and I further ask unanimous consent that the RECORD include letters of support from the Humane Society of the United States, the Society for Animal Protective Legislation, and the American Zoo and Aquarium Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bear Protection Act of 2001.""
(3) ensuring that adequate Federal legislation is in place to prevent the spreading of diseases and parasites to domestic or wild bears and other wild animals, and the prevention of illegal trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera.

SEC. 4. DEFINITIONS.

In this Act:

(1) BEAR VISCERA.—The term "bear viscera" means the body fluids or internal organs, including the gallbladder and its contents that are not including the blood or brains, of a species of bear.


(3) IMPORT.—The term "import" means to land, bring into, or introduce into any place subject to the jurisdiction of the United States, regardless of whether the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(4) PERSON.—The term "person" means—

(A) an individual, corporation, partnership, trust, estate, or other legal or commercial entity;

(B) an officer, employee, agent, department, or instrumentality of—

(i) the Federal Government;

(ii) any State or political subdivision of a State; or

(iii) any foreign government; and

(C) any other entity subject to the jurisdiction of the United States.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and any possession, territory, commonwealth, or possession of the United States.

(7) TRANSPORT.—The term "transport" means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

SEC. 5. PROHIBITED ACTS.

(a) In General.—Except as provided in subsection (b), a person shall not—

(1) import into, or export from, the United States bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera; or

(2) sell or barter, offer to sell or barter, purchase, possess, transport, deliver, or receive, in interstate or foreign commerce, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera.

(b) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT PURPOSES.—A person described in section 4(4)(B) may import into, or export from, the United States, or transport between States, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera if the importation, exportation, or transportation—

(1) is solely for the purpose of enforcing laws relating to the protection of wildlife; and

(2) is authorized by a valid permit issued under subtitle I or II of CITES in any case in which such a permit is required under CITES.

SEC. 6. PENALTIES AND ENFORCEMENT.

(a) Penalties.—A person that knowingly violates section 5 shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(b) Seizure and forfeiture.—(1) AMOUNT.—A person that knowingly violates section 5 may be assessed a civil penalty by the Secretary of not more than $5,000 for each violation.

(2) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this subsection shall be assessed, and may be collected, in the manner in which a civil penalty under the Internal Revenue Code of 1986 may be assessed and collected under section 6651(a) of that Act (26 U.S.C. 6651(a)).

(3) SIZING AND FORFEITURE.—Any bear viscera or any product, item, or substance imported, exported, sold, bartered, attempted to be imported, exported, sold, or bartered, is a bear, purchased, possessed, transported, delivered, or received in violation of this section (including any regulation issued under this section) shall be seized and forfeited to the United States.

(4) REGULATIONS.—After consultation with the Secretary of the Treasury and the United States Trade Representative, the Secretary shall issue such regulations as are necessary to carry out this section.

(e) PENALTY.—A person that knowingly violates section 5 shall be fined not more than $25,000 for each violation.

(f) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3755(d)).

SEC. 7. DISCUSSIONS CONCERNING BEAR CONSERVATION AND THE BEAR PARTS TRADE.

In order to work to establish coordinated efforts with other countries to protect bears, the Secretary shall continue discussions concerning trade in bear viscera with—

(1) the appropriate representatives of Parties to CITES; and

(2) the appropriate representatives of countries that are not parties to CITES and that are determined by the Secretary and the United States Trade Representative to be the leading importers, exporters, or consumers of bear viscera.

SEC. 8. CERTAIN PROVISIONS NOT AFFECTED.

Except as provided in section 5, nothing in this Act affects—

(1) the regulation by any State of the bear population of the State; or

(2) any hunting of bears that is lawful under applicable State law (including regulations).

HSUS STATEMENT IN SUPPORT OF THE BEAR PROTECTION ACT

The Humane Society of the United States, the nation’s largest animal protection organization with over seven million members and constituents, strongly supports Senator McConnell’s Bear Protection Act.

The Bear Protection Act would eliminate the problem of importing illegal bear products into the United States by prohibiting the import, export, and interstate commerce in bear gallbladders and bile. Bears are targeted for their internal organs, which fetch enormous prices on the black market, some kill bears for the profits, and the merchants who sell their organs for use in traditional medicine remain untainted.

The inescapable, growing demand for bear viscera contributed mightily to the decimation of the Asiatic black bear and may do the same to the stable population of American black bears if a law is not passed to eliminate the United States’ role in supplying this devastating bear parts trade.

This is a price on the head of every bear in this country and Senator Mitch McConnell deserves high praise for introducing proactive legislation protecting bears from the growing threat of bear parts trade.

The current patchwork of state laws addressing the trade in bear gallbladders and state laws, replacing it with one national law prohibiting import, export, and interstate commerce in bear viscera.

Bear viscera, particularly the gallbladder and bile, have been traditionally used in Asian medicines to treat a variety of illnesses, from diabetes to heart disease. Today, bear viscera is also used in cosmetics and shampoos. Asian demand for bear viscera and products has grown with lowering human populations and increased wealth. Bear gallbladders in South Korea are worth more than their weight in gold, potentially yielding a price of about $10,000 each.

While demand for bear viscera and products has grown, Asian bear populations have dwindled. Seven of the eight extant species of bears are threatened by poaching to supply the increasing market demand for bear viscera and products. Most species of bears, and all Asian bear species, are afforded the highest level of protection under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES has noted that the continued illegal trade in bear parts and derivatives of bear parts undermines the effectiveness of the Convention and that if CITES parties do not take action to eliminate poaching may cause declines of wild bears that could lead to the extirpation of certain populations or even species.

Dwindling Asian bear populations have caused poachers to look to American bears to meet market demand for bear parts and products. While each year nearly 40,000 American black bears are legally hunted in thirty-six states and Canada, it is estimated that roughly the same number are illegally poached each year, according to a former chief law enforcement officer with the U.S. Fish and Wildlife Service.

The U.S. Senate passed this legislation in the 106th Congress and we hope swift action will be taken again this year. We also hope that the House will follow the Senate’s wise lead and act to protect bears across the globe before it’s too late. The Humane Society of the United States applauds Senator McConnell and the quarter of the United States Senate that has signed onto the Bear Protection Act once again. This bill would end the United States’ involvement in the trade of bear viscera by prohibiting the import, export, and interstate commerce in bear gallbladders and bile. Bears are targeted for their internal organs, which fetch enormous prices on the black market, some kill bears for the profits, and the merchants who sell their organs for use in traditional medicine remain untainted.

BEAR PROTECTION ACT IS URGENTLY NEEDED

The Society for Animal Protective Legislation strongly supports Senator Mitch McConnell in his effort to pass the Bear Protection Act once again. This bill would end the United States’ involvement in the trade of bear viscera by prohibiting the import, export, and interstate commerce in bear gallbladders and bile. Bears are targeted for their internal organs, which fetch enormous prices on the black market, some kill bears for the profits, and the merchants who sell their organs for use in traditional medicine remain untainted.

The inescapable, growing demand for bear viscera contributed mightily to the decimation of the Asiatic black bear and may do the same to the stable population of American black bears if a law is not passed to eliminate the United States’ role in supplying this devastating bear parts trade.

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The current patchwork of state laws addressing the trade in bear gallbladders and
bile allows an illegal trade to flourish. It is important to recognize that the associated gallbladder of one state’s black bear from another. This enables smugglers to acquire gallbladders illegally in one state, transport them to a second state, where a speciﬁcation that bears in the illegal and immoral activity.

Enactment of Senator McConnell’s Bear Protection Act will ensure that those who seek to proﬁt by the reckless destruction of America’s bears can be punished appropriately for their illegal and immoral activity.

Mr. McConnell’s bill does not impact a state’s ability to manage its resident bear population or a lawful hunter’s ability to hunt bears in accordance with applicable state laws and regulations. The Bear Protection Act is not about bear hunting—it’s about ending bear poaching. This is a laudable goal that all Americans should support.

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American citizens should not sit by helplessly while bears are slaughtered, their gallbladders ripped out and the carcasses unceremoniously left to rot. It’s time to take a stand against bear poachers and profiteers. Congratulations to Senator McConnell for taking up the charge.

DEAR SENATOR MCCONNELL: I am writing on behalf of the 196 accredited members of the American Zoo and Aquarium Association (AZA) in support of your proposed Bear Protection Act of 2001.

AZA institutions draw over 135 million visitors annually and have more than 5 million zoo and aquarium members who provide almost $100 million in support. Collectively, these zoos and aquariums provide more than 1.3 million education programs each year in living classrooms, dedicate over $50 million annually to education programs, invest over $50 million annually to science and support over 1,300 ﬁeld conservation and research projects in 90 countries.

In addition, AZA member institutions have established the Species Survival Plan (SSP) program—a long-term plan involving genetically diverse breeding, habitat preservation, public education, ﬁeld conservation and support research to ensure survival for many threatened and endangered species. Currently, AZA member institutions are involved in 96 different SSP programs throughout the world, including four species of bear—sloth, sun, spectacled and the giant panda.

It is in this context that AZA expresses its support for the Bear Protection Act. There is little question that most populations of the world’s eight bear species have experienced signiﬁcant declines during this century, particularly in Europe and Asia. Habitat loss has been the major reason for this decline, although overhunting and poaching have also been factors in some cases, especially in Asia. In recent years, the commercial trade of bear body parts, in particular gallbladders and bile, for use in traditional Asian medicines has been implicated as the driving force behind the illegal hunting of some bear populations. Analyses by the US Fish and Wildlife Service (USFWS), TRAF-

Congressional Record—Senate 12383

Senators McConnell (for himself and Mr. Enzi):

S. 1126. A bill to facilitate the deployment of broadband telecommunications services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWNBACK (for himself and Mr. Enzi):

S. 1127. A bill to stimulate the deployment of advanced telecommunications services in rural areas, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWNBACK, Mr. President, next week our nation will celebrate Independence Day. Yet, as we celebrate the land of opportunity that is America, we must keep in mind those who, even in this great nation, do not have the same access as everyone else. In rural communities across the nation, an entire segment of our population does not have the opportunity to access powerful broadband communications services representing the high-speed, high-capacity on-ramps to the information super highway. Why? Because for all intents and purposes broadband does not exist in most of rural America.

Broadband is increasing the speeds and capacity with which consumers access the Internet, and opening up a whole new world of information, e-commerce, real-time high quality telemedicine, distance learning, and entertainment. The power of broadband will level the playing field between rural and urban communities in a global economy.

Today I rise to introduce the Rural Broadband Deployment Act of 2001 and the Broadband Deployment and Competition Enhancement Act of 2001. Two bills designed to ensure that all Americans have access to the advantages of broadband connections. I would like to thank my colleague from Wyoming, Senator Enzi, for his cosponsorship and support. These two bills, together or individually, will ensure broadband deployment in our nation’s rural areas, and will enable us to renew our longstanding commitment that rural communities have access to the same telecommunications resources as urban communities.

My singular objective, in both bills, is high-speed Internet access for everybody in America by 2007.

This is a bipartisan objective. The Democratic Party has announced its intention to ensure universal access to broadband by the end of this decade. I commend my colleagues on the other side of the aisle for their recognition of the importance of broadband and I look forward to working with them to achieve our common goal.

New approaches will be needed to achieve universal broadband availability. Some of my colleagues have introduced legislation consisting of tax incentives or loan subsidies. Programs such as these can help to deliver on the commitment to make broadband universally available, but these proposals alone will not achieve that goal. Deregulation has a key role to play in this effort.

Deregulation has been the driver of broadband deployment to date: cable companies, largely deregulated by the 1996 Telecommunications Act, have invested almost 50 billion dollars in upgrades to their networks. These upgrades have in turn enabled them to deploy broadband, and cable companies now serve 70 percent of the broadband market. Satellite companies, also regulated in the broadband market, are deploying one-way high-speed Internet access and are working to deploy two-way broadband services. Some companies are utilizing wireless cable licenses to deploy broadband, and they too are deregulated in the broadband market.

Deregulation is a powerful motivator for the deployment of new technologies and services. Unregulated small cable companies, and all but unregulated rural and small telephone companies are taking advantage of their regulatory status to deliver broadband to rural consumers.
The broadband market, distinct from the local telephone market, is new. Yet, federal and State regulators are placing tremendous economic incentives on broadband-specific facilities deployed by incumbent local exchange carriers. ILECs, the only regulated broadband service providers, as if they were part and parcel of their local telephone service. This is simply not the case. The local telephone market is not synonymous with the broadband market. The disparate regulatory treatment of phone companies deploying broadband and all other broadband service providers is serving to deny broadband to many rural communities.

Broadband facilities being deployed by ILECs throughout our cities and towns require billions of dollars of capital in new infrastructure that must be added to the existing telephone network. The sparse populations of rural communities already diminish the return on infrastructure investment so that, when combined with local market regulations, ILEC broadband deployment has not proven to be cost effective.

As a result, rural telephone exchanges owned by regulated telephone companies are not being upgraded for broadband services even while unregulated companies seem to be capable of making that substantial investment. In Wellington, Kansas, a rural community with around 10,000 residents, a small unregulated cable company called Sumner Cable has deployed broadband service. Yet, Southwestern Bell, the local regulated telephone company and a Bell operating company, is not deploying broadband. Different regulatory treatments of these companies under the incumbent local exchange carrier approach make it easier for one to deploy broadband, but not the other. This is being seen throughout our nation’s rural communities, and is particularly disappointing. The Bell operating companies serve approximately 65 percent of rural telephone lines like those found in Wellington.

Broadband is certainly being deployed at a much faster rate in urban markets than rural markets. But that does not mean all is well in our nation’s cities. Today, broadband deployment in urban markets is being characterized by the market dominance of the cable TV industry, unregulated in the broadband market, which serves approximately 70 percent of all broadband subscribers. This is good for consumers. Cable companies have taken full advantage of their deregulated status, and the inherent economic incentives, to deploy new technologies and provide new services to consumers. But while the cable industry finishes rebuilding its entire infrastructure with digital technology that permits it to offer broadband, ILECs are, in many instances, not making the same investment to rebuild their infrastructure.

The Rural Broadband Deployment Act of 2001 is a more geographically limited approach to spurring broadband deployment. It includes broader deregulation of ILEC broadband services, but limits that deregulation only to rural communities. By ramping up the deregulation, yet restricting the size of the market where that deregulation is applied, it is my intention to create the same balance of requirements that I previously mentioned.

I realize that introducing two pieces of legislation on the same issue on the same day is a bit unorthodox. But given the clear need and importance of universal broadband, I feel it is my duty to do anything I can to move this debate forward. Providing alternatives to the limited approach of my colleagues is part of this process.

I urge my colleagues to give consideration to either of these bills, and I urge your cosponsorship.

Mr. ENZI. Mr. President, I rise as an original cosponsor of Senator BROWNBACK’s Broadband Deployment and Competition Enhancement Act of 2001. I thank my colleague from Kansas for drafting this innovative legislation to help solve the problem of the lack of availability of advanced telecommunications services in rural areas.

Telecommunications has come a long way from the days of the party line and operator assisted calls. Telecommunications services have allowed entrepreneurs to start businesses anywhere they can get a dial tone and have helped to bring jobs to rural America. I have been working to encourage more infrastructure development as a way of creating a business environment that will attract new jobs to the places that need them.

The 20th Century has seen the economy of the United States and the world change from an industrial economy to an information economy. We are only at the beginning of the “Information Revolution” and now is the best time for private industry and government to take a pro-active role in helping to create the business and regulatory conditions necessary to encourage the widespread deployment of advanced telecommunications services.

Since 1995, the State of Wyoming has been attempting to create a competitive local phone market that would have a multitude of competitors and lower rates. Providing service in Wyoming is significantly higher than in other areas of the Nation due to our low population and long distances between towns. This has caused many companies to pass Wyoming by in search of easier profits in urban areas and leave many of our towns with only one choice for broadband service, if they have a provider at all.

One of the reasons why advanced services have been slowly deployed is that Wyoming’s rural areas make the telecommunications needs of our residents very different than people in urban areas. The economic model of the industry is to serve areas with a high population density in order to keep costs low. In the West, it’s harder to make that model work, but the independent telephone companies, Qwest and the cable companies are working hard to offer their customers a full complement of services at a reasonable price. The urban telephone customers take for granted. High speed Internet access has been delayed for two reasons, cost and availability. Advanced telecommunications...
services can help to build Wyoming’s economy. Companies are beginning to realize that our State has a ready work force and the lower costs of doing business are making companies choose Wyoming. Many existing businesses are taking advantage of the Internet to bring their products and services to the world. Where once a store was limited to only being able to serve those within driving distance of it, now it can bring Wyoming to the world. This cannot take place without the continued roll out of broadband business services.

Wyoming has for many years been promoting the benefits of telecommuting. People living around the State have been able to connect to their office via computer and remain in contact with clients. Telecommuting now requires high speed access and that is available and economical throughout the entire State. In other areas, the only data access is via a regular dial-up modem. There are companies that are deploying digital subscriber lines and cable modems, but those locations are limited and the price is too high to be adopted by a majority of Wyoming residents. Over time that price will come down, but this is not a call for public subsidies or government mandates, but a call for more competition and deregulation. Competition will bring lower prices and greater deployment of services to even the smallest of towns.

That is why I am an original cosponsor of Senator Brownback’s bill. His bill creates a deregulatory regime that is backed by specific performance requirements and strong enforcement provisions.

The bill requires Incumbent Local Exchange Carriers, ILEC’s, to be able to provide advanced services to all of its customers within 5 years of the enactment of this legislation in order to receive the benefits of deregulation. This ensures that companies will bring advanced services and competition to rural areas by giving a hard deadline for companies to complete their buildout.

Advanced services would be deregulated by exempting them from the requirements that ILECs make packet switching and fiber available to competitors at below cost rates. This would specifically exempt interstate services that makes it possible to provide advanced services over traditional phone lines. The bill also exempts fiber optic lines owned by ILECs from below cost pricing if the fiber is deployed either to the home or in areas that never had telephone infrastructure before. I believe that this will be key to making the economics of rural advanced services more favorable for companies wanting to invest in rural broadband deployment.

The bill would also give ILECs the necessary pricing flexibility for their broadband services. I believe that we should not hamstring a new technology in a very competitive marketplace with outdated regulations on price. It is important that Congress ensure that in addition to the wholesale pricing relief contained in this legislation, it also includes retail pricing flexibility to further make the economics more favorable.

The bill does not change the requirements that ILECs allow competitors to collocate their equipment in an ILEC facility. Collocation is very important since it ensures that competitors have access to the network and do not have to build distant links or other connections to the ILEC network.

The bill also does not eliminate the requirement that ILECs give competitors access to local loops. In fact, if an ILEC does not grant a competitor access to local lines the bill gives states the right to strip the ILEC of the deregulatory benefits contained in the bill.

The bill’s enforcement provisions are very strong and explicit. If a company does not meet the build-out requirements or cannot collocate and/or grant competitors access to local loops, state regulators have the authority to return an ILEC to the old regulatory regime. Deregulation without proper enforcement mechanisms does not benefit consumers and competitors. It is important that we hold ILECs accountable if they are granted relief from the pricing requirements.

I have been working with my colleagues to create a mix of deregulation and incentives to encourage private infrastructure development. Government cannot force private firms to make unprofitable investments, but government can work to make investments in rural infrastructure more favorable.

The Broadband Deployment and Competition Investment Act helps to make investment in advanced services in rural areas possible.

The great strides made by both Qwest, the smaller phone companies and the cooperatives show that rural areas can support fiber optic based services. The Wyoming Equality Network, the fiber based network linking all of Wyoming’s high schools, has been a great advancement for education and I applaud the State’s foresight for undertaking such a far reaching project. The WEN has had the added effect of showing other companies that it is possible to link rural areas with fiber, bringing high speed data services and other advanced services to homes and businesses.

I am pleased to see that Qwest and several smaller companies have worked together to close the inter-office fiber loop, linking all local phone exchanges with a fiber optic connection. This will allow for greater capacity and new services like DSL and other high speed broadband services. This connection will help many areas of Wyoming overcome many of the service problems they have been experiencing for the last several years.

The objective of telecommunications policy should be to bring as many players into the marketplace and allow them to compete in the marketplace. Congress should not tie a company’s hands in a continually changing and competitive marketplace. We should ensure that all parties are on a level playing field and that all services are regulated in the same manner regardless of the company that is offering the service or the technology they are using. This legislation will help bring some needed consistency to the regulation of advanced services and I urge my colleagues to support this vital legislation.

By Mr. WARNER:

S. 1129. A bill to increase the rate of pay for certain offices and positions within the executive and judicial branches of the Government, respectively, and for other purposes; to the Committee on Governmental Affairs.

Mr. WARNER. Mr. President, I am pleased to introduce legislation today to provide relief from the pay compression affecting career Federal employees serving in the Senior Executive Service, SES. It is nearing a decade since Senior Executive Service members have seen a meaningful adjustment in pay.

The salaries earned by these employees are, on average, well below those earned by their peers in private industry. Pay caps for the Senior Executive Service and certain other positions in the government are tied to the Executive Schedule which includes senior level officials as well as Members. Pay finishes at a position just above the Senior Executive Service. The Executive Schedule in five of the past eight years has resulted in pay compression so severe that 60 percent of the entire executive corps earns essentially the same salary despite differences in obligation and executive level. Over the past eight years, pay increases for these executives would average 1 percent per year. There is not much of an incentive to accept a higher position with added responsibilities and increased work hours for little or no increase in pay.

Many senior executives leave Federal service to begin second careers in the private sector because of the salary compression. Others find that retirement is a more sensible option, whereas Federal annuitants receive an average two and a half percent cost of living adjustment every year compared to the average one percent per year pay increase a senior executive may receive if she or he remained in Federal service.

I have heard from many SES employees relating their own stories as to how the problem of pay compression has affected them. I would like to share a few of these personal accounts.
From an ES-6 with the Department of Defense: “My pay has been capped and I have not been receiving raises for years. This year I received a surprise. I turned 55 and I subsequently experienced a $115.16 decrease in pay in January because my life insurance increased considerably, along with the contribution to retirement increase. Age 55 is not old! I expect to work a few more years and I expect my pay to increase so that I can enjoy my retired years with a reasonable retirement income that has not been eroded by the pay cap.”

A Senior Executive at the Department of Health and Human Services: “The highest career Deputy General Counsel position in my agency became vacant, and I was called by the General Counsel to seriously consider taking it. Aside from the many family issues involved, career, where I am fairly compensated for my efforts, an overriding aspect is the fact that I am already at the pay cap. Thus, a move into a position with more responsibility would provide no financial incentive. Although I’m obviously not in government for any huge financial rewards, I don’t want to go backward financially. Thus, I have decided to forgo this very challenging opportunity that would be a fitting pinnacle to my career with the Federal Government.”

Private Contractor, Department of Defense: “I turned down a job at the US Nuclear Command and Control System Support Staff, where I’d been stationed on active duty as a Regular Air Force Officer. I retired from the NSSS four years ago after over 23 years in the Air Force, and was honored to get offered a Civil Service position back at the office. Instead, I reluctantly turned down the job. The reason was primarily money. I wanted to take it, but would have been necessary to give up part of my Air Force retirement pay because I retired as a regular officer. To make matters worse, my pay would have been capped. The bottom line is I would have taken a pay cut with no prospect of a pay raise in the foreseeable future. My family and I were asked to sacrifice pay and time together which we willingly did for over 23 years. Instead, I’m supporting the government in the role of a private contractor, where I’m fairly compensated for my expertise.”

These are just a few examples which illustrate how the freeze on executive pay and resulting pay compression have seriously eroded the government’s ability to attract and retain the most highly-competent career executives. This is a very timely issue for the Federal Government, seventy percent of the SES corps is eligible to retire over the next four years and almost half are expected to retire upon eligibility. Agencies are being forced to make special requests to increase salaries for their managers and supervisors. They recognize that when someone leaves Federal service, their knowledge and experience goes with them.

The legislation I am introducing increases base pay for Senior Executives from Executive Level IV to Executive Level III, extends locality pay to the Executive Schedule, increases the locality cap from Executive Level III to Executive Level III plus an additional pay, and increases the overall limit on compensation that can be received in a single year by career executives from Executive Level I to the Vice-Presidential level. The bill also includes certain positions in the Federal judiciary which have been impacted by the pay caps. The actual raises career executives would receive would continue to be determined at the President’s discretion. The legislation does not, in and of itself, raise senior executive pay and does not affect the salaries of Members of Congress.

It is also my intention to ensure that this issue remains a priority for the incoming Director at the Office of Personnel Management. During the confirmation hearing before the Senate Governmental Affairs Committee last week for Mrs. Kay Coles James, President Bush’s nominee to head the Office of Personnel Management, Mrs. James indicated her willingness to work with Members to address the problem of pay compression.

Pay compression within the Senior Executives Service is one of the more pressing issues facing the Federal employee workforce and must be addressed as the situation will only get worse. The only means to alleviate pay compression for the Senior Executives at this time is through legislation. Therefore, I encourage my Senate colleagues to support the bill.

I ask you to understand that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1129
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROVISIONS RELATING TO CERTAIN OFFICES AND POSITIONS WITHIN THE EXECUTIVE BRANCH.
(a) EXECUTIVE SCHEDULE PAY RATES.—(1) In general.—Section 5318 of title 5, United States Code, is amended—

(A) by redesignating subsection (a) as subsection (a)(1) and subsection (b) as paragraph (2); and

(B) by adding at the end the following:

“(b)(1) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of basic pay under the General Schedule, each rate of basic pay for contract appeals board members shall be adjusted by an amount determined by the President to be appropriate.”

(2) LIMITATION ON CERTAIN PAYMENTS.—Section 5372a of title 5, United States Code, is amended—

(A) in subsection (b)(2) by striking “97 percent of the rate under paragraph (1)” and inserting “less than 97 percent of the rate under paragraph (1)”;

(B) in subsection (b)(3) by striking “94 percent of the rate under paragraph (1)” and inserting “less than 94 percent of the rate under paragraph (1)”;

(C) by adding at the end the following:

“(d) Subject to subsection (a) effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of basic pay under the General Schedule, each rate of basic pay for contract appeals board members shall be adjusted by an amount determined by the President to be appropriate.”

(3) CONFORMING AMENDMENTS.—Section 5318 of title 5, United States Code, is amended—

(A) in the first sentence of subsection (a)(1) and (a)(2) by inserting—

(i) by striking “Subject to subsection (b),”;

(ii) by inserting “Subject to paragraph (2);”;

and

(B) by inserting “exclusive of any previous adjustment under subsection (b)” after “Executive Schedule”; and

(C) in subsection (a)(2) as redesignated by striking “subject to subsection (a)” and inserting “paragraph (1)”; and

(b) AMENDMENTS RELATING TO CERTAIN LIMITATION AND OTHER PROVISIONS.

(1) PROVISIONS TO BE APPLIED BY EXCLUDING EXECUTIVE SCHEDULE COMPAREABILITY ADJUSTMENT.—Sections 5303(f), 5304(h)(1)(F), 5306(e), and 5372a of title 5, United States Code, are each amended by inserting “exclusive of any adjustment under section 5318(b)” after “Executive Schedule”.

(2) LIMITATION ON CERTAIN PAYMENTS.—Section 5303(f)(7)(A) of title 5, United States Code, is amended by adding at the end the following:

“(3) In the case of an employee who is receiving basic pay under section 5372a, 5376, or 5382, paragraph (1) shall apply substituting ‘the rate of salary of the Vice President of the United States’ for the ‘annual rate of basic pay payable for level 1 of the Executive Schedule’; and paragraph (2) may extend the application of the preceding sentence to other equivalent categories of employees.”

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United States Code, are each amended by striking “level IV” each place it appears and inserting “level III”.

SEC. 2. PROVISIONS RELATING TO CERTAIN OFFICES AND POSITIONS WITHIN THE UNITED STATES COURTS.

(a) INCREASE IN MAXIMUM RATES OF BASIC PAY ALLOWABLE.—

(1) FOR POSITIONS COVERED BY SECTION 603(a)(1) OF TITLE 28, UNITED STATES CODE.—Section 606(a)(5) of title 28, United States Code, is amended by striking “by law” and inserting “by law (except that the rate of basic pay for an employee in a judicial branch position may not exceed the rate for level IV of the Executive Schedule)”.

(b) SALARY OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—

(A) IN GENERAL.—Section 332(b)(1) of title 28, United States Code, is amended by striking “level IV of the Executive Schedule pay rates under section 5315” and inserting “level III of the Executive Schedule pay rates under section 5314”.

(c) FOR PERSONNEL OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—

(A) IN GENERAL.—Section 606 of title 28, United States Code, is amended by striking “level IV of the Executive Schedule under section 5315” and inserting “level III of the Executive Schedule under section 5314”.

(B) SALARY OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 603 of title 28, United States Code, is amended by striking “level IV” each place it appears and inserting “level III”.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective on and after the date of enactment of this Act.

By Mr. CRAIG (for himself, Mrs. FEINSTEIN, and Mr. CORZINE):

S. 1130. A bill to require the Secretary of Energy to develop a plan for a magnetic fusion burning plasma experiment for the purpose of accelerating the scientific understanding and development of fusion as a long-term energy source, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, today I am introducing a bill of great significance to our energy future, the Fusion Energy Sciences Act of 2001. I am especially pleased that my colleague from California, Senator FEINSTEIN, is joining me as the primary cosponsor of this legislation. This bill is designed to strengthen the fusion program at the Department of Energy and to accelerate planning for the next major step in fusion energy science development.

In recent months, the news has been dominated by energy concerns. Although there may be differences of opinion about the causes of our current energy problems and what the appropriate solutions might be, there is general agreement that energy forms a vital link to our economic prosperity and provides the means by which the conduct of our daily lives is made easier and more comfortable. While we grapple with these ideas, we need to stay focused on long term investment in those endeavors which have the potential to help secure our energy future. I believe that fusion energy has that potential.

Fusion is the natural process that powers the sun and the stars. At its most basic, it is the combining or fusion of two small atoms into a larger atom. When two atomic nuclei fuse, tremendous amounts of energy are released. If we can achieve this joining of atoms, and successfully contain and harness the energy produced, fusion will be close to an ideal energy source. It produces no air pollutants because the byproduct of the reaction is helium. It is safe, hydrogen, is practically unlimited and easily obtained.

In the technical community, the debate over the scientific feasibility of fusion energy is now over. During the past decade, significant advances in fusion science have been made in the laboratory setting. I am proud to note that some of this underlying scientific work has been conducted at the Idaho National Engineering and Environmental Laboratory in my State, which has been selected by the Department of Energy to lead efforts on fusion safety.

Although certain scientific questions remain, the primary outstanding issue about fusion energy at this point is whether fusion energy can make the challenging step from the laboratory into a practical energy resource. Achieving this goal will require high quality science, innovative research and international collaboration. It may be possible to accelerate this process. In addition to these steps, continued investment in a strong underlying program of fusion science and plasma physics will still be necessary.

Therefore, this bill instructs the Secretary of Energy to transmit to the Congress by July 1, 2001 a plan for a “burning plasma” experiment, which is the next necessary step towards the eventual realization of practical fusion energy. At a minimum, the Secretary must submit a plan for a domestic U.S. experiment, but may also submit a plan for U.S. involvement in an international burning plasma experiment if such involvement is cost effective and has equivalent scientific benefits to a domestic experiment. The bill also requires that within six months of the enactment, the Secretary of Energy shall submit a plan to Congress to ensure a strong scientific base for the fusion energy sciences program. Finally, for ongoing activities in the Department of Energy’s fusion energy sciences program and for the purpose of preparing the plans called for, the bill authorizes $320,000,000 in fiscal year 2002 and $335,000,000 in fiscal year 2003.

As we suffer through near term challenges in the energy sector and meeting our immediate needs, it is more crucial than ever that we invest in those items that hold the promise for long term solutions. Recent accomplishments in the laboratory demonstrate that fusion energy has this potential.

The Congress finds that—

(1) economic prosperity is closely linked to an affordable and ample energy supply;

(2) environmental quality is closely linked to energy production;

(3) population, worldwide economic development, energy consumption, and stress on the environment are all expected to increase substantially in the coming decades;

(4) the few energy options with the potential to meet economic and environmental needs for the long-term future must be pursued aggressively now, as part of a balanced national energy plan;

(5) fusion energy is a long-term energy solution that is expected to be environmentally benign, safe, and economical, and to use a fuel source that is practically unlimited;

(6) the National Academy of Sciences, the President’s Committee of Advisors on Science and Technology, and the Secretary of Energy Advisory Board have recently reviewed the Fusion Energy Sciences Program and each strongly supports the fundamental science and creative innovation of the program, and has confirmed that progress toward the goal of producing practical fusion energy has been excellent;

(7) each of these reviews stressed the need for the Fusion Energy Sciences Program to move forward to a magnetic fusion burning plasma experiment with the potential of producing substantial fusion power output and providing key information for the advancement of fusion science;

(8) the National Academy of Sciences has also called for a broadening of the Fusion Energy Sciences Program research base as a...
means to more fully integrate the fusion science community into the broader scientific community; and

(9) the Fusion Energy Sciences Program budget is inadequate to support the necessary infrastructure for the present generation of experiments, and cannot accommodate the cost of a burning plasma experiment constructed by the United States, or even the cost of key participation by the United States in an international effort.

SEC. 3. PLAN FOR FUSION EXPERIMENT.

(a) PLAN FOR UNITED STATES FUSION EXPERIMENT.—In consultation with FESAC, the Secretary shall develop and transmit to the Congress a plan for the purpose of ensuring a strong scientific base for the fusion energy research and development described in subsection (a) shall prescribe in subsection (a) shall—

(1) address key burning plasma physics issues; and

(2) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.

(b) REQUIREMENTS OF PLAN.—The plan described in subsection (a) shall—

(1) address key burning plasma physics issues; and

(2) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.

(c) UNITED STATES PARTICIPATION IN AN INTERNATIONAL EXPERIMENT.—(1) Address key burning plasma physics issues; and

(2) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the development and review of the plans described in this Act and for activities of the Fusion Energy Sciences Program $320,000,000 for fiscal year 2002 and $355,000,000 for fiscal year 2003.

Mrs. FEINSTEIN. Mr. President, I rise today to join my colleague, Senator Larry Craig, in introducing this legislation to accelerate the development of fusion energy as a practical and realistic alternative to fossil fuels for our nation's energy needs.

I would also like to commend my colleagues, Senator John Ensign, and Representative GOLDFERN, who introduced the “Fusion Energy Sciences Act of 2001” on the House side as H.R. 1781.

Since the beginning of the Manhattan Project, scientists have been trying to harness energy from fusion to produce electricity. This legislation will help the scientific community expedite the development of fusion as a viable option for our energy needs.

To help fusion science move from the lab to the grid, this bill fast-tracks a key experimental fusion project. This bill also authorizes $320 million for Fiscal Year 2002 and $335 million for Fiscal Year 2003 to speed up fusion's current estimated 45-year implementation timetable.

I have spoken frequently to my colleagues on California's current energy situation.

Last week the Department of Energy predicted the State will suffer from around 110 hours of rolling blackouts this summer. Experts say $21.8 billion of economic output will be lost and over 135,000 workers will lose their jobs because of this summer's blackouts.

I will continue to try to help California and the rest of the West in the short-term using blackouts, blackouts are less frequent, lowering electricity costs on the wholesale market, keeping natural gas prices reasonable, and bringing in new supplies of power online are the key objectives I have been working toward to bring stability to the Western Electric Market.

While I work on the short-term problems in California, I join my colleague from Idaho on this bill to develop a key long-term solution to our current energy problems.

As world populations grow, it is no secret that fossil fuels are finite and polluting. Beyond expanding renewable energy sources, the energy from the sun and the wind, fusion holds a great deal of potential to expand our nation's energy supply.

Fusion is a safe, almost inexhaustible energy source with major environmental advantages. As a co-sponsor of this legislation, I hope to see fusion move quickly from an experiment in the lab to a reality for our homes and businesses.

We have already succeeded in using scientific advancements to harness energy occurring elsewhere on our planet. Solar panels collect the sun's rays to heat pools and power homes. Windmills transfer nature's gusts into electrical currents. Water running from mountain tops to the sea can produce significant amounts of hydroelectric power.

And now, with fusion energy, we will be able to harness the power of the stars to create an almost unlimited and clean form of energy.

Fusion energy is the result of two small hydrogen atoms combining into a larger atom. The energy released from this fusion of the atoms can be harnessed to generate electricity.

Unlike nuclear power, which uses radioactive materials for fuel, fusion uses hydrogen from water. Unlike fossil fuels, which pollute the air when burned, the only byproduct in a hydrogen fusion reaction is helium, an element already plentiful in the air.

Besides being environmentally benign, fusion is a practically unlimited fuel source. In fact, scientists predict that using 1 gallon of sea water, fusion can yield the energy produced from 300 gallons of gasoline. And with fusion, 50 cups of sea water can be the energy equivalent of 2 tons of coal.

Fusion energy has proven to be a practical energy endeavor, worthy of more investment for research and development. So just where do we go from here? How do we harness the power of the stars?

A 1999 review by the Department of Energy's task force on Fusion Energy concluded: one, substantial scientific progress has been made in the science of fusion energy; two, the budget for fusion research needs to grow; and three, a burning plasma experiment needs to be carried out.

To expedite the use of fusion to meet our energy needs, we need to strengthen the efforts already underway in fusion research and development and create new programs financed by the government.

Scientists agree that at current funding levels, fusion is approximately 45 years away from entering the market place as a viable energy source.

This timeline is a three step process in which the scientific community can: first, carry out a burning plasma experiment; second, build a fusion energy test facility; and third,
establish a fusion demonstration plant to generate electricity.

Since practical fusion energy generation technology remains elusive from real implementation, the first thing we can do is fund the development of a burning plasma experiment.

This legislation will ensure this project will happen soon, carried out either by the scientific community in the United States, or in collaboration with an international effort. The bill requires the Secretary of Energy to develop a plan by 2004 for a magnetic fusion burning plasma experiment.

It is important to point out that this bill adds the burning plasma experiment in addition to, and not at the expense of, other ongoing projects.

The goal of fusion energy is to create a continually burning fuel like a fire refueling itself. Developing a magnetic fusion plasma experiment will help the scientific community demonstrate how the heat from the fusion reaction can maintain the reaction as a self-generating fuel. Strong magnetic fields allow the plasma to be heated to high temperatures for fusion.

This legislation will help the scientific community overcome the key stumbling block to fusion development. By authorizing $320 million for Fiscal Year 2002 and $335 for Fiscal Year 2003 the fusion plasma experiment will be carried out and fusion funding that peaked in the 1970s, but has since tapered off, will be restored.

Let me just take a moment to mention where this funding is going, because it is particularly important for me to point this out.

Annual Federal funding for fusion energy has averaged around $230 million in the last few years. In Fiscal Year 2001, Congress appropriated $218.49 million for fusion.

This money has provided approximately 1,100 jobs in California at the following U.S. Fusion Program Participant locations: UC Davis, UC Berkeley, Stanford, UCLA, UC Santa Barbara, Cal Tech, UC San Diego, UC Irvine, Occidental College, Lawrence Livermore National Lab, Sandia National Lab, Stanford Linear Accelerator Center, Lawrence Berkeley National Lab, TSI Research Inc. and General Atomics.

Despite all of these expenditures at these facilities and others, the Fusion Energy Science Advisory Committee has concluded that lack of funding is hindering the technological advance towards fusion energy development. And the Department of Energy’s task force on Fusion Energy has concluded that, “In light of the promise of fusion,” funding remains “subcritical.”

Currently, the international community is outpacing us on the road to realizing the impressive benefits of this new energy resource. The Japanese budget for this type of research is about 1.5 times that of the U.S., and the European budget is about 3 times greater.

It is critical that we be the leader in the renewable energy resources sector. I urge my colleagues to join Senator Clinton Clinton and me in supporting fusion energy as a clean, safe, and abundant energy source for our Nation’s long-term energy supply.

By Mr. LEAHY:
S. 1131. A bill to promote economically sound modernization of electric power generation capacity in the United States, to establish requirements to improve the combustion heat rate efficiency of fossil fuel-fired electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitrogen, oxides, and sulfur dioxide, to require that all fossil fuel-fired electric utility generating units operating in the United States meet access review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and fuel cells; to the Committee on Finance.

Mr. LEAHY. Mr. President, the Administration finally released its National Energy Policy last month. As I noted at the time, I have serious concerns about several of its recommendations, not the least of which was its proposal to build 1,500 to 1,900 new electric power plants many of them burning relatively dirty fossil fuels, while, at the same time, questioning the enforcement of clean air laws that protect the public from excess power plant emissions.

Today, fossil fuel-fired power plants constitute the largest source of air pollution in the United States. Every year, they collectively emit approximately 2.2 billion tons of carbon dioxide, 13 million tons of acid rain-producing sulfur dioxide, 7 million tons of acid rain- and smog-producing nitrogen oxides, and 43 tons of highly toxic mercury.

How could pollutants still be dumped into our atmosphere at this scale? One reason that cannot be ignored is that more than 75 percent of the fossil-fuel fired power plants in the United States are still “grandfathered,” or exempt from modern Clean Air Act standards. When the Clean Air Act and its amendments were passed, Congress assumed that old, 1950’s era power plants would be retired over time and replaced by newer, cleaner plants within 30 years. They were not. Unfortunately, utilities have kept these inefficient, pollution-prone power plants on line because they are inexpensive. These grandfathered plants continue to burn cheap fuel and refuse to invest in emissions control technologies that protect air quality.

The continuing harm to our atmosphere, lands, waters, State economies, and public health by excess power plant emissions is well documented. In my home state of Vermont, acid deposition caused by emissions of sulfur dioxide and nitrogen oxide has scarred our forests and poisoned our streams. Migrating for Vermont the acid deposition that nationwide advisories against fish consumption are necessary to protect citizens. Emissions of greenhouse gas threaten to negatively change the climate, the source of Vermont maple syrup and other economic Vermont crops. And despite Vermont’s tough air laws and small population, out-of-state particulates and smog lower our air quality, endanger our health, and ruin views of our Green Mountains.

Earlier this year, I co-sponsored bipartisan legislation, the “Clean Power Act of 2001,” that strictly capped national power plant emissions and ended by more than 1 million tons. To promote rapid and reliable changes in the utility industry, that legislation also gave utilities the regulatory tools needed to make those changes with incentives for free market trading of emissions credits, a so-called “cap-and-trade” mechanism. I remain a supporter of the Clean Power Act of 2001 and hope it becomes key to energy policy negotiations in Congress. However, I believe we can do even more.

So today I am introducing a second piece of legislation covering power plant emissions that I also intend to promote during the energy debate. The “Clean Power Plant and Modernization Act of 2001” again strictly caps emissions and ends the “grandfather” loophole on old plants. Instead of providing utilities the incentive of free market trading, however, my bill creates strong financial incentives, in the form of accelerated tax depreciation, for older utilities that cut emissions and, in the case of their plants to 50 percent efficiency. With current average energy efficiency of U.S. power plants at only 33 percent, this bill is another proposal that protects the environment and public health while providing the energy industry with a comprehensive and predictable set of long-term regulatory requirements.

Under this bill, mercury emissions would be cut by 90 percent, annual emissions of sulfur dioxide would be cut by more than 10 million tons, and Phase II Clean Air Act Amendments requirements, and nitrogen oxide emissions would be cut by more than 3 million tons per year beyond Phase II requirements. This bill would also prevent at least 650 million tons of carbon dioxide emissions per year.

And this bill goes beyond emissions caps and transition incentives to recognize the emergence of energy technologies that are more environmentally friendly. It provides substantial funding for research, development, and commercial demonstrations of renewable and clean energy technologies such as solar, wind, biomass,
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S. 1131

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clean Power Plant and Modernization Act of 2001." (b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Title; table of contents.
Sec. 2. Definitions.
Sec. 5. Air emission standards for fossil fuel-fired generating units.
Sec. 8. Clean Air Trust Fund.
Sec. 9. Accelerated depreciation for inves-
tor-owned generating units.
Sec. 10. Grants for publicly owned gener-
ating units.
Sec. 11. Recognition of permanent emission reduc-
tions in future climate change implementation pro-
grams.
Sec. 12. Renewable and clean power genera-
cation.
Sec. 13. Clean coal, advanced gas turbine, and combined heat and power demonstration program.
Sec. 15. Assistance for workers adversely af-
fected by reduced consumption of coal.
Sec. 16. Community economic development incentives for communities ad-
versely affected by reduced con-
sumption of coal.
Sec. 17. Carbon sequestration.
Sec. 18. Atmospheric monitoring.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the United States is relying increas-
ingly on old, needlessly inefficient, and high-
ly polluting power plants to provide elec-
tricity; and
(2) the pollution from those power plants causes a wide range of health and environ-
mental damage, including—

(A) fine particulate matter that is associ-
ated with the deaths of approximately 50,000 Americans annually;
(B) urban ozone, commonly known as "smog," that impairs normal respiratory functions and is of special concern to indi-
viduals afflicted with asthma, emphysema, and other respiratory ailments;
(C) acid deposition that damages estuaries, lakes, rivers, and streams (and the plants and animals that depend on them for sur-
vival) and leaches heavy metals from the soil;
(E) mercury and heavy metal contamina-
tion that renders fish unsafe to eat, with es-
pecially serious consequences for pregnant women and their fetuses;
(F) eutrophication of estuaries, lakes, riv-
ers, and streams; and
(G) global climate change that may funda-
mentally and irreversibly alter human, anima-
and plant life;

(3) tax laws and environmental laws—

(b) SEC. 17. Carbon sequestration.

(1) economic development incentives for communities ad-
versely affected by reduced consumption of coal.
(2) study to assess the potential for carbon sequestration in the United States.

(2) found that—

(1) the United States is relying increas-
ingly on old, needlessly inefficient, and high-
ly polluting power plants to provide elec-
tricity; and
(2) the pollution from those power plants causes a wide range of health and environ-
mental damage, including—

(A) fine particulate matter that is associ-
ated with the deaths of approximately 50,000 Americans annually;
(B) urban ozone, commonly known as "smog, that impairs normal respiratory functions and is of special concern to indi-
viduals afflicted with asthma, emphysema, and other respiratory ailments;
(C) acid deposition that damages estuaries, lakes, rivers, and streams (and the plants and animals that depend on them for sur-
vival) and leaches heavy metals from the soil;
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(A) ingestion of breast milk;
(B) ingestion of drinking water, and foods other than fish, that are contaminated with methylmercury; and
(C) dermal uptake through contact with soil and water;
(15) the report entitled “Mercury Study Report to Congress” and submitted by the Environmental Protection Agency under section 122(b)(1)(B) of the Clean Air Act (42 U.S.C. 7412(n)(1)(B)), in conjunction with other scientific knowledge, supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and mercury concentrations in air, soil, water, and sediments;
(16)(A) the Environmental Protection Agency report described in paragraph (15) supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and methylmercury concentrations in freshwater fish;
(B) in 2000, 41 States issued health advisories that warned the public about consuming methylated fish, as compared to 27 States that issued such advisories in 1993; and
(C) the number of mercury advisories nationwide increased from 899 in 1993 to 2,242 in 2000, an increase of 149 percent;
(17) pollution from power plants can be reduced through adoption of modern technologies and practices, including—
(A) methods ofcombusting coal that are intrinsically more efficient and less polluting, such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;
(B) methods ofcombusting cleaner fuels, such as gases from fossil and biological resources, and combined cycle turbines;
(C) treating flue gases through application of pollution controls;
(D) methods ofextracting energy from natural, renewable resources of energy, such as solar and wind resources;
(E) methods ofproducing electricity and thermal energy from fuels without conventional combustion, such as fuel cells; and
(F) combined heat and power methods ofextracting and using heat that would otherwise be wasted, for the purpose of heating or cooling office buildings, providing steam to processing facilities, or otherwise increasing total efficiency;
(18) installing the technologies and practices described in paragraph (17) would increase competitiveness and productivity, secure employment, save lives, and preserve the future;
(19) accurate, long-term, nationwide monitoring of atmospheric acid and mercury deposition is essential for—
(A) determining deposition trends;
(B) evaluating the local and regional transport of emissions; and
(C) assessing the impact of emission reductions.
(b) PURPOSES.—The purposes of this Act are—
(1) to protect and preserve the environment while safeguarding health by ensuring that each fossil fuel-fired generating unit minimizes air pollution to levels that are technologically feasible through modernization and application of pollution controls;
(2) to greatly reduce the quantities ofmercury, carbon dioxide, sulfur dioxide, and nitrogen oxides entering the environment from combustion of fossil fuels;
(3) to permanently reduce emissions of those pollutants by increasing the combustion heat rate efficiency of fossil fuel-fired generating units to levels achievable through—
(A) use ofcommercially available combustor technologies, including clean coal technologies such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;
(B) installation ofpollution controls;
(C) increasing the use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells; and
(D) promotion of application of combined heat and power technologies;
(4)(A) to achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 90 percent (based on the higher heating value of the fuel),
(B) FUTURE GENERATING UNITS.—Each fossil fuel-fired generating unit that commences operation more than 10 years after the date of enactment of this Act shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 50 percent (based on the higher heating value of the fuel), unless granted a waiver under subsection (d).
(b) TEST METHODS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this section.
(c) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit issued under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.
(d) WAIVER OF COMBUSTION HEAT RATE EFFICIENCY STANDARD.—
(1) APPLICATION.—The owner or operator of a generating unit that commences operation more than 10 years after the date of enactment of this Act may apply to the Administrator for a waiver of the combustion heat rate efficiency standard specified in subsection (a)(2) that is applicable to that type of generating unit.
(2) ISSUANCE.—The Administrator may grant the waiver only if—
(A)(i) the owner or operator of the generating unit demonstrates that the technology to meet the combustion heat rate efficiency standard is not commercially available at the time of the request; or
(ii) the owner or operator of the generating unit demonstrates that, despite best technical efforts and willingness to make the necessary level of financial commitment, the combustion heat rate efficiency standard is not achievable at the generating unit; and
(B) the owner or operator of the generating unit enters into an agreement with the Administrator to offset by a factor of 1.5 to 1, using a method approved by the Administrator, the emission reductions that the generating unit does not achieve because of the failure to achieve the combustion heat rate efficiency standard specified in subsection (a)(2).
(e) EFFECT OF WAIVER.—If the Administrator grants a waiver under paragraph (1), the generating unit shall be required to achieve and maintain, at all operating levels, the combustion heat rate efficiency standard specified in subsection (a)(1).

SEC. 5. AIR EMISSION STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

(a) ALL FOSSIL FUEL-FIRED GENERATING UNITS.—
(1) IN GENERAL.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit, regardless of its date of construction, or commencement of operation, shall be subject to, and operating in physical and operational compliance with, the new source review requirements under section 111 of the Clean Air Act (42 U.S.C. 7411).
(b) EMISSION RATES FOR SOURCES REQUIRED TO ACHIEVE 50 PERCENT EMISSION reductions.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit subject to section 4(a)(1) shall be in compliance with the following emission limitations:
(1) MERCURY.—Each coal-fired or fuel oil-fired generating unit shall be required to reduce the maximum concentration of the mercury contained in the fuel, calculated in accordance with subsection (e).
(2) Carbon dioxide.—
   (A) Domestic—Fossil fuel-fired generating units.—Each natural gas-fired generating unit shall be required to achieve an emission rate of not more than 0.9 pounds of carbon dioxide per kilowatt hour of net electric power output.
   (B) Fuel oil-fired generating units.—Each fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 1.3 pounds of carbon dioxide per kilowatt hour of net electric power output.
   (C) Coal-fired generating units.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than 1.5 pounds of carbon dioxide per kilowatt hour of net electric power output.

(3) Sulfur dioxide.—Each fossil fuel-fired generating unit shall be required—
   (A) to remove 95 percent of the sulfur dioxide that would otherwise be present in the flue gas; and
   (B) to achieve an emission rate of not more than 0.3 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(4) Nitrogen oxides.—Each fossil fuel-fired generating unit shall be required—
   (A) to remove 90 percent of nitrogen oxides that would otherwise be present in the flue gas; and
   (B) to achieve an emission rate of not more than 0.15 pounds of nitrogen oxides per million British thermal units of fuel consumed.

(5) Particulate matter.—Each coal-fired generating unit shall be required—
   (A) to remove 95 percent of the particulate matter that would otherwise be present in the flue gas; and
   (B) to achieve an emission rate of not more than 0.3 pounds of particulate matter per million British thermal units of fuel consumed.

(f) Disposal of mercury captured or recovered through emission controls.—
   (1) IN GENERAL.—The Administrator shall promulgate regulations to ensure that mercury that is captured or recovered from a generating unit is disposed of in a manner that ensures that—
      (A) the contents from mercury are not transferred from 1 environmental medium to another; and
      (B) there is no release of mercury into the environment.
   (2) MERCURY-CONTAINING SLUDGES AND WASTES.—The regulations promulgated by the Administrator under paragraph (1) shall ensure that mercury-containing sludges and wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).
   (3) PUBLIC REPORTING OF FACILITY-SPECIFIC EMISSION DATA.—
      (A) IN GENERAL.—The Administrator shall annually make available to the public, through 1 or more published reports and the Internet, facility-specific emission data for each generating unit and for each pollutant covered by section 111 of the Clean Air Act (42 U.S.C. 7411). The public data shall be made available in a manner that ensures that—
         (i) each owner or operator of each covered fossil fuel-fired generating unit which—
           (I) is powered by fossil fuels;
           (II) has a generating capacity of 5 or more megawatts; and
           (III) because of the date on which the generating unit commenced commercial operation, is not subject to all regulations promulgated under section 111 of the Clean Air Act (42 U.S.C. 7411); or
         (ii) who shall certify the accuracy of the report.
      (B) IN GENERAL.—Not less often than quarterly, the responsible official of the generating unit, on a regular basis (but not less often than once every 3 years), shall submit to the Secretary, in consultation with the Administrator, a report concerning the level of emissions by the generating unit for each pollutant covered by this section and for each pollutant covered by section 111 of the Clean Air Act (42 U.S.C. 7411).
   (4) DISPOSAL OF MERCURY CAPTURED OR RECOVERED THROUGH EMISSION CONTROLS.—
      (1) CAPTURED OR RECOVERED MERCURY.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations to ensure that mercury that is captured or recovered from a generating unit is disposed of in a manner that ensures that—
         (i) the contents from mercury are not transferred from 1 environmental medium to another; and
         (ii) there is no release of mercury into the environment.
      (2) SOURCES OF DATA.—The data collected under subsection (e) shall be used by the Administrator, in consultation with the Secretary, to calculate the tax imposed under subsection (f).

(g) Adjustment of rates.—Not less often than once every 2 years beginning after December 31, 2005, the Secretary shall evaluate the rate of the tax imposed under subsection (f) and its application, and adjust such rate (if necessary) for any succeeding calendar year to ensure that the Clean Air Trust Fund established by section 9511 has sufficient amounts to fully fund the activities described in section 9511(c).

(h) Payment of tax.—The tax imposed by this section shall be paid quarterly by the owner or operator of each covered fossil fuel-fired generating unit.

(i) Covered fossil fuel-fired generating unit.—The term ‘covered fossil fuel-fired generating unit’ means an electric utility generating unit which—
   (1) is powered by fossil fuels;
   (2) has a generating capacity of 5 or more megawatts; and
   (3) because of the date on which the generating unit commenced commercial operation, is not subject to all regulations promulgated under section 111 of the Clean Air Act (42 U.S.C. 7411).
SEC. 8. CLEAN AIR TRUST FUND.
(a) In General.—Section 8 of chapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to unit trusts) is amended by inserting the following at the end of such section:

"SEC. 901. CLEAN AIR TRUST FUND.
"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Air Trust Fund' consisting of amounts appropriated or credited to the Trust Fund as provided in this Act or section 6709A(a) of such Act."

(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to the taxes received in the Treasury under section 6709A of the Internal Revenue Code of 1986.

(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be available, without further Act of appropriation, upon request from the head of the appropriate Federal agency in such amounts as the agency head determines are necessary—

(1) for transfers to the program established under section 13 of the Energy Policy Act of 2001, as in effect on the date of enactment of this section;

(2) for transfers to the demonstration program under section 15 of such Act, as so in effect;

(3) to provide assistance under section 15 of such Act, as so in effect;

(4) to provide assistance under section 16 of such Act, as so in effect;

(5) to provide funding under section 17 of such Act, as so in effect.

(d) RECORDING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following:

"Sec. 901. Clean Air Trust Fund."

SEC. 9. ACCELERATED DEPRECIATION FOR INVESTMENT IN 50-PERCENT EFFICIENT GENERATING UNITS.
(a) In General.—Section 166(c)(3) of the Internal Revenue Code of 1986 (relating to definition of certain property) is amended—

(1) in subparagraph (E) (relating to 15-year property), by striking "and" at the end of the clause and inserting "and", and by adding at the end of such clause—

"(ii) any 45 percent efficient fossil fuel-fired generating unit;

(2) by adding at the end the following:

"(F) 12-YEAR PROPERTY.—The term '12-year property' includes any 50 percent efficient fossil-fueled generating unit."

(b) DEFINITIONS.—Section 166(h) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following:

"(15) Fossil fuel-fired generating units.—

(A) 50 PERCENT EFFICIENT Fossil FUEL-FIRED GENERATING UNITS.—The term '50 percent efficient fossil fuel-fired generating unit' means any property used in an investor-owned fossil-fueled generating unit pursuant to a plan approved by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to place into service such a unit which is in compliance with sections 4(a)(1) and 5(b) of such Act, as so in effect.

(B) CONFORMING AMENDMENT.—The table contained in section 168(c) of the Internal Revenue Code of 1986 (relating to applicable percentage) is amended by inserting after the item relating to 10-year property the following:

"12-year property .......... 12%.

(c) EFFECTIVE DATE.—The amendments made by this section apply to property used after the date of enactment of this Act.

SEC. 10. GRANTS FOR PUBLICLY OWNED GENERATING UNITS.
Any capital expenditure made after the date of enactment of this Act to purchase, install, and bring into commercial operation any new publicly owned generating unit that—

(1) is in compliance with sections 4(a)(1) and 5(b) for a 15-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by a taxpayer by virtue of section 168(c)(2) of the Internal Revenue Code of 1986 by a similarly-situated investor-owned generating unit over that period; and

(2) is in compliance with sections 4(a)(2) and 5(c) for a 12-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by reason of section 168(c)(3) of such Code by a similarly-situated investor-owned generating unit over that period.

SEC. 11. RECOGNITION OF PERMANENT EMISSION REDUCTIONS IN FUTURE CLIMATE CHANGE IMPLEMENTATION PROGRAMS.
It is the sense of Congress that—

(1) permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the combustion heat rate efficiency and emission standards specified in this Act, or through replacement of old generating units with noncoincident renewable power generation technologies, should be credited to the utility sector, and to the owner or operator that retires or replaces the old generating unit, in any climate change implementation program enacted by Congress;

(2) the base year for calculating reductions under a program described in paragraph (1) should be the calendar year preceding the calendar year in which this Act is enacted; and

(3) a reasonable portion of any monetary value that may accrue from the crediting described in paragraph (1) should be passed on to utility customers.

SEC. 12. RENEWABLE AND CLEAN POWER GENERATION TECHNOLOGIES.
(a) In General.—Under the Renewable Energy and Energy Efficiency Act of 1989 (22 U.S.C. 12001 et seq.), the Secretary of Energy shall fund research and development programs and commercial demonstration projects and partnerships to demonstrate the technical, financial, and environmental benefits of solar power generation from—

(1) biomass (excluding unsequestered municipal solid waste), geothermal, solar, and wind technologies; and

(2) fuel cells.

(b) TYPES OF PROJECTS.—Demonstration projects may include solar power tower plants, solar dishes and engines, co-firing of biomass with coal, biomass modular systems, next-generation wind turbines and wind farms, next-generation combined gasification and fuel cells.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under other laws, there is authorized to be appropriated to carry out this section $675,000,000 for each of fiscal years 2003 through 2012.

SEC. 13. CLEAN COAL, ADVANCED GAS TURBINE, AND COMBINED HEAT AND POWER DEMONSTRATION PROGRAM.
(a) In General.—Under subtitle B of title XXI of the Energy Policy Act of 1992 (42 U.S.C. 13471 et seq.), the Department of Energy shall create a program to fund projects and demonstration projects and partnerships designed to demonstrate the efficiency and environmental benefits of electric power generation from—

(1) clean coal technologies, such as pressurized fluidized bed combustion and integrated gasification combined cycle system;

(2) advanced gas turbine technologies, such as flexible fueled gas turbines and base-load utility scale application;

(3) combined heat and power technologies.

(b) SELECTION CRITERIA.—(1) In General.—Not more than 1 year after the date of enactment of this Act, the Secretary of Energy shall promulgate criteria and procedures for selection of demonstration projects and partnerships to be funded under subsection (a).

(2) REQUIRED CRITERIA.—At a minimum, the selection criteria shall include—

(A) the potential of a proposed demonstration project or partnership to reduce or avoid emissions of pollutants covered by section 5 and air pollutants covered by section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the potential commercial viability of the proposed demonstration project or partnership.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) In General.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2003 through 2012.

(2) DISTRIBUTION.—The Secretary shall make reasonable efforts to ensure that, under a program established under this section, the same amount of funding is provided for demonstration projects and partnerships under each of paragraphs (1), (2), and (3) of subsection (a).

SEC. 14. EVALUATION OF IMPLEMENTATION OF THIS ACT AND OTHER STATUTES.
(a) In General.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy, in consultation with the Chairman of the Federal Energy Regulatory Commission, and the Administrator, shall submit to Congress a report on the implementation of this Act.


(c) RECOMMENDATIONS.—The report shall include recommendations from the Secretary of Energy, the Chairman of the Federal Energy Regulatory Commission, and the

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Administrator for legislative or administrative measures to harmonize and streamline the statutes specified in subsection (b) and the regulations implementing those statutes.

SEC. 15. ASSISTANCE FOR WORKERS ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2003 through 2015 to provide assistance, under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.), to coal industry workers who are terminated from employment as a result of reduced consumption of coal by the electric power generation industry.

SEC. 16. COMMUNITY ECONOMIC DEVELOPMENT INCENTIVES FOR COMMUNITIES ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $30,000,000 to carry out soil restoration, tree planting, wetland protection, and other development activities in basic and applied research projects.

SEC. 17. CARBON SEQUESTRATION.

(a) CARBON SEQUESTRATION STRATEGY.—In addition to amounts made available under any other law, there is authorized to be appropriated $400,000 to the Environmental Protection Agency and the Department of Energy for each of fiscal years 2003 through 2005 a total of $15,000,000 to conduct research and development activities in basic and applied science in support of development by September 30, 2005, of a carbon sequestration strategy that is designed to offset all growth in carbon dioxide emissions in the United States after 2010.

(b) METHODS FOR BIOLOGICALLY SEQUES- TRATING DIOXIDE.—In addition to amounts made available under any other law, there is authorized to be appropriated $400,000 to the United States Geological Survey and $100,000 to the National Oceanic and Atmospheric Administration for each of fiscal years 2003 through 2005 to conduct research and development of processes for the immobilization of carbon dioxide.

(c) LIMITATION.—A project carried out using funds made available under this section shall not be used to offset any emission reduction required under any other provision of this Act.

SEC. 18. ATMOSPHERIC MONITORING.

(a) ORGANIZATIONAL SUPPORT.—In addition to amounts made available under any other law, there is authorized to be appropriated $30,000,000 to the National Oceanic and Atmospheric Administration for each of fiscal years 2003 through 2005 to conduct research and development of processes under Section 111 of the Clean Air Act.

(b) METHODS FOR BIOLOGICALLY SEQUES- TRATING DIOXIDE.—In addition to amounts made available under any other law, there is authorized to be appropriated $100,000 to the Department of Labor authorized by title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.), to coal industry workers who are terminated from employment as a result of reduced consumption of coal by the electric power generation industry.

Trends Network—Atmospheric Deposition Program National Trends Network $2,500,000 to the Environmental Protection Agency; and

(b) MODERNIZATION.—In addition to amounts made available under any other law, there are authorized to be appropriated—

(1) for equipment and site modernization of the National Atmospheric Deposition Program National Trends Network $5,000,000 to the Environmental Protection Agency;

(2) for equipment modernization and network expansion of the National Atmospheric Deposition Program Mercury Deposition Network $2,000,000 to the Environmental Protection Agency;

(3) for equipment and site modernization and network expansion of the National Atmospheric Deposition Program Atmospheric Integrated Research Monitoring Network $1,000,000 to the National Oceanic and Atmospheric Administration; and

(4) for equipment and site modernization and network expansion of the National Atmospheric Deposition Program Atmospheric Power Plant and Modernization Act of 2001

WHAT WILL THE CLEAN POWER PLANT AND MODERNIZATION ACT OF 2001 DO?

The Clean Power Plant and Modernization Act of 2001 has three main objectives: it is designed to be a balanced and comprehensive strategy to reduce carbon dioxide emissions, accelerate the use of renewable energy, and encourage energy efficiency improvements.

The bill includes a number of incentives to encourage the use of renewable energy sources, such as wind, solar, and biomass, and carbon sequestration projects.

Section 6. Extension of Renewable Energy Production Credit

Section 6(c) of the Internal Revenue Code of 1986 is amended to extend the production tax credit for renewable energy production through 2015. This credit is currently set to expire in 2007.

Section 7. Megawatt-Hour Generation Fees and Section 8, Clean Air Trust Fund

To offset the impact to the Treasury of the incentives in Sections 9 and 10, the bill establishes the Clean Air Trust Fund. The Trust Fund is similar to other Superfund Trust Funds created during the period.

The Trust Fund will also be used to pay for actions that are adversely affected by reduced consumption of coal, as well as research and development for renewable power generation technologies (e.g., wind, solar, and biomass), and carbon sequestration projects.

Section 9. Accelerated Depreciation for Investor-Owned Generating Units

Under the Internal Revenue Code of 1986, utilities can depreciate their generating units placed in service over a period of 20 years. Section 9 amends Section 168 of the Internal Revenue Code of 1986 to allow for depreciation over a 15 year period for units meeting the 45% efficiency level, and over a 20 year period for units meeting the 50% efficiency level.
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Section 10. Grants for Publicly Owned Generating Units

No federal taxes are paid on publicly-owned generating units. To provide publicly-owned generating units with comparable incentives to modernize, Section 10 provides for annual grants in an amount equal to the monetary value of the depreciation deduction that would be allowed by a similarly situated investor-owned generating unit under Section 9. Units meeting the 45% efficiency level and the emission standards in Section 5(b) would receive annual grants over a 15 year period and units meeting the 50% efficiency level and the emission standards in Section 5(c) would receive annual grants over a 12 year period.

Section 11. Recognition of Permanent Emission Reductions in Future Climate Change Implementation Programs

This section expresses the sense of Congress that reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement with new generating units that meet the efficiency and emission standards in the bill, or through replacement with non-polluting renewable power generation technologies, should be credited to the utility sector and to the owner/operator in any climate change implementation program enacted by Congress.

Section 12. Renewable and Clean Power Generation Technologies

This section provides a total of $750 million over 10 years to fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from biomass, geothermal, solar, and wind technologies. Types of projects may include solar power tower plants, solar dishes and dishes, co-firing biomass with coal, biomass modular systems, next-generation wind turbines, and wind verification projects, and geothermal energy conversion.

Section 13. Clean Coal, Advanced Gas Turbine, and Combined Heat and Power Demonstration Program

This section provides a total of $750 million over 10 years to fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from clean coal technologies, advanced gas turbine technologies, and combined heat and power technologies.

Section 14. Evaluation and Implementation of the Act and Other Statutes

Not later than 2 years after enactment, DOE, in consultation with EPA and FERC, shall report to Congress on the implementation of the Clean Power Plant and Modernization Act. The report shall identify any provisions of other laws that conflict with the efficient implementation of the Clean Power Plant and Modernization Act. The report shall include recommendations for legislative or administrative measures to harmonize and streamline these other statutes.

Section 15. Assistance for Workers Adversely Affected by Reduced Consumption of Coal

Beginning 3 years after enactment, this section provides a total of $975 million over 13 years to provide assistance to coal industry workers who are adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic dislocation and worker adjustment assistance program that is authorized by Title III of the Job Training Partnership Act.

Section 16. Community Economic Development Incentives for Communities Adversely Affected by Reduced Consumption of Coal

Beginning 3 years after enactment, this section provides a total of $975 million over 13 years to provide assistance to communities adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic adjustment program of the Department of Commerce authorized by the Public Works and Economic Development Act of 1965.

Section 17. Carbon Sequestration

This section authorizes $45 million over 3 years for forest and woodland restoration, demonstration projects such as soil restoration, tree planting, wetlands protection, and other ways of biologically sequestering carbon.

Section 18. Atmospheric Monitoring

This section authorizes $13.6 million over 10 years to support the operation of existing instrument networks that monitor the deposition of sulfates, nitrates, mercury, and other pollutants, as well as the effects of these pollutants of ecosystem health. This section also authorizes a one-time expenditure of $13.6 million for equipment modernization for these instrument networks.

By Mr. CRAPO:

S. 1132. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs; to the Committee on Health, Education, Labor, and Pension.

Mr. CRAPO. Mr. President, I rise today to introduce a bill designed to prevent a serious disruption in the distribution of prescription drugs across America. Unless changed by this legislation, or modified by the agency itself, a regulation issued by the Food and Drug Administration will drive out of business thousands of small and medium-sized drug wholesalers. Tens of thousands of small nursing homes, clinics, doctor's offices, drug stores, and veterinary practices, especially in rural areas, would be forced to find new suppliers of prescription drugs, who would almost certainly charge higher prices. Consumers, especially the sick and the least able to pay, would be even further hard-pressed to afford the prescription drugs they need to maintain their health.

There is no real health or safety reason behind the FDA’s action, which is simply a lack of understanding of how the wholesale distribution of drugs actually works. The agency’s regulation would complete the implementation of the Prescription Drug Marketing Act, which was enacted in April 1988. That statute, which was designed to stop the misuse of drug samples, prevent various types of resale fraud, stop the improvement of counterfeit drugs, and establish minimum national standards for the storage and handling of drugs by wholesalers, has worked well.

However, the FDA’s regulation, which will go into effect on April 1, threatens two thousand wholesalers, neither of which were present when the agency issued its initial policy guidance on the statute in 1988. The first problem relates to the sales history of drug products which wholesalers must provide their customers. A wholesaler who does not purchase directly from a manufacturer must provide their customer with a detailed history of all prior sales of that product back to the wholesaler who did purchase the drugs from the manufacturer. Whenever the drug is purchased directly from a manufacturer, the drug had to be purchased by the wholesaler who purchased directly from the manufacturer. This wholesaler is known as an authorized distributor.

Notwithstanding the fact that this system has produced a drug distribution system of exceptional quality, the FDA has changed its mind as to what the statute required and proposed that a reseller now be required to trace back the product history all the way back to the manufacturer. At the same time, however, the agency also concluded that the statute does not require either the manufacturer or the authorized distributor to provide sales history to secondary resellers. Without this very detailed sales history, it will be illegal for the secondary wholesaler to resell products. Since it is economically and logistically impractical for manufacturers or authorized distributors to keep track of the huge volume of product in the extreme detail required by the FDA rule, thousands of secondary wholesalers will be forced to cease business.

Fortunately, there is a simple solution. In 1990, the FDA finalized a regulation implementing another part of the PDMA, which requires wholesalers to keep very detailed records of all purchases, sales, or other dispositions of the drugs they obtain. These records, which are very similar to the detailed sales history the FDA is demanding of wholesalers, are also subject to audit by the agency, by state regulators, and must be made available to law enforcement agencies if needed. Thus, there is really no need for a secondary wholesaler to try and assemble the detailed and virtually unobtainable sales history now demanded by the FDA and to pass it on to their customers. Instead, the bill I am introducing today requires only
that secondary wholesalers provide a written statement to their customers that the drug products were first purchased from manufacturers or authorized distributors. Substituting the written statement would prevent a serious disruption in the wholesale drug sector while preserving the original intent of the PDMA, which was to guard the network of licensed and inspected wholesalers from counterfeiters or drugs from questionable sources. It would be a simple matter for a secondary wholesaler to determine that a shipment of drugs was first purchased by an authorized wholesaler, and the written statement would be subject to criminal penalties if falsified under existing law. Substituting the written statement for the paper trail requirement would also reduce selling costs, which could be passed on to the consumer.

This is an expansion to H.R. 68, introduced on January 3, 2001, by Representatives Jo Ann Emerson and Marion Berry. That bill now has 45 co-sponsors who represent an especially diverse geographical and ideological cross-section of the House and is supported by nine major trade and professional organizations representing most companies that wholesale or retail prescription drugs in the U.S. I invite my colleagues in the Senate to add their names to this commonsense measure.

By Mrs. BOXER (for herself, Mrs. Carnahan, and Mr. Bond):
S. 1193. A bill to amend title 49, United States Code, to preserve nonstop air service to and from Ronald Reagan Washington National Airport for certain communities in case of airline bankruptcy; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, last week the Bush Administration eliminated the only nonstop air service between Los Angeles International Airport, LAX, and National Airport, DCA, in Washington, DC. The elimination of the flight makes Los Angeles the largest U.S. city without nonstop air service to this vital airport in the Nation's capital.

Since the DCA to lax flight began 10 months ago, 45,000 passengers have taken the flight. Not only is it popular, but many small and mid-sized communities throughout the state, including Bakersfield, Fresno, Monterey, and San Luis Obispo, rely on this flight. They have connecting flights into LAX and are able to continue the nonstop service. In exchange, however, the air carrier must give up one of its several slots that it uses to fly to its hub airport.

In this way, my bill would not create any additional flights to National Airport. Nor would it take away any of the long-distance nonstop Flights now in operation, including to the city that just received the slot originally granted to Los Angeles. But, it would allow the very popular nonstop air service between LAX and DCA to continue.

It seems to me that this is a fair compromise to ensure that service between National Airport and Los Angeles continues. I look forward to working with my colleagues to address this problem before the end of the summer.

By Mr. LIEBERMAN (for himself and Mr. HATCH):
S. 1134. A bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, I rise today to introduce legislation to provide an incentive for capital formation for entrepreneurs.

This incentive is tailor-made to form capital for entrepreneurial firms so they can spur economic growth, create jobs, and make America competitive into the 21st Century. It focuses on equity investments as this is the only form of capital most entrepreneurial firms secure to fund research and development; most such firms are unable to secure debt capital. Because this incentive applies to founders stock and employee stock options, and not just stock offered to outsider investors, it provides a powerful incentive for the human infrastructure and culture that drives and grows our nation's entrepreneurial firms.

This legislation could not be more timely given the drought we see in equity capital for entrepreneurs. Nationwide we saw 650 Initial Public Offerings of stock, IPOs, in 1996, 610 in 1997, 302 in 1998, 501 in 1999, and 379 in 2000. So far in 2001 we have seen only 50. The total value of these offerings was $47 billion in 1996, $39 billion in 1997, $37 billion in 1998, $33 billion in 1999, and $54 billion in 2000. In 2001 we have seen only $20 billion. Entrepreneurs are starved for capital and this incentive is tailor made to provide an incentive to investors to provide it to them.

This was an unfortunate decision, and one that was both unnecessary and unjustified. Therefore, today, I am introducing legislation to reinstate the service. It is narrowly crafted to address the unique situation we have here.

My bill only applies in cases where a community loses service to DCA because the airline operating the flight went bankrupt. In those cases, the air carrier that purchases the assets of the bankrupt airlines has a right to continue the nonstop service. In exchange, however, the air carrier must give up one of its several slots that it uses to fly to its hub airport.

In this way, my bill would not create any additional flights to National Airport. Nor would it take away any of the long-distance nonstop flights now in operation, including to the city that just received the slot originally granted to Los Angeles. But, it would allow the very popular nonstop air service between LAX and DCA to continue.

It seems to me that this is a fair compromise to ensure that service between National Airport and Los Angeles continues. I look forward to working with my colleagues to address this problem before the end of the summer.

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The details of our proposal are straightforward. They call for a 100 percent exclusion, a zero capital gains tax rate, for new, direct, long-term investments in the stock of a small corporation. “New” means that the stock must be offered after the effective date of the bill and does not apply to sale of previously acquired equity shares. “Direct” means the stock must have been acquired from the firm and not in secondary markets, so it includes founders stock, stock options, venture capital placements, IPOs, and subsequent public stock offerings. “Long-term” means the stock must be held for three years. “Stock” includes any type of stock, including convertible preferred shares. “Small corporation” means a corporation with $300 million or less in capitalization (not valuation, but paid-in capital). The incentive that I led, 25 percent for individual and corporate taxpayers. And the excluded gains are not a preference item for the Alternative Minimum Tax.

I am pleased that Senator HATCH has agreed to serve as the lead cosponsor of the legislation. He and I worked closely together from 1995 through 1997 to restore the capital gains incentive. There were many Members involved with that effort, but Senator HATCH and I were pleased to be the leaders of the legislative coalition that proved to be so effective. Our work now on this venture capital gains legislation is a continuation of that long and successful partnership.

I am pleased that Representatives JENNIFER DUNN and ROBERT MATSU are introducing the same bill in the other body.

I have long championed this approach to capital gains incentives. Most recently, this proposal was included as Section 4 of S. 798, the Productivity, Opportunity, and Prosperity Act of 2001. The first proposal on this subject was introduced on April 7, 1987 in the 100th Congress by Senator Dale Bumpers as S. 932. I was an early supporter of this proposal and I cosponsored a version of this proposal introduced in 1991 by Senator Bumpers as S.1932. A version of that bill was enacted as part of the 1993 tax bill, Section 1202, but it was laden with technical requirements that limited its effectiveness. In the 104th Congress sent amendments to strengthen Section 1202 to President Clinton in the tax bill vetoed he vetoed in 1996. In the 105th Congress these amendments were included in all of the key capital gains, including S. 2 (Roth), S. 20 (DASCHLE), S. 66 (HATCH-LIEBERMAN), S. 501 (Mack), and S. 745 (Bumpers). These amendments were sent to the conference on that bill but did not emerge from it. A broad-based capital gains incentive, which I supported, was enacted into law and a rollover provision was enacted with regard to Section 1202 stock. In the 106th Congress, amendments to strengthen
Section 1202 were introduced in the House by Representatives Jennifer Dunn and Bob Matsui, H. R. 2331. Then I introduced the Senate bill, Senator Hatch and I, and they pass in the form of S. 798 and we are today introducing it again as a stand-alone bill. Today I am pleased to cosponsor S. 818, the capital gains proposal introduced by Senator Hatch and Torricelli and others. That proposal calls for a reduction in the current 20 percent capital gains tax rate for a broad class of investments, simplifies the capital gains tax, and provides special benefits to low income taxpayers. This bill and the bill we introduce today are complementary and should both be enacted. I recognize that the Joint Committee on Taxation, which determines the "cost" of all tax proposals, will determine the "cost" of these proposals as well. However, I feel that the economic benefits of these incentives will have on entrepreneurs and therefore on economic growth, but there is no way to adequately these determinations. There is no revenue remaining available under the budget resolution to tap to finance these proposals. Accordingly, I fully accept the obligation to find a way to pay for these other tax proposals, an offset, so that we do not adversely affect the deficit. The reasons for setting a special capital gains rate for venture capital are compelling. Entrepreneurial firms are the ones which can dramatically change our whole health care system, clean up our environment, link us in international telecommunications networks, and increase our capacity to understand our world. The firms are founded by dreamers, adventurers, and risk-takers who embody the best we have to offer in our free-enterprise economy. Entrepreneurship drives growth and small, emerging companies need capital investment to innovate, create jobs, and create wealth. According to the National Commission on Entrepreneurship, a small subset of entrepreneurial firms that comprise only 5-15 percent of all U.S. businesses created about two-thirds of new jobs between 1993-96. Although venture capital is critical to the transition from a fledgling company to a growth company, only a small share of it is associated with small and new firms. In addition, we are currently experiencing a venture capital slow down that makes it even more difficult for small and new firms to attract capital. According to the National Venture Capital Association, NCVA, investment in the fourth quarter of last year slowed by more than 30 percent from the previous quarter. The primary goal of the Productivity, Opportunity, and Prosperity Act and this venture capital incentive is to protect, stimulate and expand economic growth. Government’s role is not to create jobs but to help create the environment in which the private sector will do these jobs. This legislation helps to create the right context for private sector growth by providing incentives for investment in training, technology, and small entrepreneurial firms. These investments are critical to economic growth and the creation of jobs and wealth. The Productivity, Opportunity, and Prosperity Act of 2001, including this venture capital proposal, is a tax plan with a purpose. And that purpose is, above all else, to stimulate private sector economic growth, to raise the tide that lifts the lot of all Americans. In the spirit of the "New Economy," where the fundamentals of our economy have changed through entrepreneurship and innovation, this package includes business tax incentives that will spur the real drivers of growth: innovation, investment, a skilled workforce, and productivity.

Ten years from now we will be judged by the economic decisions we make today. People will ask, did we fully understand the awesome changes taking place in our economy and in our society? Did we give our industry and workers the environment and the tools they need to seize the opportunities that an innovation economy offers? I believe that a true Prosperity Agenda is within our grasp. Never before has America been in a stronger position, economically, socially, or politically, to shape our future. But it will take strong and focused leadership. I am confident that if we in the public sector in Washington work in partnership with the private sector throughout our country, we can truly say of America's future that the best is yet to come. I believe that productivity, Opportunity, and Prosperity Act and this venture capital incentive are an important step toward that future. Mr. President, I ask unanimous consent that the text of the bill and section analysis be printed in the Record. There being no objection the material was ordered to be printed in the Record as follows:

S. 1334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE. This Act may be cited as the “Venture Capital Gains and Growth Act of 2001.”

SEC. 2. MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK. (a) REPEAL OF MINIMUM TAX PREFERENCE.— (1) IN GENERAL.—Subsection (a) of section 57 of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by striking paragraph (7).

(b) INCREASE IN ROLLOVER PERIOD FOR QUALIFIED SMALL BUSINESS STOCK.—Subsections (a)(1) and (b)(3) of section 1045 of the Internal Revenue Code of 1986 (relating to rollover of gain from repositioning of qualified small business stock) are each amended by striking “60-day” and inserting “180-day.”

(c) REDUCTION IN HOLDING PERIOD.— (1) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to partial exclusion for gains from certain small business stock) is amended by striking “5 years” and inserting “3 years.”

(2) CONFORMING AMENDMENT.—Subsections (g)(2)(A) and (j)(1)(A) of section 1202 of such Code are each amended by striking “5 years” and inserting “3 years.”

(d) REPEAL OF PER-ISSUER LIMITATION.— Section 1202(b) of the Internal Revenue Code of 1986 (relating to per-issuer limitations on taxpayer’s eligible gain) is repealed.

(e) QUALIFIED TRADE OR BUSINESS.—Section 1202(e)(3) of the Internal Revenue Code of 1986 (relating to qualified trade or business) is amended by deleting at the end the following new sub-paragraph: (A) by striking “2 years” and inserting “5 years”.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Section 1202(c)(3) of such Code (relating to certain purchases by corporation of its own stock) is amended by striking “50 percent” and inserting “100 percent.”

(2) CONFORMING AMENDMENTS.— (A) Subparagraph (A) of section 1(h)(5) of such Code is amended to read as follows: “(A) collectibles gain, over”.

(b) INCREASED EXCLUSION.— (1) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to 50-percent exclusion for gain from certain small business stock) is amended by striking “50 percent” and inserting “100 percent.”

(2) CONFORMING AMENDMENTS.— (A) Paragraph 9 of such Code is amended by redesignating paragraphs (8) (as amended by subparagraph (C), (10), (11), and (12) as paragraphs (8), (9), (10), and (11), respectively.

(b) The heading for section 1202 of such Code is amended by striking “PARTIAL” and inserting “100 PERCENT.”

The table of sections for part I of subchapter P of chapter 1 of such Code is amended by striking “PARTIAL” in the item relating to section 1202 and inserting “100 PERCENT.”

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1202 of such Code is amended by...
(4) **Stock held among members of controlled group not eligible.**—Stock of a member of a parent-subsidiary controlled group (as defined in subsection (b)(1)) shall not be treated as qualified small business stock while held by another member of such group.

(1) **Stock of larger businesses eligible for exclusion.**—

(1) In general.—Paragraph (1) of section 1202(d) of the Internal Revenue Code of 1986 (defining qualified small business) is amended by striking "$50,000,000" each place it appears and inserting "$300,000,000".

(2) **Inflation adjustment.**—Section 1202(d) of such Code (defining qualified small business) is amended by adding at the end the following:

(4) **Inflation adjustment of asset limitation.**—In the case of stock issued in any calendar year after 2002, the $300,000,000 amount contained in paragraph (1) shall be increased by an amount equal to—

(A) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' in subparagraph (B) thereof. If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year 1992 in subparagraph (B) thereof.

(5) **Effective date.**—The amendments made by this subsection shall apply to stock issued after the date of enactment of this Act.

**Description of Venture Capital Gains Incentive**

Section 1202 enacted in 1993:

50% capital gains exclusion for new investments—not sale of previously acquired assets—new investments made after effective date, August 1993.

Only if investments made directly in stock—not secondary trading, founders stock, stock options, venture capital, public offerings, common, preferred, convertible preferred.

Only if made in stock of a "small corporation"—defined as corporation with $50 million or less in capitalization—indexed for inflation.

Only if investment held for five years.

Only if investment made by an individual taxpayer—not by a corporate taxpayer.

50% of the excluded gains not covered by the Alternative Minimum Tax (AMT).

Limit on benefits per taxpayer of "10 times basis or $10 million, whichever is greater".

Technical problems—redemption of stock, "spending speed-up" provision.

Section 1945 enacted in 1997.

Permits investors in Section 1202 stock to roll over their investments in a new Section 1202 investment without "realizing" gains and paying taxes within 60 days.

Nine proposed amendments to Section 1202 and Section 1945:

(1) Sets a zero capital gains rate, compared to the 20 percent rate for other capital gains.

(2) Only new investments—same.

(3) Only if direct investments—same.

(4) Only if investment in stock—same.

(5) Only if investment held for three years—reduction from five years.

(6) Delete "10 times or $10 million" limitation.

(7) Extend coverage of Section 1202 to additional corporations.

(8) Fix technical problems—modify redemptions of stock, "spending speed-up" provision.

By Mr. GRAHAM (for himself, Mr. CHAFFEE, Mr. CONRAD, Mrs. LINCOLN, Mr. MILLER, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. KERRY, and Mr. CARPER):

S. 1135. A bill to amend title XVII of the Social Security Act to provide comprehensive reform of the Medicare program, including the provision of prescription drug benefits under such program; to the Committee on Finance.

Mr. GRAHAM. Mr. President, I rise today joined by my colleagues to introduce the Medicare Reform Act of 2001.

Today we are in the midst of a major health-care debate on the Patients’ Bill of Rights. This crucial bill should be the beginning, not end, of reform in the health care system. Now we need to take this momentum and turn to Medicare reform.

Reform is not a word to be tossed around lightly. When we bat around the term Medicare reform, this is what we need to be talking about, ideas that go to the very heart of the existing Medicare program and reform it.

The Medicare Reform Act offers several ideas. It keeps what is best about Medicare intact. Under this bill the program will remain, as it has always been, reliable and affordable. But the Medicare Reform Act also does just what it says. It reforms the program to reflect new realities both scientific and economic, that the program’s creators could not possibly have planned for in 1965.

One of these realities is that prescription drugs are a crucial part of any modern health care regime. In fact it is unthinkable that prescription drugs will not be included as part of this type of system. And we know that we can pass all the laws we want, but we can’t make private companies take on Medicare patients.

Rather than foreign the private sector to attempt to do something they do not want to do, we take advantage of the fact that we already have an efficient, workable mechanism in place. That mechanism is the pharmacy benefit manager of PBMs. These businesses operate successfully today in every ZIP code of the country. They are in a perfect position to manage the Medicare prescription drug benefit—and to offer seniors a choice.

The Medicare Reform Act would allow multiple PBMs in each geographic region to administer, manage and deliver the prescription drug benefit. They would be allowed to use all of the methods they use currently in the private sector to provide benefits economically, including the use of formularies, preferred pharmacy networks, and generic drug substitution. Additionally, PBMs would be allowed to use mechanisms to encourage beneficiaries to select cost-effective drugs.
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including the use of disease management and therapeutic interchange programs.

Beneficiaries in every part of the country would have access to coverage provided by PBMs that would not assume full insurance risk for drug costs. In this way, adverse selection and inappropriate incentives would be avoided.

However, to ensure that PBMs pursue and are held accountable for high quality beneficiary services, improved health outcomes, and managing costs, we require PBMs to put a substantial portion of their management fees at risk for their performance. Performance goals would include price discounts and generic substitution rates, timely action with regard to appeals, sustained pharmacy network access and notifications to avoid adverse drug reactions.

Although all PBMs would be required to offer the standard benefit at a minimum, payments received on the basis of their performance could be used to reduce beneficiary cost-sharing or to waive the deductible for generic drugs.

Requiring PBMs to share risk provides a middle ground between proposals that have included no risk being assumed by the private sector, and proposals that have required the assumption of insurance and selection risk for the cost of drugs.

This arrangement would bring us the benefits of private sector competition without the instabilities that would be associated with a full risk-bearing model. It would take advantage of the fact that the private sector has provided an efficient, workable, stable system for the delivery of prescription drugs, and the management of drug costs, and would allow beneficiaries to choose between multiple vendors.

Proposals on drugs are not all that is missing from Medicare.

We live in a world of near miracles. We can stop disease in its track. We can keep a health problem from becoming a health crisis. We can make the lives of our seniors better. We can make their bodies stronger. We have the technology.

It’s time to let our seniors have it as well.

The “Medicare Reform Act” would shift the focus of Medicare from simply treating illness to promoting wellness.

Several proven-effective preventive benefits, like cholesterol screening and smoking cessation counseling, would be added to package. These benefits could save lives.

We also provide a new process for changes to the preventive benefit package. As a member of the Finance Committee, I have sat through hours-long discussions on coverage of screening for colon cancer. I’ve heard debates on the relative benefits of barium x-rays v. colonoscopies in minute details. I’m not qualified to make these decisions. A new “fast-track” process would move members of Congress out of the picture of making decisions about the clinical and scientific merits of different approaches and move the doctors and scientists in.

The Medicare Reform Act is not just about adding benefits. It’s also about changing the way we do business.

We’ve looked to the private sector for lessons on how to run the fee-for-service program. We allow Medicare to use the same competitive tools insurance companies have in place to control costs. This will save the Medicare program money, in contrast to some other competition proposals.

We’ve looked to the private sector and learned that to serve seniors and providers better, we need to make an investment in the program, and provide additional administrative funds. Our bill would require the agencies responsible for these programs the money to truly serve their clients, our seniors.

We’ve turned again to the medical and scientific experts. We’ve taken the decision about what Medicare should and should not cover out of the hands of bureaucrats and given it to independent medical, clinical and scientific experts who have the skills to assess new technologies and procedures.

We also need to prepare for the future. The Medicare program is in the best shape it has been in over a quarter century. But, the baby-boomers are going to be joining the program soon.

We need to begin to fortify the program now, so that we are ready for them. Our bill takes modest steps in that direction by indexing the Part B deductible to inflation, and providing the Part B premium subsidy on a sliding scale basis.

While I think we need to spend the lion’s share on reforming the part of the program with the lion’s share of the beneficiaries, we also need to take a close look at the Medicare+Choice program. There are several different proposals on the table to replace the current payment system with one based on competitive bidding, and we face a lot of questions regarding which of the proposals would work best.

In 1997, Senators Breaux and Mack proposed a Medicare Competitive Pricing Demonstration Project; the Project was included in the Balanced Budget Act. The purpose of the demonstration project was to test a new method of paying plans based on a competitive market approach. It has not yet been implemented.

This demonstration project is exactly what we need to learn how to design and implement a competitive system. It is not sound to undertake a wholesale restructuring of the Medicare+Choice system without knowing what would, and would not, work.

The “Medicare Reform Act of 2001” would lay the groundwork for a sound, workable, competitive system by moving forward with the Demonstration project in the state of Florida.

The time is now. The money is there. The plan exists. Our seniors are waiting.

By Mr. SARBANES (for himself, Mr. BAUCUS, Mr. BAYH, Mr. CLELAND, Mr. CORZINE, Mr. DODD, Mrs. FEINSTEIN, Mr. REID, Mr. SCHUMER, Ms. SNOWE, Ms. STABENOW, Mr. THOMPSON, and Mr. WYDEN):

S. 1136. A bill to provide for mass transportation in certain Federally owned or managed areas that are open to the general public; to the Committee on Energy and Natural Resources:

Mr. SARBANES. Mr. President, I rise today to introduce legislation to help protect our nation’s natural resources and improve the visitor experience in our National Parks and Wildlife Refuges. The Transit in Parks Act, or “TRIP,” will establish a new Federal transit grant initiative to support the development of mass transit and alternative transportation services for our national parks, wildlife refuges, Federal recreational areas, and other public lands.

I am pleased to be joined by Senators BAUCUS, BAYH, CLELAND, CORZINE, DODD, FEINSTEIN, REID, SCHUMER, SNOWE, STABENOW, THOMPSON, and WYDEN, who are cosponsors of this legislation.

Let me begin with a little history. When the National parks first opened in the second half of the nineteenth century, visitors arrived by stagecoach along dirt roads. Travel through parklands, such as Yosemite or Yellowstone, was long, difficult, and costly.

Not many people could afford or endure such a trip. The introduction of the automobile gave every American greater mobility and freedom, which included the freedom to travel and see some of our Nation’s great natural wonders. Early in this century, landscape architects from the National Park Service and highway engineers from the U.S. Bureau of Public Roads collaborated to produce many feats of road engineering that opened the National park lands to millions of Americans.

Yet greater mobility and easier access now threaten the very environments that the National Park Service is mandated to protect. The ongoing tension between preservation and access has always been a challenge for our national park system.

Today, record numbers of visitors and cars has resulted in increasing damage to our
parks. The Grand Canyon alone has almost five million visitors a year. As many as 6,000 vehicles arrive in a single summer week. They compete for 3,400 parking spaces. Between 32,000 and 35,000 tour buses go to the park each year. During the peak summer season, the entrance route becomes a giant parking lot.

In 1975, the total number of visitors to America’s national parks was 190 million. By 1999, that number has risen to 287 million annual visitors, almost equal to one visit by every man, woman, and child in this country. This dramatic increase in visitation has created an overwhelming demand on these areas, resulting in severe traffic congestion, visitor restrictions, and in some instances vacationers being shut out of the parks altogether. The environment for private automobiles at the Grand Canyon is visible at many other parks: Yosemite, which has more than four million visitors a year; Yellowstone, which has more than three million visitors a year and experiences such severe traffic congestion that access has to be restricted; Zion; Acadia; Bryce; and many others. We need to solve these problems now or risk permanent harm to our nation’s natural, cultural, and historical heritage.

Access to the parks is vital not only to the parks themselves, but to the economic health of their gateway communities. For example, visitors to Yosemite infuse $3 billion a year into the local economy of the surrounding area. At Yellowstone, tourists spend $725 million annually in adjacent communities. Wildlife-related tourism generates an estimated $60 billion a year nationwide. If the parks are forced to close their gates to visitors due to congestion, the economic vitality of the surrounding region would be jeopardized.

The challenge for park management has always been twofold: to conserve and protect the Nation’s natural, historical, and cultural resources, while at the same time ensuring visitor access and enjoyment of these sensitive environments. Until now, the principal transportation systems that the Federal Government has developed to provide access into our national parks are roadways purely for private automobile access. The TRIP legislation recognizes that we need to do more than simply build roads; we must invest in alternative transportation solutions before our national parks are damaged beyond repair.

In developing solutions to the parks’ transportation needs, this legislation builds upon the 1997 Memorandum of Understanding between Secretary of Transportation Rodney Slater and Secretary of the Interior Bruce Babbitt in which the two Departments agreed to work together to address transportation and resource management needs in and around National Parks. The findings in the MOU are especially revealing: Congestion in and approaching many National Parks is causing damage to park resources and buildings that substantially detract from the visitor experience. Visitors find that many of the National Parks contain significant noise and air pollution, and traffic congestion similar to that found in the cities they left behind. In many of our National Park units, the capacity of parking facilities at interpretive or scenic areas is well below demand. As a result, visitors park along roadsides, damaging park resources and subjecting people to hazardous safety conditions as they walk near busy roads to access visitor use areas. On occasion, National Park units must close their gates during high visitation periods and turn away the public because the existing transportation systems are at, or beyond, the capacity for which they were designed.

In addition, the TRIP legislation is designed to implement the recommendations from a comprehensive study of alternative transportation needs in public lands that I was able to include in the Transportation Equity Act for the 21st Century, TEA–21, as section 3039. The study is nearing completion, and is expected to confirm what those of us who have visited our National parks already know: there is a significant and well-documented need for alternative transportation solutions in the national parks to prevent lasting damage to these incomparable natural treasures.

The Transit in Parks Act will go far toward meeting this goal. The bill’s objectives are to develop new and expanded mass transit services throughout the national parks and other public lands to protect fragile natural, cultural, and historical resources and wildlife habitats, to prevent or mitigate adverse impact on those resources and habitats, and to reduce pollution and congestion, while at the same time facilitating appropriate visitor access and improving the visitor experience.

The new Federal transit grant program will provide funding to the Federal land management agencies that manage the 379 various sites within the National Park System, the National Wildlife Refuges, Federal recreational areas, and other public lands, including National Forest System lands, and to their state and local partners. The program will provide capital funds for transit projects, including rail or clean fuel bus projects, joint development activities, pedestrian and bike paths, or park waterway access, within or adjacent to national parks and other public lands. The bill authorizes $65 million for the new program for each of the fiscal years 2002 through 2007. It is anticipated that other resources, both public and private, will be available to augment these amounts.

The bill formalizes the cooperative arrangement in the 1997 MOU between the Secretary of Transportation and the Secretary of the Interior to exchange technical assistance and to develop procedures relating to the planning, selection and funding of transit projects in national park lands. The bill further provides funds for planning, research, and technical assistance that can supplement other financial resources available to the Federal land management agencies. The projects eligible for funding would be developed through the TEA–21 planning process and prioritized for funding by the Secretary of the Interior in consultation and cooperation with the Secretary of Transportation. It is anticipated that the Secretary of the Interior would select projects that are diverse in location and size. While major National parks such as the Grand Canyon and Yellowstone are clearly appropriate candidates for significant transit projects under this section, there are numerous small urban and rural Federal park lands that can benefit enormously from small projects, such as bike paths or improved connections with an urban or regional public transit system. No single project will receive more than 12 percent of the total amount available in any given year. This ensures a diversified portfolio of projects.

In addition, I firmly believe that this program will create new opportunities for the Federal land management agencies to partner with local transit agencies in gateway communities adjacent to the parks, both through the TEA–12 planning process and in developing integrated transportation systems. This will spur new economic development within these communities, as they develop transportation centers for park visitors to connect to transit links into the national parks and other public lands.

The ongoing tension between preservation and access has always been a challenge for the National Park Service. Today, that challenge has new dimensions, with overcrowding, pollution, congestion, and resource degradation increasing at many of our national parks. This legislation—the Transit in Parks Act—will give our Federal land management agencies important new tools to improve both preservation and access. Just as we have found in metropolitan areas, transit is essential to moving large numbers of people in our national parks—quickly, efficiently, at low cost, and without adverse impact. At the same time, transit can enhance the economic development potential of our gateway communities.

As we begin a new millennium, I cannot think of a more worthy endeavor to help our environment and preserve our national parks, wildlife refuges, and Federal recreational areas than by encouraging alternative transportation...
SEC. 2. FEDERAL LAND TRANSIT PROGRAM.

This Act may be cited as the "Transit in Parks Act" or the "TRIP Act".

(Part) 

SEC. 1. SHORT TITLE.

This Act may be cited as the "Transit in Parks Act" or the "TRIP Act".

(Part) 

SEC. 3. FEDERAL LAND MANAGEMENT AGENCY.

(a) In General.—Chapter 53 of title 49, United States Code, is amended by inserting after section 5309 the following:

"§ 5316. Federal land transit program

"(a) FINDINGS AND PURPOSES.—

"(1) FINDINGS.—Congress finds that—

"(A) section 3039 of the Transportation Equity Act for the 21st Century (23 U.S.C. 138 note; Public Law 105-178) required a comprehensive study, to be conducted by the Secretary of Transportation, in coordination with the Secretary of the Interior, of alternative transportation needs in national parks and related public lands in order to—

"(i) identify the transportation strategies that can enhance the management of national parks and related public lands;

"(ii) identify national parks and related public lands that have existing and potential problems of adverse impact, high congestion, and pollution, or that can otherwise benefit from alternative transportation modes;

"(iii) assess the feasibility of alternative transportation modes; and

"(iv) identify and estimate the costs of those alternative transportation modes;

"(B) many national parks are experiencing increased visitation and congestion and degradation of the natural, historical, and cultural resources;

"(C) there is a growing need for new and expanded mass transportation services throughout national parks to conserve and protect fragile natural, historical, and cultural resources, prevent adverse impact on those resources, and reduce pollution and congestion while facilitating appropriate visitor mobility and accessibility and improving the visitor experience;

"(D) Federal Employees Transportation can assist the Federal land management agencies through financial support and technical assistance and further the achievement of national park purposes; and

"(E) the Federal land management agencies and State and local governmental authorities that provide for—

"(i) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section;

"(ii) a unit of the National Park Service; and

"(iii) a unit of the National Wildlife Refuge System;

"(2) TYPE OF ASSISTANCE.—The Secretary may enter into a contract, grant, cooperative agreement, interagency agreement, intra-agency agreement, or other agreement to carry out a qualified project under this section.

"(3) MESS TRANSPORTATION.—

"(A) IN GENERAL.—The term "mass transportation" means transportation by bus, rail, or any other publicly or privately owned mode that provides service to the public generally or special service on a regular basis.

"(B) INCLUSIONS.—The term "mass transportation" includes sightseeing service.

"(C) QUALIFIED PARTICIPANT.—The term "qualified participant" means—

"(A) a Federal land management agency or agency of the United States to encourage and promote the development of transportation systems for the betterment of eligible areas to meet the goals described in clauses (i) through (vi) of subparagraph (A) of this subsection;

"(B) a State or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency or agency of the United States to encourage and promote the development of transportation systems for the betterment of eligible areas to meet the goals described in clauses (i) through (vi) of subparagraph (A) of this subsection;

"(C) a public or nongovernmental participant.

"(4) OTHER USES.—A grant, cooperative agreement, interagency agreement, intra-
agency agreement, or other agreement for a qualified project under this section, may be available to finance the leasing of equipment and facilities for use in mass transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement and any regulations that are more cost-effective than purchase or construction.

(e) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

(1) IN GENERAL.—The Secretary may allocate not more than 5 percent of the amount made available for a fiscal year under section 5309 of this title to the qualified participant and the Secretary, in carrying out the planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

(2) AMOUNTS FOR PLANNING, RESEARCH, AND TECHNICAL ASSISTANCE.—Amounts made available under this subsection are in addition to amounts otherwise available for planning, research, and technical assistance under this title or any other provision of law.

(3) AMOUNTS FOR QUALIFIED PROJECTS.—No qualified project shall receive more than 12 percent of the total amount made available under section 5308(b) for any fiscal year.

(4) PLANNING PROCESS.—In undertaking a qualified project under this section—

(a) if the qualified participant is a Federal land management agency—

(i) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

(A) the metropolitan planning provisions under sections 5303 through 5305;

(B) the statewide planning provisions under section 135 of title 23; and

(C) the planning, participation requirements under section 5307(c); and

(b) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

(c) if the qualified participant is a State or local governmental authority in more than 1 State or local governmental authority in more than 1 State, the qualified participant shall—

(i) comply with sections 5303 through 5305;

(ii) comply with the statewide planning provisions under section 135 of title 23; and

(iii) consult with the appropriate Federal land management agency during the planning process.

(g) COST SHARING.—

(1) DEPARTMENTAL SHARE.—The Secretary, in cooperation with the Secretary of the Interior, shall establish the share of assistance to be provided under this section to a qualified participant.

(2) CONSIDERATIONS.—In establishing the departmental share of the net project cost of a qualified project, the Secretary shall consider—

(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

(B) the extent to which the qualified participant coordinates with a public or private mass transportation authority in the eligible area;

(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of any financing mechanisms; and

(D) the clear and direct benefit to the qualified participant; and

(E) any other matters that the Secretary considers appropriate to carry out this section.

(iii) the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

(F) the location of the qualified project, to ensure that the selected qualified projects—

(i) are geographically diverse nationwide; and

(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

(G) the size of the qualified project, to ensure that there is a balanced distribution;

(H) the historical and cultural significance of a qualified project;

(I) safety;

(J) the extent to which the qualified project would—

(i) enhance livable communities;

(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

(iii) reduce congestion; and

(iv) improve the mobility of people in the most efficient manner; and

(K) any other matters that the Secretary considers appropriate to carry out this section, including—

(i) visitation levels;

(ii) the use of innovative financing or joint development agreements;

(iii) coordination with gateway communities.

(i) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

(1) IN GENERAL.—When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary may pay the departmental share of the net project cost of a qualified project if it meets the requirements and provisions of the requirements and provisions of section 5309(g); and

(B) the qualified participant applies for the payment; and

(C) before carrying out that part of the qualified project, the qualified participant applies for the payment; and

(D) the Secretary approves the payment; and

(E) the Secretary approves the payment; and

(F) before carrying out that part of the qualified project, the Secretary approves the payment; and

(G) any other matters that the Secretary considers appropriate to carry out this section.

(ii) NONDEPARTMENTAL SHARE.—Notwithstanding any other provision of law, Federal loans and grants appropriated to any Federal land management agency may be counted toward the nondepartmental share of the cost of a qualified project.

(B) SELECTION OF QUALIFIED PROJECTS.—

(1) IN GENERAL.—The Secretary of the Interior, after consultation with and in cooperation with the qualified participant, shall determine by the selection and funding of an annual program of qualified projects in accordance with this section.

(2) CONSIDERATIONS.—In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

(B) the location of the qualified project, to ensure that the selected qualified projects—

(i) are geographically diverse nationwide; and

(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

(C) the size of the qualified project, to ensure that there is a balanced distribution;

(D) the historical and cultural significance of a qualified project;

(E) safety;

(F) the extent to which the qualified project would—

(i) enhance livable communities;

(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

(iii) reduce congestion; and

(iv) improve the mobility of people in the most efficient manner; and

(G) any other matters that the Secretary considers appropriate to carry out this section, including—

(i) visitation levels;

(ii) the use of innovative financing or joint development agreements;

(iii) coordination with gateway communities.

(i) RELATIONSHIP TO OTHER LAWS.—Qualified participants shall be subject to—

(1) the requirements of section 5333;

(2) the extent to which the Secretary determines may be appropriate requirements consistent with those under subsections (d) and (i) of section 5307; and

(3) any other terms, conditions, requirements, and provisions that any agency determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment acquired from a qualified project assisted under this section.

(2) INNOVATIVE FINANCING.—A qualified project assisted under this section shall be eligible for funding through a State Infrastructure Bank or other innovative financing mechanism otherwise available to finance an eligible project under this chapter.

(k) RELATION TO OTHER LAWS.—Qualified participants shall be subject to—

(1) the requirements of section 5333;

(2) the extent to which the Secretary determines may be appropriate requirements consistent with those under subsections (d) and (i) of section 5307; and

(3) any other terms, conditions, requirements, and provisions that any agency determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment acquired from a qualified project assisted under this section.

(l) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants or contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other agreements for research, development, and deployment of new technologies in eligible areas that will—

(A) conserve resources;

(B) prevent or mitigate adverse environmental impact;

(C) improve visitor mobility, accessibility, and enjoyment; and

(D) reduce pollution (including noise pollution and visual pollution).

(m) ACCESS TO INFORMATION.—The Secretary may request and receive appropriate information from any source.

(n) FUNDING.—Grants and contracts under paragraph (1) shall be awarded from amounts available under section 5307.

(o) REPORT.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit to the Committee on Transportation and Infrastructure of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the allocation of amounts of amounts to be made available to assist the qualified projects under this section.

(2) ANNUAL AND SUPPLEMENTAL REPORTS.—A report required under paragraph (1) shall be included in the report submitted under section 5307(b).
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June 28, 2001

(b) AUTHORIZATIONS.—Section 5338 of title 49, United States Code, is amended by adding at the end the following:

"(j) SECTION 5316.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out section 5316 $65,000,000 for each of fiscal years 2002 through 2007.

(2) AVAILABILITY.—Amounts made available under this subsection for any fiscal year shall remain available for obligation until the last day of the third fiscal year commencing after the last day of the fiscal year for which appropriations were initially made available under this subsection.

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 49, United States Code, is amended by inserting after the item relating to section 5315 the following:

"5316. Federal land transit program.

(2) PROJECT MANAGEMENT OVERSIGHT.—Section 5339 of title 49, United States Code, is amended in the first sentence—

(A) by striking "or 5311" and inserting "5311, or 5316"; and

(B) by striking "5311 or 5316" and inserting "5311, 5316, or";

(d) TECHNICAL AMENDMENTS.—Chapter 53 of title 49, United States Code, is amended—

(1) in section 5309—

(A) by redesignating subsection (p) as subsection (q); and

(B) by redesigning the second subsection designated as subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998 (112 Stat. 356)) as subsection (p);

(2) in section 5328(a)(4), by striking "5309" and inserting "5309(1)";

(3) in section 5337, by redesigning the second subsection designated as subsection (e) (as added by section 302(b) of the Federal Transit Act of 1998 (112 Stat. 367)) as subsection (f).

TRANSPORT IN PARKS ACT—SECTION-BY-SECTION
Section 1: Short title
The Transit in Parks (TRIP) Act.

Section 2: In general
Amends Federal transit laws by adding new section 5316, “Federal Land Transit Program.”

Section 3: Findings and purposes
The purpose of this Act is to promote the planning and establishment of alternative transportation systems within, and in the vicinity of, the national parks and other public lands to protect and conserve natural, historical, and cultural resources, mitigate adverse impact on those resources, relieve congestion, minimize transportation fuel consumption, reduce pollution, and enhance visitor mobility and accessibility and the visitor experience. The Act responds to the need for alternative transportation systems in the national parks and other public lands identified for transportation by the Department of Transportation pursuant to section 3039 of TEA-21, by establishing Federal assistance to finance mass transportation projects within and in the vicinity of the national parks and other public lands, to increase coordination with gateway communities, Federal, State, and public-private partnerships, and to assist in the research and deployment of improved mass transportation equipment and methods.

Section 4: Definitions
This section defines eligible projects and eligible participants in the program. A "qualified participant" is a Federal land management agency, or a State or local governmental authority acting with the consent and a Federal land management agency. A "project" is a proposal for a project. A "qualified project" is a planning or capital mass transportation project, including rail projects, clean fuel vehicles, joint development and establishment of criteria for planning, selection, and funding of projects under this section.

Section 5: Federal Agency cooperative arrangements
This section implements the 1997 Memorandum of Understanding between the Director of the National Park Service and the Interior for the exchange of technical assistance in mass transportation, the development of mass transportation plans, and the establishment of criteria for planning, selection, and funding of projects under this section.

Section 6: Types of assistance
This section gives the Secretary of Transportation authority to provide Federal assistance through grants, cooperative agreements, inter- or intra-agency agreements, or other agreements, including leasing under certain conditions, for a qualified project under this section.

Section 7: Limitation on use of available amounts
This section specifies that the Secretary may not use more than 5% of the amounts available under this section for planning, research, and technical assistance, these amounts may be supplemented from other sources. In addition, to ensure a broad distribution of funds, no project can receive more than 12% of the total amount available under this section in any given year.

Section 8: Planning process
This section requires the Secretaries of Transportation and the Interior to cooperatively develop an agreement with TEA-21 for qualified participants which are Federal land management agencies. If the qualified participant is a State or local government authority, the qualified participant shall comply with the TEA-21 planning process and consult with the appropriate Federal land management agency during the planning process.

Section 9: Department’s share of the costs
This section requires that in determining the Department’s share of the project costs, the Secretary of Transportation, in cooperation with the Secretary of the Interior, must consider certain factors, including visitation levels and user fee revenues, coordination in mass transportation projects with public and private transit provider, private investment, and whether there is a clear and direct financial benefit to the qualified participant. The intention is to establish criteria for a sliding scale of assistance, with a lower Departmental share for projects that can attract outside investment, and a higher Departmental share for projects that do not qualify for such outside resources. In addition, this section specifies that funds from the Federal land management agencies can be counted toward the local cost.

Section 10: Selection of qualified projects
This section provides that the Secretary of the Interior, in cooperation with the Secretary of Transportation, shall prioritize the qualified projects for funding in an annual report of program of projects according to the following criteria: (1) project justification, including the extent to which the project conserves and protects Federal resources, prevents or mitigates adverse impact, and enhances the environment; (2) project location to ensure geographic diversity and both rural and urban projects; (3) project size for a balanced distribution; (4) historical and cultural significance; (5) safety; (6) the extent to which the project would enhance livable communities, reduce pollution, protect and conserve natural, historical, and cultural sites of people in the most efficient manner; and (7) any other considerations the Secretary deems appropriate, including visitation levels, the use of innovative financing or joint development strategies, and coordination with gateway communities.

Section 11: Undertaking projects in advance
This provision applies current transit law to projects funded under this section, allowing projects to advance prior to receiving Federal funding, but allowing the advance activities to be counted toward the local share as long as certain conditions are met.

Section 12: Full funding agreement; project management plan
This section provides that large projects require a project management plan, and shall be carried out through a full funding agreement to the extent the Secretary considers appropriate.

Section 13: Relationship to Other Laws
This provision applies certain transit laws to projects funded under this section, and permits the Secretary to apply any other terms or conditions he or she deems appropriate.

Section 14: Innovative financing
This section provides that a project assisted under this Act can also use funding from a State Infrastructure Bank or other innovative financing mechanism that is available to fund other eligible transit projects.

Section 15: Asset management
This provision permits the Secretary of Transportation to transfer control over a transit asset, acquired with Federal funds under this Act, to a qualified participant in accordance with certain Federal property management rules.

Section 16: Coordination of research and deployment of new technologies
This provision allows the Secretary, in cooperation with the Secretary of the Interior, to enter into grants or other agreements for research and deployment of new technologies to meet the special needs of eligible areas under this Act.

Section 17: Report
This section requires the Secretary of Transportation to submit a report on projects funded under this Act to the House Transportation and Infrastructure Committee and the Senate Banking, Housing, and Urban Affairs Committee, to be included in the Department’s annual project report.

Section 18: Authorization
$65,000,000 is authorized to be appropriated for the Secretary to carry out the program for each of the fiscal years 2002 through 2007.

Section 19: Conforming amendments
Confirming amendments to the transit title, including an amendment to allow 0.5% of the funds made available under this Act to be used for project management oversight.
CONGRESSIONAL RECORD—SENATE

Section 20: Technical amendments

American Public Transportation Association,
Chairman, Committee on Banking, Housing,
and Urban Affairs,

Dear Senator Sarbanes:

Thank you for sharing with us a copy of the Transit in Parks Act. Of this system, would amend the federal transit law at chapter 58, title 49 U.S.C.

The Act would authorize federal assistance to certain federal agencies and state and local entities to finance mass transportation projects generally for the purpose of addressing transportation congestion and mobility issues at national parks and other eligible areas. In addition, the legislation would encourage enhanced cooperation between the Departments of Transportation and Interior regarding the use of federal agencies to encourage the use of public transportation at national parks.

I am pleased to support your efforts to improve mobility in our national parks. Public transportation clearly has much to offer citizen who visit these national treasures, where congestion and pollution are significant—and growing—problems. Moreover, this legislation should broaden the base of support for public transportation, a key principle APTA has been advocating for many years. It is my view that we will review your bill with APTA’s legislative leadership.

I applaud you for writing the legislation, and look forward to continuing to work with you and your staff. Let us know what we can do to help your initiative!

Sincerely yours,

William W. Millar,
President.

National Parks Conservation Association,

Dear Senator Sarbanes:

On behalf of the National Parks Conservation Association (NPCA) and its over 400,000 members, I want to thank you for proposing the Transit in Parks Act that will enhance transit systems for access to and within our national parks. NPCA applauds your leadership and foresight in recognizing the critical role that mass transit can play in protecting our parks and improving the visitor experience.

Visitation to America’s national parks has skyrocketed during the past two decades, from 190 million visitors in 1975 to approximately 286 million visitors last year. Increased public interest in these special places has placed substantial burdens on the very resources that draw people to the parks. As more and more individuals crowd into our national parks—typically by automobile—fragile habitat, endangered plants and animals, unique cultural treasures, and spectacular natural resources and vistas are being degraded by air and water pollution, noise intrusion, and inappropriate use.

Your innovative legislation would establish a program within the Department of Transportation dedicated to enhancing transit options and accessibility to the national parks. This is of vital importance for the future of our national parks. Your initiative will boost the role of alternative transportation systems. As such, the proposed legislation essentially defines those most heavily impacted by visitation such as Yellowstone-Grand Teton, Yosemite, Grand Canyon, Acadia, and the Great Smoky Mountains national parks.

The benefit of such systems has already been demonstrated in a number of parks such as Zion and Cape Cod.

Equally important, the legislation will provide an excellent opportunity for the National Park Service (NPS) to enter into public-private partnerships with states, localities, and the private sector, providing a wider range of transportation options than exist today. These pair and water leverage of funding that NPS currently has great difficulty accessing.

NPCA wholeheartedly endorses your bill as a creative new mechanism to fulfill the promise for the national parks. The NPCA system: “to conserve the scenery and the natural and historic objects and the wildlife therein, and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

We look forward to working with you to move this legislation to enactment.

Sincerely,

Thomas C. Kibran,
President.

Friends of the Earth,

Dear Senator Sarbanes:

On behalf of Friends of the Earth, I want to thank you for proposing the Transit in Parks Act. This important bill will enhance transit options for access to and within our national parks. Your leadership in this matter is greatly appreciated.

Americans are visiting our national parks at an unprecedented rate, with visitation growing from 265 million visitors in 1975 to approximately 286 million visitors last year. With increased visitation comes an increased burden on the parks. As more and more individuals take their cars into our national parks, fragile habitat, endangered plants and animals, unique cultural treasures, and spectacular natural resources and vistas are being degraded by air and water pollution, noise intrusion, and inappropriate use.

Your innovative legislation would establish a program within the Department of Transportation dedicated to enhancing transit options and accessibility to the national parks. This is of vital importance for the future of our national parks. Your initiative will boost the role of alternative transportation systems. As such, the proposed legislation essentially defines those most heavily impacted by visitation.

For instance, development of transportation centers and auto parking lots outside the parks, complements the use of buses, vans, or rail systems, and/or bicycle and pedestrian pathways would provide much more efficient means of handling the crush of visitation.

The benefit of such systems has already been demonstrated in a number of parks such as Zion and Cape Cod.

We look forward to working with you to move this legislation to enactment.

Sincerely,

David Hirsch,
Transportation Policy Coordinator.

Environmental Defense,

Dear Senator Sarbanes:

I am writing on behalf of the Environmental Defense Fund and our 200,000 members to express support for your bill, the Transit in Parks Act, which will provide dedicated funding for transit projects in our national parks. To many of our parks suffer from the consequences of poor transportation systems; traffic congestion, air and water pollution, and disturbance of natural ecosystems.

Increased funding for attractive and effective transit services to and within our national parks is essential to mitigating these growing problems. A good working transit system in a number of our national parks will make the park experience not only more enjoyable, but also more effective for those who travel there. It will help improve environmental conditions. Air pollutants that exacerbate respiratory health problems, damage vegetation, and contribute to haze which too often obliterates the views at our parks, will be abated by decreasing the number of cars and congestion levels in the parks. Improved transit related to our parks is key to diversifying transportation choices and access for the benefit of all who wish to visit our national park system.

It is also vital in assuring equal access for all citizens to our parks, including those without cars.

We appreciate your leadership on this issue and your dedication to the health of our national parks and expanded choices in our transportation systems. We look forward to working with you to move your legislation forward.

Sincerely,

Community Transportation Association,

Dear Senator Sarbanes:

On behalf of community transportation services in many of the smaller communities that border these national parks, monuments, and recreational areas, and our association has members actively involved in providing public transportation services at several national parks.

All of us know the danger that congestion and increased traffic pose for the future of these sites and locations. Your continued sponsorship of the Transit in Parks Act is an important step in helping to ensure that America’s natural beauty remains a continuous part of our nation’s future.

We have members throughout the country whose experiences support the principle that alternative transportation systems in and near our national parks and public lands can improve mobility, support the economic vitality of these parks’ “gateway communities,” and provide a dramatic improvement in the experiences of park visitors, employees, and community residents alike.
As an illustration of this point, enclosed is an article recently published in our Community Transportation magazine that discusses public transportation as part of the solution to traffic congestion and mobility issues in Acadia, Yosemite and Zion National Parks. These success stories could be replicated in many other communities under your Transit in Parks proposal.

We appreciate your dedicated efforts and initiative in this regard, and look forward to helping you advance this important piece of legislation.

Sincerely,

Dale J. Marsico
Executive Director.

AMENDMENTS SUBMITTED AND PROPOSED

SA 831. Mr. BOND (for himself, Mr. Roberts, and Mr. Helms) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table.

SA 832. Mr. FRIST (for himself, Mr. Breaux, and Mr. Jeffords) submitted an amendment intended to be proposed by him to the bill S. 1052, supra.

SA 833. Mr. WARNER proposed an amendment to the bill S. 1052, supra.

SA 834. Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. DWYER, Mr. NELSON, of Nebraska, Mr. SPECTER, Mr. MCCAIN, Mr. BAUCUS, Ms. STABENOW, and Mr. GRAHAM) proposed an amendment to the bill S. 1052, supra.

SA 835. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 836. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 837. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 838. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, supra; which was ordered to lie on the table.

SA 839. Mrs. HUTCHISON (for herself and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill S. 1052, supra.

SA 840. Mr. ENZI proposed an amendment to the bill S. 1052, supra.

SA 841. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 842. Mr. DWYER submitted an amendment intended to be proposed by him to the bill S. 1052, supra.

SA 843. Mr. GRAMM (for himself and Mr. MCCAIN) proposed an amendment to the bill S. 1052, supra.

SA 844. Mr. SPECTER proposed an amendment to the bill S. 1052, supra.

SA 845. Mr. GRASSLEY proposed an amendment to the bill S. 1052, supra.

SA 846. Mr. NICKLES (for himself and Mr. ENZI) proposed an amendment to the bill S. 1052, supra.

SA 847. Mr. BROWNBACK proposed an amendment to the bill S. 1052, supra.

SA 848. Mr. ENZI proposed an amendment to the bill S. 1052, supra.

SA 849. Mr. ENZI proposed an amendment to the bill S. 1052, supra.

TEXT OF AMENDMENTS

SA 831. Mr. BOND (for himself, Mr. ROBERTS, and Mr. HELMS) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 154, between lines 2 and 3, insert the following:

"(11) MINIMUM SHARE OF SETTLEMENT OF AWARD.—''(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys' fees from the total amount of such award.

''(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection is less than $100,000.

''(C) DEFINITIONS.—In this paragraph:

''(i) AWARD.—The term 'award' means the sum of—

''(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

''(aa) final court decision;

''(bb) court order;

''(cc) settlement agreement;

''(dd) arbitration procedure; or

''(ee) alternative dispute resolution procedure (including mediation); less

''(II) any reimbursement for any expenses incurred in connection with such representation or work.

''(ii) the failure described in clause (i) is

''(A) FAILURE TO COMPLY WITH EXTERNAL REVIEW.—Section 502 of the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 156, line 2, after "treatment" insert the following: "The name of the designated decision-maker (or decision-makers) appointed under section 522(n)(2) of the Employee Retirement Income Security Act of 1974 for purposes of making final determinations under section 103 and approving coverage pursuant to the written determination of an independent medical reviewer under section 104."

Beginning on page 139, strike line 21 and all that follows through line 14 on page 171, and insert the following:

SEC. 302. AVAILABILITY OF CURE REMEDIES.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

"(c) CAUSE OF ACTION RELATING TO DENIAL OF A CLAIM FOR HEALTH BENEFITS.—

"(1) IN GENERAL.—"(A) FAILURE TO COMPLY WITH EXTERNAL MEDICAL REVIEW.—With respect to an action commenced by a participant or beneficiary in connection with a claim for benefits under a group health plan, if—

"(i) a designated decision-maker described in subparagraph (B) fails to exercise ordinary care in approving coverage pursuant to the written determination of an independent medical reviewer under section 104(d)(3)(F) of the Employee Retirement Income Security Act that reverses a denial of the claim for benefits; and

"(ii) the failure described in clause (i) is the proximate cause of substantial harm (as defined in paragraph (10)(G)) to the participant or beneficiary;
such designated decision-maker shall be liable to the participant or beneficiary (or the estate) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

"(B) WRONGFUL DETERMINATION RESULTING IN DELAY IN PROVIDING BENEFITS.—With respect to an action commenced by a participant or beneficiary (or the estate of the participant or beneficiary) in connection with a claim for benefits under a group health plan, if—

(i) a designated decision-maker described in paragraph (2)—

"(i) fails to exercise ordinary care in making a determination denying the claim for benefits under section 102 of the Bipartisan Patient Protection Act (relating to an initial claim for benefits); or

"(ii) the denial described in clause (i) is reversed by an independent medical reviewer under section 102 of the Bipartisan Patient Protection Act; or

(ii) the determination of the reviewer under section 102 of the Bipartisan Patient Protection Act shall have the exclusive authority under the group health plan—

(i) to make determinations with respect to a claim for benefits under section 102 of the Bipartisan Patient Protection Act (relating to an initial claim for benefits); and

(ii) to make final determinations under section 103 of such Act (relating to an internal appeal); or

(iii) to approve coverage pursuant to the written determination of an independent medical reviewer under section 102 of the Bipartisan Patient Protection Act.

(2) DESIGNATED DECISION-MAKER.—

(iii) the delay attributable to the failure described in clause (i) is the proximate cause of such injury or death, or the wrongful death of, the participant or beneficiary; such designated decision-maker shall be liable to the participant or beneficiary (or the estate) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

(4) PLAN DOCUMENTS.—The designated decision-maker shall be specifically designated as such in the written instruments of the plan (under section 103 of such Act as required under section 121(b)(14) of the Bipartisan Patient Protection Act).

(5) AUTHORITY.—A designated decision-maker described in clause (A) shall have the exclusive authority under the group health plan—

(i) to make determinations with respect to a claim for benefits under section 102 of the Bipartisan Patient Protection Act (relating to an initial claim for benefits); and

(ii) to make final determinations under section 103 of such Act (relating to an internal appeal); or

(iii) to approve coverage pursuant to the written determination of independent medical reviewers under section 102 of such Act.

(6) ALLOCATION OF RESPONSIBILITY.—Responsibility may be allocated among different designated decision-makers with respect to—

(i) for purposes of paragraph (1)(A), the approval of coverage under section 104 of the Bipartisan Patient Protection Act; and

(ii) for purposes of paragraph (1)(B), making determinations on a claim for benefits under section 102 of such Act (relating to an initial claim for benefits); and

(iii) for purposes of paragraph (1)(B), making final determinations on claims for benefits under section 103 of such Act (relating to internal appeals), except that not more than one designated decision-maker may be appointed with respect to each level of review under clauses (i), (ii), and (iii). Where such an allocation is made, the liability under a cause of action under paragraph (1) shall be assessed against the appropriate designated decision-maker.

(7) QUALIFICATIONS.—

(i) CERTIFICATION OF ABILITY.—To be appointed as a designated decision-maker under this paragraph, a person shall provide to the plan sponsor or named fiduciary, or any other person or group of persons to whom the plan sponsor or named fiduciary is accountable, a certification of such person's ability to meet the requirements of clause (ii) relating to financial obligation for liability under this subsection. Such certification shall be provided upon appointment and not less frequently than annually thereafter, or if the designation is pursuant to a multi-year contract, in connection with the renewal of the contract, but in no case less than once every 3 years.

(ii) OTHER REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of clause (i), requirements relating to financial obligation for liability shall include evidence of—

(I) coverage of the person under insurance policies or other arrangements, secured and maintained by the person, to insure the person against losses arising from professional liability claims, including those arising from being designated as a designated decision-maker under this paragraph; or

(II) minimum capital and surplus levels that are maintained by the person to cover any losses as a result of liability arising from being designated as a designated decision-maker under this paragraph.

The appropriate amounts of liability insurance shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to the guidelines established by the National Academy of Actuaries and shall be maintained throughout the course of the contract in which such person is designated as a designated decision-maker.

(8) FLEXIBILITY IN ADMINISTRATION.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, may provide—

(i) that any person or group of persons may serve in more than one capacity with respect to the plan or coverage (including service as a designated decision-maker, administrator, and named fiduciary); or

(ii) that a designated decision-maker may employ one or more persons to direct the advice with respect to any responsibility of such decision-maker under the plan or coverage.

(9) FAILURE TO APPOINT.—

(i) IN GENERAL.—With respect to any cause of action under paragraph (1) relating to a denial of a claim for benefits where a designated decision-maker has not been appointed in accordance with this paragraph, the plan sponsor or named fiduciary responsible for the plan shall be deemed to be the designated decision-maker.

(ii) LIMITATION ON APPOINTMENT.—A treatment or patient service that is the subject of an action under this subsection may not be designated as a designated decision-maker under this paragraph unless the professional—

(I) is a person or entity that may be appointed in accordance with subparagraph (A); and

(II) specifically agrees to accept such appointment in accordance with the requirements under this subsection.

(10) REQUIREMENT OF EXHAUSTION OF INDEPENDENT MEDICAL REVIEW.—

(A) IN GENERAL.—Paragraph (1) shall apply only if a final determination denying a claim for benefits under section 102 of the Bipartisan Patient Protection Act has been referred to an independent medical reviewer under section 104(d) of such Act and a written determination by an independent medical reviewer to reverse such final determination has been issued with respect to such review or where the coverage for the benefit involved is approved after the denial is referred to the independent medical reviewer but prior to the determination of the reviewer under section 102.

(B) EXCEPTION TO EXHAUSTION FOR NEEDED CARE.—A participant or beneficiary may seek relief under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under section 103 or 104 of the Bipartisan Patient Protection Act (as required under subsection 502(a)(1)(B)) if it is demonstrated to the court, by a preponderance of the evidence, that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Any determination that already have been made under section 102, 103, or 104 of such Act in such case, or that are made in such case while an action under this subparagraph is pending, shall be given due consideration by the court in any action under this subsection in such case. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available under subparagraph (B).

(11) SUBMISSION.—

(i) paragraph (1), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met; or

(ii) subsection (q) unless the requirements of such subsection are met.

(12) LIMITATIONS ON RECOVERY OF DAMAGES.—
has increased or decreased from the such September of the preceding calendar year published by the Bureau of Labor Statistics, for consumers (United States city average), pub-

lished by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September of 2002.

(C) SEVERAL LIABILITY.—In the case of any action commenced pursuant to para-

graph (1), the designated decision-maker shall be liable only for the amount of non-

economic damages attributable to such des-

ignated decision-maker in direct proportion to such decision-maker’s share of fault or re-

sponsibility for the injury suffered by such partici-

pant or beneficiary. In all such cases, the liability of a designated decision-maker for noneconomic damages shall be several and not joint.

(D) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(i) IN GENERAL.—In the case of any action commenced pursuant to paragraph (1), the total amount of damages received by a partici-

pant or beneficiary under such action shall be reduced, in accordance with clause (ii), by any other payment that has been, or will be, made to such participant or bene-

ficiary, pursuant to an order or judgment of another court, to compensate such partici-

pant or beneficiary for the injury that was the subject of such action.

(ii) AMOUNT OF REDUCTION.—The amount by which an award of damages to a partici-

pant or beneficiary for an injury shall be re-

duced under clause (i) shall be—

(I) the total amount of any payments (other than such award) that have been made or that could be made to such participant or benefici-

ary to pay costs of or compensate such participant or beneficiary for the injury that was the subject of the action; less

(II) any other payment that has been, or will be, made to such participant or benefici-

ary (or by the spouse, parent, or legal guardian of such participant or benefici-

ary) to secure the payments described in subclause (I).

(iii) DETERMINATION OF AMOUNTS FROM COLLATERAL SOURCES.—The reduction re-

quired under clause (ii) shall be determined by the court in a pretrial proceeding. At the subsequent trial no evidence shall be admitted as to the amount of any charge, pay-

ments, or damage for which a participant or benefici-

ary has received payment from a collateral source or the obligation for which has been assured by a third party; or other evidence, significant or otherwise, will be received from a collateral source or the obligation for which has been assured by a third party.

(iv) AWARD OF PUNITIVE DAMAGES.—Notwithstanding any other provi-

sion of law, in the case of any action com-

menced pursuant to paragraph (1), the court may reduce the amount of punitive, exemplary, or similar damages against a defendant.

(v) AFFIRMATIVE DEFENSES.—In the case of any cause of action under paragraph (1), it shall be an affirmative defense that—

(A) the designated decision-maker of a group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, involved in the failure to provide or authorize medical care did not receive from the participant or ben-

eficiary (or authorized representative) or the treating health care professional (if any), the information requested by the plan or issuer to enable it to determine the eligibility of the par-

ticipant or beneficiary that was necessary to make a determination on a claim for bene-

fits under section 102 of the Bipartisan Pa-

tient Protection Act or a final determination on a claim for benefits under section 103 of such Act;

(B) the participant or beneficiary (or au-

thorized representative) that—

(I) was in possession of facts that were sufficient to enable the participant or ben-

eficiary (or authorized representative) to know that an expedited review under section 102, 103, or 104 of such Act would have pre-

vented the harm that is the subject of the action; and

(II) failed to notify the plan or issuer of the need for such an expedited review;

(C) the qualified external review entity or an independent medical reviewer failed to meet the timeliness standards under section 104 of such Act, or a period of time elapsed after coverage has been authorized.

Nothing in this paragraph shall be construed to limit the application of any other affirma-

tive defense that is applicable to the cause of action involved.

(vi) WAIVER OF INTERNAL REVIEW.—In the case of any cause of action under paragraph (1), the waiver of internal re-

view under section 103(a)(4) of the Bipartisan Patient Protection Act by the group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall not be used in determining liability.

(7) LIMITATIONS ON ACTIONS.—Paragraph (1) shall not apply in connection with any action that is commenced more than 3 years before the date on which the failure described in paragraph (1) occurred.

(8) PROTECTION OF THE REGULATION OF QUALITY OF CARE UNDER STATE LAW.—Nothing in this subsection shall be construed to preclude any action under State law against a person or entity for liability for failure to provide an item or service that is specifically excluded under the plan or coverage.

(9) CONSTRUCTION.—Nothing in this sub-

section shall be construed as authorizing a cause of action under paragraph (1) for the failure of a group health plan or health insur-

ance issuer to provide an item or service that is specifically excluded under the plan or coverage.

(10) DEFINITIONS.—In this subsection:

(A) AUTHORIZED REPRESENTATIVE.—The term ‘authorized representative’ has the meaning given such term in section 102(e)(1) of the Bipartisan Patient Protection Act; and

(B) CLAIM FOR BENEFITS.—Except as pro-

vided for in paragraph (8), the term ‘claim for benefits’ shall have the meaning given such term in section 102(e)(1) of the Bipar-

tisan Patient Protection Act; and

(C) GROUP HEALTH PLAN.—The term ‘group health plan’ shall have the meaning given such term in section 733(b)(1).

(D) HEALTH INSURANCE COVERAGE.—The term ‘health insurance coverage’ has the meaning given such term in section 733(b)(2).

(E) HEALTH INSURER.—The term ‘health insurance issuer’ has the meaning given such term in section 733(b)(2).

Any such claim shall be maintained ex-

clusively under section 502(b)(3)(A).

All such claims shall be maintained ex-

clusively under section 502(b)(1).

(1) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by subsections (a) and (b), is further amended by adding at the end the following:

(p) AUTHORITY TO IMPOSE CIVIL PENALTIES FOR FAILURE TO PROVIDE A PLAN BENEFIT NOT ELIGIBLE FOR MEDICAL REVIEW.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by subsection (a), is further amended by adding after subsection (a)(3)(B) the following:

(2) AUTHORITY TO IMPOSE CIVIL PENALTIES FOR FAILURE TO PROVIDE A PLAN BENEFIT NOT ELIGIBLE FOR MEDICAL REVIEW.—In con-

nection with any action commenced pursuant to section 502(m)(2) of a group health plan or a health insurance issuer (that offers health insurance coverage in connection with a group health plan) not to exceed $100,000 where—

(1) in its final determination under section 103(d)(2) of the Bipartisan Patient Pro-

tect Act, the designated decision-maker fails to provide, or authorize coverage of, a benefit to which a participant or beneficiary is entitled under the terms and conditions of the plan;

(2) the participant or beneficiary has ap-

pealed such determination under section 104 of such Act and such determination is not subject to independent medical review as de-

termined by a qualified external review entity under section 104(c)(3)(A) of such Act;

(3) the plan has failed to exercise ordinary care in making a final determination under section 103(d)(2) of such Act denying a claim for benefits under the plan; and

(4) that denial is the proximate cause of substantial harm (as described in subsection (n)(10)(G)) the participant or beneficiary.

(c) LIMITATION ON CERTAIN CLASS ACTION LITIGATION.—

(1) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by subsections (a) and (b), is further amended by adding at the end the following:

(3) LIMITATION ON CLASS ACTION LITIGATION.—

(i) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connec-

tion with a group health plan, or group health plan, or group insurance contract, derivative action, or as an action on behalf of any group of 2 or more claimants,
may be maintained only if the class, the derivative of such decision or action is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms ‘group health plan’ and ‘health insurance coverage’ have the meanings given such terms in section 733."

(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after the date of enactment of the Bipartisan Patient Protection Act. This subsection shall apply to civil actions that are pending and have not been finally determined by judgment or settlement prior to such date of enactment.

(b) Amounts described.—For purposes of subparagraph (A), the amounts described in this subparagraph are as follows:

(1) With respect to a recovery in a cause of action described in subparagraph (A) that does not exceed $100,000, the amount of attorneys’ fees awarded may not exceed an amount equal to 1/2 of the amount of the recovery.

(2) With respect to a recovery in such a cause of action that exceeds $100,000 but does not exceed $500,000, the amount of the attorneys’ fees awarded may not exceed an amount equal to 10 percent of such excess recovery above $100,000.

(3) With respect to a recovery in such a cause of action that exceeds $500,000, the amount of the attorneys’ fees awarded may not exceed an amount equal to 15 percent of such excess recovery above $500,000.

(c) Equitable discretion.—A court in its discretion may adjust the amount of any award of attorneys’ fees required under subparagraph (A) as equity and the interests of justice may require.

On page 170, between lines 21 and 22, insert the following:

(9) LIMITATION ON ATTORNEYS’ FEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any arrangement, agreement, or contract regarding attorneys’ fees, subject to subparagraph (B), a court shall limit the amount of attorneys’ fees that may be awarded under subparagraph (A) in an action by or on behalf of a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under paragraph (1) to the amount of attorneys’ fees allowed under subparagraph (A) as equity and the interests of justice may require.

SA 834. Ms. SNOE (for herself, Mrs. LINCOLN, Mr. DEWINE, Mr. NELSON of Nebraska, Mr. SPECTER, Mr. MCCAIN, Mr. BAUCUS, Ms. STABENOW, and Mr. CHAFEE) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 106, between lines 16 and 17, insert the following:

(19) DESIGNATED DECISIONMAKERS.—A description of the participants and beneficiaries with respect to whom each designated decisionmaker under the plan has assumed liability under section 502(a)(1)(A) of the Employee Retirement Income Security Act of 1974 and all actions commenced on or after such date.

(d) CONFORMING AMENDMENT.—Section 502(a)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(1)(A)) is amended by inserting “(or)” after “or” and before “and”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after October 1, 2002.

SA 833. Mr. WARNER proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 154, between lines 2 and 3, insert the following:

(11) LIMITATION ON AWARD OF ATTORNEYS’ FEES.—

(A) IN GENERAL.—Subject to subparagraph (C), with respect to a participant or beneficiary (or, if a participant or beneficiary who brings a cause of action under this subsection and prevails in that action, the amount of attorneys’ fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved in such action) may not exceed the sum of the amounts described in subparagraph (B).
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“(ii) prohibit a cause of action under para- graph (1) relating to quality of care; or

“(iii) limit liability that otherwise would arise from the provision of the item or serv- ices or the performance of a medical proce- dure.

“(19) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIREC- TORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individ- ual who

“(A) a member of a board of directors of an employer or plan sponsor; or

“(B) a member of an association, com- mittee or other group of repre- sentatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organi- zations;

shall not be personally liable under this sub- section for conduct that is within the scope of employment of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

“(o) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—

“(1) IN GENERAL.—For purposes of subsection (n)(17) and section 514(d)(9), a des- ignated decisionmaker meets the require- ments of paragraph (2) with respect to any participant or beneficiary if—

“(A) such designation is in such form as may be prescribed in regulations of the Sec- retary.

“(B) the designated decisionmaker—

“(i) meets the requirements of paragraph (2).”

“(2) (ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee thereof acting within the scope of employment) either arising under subsection (n) or arising in a cause of action permitted under section 514(d) in connection with actions (and failures to act) of the em- ployer or plan sponsor (or employee) occur- ring during the period in which the designa- tion under subsection (n)(17) or section 514(d)(9) is in effect relating to such partici- pant or beneficiary.

“(iii) agrees to be substituted for the em- ployer or plan sponsor (or employee) in the action and not to raise any defense with re- spect to such liability that the employer or plan sponsor (or employee) may not raise, and

“(iv) where paragraph (2)(B) applies, as- sumes unconditionally all liability under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary.

“(C) the designated decisionmaker and the participants and beneficiaries for whom the decisionmaker has assumed liability are identified in the written instrument required under section 402(a) and as required under section 121(b)(19) of the Bipartisan Patient Protection Act.

Any liability assumed by a designated dec- isionmaker relating to a group health plan shall be in addition to any liability that it may otherwise have under applicable law.

“(2) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

“(A) IN GENERAL.—Subject to subparagraph (B), an entity is qualified under this sub- section to serve as a designated decisionmaker with respect to a group health plan if the en- tity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan, and the arrangements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the

plan sponsor and the Secretary certification of such ability. Such certification shall be pro- vided to the plan sponsor or named fidu- ciary and to the Secretary upon designation under subsection (n)(17)(B) or section 514(d)(9)(B) and not more frequently than an- nually thereafter, or if such designation consti- tutes a multiyear arrangement, in con- junction with the renewal of the arrange- ment.

“(B) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of a participant or beneficiary only through health insurance coverage offered by a single health insurance issue, such issuer is the only entity that may fulfill the requirements of this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or plan sponsor acts af- firmatively to prevent such service.

“(3) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of paragraph (2) and as required under section 402(a) and as required under section 502(o)(1) with respect to such participant or beneficiary. Such subsection (n) or section 514(d)(9) is in effect relating to such participant or beneficiary, and

“(B) automatic designation.—A health in- surance issuer shall be deemed to be a des- ignated decisionmaker for purposes of sub- paragraph (A) with respect to the partici- pants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed uncondi- tionally all liability of the employer or plan sponsor under such designation in accord- ance with subsection (o), unless the em- ployer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

“(10) PREVIOUSLY PROVIDED SERVICES.—

“(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the partici- pant or beneficiary under the plan or cov- erage and the claim relates solely to the sub- strates or denial of payment for the provision of such item or service.

“(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to preclude a cause of action under para- graph (1) where the nonpayment involved re- sults in the participant or beneficiary being unable to receive further items or services that the participant or beneficiary directly relates to such service involved in the denial referred to in sub- paragraph (A) or that are part of a con- tinuing treatment or series of procedures;

“(ii) prohibit a cause of action under para- graph (1) relating to quality of care; or

“(iii) limit liability that otherwise would arise from the provision of the item or serv- ices or the performance of a medical proce- dure.

“(11) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIREC- TORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individ- ual who is

“(A) a member of a board of directors of an employer or plan sponsor; or

“(B) a member of an association, com- mittee, employee organization, joint board of trustees, or other similar group of repre- sentatives of the entities that are the plan sponsor of plan maintained by more employers and one or more employee organi- zations;

shall not be personally liable under this sub- section for conduct that is within the scope of employment of the individuals unless the individual acts in a fraudulent manner for personal enrichment.
SA 835. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

SEC. 136. PRESERVATION OF THE HIPPOCRATIC OATH.
(a) In General.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a physician (or group of physicians) shall require that such physician—
(1) provide notice to each participant, beneficiary, or enrollee that the physician treats of whether or not the physician has taken or will take an action that does uphold the Oath. The plan or issuer involved shall permit a notice under subsection (a) that a physician (or group of physicians) shall require that such physician—
(1) provide notice to each participant, beneficiary, or enrollee that the physician does not hold the Hippocratic Oath, the group health plan or other health insurance issuer meets the requirements of this subsection if—
(a) any penalty assessed that is not awarded to the aggrieved participant or beneficiary; and
(b) any non-economic or punitive damages awarded in excess of $2,000,000.
(b) STATE REQUIREMENTS.—
(1) STATE HEALTH INSURANCE TRUST FUND.—A State that desires to receive payments under subsection (a) shall establish a State health insurance trust fund.
(2) REFUNDABLE TAX CREDIT.—
(A) IN GENERAL.—The refundable tax credit described in subsection (a)(1) shall—
(i) be available to any resident of a State who—
(I) is without access to adequate health insurance through the resident’s employer; or
(II) is from a family with an income that is less than 220 percent of the poverty line, is not eligible for benefits under the medicaid program under title XIX of the Social Security Act, is not eligible for veteran’s health benefits, and is younger than 65 years of age; and
(ii) be used to provide a benefit for private insurance that includes, at a minimum, catastrophic coverage.
(B) TIME PERIOD.—
(i) IN GENERAL.—A State shall have in place a refundable tax credit as described in subsection (a)(1), not later than 2 years after the date of enactment of the Bipartisan Patient Protection Act.
(ii) TRANSITION.—A State that fails to have a refundable tax credit in place as required by clause (i) shall transfer any funds described in subsection (a)(2) to the National Institutes of Health.

SA 837. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

SEC. 303. DEDICATION OF PUNITIVE DAMAGES FROM PLAN OR ISSUER OF HEALTH INSURANCE COVERAGE.
(a) AWARD OF PORTION OF DAMAGES.—
(1) IN GENERAL.—If any penalty is assessed, or non-economic or punitive damages are awarded with respect to a cause of action under section 502(a) or 514(d) of the Employee Retirement Income Security Act of 1974 (as added by section 302), the court shall award the amount described in paragraph (2) to the State health insurance trust fund established under subsection (b) for the State in which the claim was filed to enable the State to provide refundable tax credits to eligible individuals in the State to purchase health insurance coverage.
(2) AMOUNT.—The amount awarded to a State under paragraph (1) shall consist of—
(A) any penalty assessed that is not awarded to the aggrieved participant or beneficiary; and
(B) any non-economic or punitive damages awarded in excess of $2,000,000.
(b) STATE REQUIREMENTS.—
(1) STATE HEALTH INSURANCE TRUST FUND.—A State that desires to receive payments under subsection (a) shall establish a State health insurance trust fund.
(2) REFUNDABLE TAX CREDIT.—
(A) IN GENERAL.—The refundable tax credit described in subsection (a)(1) shall—
(i) be available to any resident of a State who—
(I) is without access to adequate health insurance through the resident’s employer; or
(II) is from a family with an income that is less than 220 percent of the poverty line, is not eligible for veteran’s health benefits, and is younger than 65 years of age; and
(ii) be used to provide a benefit for private insurance that includes, at a minimum, catastrophic coverage.
(B) TIME PERIOD.—
(i) IN GENERAL.—A State shall have in place a refundable tax credit as described in subsection (a)(1), not later than 2 years after the date of enactment of the Bipartisan Patient Protection Act.
(ii) TRANSITION.—A State that fails to have a refundable tax credit in place as required by clause (i) shall transfer any funds described in subsection (a)(2) to the National Institutes of Health.
(B) does not have a material familial, financial, or professional relationship with such party; and
(C) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(2) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in paragraph (1) shall be construed to prohibit receipt by a trustee of the separate trust created under subsection (a)(1) for the conduct of the trustee’s duties, except that any such compensation—

(A) may not exceed a reasonable level; and
(B) may not be contingent on any decision rendered by the trustee in the exercise of the trustee’s duties.

(3) RELATED PARTY.—For purposes of this subsection, the term ‘related party’ means, in connection with a separate trust forming a part of the plan or the arrangement for such coverage, the plan, the plan sponsor, any health insurance issuer offering the coverage involved, or any fiduciary (except as provided in subsection (c)(2)), officer, director, or employee of such plan, plan sponsor, or issuer.

(e) RULES OF CONSTRUCTION.—

(1) ADDITIONAL EMPLOYEE CONTRIBUTIONS PERMITTED.—The requirements of this section shall not be treated as not met solely because a participant, beneficiary, or enrollee under such a plan or arrangement for coverage for purposes of acquiring health insurance coverage, in order to acquire such coverage.

(2) EXCEPTIONS FOR ORDER PARTIES UNAFFECTED.—Nothing in this section shall be construed to affect any cause of action in connection with the health insurance coverage referred to in subsection (a)(1) against the plan sponsor or health insurance issuer providing such coverage or any other party (other than the employer).

(f) REGULATIONS.—The Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury shall, to the extent necessary, carry out the provisions of this section. Such regulations shall be issued consistent with section 104 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 300gg–92 note).

SA 838. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, to amend the Medicare Access and CHIP Reauthorization Act of 2015 to provide for precertification.

TREATMENTS.—A description of the process by which the participant, beneficiary, or enrollee may be liable;

(2) BENEFITS.—A description of the covered benefits, including—

(A) any in-and out-of-network benefits;

(B) any benefits if services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations or benefits described in section 112(b)(2)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(3) COST-SHARING.—A description of any cost-sharing requirements, including:

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any additional cost-sharing or charges for health care services not payable under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(4) PREAUTHORIZATION REQUIREMENTS.—A description of any preauthorization and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists care under section 114 if such section applies.

(5) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

6. PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, the procedures for determining which drugs are covered, and the right to appeal an initial determination that the plan does not cover a drug, and a description of the appeal process available to participants, beneficiaries, and enrollees in obtaining access to treatment for nonformulary drugs under section 118 if such section applies.
SA 839. Mrs. HUTCHISON (for herself and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill S. 1052, to amend the Employee Retirement Income Security Act of 1974 to protect consumers in the selection of a health plan or health insurance coverage; as follows:

(a) the disclosure of such information in such form, and
(b) the recipient retains an ongoing right to receive paper disclosure of such information to view information so disclosed, and
(c) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

SA 840. Mr. ENZI proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

(a) in section 118, if such plan offers the participant or beneficiary the coverage option described in paragraph (2), the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

SA 841. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

SEC. 304. IMMUNITY FROM LIABILITY FOR PROVIDING INSURANCE OPTIONS.—
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SEC. 1431.

REFUNDABLE TAX CREDITS FOR THE UNINSURED FINANCED WITH CERTAIN CIVIL MONETARY PENALTIES.

(a) PAYMENT OF CERTAIN PENALTIES TO S CRETARY OF THE TREASURY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, 75 percent of any civil monetary penalty in any proceeding allowed under any provision of law pursuant to the amendment made by this Act may only be awarded to the Secretary of the Treasury.

(2) CIVIL MONETARY PENALTY.—For purposes of the amendment intended to be proposed by this Act, the term "civil monetary penalty" means damages awarded for the purpose of punishment or deterrence, and not solely for compensatory purposes. Such term includes exemplary and punitive damages or any similar damages which function as civil monetary penalties. Such term does not include either economic or non-economic losses. Such term does not include the portion of any award of damages that is not payable to a party or the attorney for a party pursuant to applicable State law.

(b) TAX FUND ON TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 96 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. HEALTH INSURANCE REFUNDABLE CREDITS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Health Insurance Refundable Credits Trust Fund', consisting of such amounts as may be—

"(1) appropriated to such Trust Fund as provided in this section, or

"(2) credited to such Trust Fund as provided in section 9602(b).

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN AWARDS.—There are hereby appropriated to the Health Insurance Refundable Credits Trust Fund amounts equivalent to the awards received by the Secretary of the Treasury under section (a) of the Bipartisan Patient Protection Act.

"(c) EXPENDITURES FROM TRUST FUN D.—Amounts from the Health Insurance Refundable Credits Trust Fund shall be available to fund the appropriations under paragraph (2) of section 132(b) of title 31, United States Code.

"(d) TAX CREDIT.—Any refundable tax credit to assist uninsured individuals and families with the purchase of health insurance under this title.

"(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.

"(b) EQUITABLE AND PUBLIC INTEREST ACTIONS.—

"(1) IN GENERAL.—Any claim or cause of action that is brought under this subsection, or alleging any violation of section 1962, where the action seeks reimbursement of claims, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

"(2) EFFECTIVE DATE.—This subsection shall apply to actions that are filed on or after January 1, 2002.

"(A) IN GENERAL.—Any claim or cause of action that is brought under this subsection, or alleging any violation of section 1962, where the action seeks reimbursement of claims, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance issuer' shall have the meanings given such terms in section 733.

"(B) ACTION IN FEDERAL COURT.—A cause or class of actions that are brought or maintained only in the Federal district court for the district in the State in which the alleged injury or death occurred shall be construed to require a State to enact legislation imposing limits on damages in actions against group health plans and insurers. Nothing in this section shall be construed to require a State to enact legislation imposing limits on damages in actions against group health plans and insurers.

"(o) LIMITATION ON CLASS ACTION LITIGATION.—

"(1) LIMITATION.—

"(A) IN GENERAL.—Any claim or cause of action that is brought under this subsection, or alleging any violation of section 1962, where the action seeks reimbursement of claims, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

"(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.

"(B) DEFINITIONS.—In this paragraph, the term "health insurance issuer" means a person who has marketed, provided information concerning, established, administered, or otherwise operated a group health plan, or health insurance coverage in connection with a group health plan, and the Employee Retirement Income Security Act of 1974.

"(c) ACTIONS IN FEDERAL COURT.—A cause or class of actions that are brought or maintained only in the Federal district court for the district in the State in which the alleged injury or death occurred shall be construed to require a State to enact legislation imposing limits on damages in actions against group health plans and insurers.

"(1) IN GENERAL.—Any claim or cause of action that is brought under this subsection, or alleging any violation of section 1962, where the action seeks reimbursement of claims, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

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"(1) LIMITATION.—

"(A) IN GENERAL.—Any claim or cause of action that is brought under this subsection, or alleging any violation of section 1962, where the action seeks reimbursement of claims, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

"(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.

"(1) LIMITATION.—

"(A) IN GENERAL.—Any claim or cause of action that is brought under this subsection, or alleging any violation of section 1962, where the action seeks reimbursement of claims, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

"(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.

"(c) ACTIONS IN FEDERAL COURT.—A cause or class of actions that are brought or maintained only in the Federal district court for the district in the State in which the alleged injury or death occurred shall be construed to require a State to enact legislation imposing limits on damages in actions against group health plans and insurers.

"(o) LIMITATION ON CLASS ACTION LITIGATION.—

"(1) LIMITATION.—

"(A) IN GENERAL.—Any claim or cause of action that is brought under this subsection, or alleging any violation of section 1962, where the action seeks reimbursement of claims, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

"(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.

"(1) LIMITATION.—

"(A) IN GENERAL.—Any claim or cause of action that is brought under this subsection, or alleging any violation of section 1962, where the action seeks reimbursement of claims, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

"(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.

"(c) ACTIONS IN FEDERAL COURT.—A cause or class of actions that are brought or maintained only in the Federal district court for the district in the State in which the alleged injury or death occurred shall be construed to require a State to enact legislation imposing limits on damages in actions against group health plans and insurers.

"(o) LIMITATION ON CLASS ACTION LITIGATION.—

"(1) LIMITATION.—

"(A) IN GENERAL.—Any claim or cause of action that is brought under this subsection, or alleging any violation of section 1962, where the action seeks reimbursement of claims, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

"(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.

"(c) ACTIONS IN FEDERAL COURT.—A cause or class of actions that are brought or maintained only in the Federal district court for the district in the State in which the alleged injury or death occurred shall be construed to require a State to enact legislation imposing limits on damages in actions against group health plans and insurers.
SEC. 01. SHORT TITLE.

This title may be cited as the "Human Germline Gene Modification Prevention Act of 2001":

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) Human Germline gene modification is not needed to save lives, or alleviate suffering, of existing people. Its target population is "prospective people" who have not been conceived.

(2) The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fail short of some technically achievable ideal would be seen as "genetic rejects", while the standards for what is genetically desirable will be those of the society’s economically and politically dominant groups. This will only increase prejudices and discrimination in a society where too many such prejudices already exist.

(3) There is no way to accountable to those in future generations who are harmed or stigmatized by wrongful or unsuccessful human germline modifications of themselves or their ancestors.

(4) The negative effects of human germline manipulation would not be fully known for generations, if ever, meaning that countless people will have been exposed to harm probably often fatal as the result of only a few instances of germline manipulations.

(5) All people have the right to have been conceived, gestated, and born without genetic manipulation.

SEC. 03. PROHIBITION ON HUMAN GERMLINE GENE MODIFICATION

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

"Chapter 16—Germline Gene Modification

Sec. 301. Definitions

Sec. 302. Prohibition on germline gene modification.

§ 301 Definitions

In this chapter:

(1) HUMAN GERMLINE GENE MODIFICATION.—The term ‘human germline modification’ means the intentional modification of DNA in any human cell (including human eggs, sperm, fertilized eggs, zygotes, blastocysts, embryos, or any precursor cells that will divide, differentiate into gametes or can be manipulated to do so) for the purpose of producing a genetic change which can be passed on to future individuals, including inserting, deleting, or altering DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA.

The term does not include any modification of cells that are not a part of and will not be used to create human embryos. Nor does it include the change of DNA involved in the normal processes of conception.

(2) HUMAN HAPLOID CELL.—The term ‘haploid cell’ means a cell that contains only a single copy of each of the human chromosomes, such as eggs, sperm, and their precursors.

(3) SOMATIC CELL.—The term ‘somatic cell’ means a diploid cell (having two sets of the chromosomes of almost all body cells) obtained or derived from a living or deceased human body at any stage of development.

Somatic cells are diploid cells that are not either eggs or sperm. A genetic modification of somatic cells is therefore not germline genetic modification.

Rule of construction: Nothing in this Act is intended to affect cell gene therapy, or to effect research involving human pluripotent stem cells.

§ 302. Prohibition on germline gene modification.

(a) In General.—It shall be unlawful for any person or entity, public or private, or in affecting interstate commerce—

(1) to perform or attempt to perform human germline gene modification;

(2) to intentionally participate in an attempt to perform human germline gene modification;

(3) to ship or receive the product of human germline gene modification for any purpose.

(b) Importation.—It shall be unlawful for any person or entity, public or private, to import the product of human germline gene modification for any purpose.

(c) Penalties.—

(1) In General.—Any person or entity that is convicted of violating any provision of this section shall be fined under this section or imprisoned not more than 10 years, or both.

(2) Civil Penalty.—Any person or entity that is convicted of violating any provision of this section shall be subject to, in the case of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by 2, if that amount is greater than $1,000,000.

(d) Clerical Amendment.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 15 the following:

"16. Germline Gene Modification ...... 301".

SA 845. Mr. GRASSLEY proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 179, strike lines 1 through 14.

SA 846. Mr. NICKLES (for himself and Mr. ENSIGN) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

Beginning on page 173, strike line 19 and all that follows through line 14 on page 174, and insert the following:

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—The amendments made by sections 201(a), 301, 302, and 303 (and title I insofar as it relates to such sections) shall apply to group health plans maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers beginning on the general effective date.

SA 847. Mr. BROWNBACK proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

At the end of the bill, add the following:

TITLE —HUMAN—GERMLINE GENE MODIFICATION

SEC. 01. SHORT TITLE.

This title may be cited as the "Human Germline Gene Modification Prevention Act of 2001":

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) Human Germline gene modification is not needed to save lives, or alleviate suffering, of existing people. Its target population is ‘prospective people’ who have not been conceived.

(2) The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fail short of
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Section 2721(b)(2) of the Public Health Service Act (42 U. S. C. 300gg-2(2)(b)(2)) is amended—

(a) by striking paragraph (A), by striking “If the plan sponsor” and inserting “Except as provided in subparagraph (D), if the plan sponsor”; and

(b) by adding at the end the following:

“(D) Election not applicable to requirements concerning genetic information.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (b), (c), and (d) of section 122 of the Bipartisan Patient Protection Act and the provisions of section 2722 of the Employee Retirement Income Security Act and the provisions of section 2702 of the Public Health Service Act as amended—

(1) to provide for genetic services by a health plan or a health insurance issuer offering health insurance coverage (including any request for or on behalf of such plan or issuer) alleging a violation of subsection (b), (c), (d), (e), (f), or 2761 of the Public Health Service Act (42 U. S. C. 2638b-1), or

(2) to establish, implement, or continue in effect a standard, requirement, or exception that more completely—

(A) provides for genetic services by a health plan or a health insurance issuer offering health insurance coverage (including any request for or on behalf of such plan or issuer) alleging a violation of subsection (b), (c), (d), (e), (f), or 2761 of the Public Health Service Act (42 U. S. C. 2638b-1), or

(B) permits a group health plan or health insurance issuer offering health insurance coverage, shall not establish rules for the payment of a claim.

(C) prohibits discrimination on the basis of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or the coordination of benefits, a group health plan, or a health insurance issuer offering health insurance coverage, may require that the individual or the family member of the individual involved provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

(D) inform the Secretary of the absence of such services.

(E) any other person the Secretary may specify in regulations.

(f) Violation of genetic discrimination or genetic disclosure provisions.—A group health plan, or a health insurance issuer offering health insurance coverage, shall not require that such individual or family member undergo genetic testing.

(2) Disclosure for health care treatment.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health plan or a health insurance issuer offering health insurance coverage for the purpose of providing health care treatment to the individual involved.

(3) Violation of genetic discrimination or genetic disclosure provisions.—

(A) In general.—In any action under a covered provision against any administrator of a group health plan, or a health insurance issuer offering health insurance coverage (including any request for or on behalf of such plan or issuer) alleging a violation of subsection (b), (c), (d), (e), (f), or 2761 of the Public Health Service Act (42 U. S. C. 2638b-1), this section shall apply to genetic information (including information about a request for or the receipt of genetic services by a health plan or a health insurance issuer offering health insurance coverage (including any request for or on behalf of such plan or issuer) alleging a violation of subsection (b), (c), (d), (e), (f), or 2761 of the Public Health Service Act (42 U. S. C. 2638b-1), or

(B) General relief.—This section shall be applied in any action under a covered provision against any administrator of a group health plan, or a health insurance issuer offering health insurance coverage (including any request for or on behalf of such plan or issuer) alleging a violation of subsection (b), (c), (d), (e), (f), or 2761 of the Public Health Service Act (42 U. S. C. 2638b-1), or

(C) Additional relief.—Such relief may include a requirement for the payment of attorney’s fees and costs, including the costs of expert witnesses.

(2) Definition.—In this subsection, the term “covered provision” means section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) or section 2722 or 2761 of the Public Health Service Act (42 U. S. C. 300gg-2, 300gg-11).

Penalty.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–386 (42 U.S.C. 12188(b)(2)(C)) shall apply to any provisions of the Secretary enforcing the provisions referred to in subsection (f), except that any such relief awarded shall be paid only into the general fund of the Treasury.

(h) Special rule in case of genetic information.—With respect to health insurance coverage offered by a health insurance issuer, the provisions of this section relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law that establishes, implements, or continues in effect a standard, requirement, or exception that more completely—

(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or

(2) prohibits discrimination on the basis of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual); or

(i) amendments made by section 201(b) of the Genetic Information Nondiscrimination Act of 2008 (42 U. S. C. 300gg-901 et seq.).

(ii) by striking “group health plan” and “health insurance issuer” each place it appears and inserting “group health plan, health insurance issuer, employer health plan, or health insurance issuer” each place it appears.
genetic services by an individual or a family member of the individual.

SEC. 204. APPLICATION OF GENETIC NON-DISCRIMINATION REQUIREMENTS TO MEDIGAP PLANS.

(a) NONDISCRIMINATION.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

"(E) Each issuer of a medicare supplemental policy, and each such policy offered by such issuer, shall comply with the requirements under section 122 of the Bipartisan Patient Protection Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to each issuer of a medicare supplemental policy and each such policy for policy years beginning after October 1, 2002.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations incorporating the modifications shall be considered to be out of compliance with the requirements of section 122 of the Social Security Act (42 U.S.C. 1395ss) due solely to failure to make such change until the date specified in paragraph (4).

(2) SYMPTOMATIC.—If, not later than June 30, 2002, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its NAIC Model Regulation relating to section 122 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendment made by subsection (a), such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2002, make such modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of this section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section; or


(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the amendment made by subsection (a); or

(ii) having legislation which is not scheduled to meet in 2002 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2002. For purposes of the previous sentence, in the case of a State that has a two-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 205. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—Section 9821(a)(1) of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subsection C as subchapter D; and

(2) by inserting after subchapter B the following:

"SUBCHAPTER C—PATIENT PROTECTION STANDARDS.

"SEC. 9821. PATIENT PROTECTION STANDARDS. Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this section.

(b) APPLICATION TO EMPLOYERS WITH FEWER THAN 2 EMPLOYEES.—Section 724(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended by striking "this chapter" and inserting "this subsection", and inserting "sections 711 and 719 (with respect to the application of section 122 of the Bipartisan Patient Protection Act)."

(2) by inserting after subchapter B the following:

"SUBCHAPTER A. APPLICATION TO EMPLOYERS WITH FEWER THAN 2 EMPLOYEES."

SEC. 301A. APPLICATION TO EMPLOYERS WITH FEWER THAN 2 EMPLOYEES.

Section 724(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended by striking "this chapter" and inserting "this subsection", and inserting "sections 711 and 719 (with respect to the application of section 122 of the Bipartisan Patient Protection Act)."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURAL, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, June 28, 2001. The purpose of this hearing will be to discuss the next Federal farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 2:30 p.m., in open session to receive testimony on the fiscal year 2002 budget amendment, in review of the Defense authorization request for fiscal year 2002 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet Thursday, June 28, 2001, at 9:30 am for a hearing regarding "The Impact of Electric Industry Restructuring on System Reliability."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 10 a.m., to receive testimony from Members of the House of Representatives on election reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 10 a.m., in room 418 of the Russell Senate Office Building, for a hearing on pending veterans' benefits legislation as follows: S. 1090: Cost-of-living adjustment for veterans' benefits. Sponsor: Senator ROCKEFELLER.

S. 1089: U.S. Court of Appeals for Veterans Claims (CAVC) succession plan to address judges retiring in 2004/2005. Repeals the NOD as a jurisdictional threshold for appearing before the Court. Sponsor: Senator ROCKEFELLER.

S. 1091: (1) Eliminates the 30-year limit on manifestation from time of exposure for the presumption of service connection for Agent Orange-related respiratory cancer or non-Hodgkin lymphoma. (2) Extends VA presumption, eliminated by a Court decision, that in-country Vietnam veterans were exposed to Agent Orange; (3) tasks the National Academy of Sciences to continue reporting on Agent Orange and its association with...
June 28, 2001

UNANIMOUS CONSENT
AGREEMENT—S. 1077
Mr. REID. Mr. President, I ask unanimous consent that the bill be considered under the calendar, with no intervening action or debate; that the bill be advanced to third reading and the Senate then vote on passage of the bill, with no intervening action or debate; finally, I ask unanimous consent that S. 1077 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list of amendments is as follows:

Biden amendment re: Relevant,
Bond amendment re: Department of Defense,
Bond amendment re: Corp of Engineers,
Boxer amendment re: Sudden Oak Death,
Boxer amendment re: Path I5,
Byrd amendment re: Relevant,
Byrd amendment re: Relevant to any on list,
Cleland amendment re: B-1 bomber transportation,
Conrad amendment re: Turtle Mountain Indian Reservation,
Conrad amendment re: Devil’s Lake,
Conrad amendment re: Relevant,
Craig amendment re: Relevant,
Daschle amendment re: Relevant,
Daschle amendment re: Relevant to any on list,
Feingold amendment re: Relevant,
Feingold amendment re: Klamath Basin,
Feinstein amendment re: Klamath Basin,
Hutchinson (AR) amendment re: AR ice storms,
Inouye amendment re: Relevant,
Johnson amendment re: Relevant,
Lott amendment re: Relevant,
Lott amendment re: Relevant to any on list,
McCain amendment re: Defense,
McCain amendment re: Dept. of Defense with a time limit of 2 hours equally divided and controlled,
Nickles amendment re: Relevant,
Miller amendment re: B-1 bomber transportation,
Reid (NV) amendment re: Relevant,
Reid (NV) amendment re: Relevant to any on list,
Roberts amendment re: B-1 bombers,
Schumer amendment re: IRS,
Schumer amendment re: Relevant,
Smith (OR) amendment re: Klamath Falls,
Stevens amendment re: Relevant,
ORDERS FOR FRIDAY, JUNE 29, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it adjourn until the hour of 9 a.m. tomorrow, Friday, June 29. I further ask consent that on Friday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Patients’ Bill of Rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, on behalf of Senator DASCHLE, I announce that tomorrow we will convene at 9 a.m. and that shortly thereafter, as soon as the prayer and pledge are completed, we will resume consideration of the Patients’ Bill of Rights, with the votes as outlined previously in the unanimous consent request.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:30 p.m., adjourned until Friday, June 29, 2001, at 9 a.m.

NOMINATIONS
EXECUTIVE NOMINATIONS RECEIVED BY THE SENATE JUNE 28, 2001:

DEPARTMENT OF COMMERCE
LINDA MYSLIWY CONLIN, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE MICHAEL J. COFFS, RESIGNED.

DEPARTMENT OF ENERGY
DAN B. BROUILLETTE, OF LOUISIANA, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS), VICE JOHN C. ANGELL, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY
DONALD R. SCHREGARDUS, OF OHIO, TO BE AN ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE STEVEN ALAN HERMAN, RESIGNED.

DEPARTMENT OF STATE
STUART A. BERNSTEIN, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK.

CHARLES A. HEMBOLD, JR., OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWEDEN.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
CAROLE BROOKINS, OF INDIANA, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF TWO YEARS, VICE JAN F:RSEY, TERM EXPIRED.

DEPARTMENT OF DEFENSE
H. T. JOHNSON, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE ROBERT B. FINK, JR., RESIGNED.

IN THE AIR FORCE
THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general
LT. GEN. PAUL V. BIRSTER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general
MAJ. GEN. PAUL L. SMITH, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general
MAJ. GEN. THOMAS C. WASKOW, 0000
Mr. GILMAN. Mr. Speaker, I rise today to honor a wonderful woman, Sophie Heimbach who will be 100 years old on August 10, 2001. As is the case with most Jews born in the early twentieth century, Sophie’s life began very peacefully, and happily. She was born on August 10, 1901 in Ochtrup, Germany. In 1938, with the rising strength of the Nazi party, Sophie was forced to flee Germany. While at first she was able to make a new home in Belgium, the outbreak of World War Two forced her to flee again, this time for France, Spain, Portugal, and finally Casablanca. As if being uprooted from one’s home and having a death marking on one’s chest were not bad enough, Sophie was also separated from her family for a very painful period of time. We have all heard tales of the horrors for the Jews during World War Two, but this woman lived them, and she did it not knowing what would become of her family.

Sophie was reunited with her husband and family in Casablanca, and from that point slowly began to rebuild the small joys in life, even amidst pain. Casablanca led Sophie and her family to Cuba, and then eventually to the United States in 1942. They moved to Gates, New York where Sophie earned her U.S. citizenship in 1947. Sophie and her husband worked diligently and humbly in their first months in the United States. She worked as a housekeeper for a wealthy landowner, and her husband Arthur as a farm hand. After a mere nine months, Sophie and Arthur had the resources to fulfill their American dream enabling them to purchase the family farm in Walkill, New York. The Heimbach family flourished during their time in Walkill, and succeeded in developing their farm to over 400 acres.

Arthur is now deceased, but he and Sophie are followed by two children, Charlotte and Louis, five grandchildren, and six great-grandchildren.

Sophie is a woman of great devotion and dedication to her temple, her home and her family. She has lived a full life with as much grief as joy, hardship as luck. I invite my colleagues to join me in honoring her on her millstone 100th birthday.
coup attempt in 1992, Gutiérrez adopted a populist slogan much like Chávez’s own. The presence of such Marrons on Chávez’s hemisphere report card has been troubling to Washington.

THREATS TO U.S. INTERESTS

Chávez’s recent association with such U.S. “enemies” as Saddam Hussein and Fidel Castro, has heightened the State Department’s anxiety over his intentions. In particular, his evolving friendship with Castro puts the U.S. in a quandary, given that Venezuela is the third largest foreign supplier of crude oil to this country. Chávez flouted U.S. efforts to isolate Havana in devising a five-year deal with the Cuban leader to provide the island with oil to compensate for Cuba’s lost Soviet aid. Venezuela will supply Cuba with 3,000 barrels of oil a day, at an annual market price of $3 billion. By granting cheap credits and a barter system, the cost to Cuba will be substantially less. Increased oil revenues from growing U.S. imports that fill Chávez’s coffers will further subsidize Cuba’s own consumption. Before his visit to Cuba, Chávez suggested, “We have no choice but to form an ‘axis of power,’” challenging U.S.-hemispheric dominance. Chávez’s declared objective is to generate good will for Venezuela throughout the region by offering similar preferential oil deals to many other Caribbean countries.

Despite climbing oil prices in the past two years, Chávez also expanded his presidential powers to undermine the independent power of the judiciary, legislature, media and civic offices, all of which were known for their corruption under previous regimes. Up to this point, Washington has restrained itself, implicitly adjusting to Chávez’s style of rule, a difficult position to maintain in light of the growing tempo of his socialist rhetoric and recent controversial policy proposals.

POTENTIAL U.S. ACTION

While the Clinton administration overlooked Chávez’s political maneuvers in Latin America to maintain a semblance of amicable relations, some of his outrages evoked the wrath of pro-Americans wishing to punish him for pro-Castro activism. This is likely to build up the pressure on the Bush administration to “get tough on Chávez.” Observers in Caracas assert that he has never concealed his goal of a unified Latin America distanced from Washington. It is doubtful whether a tougher response form Washington would hinder Chávez’s defense of such a union. Former State Department official, Bernard Aronson, is already claiming that any disruption of oil agreements with Venezuela could weaken the U.S. economy. Due to economic difficulties and heightened crime, Chávez’s promises of jobs and increased security have had to be delayed. However, it is noteworthy to note that he has been in office a relatively short period, and appears to have factored in U.S. scorn while seeking his public sector reforms. Whether Washington can long maintain its positive engagement policy towards Chávez’s actions remains to be seen. It is a certainty that he will continue to champion his messianic vision for Venezuela and Latin America.

EXTENSIONS OF REMARKS

FEDERAL PHOTOVOLTAIC UTILIZATION ACT

HON. JAMES L. OBERSTAR
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. OBERTAR. Mr. Speaker, the recent increase in oil prices has focused national attention on the benefits we could achieve by reducing our dependence on fossil fuels by meeting more of our energy needs from renewable sources, such as solar, wind, biomass and geothermal energy. Today, I am introducing legislation to promote one of the most promising of these technologies, solar photovoltaics.

Quite simple, a photovoltaic, or PV, system converts light energy into electricity. The term “photo” is a stem word from the Greek “phos” which means light. “Volt” is named for Alessandro Volta, a pioneer in the study of electricity. Photovoltaic literally means “light electricity.”

PV generated power offers distinct advantages over diesel generators, primary batteries, and in some instances, over conventional utility power lines. PV systems are highly reliable, and have no moving parts, so the need for maintenance is virtually non-existent. This is one of the main reasons they are used in satellites today, for which maintenance is both costly and time consuming. In addition, PV cells use sunlight to produce electricity—and sunlight is free!

The potential for photovoltaics is boundless. By way of illustration, solar panels in 1% of the Mojave Desert would provide enough energy to meet California’s expected electric shortfall. The electricity needs of the entire United States could be met by panels in a 100 by 100 mile area in the South-Western United States.

PV cells are ideal for supplying power to remote communication stations, such as those in our National Park system, and on navigational buoys. Because they burn no fuel and have no moving parts, PV systems are clean and silent. Compared to the alternative of burning kerosene and diesel fuels that contribute to global warming, this quiet, clean source of power becomes even more attractive.

Another important feature of PV systems is their modularity—they can easily be adapted to any size, based on energy consumption. Homeowners can add modules as their needs expand, and ranchers, for example, can use mobile stations to produce electricity for pumps to water cattle as the animals are rotated to different grazing areas. After Hurricane Andrew in 1993 the Florida Solar Energy Center deployed several PV emergency systems right at the disaster locations where the energy was needed.

Because a PV system can be placed closer to the user, shorter power lines can be used if power were brought in from a grid. Shorter lines, lower construction costs, and reduced paper work make PV systems especially attractive. Transmission and distribution upgrades are kept to a minimum, which is especially important in urban areas. PV systems can be sized, sited, and installed faster than traditional energy systems.

I have had a longstanding interest in promoting the development of this technology. In June 1971 I introduced H.R. 7629, which established a program for the Federal government to encourage the development of PV technology by using it in federal facilities. At that time, photovoltaic technology was in its early developmental stage, and produced energy at a cost of more than $10 per watt hour, compared to less than $1.10 a hour for energy from fossil fuels. In these circumstances, there is a “chicken and egg” problem: because the technology is expensive, consumers will not purchase it, but, unless there are purchases, the producers will not be able to make the investments and engage in the large-scale production needed to being the cost down.

The Federal government, which purchases billions of dollars of energy each year, is in a unique position of facilitating a breakthrough for photovoltaics. Under my 1977 bill, the Federal government would have purchased substantial quantities of photovoltaic technology. These purchases would have given industry the research and development needed to make photovoltaics competitive. My 1977 bill became part of a larger bill to establish a comprehensive national energy policy, PL 95-619. Most unfortunately, the Reagan administration chose not to fund the bill, resulting in not only a lackluster renewable energy program but also a serious deterioration of national focus.

The collapse of the oil cartel and the return of lower gas prices in the early 1980’s had a chilling effect on federal renewable energy programs. Despite Congress’ consistent support for a broader, more aggressive renewable energy program than either the Reagan or George H.W. Bush administrations supported, federal spending fell steadily through 1996. Funding for renewable energy from R&D grew from less than $1 million on the early 1970’s to over $1.3 billion in FY 1997, but then nose-dived during the Reagan and Bush administrations. Funding steadily declined during the 1990’s to $136 million in FY 1998. The trend was reversed during the Clinton administration. In June 1997 President Clinton announced the Million Solar Roofs Initiative. The program called for the installation of one million solar energy systems on homes and other buildings by 2010. In October 1997, President Clinton committed to placing 20,000 solar energy systems on Federal Buildings. So far the results have been encouraging—over 2000 solar systems have been installed in federal facilities through the year 2000. For example, the U.S. Coast Guard Air Station in San Francisco developed a solar hot water heating project, which qualified as part of the Federal commitment. The project was completed easily and quickly, cost less than $10,000 and has energy savings of $1,100 per year, which means that has a 9-year payback period.

Just across the Anacostia River, here in the Nation’s Capitol, at the Suitland Federal Center, the General Services Administration has installed a large PV system to supply electricity for the Federal center. From the Presidio in San Francisco to Fort Dix in New Jersey, the Federal government has installed numerous effective PV systems. Solar power is used
extensively for diverse purposes in our National Park and National Forests—supplying lighting to Tonto National Forest in Arizona and drinking water to hikers in the Rocks National Park in Lakeshore Michigan. The isolated research facilities at Farallon National Wildlife Refuge, California are powered by PV systems.

During disaster relief activities solar power systems step in quickly to supply efficient, easy to install, mobile power sources. In addition to solar power in federal buildings, national parks, communications, and disaster relief activities, solar power is used extensively in transportation support—bus stop lighting, parking lot lights, railroad signal lights, traffic monitoring and control, Coast Guard light-houses, beacons and buoys. Furthermore, the government is leading the way with innovative technologies for solar powered vehicles. The Department of Energy is the chief sponsor of the American Solar Challenge. The Department of Energy officials announced that more than 100,000 solar energy systems had been installed in the U.S. since the beginning of the solar roof initiative. Under the Clinton administration, the Department of Energy had organized 51 partnerships from coast to coast—dedicated to working on

Through the efforts of the solar industry, with the support of the federal government, solar technology has made substantial progress in recent years. The cost has been reduced to $20 per kilowatt hour, and further reductions are expected. As a result, sales are increasing at a dramatic rate. Sales of photovoltaics within the United States has been growing at a rate of 25% a year. The United States photovoltaics industry is a strong export, with almost 70% of U.S. production going to export sales. There is room for growth in our exports. Currently, the U.S. has about 20% of the world market and Germany and Japan each has a larger market share than our country.

I believe that we need to continue the Federal government’s role in promoting the development of this technology. The Federal government should continue to be a major customer, and help the technology reach its full potential. My bill will express Congressional support for the type of program established by the Clinton administration, and provide the necessary funding. My bill establishes a goal for the Federal government during the next five years to acquire photovoltaic systems for Federal buildings which will produce at least 150 megawatts of electricity. This will accomplish the goal of the 20,000 solar roof initiative. The bill authorizes appropriations of $210 million a year for the next five years, the level of funding needed to purchase approximately 18,000 photovoltaic systems. The bill also establishes a program for evaluation of the systems used in Federal facilities to ensure that the government is encouraging development of the most advanced technology.

Mr. Speaker, using Federal government procurements to “jump start” a technology is not without precedent. In fact, photovoltaic technology itself is a product of space technology, and was advanced by NASA in the Hubble space station program. As a result, photovoltaic systems power nearly every satellite today as they circle the earth. Similarly, in the early days of the computer era the cost of microchips was prohibitive. Large-scale purchases by the government (NASA and DOE) helped bring the costs down to commercially competitive levels. As another example, the General Services Administration, using its FTS 2000 telecommunications contact, was also successful in promoting advancements and enhancements in telecommunications.

Mr. Speaker, I believe that the program established by my bill can make a major contribution to energy efficiency, protection of the environment and reduced dependence on foreign energy. I will be working to incorporate this program in any energy legislation passed in this Congress.

AMERICA HAS EARNED OUR RESPECT AND ALLEGIANCE EVERY DAY

HON. ROSCOE G. BARTLETT
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. BARTLETT of Maryland. Mr. Speaker, on July 4, our nation will commemorate the 225th Anniversary of the signing of the Declaration of Independence—an astounding historic achievement for liberty and freedom. It’s sad that in 2001, political correctness has replaced patriotism and respect for America’s achievements with cynicism and even disrespect.

James Merna, Past Maryland Commandant of the Marine Corps League brought this example to my attention during his speech entitled, “Heroes and Role Models for Today and Tomorrow,” at the Elk’s Club Flag Day Observance in Frederick, Maryland on June 10.

In May, Mr. Fran Parry, a track coach from Gaithersburg High School in Maryland was suspended for 12 days. Why? He confronted and reprimanded a student who was disrespectful during the Pledge of Allegiance. The student replied that he wasn’t American and didn’t have to be respectful during the Pledge.

It took support and pressure from other students, parents and the community after the incident became public before Coach Parry was reinstated.

America has earned our respect and allegiance every day.

I submit Mr. Merna’s entire speech for the Record and I urge my colleagues and all Americans to read it.

REMARKS OF JAMES E. MERNA, PAST MARYLAND STATE COMMANDANT, MARINE CORPS LEAGUE, AT THE ELKS CLUB FLAG DAY OBSERVANCE, FREDERICK, MD, JUNE 10, 2001

“HEROES AND ROLE MODELS FOR TODAY AND TOMORROW”

Thank you for inviting me. I am honored to speak to the Elk’s, one of America’s largest and most influential fraternal organizations.

At the outset, allow me to extend my congratulations to the Frederick community, for in the celebration of your 100th anniversary this year. This is an accomplishment of which you should be justifiably proud, for a century of service to each other, to your community, and to the nation. I wish you many more years of good fellowship and service.

I have a number of ties to the Frederick community, forged in years of friendship and admiration. Let me mention just three.

(1) The Shangri-La Detachment Marine Corps League. This great organization was originally formed here in Frederick, I believe, in 1948. After many years of service, it became somewhat inactive. A few of us came here in 1968, helped reissue its charter and get it reinvigorated, and today it flourishes as one of the most active detachments in the entire League. I made many good friends here, including Terry, Grunwell, Ken Bartgis, and the late Charlie Horn.

(2) Mr. George Wright, your football coach here at Governor Thomas Johnson High School. Earlier in his career, before he coached your Patriots, he coached three of my four sons when I was the head football coach at Roosevelt High School, in Greenbelt. He’s a true winner in every respect, athletically and morally.

(3) My son John Merna, Major, U.S. Marine Corps. Two summers ago, John commanded a reinforced Marine rifle company (Echo 2–5) on a five month cruise in the South China Sea. The float was part of the Seventh Fleet whose purpose, besides being a good will mission for the U.S., was to conduct amphibious exercises and training with designated Asian forces.

Nonetheless, let me offer a few of my observations on the current fervor, or the lack thereof, for patriotism in America today, and what needs to be done, if anything, particularly with regard to our youth.

We can start by asking ourselves, who still observes Flag Day today? We may see a few houses in our neighborhoods who will fly their flags on their porches or in their front yards. But, increasingly, we no longer feel compelled to honor the flag, and the patriotic display is steadily be regarded as old-fashioned or tedious. Contrast today to a little more than 100 years ago when Flag Day in 1892 drew some 800,000 people to Chicago alone. Unfortunately, powerful forces in our society, popular culture, and political circles oftentimes emphasize our cultural differences, rather than our unity as Americans.

Let me mention a recent incident that occurred only two and half weeks ago, just down the 270 Pike from here, in Gaithersburg, Maryland, which should give us cause for concern. Many of you may already know the story. It was in the Washington Post on May 23rd. It involves a local high school track coach from Gaithersburg High School who was suspended for 32 days for confronting a student who was disrespectful during the school’s reciting of the Pledge of Allegiance.

I was incensed as soon as I heard of this incident. How we have a 23 year old veteran of the Montgomery County school system, a highly successful track coach who has won three state and 15 regional titles, suspended from his teaching and coaching jobs only because he attempted to get a student to show respect while the Pledge of Allegiance was being recited in the school.

The coach’s name is Coach Parry. He lives a stones throw from here, in nearby Clarksburg. I called and spoke to Coach Parry.
Tuesday, just five days ago. He told me that it was a tough day, that he had told the coach who was a football player and who was on the track team, rushed past the coach who asked him to stop while the Pledge of Allegiance was being sung. Student and studentamilied that he wasn’t an American and didn’t have to. The coach told him that was a bad attitude and that he had relatives who died for the very freedoms that the student en-
joys. The student just laughed at Coach Parry and said “So what.” The coach told him he didn’t think too much of the incident until the student was suspended from the assistant principal’s office and told he was being suspended from his duties and placed on adminis-
trative leave.

There’s more to this story, as I found out later. Coach Parry told me 80 percent of his track team is African-American and they backed the coach 100 percent. There was not one dissenting voice among them. The coach met with the student’s par-
tests, expressed regret over the incident but told them he wouldn’t change his message. He was in the Department of Veteran’s Affairs and the student was surprised when he was summoned to the principal’s office and told he was being reinstated.

So here’s a case of a student who shows blatant disrespect for the symbol of our free-
dom and the American way of life. He is a leader—teachers have praised him. She is a leader—she has been a leader in the student council. He is a leader—his skills are exceeded on the football field. That’s the type of man Coach Jim Faulk was—always caring, inspiring, encouraging and motivating St. Agnes men to excel and achieve. And many St. Agnes graduates have told us about his influence on their lives. Let me mention some of them.

St. Agnes had as many as 600 kids fighting in World War II. Over 40 were killed, hun-
dreds wounded, and thousands more wounded. It was a time when you had to be a man. It was a time when you had to be a patriot as “one who loves his country and the American way of life, who respects the symbol of our free-
lance and the American flag. If I were you I would make sure that you didn’t lose your way.”

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lance and the American flag. If I were you I would make sure that you didn’t lose your way.”
raising families who can truly say—my father came up the hard way.'

Now you can see why I said earlier that someone like Coach Faulk was the greatest coach that I have ever known. Our nation needs strong coaches like Coach Faulk, Coach Parry, and Ben Wright, because they are doing as much to build the character of our future leaders as any other group of men or women.

One last final thought. Our nation is in the midst of a huge nostalgia fest with the Second World War. A number of ‘Greatest Generation’ books have been written, the best by Tom Brokaw of NBC News, box-office attendance records have been set for the new blockbuster movies like ‘Saving Private Ryan’ and now ‘Pearl Harbor.’ There has also been significant publicity about the World War II Memorial now finally approved for the Mall in Washington, D.C.

Let us build on this momentum. We have elections coming up next year, and another Presidential election in 2004. As George Will pointed out recently, during the last administration, at times, we had a president, a CIA director, a Secretary of Defense, a Secretary of State, and a National Security Advisor, none of whom had any military experience. It’s almost as appalling in the Congress. According to the National Association for Uniformed Services, in 1965, 82% of the members of Congress and 80% of the staff had military experience. Now less than ½ of Congress and 5% of their staff have had any military experience. And on the civilian side, only 6% today of Americans younger than 65 have ever served in uniform.

Those numbers by themselves are not alarming because it’s recognized that we are not at war and we have at present an all-volunteer military. We just need to be sure that we elect public officials who have a greater understanding and a strong commitment to support our national security and defense by deeds, not mere words. We need their solid support, as well as from local school board officials, for military recruiters who were denied access to high school campuses 19,228 times in 1999.

Thank you for inviting me to participate in your Flag Day celebration today. As members of the Benevolent and Protective Order of Elks, you have long set an example the rest of us must try to follow if we are going to preserve for our future generations the same priceless treasures of liberty and freedom which our forebears passed on to us.
The Senate met at 9:00 a.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, reign supreme as sovereign Lord in this Chamber today. Enter the minds and hearts of all the Senators. May they be given supernatural insight and wisdom to discern Your guidance each step of the way through this crucial day. Break deadlocks, enable creative compromises, and inspire a spirit of unity. Overcome the weariness of the hard work of this past week. Give these men and women a second wind to finish the race of completing the legislative responsibilities before them.

Where there is nowhere else to turn, we turn to You. When we fail to work things out, we must ask You to work out things. When our burdens make us downcast, we cast our burdens on You. If You could create the universe and uphold it with Your providential care, We trust You, Father, and place You can solve our most complex problems. We trust You, Father, and place up our things. When our burdens make us downcast, we cast our burdens on You. If You could create the universe and uphold it with Your providential care, We trust You, Father, and place You can solve our most complex problems. We trust You, Father, and place We turn to You. When we fail to work things out, we must ask You to work out things. When our burdens make us downcast, we cast our burdens on You. If You could create the universe and uphold it with Your providential care, We trust You, Father, and place You can solve our most complex problems. We trust You, Father, and place We turn to You. When we fail to work things out, we must ask You to work out things. When our burdens make us downcast, we cast our burdens on You. If You could create the universe and uphold it with Your providential care, We trust You, Father, and place You can solve our most complex problems. We trust You, Father, and place We turn to You. When we fail to work things out, we must ask You to work out things. When our burdens make us downcast, we cast our burdens on You. If You could create the universe and uphold it with Your providential care, We trust You, Father, and place You can solve our most complex problems. We trust You, Father, and place You can solve our most complex problems. We trust You, Father, and place You can solve our most complex problems. We trust You, Father, and place You can solve our most complex problems. We trust You, Father, and place You can solve our most complex problems. We trust You, Father, and place

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.
So I think it is important for us to draw a line at least here. I am hopeful we will have unanimous support for this amendment. It is one that seems obvious on its face, but because of the courts and because of the practice in abortion clinics, it is necessary to make this statement again on the floor of the Senate.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. We yield 2 minutes to the Senator from California.

Mr. BOXER, Mr. President, it is nice to see you in the Chair. I say to my friend from Pennsylvania, our side has no disagreement with this whatsoever. Of course, we believe everyone born should deserve the protections of this bill. The Senator, in his amendment, mentions infants who are born early and that they deserve the protections of this bill. Of course they deserve the protections of this bill. Who could be more vulnerable than a newborn baby? So, of course, we agree with that.

But we go further. We believe everyone deserves the protection of this bill: babies, infants, children, families, all the way up until you are fighting for your life because you may have a dreaded disease; you may be elderly. Everyone deserves the HMOs to act in the right way and to put your vital signs ahead of their dollar signs. That is key.

Maybe in the spirit of our Chaplain who called for unity this morning we start off this morning together, saying everyone who is born deserves the protections of this bill. We all know that, regardless of what age, we have heard stories of patients who are really disregarded in the name of the bottom line.

During times when we see CEOs in these HMOs drawing down hundreds of millions of dollars, we see little children and elderly people and those in between denied the needed care, denied the kinds of prescriptions they need.

We join with an ‘aye’ vote on this. I hope it will, in fact, be unanimous. I also hope the underlying bill will get a very strong vote and we will say that all of our people deserve protection, from the very tiniest infant to the most elderly among us.

I urge an ‘aye’ vote.

The ACTING PRESIDENT pro tempore. The time on the amendment has expired. The Senator from Nevada.

Mr. REID. Mr. President, during this vote, I will be conferring with the manager of the bill on the Republican side to determine what are the next two amendments after this series of votes.

I also plead with Members—the first vote is 15 minutes; the others 10 minutes—will stay where they are supposed to be, we can speed right through these votes. Senator DASCHLE has advised me and everyone here that we are going to try to maintain as close to the time for the votes as possible. So there might be some people missing votes. Everyone should know now that we are not going to keep these votes open for a long period of time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to Santorum amendment No. 814. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll. Mr. NICKLES. I announce that the Senator from Alabama (Mr. MURKOWSKI) and the Senator from New Mexico (Mr. DOMENICI) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—98

Alaska—Begich  Alaska—Durbin
Allen—McConnell  Allen—McConnell
Baucus—Feinstein  Baucus—Feinstein
Byrd—Feinstein  Byrd—Feinstein
Biden—Fitzgerald  Biden—Fitzgerald
Bingaman—Frank  Bingaman—Frank
Bond—Graham  Bond—Graham
Boxer—Graum  Boxer—Graum
Breaux—Gregg  Breaux—Gregg
Brownback—Hagel  Brownback—Hagel
Burns—Hagel  Burns—Hagel
Byrd—Hatch  Byrd—Hatch
Campbell—Hunts  Campbell—Hunts
Cantwell—Inhofe  Cantwell—Inhofe
Carnahan—Inhofe  Carnahan—Inhofe
Carper—Jeffords  Carper—Jeffords
Cochran—Johnson  Cochran—Johnson
Collins—Kennedy  Collins—Kennedy
Cornelius—Kerry  Cornelius—Kerry
Cox—Landrieu  Cox—Landrieu
Daschle—Leahy  Daschle—Leahy
Dayton—Levin  Dayton—Levin
DeWine—Lott  DeWine—Lott
Dodd—Lincoln  Dodd—Lincoln
Durbin—Lott  Durbin—Lott

NOT VOTING—2

Domenici—Murkowski

The amendment (No. 814) was agreed to.

Mr. KENNEDY. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to table was agreed to.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, we have a series of votes coming up. We anticipate eight votes. We are trying to move the process along.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.
Mr. President, I reserve the remainder
of my time.

The ACTING PRESIDENT pro tem-
pore, the Senator from North Carolina.

Mr. EDWARDS. Mr. President, we ap-
preciate very much the work done by
the Senator from Ohio. We appreciate him
working with us. This is another example
of what can be accomplished when we
work together. We will be sup-
porting this amendment.

I yield the remainder of my time
to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I rise
only to say that in previous debate, a
story was referenced about a young pa-
tient named Christopher Roe, who
tragically died on his 16th birthday. It
was alleged that this had nothing to do
with the Patients' Bill of Rights. That,
of course, is not true. Nevada, where
Christopher Roe died, does not have clini-
cal trial provisions, and this boy
would have clearly benefitted from
such provisions. This would have given
him another chance for survival with
the help of experimental treatments.

When this Patients' Bill of Rights is
enacted, either Nevada would have to
enact a substantially compliant clin-
cal trial provision or the provisions in
this bill would apply. I don't want peo-
ple misrepresenting the notion of what
is happening to some of these patients
who deserve and ought to be able to ex-
pect to receive the protections under
this legislation.

Young Christopher Roe died at age 16
because he was required to fight both
cancer and the managed care organiza-
tion at the same time. That is not a
fair fight, and it should not happen in
the future. If we pass this legislation,
it will not happen in the future.

The ACTING PRESIDENT pro tem-
pore. Who yields time?

Mr. DORBING. Mr. President, I rise
to lay that motion on the table.

The motion to lay on the table was agreed
to.

Mr. KENNEDY. I move to reconsider
the vote by which the amendment was
agreed to.

Mr. BROWNBACK. I move to lay that
motion on the table.

The motion to lay on the table was agreed
to.

Mr. GRASSLEY. I yield myself 1
minute.

A point was made last night that ex-
tending the user fees in section 502 has
no impact on the U.S. Customs Service
budget. That is baloney. If it has no
impact, why is it in the bill in the first
place? Obviously, it is in the bill be-
cause it has an impact on budget scor-
ing. Once CBO scores these funds
against the Patients' Bill of Rights,
these funds cannot be used by the U.S.
Customs Service for customs mod-
erization. These fees then are no
longer available to offset the costs of
customs modernization. We will have
to find funds somewhere else; perhaps
we can get them from the Health, Edu-
cation, Labor, and Pensions Com-
mittee.

The U.S. Customs Service recognizes
this problem: Any scoring which would
limit in any way the ability to fund or
offset customs activity would likely
cause a critical funding shortfall in the
Customs Service. I think it is not clear.

Mr. KENNEDY. I yield 2 minutes
to the Senator from North Dakota.

Mr. CONRAD. Has all time been
yielded back on the other side?

The ACTING PRESIDENT pro tem-
pore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, there
will be a point of order made. If a point
of order is made, I am obviously going
to waive it. I make clear my motion to
strike would essentially allow us to re-
place the revenues taken from the Fi-
cance Committee's jurisdiction with
general funds that are still available in
the off-budget surplus. All Finance
Committee members, Republicans and
Democrats alike, including my re-
pected chairman of the Senate Budget
Committee, a senior member of the
Senate Finance Committee, should be-
ware, a vote against my motion is a
vote for weakening the Finance Com-
mitee's jurisdiction. If your mem-
bership on the Finance Committee means
anything, you need to vote in favor of
my motion to strike.

Mr. CONRAD. Mr. President, this
goes beyond the question of jurisdic-
tion. This is the first test of fiscal dis-
cipline in this Chamber. Do we adhere
to the Budget Act or do we abandon fis-
cal discipline? That is the question on
this vote. Are we going to spend money
that is not offset and thereby violate
the allocation that has been made to
this committee and exceed the alloca-
tion that has been made to this com-
mittee? I hope this body will stick with
fiscal discipline and require we offset
spending that is over and above the al-
location to this committee. Spending,
after all, is actually a transfer of funds

Mr. GRASSLEY. I know the chair-
man is going to raise a point of order,
and I want 1 minute to respond to the
point of order.

Mr. KENNEDY. I ask consent that
both sides yield back the time and the
Senator be permitted to make a point
of order and each side have 2 minutes
to explain the point of order and 2 min-
utes to respond to that.

The ACTING PRESIDENT pro tem-
pore. Without objection, it is so or-
dered.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, sections
502 and 503 of the bill help to ensure
that the Social Security surplus is not
affected by the costs associated with
providing expanded patient protection.

The bill extends customs user fees be-
Yielding.

The yeas and nays have been ordered
after all, is actually a transfer of funds
to protect the Social Security trust fund.

Mr. President, I bring, therefore, a point of order that the pending amendment violates section 302(f) of the Congressional Budget Act of 1974.

The ACTING PRESIDENT pro tempore, Senator from Iowa.

Mr. GRASSLEY. I move to waive the point of order under section 901 of the Budget Act. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 52, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—46

ALLARD, Cassie Fitzgerald.

Allen, First, Robert E.

Bennett, Gramm, Santorum.

Bond, Grassley, Sessions.

Brownback, Craig, Shelby.

Bunning, Hagel, Smith (NH).

Burns, Hatch, Smith (OK).

Campbell, Helms, Snowe.

Chafee, Hutchison, Stevens.

Cooper, Hatchison, Thomas.

Craig, Jeffords, Thompson.

Crafo, Kari, Thurmond.

DeWine, Lott, Voinovich.

Ensign, Lagard, Warner.

Enzi, McConnell.

NAYS—52

Akaka, Dorog, McCaskie.

Baucus, Darby, Mikuleksa.

Bayh, Edwards, Miller.

Biden, Feingold, Murray.

Bingaman, Feinstein, Nelson (FL).

Boxer, Graham, Nelson (NH).

Brease, Hagel, Reed.

Byrd, Hollings, Reed.

Cantwell, Incouye, Rockefeller.

Carmahan, Jackson, Sarbanes.

Cleland, Kerry, Schumer.

Clinton, Kehl, Specter.

Conrad, Landrieu, Stabenow.

Corzine, Leahy, Torricelli.

Daschle, Levin, Welstone.

Dayton, Lieberman, Wyden.

Dodd, Lincoln.

NOT VOTING—2

Domenici, Murkowski.

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 52.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. KENNEDY. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 86

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate prior to the vote in relation to the Nickles amendment No. 86.

The Senator from Oklahoma.

Mr. NICKLES. Madam President, the amendment we have before us now says this should apply to all private-sector plans, including union plans. For the private-sector plans, the effective date is October 1, 2002. But for collective bargaining plans, there is a little section on page 174 that says it shall not apply until the collective bargaining agreement terminates. In many cases, collective bargaining agreements do not terminate for years and years, or they may be renegotiated.

My point is, we should make these protections apply, and hope they will apply—if they are so positive—to all Americans, including union members. Union members should have these protections.

My colleague from Massachusetts asked: Was the Senator trying to punish the unions? I am not trying to punish anybody. Shouldn’t union members have the same appeals process? Shouldn’t they have the same patient protections we have for all private-sector plans?

To say we are going to exempt them for the duration of their collective bargaining agreements I think is a mistake, especially when some of these agreements may not terminate for years—maybe 10 years or more. We should make this apply for all plans at the same time.

Madam President, I yield the remainder of my time to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, the motion of the Senator from North Dakota got up and spoke about a young man by the name of Chris Roe from my State. He said this young man’s parents would have been covered under this bill. But according to the Department of Labor, the protections in this bill do not apply to collective bargaining agreements. Because Chris Roe’s parents were under a collective bargaining agreement—as a matter of fact, that collective bargaining agreement does not expire until years from now—the Roe’s would not be covered.

Chris Roe is no longer with us, but people in the future like him should be able to be covered under the same patient protections as everybody else under this bill.

I urge the adoption of this amendment.

The PRESIDING OFFICER. The Senator’s time has expired.

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, this is language on page 173. It is basically boilerplate language, which means we have used identical language in the HIPAA program and also in OBRA, the pension reform. It is basically out of respect for contracts. If you read the language it says “for plans beginning on or after October 1.”

“For plans” refers to insurance. Most of the insurance, 60 percent of insurance plans start in January; 40 percent go over until the next year. So this will apply at the first opportunity when those plans expire and also when collective bargaining expires.

That is our purpose, to do it in a timely way. I hope the Nickles amendment will be defeated. I will offer an amendment that will say irrespective of collective bargaining, it will have to be done within 2 years, and rollovers will not be permitted. That is the best way to do it. That respects the contracts. It was really done with the support of the insurance industry. It has been boilerplate language that has been used in a number of different bills as a way of addressing respect for contracts.

I hope the Nickles amendment will be defeated. We give assurance to the membership that the follow-on amendment will say that every contract has to be done within 2 years and that there is no possibility, even within that period of time, for a rollover agreement.

Madam President, I move to table the Nickles amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.
Who yields time? The Senator from Nevada.

Mr. ENSIGN. Madam President, I am going to ask unanimous consent in a moment to temporarily lay this amendment aside so we can work out the language. There seems to be support on both sides of the aisle for this amendment. There is just slight disagreement on the language.

I ask unanimous consent that my amendment No. 849 be temporarily laid aside to recur at the concurrence of the bill managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate in relation to the Brownback amendment No. 847.

Who yields time?

The Senator from Kansas.

Mr. BURNS. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 848, WITHDRAWN

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate on amendment No. 848 by the Senator from Nevada.

Mr. ENSIGN. Madam President, we can actually have a vote on this amendment. This amendment is about protecting health care providers who voluntarily give of themselves, giving of their services, and this amendment will protect them from being sued.

Last night in the debate, the Senator from North Carolina mentioned the Volunteer Protection Act of 1997 already takes care of the health care providers. In fact, it does not. It defines a volunteer as "an individual performing services for a nonprofit organization or governmental entity who does not receive compensation or any other thing of value in lieu of compensation." I was speaking to one of my neighbors. He is a general surgeon. He was just in an emergency room last week. He saw a patient who did not have health insurance, could not afford to pay, and he voluntarily saw this patient. I do not think it would be right for people to volunteer and then be sued.

My amendment says if, out of the goodness of your heart, you work at a clinic, such as Dr. Chanderraj, a friend of mine who is a cardiologist in Las Vegas—he takes care of the poor on the weekends, and yet he has to carry malpractice insurance.

Many doctors and health care providers who volunteer their services for the poor should be encouraged, not discouraged, to give their services. I urge the adoption of this amendment. It is the right thing to do, just as the Good Samaritan Act and the Volunteer Protection Act of 1997 were the right things to do.

The PRESIDING OFFICER. Time has expired. Who yields time in opposition?

The Senator from Ohio.

Mr. ENSIGN. Madam President, I am going to ask unanimous consent in a moment to temporarily lay this amendment aside so we can work out the language. There seems to be support on both sides of the aisle for this amendment.

I ask unanimous consent that my amendment No. 849 be temporarily laid aside to recur at the concurrence of the bill managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate in relation to the Ensign amendment No. 849.

State laws can remain in effect and States are given wide latitude to opt out and enact their own legislation on this issue. There is no such provision in this amendment.

Legislation, offered by Senator Coverdell and passed in 1997, covers this issue. If the Senator wants to attempt to amend that legislation, that would be the appropriate vehicle, not this vehicle. This legislation we are debating today is the Bipartisan Patient Protection Act. It is about HMO accountability and HMO reform. These issues that are not directly related to HMO reform and HMO accountability do not belong on this legislation. For that reason, we oppose this particular amendment.

I yield the floor. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. EDWARDS. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MUKOWSKI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—youas 52, nays 46, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—52

Akaka
Allen
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Bentsen
Carnahan
Carper
Cleland
Clinton
Conrad
Corzine
Dasinle
Dayton
Dodd
Dorgan
Durbin
Edwards
Foley
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Shelby
Stabenow
Torriceoli
Webb
Wyden

NAYS—46

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Byrd
Campbell
Chafee
Collins
Craig
Crapp
DeWine
Ensign
Rani
Fitzgerald
Frist
Gramm
Grassley
Granger
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Nichols
Roberts
Santorum
Sessions
Smith (NV)
Smith (OR)
Snowe
Spector
Thomas
Thompson
Voinovich
Warner

Mr. ENSIGN. Madam President, theloo of you, heart, you move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 847, WITHDRAWN

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate in relation to the Brownback amendment No. 847.

Who yields time?

The Senator from Kansas.

Mr. BURNS. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 848, WITHDRAWN

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate on amendment No. 848 by the Senator from Nevada.

Mr. ENSIGN. Madam President, I want to say that I will not be requiring a vote on this amendment. At the end of a short statement, I will ask unanimous consent that the vote be vitiated and that the amendment be vitiated and that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate in relation to the Ensign amendment No. 849.
Mr. KENNEDY. Mr. President, I ask unanimous consent that on the Thompson amendment we have 4 minutes equally divided. I ask unanimous consent it be in order to consider the yeas and nays for a vote.

The PRESIDING OFFICER. The amendment is now pending. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. The amendment is now pending. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. The amendment is so modified.

Mr. THOMPSON. I call up amendment No. 819 and I send a modification to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is so modified.

Amendment (No. 819), as modified, is as follows:

On page 150, strike line 17 and all that follows through page 153, line 8, and insert the following:

(9) REQUIREMENT OF EXHAUSTION.—

(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) in connection with the denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) have been exhausted.

(C) REQUIREMENT OF EXHAUSTION OF ADMINISTRATIVE REMEDIES.—If it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary, the court shall, unless the requirements of subparagraph (A) are met, order the administrative remedies to be exhausted and shall not prohibit the court from issuing such relief as it deems necessary to prevent actual, irreparable harm to the health of the participant or beneficiary.

(D) FAILURE TO REVIEW.—

(1) IN GENERAL.—If the external review entity fails to make a determination within the time required under section 10(e)(1)(A)(ii), a participant or beneficiary may bring an action under section 514(d) of the Federal Arbitration Act on or after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 10(e)(1)(A)(ii).

(2) EXPEDITED DETERMINATION.—If the external review entity fails to make a determination within the time required under section 10(e)(1)(A)(ii), a participant or beneficiary may bring an action under section 514(d) of the Federal Arbitration Act on or after the date on which such time period has expired and the filing of such an action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 10(e)(1)(A)(ii).

Mr. KENNEDY. Can we have order, Mr. President? We have had great cooperation of the Members. We have made good progress during the morning. We thank Senator GREGG for outlining the series of amendments and the time that will be necessary. We are moving along with consideration of the legislation. The Senator from Tennessee is entitled to be heard. Can we have order in the Senate?

The PRESIDING OFFICER. The Senate cannot proceed until there is order in the Senate. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, this amendment has to do with the exhaustion of administrative remedies. As stated the other day, we have in this underlying legislation quite an elaborate procedure for administrative review so independent entities, at least two different levels, have an opportunity to make a determination on a claim. Then the underlying bill allows a claimant to go to court if they are not satisfied. The problem we saw in the underlying bill is in many cases there was not a determination that that administrative process be gone through, that very easily you could jump right to the court.

I think no one really wants to do that. We have set up this administrative appeal process, which is a good one, and we want to use it.
What we seek to do in this amendment is to basically require the exhaustion of administrative review, administrative remedies, before a claimant goes to court.

We had a good discussion with the other side. The concern was expressed that the modification should recognize an interest for which a claim has been denied might later become more serious, after the timeframe for exhausting external review has expired.

That is a legitimate concern. If someone has a later-developed injury that did not manifest itself early on, there should be a provision so they are not deemed to not have exhausted administrative review so they could never go to court. So we have addressed that in this modification.

The other concern was what if the external entity simply sits on the matter and doesn’t come within the 21 days allowed under the bill to make its determination. We say in this modification, if the external entity takes longer than that, we give them another 10 days and then we allow the claimant to go to court.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. THOMPSON. I ask for an additional 20 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMPSON. Under those circumstances, the claimant would still have to exhaust their administrative appeal, but they could go ahead and file the lawsuit in the meantime under, I think what are very rare circumstances. So with that modification I think we have a good process set up so this elaborate administrative process we have established in the bill will actually be utilized.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. I thank the Senator from Tennessee. This is another example of what can be done when we tackle these problems together and try to find solutions. As the issue of scope and employer liability, with a number of Senators on both sides of the aisle, now we are doing it on the issue of exhaustion of administrative remedies, exhaustion of appeals.

This amendment meets the very principle by which we began this legislatively drafted, which is we want patients to get the care they need. The most effective way to do that is to have an effective appeals process.

What we have done in this process is, No. 1, require that the patient, the claimant, go through the appeal before going to court, exhausting those appeals. That is the easiest way and the most efficient way to get them the care they need.

The second thing we do is provide an outlet in case the appeals process drags on and it does not operate the way it should. If it is longer than 31 days, then the patient will be able to go to court.

But, as the Senator from Tennessee points out, they will have to simultaneously exhaust the administrative appeal.

Third, we have now provided specifically that the result of the administrative appeal will be admissible in any court proceeding, which is another important element of this amendment.

I thank my friend from Tennessee. I thank him for working with us on this issue. I think we have an issue about which we now have consensus and we are pleased to be there.

I yield the remainder of my time.

Mr. NICKLES. Were the yeas and nays?

Mr. NICKLES. Mr. President, I ask unanimous consent the yeas and nays be vitiolated on the amendment and they be ordered on the modification.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second. The question is on agreeing to the Thompson amendment No. 819, as modified.

The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—98

Akaka   Durbin   Lugar
            Edwards   McCain
            Allen   McConnell
            Baucus   Mikulski
            Bayh   Miller
            Bennett   Murray
            Biden   Nelson (FL)
            Bingaman   Nelson (ND)
            Bond   Nickles
            Boxer   Reed
            Breaux   Reid
            Brownback   Roberts
            Bunning   Rockefeller
            Burns   Rockefeller
            Byrd   Santorum
            Campbell   Sarbanes
            Cantwell   Schumer
            Carnahan   Sessions
            Carper   Shelby
            Chafee   Smith (NH)
            Cleland   Smith (OR)
            Clinton   Specter
            Cochran   Stabenow
            Cohen   Stevens
            Collins   Thomas
            Conrad   Thompson
            Corzine   Thurmond
            Craig   Torricelli
            Craig   Voinovich
            Crapo   Waxman
            Daschle   Weldon
            Dayton   Wyden
            DeWine   Wyden

NOT VOTING—2

Domenici   Murkowski

The amendment (No. 819), as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. THOMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, how long did that vote take?

The PRESIDING OFFICER. Fifteen and a half minutes.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Tennessee and the Senator from North Carolina. The last amendment was an important amendment, was a step forward. That amendment, along with the Snowe amendment and several others that have passed, has immeasurably helped this legislation.

I thank the Senator from Tennessee and the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I join with the comments of the Senator from Arizona. In the trades, that was "a biggie." It was a very positive action to make sure that the exhaustion of the appeals process is a true exhaustion of the appeals process and we don’t go straight to the court system. I congratulate the Senators from North Carolina and Tennessee for achieving that resolution.

AMENDMENT NO. 847

Mr. HATCH. Mr. President, I rise to oppose amendment No. 847 offered by my friend from Kansas, Senator BROWNBACK.

This amendment purports to establish safeguards with respect to medical treatments that encompass therapies directed at genetic defects. The amendment would impose criminal sanctions, including imprisonment of up to 10 years, on those who violate the restrictions on modifying the human genetic structure.

Not only is this the wrong time to consider this amendment, it is also the wrong piece of legislation on which to consider this amendment. In all candor, I must tell my colleagues that in my view, based on my preliminary reading of this amendment, I greatly doubt there will ever be a right time for this proposal.

I have no doubt that this amendment is well-intentioned.

I have worked with Senator BROWNBACK many times in the past on many issues, including many important right-to-life issues, such as outlawing partial birth abortion. Both he and I are proud to call ourselves pro-life Senators.

But, as my colleagues are aware, Senator BROWNBACK and I happen to...
June 29, 2001

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be fully consulted on how the language of this measure will affect their interest.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:


Hon. TRENT LOTT, U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: On behalf of the Biotechnology Industry Organization (BIO), I am writing to express BIO’s opposition to an amendment that may be offered by Senator Brownback regarding germ line gene modification. This amendment may come up for a vote on the Senate floor as early as today during consideration of S. 1052—the McCain, Kennedy, Edwards Bipartisan Patient Protection Act. I urge you to vote against the Brownback amendment if it comes up for a vote.

BIO opposes germ line gene modification and we support the moratorium on germ line gene modification that has been in place for over a decade. This moratorium has allowed critical genomic research to continue while prohibiting unsafe and unethical work. To our knowledge, all scientists have complied with this moratorium.

Unfortunately, the Brownback amendment reaches far beyond germ line gene modification. It attempts to regulate genetic research—a complex and dynamic field—a science that holds great potential for patients with serious and often life-threatening illnesses. This proposal also could prohibit research on human pluripotent stem cells. Since these cells have been demonstrated to form any cell in the body they hold enormous therapeutic potential.

Let’s not cripple essential medical research for host of chronic and fatal diseases such as diabetes, Parkinson’s disease, Alzheimer’s disease, and various cancers. The patients and families who suffer from these diseases are looking to advances in medical research to develop cures and better treatments for them.

This argument must be considered by all members of the Senate.

The question of how in vitro fertilization relates to the normal process of sexual reproduction is a question of great importance because it appears to directly implicate the science of embryonic stem cell research.

Specifically, we need to know how language would treat research with human pluripotent stem cells.

We all know where Senator Brownback stands on this issue. While I generally agree with my friend from Kansas, I disagree with him on embryonic stem cell research.

This is an issue that deserves careful consideration by each Senator. I welcome this debate. But today is not the time. We simply need to know all the implications of the Brownback language before we even consider such legislation.

In my view, this Senate should go on record as supporting federal funding for embryonic stem cell research. And we certainly do not want to turn back the clock on the type of gene therapy research that has been conducted for over 20 years.

This is simply not the kind of measure that you try to slip into an unrelated bill.

All interested parties—patient groups, religious and advocacy organizations, scientists, health care providers, biotechnology firms—deserve to

DISAGREE ON THE ISSUE OF FEDERAL FUNDING FOR EMBRYONIC STEM CELL RESEARCH. I UNDERSTAND AND COMPLETELY RESPECT HIS VIEWS ON THIS ISSUE.

IN A NUTSHELL, THE BROWNBACK AMENDMENT ATTEMPTS TO REGULATE GENETIC RESEARCH. BUT I AM AFRAID THAT IT MIGHT REGULATE THIS CRITICAL AVENUE OF RESEARCH RIGHT OUT OF EXISTENCE.

THIS IS AN EXCEEDINGLY COMPLEX AND DYNAMIC FIELD OF SCIENCE.

IT IS CERTAINLY NOT THE TYPE OF LEGISLATION THAT WE WANT TO ATTACH TO A NON-GERMLINE MODIFICATION TO A BILL THAT DOES NOT DIRECTLY RELATE TO BIOMEDICAL RESEARCH.

MY GOODNESS, WE HAVE OUR HANDS FULL ENOUGH WITH HMOs AND THE PATIENTS’ BILL OF RIGHTS. WE DO NOT NEED TO FURTHER COMPlicate AN ALREADY COMPLEX BILL WITH THIS LANGUAGE.

WHY DO WE NEED TO TAKE FLOOR TIME ON THIS PROPOSAL? HAVE THERE BEEN HEARINGS ON THIS ISSUE? HAS THERE BEEN A COMMITTEE MARK-UP ON THIS BILL?

Isn’t the reason why we have committee hearings and committee mark-ups so that complex issues can be adequately aired by members of the critical committees before the full Senate debates an issue?

There is much virtue for letting legislation ripen and be scrutinized in committee before the entire body debates the merits of proposals such as this amendment.

I think we should defeat this amendment today so that the relevant committees can thoroughly review this legislation.

While I strongly believe that we should defeat this amendment on strictly procedural grounds, I do want to make a few comments on some initial problems that I have with respect to the language of the bill.

First, because there are over 300 diseases thought to be caused by a defect in a single gene, we must be extremely careful that we do not cut off or unduly impede research on such diseases.

As a co-sponsor of the Orphan Drug Act of 1984, I know very well how millions of American families must struggle each day with small population but highly debilitating diseases such as multiple sclerosis, AIDS, and Fragile X Syndrome.

The problem with the Brownback amendment is that it appears to thwart research on gene therapies that may lead one day to cures for many of these single-gene diseases. It would not be right for the Senate to hastily adopt language that derails research on such crippling diseases as Alzheimer’s or Parkinson’s.

I am concerned with what the definition of human germline gene modification in section 301 of the Brownback bill could do when it is read in context of section 302 of his legislation. The amendment’s definition of human germline modification is ambiguous.

As one attorney representing the biotechnology industry has characterized the reach of this definition:

Among other problems, which of the examples listed are forms* of human germline modification and why does it matter? Moreover, the sentence—and he is referring to the first definition in section 301 which describes human germline modification—ends by referring to “including DNA, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA.” To what part of the first sentence defines “human germline modification” is the language referring? Does the last sentence of the definition, “Nor does it include the change of DNA involved in the process of sexual reproduction” prohibit in vitro fertilization? Does any part of the amendment prohibit or allow in vitro fertilization? What genetic technologies does “normal” cover, if any?

Within objection, I would like to place in the RECORD a copy of a legal memorandum prepared by Edward Korweck of the law firm of Hogan & Hartson. As I understand it, this memorandum was written on behalf of BIO, the biotechnology industry association.

I also ask unanimous consent to place in the RECORD a copy of a letter from BIO to Senator LOTT opposing the Brownback amendment. This letter voices its opposition to the amendment by stating:

Let’s not cripple essential medical research for host of chronic and fatal diseases such as diabetes, Parkinson’s disease, Alzheimer’s disease, and various cancers. The patients and families who suffer from these diseases are looking to advances in medical research to develop cures and better treatments for them.

This argument must be considered by all members of the Senate.

The question of how in vitro fertilization relates to the normal process of sexual reproduction is a question of great importance because it appears to directly implicate the science of embryonic stem cell research.

Specifically, we need to know how language would treat research with human pluripotent stem cells.

We all know where Senator Brownback stands on this issue. While I generally agree with my friend from Kansas, I disagree with him on embryonic stem cell research.

This is an issue that deserves careful consideration by each Senator. I welcome this debate. But today is not the time. We simply need to know all the implications of the Brownback language before we even consider such legislation.

In my view, this Senate should go on record as supporting federal funding for embryonic stem cell research. And we certainly do not want to turn back the clock on the type of gene therapy research that has been conducted for over 20 years.

This is simply not the kind of measure that you try to slip into an unrelated bill.

All interested parties—patient groups, religious and advocacy organizations, scientists, health care providers, biotechnology firms—deserve to

be fully consulted on how the language of this measure will affect their interests.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:


Hon. TRENT LOTT, U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: On behalf of the Biotechnology Industry Organization (BIO), I am writing to express BIO’s opposition to an amendment that may be offered by Senator Brownback regarding germ line gene modification. This amendment may come up for a vote on the Senate floor as early as today during consideration of S. 1052—the McCain, Kennedy, Edwards Bipartisan Patient Protection Act. I urge you to vote against the Brownback amendment if it comes up for a vote.

BIO opposes germ line gene modification and we support the moratorium on germ line gene modification that has been in place for over a decade. This moratorium has allowed critical genomic research to continue while prohibiting unsafe and unethical work. To our knowledge, all scientists have complied with this moratorium.

Unfortunately, the Brownback amendment reaches far beyond germ line gene modification. It attempts to regulate genetic research—a complex and dynamic field—a science that holds great potential for patients with serious and often life-threatening illnesses. This proposal also could prohibit research on human pluripotent stem cells. Since these cells have been demonstrated to form any cell in the body they hold enormous therapeutic potential.

Let’s not cripple essential medical research for host of chronic and fatal diseases such as diabetes, Parkinson’s disease, Alzheimer’s disease and various cancers. The patients and families who suffer from these diseases are looking to advances in medical research to develop cures and better treatments for them.

Furthermore, to our knowledge there has been no consultation with the scientific community, researchers, physicians, or patient groups prior to the filing of the Brownback amendment. This is particularly troubling because the amendment calls for severe sanctions, including imprisonment of biotech researchers.

I urge you to vote against this amendment. If you have questions, please call me at 202-857-6244. Thank you for your consideration on this important matter.

Sincerely,

W. LEE RAWLS, Vice President, Government Relations.

MEMORANDUM


To: Michael Werner, Esquire, BIO Bioethics Counsel.

From: Edward L. Korwek, Ph.D., J.D.

Re: Some Initial Comments/Analysis of the Brownback Amendment

The Brownback Amendment is poorly worded and confusing as to its precise coverage. It uses a variety of scientific terms and other complex language both to prohibit and allow certain gene modification activities. Many of the sentences are composed of language that is incorrect or ambiguous from a scientific standpoint. A detailed examination needs to be made of what each sentence of the Amendment is intended to accomplish.
Mr. KENNEDY. Mr. President, today we are at the threshold of astonishing new successes in understanding the genomes and patterns in genetics and other areas of biomedical research will revolutionize the diagnosis and treatment of countless disorders. This astonishing potential to relieve suffering will be squandered if patients fear that their private genetic information will become the property of their insurance companies and their employers, where it can be used to deny people health care and deny workers their jobs. To protect all Americans against genetic discrimination in health insurance and employment, I am proud to support the important legislation that Senator DASCHLE has introduced on this issue. I commend my colleague, Senator Ensign, for bringing this basic issue to the floor of the Senate, and I look forward to working closely with him in the days to come.

However, Senator Ensign's amendment has several shortcomings that lead me to believe that it is not the right policy for us to adopt to end genetic discrimination. Yet in the interests of stimulating debate on this important issue and to speed the termination of debate on the Patients' Bill of Rights, I am prepared to accept it as an amendment to the bill. But next month, in our Committee, we will have a full and thoughtful discussion of this issue in our committee and a thorough debate on the Senate floor.

Senator Ensign's amendment fails to provide privacy essential. The amendment does not address the important issue of discrimination in the workplace. Genetic discrimination in employment is real and it's happening all across America. Effective legislation on this issue must include protections for workers.

We must realize that genetic information will be commonplace in medicine and we must ensure that our definitions adequately protect genetic information in all its forms. Unfortunately, the definitions of genetic information contained in the Ensign amendment do not properly protect genetic information. The definitions in this legislation allow employers and others to find dangerous loopholes in the protection offered by this legislation.

Finally, the remedies in the Ensign amendment do not provide adequate remedies for those whose rights have been violated. We should make sure that we take back those rights that have been violated to seek proper recourse.

Despite these and other flaws in the Ensign amendment, I am prepared to accept the measure as a spur to future debate on this important issue. We will start from a clean slate in our committee deliberations and we will give this important legislation the attention it deserves. I look forward to a fresh debate and to taking action on Senator Daschle's important legislation.

Mr. DASCHLE. Mr. President, in an effort to move forward and complete debate on the Patient's Bill of Rights, the Ensign amendment on genetic discrimination, along with several other proposals, were included in a managers' package without a full vote of the Senate. It must be clarified that there are several problems with the Ensign proposal as offered, and we do not support this approach for dealing with genetic discrimination.

First, the Ensign amendment does not comprehensively address the problem of genetic discrimination. This amendment only covers genetic discrimination in health insurance and is silent on discrimination in the workplace. Simply prohibiting genetic discrimination in health insurance, while allowing it to continue in employment, is no solution at all. Employers will simply weed out employees with a genetic marker. Additionally, the protections the amendment provides are so riddled with loopholes that health insurance providers would still have substantial access to individuals' private genetic information.

Recently, employees working at Burlington Northern Railroad were subjected to genetic testing without their knowledge or consent. The company was attempting to determine if any of the employees had a genetic predisposition for carpal tunnel syndrome—in an attempt to avoid covering any costs associated with the injury. Giving up your private genetic information will not be the price you pay for being employed.

The Ensign amendment also fails to comprehensively cover all of the insured. We must create protections for all Americans regardless of where an individual gets his or her health insurance coverage. It is unconscionable to allow genetic information to be used to discriminate against anyone—access must be limited appropriately to ensure that no American is left vulnerable.

Finally, the Ensign amendment does not create a private right action—leaving individuals without an adequate remedy. Clearly, providing protections without proper enforcement provisions makes any protection meaningless.

We've seen a revolution in our understanding of genetics—scientists have finished mapping our genetic code, and researchers are developing extraordinary new tests to determine if a person is at risk for a particular disease. But with increased understanding of the possibilities of the genome uncovers, comes increased responsibilities. We simply cannot take
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one step forward in science while tak-
ing two steps back in civil rights.

The HELP committee will move for-
ward with consideration of this issue this
summer. We welcome the oppor-
tunity to work with Senator Ensign
and other Republicans on a comprehen-
vative genetic non-discrimination bill
that can command bipartisan support.
It is our hope that we can bring up and
pass a bill later this summer.

Mr. GREGG. I now propound a uni-
animous consent request relative to the
order of the following amendments to
which we will be proceeding. The first
would be Senator SMITH for 30 minutes
equally divided. The second would be
Senator ALLARD, 30 minutes equally di-
vided. The third amendment would be
Senator NICKLES, 30 minutes equally di-
vided. The fourth would be Senator SANTORUM, 40 minutes
equally divided. And the fifth would be Senator CRAIG,
30 minutes equally divided.

The substance of the amendments or
the purposes of the amendments have
been presented to the other side. I can
run through those if Members wish to
hear them.

The PRESIDING OFFICER. Is there
objection?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the
Senator has shared the substance.
Members will hear the explanations,
but the Smith amendment deals with
tax credits; the Allard amendment,
with exclusions for smaller businesses
in terms of the numbers of employees;
the Nickles amendment is an expansion
to other Federal health programs;
Santorum deals with punitive damages;
and the Craig amendment deals with
medical savings accounts. We are fa-
miliar with the subject matter. We have
no objection to that as an order,
and we believe the time recommended
will help us move this process along
and will be sufficient to evaluate the
amendments.

Mr. REID. Mr. President, we want to
just make sure that the vote is in rela-
tion to the amendments offered in the
usual form with no second-degree
amendments in order prior to the vote.
Mr. GREGG. That is acceptable—
Mr. REID. And also that the time
limit be as outlined and the time for
debate—there would be an opportunity
to file a motion prior to the vote in
relation to the amendment.

Mr. GREGG. Do you mean a motion to
table?

Mr. REID. Yes.

The PRESIDING OFFICER. The Sena-
tor so amends his request?

Mr. GREGG. Yes.

The PRESIDING OFFICER. Is there
objection?

Mr. GREGG. Mr. President, I inquire
of the Senator from Nevada whether or
not it would be possible to stack these
votes, or whether the jury is still out on
that?

Mr. REID. We should wait on that.
We have a number of people on this
side who want to vote after every amend-
ment. We will work on that.

Mr. REID. The PRESIDING OFFICER.
Mr. President, as I know and he knows, by not
stacking the votes we add a consider-
able amount of time to this exercise.
We are trying to move these amend-
ments in a prompt and reasonable fash-
ion. I think that has been shown in the
process throughout the weeks here. We
end up delaying if we don’t stack votes.

The PRESIDING OFFICER. Mr. REID.
The managers have worked so hard and the leaders have
conferred about this legislation. We
will work on that. We hope that the
Senator from New Hampshire will give
us a finite list of amendments. Once
that happens, I am sure we can quickly
arrive at a time to dispose of this and
the votes could be stacked.

The PRESIDING OFFICER. Without
objection, it is so ordered.

The Senator from Oregon is recog-
nized.

Mr. SMITH. Of Oregon, Mr. President,
I send a motion to the Public
The PRESIDING OFFICER. The clerk
will report.

The assistant legislative clerk read
as follows:

The Senator from Oregon (Mr. SMITH)
moves to commit the bill, S. 1092, as amend-
ed, to the Committee on Finance with in-
structions to report H.R. 3 back to the Sen-
ate forthwith with amendment.

Mr. SMITH of Oregon, Mr. President,
I ask unanimous consent that further
reading of the motion be dispensed
with.

The PRESIDING OFFICER. Without
objection, it is so ordered.

The motion is as follows:

Mr. SMITH of Oregon moves to commit
the bill S. 1092, as amended, to the Committee on
Finance with instructions to report H.R. 3
back to the Senate forthwith with amend-
ment that—

(1) strikes all after the enacting clause
and inserts the text enclosed in
brackets and

(2) makes the research and development
tax credit permanent and increases the rates
of the alternative incremental research and
development tax credit as provided in S. 41.

(3) provides that H.R. 3, as amended pursu-
ant to paragraphs (1) and (2), does not nega-
tively impact the social security trust funds
or result in an on-budget surplus that is less
than the medicare surplus account,

(4) provides that H.R. 3, as so amended, is
not subject to a budget point of order.

Mr. SMITH of Oregon, Mr. President,
for myself, Senator HATCH, Senator
ALLEN, and others, I have sent to the
desk a motion to commit S. 1052 to the
Finance Committee with instructions
to make permanent the research and
development tax credit. We are joined
in this also by Senators CRAPO, CRAIG,
BENNETT, BROWNBACK, BURNS, HUTCH-
INSON, ALLEN, and ENZI.

As a Member of the Senate high-tech
tax task force, I believe that the R&D tax
credit is essential to the technology
community and to the pharma-
cutical community.

This credit encourages investment in
basic research that, over the long term,
can lead to the development of new,
cheaper, and better technology prod-
ucts and services. The research and
development is certainly essential for
long-term economic growth.

Innovations in science and tech-
ology has fueled the massive eco-
nomic expansion we have witnessed
to date in the course of the 20th century.
These achievements have improved
the standard of living for nearly every
American. Simply put, the research tax
credit is an investment in economic
growth, new jobs, and the important
new products and processes that we
need in our lives.

The R&D tax credit must be made
permanent. This credit, which was
originally enacted in 1981, has only
been temporarily extended 10 times.
Permanent extension is long overdue.

Because this vital credit isn’t perma-
nent, it offers businesses less value
than it should. Businesses, unlike Con-
gress, must plan and budget in a multi-
year horizon. A tax credit that perma-
tently does not neatly fit into calendar
or fiscal years.

R&D development projects typically
take a number of years, and may even
last longer than a decade. As our busi-
ness leaders plan these projects, they
need to know whether or not they can
count on this tax credit.

The current uncertainty surrounding
the credit has induced businesses to
allocate significantly less to research
than they otherwise would if they
knew the tax credit would be available
in future years. This uncertainty
undermines the entire purpose of the
credit.

Investment in R&D is important be-
cause it spur innovation and economic
growth. Information technology, for
example, was responsible for more than
one-third of the real economic growth

Information technology industries
account for more than $500 billion of
the annual U.S. economy. R&D is wide-
ly seen as a cornerstone of techno-
logical innovations which, in turn,
serves as a primary engine of long-term
economic growth.

The tax credit will drive wages high-
er. Findings from a study, for example,
conducted by Coopers & Lybrand show
that workers in every State will ben-
fit from higher wages if the research
credit is made permanent.

Payroll increases as a result of gains
in productivity stemming from the
credit have been estimated to exceed
$60 billion over the next 12 years.

Furthermore, greater productivity
from additional research and develop-
ment will increase overall economic
growth in every state in the Union. Re-
search and development is essential for
long-term economic growth.

The tax credit is cost-effective. The
R&D tax credit appears to be a cost-
effective policy instrument for increas-
ing business R&D investment. Some re-
cent studies suggest that one dollar of

...
the credit’s revenue cost leads to a one dollar increase in business R&D spending. 

There is broad support among Republicans for the credit, and President Bush included the credit in the $1.6 trillion tax relief plan.

I urge my colleagues to support this amendment, and I thank Senator HATCH and Senator ALLEN, the chief cosponsors, for providing us with the opportunity of increasing the size of the tax cut to include this important priority but which, unfortunately, was left out of the tax bill that we recently passed.

Before I yield to Senator ALLEN for his comments, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second?
The yeas and nays were ordered.

Mr. SMITH. I yield the remainder of my time to Senator ALLEN.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ALLEN. Mr. President, I rise in support of the amendment and very much thank Senator GORDON SMITH of Oregon for his leadership and for giving us the opportunity to vote on this very important amendment and principle and tax policy that is essential for the United States to compete and succeed in the future. I also commend the Senator from Utah, Mr. ORRIN HATCH, for all his work over the years, and especially this year, in advocating this measure.

As chairman of the high-tech task force on the Republican side of the Senate, we have endorsed this idea. We have been working on this idea. Unfortunately, as the Senator said, it was not included in the tax bill. But the reason that this is so important is that research and development into pharmaceuticals, the amount of research that goes into putting forward a drug before getting it to patent, to the market, and so forth, it is not just the research and the labs; there are clinical trials that go on year after year, and hopefully you will get a patent; and for a short period of time you will have a window of opportunity on that prescription drug, for example.

So this tax policy is very important so that businesses have certainty, that there is credibility, stability, predictability to devote the millions and, indeed, in some cases, billions of dollars to research and development and technology.

The issue is jobs and competition for the people of the United States. We, as Americans, need to lead in technological advances. The R&D tax credit is very important in microchips or semiconductor chips. It is important in communications research and development. It is important in life sciences and medical sciences and, obviously, that includes biotechnology and pharmaceuticals.

Making the R&D tax credit permanent, as Senator SMITH says, actually is cost effective. It makes a great deal of sense. Studies suggest every dollar of revenue cost leads to a $1 increase in business R&D spending. These are good jobs and it also allows us as a country to compete.

A permanent extension is long overdue. As Senator SMITH said, it has been extended even for a few years. Once in a while it lapses. Businesses cannot plan that way. They have to make sure it stays constant. Publicly traded companies have their quarterly reports, their shareholder reports, and the amount of investment they get in their companies based on how they are operating and managing that company.

If you have changing tax laws or lack of credible, predictable tax policies that fowl up that whole system, that makes them less likely to want to invest and take the risk of billions of dollars in research and development if they are not certain of the long term.

This amendment to make the research and development tax credit permanent will spur more American investment; it will create more American jobs—and they are good paying jobs—and that will lead us to better products, better devices, better systems, and better medicines.

I hope that we will work in a unified fashion on this amendment by Senator SMITH to make permanent the research and development tax credit so Americans get those good jobs, but, most importantly, allow America to compete and succeed and make sure America is in the lead on technological advances, whether they are in communications, in education, in manufacturing, or the medical or life sciences.

I again thank the Senator from Oregon, Mr. SMITH, for his great leadership, as well as that of ORRIN HATCH.

I yield back the time I have at this moment and reserve whatever time may remain on our side.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this is a Patients’ Bill of Rights bill. This is not a defense bill. This is not a foreign aid bill. This is not an agriculture bill. This is not a tax bill. This is the Patients’ Bill of Rights amendment. It is a tax amendment. In fact, he would like to report out of the Finance Committee, by his amendment, a bill that is currently in the Senate Finance Committee, a tax bill. Tax legislation does not properly lie at this moment on this bill. Pure and simple. Full stop. That ends it.

I also say to my good friend from Oregon, I agree with permanent extension of the R&D tax credit. I daresay a majority of Senators agree. I cosponsored legislation in the past. The Finance Committee reported out a permanent extension, and the Senate-passed tax bill, that huge tax bill of $1.35 trillion, included permanent extension of the tax credit. Unfortunately, it did not survive in conference, but it is clear that the R&D tax credit has enormous support in this body.

Does anybody here think there is not going to be another tax bill? Of course, nobody here believes there will not be another tax bill. There will be tax legislation this year. That is clear. The appropriate time for this Senate to appropriately include considering permanent extension of the R&D tax credit is when the tax legislation comes up.

The current provision expires December 31, 2001, not December 31, 2002, not December 31, 2003; it expires December 31, 2004, over 3 years away. In all the years we have been extending the R&D tax credit, that is probably the longest extension that has existed.

I agree with my good friend; it should be permanent. This yo-yo, up-and-down, back-and-forth, on-again off-again application of the R&D tax credit by this body does not make good sense. It is wrong.

This is not a tax bill; this is a Patients’ Bill of Rights bill. There will be tax legislation. When there is tax legislation before this body, that is the time we can appropriately consider permanently extending the R&D tax credit.

I wish my good friend would withdraw his amendment because this is not the proper time and place for it. If he does not wish to withdraw it, I urge my colleagues to not support it because this is not the time and place. Were it to pass, the door would be open and we would be writing another tax bill. We have already passed a big tax bill. We passed a tax bill of 1.35 trillion bucks. That is a big tax bill. This is not the time and place.

Mr. REID. Will the Senator yield for a question?

Mr. BAUCUS. I yield to my good friend from Nevada.

Mr. REID. Mr. President, as chairman of the Finance Committee, the Senator from Montana made commitments to a number of people, including this Senator, that he is going to do everything in his power as chairman of the Finance Committee to make sure there are other tax vehicles this year; is that true?

Mr. BAUCUS. That is absolutely true. There are many Senators who
wanted to offer tax provisions to this bill but deferred, recognizing this is not the right time or place. It is Ecclesiastical. President. Essentially there is a time and place for everything. This is not the right time and place for tax legislation.

Mrs. BOXER. Will my colleague yield to me for a question?

Mr. BAUCUS. I ask how much time is remaining on both sides?

Mr. BAUCUS. I yield to my good friend from California.

Mrs. BOXER. I want to ask the distinguished chairman of the Finance Committee this question. As someone who comes from the largest State in the Union, on the cutting edge of high tech, I was working with Senator Grassley, could they not have put the extension of the R&D tax credit into the big tax bill that was brought to the Chamber?

Mr. BAUCUS. Mr. President, the Senator from California makes a very good point. Clearly, the President could have included a permanent extension of the R&D tax credit in his proposed tax legislation. The Senate was then controlled by the Republican Party, and it certainly could have put in the R&D tax credit, and it probably would have survived conference if they pushed it.

I say to my friend from California, this is a very important point, but that was not provided for because the current extension, the current provision is in place at least until December 31, 2004. So there is time for the R&D tax credit to take effect, and at a later date we can make it permanent.

Mrs. BOXER. I say to my friend, then that is the same comment we can make to our colleagues who are trying to put this on a Patients' Bill of Rights. The R&D tax credit is in effect until 2004. Let's get an appropriate vehicle where we can all walk together and support the R&D tax credit and not put it on the Patients' Bill of Rights.

I thank my friend for yielding.

The PRESIDING OFFICER. The Senator from Oregon. Mr. SMITH of Oregon. Mr. President, I say to my friend from Montana, I want to put this on whatever moves. I know it does not expire until 2004. I also know President Bush did include this in his original tax bill, but that was seven years then. It was unfortunate it was moved down.

I want to see us do it as quickly as we can for the simple reason that businesses need to make planning and expenditures that last an awful long time. The year 2004 does not fit with some of those plans that need to be made.

This is not unrelated to medicine and patients' health. Part of the technological development we are hoping to continue to provide to our people is in the pharmaceutical and biotechnological areas which do have a direct bearing on patients' health. The best right a patient can have is good health. This will facilitate that a great deal, perhaps as much as anything else in the bill.

I ask unanimous consent to send a modification of my motion to the desk.

Mr. BAUCUS. Reserving the right to object, could the Senator share with the Senate the contents of the modification; otherwise, I will be constrained to object.

Mr. SMITH of Oregon. It is simply to comply with the Parliamentarian's request to be consistent with Senate requirements.

Mr. BAUCUS. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion, as modified, is as follows:

Mr. SMITH of Oregon moves to commit the bill S. 1052, as amended, to the Committee on Finance with instructions to report S. 1052 back to the Senate within 14 days with an amendment that—

(1) makes the research and development tax credit permanent and increases the rates of the alternative incremental research and development tax credit as provided in S. 41.

(2) provides that S. 1052, as amended pursuant to paragraph (1), does not negatively impact the social security trust funds or result in an on-budget surplus that is less than the Medicare surplus account, and

(3) provides that as so amended, is not subject to a budget point of order.

Mr. REID. Has everyone yielded back their time?

Mr. SMITH of Oregon. I yield 1 minute to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. To wrap up in response to some of the assertions and comments made in opposition to this amendment, the reason this amendment is necessary is, unfortunately, the other side of the aisle knocked out the amount of the tax cut we wanted and omitted small family farms and small businesses against the research and development tax credit. Senator HATCH was working mightily, with the support of many Members, to try to get this into the tax cut bill.

More important than all the procedure is the fact that our economy is going very slowly. I am trying to be positive at this moment. The technology sector is obviously going very slowly. In fact, it is in some regards frozen, especially in new investment. The research and development tax credit being made permanent now matters because now and in the next few quarters is when technology companies, pharmaceuticals, biotechs, all folks in tech, will be making decisions, and if they can make these decisions now, then they can create the jobs, get our economy going again, and improve our lives.

Mr. SMITH of Oregon. We yield back the remainder of our time.

The PRESIDING OFFICER. The Senator from Montana has 8 minutes 50 seconds.

Mr. BAUCUS. Mr. President, I yield back my time and I make a constitutional point of order against Senator SMITH's motion on the grounds that the motion would affect revenues on a bill that is not a House-originated revenue bill.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. I ask permission to enter a request for unanimous consent with the Senator from New Hampshire. I ask that the vote on the motion made by the Senator from Montana be set aside and we next go, as has been already ordered, to the Allard amendment, the Nickles amendment, we debate the Allard and the Nickles amendment, and vote on those three amendments at the conclusion of debate.

Mr. GREGG. We have 2 minutes equally divided prior to the Allard amendment and Nickles amendment to explain.

The PRESIDING OFFICER. Does the Senator so amend his request?

Mr. REID. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized.

AMENDMENT NO. 821

Mr. ALLARD. Mr. President, I call up amendment No. 821. The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ALLARD), for himself, and Mr. GREGG, Mr. CRAIG, Mr. NICKLES, Mr. ALLEN, Mr. INHOFE, Mr. SMITH of New Hampshire, Mr. GRAMM, Ms. COLLINS, Mr. SESSIONS, Mr. ESZTI, and Mr. CAMPBELL, proposes an amendment numbered 821.

Mr. ALLARD. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To exempt small employers from causes of action under the Act)

On page 148, between lines 23 and 24, insert the following:

"(D) EXCLUSION OF SMALL EMPLOYERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this paragraph, in addition
to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employer within the scope of employment).

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(ii) DEFINITION.—In clause (i), the term "small employer" means an employer—

(A) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 15 employees on business days; and

(B) maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including—

(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

(bb) one or more small employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

(iii) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subparagraph:

(I) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

(II) PREDECESSORS.—Any reference in this paragraph to an employer shall include any predecessor of such employer.

On page 165, between lines 14 and 15, insert the following:

(D) EXCLUSION OF SMALL EMPLOYERS.—

(I) IN GENERAL.—Notwithstanding any other provision of this paragraph, in addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employee of such an employer acting within the scope of employment).

(ii) DEFINITION.—In clause (i), the term "small employer" means an employer—

(1) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 15 employees on business days; and

(2) maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including—

(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

(bb) one or more small employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

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(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

(bb) one or more small employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

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Mr. ALLARD. Mr. President, my amendment provides another opportunity for the Senate to protect the country's employees of small businesses. Yesterday, the Senate voted on an amendment I offered that would have protected employees of small businesses from losing their health care insurance.

I am offering another amendment that gives Members another chance to protect those employees. My amendment, cosponsored by 12 Senators, protects employees of small businesses from losing their health insurance. My amendment exempts employers with 15 or fewer employees from unnecessary and unwarranted lawsuit.

We must protect small business employees from losing their health care insurance. Small business represents over 90 percent of all employers in America. If the Kennedy bill passes in its current form, small business employees will be subjected to increased health care premiums and to the possibilities of losing their health care insurance altogether.

Based on studies from the Congressional Budget Office and the Lewin Group, the Kennedy bill will cause more than 1 million Americans to lose their health insurance. The White House estimates that 10 million people—of less than 500,000 as an indication of what a small employer might be as it applies to that statute. The Walsh-Healy Public Contracts Act, which contains minimum wage standards, exempts certain employers with minimum gross income—they did not use the number of employees—of less than $500,000 as an indication of what a small employer might be as it applies to that statute. The Fair Labor Standards Act, which established the minimum wage standards, exempts certain employers with minimum gross income—they did not use the number of employees—of less than 50 employees. The Fair Labor Standards Act, which established the minimum wage standards, exempts certain employers with minimum gross income—they did not use the number of employees—of less than 500,000 as an indication of what a small employer might be as it applies to that statute. The Walsh-Healy Public Contracts Act, which contains minimum wage and overtime for federally contracted employers, exempts employers that have Federal contracts for materials exceeding $10,000, which also is indicative of a small employer. The Age Discrimination and Employment Act of 1967 exempts employers of 19 or fewer workers.

These numerous employee protections are currently in place as Federal law. The Senate should extend similar protections to employees of small businesses. If we do not provide employers with the number of employees from frivolous lawsuits, more than a million—some estimate up to 9 million employees—will lose their health care insurance.

The least the Senate can do to protect small business employees from losing their health care insurance is to pass this amendment. We have had the opportunity to take advantage of the 50 employee exemptions. The Kennedy bill could cause 4 to 6 million Americans to lose their health care insurance.

I am offering another amendment to provide another chance to protect employees of small businesses from losing their health care insurance.

I inquire the time remaining on my side?
The fact is, yesterday, if there was any question about what this legislation was really all about, it was well debated today. The amendment that was in the amendment offered by Senator SNOWE of Maine and Senator DEWINE of Ohio. In their amendment, the Wall Street Journal says:

Employer protection makes gains. Senate passed time to shield companies from workers' health plan lawsuits.

It is very clear now that the only employers, large or small, that are going to be vulnerable are those that take an active involvement in disadvantaging their employees in health care and putting them at greater risk of death or serious injury. That is it. The rest of this has been worked out. We have done it with 100 employees, we have done it with 50, and now we are down to 15. It makes no more sense today. Those who would be adequately protected in these companies. I imagine, if the Senator is not successful with 15, we will be down to 10, we will be down to 5, and then we will be down to 3.

We have addressed this issue. Every Member of this body ought to know it. I think this is a redundant amendment, one that we have addressed. The arguments are familiar. I yield to the Senator from Nevada.

Mr. REID. Mr. President, this is clear filibuster by amendment. I have been here a long time. I have seen this happen. As the Senator from Massachusetts pointed out, we have been here; we have done that. Next, as the Senator from Massachusetts indicated, it will be 10 employees, 5 employees, 4 employees, 3 employees.

When the time has expired on this amendment, I will offer a motion to table. This amendment should not be discussed. It should not take up the serious time of the Senate that has been so well used these past 9 days.

Mr. ALLARD. Mr. President, let's just go back over what we are talking about this afternoon. First of all, the majority of small businessmen and women in this country are not involved in decisionmaking that affects the well-being of the employees. We know that. They basically are busy enough. It has been explained by Members that they are involved in running their businesses. This is really not an issue so much in terms of small business.

The only people who will be affected by this are the small businessmen or women who get hold of the HMO where they have the insurance and says, look, if any of my employees are going to run up a bill more than $25,000, call me up because I want to know. When that HMO calls up, the employer says: Don't give them the treatment. As a result of not giving that treatment, the child of an employee is put at risk, and perhaps dies, or the wife of an employee, who has breast cancer, is denied access into a clinical trial and may die as a result. This is only if you can demonstrate the employer is actively involved in denying the benefits to those employees. Are we going to say that all these employers, with 15 or fewer employees, are going to be completely immune from this when the only employer that has to worry about this is one who is going to be actively involved in making a decision that puts their employees at risk? We built in the protections with the SNOWE-DEWINE amendment. We built them in and we have supported them. But it seems to me that workers in these companies, which make up about 30 percent of the American workforce, ought to be given the same kinds of protections against the employers that are going to make that difference.

Make no mistake about it. The great majority of employers do not do that today. Only a very small group do. But if the small group that do do that are able to get away with it, there is an open invitation to other small businessmen and women, in order to keep their premiums down, to get involved in similar kinds of activities. This will offer carte blanche so that 30 percent of the American workforce will not be covered one bit with this legislation. It makes no sense. It didn't make any sense when it was first offered by Senator GRAMM; it didn't make any sense when it was offered previously by Senator ALLARD; and it makes no sense at the time.

The only people who have to worry are those employers that are going to connive, scheme, and plot in order to disadvantage their employees in ways that are going to bring irreparable harm, death, and injury to them. If you want to do that to 30 percent of the workforce and put them at that kind of risk, this is your amendment.

I do not think we should. I hope the amendment will be defeated.

The PRESIDING OFFICER (Mr. CARR). The Senator from Massachusetts has 9 minutes 23 seconds remaining. Who yields time?

Mr. ALLARD. Mr. President, I yield 3 minutes to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, this amendment is vitally important for small business. This bill, the underlying bill, says employers beware, we are coming after you because we do not exempt employers.

Interestingly enough, we exempt Federal employees, we exempt Medicare, we exempt government plans, but we do not exempt private plans. Anybody who has a private plan, employers beware because they can sue you and they can sue the plan.

Oh, I know we came up with a little cover, and maybe you can put the liability under the form of a designated decisionmaker, and they can assume it. But guess what? They are going to charge the employer for every dime they think it is going to cost. And my guess is, the designated decisionmaker will want to have enough cover so they don't go bankrupt, so they are going to charge a little extra to make sure they
have enough to protect them from the liability and the costs that are associated with the payroll.

The cost of health care is exploding. Health care costs went up 12.3 percent nationally last year. They are supposed to go up more than that this year. That is not for small businesses. The cost of health care for small business is 20, 21, 22 percent, and that is without the cost of this bill.

CBO estimates the cost of this bill is 4.2 percent. But if you assume there is going to be a whole lot of defensive medicine, you can probably double that figure. And with the liability, you are probably looking at another 9 or 10 percent on top of the 20 percent for small business. Those are not figures I am just grabbing out of the air, I think they are the reality.

My friend and Colleague from Colorado, Senator ALLARD, is saying: Wait. A minute. Let’s exempt small employers, those people struggling to buy health care for the first time. Let’s protect them and make sure they won’t be held to the liability portions of this.

Federal employees are not able to sue the Federal Government. Why should we say: Oh, yes, you can have a field day on small employers. The only way to purely protect them—to purely protect them—is to adopt the Allard amendment. We urge our colleagues to vote in support of the Allard amendment to protect small businesses.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado has 4 minutes 25 seconds remaining.

What takes time?

Mr. ALLARD. Mr. President, I say to the majority I would like to be able to wrap up on my amendment, if I might.

Mr. KENNEDY. Why don’t you wrap up.

Mr. ALLARD. If you have finished, I will wrap up and then yield the time.

Mr. KENNEDY. Don’t get too provocative.

Mr. ALLARD. Don’t get too provocative? Maybe the Senator from Massachusetts would like to respond?

Mr. KENNEDY. That is all right.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Thank you, Mr. President.

Mr. President. I have had the experience of starting a business from scratch and having to meet payroll. As far as I am concerned, too few Members of the Senate have ever had the opportunity to be in business for themselves and had to meet the challenges of meeting a payroll. But I personally know how legislation such as this can affect your business. I have had to face those tough decisions. They are not pleasant.

There are a lot of small business employers all over this country who are sending letters to Members of this Senate about the very same concerns that have been expressed by the Senator from Oklahoma, the Senator from New Hampshire, and numerous other Senators, at least on this side of the aisle, about the impact of this particular piece of legislation on small business.

Let me take one example. There is a Mr. Terry Toler, for example, of Greeley, CO. I represent the State of Colorado. He runs a small construction business. He employs three workers. The health insurance he provides to his employees also helps take care of the needs of his family. Terry cannot afford the costs that would come with the Kennedy bill in its current form.

Last year, Terry’s company had a 65 percent increase in health insurance premiums and costs. This increase was on top of Terry’s other insurance costs, including equipment insurance, professional liability insurance, and general liability insurance. If liability insurance in its current form, the company’s health insurance rates will increase even further. As a result, he may have to drop the health insurance he provides for his employees and his family.

My amendment will protect Terry and his employees from losing their health insurance. Terry is one of hundreds of small employers in Colorado that would be forced to jeopardize their health care insurance. We need to protect hard-working employees from losing their health insurance.

Let me share some further concerns of this small businessman. Large employers can obtain health insurance at a much lower cost. As a result, small business employers cannot compete with larger companies. In a tight labor market, employers compete for the best employees. These are all competitive issues about which a small businessman is concerned. If even this kind of legislation moves forward, you can understand their concerns.

I have heard comments from another small businessman in Springfield, CO, who has expressed his concern. He writes:

Health care costs are already prohibitive. Adding the law-given right to sue for punitive damages can only increase costs. A patient bill of rights is important, but not at the price of Kennedy’s bill.

He further states:

... liability limits are a good way to help cap rising health care costs.

As an employer, he must evaluate the price tag that comes with paying for health care. He believes it is prohibitive.

According to a recent survey of some 600 national employers, 46 percent of employers would likely drop health care coverage for their workers if they were exposed to new health care lawsuits.

This is not a good bill for small business. The adoption of the Allard amendment would make it better. So I am asking my colleagues in the Senate to join me in protecting employees of small businesses from the costs of protecting the employees’ health care they currently enjoy. If the Kennedy bill passes in its current form, the health care protection of more than 1 million Americans will be jeopardized. Colleagues should support this amendment to protect employees’ health insurance and limit small employer liability.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 3 seconds remaining.

Mr. ALLARD. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. KENNEDY. I yield to the Senator, I am going to make a brief statement, and then he can wind up. I will yield him 2 minutes after I make a brief statement.

The PRESIDING OFFICER. The Senator has 9 minutes.

Mr. KENNEDY. I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, we acknowledge the burden that is placed upon small business and the costs of their insurance. The Senator is quite correct that they pay anywhere from 20 to 30 percent more. They are constantly having to look at newer kinds of companies as they are being knocked off the insurance rolls. We understand that. We are prepared to work with the Senator on this.

This is an important issue. I am amazed that small businesses in my State can really survive with the problems they have. We ought to be able to find ways to help and assist them; but this is not it.

We had $3.5 billion of profits last year from the industry. They have already asked for a 13 percent increase in their premiums this year. They were 12 percent last year. That is generally, without this.

We have been over this during the debate, that the cost of this is less than 1 percent a year over the next 5 years. We have also gone over this and found out that some of the wealthiest Americans are the heads of these HMOs. Mr. McGuire makes $54 million and got $350 million in stock value last year—$400 million. That has something to do with the premiums for those companies.

This is a very simple kind of question. He talks about protecting the employers. We are interested. They are protected unless they go out and change and manipulate their HMO to disadvantage the patients who are their employees and deny them the kinds of treatments that would be protected and with which we are all protected.
June 29, 2001

CONGRESSIONAL RECORD—SENATE

I am reminded, myself, that my son had cancer. I was able to get a specialist for him and to get into clinical trials. I want those employ-ees who are represented by the 15 not to be denied that same opportu-nity. I did not have someone who was riding over that and denying me that. But that is happening in America. It might not be happening in Colorado, but it is happening in America, where employers are calling up and saying: Don’t put them in those clinical trials. We are here to stand and say: We are going to protect them. We will work with you, with the small business, but let us protect the women who need that clinical trial for cancer and the children who need that specialist. Why deny them those protections? That is what this amendment is all about.

The Allard amendment is a good amendment. Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To apply the patient protection standards to Federal health benefits programs)

On page 131, after line 20, insert the fol-low:

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS.

(a) APPLICATION OF STANDARDS.—(1) IN GENERAL.—Each Federal health care program shall comply with the patient protection requirements under title I, and such requirements shall be deemed to be incorporated into this section.

(b) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—Any individual who receives a health care item or service under a Federal health care program shall have a cause of action against the Federal Government under sections 552(n) and 514(d) of the Employee Retirement Income Security Act of 1974, and the provisions of such sections shall be deemed to be incorporated into this section.

(3) RULES OF CONSTRUCTION.—For purposes of this subsection—

(A) each Federal health care program shall be deemed to be a group health plan;

(B) the Federal Government shall be deemed to be the plan sponsor of each Federal health care program; and

(C) each individual eligible for benefits under a Federal health care program shall be deemed to be a participant, beneficiary, or enrollee under that program.

(b) FEDERAL HEALTH CARE PROGRAM DEFINED.—In this section, the term “Federal health care program” has the meaning given that term under section 1128B(f) of the Social Security Act (42 U.S.C. 1395bb-7) except that, for purposes of this section, such term in-cludes the Federal employees health benefits program established under chapter 89 of title 5, United States Code.

Mr. NICKLES. Mr. President, this amendment expands the coverage of the bill basically to Federal programs. I have heard countless sponsors of the bill say we should cover everybody who needs basic protections. I have heard it time and time again. I have heard it on national TV shows, Sunday morning shows. We should make this apply to everybody. Some argue, shouldn’t these protections be reserved to the States because they have historically done it? But the legislation
before us says, no, the Federal Government will do it; we will do it for all private plans. Usually they don’t even say all private plans. They usually say for all plans.

The truth is, the legislation we have is a mandate on the private sector, but we have exempted the public sector.

It is amazing to me, almost hypocritical—I don’t want to use that word, impugning anybody’s motives—but it bothers me to think we are so smart and wise that we are going to mandate these patient protections on every plan in America, supersede State protections already present, and we don’t give them to a group of employees over whom we really have control. We do have control over the Federal employees health care plan. We can write that plan. We have control. We write the check for Federal employees pay about a fourth, but the Federal Government pays three-fourths. We have direct control over Federal employee plans, but they are not covered by this bill.

Federal employees in the State of Delaware or California or Oklahoma usually get their health care from Blue Cross or Aetna or whomever. They get it just like any other employee, but they are Federal employees. They don’t get the patient protections under this bill. They don’t have the appeals process under this bill. They don’t have the legal recourse that is under this bill. They don’t have the patient protections that are dictated in this bill. All other private sector employees will. Does that really make sense? Is that equitable? I am not sure.

My friend and colleague Senator Kennedy just talked about clinical trials, and maybe they help somebody. They don’t have the same expedited review process. Shouldn’t they be covered under this bill? They don’t have the same patient protections. Aren’t they covered by this bill? They don’t have the same patient protections.

Kennedy just talked about clinical trials. Not all do. We are getting ready to mandate something on the private sector that we forgot to do for the public sector.

It is almost the case all the way through the bill. For pediatrics under the McCain-Kennedy bill, we allow parents to designate a pediatrician for their children. That sounds fine. I don’t think that, it would be unanimous. That is not a dictate for Federal employees. Some plans may have it; some plans may not.

My point is, Federal employees don’t have these patient protections. We are getting ready to mandate something on the private sector that we forgot to do for the public sector.

What about our veterans? Our veterans are much more expansive than what we have in America. If all these patient protections that have been espoused are so important, shouldn’t we give those to senior citizens? Shouldn’t senior citizens have the same expedited review process, internal/external appeal process, as we are going to mandate on all the private sector? I would think so. We all love our senior citizens, our moms and dads and grandparents. Surely we should give them the same protections we are getting ready to mandate. They don’t have it. They can spend days in an appeals process and never get out of the appeals process.

What about Indian Health Service? What about our veterans? Our veterans aren’t covered by this bill. They don’t have the same patient protections. They don’t have the same expedited review process. Shouldn’t they be covered?

Granted, this amendment could cost a lot of money. But this bill will cost a lot of money. I have heard a lot of people say this bill costs a Big Mac a month, it is not all that expensive, it is only just a little bit. I disagree with that. I am also struck by the fact that we are quite willing to mandate this on every city, every State, every private employer, but we don’t mandate it on Federal employees. We don’t do it on Federal programs. We do it on State programs. We do it on city programs. We don’t have any objection to dictating how other governments have to do it. We will tell them how to do it. We just don’t think the Federal Government should do it. We don’t think the programs under Federal control should do it. I find that very inconsistent.

If this is that great of a program, and I have some reservations. I think this bill goes too far.

I think we are superseding State regulations, and I have stated that, I lost on that amendment. Maybe that external review can be fixed in some experience but for crying out loud, we should be consistent. I have heard proponents say time and time again that this bill is not at all expensive. If so, shouldn’t it apply to Federal employees? If we are going to mandate Blue Cross/Blue Shield in Virginia to provide this for all private sector plans, union plans, nonunion plans, and they also have governmental plans—the same Blue Cross—shouldn’t they apply to governmental plans? They have to do it for Virginia. Shouldn’t they have to do it for the Federal Government? That is my point.

There is some inconsistency here. If these are such great protections and they are not that expensive, we should make sure they apply to our employees as well. Senator Kennedy mentioned clinical trials, as if that was a mandate. Some of the Federal plans cover clinical trials. Not all do. We are getting ready to mandate them for every city, every State, every private employer. We don’t have any objection to dictating how other governments have to do it. We will tell them how to do it. We don’t do it on Federal employees as well—maybe for the sons and daughters of the staff members working here? Shouldn’t they have access to those just as the private sector will now have access to them?

The appeals process: This is one of the real keys. There have been hours of debate on the floor saying that on appeals every individual should have rights of internal review, and then the external review should be done by an independent entity not controlled by the employer. Guess what Federal employees have? If they are denied care, they can appeal. But to whom? They appeal to the Office of Personnel Management—to their employer. The employer might subcontract it, but basically it is the employer, the Federal Government. It is not totally independent when the Federal Government might be making that decision. Shouldn’t we give Federal employees that same independent external review?

My amendment would make this bill applying to the public sector include
Federal employees, Medicare, Medicaid, Indian health, veterans, and civil service, I think it would help show that if we are going to provide these protections for the private sector and, frankly, mandate them, they should apply to the public sector as well.

I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I have listened closely. I will come to the substance of the Senator's amendment in just a minute. I listened to him very carefully about his great enthusiasm for the Federal employee program. It is a fact that 100 Members have that program here in the Senate. It is interesting because the taxpayers pay for 75 percent of it. So it is always interesting for those of us who have been trying to pay our way to get that health insurance program. I favored a single payer for years. I am glad to do it any way that we are able to do it.

But I am glad to hear from my good friend from Oklahoma how much he believes in the Federal employee program of which 75 percent is paid for every Member in here by the Federal Government. When any of us talk about trying to expand health insurance to try to include all Americans, oh, my goodness, we are going to have the Federal Government pay for any of these programs? My goodness. I welcome the fact that the Senator from Oklahoma is so enthusiastic about that concept, about having a uniform concept. It is interesting, you know, Mr. President. Many Americans probably don't know it. When you come in and sign on, there is a little checkoff when you become employed in the Senate. You check it and you are included in the Federal employee program. You have probably 30 or 35 different options. I wish the other American people had those kinds of options. No, we don't get any kind of support for trying to give the American people those kinds of options.

But do you know what, Mr. President? All these Senators who are always against any kind of health insurance for all Americans are down there checking that off as quick as can be to get premiums subsidized 75 percent by the Federal Government. And now they come up and say, well, they don't have all of the protections on it.

I want to say to the good Senator that I am very inclined to take the amendment. I would like to take the amendment. We are studying now the budget implications because I don't want to take it and then find out that we have the Senator from Oklahoma come over and say we have exceeded the budget limitations and then you have to go back and therefore the whole bill comes down. We know what is happening now. The basic protections of this legislation, according to the Congressional Research Service—

Mr. REID. Will the Senator yield?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. NICKLES. Mr. President, I need to do this right now. I wanted to compliment Senator Gregg and Senator Kennedy for their leadership on this bill and their leadership on the education bill because it is kind of unusual that we have two committee chairmen and two people who are responsible for moving two major pieces of legislation consecutively. So they combined and spent at least the last 2 months on the floor. That is not easy.

I have always enjoyed debating and working with the good Senator from Massachusetts, and we are good friends. Occasionally, we agree. We have had two or three amendments, and we have had great oratory and, occasionally, we still agree on amendment. I will say that I appreciated the Senator's amendment. We will have an opportunity to invite our side to your participation on these issues. We had some votes on the extension last year in terms of the parents on CHIP program and virtually every Republican voted against it. To the extent that we saw progress made with the good support of Senator Smith and Senator Wyden, we now have about $38 billion, $29 billion in the Finance Committee that can be used for the expansion of health care. We certainly want to utilize that. That is only a drop in the bucket. Our attempts in the past to get reserve funds out of the Finance Committee, which the Senator is on, so we could move ahead with a health insurance program have fallen on deaf ears.

I hope that all those—I will have a talk on that later on because I am taking all of those statements and comments made by our Republican friends over the period of the past days, all talking about health insurance, and we will give them a good opportunity. Hopefully, they won't have to eat their words. We will welcome some of their initiatives. We know what they are against. We want to know what they are for in terms of getting some health insurance protections, but they do not have near the protections we are getting ready to mandate on the private sector.

Medicare has some patient protections. They do not have near the patient protections that we will be mandating on the private sector. They do not have an appeals process that is as expedited as this. I do not have a clue whether Medicare can comply with this language. It takes, in many cases, hundreds of days to get an appeal completed in Medicare. We have a very expedited appeals process in this bill. I happen to support that appeals process, and it would be good if Medicare could have a very concise, complete, final appeals process and one, hopefully, that would be binding. We improved the appeals process in this bill today with the Thompson amendment, and I compliment Senator Thompson for his leadership on that bill.

I would be very troubled to go back to my State of Oklahoma and have a town meeting and tell employers they have to do this, this, and this;
Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The yeas and nays resulted—yeas 57, nays 41, as follows:

(Rollcall Vote No. 214 Leg.)

YEAS—57


NOT VOTING—2

Domenici (NM) Murkowski (AK)

The PRESIDING OFFICER (Mr. REID). Regular order, Mr. President.

Mr. NICKLES. Mr. President, I would ask for a recorded vote.

Mr. KENNEDY. Mr. President, if I might, I would like to give a brief explanation of what this amendment is all about. The Allard amendment says that if you are a small businessman—you have between 2 and 15 employees—you are exempt from the provisions of this bill. That means you do not have to face the increased burdens of having to face lawsuits. And it means you will not have to face the increased burdens of higher premium costs on your insurance.

So it is a very straightforward amendment. It is an amendment that is strongly supported by the small business community. Probably most of you have been getting calls into your

They have to have this in their plans; if things do not work out, they might be sued for unlimited damages, and have one of the ones over which we really have control. I would find it very troublesome. I was one of the principal sponsors of the Congressional Accountability Act a few years ago who said Congress should live under the rules like everybody else. I remember some of my colleagues saying: Don’t do that; if we make the Capitol comply with OSHA, it is going to be very expensive. If you walk into the basement of the Capitol today, you will find a lot of electrical wiring that would not pass an OSHA inspection.

It bothers me to think we are going to mandate on every private sector health care plan: You have to have this, this, and this, and all, very well-intentioned, but some of which will be pretty expensive. I would find it troubling if we mandate that on the private sector and say: Oops, we forgot to do it for Federal employees.

That is the purpose of my amendment. I appreciate the willingness of my colleagues from Massachusetts to accept the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I listened to the Senator talk about being in a town meeting and the questioner says: How in the world, Senator, can you apply all these provisions to our small business and you are not doing that to the Federal employees?

I would think at a town meeting in my State of Massachusetts someone might stand up and say: Senator, how come your health care premium is three-quarters paid by the taxpayers; why don’t you include me? That is what I would hear in my State of Massachusetts. That is what I hear.

Maybe they are going to ask you about the right to sue where hard-working people have difficulty putting together the resources to get the premiums and get the health care. They wonder if the Federal Government is paying for ours. If we are being consistent with that, I say to the Senator from Oklahoma, we ought to be out here fighting to make sure their health care coverage is going to be covered. I do not see how we can have a town meeting and miss that one.

It is interesting, as we get into the Federal employees, we have 34, 35 different choices. What other worker in America has that kind of choice? The people have no appeal; you can just go to another health care policy. We have that choice, but working Americans do not.
offices from small businesspeople concerned about how this is going to impact their small business. So it is an important small business vote.

I ask for a “nay” vote on the motion to table.

The PRESIDING OFFICER. Who seeks time?

The Senator from Massachusetts. Mr. KENNEDY. Mr. President, over the past several days, Members, in a bipartisan way, have worked very hard and successfully in shielding employers from frivolous suits. As the Wall Street Journal today points out: “Senate passes rule to shield companies from workers’ health plan lawsuits.”

When this bill is passed, the only employers that have to worry in this country are going to be those employers that call their HMOs and tell them to discontinue care when their workers run up a bill of more than $20,000 or $25,000. They are not going to let women into the clinical trials. They won’t let children get their specialty care. They will not let the other employees get the rights that they have.

Employers, today, overwhelmingly do not do that; but a few do. If we adopt this amendment, this is going to be an invitation to other employers. The ones that are violating the spirit of the law will get lower premiums, and that is an invitation to other employers.

Mr. MCCAIN. I move to table and ask unanimous consent that the order of the amendment be dispensed with. If there is any problem, we will reverse it. JUDD GREGG and I have spoken. If there is any problem, we will reverse it.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

Mrs. BOXER. I move to lay that motion on the table.

The motion was agreed to. Mr. KENNEDY. Mr. President, I move to reconsider the vote.

The motion to table was agreed to. The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, we have an order that has been worked out by our friend and colleague. We are in the process now of working toward that. I think we go to Senator SANTORUM next, for 40 minutes, Senator CRAIG for 30 minutes after that, and then Senator BREAUX after that.

The general intention is to go to the Senator from Pennsylvania for 40 minutes equally divided, followed by Senator CRAIG. Mr. REID. If my friend from Massachusetts will yield for a brief inquiry, it is my understanding—Senator JUDD GREGG is not on the floor, but I think he has agreed to this. If there is a problem, I will be happy to reverse it—this matter. The way it would be that we would be Senator BREAUX’s amendment after Senator SANTORUM, with 1 hour evenly divided, followed by Senator CRAIG.

Mr. REID. Mr. President, if my friend from Massachusetts will yield for a brief inquiry, it is my understanding—Senator JUDD GREGG is not on the floor, but I think he has agreed to this. If there is a problem, I will be happy to reverse it—this matter. The way it would be that we would go to Senator BREAUX’s amendment after Senator SANTORUM, with 1 hour evenly divided. If there is any problem, we will reverse it. JUDD GREGG and I have spoken about that.

Mr. WARNER. Reserving the right to object, I had discussed with one of our managers the appropriate time at which we could consider the amendment which we have at the desk, in sequence, and the yeas and nays have been ordered. What would be a time that you could indicate to the Senator from Virginia it could be taken up?

Mr. REID. We can do it after Breaux. Mr. WARNER. Will the leader put that in, that it be taken in sequence after Senator BREAUX? Could it be amended so my amendment could be brought up after Senator BREAUX?

Mr. REID. We can do it after Breaux. Mr. WARNER. Will the leader put that in, that it be taken in sequence after Senator BREAUX? Could it be amended so my amendment could be brought up after Senator BREAUX?

Mr. REID. Reserving the right to object, it is my understanding that the Senator from Pennsylvania for a half hour.

Mr. WARNER. Equally divided.

Mr. REID. We have not seen the amendment of the Senator from Virginia, so maybe we should not agree on time but agree on the sequence.

Mr. WARNER. We can have it sequenced. I will submit the amendment and the Senator can establish a time.

Mr. KENNEDY. We are operating on good-faith agreements. We have done very well. This is the intention. We will wait to hear from the Senator.

I understand Senator CRAIG and Senator SANTORUM want to change the order. Senator CRAIG will be the next amendment, followed by Senator SANTORUM.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order of the Santorum amendment and the Craig amendment be switched and that the time allotted be the same. Senator SANTORUM is still perfecting a portion of his amendment.

Mr. REID. Mr. President, we were planning on the other order. The person who will be responding to the Senator from Idaho is not here.

Mr. KENNEDY. We prefer to go the other way. We announced the order, and this has changed. We will need to put in a quorum call to get the personnel who will be addressing this amendment.

Mr. CRAIG. I am sorry for this delay. Mr. KENNEDY. We are moving along, and we will do the best we can. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 851

Mr. CRAIG. Mr. President, there was an agreement that the Santorum amendment would proceed and I would follow. We agreed we would switch those. I think that is the current agreement that has been accepted. I see the Senator from Montana is on the floor, the chairman of the Finance Committee, so with that, I send my amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk reads as follows: Mr. CRAIG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.
The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose of the Sense of the Senate regarding making medical savings accounts available to all Americans)

At the appropriate place insert the following:

SEC. 1. SENSE OF THE SENATE REGARDING FULL AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) FINDINGS.—The Senate finds:

(1) Medical savings accounts eliminate bureaucracy and put patients in control of their health care decisions.

(2) Medical savings accounts extend coverage to the uninsured. According to the Treasury Department, one-third of MSA purchasers previously had no health care coverage.

(3) The medical savings account demonstration program has been hampered with restrictions that put medical savings out of reach for millions of Americans.

(b) RECOMMENDATION.—It is the sense of the Senate that a patients' bill of rights should remove the restrictions on the private-sector medical savings account demonstration that makes medical savings accounts available to more Americans.

Mr. CRAIG. Mr. President, I had planned up until an hour ago to offer a detailed amendment on medical savings accounts that I think fits appropriately into any discussion about patients' rights in this country. The first and foremost right is access to health care, relatively unfettered access to health care. The problem with that under the current scenario on the floor is it would bring about a point of order and I do not want this issue to fall based on that.

Certainly it is appropriate we are here and we are taking the necessary and adequate time to debate patient's rights in American health care. I am proud to stand up for the rights of patients; that is the standard of health care in our society today, many of the uninsured, we cannot have free access. It is time we acknowledged that this Senate now express its will to a patients' Bill of Rights that creates the kind of stability, the kind of predictability that employers can continue to provide health care without the risk of being dragged into court because of a health care program that they may be a sponsor of, then he will veto it.

That is why I think it is important that this Senate now express its will and its desire to continue to support medical savings accounts. That is why I think it appropriately fits inside the broad discussion of a Patients' Bill of Rights.

I do not question any Senator's motive on the floor. Republican and Democrat alike want to make sure all Americans have access to health care.

We want a Patients' Bill of Rights that works. We have had a President say very clearly, unless you can provide us with a Patients' Bill of Rights that creates stability, that allows the kind of flexibility we need to assure that employers can continue to provide health care without the risk of being dragged into court because of a health care program that they may be a sponsor of, then he will veto it.

But here is a President who also supports maximizing choices in the marketplace.

How you maximize choices in the marketplace for the patient today is to allow open access to a medical savings account program that optimizes all the flexibility we have talked about. You reach out and bring in the third party, the government to take over our health care system, which would have largely let bureaucrats decide whether your family would get the medical care they need.

It was a Republican Congress that stood up for patients' rights by creating medical savings accounts for the first time. Medical savings accounts, in my opinion, are the ultimate in patient protection for they throw the lawyers, employers, and bureaucrats out of the examining room and leave decisions about your health between you and your doctor.

What has been most fascinating about the current medical savings account scenario in our country is that we have limited them to about 750,000 policies. Yet, a good many people have come to use them even though we have made it relatively restrictive and we have not opened it up to the full marketplace.

What is most fascinating about the use of medical savings accounts is the category that all Memos want to touch. We have only limited them to about 25% of the people. That is the large number in our country of uninsured. Since we offered up a few years ago this pilot program, 37 percent of those who chose to use it were the uninsured of America. In other words, it became one of the most attractive items to them because it offered them at a lower cost full access to the health care system.

It proves something many colleagues do not want proved: That given the opportunity, Americans can afford health care if the price is right and the strings are not attached and they can, in fact, become the directors of their own health care destiny. I think it is fascinating when you look at this chart. Under the scenario of over 100,000 MSA buyers, one-third were previously uninsured.

With medical savings accounts, you choose your own doctor. Also, if you believe you need a specialist, you have direct access to a specialist. You don't need an HMO or an insurance company working with or telling your doctor what you may or may not do. Of course, the debate for the last week has been all about that, all about the right of a patient to make the greater determination over his or her destiny and to have that one-on-one relationship with the health care provider. There is no question that if you are independent in your ability to insure or you have worked a relationship with your employer so you are independent through a medical savings account, then you can gain direct access to an OB/GYN. If your child is ill, you have direct access to a family pediatrician. With MSAs there are no gatekeepers; you are the gatekeeper. You make referrals; you are the one who makes the decision, you and your doctor. The only people involved in your personal decisions, once again: Your family, you, and the medical professional you have chosen or to whom your doctor has referred you. That is the phenomenon great independence to which we are arbitrarily deciding Americans cannot have free access.

I hoped to offer a much broader amendment that I knew it would have to face that tough test of dealing with the Senate rules and all of that because it would deal with taxes and it would deal with revenue. As a result, instead of making the changes in the law that ought to be made because even the program I am talking about that has been so accepted expires this year and it is the responsibility of this Congress to expand it and make it available, here instead we are still talking about the rights of lawyers, not the rights of the patient.

The rights of the patient are optimixed if you provide the full marketplace access to medical savings accounts. Since we introduced the limited pilot program, wonderful things have happened. The very people we hope to reach, the uninsured, are able to afford health coverage. And, in our society today, many of the uninsured are the children of working men and women who can't afford to add them as an extra beneficiary to their health care coverage because of the costs. Yet they found they were able to do that when their employer that allowed them to have a medical savings account.

Medical savings accounts combine low-cost insurance, and a tax-preferred savings account for routine medical expenses. The catastrophic insurance policy covers higher cost items beyond what the savings account covers.

I do not want this issue to fall based on that.
that time 100-percent deductibility on their health care plans.

At this time I said OK, then I will not support them unless we have some kind of narrowing—as I said, as many as three. That offer was rejected.

Here we are at 2 o'clock on Friday afternoon, after many days of debate, and we are talking about a sense-of-the-Senate resolution on medical savings accounts.

I am sorry. They should have taken advantage of the opportunity that I and the sponsors of this legislation would have provided to provide legisla
tive—not sense of the Senate—relief for small businessmen and women, for allowing to establish medical savings accounts, and perhaps another bill. That offer was rejected.

At this time I would then have to oppose this sense-of-the-Senate resolution, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Monta
na.

Mr. BAUCUS. Madam President, I yield myself such time as I consume.

This is a Patients' Bill of Rights bill. This is not a tax bill. This is not a Depart
tment of Defense bill. This is not a agriculture bill. This is not a foreign policy bill. This is a Patients' Bill of Rights bill.

The amendment offered by my friend from Idaho is a Patients' Bill of Rights amendment; it is a tax amend
ment. We will have ample time this year to take up tax legislation. We will take up tax legislation at some time, even though we had a huge tax bill al
ready this year. When I say 'we,' I mean the Finance Committee. That is because the budget resolution provides $28 billion for health insurance benefits for Americans who are now uninsured.

I guess the committee will report out legislation this year which will include expansion of some benefits, perhaps under CHIP, but perhaps also some tax provisions. There are many Senators who have good ideas to encourage Americans to have more health insur-
ance—credits, deductions, and so forth. MSAs is just one way. MSAs, I might say, are actually, under the law, re
served for the most wealthy Ameri
cans. It is a particular kind of savings account which enjoys very lucrative, very beneficial status with respect to our tax laws; that is, contributions are not deductible, inside buildup is not taxed, withdrawals for medical pur
poses are not taxed, and only with
drawals for nonmedical purposes are, but not in the case when a person reaches the age 65. Essentially, they can be converted by wealthier people into a retirement account beyond a savings account.

They are just one way of, perhaps, providing health insurance for Ameri
cans. The main point being this is not a tax bill. The Finance Committee will take up health insurance legislation this year as provided under the budget resolution. At the time we consider MSAs, we will consider other appropriate ways to encourage Americans to have more health insurance. That is the appropriate time for this body to consider health insurance legislation. That is when the Finance Committee can consider all the various ideas and report out a bill to the Senate which, in a more orderly way, because it is a tax bill which is dealing with tax matters, particularly health insurance, will help more Americans.

I also say to my good friend from Arizona, it is now 2 o'clock Friday afternoon. We have been on this Pa
tients' Bill of Rights bill a long time. It is very good legislation. We are going to finally pass a Patients' Bill of Rights, after I don't know how many years, tonight. That is my guess.

We will not pass it tonight—who knows when we will ever get to finally pass it—if we start going down this road of adopting sense-of-the-Senate resolutions.

This is the first sense of the Senate. We have not had one before. This par
icular resolution says this bill should include expansion of medical savings accounts. If we are not going to add savings accounts here, we are, in effect, deciding we should not add medical savings accounts, a tax bill, on this bill.

I respectfully suggest to all my col
leagues, the proper vote here is to vote no because it is, in effect, a tax provi
sion. It is a sense of the Senate. We have not done that before. We are about ready to conclude passage of this bill and we will take up health insur-
ance, tax legislation, at an appropriate time later.

I reserve the remainder of my time.

Mr. GRASSLEY. Madam President, I would like to comment on the Craig amendment that it is the sense of the Senate that the Senate act to expand access to Medical Savings Accounts.

I commend Senator Craig for offer
ing this amendment. I support expand
ing access to MSAs. I recently intro
duced S. 1067, the Medical Savings Ac
count Availability Act of 2001, with my colleague from New Jersey, Senator TORICELLI. My support for MSAs is long standing. Senator TORICELLI and I introduced in the last Congress a comparable bill to expand access to Medical Savings Accounts. I think we will improve access to MSAs with the support of Senator Craig and many
because the Federal Government, through the Congress, opened up a limited window of opportunity for them to use a medical savings account to their advantage.

That is what that is all about. The House is looking to provide medical savings accounts in their Patients’ Bill of Rights. The President supports medical savings accounts. It is not an agricul
ture bill. It is not a bill for the Interior Department. It is a bill for Americans seeking health care in the system today.

Why shouldn’t we debate that right to have optimum access to the market on a Patients’ Bill of Rights? Because it doesn’t involve a lawyer? That is a good reason to debate it, because it doesn’t involve a lawyer and it doesn’t involve a Federal bureaucrat at HCFA, and it doesn’t involve an HMO or an insurance company. It involves the patient who holds that medical savings account and his or her doctor.

This is the issue. You darned well bet it is important that our Congress express to the American people that we should make medical savings accounts increasingly available.

I am pleased to hear the chairman of the Finance Committee speak about addressing that this year because this year it expires. We should not allow that to happen.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I will make a couple of points.

If you read it, it makes clear that this is a sense-of-the-Senate tax provision. It says sense of the Senate, and the Patients’ Bill of Rights should remove the restrictions on the private sector medical savings account demonstration program to make medical savings accounts available to more Americans.

Medical savings accounts is a tax provision. This says remove restrictions to make it more available; to, in effect, change the tax law to make it more available.

It is clearly a sense-of-the-Senate tax bill.

Second, it has been asserted that it is for the working poor. I have a distribution chart furnished by the President which indicates what income groups of Americans utilize medical savings accounts. By far, the greatest income level to use medical savings accounts is that with adjusted gross income—the total gross is a lot more—of between $100,000 and $200,000. Those people are hardly the working poor. For those in the lowest category—those with adjusted gross incomes of under $5,000—you get 111 returns. For those in the earlier category that I mentioned—one between the $100,000 to $200,000 adjusted gross income—you get 9,400 returns.

It is not for the working poor. That is not the main point. The main point is that this is a sense-of-the-Senate tax provision.

We should not go down this road. We will do it at the appropriate time later this year in the Finance Committee work on a measure to protect and provide more health insurance for those who do not have health insurance and report that legislation at the appropriate time to the floor.

I yield the remainder of my time. If the Senator from Idaho will yield the remainder of his time, I will make a motion with respect to this amendment.

Mr. CRAIG. Madam President, I believe that we have the opportunity to express the will of the Senate. The Congress has moved slowly but grudgingly toward medical savings accounts and has created flexibility. We have a good opportunity to do so this year. Today, we have an opportunity to express our will to do that once again. I hope we will do so.

I yield the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BAUCUS. Madam President, I am going to move to table.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. I move to table the Craig amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

The PRESIDING OFFICER. The Senate is ready for the call of the roll.

The clerk will call the roll.

The PRESIDING OFFICER. The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—53

Alaska—0

Baucus—0

Bayh—0

Biden—0

Bingaman—0

Boxer—0

Breaux—0

Byrd—0

Cantwell—0

Carnahan—0

Carper—0

Chafee—0

Collin—0

Conrad—0

Corzine—0

Daschle—0

NAYS—45

Allard—0

Baucus—0

Bennett—0

Bond—0

Brownback—0

Burns—0

Campbell—0

Yielding a sufficient second?

Mr. NICKLES. The amendment is as follows:

[AMENDMENT NO. 841, AS MODIFIED]

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

(Purpose: To dedicate 75 percent of any awards of civil monetary penalties allowed under this Act to a Federal trust fund to finance refundable tax credits for uninsured individuals and families)

At the end, add the following:

SEC. 1. REFUNDABLE TAX CREDITS FOR THE UNINSURED FINANCED WITH CERTAIN CIVIL MONETARY PENALTIES.

(a) PAYMENT OF CERTAIN PENALTIES TO SECRETARY OF THE TREASURY

(1) IN GENERAL.—Notwithstanding any other provision of law, 75 percent of any civil monetary penalty in any proceeding allowed under any provision of, or amendment made by, this Act may only be awarded to the Secretary of the Treasury.

(2) CIVIL MONETARY PENALTY.—For purposes of this section, the term ‘civil monetary penalty’ means damages awarded for the purpose of punishment or deterrence, and not solely for compensatory purposes. Such term includes exemplary and punitive damages or any similar damages which function as civil monetary penalties. Such term does not include either economic or non-economic losses. Such term does not include the portion of any award of damages that is not payable to a party or the attorney for a party pursuant to applicable State law.
provided health insurance. So this is an amendment that will take 75 percent of all punitive damage awards that occur as a result of actions provided for in this bill and create a trust fund which will be used to finance those who do not have employer-provided health insurance—in other words, the uninsured.

I think that is a way to ameliorate some of the damage caused by this legislation. The cost pulled out of the health care system through litigation, and through punitive damages in particular, will drive up the cost of health insurance. That money will go to lawyers, to a select few—principally the lawyers, but to a select few clients, patients, such as the gentleman from California who a couple of weeks ago hit the "lottery," with a $3 billion punitive damages award. If that kind of award occurs within the health care system, imagine the impact on all of the insured in this country. Imagine the cost that is going to have to be borne by the millions of people who receive some small fraction of this $3 billion punitive damages award. How much are your insurance rates going to go up if an award such as that is given? The least we can do is take the potential of a back-breaker award, or a series of back-breaker punitive damage awards, and put that back into the system in a way that helps those who do not have insurance.

So what I am suggesting is really a way to avoid some of the criticism that has been leveled against this bill, that this is full of litigation and costs, without any benefit coming back into the system. Remember, what we are concerned about here—yes, we are concerned about individual cases, obviously, but we are concerned about the greater picture, which is making sure the public generally has insurance and has quality health insurance.

As you can see from this chart, there is a real difference between the kind of health care people get when they are insured versus when they are not insured. This says "nonelderly adults with barriers to care by insurance status." In cases where they had procedures needed, but did not get the care for a serious problem, only 3 percent of the people who had insurance ended up in that category. So if they have insurance, if they have a serious problem and a prescribed solution, they basically get the care. But if they are not insured, 20 percent—almost seven times the number of the uninsured—do not get the care they need. This says "skipped recommended test or treatment." If they are insured, 13 percent of the people skip those tests. If you are not insured, almost 40 percent skip that.

Did not fill a prescription: 12 percent if you are insured; 30 percent if you are not insured.

CONGRESSIONAL RECORD—SENATE

6447

SEC. 9511. HEALTH INSURANCE REFUNDABLE CREDITS TRUST FUND

"(a) Creation of Trust Fund.—There is hereby established in the Treasury of the United States a trust fund to be known as the "Health Insurance Refundable Credits Trust Fund," consisting of such amounts as may be—"

"(1) appropriated to such Trust Fund as provided in this section, or"

"(2) credited to such Trust Fund.

"(b) Transfer to Trust Fund of Amounts Equivalent to Certain Awards.—There are hereby transferred to the Health Insurance Refundable Credits Trust Fund amounts equivalent to the awards received by the Secretary of the Treasury under section 1324(b) of title 31, United States Code, with respect to assistance for uninsured individuals and families with the purchase of health insurance under this title."

"(c) Expenditures From Trust Fund.—Amounts in the Health Insurance Refundable Credits Trust Fund shall be available to fund the appropriations under paragraph (2) of section 1324(b) of title 31, United States Code, for assistance for uninsured individuals and families with the purchase of health insurance under this title."

"(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act."

Mr. SANTORUM. Madam President, one of the things I have repeatedly stated when I have spoken on this bill is that in S. 1352 there isn't any provision that provides for access to insurance. There is nothing that increases the number of insured. There are pages and pages and pages in this legislation that will decrease the number of insured and increase the rate of insurance in this country. If you would take a public poll, or take one in this Chamber, and were to ask people what is the biggest problem in the area of health care in this country, I think the overwhelming response would be the lack of insurance for 43 million Americans.

This is what we should be discussing how we are going to solve the biggest problem in the health care system, and that is providing some assistance for those who don't have employer-provided health insurance. We do not do that in this bill.

In fact, it has been stated over and over again that this bill will add to the ranks of the uninsured. That is not a positive step forward. We can talk about the positive things—and there are positive things in this legislation, which I have been historically in favor of—but in my mind they are counterbalanced—in fact, overwhelmed—by the increase in the uninsured that will happen as a result of several provisions of this act.

One of the provisions of the Health Insurance Refundable Credits Trust Fund that concerns me is that we are going to do with this amendment is I hope to take one of those negative provisions—that being unlimited punitive damages in State court and a $5 million cap on punitive damages in Federal courts—and channel some of that cost that is going to be borne by the insurance system and employers, and put that back into the system in the form of a trust fund for those who do not have employer-provided health insurance. So this is an amendment that will take 75 percent of all punitive damage awards that occur as a result of actions provided for in this bill and create a trust fund which will be used to finance those who do not have employer-provided health insurance—in other words, the uninsured.

I think that is a way to ameliorate some of the damage caused by this legislation. The cost pulled out of the health care system through litigation, and through punitive damages in particular, will drive up the cost of health insurance. That money will go to lawyers, to a select few—principally the lawyers, but to a select few clients, patients, such as the gentleman from California who a couple of weeks ago hit the "lottery," with a $3 billion punitive damages award. If that kind of award occurs within the health care system, imagine the impact on all of the insured in this country. Imagine the cost that is going to have to be borne by the millions of people who receive some small fraction of this $3 billion punitive damages award. How much are your insurance rates going to go up if an award such as that is given? The least we can do is take the potential of a back-breaker award, or a series of back-breaker punitive damages awards, and put that back into the system in a way that helps those who do not have insurance.

So what I am suggesting is really a way to avoid some of the criticism that has been leveled against this bill, that this is full of litigation and costs, without any benefit coming back into the system. Remember, what we are concerned about here—yes, we are concerned about individual cases, obviously, but we are concerned about the greater picture, which is making sure the public generally has insurance and has quality health insurance.

As you can see from this chart, there is a real difference between the kind of health care people get when they are insured versus when they are not insured. This says "nonelderly adults with barriers to care by insurance status." In cases where they had procedures needed, but did not get the care for a serious problem, only 3 percent of the people who had insurance ended up in that category. So if they have insurance, if they have a serious problem and a prescribed solution, they basically get the care. But if they are not insured, 20 percent—almost seven times the number of the uninsured—do not get the care they need. This says "skipped recommended test or treatment." If they are insured, 13 percent of the people skip those tests. If you are not insured, almost 40 percent skip that.

Did not fill a prescription: 12 percent if you are insured; 30 percent if you are not insured.

Had problems getting mental health care: 4 percent versus 13 percent.

If we are concerned about quality care, we must protect all everyone, then we have to address the issue of the uninsured. This bill just deals with those who have insurance. I remind people, this bill only deals with people who have insurance. The biggest problem with patient care is those who do not have insurance, and that is displayed on this chart. We all know that is the fact from our own lives, knowing people who do and do not have insurance.

We cannot walk out of here with our arms raised high saying we have a great victory for patients when we accomplish two things: No. 1, we provide a little bit of protection—and that is what we do, provide a little bit of protection—for those who have insurance because if they have insurance we allow those who have insurance to lose their insurance and end up with vastly inferior care. We provide a little bit of benefit for a lot, but we harm a lot of people profoundly in the process.

Again, this is a pretty minimal amendment. We allow for 25 percent of the punitive damages to stay with the lawyer—to stay with the client so they get a little piece of this pie. The lawyer gets paid, although if they have a big punitive damage award, they probably get a big settlement in a lot of other areas, too. In this $3 billion award, they get $5.5 million in compensatory damages. Nobody is going poor, from the lawyer's perspective, on filing this case.

When it comes to potential enormous awards for punitive damages, we need to plow some of this money back into the system. I am hopeful the Senate will take a step back and say this is one of the reasonable suggestions that can come about in order to take seriously this matter of providing quality health care, not just for those who have insurance but plowing that money back for those who do not.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina.

Mr. EDWARDS. Madam President, I will first talk about what exactly the Senator from Pennsylvania is talking about when he talks about punitive damages. Punitive damages can only be awarded in a case where, in this context, an HMO or a health insurance company has engaged in virtual criminal conduct. They have to have acted maliciously, egregiously, outrageously for there to be a punitive damages award.

Now let's talk about it in the context of a real case. Let's suppose some young child needs treatment or a test and the insurance company executives meet and say: We are not paying for that test, and we do not care what the effect is. If something bad happens, so
be it. We will live with that, but we are not paying for it. Even though it is covered by our policy, even though we know we need to pay it, we refuse to pay it, period.

Let’s suppose because that child fails to get some treatment or test that they should have gotten, the child was paralyzed for life. Then a group of Americans sitting on a jury listens to the case, as they do in criminal cases every day in this country, and decides the HMO has engaged in criminal conduct and awards punitive damages on that basis.

First of all, I say to my friend from Pennsylvania, I doubt if the parents of that child crippled for life believe they have hit the lottery. That child’s life has been destroyed because of intentional criminal conduct on behalf of a defendant HMO and the health insurance company.

It is not abstract. This is conduct that was specifically aimed at that child. It is not abstract to the world. This is something that was aimed specifically at that child, that courtroom, and the jury found—in order for this to be possible, the court requires that the jury find that the HMO has engaged in outrageous, egregious conduct.

This is what this amendment does: It says we are going to take away 75 percent of that child’s punitive damages award. That is what it says. We are going to impose a 75-percent tax on that child.

That is a real case. This is not an abstract academic exercise. This is reality. I say to my colleague, if we are going to start taxing people around this country 75 percent of their money—that would be that child’s money—then having to pay 75 percent of people’s money, let’s not stop at that child. Why don’t we consider taking 75 percent of the $400 million that the CEO of one of these HMOs apparently made last year? That will help. We can go around the country and start picking all kinds of groups of people and put that money in a pot and do what we choose with it.

This is not a serious response to a serious problem. My friend from Pennsylvania and I agree that the uninsured are a very serious problem in this country. It is an issue we need to address, and we need to address it in a serious way. None of us suggest that what we are doing with this Patient Protection Act will solve that problem. It will not. We hope work left to do. There is no doubt about that. But we need to do that work in a serious, thoughtful, comprehensive way that will deal with the kids and the elderly in this country who do not have access to health insurance and who, as a result, do not have access to quality health care. The way to accomplish that is not by imposing a 75-percent tax on people, families who have been hurt by HMOs.

Mrs. BOXER. I ask the Senator to yield me 5 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. EDWARDS. I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator Edwards for using a hypothetical example of why this is a very cruel amendment which I hope will be voted down overwhelmingly. But I have a real case I can talk about in a moment to that child.

This morning—it seemed like a very long time ago, and it was—I voted for an amendment by Senator Santorum to protect infants, to say that infants who are born should have the protections of a child. I certainly agree that infants, children, and teenagers all the way up to the elderly, the most frail, should be covered by this bill.

What does my friend now suggest? A 75-percent tax on pain and suffering to go to the Federal Government for a Government program. This is unbelievable to me. A 75-percent tax on families who may be suffering because a child is permanently disabled, made blind, paralyzed, forever in a wheelchair, and then having to pay 75 percent of a punitive damage award that could go to help ease the pain of that child, that could hire people to take care of that child.

This is a cruel amendment. My friend always says he is for the children. This is not for the children. This is not for the families. This is not for the patients. This amendment will take the funds away from those families who are in desperate need of money to build a life for someone who may be suffering because a child has been injured. A person who has been injured is compensated for economic losses, and there is no cap on economic losses. They are compensated by pain and suffering. There are no caps on pain and suffering. Punitive damages have one purpose. That is to punish the person who has caused the injury. That is the only purpose for punitive damages, to say to a company or an HMO, your conduct has been so outrageous, so egregious, you will be punished. That has nothing to do with the compensation for the injured plaintiff or child. They have already been taken care of.

The concept of taking punitive damages and people who need those damages to help people who do not have insurance, is a novel idea. Other States have done it. It is a good approach. I think we should support it because it
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Mr. SANTORUM. I make clear a couple of issues. Eight States have already passed legislation that redirects punitive damages to specific purposes. I mentioned Georgia is one; Florida allocates money into the medical assistance trust fund; Illinois, into the department of rehabilitative services; Iowa puts money into the civil reparations trust fund; Kansas puts money directly in the State treasury; Missouri, to the tort victims compensation fund; Oregon—I mean the heavy hammer of compensation account; Utah, anything in excess of $20,000 in punitive damages goes to the State treasury.

This is not a brand new concept but a concept States have adopted because they understand, as the State of Georgia, that these are punitive damages, not compensatory damages. These are to punish people. We are saying, if you punish a guy who does a bad thing, who is a criminal, the crime is against everyone. Those who are not in the courtroom should be benefiting from this. That is the uninsured.

What will happen if those punitive damages are awarded to the individual or to the lawyer—because they get a big chunk? There will be more uninsured because the cost of health care will go up. This is punishing people who have insurance with higher premiums and higher rates. As the Senator from Louisiana said, we are already compensating the victim. They are getting unlimited compensation. There are no limits in State or Federal court for any compensation that is due this person. Who are we punishing here with punitive damages are the people who are going to lose their insurance because of high rates of insurance because of these punitive damages, and we will punish people who are going to keep their insurance and have to pay a lot more.

This is a modest amendment that tries to lessen the heavy hammer of cost that this bill puts in place. I am hopeful we get bipartisan support for it.

I reserve the remainder of my time.

Mr. EDWARDS. I will respond briefly to the Senator from Pennsylvania and the Senator from Louisiana.

First, I suggest to the Senator from Louisiana, when an HMO does something egregious, criminal, to a child, and in my example that child is crippled for life—there is not a State of Georgia all of us: it is against that child. It is that child who is in court. It is that child to whom the jury has awarded these damages. They didn’t award it to us or the people in the gallery; they award it to that child. When we go in and take 75 percent of that child’s money, no way you cut it.

We can talk around this and talk about it for the next 15 minutes or 15 hours. That money does not belong to us. It belongs to that child and that crime was committed against that child and that is whose money we are taking. It is a tax.

The PRESIDENT proclaims the Senator from Massachusetts—

Mr. KENNEDY. Mr. President, I yield myself 4½ minutes.

I have listened to my friend from Pennsylvania talk about the uninsured. But where was the Senator from Pennsylvania when President Bush asked for $80 billion to develop a program to cover the uninsured in this country and they reported back $1.6 trillion and wiped that program out? We could have had a real program for the uninsured, but I didn’t hear the Senator from Pennsylvania talk about that.

Where was he last year when we had the family care, $80 billion to cover 8 million Americans, the parents of the CHIP programs? The Senator from Pennsylvania opposed that.

So with all respect, to offer an amendment to try to help the children of this country with their health insurance has nothing to do with the voracity of the commitment of that side of the aisle in terms of trying to do something for the children of this country.

The record has not been there. To try to offer some amendment this afternoon and cry crocodile tears all over the floor about what we are doing for children when they basically have refused to address this issue in a serious way is something the American people see through.

We understand what is happening, even in this bill where you could have an important impact in terms of children who are covered. They have been supporting the attempts to water it down in terms of the HMOs.

That has been the record: Opposition to this HMO—the Patients’ Bill of Rights, to guarantee the children who do have health insurance are going to get protections. And they have been fighting tooth and nail to get that. Then they say: Oh, well, we are really interested in children because we are going to give them this refundable credit on it.

It does not carry any weight. The American people can see through this. Let’s get away from the business of passing a real Patients’ Bill of Rights and then let’s go out and try to pass a real health insurance bill that will do something about the remainder of the children who need the care and also the parents of those children who need it in a long-term family care. Let’s do something to look out after our fellow citizens.

I withhold the remainder of my time.

Mr. SANTORUM. I just want to remind the Senator from Massachusetts that the Smith-Wyden amendment that provided $28 billion for those who do not have insurance passed and that is now law. It was in the budget. So I have been a supporter of money and a substantial amount of money for those who do not have health insurance.

I have sponsored a piece of legislation, with Senator TORRICELLI, that is called Fair Care, which provides tax credits for the uninsured at the cost of around $20 billion a year.

So I suggest to the Senator from Massachusetts—

Mr. KENNEDY. Will the Senator yield on my time?

Mr. SANTORUM. One second—I just suggest to the Senator from Massachusetts, to impugn me personally and suggest I am disingenuous by proposing that we provide some money in punitive damages, not damages to compensate for injury but damages to punish someone who did a wrong—why should that go to an individual as opposed to society, which was wronged by that activity, as all criminal activity is. It is a crime against society. We do not compensate, as you know, when we prosecute someone criminally. The individual does not get benefit from that proceeding.

So punitive damages are there to punish, not to compensate. I know the Senator from North Carolina knows that. That is why they are called punitive—punish; compensatory—compensate. There is a difference. That language is not there for window dressing; it is there for substantive difference.

What I am suggesting is that these punitive—punishment—damages should not be given to people who have insurance because they are the ones ultimately to be punished. Several States have recognized this and have plowed this money coming out of the system of health insurance.

So I just suggest that my commitment here is sincere and my object here I think is worthy of support.

I reserve the remainder of my time.

The PRESIDENT OFFICER personally and suggest the Senator from North Carolina.

Mr. EDWARDS. First I say to my colleague, we can keep talking about this. The truth of the matter is the criminal...
Let me say I am one of the few Members on the floor of the Senate who practiced law before he was elected to Congress, who was in a courtroom, involved in a case which had a punitive damage verdict. That is very rare in American law. It happened to me. I was on the defense side. I was defending a railroad in a lawsuit brought by the survivors of an elderly man who was killed at a railroad crossing in November of 1970 near Springfield, Ill.

There was a row of cars, train cars, parked near this crossing. This elderly man, late at night, crept up on the crossing to see if he could get across. His car stalled in the crossing. He tried to get out, couldn't, and the train came through and killed him.

When the jury in Illinois sat down and looked at it, they said if you measure the value of an elderly man's life, there is not a lot of compensation. But when they looked at the railroad I was defending and found out we had done the same thing time and time and time again, they decided this railroad needed to get out, couldn't, and the train came through and killed him.

The Senator from Pennsylvania now wants us to say that three-fourths of the verdicts just like that should be taxed and taken by the Federal Government. He does not believe the family of the person who was killed at the crossing should get the money. He thinks the Federal Government should take the money.

He has some good purposes for the money to be spent. I don't question that. But this is a rather substantial tax which he said we should take to benefit the families of those who were killed at railroad crossings. Let's take it away from the families of children who were maimed, with permanent injuries they are going to face for a lifetime. He would not dare reach into the pockets of the executives of these health insurance companies.

Come to think of it, just 6 weeks ago we gave them a tax break here, didn't we?—a $1.6 trillion tax break for those executives. But a new tax on the family of those who come to court looking for compensation for real injuries and death in their own family?

We should reject this amendment. We know what it is all about. We are at close to passing a Patients' Bill of Rights with two fundamental principles, principles that say: First, doctors make medical decisions, not health insurance companies in America; and, second, when the health insurance companies do something wrong, they will be held accountable as every other business in America.

There are those on the other side of the aisle who hate those concepts just as the devil hates holy water. But I will tell you, families across America know they are sensible, sound values and principles. All of this fog and all of this smoke screen about taxing punitive damages for the good of America—why aren't you taxing the executives' salaries at the health insurance companies who are ripping off people across America? Instead, you are passing tax breaks for those very same people.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I will be happy to work with the Senator from Pennsylvania, executives and lawyers who get big awards out of the health care system equally. If you would like to propose an amendment, I will work with you so all lawyers and all health executives who profit from the health care system will have that money plowed back in. I did not hear that. I don't think I heard that. I think I just heard one side of that argument. I will be happy to yield a minute to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Listening to all this screaming and hollering, obviously somebody has been stuck by this amendment. What does this amendment do? The bill before us, under the best set of circumstances, is going to cost 1.2 million people in America their health insurance by driving up the cost of health care. And one of the primary factors driving up that cost is litigation.

What the Senator from Pennsylvania has proposed is to take the part of these massive settlements that has nothing to do with compensating the person who has been injured—it has to do with punishing reckless and irresponsible lawyers who plow that money that is to punish the company?—a $1.6 trillion tax break for those executives. But a new tax on the family of those who come to court looking for compensation for real injuries and death in their own family?

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The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Senator from North Carolina for yielding 5 minutes.

Let me say I am one of the few Members on the floor of the Senate who practiced law before he was elected to Congress, who was in a courtroom, involved in a case which had a punitive damage verdict. That is very rare in American law. It happened to me. I was on the defense side. I was defending a railroad in a lawsuit brought by the survivors of an elderly man who was killed at a railroad crossing in November of 1970 near Springfield, Ill.

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I have listened to and have engaged in debates on victims' rights. Victims are sick and tired when criminal behavior is committed and they are not considered when the matters have come before the bar of justice. When an individual, a child, or an adult is found to be injured as a result of criminal conduct, that is what punitive damages are, I think they deserve to receive that award.

Mr. EDWARDS. Mr. President, the Senator from Connecticut is exactly right. When we have a victim, such as a child who has been injured by the criminal conduct of an HMO, it is fundamentally wrong to take 75 percent of that child’s money. And that is to whom it belongs. No matter what they say, and no matter how long we talk about it, it belongs to that child. To take 75 percent of that child’s money is wrong, and we should vote against this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I have been listening to this debate, and I think some good points have been made on both sides. But is the standard for recovery of punitive damages in this case criminal conduct, or wanton misconduct, or intentional infliction of distress? I would be surprised if the standard for punitive damages is criminal conduct.

Is that the case?

Mr. SANTORUM. No. If it takes a long time to answer, I am not going to yield the rest of my time to define that answer.

Mr. EDWARDS. If the Senator will yield to me, I will be happy to answer that question. I can’t answer it yes or no.

The answer is reckless, intentional, outrageous conduct.

Mr. SANTORUM. Which is not criminal.

Mr. EDWARDS. Of course, it is criminal conduct.

Mr. THOMPSON. No, no, no. Reclaiming my time, let’s not gild the lily. I think you have some good points. Let’s not try to convince people that wanton misconduct and willful misconduct is the same as criminal misconduct. It is not.

Mr. SANTORUM. Mr. President, let me reclaim my time. It is quickly running out.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. EDWARDS. Will the Senator yield for a response to that question?

Mr. SANTORUM. Mr. President, I ask unanimous consent for an additional minute to finish this colloquy so it doesn’t impinge on my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EDWARDS. The language of the legislation is that reckless, intentional conduct is criminal conduct—all over America.

Mr. THOMPSON. No. It isn’t.

Mr. EDWARDS. I respectfully disagree. Somebody who engages in reckless conduct in the operation of an automobile has engaged in criminal conduct. Somebody who engages in reckless conduct that causes the death of another person has engaged in criminal conduct. I respectfully disagree with the Senator.

Mr. THOMPSON. If I could respond, conduct that is subject to civil litigation versus conduct that is subject to criminal litigation, the conduct that the Senator described may, in fact, turn out to be also in addition to having civil exposure having criminal exposure. We may not. But the conduct very well may be reckless, or even intentional, and constitutes conduct that is subject to punitive damages which can still not be criminal.

My only point is that it is not the same. It is not the same. The same conduct can in some cases be both, but in the civil context—

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. THOMPSON. All right.

The PRESIDING OFFICER. The Senator from Pennsylvania has 1 minute.

Mr. SANTORUM. Mr. President, I reiterate that this amendment is about taking money. The concern of this bill is that excessive costs will drive up the rates for insurance. We are taking some of this excessive cost that is built into this bill and plowing it back into the system to make sure that we don’t have more uninsured if we don’t take care of it.

I wish to make one additional point. Back in 1992, the House sponsor of the McCain-Kennedy bill, John Dingell, proposed using 50 percent of punitive damage awards to help compensate people—in this case, to prevent medical injuries. This is not a punitive damage measure. This is a measure that understands that punitive damages should go to benefit those in society who could be hurt by their increased cost of insurance. That is what this amendment does.

I hope we can get some bipartisan support for it.

I ask for the yea and nays.

The PRESIDING OFFICER. All time has expired.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has expired.

Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.
in the order we talked about, Senator WARNER; Senator ENSENZ on genetics, and I understand his pro bono amendment is being agreed to; and Senator THOMPSON, which I understand also has been agreed to.

Mr. THOMPSON. No. And then Senator Frist has a substitute.

Is there anybody else who has an amendment?

That appears to be our list.

Mr. DASCHLE. Mr. President, I ask unanimous consent that be deemed as the finite list of amendments to be offered to this bill.

Mr. CRAIG. Reserving the right to object.

Mr. DASCHLE. Mr. President, is there an objection?

Mr. NICKLES. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I just tell the majority leader, we have not had a chance to run that by our colleagues. We have been shopping amendments, and the Senator from New Hampshire is to be congratulated that he has reduced the number of amendments substantially. We will need a few minutes at least to run this by the rest of our colleagues to make sure they know that if they have additional amendments to be considered, they need to get them on our list.

If the majority leader will please withhold the request, we will shop it around.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, while Senators are working out their amendments, I think there ought to be an Independence Day speech. I assume we are going home for the Fourth of July. So if there is no objection, I have a speech in hand. (Laughter.)

Mr. MCCAIN. Reserving the right to object. (Laughter.)

In admiration of the Senator's tie, how long is the speech?

Mr. BYRD. Well, now, in the face of that extraordinary compliment, I would say it is just half as long as it would have been otherwise. (Laughter.)

Mr. McCAIN. No objection.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

INDEPENDENCE DAY

Mr. BYRD. Mr. President, the Senate will shortly recess, hopefully, for the Independence Day holiday. Many Mem-

bers will return home to meet with their constituents. Some will perform a time-honored ritual and take part in hunting bugs. Independence Day parades, sweating and waving from the backs of convertibles somewhere in the line-up between the pretty festival queens, brightly polished antique cars, flashing fire engines, and, hopefully, ahead of the politicians, the equestrian groups. It is an American tradition as familiar as and as comforting as the fried chicken and the apple pie that everyone will enjoy. Families and friends will gather to watch the fireworks light the evening sky.

This first Independence Day of the new millennium calls to mind an earlier year two centuries ago. The year was 1801. Of course, then, as now, there had been a hotly contested election. Control passed from one party to another. It took a vote in the electoral college to decide the Presidency, and the House of Representatives put Thomas Jefferson into the White House instead of Aaron Burr. The first day of a new century came and went, and these strong words were uttered. Grudges were nursed, and we feel those same passions today, and with the recent change of party control in the Senate, some angry feelings have been fanned anew. It is, perhaps, a good time as we celebrate the 225th anniversary of our country's independence as a new nation, a new government created under God in as thoughtful and inspired a manner as man can devise, to recall these words from President Jefferson's inaugural address:

"During the contest of opinion through which we have passed the animation of discussions and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely and to speak and write what they think; but this being now decided by the voice of the Nation, announced according to the rules of the Constitution, all will, of course, arrange themselves under the will of the law, and unite in common efforts for the common good. All too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possesses their equal rights, which equal law must protect, and to violate would be oppression. Let us, then, fellow-citizens, unite with one heart and one mind. Let us restore to social intercourse the free and harmonious and affectionate spirit in which we have passed the animation of discussions, as we hear the martial music of the Nation, or in large cities, we may all be proud to be Americans first and foremost. Whatever other allegiances we might have, to party, church, state, or community, we are Americans first. Let us celebrate that and let us not forget it.

As you light your sparklers and fountains, as you hear the martial music of John Phillip Sousa, as you applaud the fireworks displays, as you eat the first sweet potatoes from the garden, look around you and feel proud. Be proud that 225 years ago, bold men risked their lives and their fortunes and their sacred honor to give us this wonderful system of States, this amazing governmental system, this land of the free, this home of the brave united as one nation under God and under the red, white, and blue flag of the United States of America. Feel glad that so many of your fellow citizens are standing at your shoulders watching the parade, or sitting nearby in the park - a family looking up at the sky ablaze with man-made stars. In these crowds is our hope for a long future as a people united still under Old Glory, and under the Constitution of the United States.

Mr. President, Thomas Jefferson spoke of our constitutional government as the "sheet anchor" of our peace and safety. He chose his nautical allusion fittingly. A sheet anchor, according to the Merriam-Webster Dictionary, is a noun that first appeared in the 15th Century. It is a large, strong anchor formerly carried in the waist of a ship and used as a spare in an emergency, but the phrase has also
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come to be used for something that constitutes a main support or depend-

ence, especially a ‘‘dead’’ danger. Truth, then, the Constitution is not just the organizing construct of our government, but also, as Jefferson saw it, the tool by which our Nation would preserve our liberties. It is fitting, then, to close with the words of the poet and senator, Edward Everett Longfellow, who wrote about the republic in ‘‘The Building of the Ship.’’

Thou, too, sail on, O Ship of State! Sail on, O Union, strong and great! Humanity with all its fears,

With all the hopes of future years, Is hanging breathless on thy fate! We know what Master laid thy keel, What Workmen wrought thy ribs of steel, Who made each mast, and saile, and rope, What anvils rang, what hammers beat, In what a forge and what a heat Were shaped the anchors of thy hope!

'Israel the sea, and fluction and shock, 'Tis but the wave and not the rock; 'Tis but the flapping of the sail, And not a rent made by the gale! In spite of rock and tempest's roar, In spite of false lights from the shore, Sail on, nor fear to breast the sea! Our hearts, our hopes, are all with thee.

Our hearts, our hopes, are all with thee, Our hearts, our hopes, our prayers, our tears.

Our faith triumphant o'er our fears, Are all with thee—are all with thee! Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I certainly join my colleagues in expressing our warm appreciation for our senior colleague, our President pro tempore, for addressing the Senate in such a stirring manner. It lifts the hearts of all of us in this late hour on a Friday afternoon, which has, I guess, a degree of uncertainty as to the manner in which we are going to proceed.

BIPARTISAN PATIENT PROTECTION ACT—Continued

AMENDMENT NO. 883, AS FURTHER MODIFIED

Mr. WARNER. Mr. President, I have an amendment which has been pending. I send to the desk a modification of that amendment.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment (No. 883) as further modified, is as follows:

On page 154, between lines 2 and 3, insert the following:

‘‘(11) LIMITATION ON ATTORNEYS’ FEES.—

‘‘(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement or contract regarding an attorney’s fee, the amount of an attorney’s contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed 1⁄3 of the total amount of the plaintiff’s recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney),

‘‘(B) DETERMINATION BY DISTRICT COURT.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action shall have jurisdiction to review the attorney’s fee in accordance with subparagraph (C) to ensure that the fee is a reasonable one and may decrease the amount of the fee in accordance with subparagraph (C).’’

On page 170, between lines 21 and 22, insert the following:

‘‘(9) LIMITATION ON ATTORNEYS’ FEES.—

‘‘(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney’s fee, subject to subparagraphs (C), (D), and (E), the amount of an attorney’s contingency fee allowable for a cause of action brought under paragraph (1) shall not exceed 1⁄3 of the total amount of the plaintiff’s recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney),

‘‘(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the final disposition, including all appeals, of the action may review the attorney’s fee to ensure that the fee is a reasonable one. In determining whether a fee is reasonable, the court may use the reasonableness factors set forth in section 502(n)(11)(C).’’

‘‘(C) EQUITABLE DISCRETION.—A court in its discretion may decrease the amount of an attorney’s fee determined under this paragraph as equity and the interests of justice may require.’’

‘‘(E) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework of laws with respect to the amount of an attorney’s contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.’’

Mr. WARNER. Mr. President, I want to comply with the wishes of the distinguished leaders.

Mr. DASCHLE. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate is not in order. The Senate will suspend. Please take your conversations off the floor.

Mr. WARNER. Mr. President, I wish to accommodate the managers, but I am ready to proceed. I think I can describe my amendment in about 10 or 15 minutes or less. I urge colleagues to accept that offer to move ahead and give equal time to each side.

Mr. REID. I am sorry. I say to my friend, the distinguished Senator from Virginia, we have had trouble hearing over here.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Virginia is entitled to be heard.

The Senator from Virginia.

Mr. WARNER. I say to my good friend, the distinguished majority whip, I am seeking now to address my amendment. It has been pending for some several days. I am perfectly willing to enter into a time agreement. I need but, say, 15 minutes.

Mr. REID. Say 30 minutes evenly divided?

Mr. WARNER. I am quite agreeable to 30 minutes equally divided.

Mr. REID. Our anticipation now—we will work this out, speaking with the managers of the bill—is to offer side by side with yours, or second degree, whatever your manager wishes to do, but you should go ahead and proceed. We are available during our 15 minutes to help.

Mr. WARNER. Mr. President, might I have clarification? If I understand it on the second-degree, in the event it seems we need some adjustment in the time agreement with which to address this?

Mr. REID. Why not take an hour evenly divided, and if we don’t need it, we will yield back the time?
Mr. GREGG. Mr. President, I am not sure what the Senator from Virginia wishes to do. I hope they will not offer a second-degree amendment but, rather, offer an amendment which would be a stand-alone, side-by-side amendment.

Mr. REID. I am sorry, did you say you wanted to offer it side by side? That is what we want to do.

Mr. WARNER. That is perfectly agreeable. Could my amendment be voted on first?

Mr. REID. Of course—well, let me not get my mouth ahead of my head.

In the past what we have done, Mr. President, is the second-degree amendment could be a second-degree amendment that appears to be the one we would ordinarily vote on first. Through all these proceedings, the stand-alone was the one we would vote on first. In other words, that could have been a second-degree. That is what we have done in the past.

Mr. GREGG. Actually, we did reverse the order on the Snowe amendment.

Mr. REID. It is not important whether it is first or second. Do you agree?

Mr. EDWARDS. We should go first.

Mr. REID. Through these entire proceedings—I don’t know how many votes it has been now, but certainly it is lots of them—the one that would have been the second-degree should be voted on first. We think we should do it in this instance.

Mr. WARNER. Mr. President, I believe I have the floor. I believe the amendment is up. We are simply discussing a time agreement. I am not prepared to yield the right that I believe I now have with respect to proceeding with this amendment. But I want to accommodate my distinguished friend. He has been most helpful for 6 or 7 days, as I have worked on this amendment.

Could you be more explicit exactly what you think you would like to have? I understand you have to consult with others.

Mr. REID. What we would like to do is offer an amendment that would be voted on, a companion to yours.

Mr. WARNER. Fine.

Mr. REID. The only question now, it seems, is which one would be voted on first. What we have done during these entire proceedings is that we have offered a second-degree amendment that was offered by the Senator from Maine, the one that would have been a second-degree is voted on first. We think we should follow that same order.

Mr. WARNER. I simply ask as a matter of courtesy—some 3 days I have been working with you—just allow mine to be voted first. Certainly we could have discussion on the one that is in sequence. I am confident Members will very quickly grasp the basic, elementary framework that I have in my amendment. And I presume any companion amendment you or others wish to introduce would likewise be very elementary. We could quickly make decisions, all Senators, on it and proceed with our business this afternoon.

Mr. REID. Mr. President from Virginia, I know some of our friends would rather we went first. We feel pretty confident of our vote, so we will go second.

Mr. WARNER. Mr. President, I like a man who is audacious, I accept that challenge. We will proceed on mine. I need only about 10 minutes to address it.

Mr. DASCHLE. Will the distinguished senior Senator from Virginia yield for a unanimous consent request.

Mr. WARNER. Oh, yes.

Mr. DASCHLE. We were able to reach this agreement with the cooperation of all our colleagues. I think we are now prepared to propound the agreement.

Mr. President, I ask unanimous consent that the following be the only first-degree amendments remaining in order to S. 1052, except the Warner and Ensign amendments which have been laid aside and which now are being debated that they be subject to relevant second-degree amendments; all amendments must be offered and disposed of by the close of business today; and that upon disposition of these amendments the bill be read a third time and a vote on final passage of the bill occur without any intervening action or debate:

Frist substitute; Frist, liability; Craig, long-term care; Craig, nuclear medicine; Kyl, alternative insurance; Santorum, unions; Nickles, liability; Bond, punitive; Thompson, regarding point of order; Kennedy, two relevant; Daschle, two relevant; Carper, relevant, to be offered and withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, I ask if the majority leader would be willing to adjust his unanimous consent so Senator Ensign could modify his amendment, which is pending, and also, because we have not seen the Kennedy, Daschle, or Carper amendments, we would want to reserve the right to have a second-degree amendment.

Mr. DASCHLE. The amendments are subject to second degrees, of course. I ask consent the Ensign amendment be allowed to be modified.

Mr. CRAIG. Reserving the right to object.

Mr. GREGG. Reserving the right to object.

Mr. THOMPSON. Reserving the right to object, a simple point: My amendment was listed as one having to do with a point of order. If we could correct that, it actually has to do with venue.

Mr. DASCHLE. I ask consent the clarification be made with regard to the Thompson amendment.

Mr. GREGG. I also ask that the Nickles amendment be defined as relevant, rather than liability, and, since the majority leader has asked to reserve two relevant amendments, the Republican leader be given two relevant amendments.

The PRESIDING OFFICER. Does the majority leader modify the request?

Mr. DASCHLE. I ask unanimous consent that the request be so modified.

The PRESIDING OFFICER. The request is modified.

The Senator from Idaho.

Mr. CRAIG. Mr. President, may I inquire of the majority leader, is it your intent to at least shape the field of amendments into a set number but there is no time tied to those? Is that correct?

Mr. DASCHLE. That is correct.

Mr. CRAIG. Thank you.

The PRESIDING OFFICER. Is there objection to the request. Without objection, it is so ordered.

Mr. DASCHLE. I thank our colleagues.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, if I may just proceed, my understanding is that we have 30 minutes equally divided under the time agreement. Is that correct?

The PRESIDING OFFICER. That has not been propounded.

Mr. WARNER. Mr. President, I suggest we just leave it open. I want to give adequate opportunity to those who wish to address this subject. I will proceed.

Mr. President, for some time I have followed this bill very carefully. I am, of course, quite aware of the name of it—the Patients’ Bill of Rights. I want to ask the Senate to give serious consideration to protecting the right of a patient to receive what I regard as a fair return on such awards as a court may approve, presumably, by a jury deciding the negligence case has merit and assigns an award figure.

The McClain-Kennedy-Edwards bill provides new rights. But there is nothing in there to give the patients the protection from what could well be perceived by many as an unfair allocation of that award between attorneys and patients. Therefore, I think there should be a framework of caps on the maximum amount of the award to be made.

May I explain it.

It is kind of complicated because we have a Federal court and a State court. While I don’t know the ultimate finality of this legislation, at this point the amendment provides for the treatment of caps in both courts, and they are somewhat different.

In addition, I believe very strongly that there is in rare instances and under extraordinary circumstances a case where an attorney would be entitled in excess of the one-third cap that I am proposing in both Federal and State courts. An allowance has to be made for the exceptional type of case.
I am proposing a framework of caps. It would be giving the court the right to only approve attorney’s fees in a case—on the third of the amount of damages. It could well be that the client may have struck an arrangement with his attorney for less than one-third. It recognizes that situation.

Having the one-third cap strengthens the ability of the patient—the client—to get a fee structure which is consistent with their receiving the majority of the ultimate one-third as the basic structure in both the Federal and the State court.

In addition, in both Federal and State court, we have exceptions in rare cases, and extraordinary facts, where the judge can go above the one-third with no cap.

We have reposed confidence in our judicial system. Indeed, we have reposed confidence in those members of the bar. Many years ago, I was privileged to be an active practitioner before the bar and had extensive trial experience as assistant U.S. attorney and some modest trial experience in other areas.

I recognize that the vast majority of the bar will work out a fee schedule with their client in such a way that there will be an equitable distribution. But there are instances where the patient could well be deserving of the award by the court and then prohibited from getting what I perceive as a fair and proportionate share by someone who does not follow the norm.

The norm in most cases does not exceed one-third. Contingent fees are usually one-third or less. Therefore, we put in the cap of the one-third.

I also want to make it clear that there is a good deal of expense to a lawyer associated with representing a client, not whether it is in the return of the jury in most instances; the experience and reputation of the particular attorney, and on it goes. But it is carefully worked out through many years of following these cases.

Therefore, I believe that we are giving protection to the patient. For rare and extraordinary cases, the court can go above it. In some instances, the court will decide that the one-third is not appropriate, and that it should be some fee less than a third, again protecting the interests of the patient.

I find this a very reasonable amendment. It certainly comports with the basic objectives of this law; namely, to give some benefits to those who have suffered the grievances which are designated in this law.

I also recognize the Federal-State law; that is, what we call States rights. I have been a strong proponent of that throughout my career in the Senate. I provide that in the case of a State court, if the State in which that court sits has a framework of laws which govern attorney fees, then this amendment does not apply.

I repeat that the State law would govern the return to the attorney of that amount to which he or she is entitled for their services—not this proposed amendment.

Mr. President, I see my colleague in the Chamber. I yield the floor for the moment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have a unanimous consent request I am going to propose in just a minute—or in even less than a minute.

Senator GREGG is in the Chamber, and I appreciate his listening.

Mr. President, I ask unanimous consent that I be recognized to offer an additional first-degree amendment, with 30 minutes for debate in relation to the Warner amendment and the Reid amendment to run concurrently prior to a vote in relation to the Warner amendment—which the Senator from Virginia indicated he wanted first—followed by a vote in relation to the Reid amendment, with no second-degree amendments in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 832

Mr. REID. Mr. President, Senator WARNER and I have worked side by side all the time I have been in the Senate on the Environment and Public Works Committee. I have been his subcommittee chairman; he has been my subcommittee chairman. Twice I have been chairman of the full committee. I have been the ranking member of that committee.

There is no one I have worked with in the Senate who is more of a gentleman than the Senator from the Commonwealth of Virginia, Mr. WARNER. He has been a pleasure to work with. We tried this out on the attorney’s fees. We have been unable to do that. But his amendment is, in my opinion, very complicated. It is going to create litigation, not solve it.

We have a fair way to address this issue. Even though personally, as an attorney, I had done a great deal of defense work where I was paid by the hour and a significant amount of work where I was paid on a contingency fee basis many years before I came back here, I think contingent fees should be based upon whatever the States determine is appropriate.

But I am willing to go along with the basic concept of the Senator from Virginia; and that is we will go for a straight one-third, no complications. It is very simple: A straight one-third.

Senator WARNER’s proposal introduces a complex calculation in every case and ignores the agreements between injured patients and their lawyers. This proposal purports to tell State judges how to apply State law. We do not need to do that here in Washington.

This proposal ties only one side’s hands in litigation. HMOs can hire all the attorneys they want and plaintiffs cannot. There is no restriction on how much money the attorneys for the HMOs make. We are not going to get into that today. We could. It would be a very interesting issue to get into.

But what we are saying is, when you walk down in the well to vote on the amendments, we have a very simple proposal: It is one-third, period. Under Senator WARNER’s proposal, it is something; and we will figure it out later based on how many hours, and where you did it, and what kind of case it was. Ours is simple, direct, and to the point. It would only complicate things to support the amendment of my friend from Virginia.

Mr. President, at this time, after explaining my amendment, I call my amendment forward and ask for its immediate consideration.

The PRESIDING OFFICER. The bill clerk will report as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 832.

Mr. REID. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the amount of attorneys’ fees in a cause of action brought under this Act)

On page 154, between lines 2 and 3, insert the following:

"(11) LIMITATION ON AWARD OF ATTORNEYS' FEES—

"(A) In general.—Subject to subparagraph (B), with respect to a participant or beneficiary (or the estate of such participant or
beneficiary) who brings a cause of action under this section and prevails in that action, the amount of attorneys’ contingency fees that a court may award to such participant, beneficiary, or estate under subparagraph (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action) may not exceed an amount equal to $50,000, $100,000, and they are betting on the come. Some law firms actually risk their solvency on a case that they believe is worth pursuing.  

There is no time to come along and say: By the way—the fact, after the risk is taken on behalf of a client, where you may get absolutely nothing and you may end up in the hole, losing a lot of money, because I can tell you, major corporations do what they are entitled to do under this system. They have batteries of lawyers, and they just depose the devil out of you. It costs. For example, the person taking down my comments right now, the cost to the American tax-payer for that transcription is hundreds of thousands of dollars a year—millions of dollars a year. We need to have a record, and we do it.

The same thing happens in the depository area. America has certain rights. With a little machine like that and types away. So if I am the deep-pocket company and I want to run you out, all I do is I keep deposing you; I keep submitting interrogatories; and I run your cost up because you have to pay for that. I guess the only point I am trying to make is—and I don’t want to take the time because I am sure everybody’s mind is already made up on this thing—if you feel good about lawyer bashing, if you feel good about making the case that you should have to justify, on an hourly basis, exactly what you do, and all of these things, not calculate the risk, not calculate the cost, then fine, have at it.

But I don’t know; what is good for the goose isn’t good for the gander. If we do this with regard to attorney’s fees and we don’t do this with regard to health care costs and fees, what is the fundamental difference? Tell me the fundamental difference. I think it is a sudden burst of great interest of my friends to protect the poor, aggrieved plaintiff, who has been wronged by the insurance company. At any rate, I am as anxious to get out of here as everybody is. I wanted to make it clear: I think this is bad law, bad policy, a bad idea, and it is, in a literal sense, discriminatory.

Mr. REID. Mr. President, this legislation that is now before the body is not about attorney’s fees. It is about patient protection, making sure people in America have certain rights and that they have not been taken away from them. We want to reestablish something that is kind of old-fashioned in the minds of many—that is, when you go see your doctor, the doctor determines what kind of medicine you need and what kind of care you need. That is what this legislation is all about. It is not about attorney’s fees.

If the people on the other side were interested in saving money, one of the amendments they should have would address the compensation of some of these employees. There is a list, and you can go to the top 10. The first one, including stock options, made
$411,995,000 last year. That is just a little item they might be concerned about a little bit. We have a lot of money that isn’t necessarily needed.

This is not about how much money people make. What it is about is trying to pass a Patients’ Bill of Rights. I ask that we move forward as quickly as possible and vote and get on with the rest of the legislation.

The PRESIDING OFFICER. Who yields time?

Mr. REID. The Senator from Tennessee may have some of mine.

Mr. THOMPSON. A couple of minutes, if I may, Mr. President.

I have been listening to the debate. We are making it much more complicated than it needs to be. We are talking about whether or not this is a good idea. The sponsors of these two amendments are talking about some good ideas. I will not debate that these are possibly a couple of those good ideas.

I am afraid we are not permitted to get that far because not every good idea is constitutionally permissible. I simply do not see our authority, even if we want to do this under the Constitution, to say to a State court, having lifted the preemption that was there before, that in its deliberations and in its lawsuits it will be trying, that we have, in a government of enumerated powers, the authority to reach in and do that. This is not raising an army. This is not copyrights and patents. This is not interstate commerce. I simply see no basis of authority for the Congress to do this, whether it is a good idea or not in our system of enumerated powers.

If I am incorrect about that or there is something I am not thinking about, I will stand corrected. That is a concern of mine.

I yield the floor.

Mr. WARNER. Mr. President, if I could reply to my distinguished colleague, that very question I entertain because I take pride in my record of some 23 years in this body to protect State laws.

The first thing I did under my amendment was say, if there is a body of State law, then my amendment doesn’t apply to those decisions in State courts. So I think there is some dozen or so that have a statutory framework for the regulation of attorney fees. Those States are the one side. But we find authority that it is within the power of the Congress to regulate interstate commerce. We have a proposed bill giving new rights to litigants. We believe that comes within that clause. That is how I proceed to do it.

We are just very fearful, I say to my distinguished colleague, that patients will not be able to, without this authority of some cap, obtain a fair allocation of these proceeds in some few cases. I myself have a high confidence in the bar and the courts to exercise equity and fairness. In some instances, it might not prevail.

We have had cases here where some lawyers are getting $30,000 per hour, in some of these tobacco cases. Mind you, $30,000 per hour. I just think it is time that we, the Congress of the United States, do what we can within the framework of our constitutional law to exercise and put a cap on that.

I say to my good friend from Nevada, he has marked up an earlier version of my bill. And at least you started with a pretty good base here, but you took out the essence of it. We did remain with a one-third fee, but giving the court the right to raise or lower this fee without any guidance whatsoever, even without the guidance of the word ‘reasonableness’ put into the proposal by my friend. And not punitive.

It seems to me that, while we are apart, we could possibly bridge our differences, if I could have the assurance that a patient, as we now call them under this proposed legislation—plaintiffs in ordinary circumstances—is given reasonable protections. I have tried to give the court the flexibility in those instances where, for example, if a trial took 2 or 3 weeks and then, through no real fault of the attorney or anyone else, there somehow was a mistrial—I have tried them myself. Jurors get ill, sick. For whatever reason, the court pronounces a mistrial and the attorney has to go back and try the whole case over again—that begins to add up in time and expense, and so forth. That attorney should be fairly compensated, and his client has to recognize that in rare and extraordinary cases the court can adjust the fees above the one-third. I find in here no guidance whatsoever.

Under that Federal law, I laid down a formula which has been approved by the Supreme Court and is followed now in our Federal system.

I further point out to my distinguished colleague from Nevada that the ERISA framework of laws governs much of the action in Federal court. And there ERISA puts an affirmative duty on a judge to review that attorney’s fees. You are, in effect, modifying the framework of ERISA here, as I read it, and I say put into that affirmative duty on the court in the Federal system to review those attorney fees.

Mr. REID. Mr. President, I apologize to my friend. Did the Senator from Virginia ask me a question?

Mr. WARNER. Yes, I had been going on for some minutes now. I will go back over it again. I say to my good friend, you took an earlier version of my amendment, and in striking it out, No. 1, you left the one-third cap in, but you gave the court the ability to go up or down, with no guidelines by which that jurist goes up or down. In other words, there is no even standards of reasonableness. It could be implied, of course. But I looked upon the lodestar method, which is followed by the Federal courts in arriving at a fair award. We believe there is no guidance for the jurist in the proposal of my colleague.

Mr. REID. I say to the Senator from Virginia, in every State court in America, every day judges are called upon to determine attorney’s fees. In estate cases, where people are hire to represent indigent defendants, there are a multitude of cases in which judges every day use their discretion to make awards of attorney’s fees.

Here, as the Senator has given a number of examples, if the judge, in rare instances, would find that somebody has been paid too much under the contract, he can take a look at that. Or we have a law in Virginia, that there somehow was a misapprehension or appeal and maybe he would decide that there should be a little more there.

Tobacco has nothing to do with this. Mr. WARNER. I missed the word. What has nothing to do with this?

Mr. WARNER. Tobacco. I say the tobacco litigation. I say that has nothing to do with this matter now before the Senate because these attorney’s fees were very high, of course, and litigation results because these attorneys recovered not hundreds, thousands, millions, but billions of dollars. Tobacco attorneys were hired by State attorneys general. I don’t think there is anything that I can ever contemplate that would be the same in relation to tobacco and these HMO cases. I would say that we have pretty well formulated both of our positions.

I respectfully say that the Senator from Virginia is taking away the discretion the State judges have. It makes it very complicated to determine attorney’s fees. What we have to take into consideration is a process that is very specific, direct, and to the point, and leaves some discretion with State judges.

(Mr. NELSON of Florida assumed the chair.)

Mr. WARNER. I want to make it clear. I think it is clear in the amendment that the expenses are over and above the allocation of fees.

Mr. REID. I took that directly from your original amendment.

Mr. WARNER. I was also quite anxious to ensure that if a State has a framework of law regarding the award of attorney’s fees, this does not apply. I think it is important that we honor those States that have a framework and laws which set attorney’s fees, which is in my amendment. I am just trying to help you improve yours so that you prevail.

Mr. REID. Well, I guess there is some reason that could be done. That is only one of the complicated reasons why we are trying to give as much discretion as possible to State judges. I think they need that. I think one of the problems that I have with the Senator’s
original amendment is it takes away from State law, from what States can do. It seems interesting to me that we are so in tune with States rights around here all the time, unless it comes to something dealing with injured parties—whether it is product liability cases or whatever. We suddenly want to take away what the States have set aside for all these decades. I think my friend's amendment takes away a lot of what we have with our States.

Mr. WARNER. Mr. President, I will read to my friend section (E) of my amendment, page 6:

NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework of laws with respect to the amount of an attorney’s contingency fee that may be incurred for the representation of a participan attorney's contingency fee that may be incurred for the representation of a participant attorney's contingency fee that may be incurred for the representation of a participant...

And so forth. In other words, if the State has a framework of State laws, we in the Congress should not be trying to amend them, as I fear you are doing through an omission in yours. I have protected it in mine.

Mr. REID. Well, I understand what the Senator’s intent is. When you are looking for intent, you want to be as precise and direct as possible. I respectfully say we should get on with the vote. I think we have said everything, but may not everyone has said it. You and I have.

Mr. WARNER. Let me point out one other thing. Again, there is a difference as to how these things are treated under Federal and State. As I said, ERISA gives certain protections that are involved in the Federal court. There Federal law requires relief grievance under ERISA and that is not found in my friend’s amendment. You say it is implicit in every court in the land; therefore, it is not needed to be expressed. Is that your point?

Mr. REID. The reason we took your basic amendment and made it directly to the point as to the one-third is it becomes too complicated for a court to determine attorney’s fees based on the complicated program you have set up. Ours is simple and direct. In rare instances, a judge can step in and raise a potentially better situation than what we are really dealing with is the

Mr. WARNER. I wanted to make sure those amendments to be laid aside if the Senator would agree to proceed with others.

Mr. REID. We have been laying aside things so long—

Mr. WARNER. If that is of no help, we need not do that.

Mr. REID. I have no problem having a quorum call and we can talk. I really think we have to move on. I am willing to take my chances, whatever they might be. Other people are waiting around to offer amendments. We should move on if we can.

Mr. THOMPSON. Mr. President, I am prepared to move forward with an amendment, if that is desired by my two colleagues, while you have your discussions. If you want to go into a quorum call, we will wait.

Mr. REID. I would be happy to set these two amendments aside and let my friend from Tennessee, who offered probably the best elucidation on attorney’s fees today—No. 1, he was concise and to the point. I think both of these are unconstitutional. I am willing to go forward.

I ask unanimous consent that the two amendments by Senators REID and WARNER be set aside and that the Senator from Tennessee be allowed to call up an amendment. The Senator's amendment is on the improved list, correct?

Mr. THOMPSON. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments are laid aside.

The Senator from Tennessee is recognized.

AMENDMENT NO. 853

(Purpose: To clarify the law which applies in a State cause of action)

Mr. THOMPSON. I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON] proposes an amendment numbered 853.

On page 170, between lines 21 and 22, insert the following:

"(9) CHOICE OF LAW.—A cause of action brought under paragraph (1) shall be governed by the choice of law rules of the State in which the plaintiff resides.
"

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I let the amendment be read because it is probably the shortest amendment that will be considered tonight. It is very simple and straightforward. Basically, what it says is that in these lawsuits that we are dealing with, we apply the law of the State of residence and citizenship of the plaintiff in this case.

Let’s go back just a bit and understand the lawsuit scheme that we have created by this litigation. We have created a Federal cause of action in Federal court for matters that are essentially contract; and we have created a State cause of action in State court for matters that have to do with medically reviewable situations.

What that has left us with is the ability of a claimant to bring a State court claim in any State where the defendant is doing business. If you have a medical insurer and they are doing business in several States, even though you live in Tennessee, you could bring your lawsuit in any number of States where that insurer is doing business. That is simply known as forum shopping.

The reason people do that is different States have different laws in terms of limitations on recovery. They have different rules of evidence. Some allow punitive damages—most do. Some cap those punitive damages. We don’t allow punitive damages at all. So I don’t believe we want to create a situation where if we are going to have this liberal litigation scheme that we have set up, that we allow it to occur anywhere in the country, which might be the case with regard to some big defendants.

Now, employers in some cases are going to be defendants also, I believe it is quite clear. You not only have the insurance companies, but you also have the employers to look at and to see whether or not they are doing business in these various States and, if they are, then you could bring your lawsuit in according those States in which they are doing business. I don’t think that serves the purposes that we are trying to serve with this legislation.

Therefore, we have the authority, and I think it would be a wise exercise of our authority and discretion, to limit those lawsuits. If you are from the State of Tennessee and you have a legitimate claim and you want to bring a lawsuit, you ought to be bound by the law in the State from which you come. You should not be able to forum shop.

Now, there might be some Federal causes of action that are also of the medically reviewable kind. We have been talking in this debate for several days about State causes of action, but we are really dealing with the laws of those States. They are causes of action based on the laws of individual States. So if a person wants to bring his lawsuit, he can still bring it in Massachusetts if he lives in Tennessee and he is bound by the law of Tennessee.

If there is a diversity situation in Federal court, where the Federal court has jurisdiction and you have a doing-business requirement satisfied as far as the corporate defendant is concerned, for example, you have diversity. You still are bound by the law of your home State. So that would prevent forum jumping.

I believe this is desirable. I heard several expressions of agreement with the proposition we did not want to create a system of forum shopping in this litigation. We are going to have this law apply to all 50 States, there will be lawsuits produced in all 50 States, and all 50 States have laws that will be applicable in the suits wherever they are brought. A citizen ought to be bound by the laws of his or her State and not be able to shop all over the country for a potentially better situation than what they have in their State. It is a State cause of action. They should be bound by the laws of their home State.
That is the amendment. I hope my colleagues will see the wisdom of it and will agree to the amendment on it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to my friend from Tennessee, his argument is persuasive enough that all the managers on our side left the floor, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call as the clerk.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I ask unanimous consent that I may be permitted to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. AKAKA are located in today's RECORD under "Morning Business.")

Mr. KENNEDY. Mr. President, I express great appreciation also for the Senator's strong support for our Patients' Bill of Rights. This has been an issue in which he has taken a great personal interest. He has been one of the strong supporters of this legislation for many, many years. Although he has not been a member of our committee, this is a matter I know he cares deeply about. He has been a strong supporter of all the amendments that have protected patients, and I don't think there has been a member who has been a stronger advocate for the patients and their rights than our good friend, the Senator from Hawaii. I thank him very much for his statement and all the work he has done to help bring the bill to where it is.

Mr. President, I understand the Senator from Nevada will modify his amendment and we will have a voice vote, and the Senator from Tennessee will have an amendment agreed to, also. Hopefully, we can dispose of those two amendments right now.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 849, AS MODIFIED

Mr. ENSIGN. Mr. President, I call up amendment number 849 and I send a modification to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The amendment will be so modified. The modification (No. 849), as modified, is as follows:

Subtitle C of title I is amended by adding at the end the following:

SEC. 122. GENETIC INFORMATION.

(a) Definitions.—In this section:

(1) the spouse of the individual;

(2) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

(b) all other individuals related to the individual or child described in subparagraph (A) or (B).

(2) GENETIC INFORMATION.—The term "genetic information'' means information about the presence of genetic tests, as defined in paragraph (4); or

(b) the results of those tests, including the results of genetic tests of a family member of such individual); or

(c) genetic services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

(3) GENETIC TEST.—The term "genetic test'' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such tests include blood tests, physical tests, such as a chemical, blood, or urine analysis of an individual, including a cholesterol test, or a physical exam of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.

(4) GROUP HEALTH PLAN, HEALTH INSURANCE INSURER.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage, shall not request or require predictive genetic information concerning an individual or a family member of the individual (including information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(5) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—(A) IN GENERAL.—Except as provided in paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage, that provides health care items and services to such individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

(b) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As part of a request under subparagraph (A), the group health plan, or health insurance issuer offering health insurance coverage, shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

(d) COMPLIANCE WITH CERTAIN STANDARDS.—

(1) NOTICE OF CONFIDENTIALITY PRACTICES.—A group health plan, or a health insurance issuer offering health insurance coverage, shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan or issuer's confidentiality practices, that shall include—

(A) a description of an individual's rights with respect to predictive genetic information;

(B) the procedures established by the plan or issuer for the exercise of the individual's rights; and

(2) A description of the right to obtain a copy of the notice of confidentiality practices required under this subsection.

(3) ESTABLISHMENT OF SAFEGUARDS.—A group health plan, or a health insurance issuer offering health insurance coverage, shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disclosed by such plan or issuer.

(4) COMPLIANCE WITH CERTAIN STANDARDS.—With respect to the establishment and maintenance of safeguards under this subsection, subsection (c)(2)(B), a group health plan, or a health insurance issuer offering health insurance coverage, shall be deemed to be in compliance with such subsections if such plan or issuer is in compliance with the standards promulgated by the Secretary of Health and Human Services under—

(A) part C of title XI of the Social Security Act (42 U.S.C. 1320a-6 et seq.); or

(B) section 2304(a) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note).
Mr. THOMPSON. I believe I am correct in saying my amendment has been accepted and it is agreeable to have a voice vote.

Mr. KENNEDY. The Senator is correct.

The PRESIDING OFFICER. The question is on agreeing to the Thompson amendment, No. 853.

The amendment (No. 853) was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. WARNER. Reserving the right to object, should we lay out a full understanding of our agreement?

Mr. REID. I think we should just vote.

Mr. WARNER. Your amendment is withdrawn?

Mr. REID. Yes.

Mr. WARNER. I send a modification to the desk.

Mr. REID. This is the Warner substitute.

Mr. WARNER. Mr. President, my modification has been sent to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 833), as further modified, is as follows:

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed 1⁄3 of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).''

''(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the disposition of all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one.

''(E) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework of laws with respect to the amount of an attorney's contingency fee that may be required for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.

Mr. WARNER. We have worked it out together. I ask that the yeas and nays be withdrawn.

The PRESIDING OFFICER. Without objection, the yeas and nays are vitiated.

Mr. WARNER. I understand we will proceed to a voice vote and the amendment of my distinguished colleague will be withdrawn.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 833), as further modified.

The amendment (No. 833), as further modified, was agreed to.

Mr. REID. I ask unanimous consent my amendment be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. As I understand it, we are down to two amendments on our side: Senator KYL's and Senator FRIST's, which will be the substitute. I hope we can get a time agreement on Senator KYL. How much time does the Senator need? He does not know. And Senator CARPER, on the other side, is going to make a statement and maybe offer an amendment.

Before they go, since people are a little confused, so they can get ready, we are heading toward the finish line. Before we get to the finish line, I want to mention that a lot of people do a lot of work around here. They are the staff. They are extraordinary. I especially want to thank my staff, Senator KENNEDY's staff, Senator FRIST's staff, who have worked so hard on this. I am sure there are many folks on the other side, but I specifically want to thank Stephanie Monroe of my staff, Colleen Cresanti, Steve Irizarry, Kim Monk, and Jessica Roberts for all they have done to make this process move smoothly for me and allow me to be successful. They really have put in extraordinary hours. I greatly appreciate...
it. They are exceptional people, and we thank them very much.

Now, I suspect the Senator from Arizona is probably ready.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If I may say to my friend from Arizona, we have not seen his amendment. If we could see it? I wonder if, in the meantime, we could have the Senator from Delaware make a statement.

Mr. KYL. Might the Senator from Nevada yield? I have given a copy both to Senator McCain and also to Senator Gregg to give to you. I am sorry if you do not have it yet. Maybe Senator Kennedy has a copy.

Mr. KENNEDY. I just received this a minute ago. I am just reviewing it. We will be prepared to go ahead in a few moments, I know the Senator from Delaware has waited. I understand it is a short statement. Then I hope we go to the amendment and we will be prepared to enter a short time agreement or whatever limitation to which the Senator from Arizona will be agreeable.

Mr. REID. I ask the Senator from Delaware, through the Chair, how much time he wishes to take.

Mr. CARPER. No more than 15 minutes.

Mr. REID. The Senator from Delaware wishes to speak for up to 15 minutes. I ask unanimous consent he speak at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator from Delaware.

AMENDMENT NO. 855

Mr. CARPER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows: The Senator from Delaware [Mr. CARPER] proposes an amendment numbered 855.

Mr. CARPER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

(Purpose: To disallow punitive damages)

On page 153, strike line 9 and all that follows through page 154, line 2, and insert the following:

"(10) STATUTORY DAMAGES.—The remedies set forth in this subsection shall be the exclusive remedies for any cause of action brought under this subsection. Such remedies shall include economic and noneconomic damages, but shall not include any punitive damages.

Mr. CARPER. Mr. President, the amendment before us, which I will ask to be withdrawn in a few moments, is one Senator Landrieu and I offer, and I know has the support of a number of Members of this body from both sides of the aisle.

A great deal of effort has gone into crafting a compromise with respect to the appropriate venue, Federal or State, for bringing litigation in cases where an HMO has acted inappropriately.

As I have studied this issue over the last week or so, the way the underlying bill assigns venue for State action and for action that is more appropriate in the Federal courts, I have come to believe that the sponsors of the legislation figured it out just right. When it comes to determining damages that might be assigned in cases brought in Federal courts, I personally have concluded that there should not be a cap with respect to economic damages.

I further agree with the approach that is taken in the underlying bill, that in cases where noneconomic damages are sought in Federal courts, particularly in cases where children may not be working, who do not have a livelihood, or in cases where a spouse—perhaps a woman, but it could easily be a man—who is not in the workforce and stays at home with a family, we may not, if we cap noneconomic damages, be really fair to that young person or to the spouse who is working from the home.

However, with respect to damages at the Federal level, as they pertain to punitive claims, I am not comfortable with the approach that is embodied in the underlying bill. Senator Breaux and Senator Frist have offered an approach which I think is better in this regard, and I just want to mention it.

It deals with whether or not there should be punitive damages awarded on actions taken in Federal courts. I conclude they have it right and those punitive damages should not be allowed in the Federal courts.

Having said that, for actions that are brought in State courts, the laws and rules of the State shall prevail. If there are caps in the State courts, that is the business of the States, and that is appropriate. If there are no caps on punitive damages in actions brought before the State courts, that is appropriate as well.

As we try to find the compromise here, I believe the underlying bill has it right with the appropriate middle ground on caps and venue. I believe the underlying bill has it right with respect to punitive damages.

No caps on either economic or noneconomic damages. I also believe the underlying bill has it right with respect to the proper venue, State versus Federal.

I believe my friend from Louisiana and my friend from Tennessee have a better idea with respect to punitive damages and they simply should not be allowed in Federal court.

Senator Landrieu is probably on route to a compromise to say a few words with respect to the amendment. I do not see that she has arrived yet. If I may, I would like to just reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I want to add a word from my colleague from Delaware. He and I have been working together on this legislation since it came to the floor and beforehand. He has a very well thought out position. Some of his positions I do not entirely share, but he has been very careful and very thoughtful about all these issues and has been working very vigorously with us on this legislation. He cares deeply about patient protection. He cares deeply about making sure that people all over this country have real patient’s rights. He cares deeply about the uninsured. This is an issue he and I have talked about many times. He has made enormous contributions to the legislation that is now on the floor.

I thank the Senator from Delaware for all of his work in this regard, and I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Let me say, too, to my friend from North Carolina, I thank him very much for his overstatement of my contribution. He is very generous.

I say back to you, you have been just a terrific manager and cosponsor of this legislation, and thank you for giving us the opportunity to work closely with you and your staff.

That having been said, I still do not see Senator Landrieu joining us on the floor. Were she here, she would speak in support of this amendment, but would go on to say some concerns she has with respect to capping noneconomic damages, particularly as they pertain, as I referred to earlier, to young people and spouses who may be staying at home and are not in the workforce.

Mr. EDWARDS. I thank my colleague.

AMENDMENT NO. 855 WITHDRAWN

Mr. CARPER. That having been said, Mr. President, I ask unanimous consent that the amendment be withdrawn, and I yield the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The Senator from New Hampshire.

Mr. GREGG. I rise to say I wish we were voting on the amendment of the Senator from Delaware. I believe the punitive damages issue in this bill is a major issue.

I understand the decision not to go forward. We know the probable outcome of the vote. But there is no question in my mind that his amendment would cause a movement in the right direction on the issue of punitive damages. This bill, as all of us have pointed out who have concerns about it, is going to be candy land for lawyers. One of the reasons it is going to be is because of the punitive damage language

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which allows forum shopping for the best punitive damage opportunities; whereas, under today's law, punitive damages are radially distributed, and should be because the purpose is to create quality health care, and punitive damage awards would drive up insurance costs. That is passed on to the consumer, which means fewer people can afford health care.

As a practical matter, I want to say that I think the Senator from Delaware is on the right track, and I hope the conference will listen to his comments.

Mr. CARPER. Mr. President, will the Senator yield? I say to my friend from New Hampshire that my fervent hope is that when the bill passes the Senate and later the House, and the conference committee is established, the conferees will see that we put this issue to rest. Our hope is that the final compromise will reflect this amendment.

I also want to express to the Senator from New Hampshire my heartfelt thanks that he leadership he has provided to the Republican side of the aisle on this issue, and my appreciation for a chance to work with him, as well as the Senator from Massachusetts.

Thank you.

Mr. GREGG. I thank the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 854

Mr. KYL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 854.

Mr. KYL. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To permit choices in costs and damages)

On page 156, between lines 15 and 16, insert the following:

“(17) DAMAGES options.—

(A) IN GENERAL.—In addition to plans or coverage that are subject to this Act, a plan or issuer may offer, and a participant or beneficiary may accept, a plan or coverage that provides for one or more of the following remedies, in which case the damages authorized by this section shall not apply:

(i) Equitable relief as provided for in subparagraph (A) of section 502(a)(1)(B).

(ii) Unlimited economic damages, including reasonable attorneys fees.

(B) PROTECTION OF THE REGULATION OF QUALITY OF MEDICAL CARE UNDER STATE LAW.—Nothing in this paragraph shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care under any State law for purposes of this section. Any such claim shall be maintained exclusively under this section.

On page 170, between lines 21 and 22, insert the following:

“(9) DAMAGES options.—

(A) IN GENERAL.—In addition to plans or coverage that are subject to this Act, a plan or issuer may offer, and a participant or beneficiary may accept, a plan or coverage that provides for one or more of the following remedies, in which case the damages authorized by this section shall not apply:

(i) Equitable relief as provided for in section 502(a)(1)(B).

(ii) Unlimited economic damages, including reasonable attorneys fees.

(B) PROTECTION OF THE REGULATION OF QUALITY OF MEDICAL CARE UNDER STATE LAW.—Nothing in this paragraph shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care under any State law for purposes of this section. Any such claim shall be maintained exclusively under section 502.”

Mr. KYL. Mr. President, it has been requested that the time agreement on this amendment be 30 minutes on my side and 10 minutes in opposition, with an up-or-down vote at the conclusion of the debate. I propound that unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, that is fine with no second degrees in order. Is that right?

Mr. KYL. That would be my understanding. I thank the Senator from Nevada.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. KYL. I do indeed modify my unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KYL. Mr. President, I rise to introduce the consumer health care choice amendment. This amendment would amend section 302 of the underlying legislation to provide that employers and health plan issuers would not be free to offer, and participants and beneficiaries free to choose, health plans with two remedy options, in addition to the underlying plan: equitable relief—the benefit or value of the benefit; and unlimited economic damages.

The bill provides damages as provided under S. 1052 unlimited economic and non-economic, and up to $5 million in punitive damages.

This amendment applies only to the new remedies established by S. 1052 for Federal contract actions and state “medically reviewable” claims. It explicitly protects the regulation of medical care delivery under state law.

The problem: Increased premium costs lead to greater numbers of uninsured. The Congressional Budget Office predicts that S. 1052 could result in a 4.2 percent increase in premiums costs. This predicted increase is in addition to the 10–12 percent increase employers are already facing this year.

The CBO report illustrates the cold truth about a critical, but often overlooked, public policy issue: The irrefutable link between health-care premium increases and the number of Americans without insurance. As the Congress debates the various health-care proposals, we must keep this link in mind.

Supporters of S. 1052 are quick to claim that their bill will improve health care, but not so quick to admit that it will also raise costs and cause the number of uninsured to go up. We know this will happen, because cost increases will cause some employers to stop offering health-care coverage, making insurance unaffordable for more Americans. This fact is politically inconvenient. We should keep an important statistic in mind. According to the Lewin Group consulting firm, for each one percent premium increase, an additional 300,000 citizens lose their insurance.

As I mentioned, the Congressional Budget Office predicts that S. 1058 will increase premiums by 4.2 percent. A premium increase of this amount would cause about 1.3 million Americans to become uninsured as a result of S. 1052. The Office of Management and Budget recently predicted that between 4–6 million more Americans would become uninsured as a result of S. 1052.

How can we call this a Patients Bill of Rights when it will result in fewer patients?

I believe our first goal should be “do no harm”; or, at a minimum, to reduce the harm, as my amendment will do.

My amendment would allow employers or plans to offer two options for employees to voluntarily choose, in addition to the general plan covered by this bill, Option No. 1: A low premium policy with a remedy limited to the benefit, or the value of the benefit. Option No. 2: A mid level premium policy that would allow for full economic damages only.

There are in addition to the higher premium policy that would allow for the full range of damages provided under S. 1052.

This amendment should be appealing to employers and plans as a way to control their costs and appealing to employees as a way to hold down their premiums by voluntarily limiting their right to sue.

Data from the CBO and the Kaiser Family Foundation estimate that S. 1052 would cost a typical family with health coverage roughly $300 per year.
Certainly, we should promise not to pass legislation that would reduce or completely consume the $300 or $600 rebate that Americans will be receiving sometime this summer as a result of the tax-relief bill just signed into law by President Bush.

If adopted, this amendment would afford Americans a chance to recoup some of the loss imposed by S. 1052. Some have argued that so-called patients’ rights legislation that includes an unlimited right to sue is overwhelmingly popular with Americans. It is worth noting that a Kaiser Family Foundation/Harvard School of Public Health Survey from January 2001 asked the following question to voters: “Would you favor a law that would raise the cost of health plans and lead some companies to stop offering health care? If you favor such a law, then do you believe that the people who profit from the health care industry should have the right to choose that policy.”

We all know that policy is going to cost more money. The reason it is going to cost more money is because lawsuits drive up the cost of insurance, which drives up premiums, which means that fewer employers can pay for insurance, which means that fewer employees are insured. And that is what is concerning all of us.

This amendment makes it possible to offer, in addition to the higher-cost policy, a lower-cost policy that would say you can forego your rights to litigation. You can just receive the benefits that ERISA provides for today. Those benefits are health care that you contracted for—or the dollar value of that health care.

There is a second option in here. That is a limited one, which is you could also go to court and get unlimited economic damages, but no pain and suffering damages or punitive damages. Maybe some companies would write that kind of a policy, too. But either of those policies would have a lesser premium than the policy that would be offered as the underlying plan under this legislation.

To some who say there might be a case where there is a quality of care decision which just needs to go to court, and damages need to be collected, my amendment specifically protects all of the State court litigation that is currently developing about quality of care.

Even if an employee exercised an option to buy this lower-cost policy, that employee would still have all of the rights of litigation for damages in State court.

Some have said: Isn’t this a little bit similar to the Enzi amendment? The answer is no. The Enzi amendment said if a particular group of employees were merely offered a specific kind of policy, they wouldn’t be covered by the act. That is not my amendment. All employers are covered by the act under my amendment. It is just if they offer a plan to their employees, they may in addition to that plan offer this lower cost alternative.

Why do I offer this?

As we know, the Congressional Budget Office predicts that the underlying bill would result in a 4.2-percent increase in premium costs. This is in addition to the 10- or 12-percent increase that employers are already facing this year.

The Congressional Budget Office report illustrates the cold truth that has been overlooked in this debate; that is, the irrefutable link between health care premium increases and the number of Americans without insurance.

There is a study by the Lewin Group, a consulting firm, which says that for each 1 percent of premium increase, an additional 300,000 citizens lose their insurance. We have CBO’s estimate that the cost of premiums is going to increase 4.2 percent. We have a study that says every 1 percent, an additional 300,000 people lose their insurance.

I think this bill, more than a million Americans are going to lose their insurance if something isn’t done to keep the cost of those premiums down.

The Office of Management and Budget recently predicted that between 4 million and 6 million more Americans would become uninsured as a result of S. 1052.

That is where this amendment comes in. It is probably the best way to ensure that we can get premiums down over an alternative that doesn’t have as much risk for the insurer, and, therefore, won’t have to have as high a premium.

But I reiterate, it is not in lieu of the bills that we are proposing under this bill but, rather, in addition to. It is an option.

For this to occur, three voluntary decisions would have to be made.

First of all, some insurance companies would have to develop a product that they might offer employers or plans to sell for their lower cost option.

Second, employers would have to decide that in addition to the plan offered under the bill, they would offer one of these lower cost alternatives that is on the market.

Third, employees would have to decide to take advantage of that lower cost option.

It is all a matter of choice. Nobody is making anybody do anything. None of the benefits under the legislation go away at all, nor is the State court remedy.

It seems to me, since it is all voluntary, that there is nothing mandatory but it gives us one opportunity to reduce premium costs. We all ought to be supportive of this proposal.

I ask that the remaining time that I have not be yielded but, rather, see if there are any others who might wish to speak.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, if Senator KENNEDY will allow me to speak at this point, let me say, first of all, that I think progress is being made. Senator REID has been working. Everybody has been trying to cooperate. I believe, after this very important amendment, we will have the substitute, and hopefully we will be ready to go to final passage.

I don’t want to usurp the majority’s role here, but I want people to realize that we are to the point where perhaps we can begin to wrap this up.

I thank Senator Kyl for agreeing to not have the lengthy debate. He feels very strongly about it, and this is certainly a very good and valuable alternative.

I heard Senator Bond of Missouri say repeatedly that when it comes to
health care, we should make it available, affordable, and safe. One of our greatest concerns about this bill in its present form is health insurance for patients, and what they have available through managed care is not going to be affordable. Rates are going to go up. They are going to lose coverage for a variety of reasons. So it is a question of availability and affordability.

This is a good, viable alternative. This provides a low-cost option that will, hopefully, result in more people keeping their coverage. But it is an option. It is not in place of; it is in addition to what will be available otherwise. It just gives plans the option of offering a low-cost alternative that forgoes lawsuit damages under the law. The State court would still have the "quality of care" damage available. Those limitations would still be there. You don't replace that.

I want to emphasize, it is not in lieu of but it is in addition to the plans offered under the bill. This really is about patients, and it really is about the freedom to have a choice, to have an option to choose to have this coverage but not going to lawsuits later on. By paying less, they will be able to afford it. That will give them an option. I think this would be a very attractive way to make sure it is available and affordable.

I would like to speak at greater length on this myself, but in the interest of time I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I commend the Senator from Arizona, Mr. Ky., for his amendment, which is strikingly similar in concept—as he and I discussed off the floor earlier—to the Auto Choice proposal I have introduced that last two Congresses, cosponsored by Senator Moynihan and Senator Lieberman.

Essentially what is envisioned in these kinds of choice proposals is giving the consumer the option of opting out of the litigation lottery in return for a lower premium and lower cost.

I want to ask the Senator from Arizona if it is his view that this is similar in concept to the Auto Choice measure that I just described that we have discussed.

Mr. KYL. Mr. President, if I may answer the question of the Senator from Kentucky, I am remiss for not acknowledging that my idea for this amendment came exactly from the proposal the Senator has just discussed. It seemed to me that if it worked well in that context, it would also work well in this context. I should have mentioned that earlier. I know the Senator did not ask the question to get credit, but credit certainly is due him for this idea.

Mr. MCCONNELL. I cannot announce the support of others, but I wanted to mention that on the Auto Choice bill there was also the support of Michael Dukakis, Joe Lieberman, Pat Moynihan, the Democratic Leadership Council, the New York Times, and the Washington Post.

I cannot say for sure that they would support the amendment offered by the Senator from Arizona, but the concept he describes of giving the consumer the option—the consumer gets the option of leaving aside the litigation lottery in return for a lower premium and defined benefits provided for that lower premium. It does not really deny anybody. It does not deny them the right to sue. It does not put a cap on damages. It does not tell the lawyers what to charge. It simply says to the consumer: You have a choice.

What the Senator from Arizona is suggesting is to take what is a sound idea for the personal health insurance market, Auto Choice, and apply it to the health insurance market.

Under his amendment, employers would have the option of offering their employees up to two additional insurance options. I mean I have the additional cause of action permitted under this bill, I believe giving consumers the option not to participate in the personal injury litigation lottery is only appropriate.

It is important to note, just like my Auto Choice option, choosing Senator KYL's "Health Choice" option would be completely voluntary to both the employer and the employees. An employer who offers his employees health insurance would not be allowed to offer only the limited-litigation health policies. Nothing in the Kyl amendment would require the employer to offer the plans as envisioned in the Kennedy-McCain bill.

In Arizona the employer does not have to say anything, not that the employee would have to participate in the cost of their insurance plan. An employer would have to say anything, not that the employee would have to participate in the cost of their insurance plan. A lower cost health insurance option.

While we have made significant progress at improving this legislation, many of us on this side of the aisle have lingering concerns that this bill will dramatically increase the number of uninsured Americans. We ought do everything possible to minimize this impact and that is why I wholeheartedly endorse the proposal of the Senator from Arizona. Patients need more choices and should not be forced into a system of jackpot justice without their consent.

As the Senator from Arizona has pointed out, we hope not to have a greater number of uninsured when this is all over. One of the great fears many of us have who are going to be voting against this bill is that is that exactly what the result of it will be. But the Senator from Arizona has astutely offered an amendment that will certainly provide an opportunity for a number of people to receive lower premiums and thereby, hopefully, reducing the increase in the number of uninsureds which so many of us fear.

So I express my strong support for the Senator's Amendment. I tell him, I think it is a very good idea. I hope the Senate will support it. It seems to me it is entirely consistent with the theme of the underlying bill. I commend the Senator from Arizona for his fine amendment.

Mr. KYL. I thank the Senator.

Mr. MCCONNELL. Mr. President, as I listened to the proposal by the Senator from Arizona, the thought came to my mind about the right of an individual to waive rights. That is deeply ingrained as part of the law of the United States, so much so that when you talk about constitutional rights in a criminal case—where the rights are much more deep-seated, much more profound, based on the Constitution—that right to waive does exist.

In a sense, what the Senator from Arizona is proposing is that an individual who chooses health insurance would have the right to waive certain rights, which is recognized in law.

The keyword which I found persuasive in what the Senator from Arizona had to say as the word "voluntary." I would add to that—I think this is part of his concept—that it be a knowing waiver—a voluntary, knowing waiver. And I would expect that, as part of that, the individual would have counsel to understand his rights, because you cannot understand your rights for damages—the complexities—unless you know what they are, and whatever may be said about lawyers on this floor, you need a lawyer to tell you what your rights are. Then the individual would be in a position to evaluate the reduction in premiums, and thereby which savings would be passed on to him for what he was giving up.

In that context, I think the proposal passes muster.

Mr. KYL. I thank the Senator.

Mr. SPECTER. I yield the floor.

Mr. ENZI. Mr. President, I, too, thank the Senator from Arizona, Mr. KYL, for bringing this amendment to us.

This debate has been framed as though everybody had all of their insurance paid for by the company for which they work. I know that is not the case. Throughout America, most people participate in the cost of their insurance. So it is going to be very important for every individual who has to participate in the cost of their insurance to be searching, with their employer, for a lower cost way of doing it. This is one of those solutions. This is very innovative. It will fill a void we have left by doing the bill, particularly if the estimates are true on how much insurance is going to go up based on
Mr. KYL. I understand that Senator Frist would like to quickly proceed. There are several people who would like to speak in favor of my amendment. Therefore, what I would like to propose is that we lay my amendment aside, go to Senator Frist, and I take up the remainder of my time prior to the vote.

Mr. REID. I have no objection. The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is laid aside.

Mr. FRIST. Mr. President, I call up amendment No. 856 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The amendment numbered 856.

This amendment is a comprehensive approach to the Patients' Bill of Rights. Essentially this bill is the Frist-Breaux-Jeffords bill which was introduced on May 15 of this year, modified with several of the amendments which we will speak to shortly in the introduction either now or, if we have an interruption, we will speak to them in the 15 minutes on this side.

What I wish to stress is that this amendment is a comprehensive replacement for the bill. It involves strong patient protections, access to specialists, access to emergency rooms, elimination of gag clauses, continuity of care.

It has a strong appeals process, internal and external appeals. It requires full exhaustion of the internal and external appeals process. If the external decision—again, that is an independent physician, unbiased, independent of the plan—overrides the plan, then only then does one go to court for the extraordinary damages. At any time during the appeals process you can go for what is called injunctive relief. Once you go for these damages, what are the economic damages? Noneconomic damages are $750,000 or three times economic damages. And that is a change from the underlying Frist-Breaux-Jeffords bill.

There are no punitive damages. In other words, if I mention that we require full exhaustion of the internal and external appeals process. We go to Federal court. We have not had much debate over the last week on the Federal
Mr. President, I rise to comment on the amendment of Senator BOND, with the 1 million uninsured, then the liability would be repealed, which passed on the floor, is also a part of our bill.

Secondly, we did raise the non-economic caps from $500,000 to $750,000 or three times economic damages. As a physician, as someone who has taken care of patients, as someone who recognizes that the purpose of a Patients' Bill of Rights is for patients to get the care they need, not extraordinary lawsuits, not frivolous lawsuits, and skyrocketing costs, all of which will be absorbed by the 170 million people, we believe this bill is the balanced, responsible way of delivering a strong enforceable Patients' Bill of Rights.

I yield to Senator BREAUX.

Mr. BREAUX. Mr. President, do we have a time agreement on this amendment?

The PRESIDING OFFICER. There is no time established on this amendment.

Mr. BREAUX. Let's try it without an agreement. We will see how it goes without any kind of agreement.

Mr. President, I rise to comment on the bill that is now before the Senate. It is the Frist-Breaux-Jeffords substitute bill.

Before doing so, while the Senator from Tennessee is still on the floor, I want to say something about how enjoyable it has been to work with him. While most of us are going to be leaving this Chamber tonight or tomorrow sometime to spend time with our family on vacation or have an enjoyable period of time that we can rest and relax, the Senator from Tennessee, because of what he does professionally and what he believes in, is going to be leaving on a flight tonight to go to Africa. He is going to Africa to do surgery on women and children and family who cannot afford health care on the continent of Africa.

I want to say how proud all of us can be of one of our colleagues who has that type of attitude. He not only serves his constituents in Tennessee in this body but also serves so much of humanity in various places in the world by volunteering at his own cost, on his time, with his medical expertise, serving people who have no health care. We are talking about a Patients' Bill of Rights on the floor of the Senate. He really, truly is practicing that by providing care to people who can't afford it in various parts of the world.

For those who are interested in getting a Patients' Bill of Rights enacted into law, let me make this clear: the amendment that we have offered, the bill will not become law because the President has clearly indicated he will veto a bill that does not contain some of the main principles that you can find in the Frist-Breaux-Jeffords substitute.

What I am talking about is not that complicated. The White House has said we are creating new Federal rights, and with the amendment of Senator BOND, with the 1 million uninsured, then the liability will be repealed, which passed on the floor, is also a part of our bill.

Secondly, we did raise the non-economic caps from $500,000 to $750,000 or three times economic damages. As a physician, as someone who has taken care of patients, as someone who recognizes that the purpose of a Patients' Bill of Rights is for patients to get the care they need, not extraordinary lawsuits, not frivolous lawsuits, and skyrocketing costs, all of which will be absorbed by the 170 million people, we believe this bill is the balanced, responsible way of delivering a strong enforceable Patients' Bill of Rights.

I yield, if I might, to the cosponsor, coauthor of the bill, Senator BREAUX.

Senator JEFFORDS will be speaking a little bit later. The three of us, as part of the Frist-Breaux-Jeffords amendment, have worked very hard over the last 2 years to put together this balanced bill, the only tripartisan bill in the history of the Senate, we could not figure out where we were, we were creating something that is as complex as the Egyptian hieroglyphics. If you had a flowchart on what we are suggesting in the bill now before the Senate, we could not figure out where you go and when you go to the different courts and for what rights. That is unacceptable. This thing needs a lot of work before it can become law because I am afraid that what we have created tonight in this bill is unmanageable and this recommendation makes it a great deal better.

I am under no illusions about what is going to happen, but I know I am also not under any illusions about what can
be signed into law and what cannot. I fear that what we have tonight cannot be signed into law without the recommendations we have made.

I yield the floor. I see my colleague from Vermont is also with us.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. President, for nearly 5 years, Congress has debated how best to enhance protections for patients enrolled in managed care plans without unduly increasing health care costs, imposing significant burdens on America’s employers, and adding to the ranks of the uninsured. Our debate over the last two weeks has given us ample opportunity to thoroughly discuss these critical issues.

Through the amendment process the McCain-Edward-Kennedy bill has been significantly improved. I particularly commend Senator SNowe for her amendment on employer liability and Senator Thompson for his amendment on exhausting the appeals process.

However, I believe the McCain-Edward-Kennedy bill is still fundamentally flawed in two critical areas. First, the bill would subject plans to excessive damages in the new federal cause of action. And second, by subjecting plans and employers to a new State cause of action, the bill destroys the current national uniformity for employers. The bill would subject employers or their designated agents to lawsuits in 50 different States.

The better alternative to the McCain-Edward-Kennedy bill is our amendment. It is based on the legislation that I introduced with Senator Frist and Senator Breaux. It has much in common with the McCain-Edward-Kennedy bill. They share 11 provisions that create new patient protections. Each provides for information to assist consumers in navigating the health care system. Most importantly, the bills provide for an internal and external independent review process with strong new remedies when the external review panel fails. Our primary area of disagreement lies in the degree that employers are protected from multiple causes of action in multiple venues and the provision of a reasonable cap on damages.

President Bush has made clear that our amendment meets the principles he has outlined for patient protection legislation that he would sign into law. This balanced legislation also is supported by a wide range of groups representing nearly 400,000 of America’s physicians and health professionals.

Our amendment protects all Americans in private health plans and at the same time, it gives deference to the states to allow them to continue enacting innovative care laws consistent with the new federal rules.

Under our amendment health plans that fail to comply with independent review decisions or that harm patients by delaying coverage will be held accountable through expanded federal court remedies, including unlimited economic damages. In addition, patients can go to court at any time to get the health benefits they need through injunctive relief if going through the internal or external review processes would cause them irreparable harm.

We hope that everyone who is committed to passing legislation that can become law this year will join us in supporting this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. Edwards. Mr. President, over the course of the last 2 weeks, during the course of this debate, we have made great progress and consensus has been reached on many issues, beginning with the issue of scope, how many Americans would be covered by this patient protection legislation.

We have worked with Senators across the aisle and have been able to resolve that issue and resolve it in a way that all Americans are covered and there is a floor of protection for all Americans.

Second, we were able to resolve the issue of access to clinical trials, an issue on which there has been some disagreement in this body.

Third, we have been able to resolve the issue of employer liability in a way that protects employers from liability without completely eliminating the rights of patients. We have done it in a balanced way so that 94 percent—every small employer in America—100 percent protected.

We have also resolved the issue of exhaustive appeals so patients will go through the appeals process to get the care they need before they go to court.

Medical necessity is another issue resolved during this debate.

All of these issues are the issues of great work many days, many hours of compromise, negotiation, and consensus reached in the Chamber of the Senate. This substitute abandons a number of those consensus agreements, starting with the issue of scope.

On the issue of scope, the Senator from Louisiana and I were able to fashion a provision that provides a floor and protects all Americans. That provision was voted on and consensus was reached. That consensus provision is not in this substitute.

Second, on the issue of exhaustion, the Senator from Tennessee and I worked to fashion a provision that provides the patient the right to exhaust the appeals before they go to court in a way that does not prevent patients who have an extended appeal from being harmed by that extended appeal. In other words, if it goes on 31 days or 60 days, they can use court simultaneously with the appeal. That exhaustion provision on which there was a huge vote in favor of it in the Senate is not in this substitute.

Third, the independence of the review panels: I concede I have not seen the language, but assuming it is the same language that was originally in the Frist-Breaux bill, it has no provision specifically requiring the so-called independent review panel be, in fact, independent; nothing requiring that the panel be independent, not dictating who, in fact, is on the appeals panel. It is like the HMO being able to pick the judge and the jury. So there is not established to anyone’s satisfaction that, in fact, that appeals panel will be independent.

Finally, on the issue of going to Federal court versus State court, the American Bar Association, the Federal judiciary, the U.S. Supreme Court, the State attorneys general, all the objective, large legal bodies in this country have said that these cases should go to State court.

That is what our legislation provides. Unfortunately, under this substitute, the vast majority of cases would, indeed, go to Federal court.

Many Americans live hundreds of miles from the closest Federal courthouse. It would be much more difficult for these injured patients to get a lawyer to represent them in a Federal action, particularly one that might take place hundreds of miles away, and most important, and the reason so many of these objective bodies said these cases belong in State court, is that it will take so long to get the case heard.

There is such a backlog already, it makes no sense to send these cases to Federal court.

What we have done instead is say: You, HMO, if you are going to overrule doctors, if you are going to make health care decisions, we are going to treat you exactly as we treat the other health care providers. We treat them exactly the same. It is the reason this is a critical provision, the American Medical Association, to all the doctors groups across this country and to the consumer groups across America.

There are fundamental differences in our underlying legislation, as amended, and in the substitute, starting with the issue of scope, about which we have reached consensus, going to the issue of exhaustion of administrative remedies, which is not in this substitute; the required independence of the review panel is not in the substitute; the requirement that the cases that every objective body says should go to State court, including the U.S. Supreme Court, those cases go to Federal court instead under this provision.

We have made tremendous progress. I am very pleased with the work of all of our colleagues—Republicans, Democrats, and Independent—in this process. The work has been productive. We have done important work in the Senate, but it is not important to us. It is important for the people of this country, the families of this country who
deserve more control over their health care decisions, who deserve real rights, enforceable rights.

That is what we have been able to accomplish over the last 2 weeks. Unfortunately, in every respect in which this substitute is different from the underlying legislation, as amended, it favors the HMO versus the patient. In every respect, we favor the patient; they favor the HMO.

I say to my colleagues who sponsored this amendment, I know they are well-intentioned. I know they worked very hard on it. I respect every one of them, and I respect the work they have done, but I believe the work we have, in fact, done in this Chamber over the last 2 weeks is a much better product and, most importantly, will provide meaningful protections for the patients and families of this country who deserve finally to have the law on their side instead of having the law on the side of the big HMOs.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. There is no time limit.

Mr. KENNEDY. Mr. President, I thank my good friend, Dr. Frist. Senator Frist has been the chairman of our Public Health Subcommittee and he and I have worked on a lot of different health care issues together.

I thank Senator Jeffords who has been a strong ally on many health care issues over a long period of time.

I have also worked extensively with the Senator from Louisiana, Mr. Breaux, on many health care issues.

The fact is, when you have this combination of recognizing a strong recommendation, it is worthy for the Senate to give a true examination of their product and their recommendation this evening.

Having said all of that, it is worthwhile in the final minutes of this debate and before action that we give special consideration to the viewpoints of the doctors, the nurses, and the patients who have followed this issue and have really breathed life into this issue over a long time.

Tonight, at this time, there is only one matter that is before us that has the complete support of the medical profession, the nurses, the doctors, all of the groups that represent the children in this country, all the groups that represent the disability community, all of the groups that represent the Cancer Society, all the groups that represent the aged, all the groups that represent the special needs of people who have special medical challenges. They have had a chance to review each and every provision. They know every aspect of every page of the legislation and the amendments, and they come down virtually unanimously in support of the McCain-Edwards legislation.

Senator Edwards has already outlined and Senator McConnell will further outline the various concerns.

Let me mention matters we have focused on during this debate.

The clinical trials: We are in the century of life sciences, and we are putting resources into and investing in the NIH. We are never going to get the benefits of the research in the laboratory to the bedside unless we have effective clinical trials.

We have strong commitments on clinical trials; Breaux-Frist is short on that, and it will take up to 5 years to begin the clinical trials.

Specialty care: We guarantee specialty care. Any mother who brings in a child who has cancer will be able to get the specialty care. Breaux-Frist does not provide it. If it is not within that particular HMO, then it is not a medically reviewable decision. There are restrictions in the bill.

We have debated the issues of the appeals. Breaux-Frist still has provisions where the HMO will be selecting the appeal organization, which is effectively selecting the judge and jury in these appeals.

Liability: As has been pointed out, Breaux-Frist brings all the liability into the Federal system. Every patients group and every group that concerned itself about getting true accountability for patients understands the importance of keeping liability in the State court.

Even though the words are similar, although we have the issues of medical necessity, although we use the words of specialty care, although the words of appeals are used in both bills, there is a dramatic and significant difference. Those are the two choices before the Senate.

I thank our colleagues and friends on the other side. There really is only one true Patients’ Bill of Rights that is going to protect the patients in this country, the families, the children, the women, the workers in this Nation, and that is the McCain-Edwards bill. I hope we support that shortly.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. I ask unanimous consent action with respect to Ensign amendment #84, which vitiated and the Senate vote in relation to the amendment following the disposition of the Kyl amendment, with up to 10 minutes equally divided for debate prior to that vote.

Mr. LOTT. Reserving the right to object, I hope the Senator will withhold. I think a continued effort is underway, and if he will withhold at this point—I prefer not to object—let’s see if we can’t work it out.

Mr. ENSIGN. I withdraw my unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Senators BREAUX and KENNEDY, point out some of the important changes in our legislation, and their recommendation this evening. I remind Members that the amendment does provide very limited relief in Federal court and would only allow a handful of cases to be addressed: only those patients who receive approval from the external medical review can go to court.

Numerous States, including my home State of Arizona, have enacted laws that permit injured patients to hold health plans legally responsible for their negligent medical decisions. I believe this substitute nullifies these laws. My colleagues may assert they do not preempt State law, but I respectfully disagree. Delaying and denying care by an HMO is not a contract issue for Federal court. Delaying and denying care is a medical malpractice and should be determined in State court.

As we know, this is a substitute. Over the last 2 weeks we have made some very important changes to this legislation, which is the appropriate way to legislate. We have made important changes on employer liability thanks to Senator SNOE and Senator DeWINE and others; exhausting administrative procedures thanks to Senator Thompson and Senator Edwards; limits on legal fees, an effort undertaken by Senator Warner; reasonable scope, protecting all Americans, limitations on class action, and prevention of forum shopping, in which Senator Thompson and others were involved.

Some of these have been included in the substitute, and some have not. I believe all of these changes that have been made through open and honest debate on this legislation should be included.

Again, we still have avoided the fundamental issue of State and Federal court. I believe that issue is not resolved to the satisfaction of the patient as opposed to the HMO.

I take an additional minute to thank a number of people including the White House staff, Josh Bolton and Anne Phelps; Senator Gregg’s stewardship on this side has been exemplary; Senators Frist and Breaux have obviously been very helpful; Senators SNOE, Lincoln, DeWINE, Nelson, and Thompson. I thank both leaders, Senator Daschle and Senator Lott, as well as Senator Reid and Senator Nickles, who have been involved in this issue for a long time, as well as Senator Edwards and Senator Kennedy.
Soon we will vote on this legislation. I believe we will prevail. I think this, like the campaign finance reform bill, has some honest, fair debate on which all sides have been heard, and I think, again, the Senate can be proud, no matter what the outcome, of the way we proceeded to address this issue which is important to so many millions of Americans.

This is an important issue to American citizens. This is an important issue to the person who cannot contribute a lot of money to American political campaigns. This is an important issue to average citizens whose voices are oftentimes drowned out in Washington, in my view, by the voices of the special interests, whether they be trial lawyers, insurance companies, HMOs, or others.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I will make two or three comments. First, I compliment and congratulate Senator KENNEDY and Senator GAZZOO for their patience and leadership in managing this bill and also managing the education bill. Also, I congratulate Senator MCCAIN and Senator EDWARDS for their contribution because they are going to pass a bill, and Senator DASCHELLE, as well.

This has been a battle that some have been wrestling with for a long time. As a matter of fact, a year ago we passed legislation that was called Patients’ Bill of Rights Plus. In my opinion, the logic of the legislation we are getting ready to pass tonight. It was legislation that allowed every plan to have an appeal, internal and external, and it was binding—not binding by lawsuits, but if you did not comply with external appeal, you could be fined $10,000 a day—a different approach. I think it is far superior.

In looking at the language we have today and in the underlying bill, the so-called McCain-Edwards-Kennedy bill, maybe some modest improvements have been made. It is the bill that will finally pass, but it is a bill that the President will not sign and the President shouldn’t sign.

I hope we will pass good legislation but not pass legislation that will dramatically increase health care costs, as I am afraid it will. There has to be some reason that employers that voluntarily supply health care, purchase health care for their employees, that employers of all sizes are almost unanimously in their opposition. They are not compelled to buy health care for employees, but they want to. Now we are getting ready to threaten them with unlimited liability. We keep hearing about suing the HMOs, but suing the HMOs and/or employers and threatening them with unlimited liability. I am afraid of the non-economic damages, pain and suffering—there are costs included.

Somebody said we solve that because we have a designated decisionmaker. If there is a designated decisionmaker, the net result is, well, if you are going to hand off your liability to me, what am I protecting? What am I insuring? With contracts that can be abrogated or breached, an independent reviewer can say, you have to cover other things, and you have a lot of liability if things do not work out. The net result will be the independent reviewer will say, defensive medicine, we will pay for anything because they don’t want to be sued. They don’t want to be liable. Then the result is, because whatever the liability is, they don’t know how much it is or how expensive it is, and they will increase their rates. They don’t plan on losing money and they don’t want to go out of business, so there will be a lot of defensive medicine and they will charge extra premiums to the employer to make sure they don’t go out of business.

So the cost estimates, some people have said, are 4- or 5-percent per year increases on top of the already 19- or 20-percent increases built in, in increased costs for health care. They are probably much more. The costs of the bill could increase the cost of health care by 8 to 10 percent. We should know that.

Again, we should do no harm. We should not pass legislation that will not work, that will do harm. It will do harm if you increase the number of uninsured. It will do harm if you price insurance out of the realm of affordability for millions of Americans. I am afraid that is what we are doing.

There is one other issue that has not received maybe enough attention. Senator COLLINS and Senator NELSON raised that. That is the issue of scope: Should the Federal Government be taking over regulating that the States do? I am concerned about the language. It was modified modestly. It said the States have to be substantially compliant with these new Federal regulations. The language goes so far that really the States are going to have to adopt almost identical language to what we have put in this bill. The net result? If they don’t, HCFA takes over—the Health Care Financing Administration.

A couple of points: HCFA can’t do it. HHS can’t do it, the Department of Labor cannot do it. I want to make that point one final time.

We are ready to pass this mandate and send to the States: If you don’t do it, Federal Government, you do it. If the States don’t, you do it.

The Federal Government does not have the wherewithal to do it. Every State has hundreds of personnel involved in enforcing insurance regulation, and we are saying, you do it or we do it. This is one of the largest unfunded mandates ever proposed by Congress.

I am a little mad at myself for not being able to offer a point of order that this is an unfunded mandate. One of the reasons I cannot is that it was not reported out of committee.

The unfunded mandate bill, the Congressional Accountability Act, says we have a report that comes out with the committee report and we can raise a point of order if you have an unfunded mandate on cities, counties, States, and the private sector. We cannot do that because we don’t have a committee report because the bill was not reported out of committee. It was a year ago, but it is not now.

My point is this is an enormous unfunded mandate on counties and cities and States. We are mandating this on average employees. I know best, the Federal Government knows best. States, we know you have an emergency room procedure, but we are going to dictate a more expensive one.

I could go all the way down the list. My point is, even though we have done it, we cannot enforce it. You have non-enforceable provisions. There is no protection there. It may make us feel better, we may tell the American people we have provided the protections, but we cannot enforce it because the Federal Government cannot and should not take over State regulation of insurance. That is a mistake.

I am afraid the combination of the two, the expanded liability—you can sue employers and the providers for unlimited damages in State and/or Federal court for economic and non-economic, unlimited in both cases. You can jury shop. You can find a place that would work. You can scare employers. Employers beware, the bill we are passing tonight makes you liable. You are going to have to pay a lot more in health care costs as a result of the bill we are passing tonight.

Again, my compliments to the sponsors. They worked hard. The opponents worked hard. We will pass a bill tonight. But I hope it will be improved dramatically in conference so we will have a bill that is affordable, will not scare people away from insurance, will not increase the number of uninsured by millions. My prediction is this bill would increase the number of uninsured by millions and cost billions and billions of dollars. I hope that is not the case. I hope this is fixed and improved in conference and we will have a bill that President Bush can sign and become law and of which we will all be proud. Unfortunately, I think the underlying bill does not meet that test.

We great reluctance, I am going to be voting no on the underlying McCain-Kennedy-Edwards bill. I urge my colleagues to do likewise.
The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I regret deeply I will not be able to vote for this bill. My State does not have a problem with the HMOs that other people have expressed. Our State would be mandated by this bill to change its laws. The sensible amendment offered by Senator COLLINS was defeated. The Allard amendments that dealt with small business were defeated. The mandates in this bill will hamper our development of a sound health care delivery system for Alaska.

It is a vast area with a few people. We do not need the interference of the Federal Government. We need help. I think this bill will interfere with what we are doing. I hope by the time it comes out of conference I will be able to support the judgment rule. The Senate has tried, but this, the underlying bill, will not help our people; it will hurt them; and I cannot support it.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GREGG. For the record, Mr. President, I think this bill is a lot better than when we started. There remains one area, of course, where we have substantial disagreement, and that has to do with the lawsuits going to be brought. The underlying bill still has a bifurcated system where some suits can be brought to State court and some in Federal court. I think that is the main thing the Frist-Breaux-Jeffords amendment tries to address.

We all can read the handwriting on the wall. I think we know how this is going to go. But it is very important our colleagues understand what we are doing. With regard to the underlying bill, there is a presupposition, apparently, that there will walk the lawyer's office with a tag around his neck saying, I'm a State suit, or, I'm a Federal suit. That will not be the case.

There will be many cases that are mixed. Some will have to do with coverage denial, some will have to do with medically reviewable claims, some will be more of a contract case, some will be more of a tort case. Arguably, it could go in either court. Some will go to Federal court and the defendant will object and say, no, you belong in State court, until the claim is over. Then there will be an appeal in that venue. Then that will be determined, and then it will go possibly to the opposite court. In other words, there will be litigation at one or more levels in order to determine where you are going to litigate.

Some, on the other hand, will go to State court, and there will be a fight there as to whether or not that belongs in State court. It may be remanded over to Federal court.

Some will come in with cases, parts of which will arguably be in Federal court and parts of the same case could arguably be in State court.

All I am suggesting is there is no easy solution to this. It has been point out that there are some down sides to bringing them in Federal court, too. They are overcrowded. We have heard examples of federally related lawyers and judges saying it ought to be in State court. If you took a poll among the State-related lawyers and judges, they would say just the opposite. But at least you avoid the problems I am talking about.

We are going into a system now where we are creating new law; we are creating new defendants. But wait, it is not just HMOs and employers. The independent decisionmakers are subject to liability, too. The independent medical reviewer is subject to liability, too. They have a higher standard. I believe it is an "gross or willful misconduct" standard. It is a higher standard, but they can be sued for settlement value or whatever.

We have a complicated liability framework, so you have different people, different law, different lawsuits. It is going to be extremely confusing for a long time, and it is going to result in much higher costs.

The tradeoffs may be there. The decisions were made that we adopted this in view of all of that. But I think it is very important that at a time when health care costs are already going up in double digits, we are doing something that quite clearly is going to result in much more litigation, much more confusion about that litigation.

Somebody ultimately has to pay for all that. It is going to ultimately result in higher costs to our citizens. I think it is important we understand that before we cast these votes. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. We are just about at the point now where I think we can begin voting on amendments. I ask unanimous consent that following the amendment—and then I believe we will start voting. This is the Presiding Officer. The Senator from Arizona.

AMENDMENT NO. 854

Mr. KYL. Mr. President, I ask unanimous consent Senate Nickles be shown as a cosponsor of amendment No. 854.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. There are two people I know of who would like to speak briefly on my amendment. I would like to respond briefly to what Senator KENNEDY said and then summarize.

May I begin by congratulating the authors of the underlying legislation and expressing appreciation for all those who have worked with me. Especially I want to thank my colleague, JOHN MCCAIN, and congratulate him for his successful efforts in moving this legislation forward. It is not always easy when colleagues from the same State are not in total agreement on everything, but he let me know early on when I first came to the Senate he didn't expect to agree with me on every issue. He said he might even be in disagreement on some matters with me from time to time.

I appreciate his efforts and the efforts of all of those who have worked with me.

Just to summarize for those who were not here earlier, my amendment is very simple. It merely provides an option for employers that offer plans that are covered by this bill to also provide an alternative for their employees. That would allow the employees to have as their remedy the receipt of the health care or for the cost of that health care rather than going to court and getting damages as they are permitted to do under the bill. This should provide a lower cost alternative that could be made available to them. That, in turn, should provide a way for employers that might otherwise have to reduce the number of employees covered, or not have insurance for their employees at all, to continue to provide health care.

As I pointed out before, according to the Congressional Budget Office information, and the Lewin Group, probably over a million American citizens will lose their health care as a result of the increased expenses that could result from this legislation.

The effort that we have all tried to engage is to find ways to reduce those costs so premiums won't go up as much and so employers can continue to provide the care. The best way to do that is to allow them to provide a purely voluntary option for their employees to accept, which would not have the same lawsuit damage option but would
Mr. KENNEDY. Mr. President, I ask for 1 minute.

Mr. President, the option provided by Senator Kyl is not a loophole. It is an option. Under his plan, all policies that an employer would offer would provide the external and internal reviews that we have in all of the plans. The option to go to specialists, the gag rule protection that we have made a part of this bill—all of that would be in the plan.

It would simply give the employee an option, if he thought it would save him money and he or she didn’t intend to sue for malpractice, a policy that could be cheaper and simply not have certain lawsuit rights but, in fact, that offer for liability purposes under current law. It is no worse than current law. It is no better than current law.

That is an option that could save a working family money that they need for their budget.

For those who want all matters to be exactly the same, I don’t see why they would resist such an option. I think it is good for the employees.

I salute Senator Kyl. I also note that Senator Jeffords had a hearing recently on the uninsured in America. We know there are over 40 million uninsured and that every 1 percent increase in insurance costs causes 300,000 people to drop off the insurance rolls. I think it is a good move. I support it.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are ordered.

Mr. KYL. Mr. President, there is nothing mandatory in this legislation. It is all voluntary. It is a simple choice for the employees. I hope my colleagues will support the amendment.

The PRESIDING OFFICER. Is all time yielded?

Mr. KYL. Mr. President, I yield all time on this subject, which is to say.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. Domenici), the Senator from Alaska (Mr. Murkowski), the Senator from Colorado (Mr. Campbell), and the Senator from Texas (Mr. Gramm) are necessarily absent.

The PRESIDING OFFICER (Mr. Akaka). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 54, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—42

Allard  Allen  Bennett  Bond  Brownback  Burns  Collins  Craig  Craig  DeWine  Ensign  Enzi  Frist  Grassley  Gregg  Hagel  Hatch  Helms  Hutchinson  Inhofe  Kyl  Lott  Lugar  McConnell  Niki

NAYS—54


VOTE ON AMENDMENT NO. 856

The PRESIDING OFFICER. The question is on agreeing to the Frist-Breaux substitute amendment No. 856. Mr. EDWARDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The Yeas and nays were ordered.

The motion to lay on the table was agreed to.
Title I of the Patients Bill of Rights would apply to individual and group health insurance other than “expected benefits” coverage. Mr. KENNEDY. The Senator is correct. It is the intent of the managers of the bill that the requirements of title I do not apply to insurance coverage consisting of “excepted benefits.”

Mr. CANTWELL. Mr. President, I rise today to speak in support of the bipartisan McCain-Edwards-Kennedy Bi- partisan Patient Protection Act. Managed care reform, particularly the enactment of a comprehensive Patients’ Bill of Rights, is one of the most important issues currently before either body of the U.S. Congress. After all the debate we have had on the floor in the last two weeks, I believe we are at the cusp of providing, true, meaningful protections for every American in every health care plan.

Unfortunately, while over 160 million Americans rely on managed care plans for their health insurance, HMOs can still restrict a doctor’s best advice based purely on financial costs. The fact is, we know that the great promise of managed care—lower costs and increased quality—has in all too many cases turned into an acute case of less freedom and greater bureaucracy.

I want to tell my colleagues about the Malone family from Everett, Washington. Their son, Ian, was born with brain damage that makes it very difficult for him to swallow. He’s fed through a tube in his stomach since he can’t swallow.

The doctors at Children’s Hospital in Seattle—one of the best pediatric care facilities in the world—said that Ian couldn’t leave the Intensive Care Unit but the Malone’s health insurance company told us to give Ian 16 hours of home nursing care a day for Ian. And while initially the company paid for this care, it decided to cut it off. Ian’s father says that “The company paid for this care, it decided to cut it off.”

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The amendment (No. 856) was rejected. Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to. The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mrs. LINCOLN. Mr. President, I wish to enter into a colloquy with the distinguished manager of the bill to clarify the intent of the sponsors.

Section 202 of the bill amends the Public Health Service Act with a new section 2763 that applies all of the requirements of title I of the Patients Bill of Rights to each health insurance issuer in the individual market.

Current law, at section 2763 provides that none of the preceding requirements of the “individual market rules” apply to health insurance coverage consisting of “excepted benefits”.

Similar provisions exist in current law at section 2721 of the Public Health Service Act for the group insurance market. A parallel provision exists in ERISA at section 732 for “excepted benefits”.

Is it the intent of the managers of the bill that current law section 2763 and the parallel provisions for the group market in the Public Health Service Act and ERISA remain in full force notwithstanding the language of new section 2753?

In other words the requirements of title I of the Patients Bill of Rights to appeal decisions to an independent review board; and the ability to sue providers for damages if they are substantially harmed by a provider’s decisions.

I believe that States are the laboratories of democracy and I do not take lightly the possibility that any federal legislation would unduly preempt state law. I spent six years on the Health Care Committee in the State House of Representatives and just this last year Washington passed a comprehensive Patient’s Bill of Rights. In issues such as the one before us this week, it is paramount that federal legislation enhance state protections, not undermine them.

And that is what this bill does. The McCain-Edwards-Kennedy compromise explicitly preserves strong state patient protection laws that substantially comply with the protections in the Federal bill. This is an extremely important point. The standards for certifying state laws that meet or exceed the Federal minimalist standard ensure that only more protective State laws replace the Federal standards.

But I find it ironic that opponents of a strong, enforceable, Patients’ Bill of Rights have traditionally limited the scope of the patient protections in their managed care reform legislation to those individuals in self-insured plans, which are not regulated by the States, and assert that the States are responsible for the rest.

This approach denies Federal protections to millions of Americans—teachers, police officers, firefighters and nurses who work for State and local governments; most farmers and independent business owners who purchase their own coverage; most workers in small businesses who are covered by small group insurance policies, and millions more who are covered by a health maintenance organization. We need federal protections that all Americans are guaranteed basic rights.

In fact, no state has passed all the protections in the bipartisan McCain-Edwards-Kennedy Patients’ Bill of Rights. To fail to enact this bill would mean that neighbors, and sometimes workers in the same company, will have different protections under the law. The scope of this legislation simply ensures that all Americans in all health plans have the same basic level of patient protections.

Let me focus for a few minutes on what this bill does. This bill protects a patient’s right to hear the full range of treatment options from their doctors, and it prohibits financial incentives to limiting medical care.

This bill allows patients to go to the first available emergency room when they are facing an emergency—regardless of the Federal minimum standard. It is in their managed care network.

This bill allows women to go directly to the obstetrician or gynecologist...
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without going through a “gatekeeper,” and it allows parents to bring their children directly to pediatricians instead of having to go through primary care physicians.

This bill allows patients with life-threatening or serious illnesses, for whom standard treatments are ineffective, to participate in approved clinical trials.

This bill has laid out stringent, tough, enforceable internal and external review standards, and we have ensured that a truly independent body has the capability and authority to resolve disputes for cases denying access to medical care.

This bill promotes informed decision-making by patients, by requiring health plans and insurance companies to provide details about plan benefits, restrictions and exclusions, and other important information about coverage and rights under the legislation.

Finally, the Bipartisan Patient Protection Act holds insurers and HMOs accountable for their acts.

Two decades ago, very few Americans were in managed care plans. Since the early 1990s, however, insured workers’ enrollment in traditional fee-for-service plans has dropped from about 50 percent to under 25 percent. The broad shift to managed care has been driven, largely, by cost concerns. But in our need to control health care costs, it is imperative that we do not forget what we are supposed to be doing—providing health care.

There will be few issues more important in the 107th Congress than the one we are voting on today. Health care affects people personally, every day of their lives, and we have a real responsibility to ensure that any changes we make serve the patient’s interests first. That is what this bill does, and I proudly support the Bipartisan Patient Protection Act.

Mr. FEINGOLD. Mr. President, I was prepared to offer an amendment to S. 1062 concerning mandatory arbitration to ensure that HMOs are held accountable for their actions, which after all is one of the primary purposes of this bill. I have been asked not to offer that amendment, so I wanted to discuss it with the lead sponsors of the bill and ask them to clarify their intentions.

Some managed care organizations currently require patients to sign mandatory binding arbitration contracts before any dispute arises. These provisions effectively deny injured patients the right to take their HMO to court. Instead, they are forced to go into binding arbitration, which can be a stacked deck against patients. We have spent much of the past 10 days debating whether injured patients should be able to go to court to vindicate their rights. It is clear that a majority of the Senate supports such rights, otherwise we would not be about to pass this legislation. So I am asking my colleagues to clarify that it is the intent of the sponsors that injured patients are granted legal rights under this legislation that patients, state or federal court to pursue compensation and redress, notwithstanding a mandatory arbitration provision in an HMO contract. Can they further clarify that it is not the intent of the sponsors of this legislation that patients can lose the legal rights we are providing in this bill by being forced into mandatory binding arbitration? In these arbitrations, the HMO chooses the arbitrator, there are substantial up-front costs that the patient has to bear, there is limited discovery, no right to appeal, and no public record or pre-decisional value of the decision.

Mr. Mccain. I thank my friend from Wisconsin for raising this very important issue. I would also like to get on record the toll this is taking on patients, the despair that they are experiencing.

Mr. Kennedy. If the Senator would yield, I agree that our bill would be severely undermined if health insurers could avoid the protections we have tried to guarantee in this bill by inserting a clause in the fine print of the contract to require binding arbitration of disputes that might arise later.

Mr. Edwards. I agree with my distinguished colleagues that HMOs should not be permitted to revoke the protections we have worked so hard to provide in this bill through the use of mandatory binding arbitration provisions in their contracts. Patients have no ability to bargain over the fine print of the health insurance contracts. That is why we have had to provide federal standards in this bill, and it is to clarify the approach of this bill to allow a backdoor route for these standards and protections to be avoided.

Mr. Feingold. I thank my colleagues, the prime sponsors of this legislation for these clarifications. Based on these assurances, I will not offer my amendment. I yield the floor.

Mr. Rockefeller. Mr. President, during the past five years, we have debated the merits and faults of assorted patient rights legislation. We have offered statistics, we have shared stories, and we have reduced strong legislation—legislation that held the real possibility of protecting all Americans—to weaker law that protects a minority of the population. Our work at times spoke of this issue in the abstract, yet other times nothing about it. The 180 million Americans enrolled in health care plans have always understood exactly what it means to have insufficient coverage. However, they are not sitting on the edges of their seats, watching our heated arguments and waiting breathless for an outcome. Instead, they are engaged in the battles they have fought for far too long, and their disputes have far higher stakes. They are, quite literally, fighting with managed care organizations for their lives. The American people are tired, Mr. President, and deserve relief from these battles. They deserve good health and the peace of mind that comes with quality care. It is time we cast aside our partisan bickering and get Americans the right to health care, as well as the right to seek redress if denied quality health care. It is time to pass the Patients’ Bill of Rights.

Recognizing that 43 million Americans go without health insurance each day, and millions more partial to inadequate health coverage, I have worked with my colleagues both in committee and on the floor to deliver quality care that truly benefits patients. I am convinced that such health care coverage must include the right when needed care is denied, resulting in injury or death. Quality care must also include patients’ access to medical specialists, and an appeals and review process when such access is denied. The McCain-Edwards-Kennedy bill includes these stipulations and goes one step further. It ensures that, for the first time, all Americans enrolled in health plans will be given access to the care they need.

With this in mind, I would like to enthusiastically endorse the McCain-Edwards-Kennedy Patients’ Bill of Rights. A bipartisan effort in all regards, the legislation before us will ensure access to the quality of care that all Americans need—access which they deserve. First and foremost, it grants every individual with health coverage the same quality care. Under this McCain-Edwards-Kennedy legislation, for example, women, children, and the critically ill—often, the groups that are denied the care they need—will be given access to doctors who will determine their best medical interests.

If denied such care, patients will also be given the opportunity to immediately appeal decisions. By employing independent review boards, victims will be able to seek second opinions prior to the denial of care. The McCain-Edwards-Kennedy bill also ensures that patients have access to medical treatments, before it is too late. To date, thousands of patients have died as a result of decisions made by non-medical HMO personnel who
merely sought to reduce cost and increase profits. With this legislation, that need not happen ever again.

We have made agreements so that the pending legislation will allow employees to seek punitive damages only if their employers willfully and negligently deny medical care that results in injury or death. Though some might argue that this will increase the cost of health care and, by extension, increase the number of uninsured in America, studies in states that have implemented similar protections have shown that this just is not the case. This right serves as a check against irresponsible decision-making and is critical to the legislation before us.

Finally, the McCain-Edwards-Kennedy Patients' Bill of Rights provides hope for those suffering from chronic illness, who long and have endured too much. They deserve quality care— they deserve the Patients' Bill of Rights, and we must give it to them. I urge my colleagues to vote for the McCain-Edwards-Kennedy Patients' Bill of Rights.

Mr. KOHL. Mr. President, I rise today in support of S. 1052, the Bipartisan Patients Protection Act. After nearly 5 years of debate and partisan fighting, I am pleased that the Senate has stood up to a real, meaningful bipartisan Patients Bill of Rights. It is a step that is long overdue.

For many years, the growth of managed care arrangements helped to rein in the rapidly growing costs of health care. That benefits all patients across the Nation and helps to keep health care costs to the lowest possible levels. However, there is a real difference between making quality health care affordable and cutting corners on patient care. In Wisconsin, we are lucky that our health plans do a good job in keeping costs low and providing quality care. But too often across this nation, HMOs put too many obstacles between doctors and patients. In the name of saving a few bucks, too many patients must hurdle bureaucratic obstacles to get basic care. Even worse, too many patients are being denied essential treatment based on the bottom line rather than on what is best for them.

The Patients Bill of Rights will ensure that patients come first—not HMO profits or health plan bureaucrats. It makes sure that doctors, in consultation with patients, can decide what treatments are medically necessary. It gives patients access to information about all available treatments and not just the cheapest. Whether it's emergency care, pursuing treatment by an appropriate specialist, providing women with direct access to an OB-GYN, or giving a patient a chance to try an innovative new treatment that could save their life—these are rights that all Americans in health plans should have. And questions concerning these rights should be answered by caring physicians and concerned families—not by a calculator. This bill puts these decisions back in human hands where they belong.

This legislation will also make sure these rights are enforceable by allowing patients to hold health plans accountable for the decisions they make. First, all health plans must have an external appeals process in place, so that patients who challenge HMO decisions may take their case to an independent panel of medical experts. The External Reviewer must be independent from the plan, and they must be able to take valid medical evidence into account when deciding whether a treatment was inappropriately denied. The vast majority of disputes can and will be resolved using this external review process.

I was pleased that during the course of this debate, the Senate adopted an amendment that further clarified the rules of the external review process. I shared the concerns of Wisconsin employers and insurers that the original version could have potentially allowed an external reviewer to order coverage of a medical service that the health plan specifically disallowed in its plan. I strongly support the creation of a strong, independent, external review process to address disputes between a patient and their insurer over whether a service is medically necessary. At the same time, I believe employers who offer their employees health care coverage and enter into a contract with a health plan should have a level of certainty to their obligations that are not covered under the plan.

That is why I voted for the McCain-Bayh-Carper amendment, which preserves the sanctity of the contract and makes it crystal clear that a reviewer may not order coverage of any treatment that is specifically excluded or limited under the plan. At the same time, it still allows reviewers to order coverage of medically necessary services that are in dispute. In addition, if a health plan felt that a reviewer had a pattern of ordering care of questionable medical benefit, the plan could appeal to the secretary to have that reviewer decertified.

I recognize that some preferred the accountable—offered by Senators NELSON and KYL in addressing this issue. However, I opposed the Nelson-Kyl amendment because it went a step too far. By attempting to have the Federal Government create a national definition of "medical necessity," it would create a regulatory nightmare for patients and providers, and could potentially result in a definition that nobody supports and is too rigid to move with the advances in medical technology and treatment. The compromise amendment offered by Senator MCCAIN struck a more appropriate balance by protecting the sanctity of health plan contracts while allowing patients real recourse through an external appeal for medical necessity disputes.

Beyond the external review process, if a health plan's decision to deny or delay care results in death or injury to the patient, this bill ensures that the health plan can be held accountable for its actions. And this bill, as amended, includes clear protections for employers. I was pleased to support the amendment offered by Senators SNOWE and NELSON which further clarified the difficult issue of employer liability.

Let me make it clear that our main objective is to make sure that patients have access to the treatments they need and deserve, and that if a health plan wrongly delays or denies treatment that causes injury or death, that patients can hold their health plans accountable—just like they would hold their doctor accountable if their doctor's action caused injury or death. In other words, the patient should be able to hold accountable that entity who directly made the decision to deny care, and I think it's critical that we shield from liability all employers who had no hand in making that decision.

That is why I supported the amendment by Senators SNOWE and NELSON, which provides strong protections for employers from being sued by allowing them to choose a "designated decision-maker" to be in charge of making medical decisions and to take on all liability risk. In the case of an employer
who offers a fully insured health plan, the health insurance company which the employer contracts with is deemed to be the designated decisionmaker, and the employer is therefore protected from lawsuits. In the case of an employer that offers a self-insured health plan, that employer may contract with a third-party administrator to administer the benefits of the plan. That third-party administrator would agree to be the designated decisionmaker and the employer is shielded from lawsuits. Only those employers that act as insurers and directly make medical decisions for their employees can be held accountable. This group accounts for only approximately 5 percent of all employers in the country.

This bill now makes it clear that employers—who voluntarily provide health coverage to their employees—and the vast majority of which do not act as insurers by making medical decisions—are shielded from lawsuits. This is in total agreement with President Bush’s stated principles of a Patients Bill of Rights. I must point out, where he said, and I quote: “Only employers who retain responsibility for and make final medical decisions should be subject to suit.” That is exactly what this bill does. It is one of the main keys to making the rights in this bill enforceable, and I strongly urge that this right be retained in any bill that is sent to the President.

Most importantly, this bill gives all of these protections to ALL Americans in managed health care plans, not just a few. All 170 million Americans in managed health plans deserve the same protections—no matter what State they live in.

As someone who comes from a business background and understand the concerns of employers. Some of my colleagues on the other side have claimed that our bill will increase health care costs so much that it will make it impossible for employers and families to afford coverage. But the Congressional Budget Office reported that the patient protections in our bill will only increase premiums by 4.2 percent over 5 years. This translates into only $1.19 per month for the average employee. CBO also found that the provision to hold third-party administrators accountable—the provision the other side opposes the most and claim would cause health care costs to skyrocket—would only account for 40 cents of that amount. An independent study by Coopers and Lybrand indicates that the cost of the liability provisions is potentially less than that, estimating that premiums would increase between three and 13 cents a month per enrollee, or 0.03 percent.

This is a small price to pay to make sure that health plans and the health care services we all deserve.

I believe this bill meets the President’s principles for a real Patients Bill of Rights, and I hope that when the House passes its bill, we can come together and send a bill to the President he will sign. The time has come to end this gridlock and to protect patients. There is no reason whatsoever to continue to allow health plans to skim on quality in the name of saving profits. Patients have been in the waiting room long enough. It is time for the Senate to act and make sure they receive the health care they need, deserve, and pay for.

Mr. FEINGOLD. Mr. President, the lobbying on this bill has been intense. There’s been a great deal of coverage in recent weeks about the wealthy interests that have colluded over whether the nation should have a Patients’ Bill of Rights, and what that bill should look like.

I think even the media has had a tough time separating the two sides of this debate. No one side of this debate has the power of the “special interests” on their side. Some have said the money is on the side of the McCarran-Kenyedy-Edwards bill, since interests supporting the bill include the American Association of Health Plans, the Health Insurance Association of America, the National Retail Federation, and the National Restaurant Association, and the Food Marketing Institute, to name just a few. And of course whenever organizations like these join in legislative fights, they do so because they carry with them the collective clout of all the major political donors they represent.

The Health Insurance Association of America is an enormous coalition of the insurance industry. The insurance industry itself gave nearly $40.7 million in PAC, soft, and individual donations in the 2000 election cycle.

The American Association of Health Plans, the trade association for HMOs and PPOs, spent a total of nearly $2.5 million on lobbying in 1999 alone. According to a recent New York Times article, AAHP has budgeted $3 to $5 million to make their case against the Patients’ Bill of Rights, and they are weighing in against the Patients’ Bill of Rights, and whatever it takes,” unquote, to get the job done.

The Business Roundtable also has spent money on an ad campaign against the bill, and so has the Health Benefits Coalition itself.

Out of these expenditures, lobbying expenditures, soft money, PAC money and ad campaigns, from some of the biggest and most powerful organizations in Washington, hasn’t gone unnoticed. This is an all-out blitz.

And this bankroll wouldn’t be complete without a description of some of the interests giving their support to provisions in this bill: The American Medical Association, the Association of Trial Lawyers of America, and labor unions like AFSCME.

Others say that the special interests are weighing in against the Patients Bill of Rights, because of the powerful business and insurance coalitions fighting to defeat this legislation.

Who is right? Where is the money in this debate? The answer is simple, there are donors on both sides. Wealthy interests aren’t aligned exclusively on one side or the other. So for the information of my colleagues and the public, I thought I would take a moment to call the bankroll by examining the donations the interests on both sides have given in the last election cycle. I will start an effort to defeat this legislation, brought to us by a coalition of insurance and business interests that represent some of the most powerful donors in the campaign finance system today.

Opposition to McCarran-Kennedy is being spearheaded by the Health Benefits Coalition. An analysis by the Center for Responsive Politics puts the cumulative donations of the members of the Health Benefits Coalition at $12.3 million in the last election cycle. That figure includes soft money, PAC money and individual contributions made by the members of the Coalition.

The Coalition includes corporate members such as Blue Cross/Blue Shield, Aetna Inc., and Humana Inc. But perhaps more importantly, the Coalition also includes major business and insurance associations. These organizations include the Chamber of Commerce, the Business Roundtable, the American Association of Health Plans, the Health Insurance Association of America, the National Retail Federation, the National Restaurant Association, and the Food Marketing Institute, to name just a few. And of course whenever organizations like these join in legislative fights, they do so because they carry with them the collective clout of all the major political donors they represent.

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According to the Center for Responsive Politics, AFSCME gave more than $3.1 million in PAC, soft and individual contributions in the last election cycle. The Association of Trial Lawyers of America gave more than $3.6 million in PAC, soft and individual contributions during that same period, and the AMA gave more than $2 million.

We don’t know yet whether the will of the people will be heard above the din of lobbying calls, TV ad blitzes and the cutting of soft money checks to the political parties. I hope we pass a strong Patients’ Bill of Rights. But whatever the outcome of this bill, we have to ask ourselves if this is the way we want to legislate, and the way we want our democracy to function. I think when the public hears that this debate pits wealthy interests against each other—in some kind of showdown at Gucci Gulch—they tune us out, because suddenly it’s no longer about them, it’s just another story about how big money rules American politics. And when that’s the case, all of us lose, no matter which side of this debate we’re on, because our legislative process is diminished, and the American people’s faith in us is diminished along with it. I thank the chair and I yield the floor.
Mr. LEAHY. Mr. President, today's passage of the Bipartisan Patient Protection Act marks a major—upward in the struggle for a meaningful Patients' Bill of Rights. I am hopeful that with the adoption of this landmark legislation, patients throughout the country can feel a sense of relief knowing their rights will now be protected.

Over the past two decades, our Nation's healthcare delivery system has seen a seismic transformation. Rapidly rising healthcare costs have encouraged the development and expansion of managed care organizations, specifically health maintenance organizations. Unfortunately, the zealous efforts of HMOs to contain these costs have ended up compromising patient care and stripping away much of the authority of doctors to make decisions about the best care for their patients.

During the past several years, many Vermonters have let me know about the problems they face when seeking proper healthcare for themselves and their families. Like most Americans, they want: greater access to specialists; the freedom to continue to be treated by their own doctors, even if they switch health plans; health care providers, not accounting clerks at HMOs, to make decisions about their care and treatment; HMOs to be held accountable for their negligence.

The Bipartisan Patient Protection Act is the solution that Americans have called for—patient protections that cover all Americans in all health plans by ensuring the medical needs of patients are not secondary to the bottom line of their HMO.

Too many times, I have heard from Vermonters who have faced difficulty in accessing the most appropriate healthcare professional to meet their needs. This legislation will solve that problem by giving Vermonters—and all Americans who suffer from life-threatening, degenerative and disabling conditions—the right to access standing referrals to specialists, so they do not have to make unnecessary visits to their primary care physician for repeated referrals. These patients will also be able to designate a specialist as their primary care physician, if that person is best able to coordinate their care.

This legislation makes important strides in allowing patients access to a health care provider outside of their plan when their own plan's network of physicians does not include a specialist that can provide them the care they need. This is especially important for rural areas, like many parts of Vermont, which tend to not have an excess of health care providers. Women will now be able to have direct access to their OB/GYN and pediatricians designated as primary care providers for children.

If an individual gets hurt and needs unexpected emergency medical care, the Bipartisan Patient Protection Act takes important steps to ensure access to emergency room care without a referral. If a woman suffering from breast cancer, this bill will protect her right to have the routine costs of participation in a potentially life-saving clinical trial covered by her plan. This bill puts into place a wide range of additional protections that are essential to allowing doctors to provide the best care they can and to allow patients to receive the services they deserve.

Many of our States have already adopted patient protection laws. My home State of Vermont is one state that currently has a comprehensive framework of protections in place. This Federal legislation will not prohibit Vermont or any other state from maintaining or further developing their own patient protections as the laws are comparable to the Federal standard. I am pleased that this bill will allow states like Vermont to maintain many of their innovative efforts, while also ensuring that patients in states that currently have no laws in place will receive the basic protections they deserve.

Each of the important protections I have highlighted will only be meaningful if HMOs are held accountable for their decisions. The key to enforcing these patient protections rests in strong liability provisions that complement an effective and responsive appeals process. The Bipartisan Patient Protection Act provides patients with the right to hold their HMO liable for decisions that result in irreparable harm or death. Managed care organizations are one of the very few parties in this country that are shielded from being held accountable for their bad decisions. The time has come for that to change. Opponents of patients' rights legislation have been vocal in suggesting that by allowing patients to hold HMOs liable in court, there will be an explosion of lawsuits, causing the costs of healthcare insurance to skyrocket. This has not been the case in states like Texas, that have already enacted strong patient protections. Rather, it has been shown that most cases are resolved through the external appeals process and that only a very small fraction reach the court room. Under this legislation, a patient must exhaust all internal and external appeals before going to court.

I have heard from many Vermonters concerned about the potential impact of new HMO liability provisions on employers. I am disappointed that the opponents of this legislation have exploited and misrepresented this part of the bill. Rather than attempting to alleviate concerns by explaining the liability provisions, they have instead resorted to a scare tactic strategy. If you listen to some opponents of this bill, you would think that any employer who offers health coverage will be sued. I would like to take this opportunity to clarify some of the facts.

The Bipartisan Patient Protection Act protects employers with a strong shield that only makes the employer accountable when he or she directly participates in health treatment decisions. The bill also clearly states that employers cannot be held responsible for the actions of managed care companies unless they actively make the decision to deny a health care service to a patient. This only occurs in about five percent of businesses—generally those employers large enough to run their own health plan. Those few companies that directly participate in the decision to deny a health care benefit to a patient, should accept legal responsibility for those decisions.

After nearly 5 years of debate in Congress, the closest emergency room—a Jupiter finally closing in on the patients' rights and protections they deserve. But there is still more work to be done. The House of Representatives must consider this important issue in a timely manner and, I hope, their bill will include provisions similar to the bipartisan patient protection legislation passed in the Senate. Most importantly, I am hopeful that President Bush will hear the voices of Americans and not those of the special interests and their well-financed lobbyists, and sign this important legislation into law. The American people have spoken; the time for enacting strong patient protections is long overdue.

Mr. KERRY. Mr. President, I am proud to support the bipartisan McCain-Kennedy Patients Bill of Rights. It is legislation that is long overdue. Time and again, we have heard the 180 million Americans enrolled in managed care demand patient rights. Time and again, Members of this Senate have promised to provide them those rights. Finally, with the Patients Bill of Rights legislation before us, we stand ready to deliver.

The McCain-Kennedy Patients Bill of Rights ensures Americans that they can receive the very health care they pay for. In exchange for their monthly premiums, patients deserve a guarantee that they can see their own doctor, visit a specialist, and go to the closest emergency room, if they are in need of a health care service. The McCain-Kennedy Patients Bill of Rights legislation before us guarantees all of those rights. Finally, with the Patients Bill of Rights legislation before us, we stand ready to deliver.

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When those rights are violated, and harm results from the delayed application or outright denial of treatment, the McCain-Kennedy bill guarantees patients that they can hold their HMO accountable for their negligence. That is what all of the rights to access care hinge upon—the ability to hold a health plan liable if access to care is denied.
We have spent days on the floor of the Senate debating the issue of liability. But, the argument here is simple. In this decision, an individual or corporation results in harm or death to a consumer, the decision-maker is held accountable. That holds true for every individual, and for every company except an HMO. HMOs, businesses who make countless decisions daily that affect the health of millions of Americans, do not face this same accountability. The number of patients who are suffering as a result is staggering.

Every day, 35,000 patients in managed care plans have necessary care delayed. Too many of these patients pay the ultimate price for the callousness displayed by these managed care plans. I would like to share the story of one woman who is my state'sMassachusetts who lost her life after being denied care by her HMO.

Mrs. White was diagnosed with leukemia in October 1997, and was unable to find a bone marrow match for transplant plans the 2 years of battling the disease she went into remission. She then learned that Massachusetts General Hospital was working with a newly-developed anti-rejection drug which would allow patients like herself, with less than perfectly-matched donors, to have bone marrow transplants. But, her HMO denied her care the day before she was due to be admitted to the hospital.

Six months later, Mrs. White enrolled in a new health plan which covered the costs of the transplant. However, during the 6-month impasse, Mrs. White fell out of remission, and her body was less able to sustain the new bone marrow. She died 3 months after the procedure was performed.

Recent stories like these demonstrate why HMOs must be held accountable for their decisions. Real people like Mrs. White are the reasons why there are liability provisions in the McCain-Kennedy Patients Bill of Rights—liability protections that allow patients to sue their health plans in state court when an HMO's decision to withhold or limit care results in injury or death. My colleagues on the other side of the aisle seek to misconstrue that point. But, let's be clear: this bill establishes a right to sue an HMO as a protection for America's patients, not as a reward to America's trial lawyers.

Opponents of the Kennedy-McCain Patients Bill of Rights have predicted that the liability language in the bill will cause a future flood of frivolous lawsuits against managed care companies. But, recent history paints a very different picture.

The President's home State of Texas enacted a comprehensive Bill of rights—which includes a provision to hold HMOs accountable—in 1997, albeit without the support of then-Governor Bush. Since that time, 17 lawsuits have been brought against managed care insurers in Texas. Let me repeat that—17 lawsuits in 4 years. That is a trickle, not a flood.

Mr. President, no one wants to encourage unnecessary lawsuits that increase the cost of providing health care. That is why the McCain-Kennedy bill sets out a comprehensive internal and external review process that seeks to remedy complaints before they reach a courtroom. Except in cases of irreparable harm or death, patients must exhaust this review process before pursuing a legal remedy.

But we must establish a legal remedy. A right without legal recourse fails to exist. The liability provision in this legislation simply establishes a mechanism by which to enforce the very patient protections it provides. Managed care providers that try avoid any liability, as long as they act responsibly and ensure that their patients receive the quality medical care prescribed for them by their physicians.

Let's be clear about another issue. As chairman of the Small Business Committee, I am well aware of the substantial challenges small businesses face in providing employee benefits while holding down costs. I understand the concerns small business owners have over the Kennedy-McCain bill's potential to expose them to liability for the sole, laudable initiative of offering health insurance coverage to their employees. But that is not the intent of this legislation.

The McCain-Kennedy bill only holds accountable those employers who directly participate in the medical decisions governing an employee's care if harm or injury occurs. The logic here is simple. In the case of HMOs, it is only fair that they be held to the same accountability standards. For employers who do not directly participate in these medical decision there should be no liability.

I understand that many businesses remain weary of the safeguards against employer liability that are included in the Kennedy-McCain legislation. Negotiations are underway to strike a compromise and strengthen these safeguards so that we may arrive at a Patient Bill of Rights that we all can support. I join all of my colleagues in hoping that those negotiations bear fruit.

Another attack on this Patients Bill of Rights legislation that we have heard—not just in this chamber but across the television airwaves—is that this bill will cause insurance premiums to increase dramatically. Nothing could be further from the truth. According to the most recent estimate from the Congressional Budget Office, this legislation will cause premiums to increase an average of 4.2 percent a year. For the average employee, that equates to $1.19 per month in additional premiums, a small price to pay for meaningful patients rights extended in this bill.

Many of my colleagues across the aisle argue that this minor increase will cause large numbers of Americans to become uninsured when, in fact, no evidence exists to support this. Nevertheless, I am encouraged by their concern for the uninsured in our country, the 43 million Americans—the 15 percent of our population—who have no health care coverage at all. I challenge my colleagues on both sides of the aisle to continue the discourse on this critical issue and look forward to working towards extending health coverage to every American once we have passed this bipartisan Patients Bill of Rights.

The McCain-Kennedy Patients' Bill of Rights legislation has widespread support from patients groups and health care providers—the two parties that we should really be focused on in this debate. To date, over 500 health care provider and patients' rights groups have endorsed our bill.

An April 2001 Kaiser Family Foundation poll found that 85 percent of Americans supported a comprehensive Patients' Bill of Rights that includes provisions to hold HMOs accountable. Mr. President, patients and health care providers have spoken loud and clear. They want expanded rights for patients now, rights that our legislation will provide. I urge all of my colleagues to pass the McCain-Kennedy Patients Bill of Rights.

Mr. CORZINE. Mr. President, I rise to talk specifically about how important the Patients' Bill of Rights is to improving the mental health care Americans receive.

For far too long, mental health consumers have been discriminated against in the health care system—subjected to discriminatory cost-sharing, limited access to specialists, and other barriers to needed services.

This is particularly true of the mental health care that children receive. More children suffer from psychiatric illness than from Leukemia, AIDS and diabetes combined. Yet, while we recognize the human costs of these physical illnesses, we often forget the cost of untreated psychiatric illness. For young people, these costs include lost occupational opportunities because of academic failure, increased substance abuse, more physical illness, and, unfortunately, increased likelihood of physical aggression to themselves or others.

That is why I am so pleased that McCaik-Edwards-Kennedy goes a long way towards addressing the inequities in mental health care and ensuring access to needed mental health care services.

Mr. President, no one wants to see a future flood of frivolous lawsuits against managed care companies. But, recent history paints a very different picture. The President's home State of Texas enacted a patients bill of rights—which includes a provision to hold HMOs accountable—in 1997, albeit without the support of then-Governor Bush. Since that time, 17 lawsuits have been brought against managed care insurers in Texas. Let me repeat that—17 lawsuits in 4 years. That is a trickle, not a flood.

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This is why I am so pleased that McCaik-Edwards-Kennedy goes a long way towards addressing the inequities in mental health care and ensuring access to needed mental health care services.

For example, the proposal ensures access to critical prescription drugs.

We have made tremendous progress in developing medication to treat mental illnesses. Although medication is
often only one component of effective treatment for mental illnesses, access to the newest and most effective of these medications is crucial to successful treatment and recovery.

These new medications are more effective, have fewer side effects, and save money in the long run. Yet unfortunately, all too often managed care organizations prevent patients from accessing these life-saving drugs.

How? They use restrictive formularies that restrict access to preferred drugs—often the newer and more effective ones. The HMO’s are, in effect, undermining our own drug regulations and approval processes.

Fortunately, the bipartisan McCain-Edwards-Kennedy Patients’ Bill of Rights protects patients by providing exceptions from the formulary when medication is medically necessary. But it shouldn’t have to be like that for families. Doctors, not insurers, should decide what treatment a patient receives.

The McCain-Edwards-Kennedy proposal is also superior for mental health treatment plans. Breaux-Frist does not—continuing the discriminatory treatment of mental health treatments.

The McCain-Edwards-Kennedy proposal is also superior for mental health care because it ensures access to specialists. The bill allows standing referrals—so that primary care providers do not have to continue authorizing visits. It also requires plans to allow patient access to non-participating providers if the plan’s network is insufficient. So that patients can see the provider who can best meet their needs.

In the end, this can result in more costly treatment. And for some illnesses, the longer the duration or the greater the number of significant episodes, the harder to treat and more intractable the disease becomes.

Finally, the McCain-Edwards-Kennedy proposal, unlike Breaux-Frist, provides the right to a speedy and genuinely independent external review process when care is denied.

Let me tell you the personal story of a constituent of mine to illustrate the importance of these protections. Earlier this year, a mother in Gloucester County, NJ wrote to me about the need for treatment for her daughter. Her teenage daughter had attempted suicide, and been hospitalized for 8 days. She was diagnosed with depression and borderline personality disorder, and both her physician and therapist recommended intensive outpatient therapy, called “partial care” therapy. But the managed behavioral care organization determined that this treatment was not “medically necessary.” Instead of the intensive five and a half hour, twice a week therapy program, the insurance company would authorize a one hour week of therapy. This, despite the recommendation of her physician and therapist.

Like any loving parent would, the mother fought back, calling the company one time after another. The company was told to wait—even though, to quote her letter, her daughter “was self-mutilating and her behavior was becoming dangerous to herself and possibly others.” The mother finally enlisted the help of several people at the treatment program, who also wrangled with the company, and she even wrote to my office, and I wrote to the company on their behalf. Eventually, the company relented, and her daughter is now doing well in that intensive, 11 hour a week program.

Unfortunately, a study by the National Alliance for the Mentally Ill found that less than half of surveyed managed behavioral health care companies define suicide attempt as a medical emergency.

This year, 2,500 teenagers will commit suicide in the United States. Over 10 million children and adolescents have a diagnosable psychiatric illness that results in a academic failure, social isolation and increased difficulty functioning in adulthood. Only one out of five will get any care and even less will get the appropriate level of care they need and deserve.

So unless we provide critical patient protections, including the right to a fair and independent appeals process for review of medical necessity decisions, more families like my constituent will have to wonder if an insurance company will cover critical care that a doctor has prescribed for a loved one.

In sum, the McCain-Edwards-Kennedy bill will provide people access to the mental health care they need to lead healthy, productive lives. I am pleased to support it.

Mr. HARKIN. Mr. President, for too long American families have been left in the waiting room while HMOs refuse to provide the health care services that families need and deserve. The results have often been tragic.

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Now we are on the verge of a big victory for the American people—passing a meaningful Patient’s Bill of Rights. S. 1052 represents the culmination of five long years of bi-partisan work to ensure that patients in managed care get the medical services they need, deserve, and have paid for. We have debated this issue for years. Negotiated differences of opinion to find common ground, and worked across party lines to develop the best bill possible.

S. 1052 truly represents the best of all our collective ideas and most important, meets the needs of the American people.

Let me say that again. This bill—the McCain-Edwards-Kennedy bill—meets the needs of the American people. And when you cut through the rhetoric and political posturing, that is what this debate is all about—guaranteeing the American people basic and fundamental health care rights.

One of the cornerstones of a meaningful Patients’ Bill of Access is the right to quick access to a swift internal review and a fair and independent external appeals process. Without a strong review system in place—where real medical experts make the decisions and not the HMO actuaries—all the other protections would be compromised.

Our amendment would strengthen the review system to ensure the integrity of the appeals process and protect patients by requiring that the appropriate health care professional makes the medical decision. It ensures that health care professionals who can best assess the medical necessity, appropriateness, and standard of care, make determinations regarding coverage of a denied service.

As currently drafted, S. 1052 only requires that physicians participate in the review process. While the bill does not prohibit non-physician providers from participating at a physician’s discretion, it does not guarantee their involvement in relevant medical reviews.

I think we all agree that the intent of the appeals process is to put medical decisions in the hands of the best and most appropriate health care providers. In many cases, this will undoubtably be a physician. However, when the treatment denied is prescribed by a non-physician provider, it is critical that the case be reviewed by a provider with similar training and expertise.

For example, when a 59-year-old man fell in his home, he experienced increased swelling, decreased balance, decreased range of motion, decreased strength and increased pain in his right ankle and knee. A physical therapy treatment plan would have included specific exercises to increase strength, range of motion, and balance—enabling the patient to better perform activities of daily living and to prevent further deterioration of his health.

A reviewer who was not a licensed physical therapist, and did not have
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the expertise, background, or experience as a physical therapist, denied physical therapy coverage.

Without physical therapy intervention, the patient was severely limited in activity and spent significant time in bed. The time in bed resulted in further deterioration of the original problems and the development of wounds from the prolonged static position in bed.

A physical therapist reviewer would have recognized the importance of patient mobility while in bed to prevent bedsores and interventions to improve the patient's function with his right ankle and knee to enable him to independently walk.

Utilizing health care professionals with appropriate expertise and experience in the delivery of a service that has kept the patient in bed, a health plan guarantees beneficiaries the best possible review of their appeal.

My amendment is supported by a wide range of health care professionals, including:

- The American Association of Nurse Anesthetists,
- The American Chiropractic Association,
- The American College of Nurse Midwives,
- The American College of Nurse Practitioners,
- The American Occupational Therapy Association,
- The American Optometric Association,
- The American Pharmaceutical Association,
- The American Physical Therapy Association,
- The American Podiatric Medical Association,
- The American Society for Clinical Laboratory Science,
- The American Speech-Language-Hearing Association,
- The National Association of Orthopaedic Nurses,
- The National Association of Pediatric Nurse Practitioners,
- The National Association of Social Workers,
- And the Center for Patient Advocacy.

I do not believe that non-physician providers were deliberately excluded from the review process. In fact, just the opposite is true—I believe it was the intent of the bill's authors to develop the best possible review process. However, unless my amendment is adopted, I worry that we will fall short of our shared goal of giving patients access to the best and most appropriate health care services in every instance.

Mr. MCCONNELL, Mr. President, I rise today to discuss the patient protection legislation currently before the Senate. Over the past decade, as private health coverage has shifted from traditional insurance towards managed care, many consumers have expressed the fear they might be denied the health care they need by a health plan that focuses more on cost than on quality.

In response to these concerns, the Senate has considered several bills to provide sensible patient protections to Americans in managed care plans. During the last Congress, the Senate took at least 19 rollcall votes and passed two pieces of comprehensive patient protection legislation. Like many of my colleagues, I believe these items are in a large extent, in fact, a great deal of bipartisan agreement.

I believe that every American ought to have access to an emergency room. No parent should ever be forced to consider bypassing the nearest hospital for a desperately ill child in favor of one that is in their health plan's provider network. If you have what any normal person would consider an emergency, you should be able to go to the nearest hospital for treatment, period.

I believe that every American ought to be able to designate a pediatrician as their child's primary care physician. This common-sense reform would allow parents to reserve them with one of their plan's pediatricians without having to get a referral from their family's primary care physician.

I believe a doctor should be free to discuss treatment alternatives with a patient and to reserve them with the best medical advice, regardless of whether or not those treatment options are covered by the health plan. Gag clauses are contractual agreements between a doctor and an HMO that restrict the doctor's ability to discuss freely with the patient information about the patient's diagnosis, medical care, and treatment options. We all agree that this practice is wrong and have voted repeatedly to prohibit it.

I believe that consumers have a right to know important information about the products they are purchasing, and health insurance is no different. Health plans ought to provide their enrollees with Writing of the plan's benefits, cost sharing requirements, and definition of medical necessity. This will ensure that informed consumers can make the health care choices that are in their best interests and hopefully prevent disputes between patients and their plans.

In addition, the following examples highlight areas of bi-partisan agreement:

- Cancer Clinical Trials—Health plans ought to cover the routine costs of participating in clinical trials for patients with cancer.
- Point of Service Options—Health plans for large employers ought to offer a point of service plan so that patient's can go to a doctor outside their plan's network, even if it means paying a little more;
- Continuity of Care—We ought to ensure that pregnant and terminally ill patients aren't forced to switch doctor's in the middle of their treatment;
- Formulary Reform—Health plans ought to include the participation of doctors and pharmacists when developing their prescription drug plans, commonly known as formularies; and
- Self-Pay for Behavioral Health Services—Individuals who want to pay for mental health services out of their own pockets ought to be allowed to do so.

There is broad support among Democrats, Republicans, the White House, and most importantly, the American people. While their may not be unanimous agreement on every detail, I believe these disagreements could be resolved in relatively short order.

This may lead one to ask one very important question, "If these ideas are so popular, why haven't they already been enacted?" The answer is very simple, lawsuits. The Kennedy-McCain bill insists on vast new powers to sue. Leaping with abandon through the yellow pages under the word "attorney" is not what most Americans would call health care reform.

I do not believe that non-physician providers were deliberately excluded from the review process. In fact, just the opposite is true—I believe it was the intent of the bill's authors to develop the best possible review process. However, unless my amendment is adopted, I worry that we will fall short of our shared goal of giving patients access to the best and most appropriate health care services in every instance. The proponents of these costly new liability provisions contend that you can't hold plans accountable without expanding the right to sue employers and insurers. I couldn't disagree more. The proper way to ensure that plans are held accountable is to provide strong, independent external appeals procedures to ensure that patients receive the care they need. Far too many Americans are concerned that their health plan cannot deny them care. I believe that if a health plan denies a patient's claim, they have a right to an appeal.

As driving 1.26 million Americans out of the health insurance market wasn't reason enough to oppose the Kennedy-McCain bill, I am also strongly opposed to expanding liability because it exacerbates the problems in our already flawed medical malpractice system.
system. I might not be so passionate in my opposition to new medical malpractice lawsuits, if lawsuits were an efficient way for courts to identify patients who were truly harmed by negligent actions. Unfortunately, the data shows just the opposite. In 1996, researchers at the Harvard School of Public Health performed a study of 51 malpractice cases, which was published in the New England Journal of Medicine. In approximately half of those cases, the patient had not even been harmed, yet in many instances the doctor settled the matter out of court, presumably just to rid themselves of the nuisance and avoid lawyer’s fees and litigation costs. In the report’s conclusion, the researchers found that “there was no association between the occurrence of an adverse event due to negligence and the amount of ap- type and payment.” In everyday terms, this means that the patient’s injury had no relation to the amount of payment recieved or even whether or not payment was awarded.

The lawsuit拖 on for an average of 64 months—that is more than 5 years. Even if at the end of this 64 months, only 43 cents of every dollar spent on medical liability actually reaches the victims of malpractice, source: RAND Corporation, 1993. Most of the rest of the judgement goes to the lawyers. That is right, over half of the injured person’s damages are grabbed by the lawyers. Why would anyone want to expand this flawed system, which is so heavily skewed in favor of the personal injury lawyers?

Prior to the first extensive debate on this legislation in the Senate in 1999, The Washington Post said that “the threat of litigation is the wrong way to enforce a credible and mainly medical ap- pellate system short of the courts for adjudicating the denial of care”, source: The Washington Post 3/ 16/99, and that the Senate should enact an external appeals process “before subjecting an even greater share of medical practice to the vagaries of liti- gation…”, source: The Washington Post 7/13/99. More recently, the Post said that: “Our instinct has been, and re- mains, that increasing access to the courts should be a last resort that Con- gress should first try in this bill to create a credible and mainly medical ap- pellate system short of the courts for adjudicating the denial of care”, The Washington Post, 5/20/01. The Post is not alone in this view. My hometown paper, the Louisville Courier-Journal agreed when it stated that “there is good reason to be wary of giving pa- tients a broad right to sue.”

Over the past two weeks, the Senate has had numerous opportunities to im- prove this legislation. Unfortunately, the vote was far too close among them. In particular, we missed an op- portunity to improve Kennedy-McCain bill when the Senate rejected Mr. Frist’s Amendment, which would have established a more responsible mecha- nism for holding HMO’s accountable in court and ensuring that patient’s re- ceive immediate needed care. As I noted earlier, I support a major- ity of the patient protections included in this bill. That is why I take no joy in voting against this legislation. How- ever, my concern for the 21,000 Ken- tuckians who will lose insurance be- cause of the vast expansion of liability included in this bill prevents me from being able to support it. My colleague from Kentucky, Dr. ERNIE FLETCHER, has developed a compromise proposal in the House of Representatives which represents an improvement over the bill the Senate just passed. Therefore, I am hopeful that the House of Repre- sentatives will improve this product and that the Conference Committee will ratify Senate legislation that I can support, and that the President can sign into law.

Mr. HATCH. Mr. President, this is an important bill.

I want to see a Patients’ Bill of Rights signed into law, but I am afraid some of my colleagues here, on the other side of the aisle, have rejected any efforts to move the reasonable Frist-Breaux-Jeffords bipartisan, or I should say tri-partisan bill. They have put lawyers and litigation ahead of pa- tients and medical care. I would like to say a few words on the liability provisions of this legislation.

We all recognize that the liability provisions of this legislation are crit- ical. These elements are key to pro- viding patients with quality health care instead of extended court time. When I refer to the liability provi- sions, of course I am talking about a family of issues, including: exhaustion of appeals, liability caps on damages, and class action lawsuits. Each of these is important, and indeed critical to patient care and health care delivery, and needs to be addressed and corrected before the President can sign a bill.

With regard to the provision on ex- haustion of appeals, I believe the Thompson amendment, which we just approved is certainly a big improve- ment over the McCain-Kennedy lan- guage. The amendment will make cer- tain that any legal proceedings com- mence prior to patients exhausting all of the internal and external review mechanisms. This is purely a common sense amendment, which properly maintains emphasis on speedy resolu- tion of patient problems without lengthy and costly court proceedings. I want to emphasize that nothing in the amendment prohibits patients from having their day in court. Nor does this amendment prevent them from receiv- ing immediate, needed care. It just re- quires them to go through the internal and external review process before going to court for damages. The amendment still allows for those pa-
when I say this could result in employees losing health coverage. Employers will not want to chose between offering health insurance to their employees and opening themselves up to liability and huge court costs.

I find it ironic that my colleagues on the other side of the aisle, who always claim they are trying to find ways to lower the uninsured population, are actually pressing for legislation that will dramatically increase the uninsured population.

And if you don’t believe me, talk to any expert who is not a trial lawyer because the message is loud and clear that unless the bill is improved, health coverage will be severely jeopardized, and employees will lose their insurance. Is this the result that we want, especially in legislation that claims to be a Patients’ Bill of Rights? I think not.

As far as damage caps are concerned, the Frist-Breaux-Jeffords legislation is a step in the right direction. The McCain-Kennedy language is not.

The problem with the current McCain-Kennedy legislation is that it allows patients to go both to federal and state court to collect damages. For federal causes of action, economic and non-economic damages are unlimited. And even though the bill’s proponents claim there are no punitive damages provisions, as a former medical malpractice attorney, I know punitive damages when I see them.

Supporters of the McCain-Kennedy approach claim their bill doesn’t allow punitive damages in federal court. That is absolutely not true. Under their bill, a defendant in federal court can be hit with up to $5 million in “civil assessment” damages. Let’s call it what it is. The purpose of the civil assessment is to punish providers, plain and simple. The bill includes no limits on state law damages. It is very apparent to everyone in this chamber that the trial lawyers have been principally involved in drafting these liability provisions and they have done so with their own interests in mind. This provision is simply not in the best interest of the American people.

The McCain-Kennedy language allowing for unlimited damages is unworkable. Economic and non-economic damages are uncapped. In my opinion, non-economic damages should be capped.

Another issue that is extremely important is class action. The McCain-Kennedy language had no restrictions on class actions in its newly permitted state causes of action nor for its newly created federal causes of action for damages. Fortunately, the DeWine language attempts to restrict the litigation nightmare that would have resulted from the McCain-Kennedy language.

Finding common ground on these issues—exhaustion of appeals, employer liability, caps on damages and class action is crucial to the success of the Patients’ Bill of Rights legislation. It is incumbent upon us to do this right and do what is in the best interest of patients, not trial attorneys. I am confident that if we are all willing, we can make these provisions legally sound. We have spent far too many years on this issue not to do it right. We have an incredible opportunity to make meaningful patients’ rights legislation. Let’s not squander this opportunity by acting expeditiously.

Mr. CORZINE. Mr. President, I rise to speak about an issue that has been touched upon by many people during this debate on the Patients’ Bill of Rights, the problem of the uninsured.

Let me first say that I am very pleased that today we are passing a strong, enforceable Patients’ Bill of Rights.

I commend the bill’s authors, Senators McCAIN, EDWARDS and KENNEDY, for the tremendous job they have done in crafting a bipartisan bill that will provide strong patient protections and curb insurance company abuses.

This legislation is an example of how, working together, we can improve the health care Americans receive. But it is just the first of many steps we should be taking to ensure that all Americans receive quality health care.

During the debate on the Patients’ Bill of Rights I have heard many Senators argue that this legislation will lead to more uninsured Americans. Indeed, some of my colleagues have faulted supporters of the bill for not doing anything to help the uninsured.

As someone who have been talking about this issue for several years, I am thrilled to hear that my colleagues are concerned about the problem of the uninsured.

It is a national disgrace that 42 million Americans do not have health insurance.

Who are the uninsured? They are 17.5 percent of our nonelderly population. A shameful 25 percent are children. The majority—83 percent—are in working families.

The consequences of our Nation’s significant uninsured population are devastating. The uninsured are significantly more likely to delay or forego needed care. The uninsured are less likely to receive preventive care. Delaying or not receiving treatment can lead to more serious illness and avoidable health problems. This in turn results in unnecessary and costly hospitalizations. Indeed, my own state of New Jersey struggles to deal with the costs of charity care provided to the uninsured.

In 1999, for the first time in a decade we saw a slight decrease in the uninsured. But we still have so far to go. I believe that health care is a fundamental right, and neither the Government nor the private sector is doing enough to secure that right for everyone.

We ignore the issue of the uninsured at our peril and at a great cost to the quality of life—and to the very life—of our fellow Americans.

That is why I am developing legislation that will provide universal access to health care for all Americans.

My legislation will have several main components:

Large employers would be required to provide health coverage for all their workers. The private sector must do its part—a minimum wage in America should include with it minimum benefits, among them health insurance. But unfortunately, the current system puts the responsible employer who provides health insurance at a disadvantage relative to the employers who do not.

Small businesses, the self-employed and unemployed would be able to buy in the Federal Employee Health Benefit Program. If it is good enough for Senators, it is good enough for America.

Those who are between the ages of 55 and 64 would be able to buy-in to Medicare.

And we would provide help to small businesses and to low-income workers.

But although I am passionate about universal access to health care, I realize we can’t get there yet. Not because the popular will is not there, but because the political will isn’t.

So I support incremental changes, starting with the most vulnerable populations, and building on Medicaid and CHIP, success public programs.

I am working on a proposal that would expand Medicaid to cover all persons up to 200 percent of the Federal poverty level—an efficient way to reach nearly two-thirds of the uninsured.

I am also a strong supporter of the Family Care proposal, which would cover the parents of children already enrolled in the CHIP program. My own state of New Jersey is in fact leading the way on the issue of enrolling parents with their kids.

Finally, I was pleased to be an original cosponsor of Senator BINGAMAN’s bipartisan legislation, the Start Healthy, Stay Healthy Act, which would expand coverage for children and pregnant women. It is based on the common sense principal that children deserve to start healthy and stay healthy.

I often say that we are not a nation of equal outcomes, but we should be a nation of equal beginnings.

Until we give all Americans access to health care, however, we cannot live up to that promise.

But although we cannot get to universal access this year, I believe we can and should be doing all that we can to make incremental progress.

In conclusion, I am heartened that in this debate on the Patient’s Bill of Rights so many of my colleagues have expressed concern about the problem of
the uninsured. Indeed, I am hopeful that we have turned a corner on this critical issue.

As we move forward, I welcome the opportunity to work with any of my colleagues, on either side of the aisle, to find ways to significantly address the problem of the uninsured. There can be no greater purpose to our work in this Senate.

Mr. LIEBERMAN. Mr. President, I rise to speak about the McCain-Edwards-Kennedy Patients’ Bill of Rights. It has been 4 years since the first managed care reform bill was introduced in Congress. After years of unfailing and unproductive debate, we came together this week to find common ground for the common good, and pass a bill that will significantly improve the quality of medical treatments for nearly 90 million American families. We have worked very hard to get to this day, and with the unflagging commitment of my colleagues on both sides, we have produced a bill that I am very proud to support.

This bill does more than just provide new assurances to patients. It will provide a whole new framework for the delivery of health care in this country, helping to transform our managed care system from one in which health plans are immune for the life and death decisions they make every day to a more fair and accountable system for America’s families.

The purpose of this legislation has broad—and I emphasize broad—bipartisan support. According to a CBS news poll from 6/20/01, 90 percent of Americans support a Patients’ Bill of Rights.

Two years ago, 68 Republicans in the House of Representatives voted for the Norwood-Dingell Patients’ Bill of Rights that allowed patients to sue HMOs if they are denied a medical benefit that they need. The Ganske-Dingell bill in the House of Representatives currently has strong support from both Democrats and Republicans. I urge my colleagues in the House to take up the Ganske-Dingell Patients’ Bill of Rights and pass it without delay so that we can send a bill to the president for signature.

We need to enact a patients’ bill of rights now. Every day that goes by, nearly 90 million American people with private insurance have benefits delayed or denied by their health plans. These critical decisions made by health plans impact thousands of families at times of great stress and worry. Our most fundamental well-being depends on our health. Anyone who has had a sick family member can tell you of the anxiety they experience during a medical emergency or prolonged illness. It is our obligation and within our ability to make it easier for these families. This bill will do just that.

Opponents of this legislation express concern that if this bill is signed into law, we will see a flood of lawsuits. I would like to point out that in the 4 years since Texas enacted legislation allowing patients to hold their health insurers accountable, there have been very few lawsuits filed. Four million people in Texas are covered by that State’s patient protection law. Only 17 lawsuits have been filed.

The appeals process in this bill is fair and binding. With a strong and swift appeals process, patients should be able to receive the care they need, when they need it. The need for recourse in court should be minimal.

It was never the intent of this legislation to encourage more lawsuits. The sole purpose for this bill is to deliver health care to the people who need it. I remain hopeful that as it is the case in Texas, there will be very few lawsuits once this bill becomes law.

Rather, the Senate’s Bill of Rights, patients will get the care they need and deserve with less delay and less dispute. No longer will a cancer patient have to worry about access to clinical trials for new treatments. No longer will a family with a sick child have to worry about access to a pediatric specialist. No longer will a pregnant woman have to worry about switching doctors mid-pregnancy if her doctor is dropped from a plan.

Doctors will be able to prescribe the care they feel is necessary without feeling pressured to make cost-efficient decisions. And managed care companies will be held responsible when their denials of care threaten the lives of patients.

In sum, under this legislation, our health care system will better reflect and respect our values, putting patients first and the power to make medical decisions back in the hands of doctors and other health care professionals.

We can all be proud of this outcome and the path we followed to get here. The Senate worked through a lot of complicated issues and problems, reconciling legitimate policy differences, and reached principled compromise where we could. The result is real reform, and a bill of rights that is right for America.

Mr. LEVIN. Mr. President, I support the strong, enforceable Patients’ Bill of Rights which the Senate is finally going to vote on today. After years of consideration, and a hard legislative battle over the last few weeks, the bipartisan vote which this bill is about to receive on final passage reflects the overwhelming support the bill has from the American people.

The Patients’ Bill of Rights assures that medical decisions will be made by doctors, nurses and hospitals, not by someone in an insurance office somewhere with no personal knowledge of the patient and no professional background to make medical judgments. It guarantees access to needed health care specialists. It requires continuity of care protections so that patients will not have to change doctors in the middle of their treatment. And, the bill provides access to a fair, unbiased and timely internal and independent external appeals process to address denials of needed health care. This legislation will hold HMOs accountable for their decisions like everyone else in the United States. The Patients’ Bill of Rights also assures that doctors and patients can openly discuss treatment options and includes an enforcement mechanism that ensures these rights are real.

We have taken a big step forward today on comprehensive managed care reform for 190 million Americans. I am hopeful that the House of Representatives will again pass a real Patients’ Bill of Rights and that the President will sign it.

Mr. McCAIN. Mr. President, I thank all my colleagues, both supporters and opponents of our legislation, for their patience, their courtesy, and their commitment to a fair and fair debate on the many difficult issues involved in restoring to doctors and HMO patients the right to make the critical decisions that will determine the length and quality of their lives.

I think we are all agreed on this one premise, that the care provided by HMOs has been inadequate in far too many instances. This failure is attributable to the fact that virtually all the authority to make life and death decisions has been transferred from the people most capable of making medical decisions to those people most capable of making business decisions. I do not begrudge a corporation maximizing its profits, exercising due diligence regarding its fiduciary responsibility to its shareholders. The bottom line is their primary responsibility, and I respect that. But that is why, we should not grant them another, competing responsibility, especially when that secondary responsibility is the life and health of our constituents. I know that even the opponents of our legislation are agreed on returning more authority to doctors and their patients, and addressing many of the most distressing failures of managed health care reconsider his stated intention to veto the legislation.
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Mr. DASCHLE. Mr. President, it has been more than 5 years since we began this effort to make sure that Americans who have health insurance get the medical care they have paid for. It has been more than three years since the first bipartisan Patients’ Bill of Rights was introduced in the House . . . and nearly 2 years since the last time we debated a real Patients’ Bill of Rights in the Senate.

Today—at long last—the Senate is doing what the American people want us to do. Today—at long last—we are standing up for America’s families.

Today—at long last—we are telling HMOs they are going to have to keep their promises and provide their policyholders with the health care they’ve paid for.

The bill we are about to vote on provides comprehensive protections to all Americans in all health plans. It is a good bill—and a remarkable example of what we can achieve in this Senate when we search together in good faith for a principled, workable compromise.

Over the past 10 days, we have stood together—Republicans and Democrats—and rejected amendments that would have made this bill unworkable. And we have accepted amendments that made it better.

Thanks to the hard work of Senators SNOWE, DEWINE, LINCOLN and NELSON, we provided additional protections for employers who offer health insurance.

With help from Senators BREAUX and JEFFORDS, we agreed that states can continue to use their own standards for patient protection.

With Senator BAYH and Senator CARPER’s help, we strengthened the external review process to ensure the sanctity of health plan contracts.

At the same time, we turned back an array of amendments designed to weaken the protections in this bill.

We live in an amazing time. Some of the most remarkable advances in health care in all of human history are occurring right now. Polio and other once-feared childhood diseases have been all but wiped out in our lifetimes because of increased immunization rates. We are seeing organ transplants, bio-engineered drugs, and promising new therapies for repairing human genes.

But medical advances are useless if your health plan arbitrarily refuses to pay for them—or even to let your doctor tell you about them.

This bill guarantees that people who have health insurance can get the care their doctors say they need and deserve.

It ensures that doctors, not insurance companies, make medical decisions.

It guarantees patients the right to hear of all their treatment options, not just the cheapest ones.

It says you have the right to go to the closest emergency room, and the right to see a specialist.

It guarantees that parents can choose a pediatrician as their child’s primary care provider.

It allows families and individuals to challenge an HMO’s treatment decisions if they disagree with them.

And, it gives families a way to hold HMOs accountable for their decisions because serious injury or death—because rights without remedies are no rights at all.

This bill achieves every goal we set for it over the past 5 years, and we owe that to the stewardship and commitment of Senators MCCAIN, EDWARDS, and KENNEDY.

During these last 10 days, they have shown a seemingly limitless ability to find the workable middle ground without sacrificing people’s basic rights. They have put the Nation’s interests ahead of their own partisan interests. I thank them for their service to this Senate, and to our Nation.

I also want to thank Senators NICKLES and GREGG for being honest with us about their disagreements with this bill, and fair in the way they handled those disagreements.

This is the way the Senate should work. A Senate that brings up important bills and allows meaningful debate on them is a tribute to us all.

One final reason I found this debate so encouraging is the great concern we heard expressed by many opponents of this bill for the growing number of Americans who have no health insurance. We agree that this is a serious problem, and look forward to working with those Senators to address it as soon as possible.

I am proud to pass a Patients’ Bill of Rights now returns to the House.

Last year, 68 House Republicans joined Democrats to pass a strong patient protection bill very much like
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Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of H. R. 1668, which is now at the desk; that the bill be read three times; and the motion to reconsider be laid upon the table with no intervening action.

Mr. NICKLES. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NICKLES. Reserving the right to object, I will object on behalf of other Members. This bill has not yet been referred to committee. I personally have no objection to the bill, and I expect I will be supportive of it, but it should be referred to the committee so interested Members who have an interest in this particular issue can vet it, maybe improve it, maybe we can pass it. I hope we can pass it as expeditiously as possible.

At this time I object.

Mr. REID. I say to my friend, the distinguished Republican whip, I regret this, especially in that I have just completed reading John Adams, the new book out. It is a wonderful book. I recommend it to my friend.

I regret there is an objection to clearing this legislation. This bill, as my friend indicated, authorizes the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his legacy.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. NICKLES. Mr. President, I share my colleague’s enthusiasm, both for President Adams and also for David McCullough’s book. He is a great historian. I have not finished it. I started it. I look forward to completing it and learning a little bit more about the history of one of America’s great Presidents, one of our real founding patriots.

Again, this is going to be referred to the Energy Committee where I and others, I think, will try to be very supportive in a very quick and timely fashion so the entire Senate can, hopefully, vote on this resolution.

SHINE SOME LIGHT ON THE BLUE SLIP PROCESS

Mrs. FEINSTEIN. Madam President, we are all waiting for the majority leader to come to the floor and deliver the reorganization message. As part of that, I believe he is going to announce that Senator LEAHY, the chairman of the Judiciary Committee, is going to make public the blue slip process.

As a member of that committee, I would like to take a few moments and make a few comments about my experience with the blue slip—in essence, what I think about it.

For those who do not know what the blue slip is, it is a process by which a Member can essentially blackball a judge from his or her State when that Member has some reason to do so.

Why would I object so much? I object so much because there is a history of this kind of thing. Historically, many private clubs and organizations have enabled their board of directors to deliver what is called a blackball to keep out someone they don’t want in their club or organization. We all know it has happened. For some of us, it has even happened to us.

The usual practice was, and still is in instances, to prevent someone of a different race or religion from gaining access to that organization or club. This is essentially what the blue slip process is all about.

The U.S. Senate is not a private institution. We are a public democracy. I have come to believe the blue slip should hold no place in this body. At the very least, the use of a blue slip to stop a nominee, to prevent a hearing and therefore prevent a confirmation, should be made public. I am pleased to support my chairman, PAT LEAHY, and the Judiciary Committee in that regard.

Under our current procedure, though, any Member of this Senate, by returning a negative blue slip on a home State nominee, or simply by not returning the blue slip at all, can stop a nomination dead in its tracks. No reason need be given, no public statement need be made, no one would even know whom to blame. With a secret whisper or a backroom deal, the nomination...
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simply dies without even a hearing. This is just plain wrong.

I have watched the painful process over the last 9 years. During 6 of those years, the blue slip itself contained the words, "no further proceedings on this nominee will be scheduled until both blue slips have been returned by the nominee to the home State Senators." As a result, I saw nominees waiting 1, 2, 3, even 4 years, often without as much as a hearing or even an explanation as to why the action was taken. These nominees put their lives on hold. Yet they never have a chance to discuss the concerns that may have been raised about them. These concerns remain secret and the nomination goes nowhere.

As a member of the Judiciary Committee, I believe our duty is either to confirm or reject a nominee based on an informed judgment that he or she is either fit or not fit to serve; to listen to concerns and responses, to examine the evidence presented at a hearing, and to make a rationale for determining whether or not that individual nominee should serve as a district court judge or circuit court judge or even a U.S. Supreme Court Justice. That duty, in my view, leaves no room for a secret process.

I believe that the blue slip process as it now stands undermines the quality and consistency of our nominations process. In the April 1, 2001 edition of the Washington Post, MacKenzie wrote:

"The blue slip process as it now stands is open to abuse. Before I conclude, I want to read from a recent opinion piece by G. Cal Mackenzie, a professor at Colby College and an expert on the appointment process. In the April 1, 2001 edition of the Washington Post, MacKenzie wrote:

"The nomination system is a national disgrace. It encourages bullies and emboldens demagogues, silences the voices of responsibility, and undermines the highest forms of partisan combat. It uses innocent citizens as pawns in politicians' petty games and stains the reputations of good people. It routinely violates fundamental democratic principles, undermines the quality and consistency of public management, and breaches simple decency.""

An individual graduate college with honors, finishes law school at the top of the class; he or she may even clerk for a prestigious judge or join a large law firm, or maybe practice public interest law or even serve as staff of the Judiciary Committee. In fact, a nominee can spend years of his or her life honing skills and developing a reputation among peers, a reputation that is shared with the Judiciary Committee. In fact, a nominee will be scheduled until both blue slips have been returned by the nominee to the home State Senators—without hearing or down vote will ever be held. But at least the nominee will have the chance to see who has the problem, and what that problem is. In many cases, a nominee may choose to withdraw. In others, perhaps a misunderstanding can be cleared up. Either way, the process will be in the open, and we will know the reasons.

I believe that many members of this Senate did not even realize they held the power of the blue slip until just recently. In my view, the rationale behind the blue slip process is faulty. The process was designed to allow home state Senators—who may in some instances know the nominee better than the rest of the Senate—to have a larger say in whether the nominee moves forward. More often than not, however, this power is and will be used to stop nominees for political or other reasons having nothing to do with qualifications. As a matter of fact, the Member who uses the blue slip, who doesn't send it in, or sends it in negatively, may never have even met the nominee.

If legitimate reasons to defeat a nominee do exist, those reasons can be shared with the Judiciary Committee in confidence, and decisions can be made based on that information—by the entire Committee. The blue slip process as it now stands is open to abuse. I would join with those—I am hopeful there are now those—on the Judiciary Committee who would move to abolish the blue slip.
the MIS immediately come to mind. Less known but equally deserving of recognition are the sacrifices of the civilian misis on the homeland, who continued to support the war effort while enduring the prejudice of fellow citizens as well as the wholesale violation of their civil rights by the U.S. Government.

This new memorial honors the valor and sacrifice of the hundreds of brave men who fought and died for their country, and it also speaks to the faith and perseverance of 120,000 Japanese Americans and nationals, who solely on the basis of race, regardless of citizenship or loyalty, without proof or justification, were denied their civil rights in what history will record as one of our Nation’s most shameful acts. This memorial commemorates the responsibility to defend the civil rights confronted by Japanese Americans. The crane sculpture by Nina Akamu, a Hawaii-born artist, speaks to the prejudice and injustice confronted by Japanese Americans, and in a larger context speaks to the resiliency of the human spirit of adversity. The bell created by Paul Matisse encourages reflection, its toll marking the struggle and sacrifice of Japanese Americans in our Nation’s history and reminding us of our shared responsibility to defend the civil rights and liberties of all Americans.

I would also like to congratulate our friend and colleague, the senior Senator from Hawaii [Mr. INOUYE] and my friend, Secretary of Transportation Norm Mineta, a former Member of Congress, for their leadership in gaining Congressional authorization for the memorial and their support for the work of the National Japanese American Memorial Foundation.

For many of this Memorial to Patriotism by the National Japanese American Memorial Foundation in the Nation’s capital is a timely and necessary endeavor, for it reminds us and future generations of Americans that courage, honor, and loyalty transcend race, culture, and ethnicity.

JUSTICE FOR U.S. PRISONERS OF WAR

Mr. HATCH. Mr. President, as we move into recess for our annual Independence Day celebration, I wish to offer my deepest gratitude for all veterans of this country who took the call for arms in silent and noble duty and sacrificed more than we can ever repay. From the Revolutionary War to the Persian Gulf War, American men and women have always answered the call to secure and preserve independence and freedom both here and abroad. We are forever in their debt.

I also want to take this occasion to recognize and honor a special group of brave, indeed extraordinary, soldiers who served this country so gallantly in WWII. I want to pay special tribute to those who served in the Pacific, were taken prisoner, and then enslaved, and then forced into labor without pay, under horrific conditions by Japanese companies.

While I in no way wish to suggest that other American troops did not suffer equally horrific hardships or served with any less courage, the situation faced by this particular group of veterans was unique. As recognized in a unanimous joint resolution last year, all members of Congress stated their strong support for these brave Americans. As with many of our colleagues here today, I am committed to supporting these veterans in every way possible in their fight for justice.

This weekend the Prime Minister of Japan will be meeting with the President of the United States. I cannot praise this President enough for his thoughtfulness in hosting this event for the leader of Japan.

On this Independence Day, as we honor and appreciate America’s freedom, we cannot help but think of those who served our country. Freedom, indeed, is not free. The price is immeasurable. I hope the Prime Minister will understand, as I know he does, the value we place upon our veterans—the very people who fought and paid the price.

Our country appreciates the decades of friendship the United States and Japan have shared. Often, we probably do not recognize as we should the value of our bilateral relationship with Japan. On many occasions, we get bogged down in trade disputes. But ultimately we have found ways to resolve past trade differences, and I am confident we can address all current and future trade issues.

It is with this sincere hope and appreciation that I raise the memory of injustices perpetrated by private companies in Japan against American servicemen, and I hope that we can find a resolution to this problem. There is no more appropriate time to open the door to this long overdue dialogue between the United States and Japan. This is a moral issue that will not go away. We can work with Japan to close this sad chapter in history. In so doing, we will fortify and continue our bilateral relationship with Japan.

In closing, I urge all Americans, during this next week as we celebrate our freedom and our great history, to thank our soldiers who gave their lives and their freedom to fight for our nation. I thank them and express my support that they will be helped and protected. I will fight for them as they fought for me, my children, and all other Americans.

RETIREMENT OF VICE ADMIRAL JAMES F. AMERAULT

Mr. LOTT. Mr. President, it is with great pleasure that I rise to take this opportunity to recognize the exemplary service and career of an outstanding naval officer, Vice Admiral James F. Amerault, upon his retirement from the United States Navy at the conclusion of more than 36 years of honorable and distinguished service. It is my privilege to commend him for outstanding service to the Navy and our great nation.

Vice Admiral Amerault embarked on his naval career thirty-six years ago, on the 28th of June 1965. In the years since that day, he has devoted great energy and talent to the Navy and protecting our national security interests. It would be hard to calculate the innumerable hours this man has stood watch to keep our nation safe. He has been steadfast in his commitment to the ideals and values that our country embodies and holds dear.

Following his commissioning at the United States Naval Academy, he embarked on the first of many ships that would benefit from his leadership and expertise. Vice Admiral Amerault served at-sea as Gunnery Officer and First Lieutenant on board USS Massey (DD 778). He then served as Officer in Charge, Patrol Craft Fast 52 in Vietnam, a challenging and dangerous assignment that kept him in harm’s way. His courage and commitment to our nation was more than evident during these tumultuous years as he conducted more than 90 combat patrols in hostile waters off the coast of South Vietnam. One example of his valor and heroism is quoted from Commander Coastal Division Fourteen on 21 December 1967. “On the night of 4 August 1967 the patrol craft in the area adjacent to the one you were patrolling came under enemy fire. Disregarding your own safety, you directed your patrol craft to within 300 yards of the beach and bombarded the enemy position with intense .50 caliber and 81mm mortar fire. During this exchange your
patrol craft was narrowly missed by a barrage of recoilless rifle fire.” Again, his valor and heroism was established early in his career. He was awarded the Bronze Star Medal with Combat V and the Navy Combat Action Ribbon for his service.

Vice Admiral Amerault’s follow-on sea tours demonstrated the tactical brilliance that would become his trademark. His next tour was on board USS Taylor (DD 468) as Engineer Officer. During this tour he earned a coveted Shellback certificate for crossing the equator. He then reported as Chief Engineer on board USS Benner (DD 801) where he earned his first of three Navy Commendation Medals.

Several sea tours followed in steady progression. He was Executive Officer in USS Dupont (DD 941). He also was Executive Officer USS Carney (FFG 47) and Commanding Officer of USS Samuel Gompers (AD 37). It is difficult to convey the challenges and hardships that were faced by this officer and his family during these many and arduous sea tours.

As Vice Admiral Amerault progressed in the Navy he served as Staff Combat Information Center Officer for Commander, Cruiser Destroyer Group TWO; and Commander Destroyer Squadron SIX, Amphibious Group FOUR, and the Western Hemisphere Group. Again, these were all difficult tours of tremendous responsibility that required an incredible commitment to duty and country.

Vice Admiral Amerault’s shore assignments have included Director, Navy Program Resource Appraisal Division and Executive Assistant to the Director, Surface Warfare Division on the staff of the Chief of Naval Operations.

His flag assignments have included Director, Operations Division, Office of Budget and Reports, Navy Comptroller; Director, Office of Navy Budget; and Director, Fiscal Management Division in the office of the Chief of Naval Operations.

His final tour in the Navy served as Deputy Chief of Naval Operations (Fleet Readiness and Logistics) in the office of the Chief of Naval Operations.

As a scholar as well, VADM Amerault is a graduate of the Naval Postgraduate School and the University of Utah (MA Middle East Affairs and Arabic), and was the Navy’s 1986–87 Federal Executive Fellow at the RAND Corporation, Santa Monica, California.

As he ascended to the highest echelons of leadership in the Navy, Vice Admiral Amerault garnered many commendations that further highlight his stellar career. They include the Distinguished Service Medal; Legion of Merit (seven awards); the Bronze Star with V; the Joint Service Commendation Medal; the Navy Commendation Medal (three awards); and Vietnam, Desert Storm, and numerous other campaign medals.

Vice Admiral Amerault also has the distinction of being the Navy’s “Old Salt”—the active duty officer who has been qualified as an officer of the deck underway the longest.

Standing beside this officer throughout his superb career has been his wife Cathy, a lady to whom he owes much. She has been his key supporter, devoting her life to her husband, to her family, and to the men and women of the Navy family. She has traveled by his side for these many years. They are the epitome of the Navy family team.

From the start of his career at the Naval Academy, through Vietnam, the Gulf War, Kosovo and beyond—thirty-six years—Vice Admiral Amerault has served with such uncommon valor. He is indeed an individual of rare character and professionalism—a true Sailor’s Sailor! I am proud, Mr. President, to thank him on behalf of the United States of America for his honorable and most distinguished career in the United States Navy, and to wish him “fair winds and following seas”.

RECOGNIZING VOLUNTEER REFEREES FOR THE 2001 SIGMA NU CHARITY BOWL

Mr. LOTT. Mr. President, recently the Epsilon Xi Chapter of Sigma Nu at the University of Mississippi celebrated the eleventh anniversary of the Sigma Nu Charity Bowl. Founded in 1989, the Sigma Nu Charity Bowl has helped many unfortunate men and women, who from accidents or injuries have been permanently paralyzed. Since 1990, over $500,000 has been raised to help these individuals.

Throughout the years, the Epsilon Xi Sigma Nu Charity Bowl has become one of the largest college philanthropy events in the nation. Every year, Sigma Nu competes in a football game against another fraternity from Ole Miss or another university. It has become an annual event that the citizens of Oxford, the parents of the players, and the Ole Miss community enjoy each year. This year’s recipient was a very deserving young man named James Havard, who enjoyed watching Sigma Nu defeat Phi Delta Theta 18–13.

I would like to recognize some very special men who generously gave their time and talents in order to make the Charity Bowl a great success. Steve Bourbon, Michael Hooper, Kevin Roberts, Scott Steenson, and Michael Woodard are to be commended and honored for their efforts in serving as volunteer referees for the charity bowl football game. They graciously took time out of their busy schedules in order to make the game more enjoyable for the players and the fans, but more importantly they gave James Havard an opportunity to enjoy a better life.

These men belong to the Professional Football Referees Association, Charities, PFRA. The PFRA is also very involved in helping other charitable organizations such as the Make-A-Wish Foundation. This distinguished organization has been very helpful in getting aid to individuals like James, and they have given many people a chance to have a better life.

These men and the PFRA are to be commended for a job well done, and for their continued efforts in improving the lives of others.

THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

Mr. LEAHY. Mr. President, one of the most significant accomplishments of the 106th Congress was the Electronic Signatures in Global and National Commerce Act, commonly known as “ESIGN.” This landmark legislation establishes a Federal framework for the use of electronic signatures, contracts, and records, while preserving essential safeguards protecting the Nation’s consumers. It passed both houses of Congress by an overwhelming majority, and went into effect in October 2000.

I helped to craft the Senate version of the bill, which passed unanimously in November 1999, and I was honored to serve as a conferee and help develop the conference report. I am proud of what we achieved and the bipartisan manner in which we achieved it. It was an example of legislators legislating rather than politicians posturing and unnecessarily politicizing important matters of public policy.

Much of the negotiations over ESIGN concerned the consumer protection language in section 101(c), which was designed to ensure effective consumer consent to the replacement of paper notices with electronic notices. We managed in the end to strike a constructive balance that advanced electronic commerce without terminating or managing the basic rights of consumers.

In particular, ESIGN requires use of a “technological check” in obtaining consumer consent. The critical language in section 101(c) is designed to ensure effective consumer consent to the replacement of paper notices with electronic notices. We managed in the end to strike a constructive balance that advanced electronic commerce without terminating or managing the basic rights of consumers.

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the benefits of a one-time technological check would far outweigh any possible burden on e-commerce. I also predicted that this provision would increase consumer confidence in the electronic marketplace.

One year later, the Federal Trade Commission and the Department of Commerce have issued a report on the impact of ESIGN’s consumer consent provision. In preparing the report, these agencies conducted extensive outreach to the on-line business community, technology developers, consumer groups, law enforcement, and academia. The report concludes:

"Thus far, the benefits of the consumer consent provision of ESIGN outweigh the burdens of its implementation on electronic commerce. The provision facilitates e-commerce and the use of electronic records and signatures while enhancing consumer confidence. It preserves the right of consumers to receive written information required by state and federal law. The provision also encourages deception and fraud by those who might fail to provide consumers with information the law requires that they receive.

Significantly, the consumer consent provision is benefitting businesses as well as consumers. The report states that businesses that have implemented this provision are reporting several benefits, including “protection from liability, increased revenues resulting from increased consumer confidence, and the opportunity to engage in additional dialogue with consumers about the transactions.” The technological check has not been significantly burdensome, and “[t]he technology-neutral language of the provision encourages creativity in the structure of business systems that interface with consumers, and provides an opportunity for the business and the consumer to choose the form of communication for the transaction.

The report also finds that ESIGN’s consumer safeguards are helping to prevent deception and fraud, which is critical to maintaining consumer confidence in the electronic marketplace.

ESIGN is a product of bipartisanship cooperation, and it is working well for the country. We should learn from experience as we take up new legislative challenges.

IN MEMORY OF OLIVER POWERS

Mr. NICKLES. Mr. President, I rise today to inform my colleagues of the passing of Oliver Bennett Powers, a Senior Broadcast Engineering Technician for the Senate, and native of Chickasha, Oklahoma.

Oliver passed away suddenly while vacationing with friends and family near Norfolk, Virginia on June 23, 2001. He was a respected, well-liked, and dedicated member of the Senate Recording Studio staff. He is survived by his wife of 28 years, Anita; two sons, Isaiah and Lucas; his mother, Ella Belle Powers of Chickasha, Oklahoma, and brother, Roy Powers, of Norman. Our hearts go out to them.

Oliver was born in Chickasha, Oklahoma, where he graduated from high school in 1971. He was also a graduate of the University of Science and Arts of Oklahoma, also located in Chickasha, and went on to earn a Master’s Degree in Journalism from the University of Oklahoma. Oliver began his service to the U.S. Senate in 1986, when he became director of audio and lighting for the Senate.

Oliver will be missed by all of those who knew him through his community, his church, and his work here in the Senate. Oliver embodied the best of what we’ve come to expect from Oklahomans. He was hard working, yet soft-spoken and gentle; highly professional, yet humble, and always kind and respectful to the representatives of so many staff here that work tirelessly and anonymously on behalf of the Senate.

On behalf of the United States Senate, let me say thank you to Anita, Isaiah, Lucas and the other members of the Powers family for sharing him with us these many years. He will be missed.

EXTRACTION OF SLOBODAN MILOSEVIC TO THE U.N. ICTY

Mr. LIEBERMAN. Mr. President, I rise today to commend the authorities of Serbia for, at long last, handing over Slobodan Milosevic to the International Criminal Tribunal. It is ironical, and perhaps fitting, that his arrest and transfer to the international court took place on June 28—one of the most noted dates in Serb history, when in 1389 the Serbs were defeated at the battle of Kosovo Polje, ushering in a period of Ottoman Turkish rule. It is my hope that future generations of Serbs will remember June 28, 2001 with the same sense of historic importance and as the beginning of true and long-lasting democracy and respect for the rule of law.

Mr. Milosevic has been charged by an independent, impartial, international criminal tribunal with crimes against humanity and violations of the laws or customs of war against the ethnic Albanian population of Kosovo. And according to the Prosecutor of the Tribunal, we can expect more indictments against him for earlier crimes in Croatia and Bosnia.

His extradition to the Hague is historic, if long overdue. As a former head of state, there were many who believed that he would never be made to answer for the charges against him. That this has happened is a victory for justice.

Our hearts go out to them.

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator Kennedy in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.
I would like to describe a terrible crime that occurred November 6, 1998 in Seattle, Washington. A gay man was severely beaten with rocks and broken bottles in his neighborhood by a gang of youths shouting “faggot.” The victim sustained a broken nose and swollen jaw. When he reported the incident to police two days later, the officer refused to take the report.

I believe that government’s first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

CELEBRATION OF CAPE VERDE INDEPENDENCE DAY

Mr. REED. Mr. President, I rise today to join Cape Verdeans in the July 5th celebration of Cape Verde Independence Day.

Every country is rich with its own history and unique story of how it achieved democracy, and Cape Verde is no exception. In 1462, Portuguese settlers arrived at Santiago and founded Ribeira Grande, now Cidade Velha, the first permanent European settlement city in the tropics. After almost three centuries as a colony, in 1951 Portugal changed Cape Verde’s status to an overseas province. Then in December 1974, an agreement was signed which provided for a transitional government composed of Portuguese and Cape Verdeans. In 1975, Cape Verdeans elected a National Assembly, which received the instruments of independence from Portugal.

For the first fifteen years of independence, Cape Verde was ruled by one party. Then in 1990 opposition groups came together to form the Movement for Democracy, now the Movement for Democracy, which provided for a transitional government composed of Portuguese and Cape Verdeans. In 1975, Cape Verdeans elected a National Assembly, which received the instruments of independence from Portugal.

Cape Verde now enjoys a stable democratic government. It is an example to other States as to what can be accomplished. These democratic changes have meant better global integration as the government has pursued market-oriented economic policies and welcomed foreign investors. Tourism, light manufacturing and fisheries have flourished. Cape Verde has made the difficult transition from a colony to a successful independent and democratic State.

Today, there are close to 350,000 Cape Verdean-Americans living in the United States, almost equal to the population of Cape Verde itself. These Americans hold a special right since the Cape Verde Constitution formally considers all Cape Verdeans at home and abroad as citizens and voters. Thus, July 5th is a day of independence for all Cape Verdean-Americans as well as those in Cape Verde.

As we approach the independence day of our own country and reflect on freedom and democracy, it is especially fitting that we remember and celebrate those special independence days of other peaceful democracies, such as Cape Verde. Join with me in wishing all those with direct and ancestral ties to Cape Verde a happy independence day.

HEALTH CARE FOR THE GUARD AND RESERVE

Mr. JOHNSON. Mr. President, I rise today in support of S. 1119, a bill that would require the Secretary of Defense to conduct a study of the health care coverage of the military’s Selected Reserve.

Most South Dakotans know at least one of the 4,500 current members of the South Dakota Guard and Reserve—the so-called Selected Reserve—or the thousands of former Guardsmen and Reservists. Sometimes, the connection is even more direct. Before joining the Army, my oldest son was a member of the South Dakota Army Guard in Yankton. South Dakota’s Guard and Reserve members have supported overseas operations, including those in Central America, the Middle East, Europe and Asia. Members of the South Dakota Air Guard are currently preparing for its mission later this year, where it will patrol the “No-Fly Zone” in Iraq. South Dakota’s Guard and Reserve units consistently rank in the highest percentile of readiness and quality of its recruits. But keeping and recruiting the best of the best in the South Dakota National Guard and Reserves is becoming more of a challenge as our military’s operations tempo has remained high while the number of active duty military forces has decreased. This tempo places significant pressures on the members of the reserve component, and has exposed possible health care deficiencies.

Many deploying members and their families have experienced tremendous turbulence moving back-and-forth between their civilian health insurance plans and TRICARE Prime, the military’s health care system. Some junior reservists have no health insurance at all. Some figures, for example, have shown that upward of 200,000 Selected Reservists nationwide do not possess adequate insurance. The exact nature of these disturbances and the broader shortfalls of this system are unclear because examinations have not completed.

I am pleased to join with my colleagues in introducing this legislation, which will take a step towards understanding this problem and giving Congress direction on how to solve it. I know how poor health care and broken promises can reduce morale within our military and their families. A poor “quality of life” among our reserve component and active duty personnel has a direct impact on recruitment and retention of the best and brightest in our Armed Services. I will continue to do all I can to ensure our men and women in the military, veterans, and military retirees have the health care they deserve.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, June 28, 2001, the Federal debt stood at $5,663,970,968,775.88. Five trillion, six hundred sixty-three billion, nine hundred seventy million, eighty-eight thousand, seven hundred seventy-five dollars and eighty-eight cents.

One year ago, June 28, 2000, the Federal debt stood at $5,549,147,000,000. Five trillion, six hundred forty-nine billion, one hundred forty-seven million.

Five years ago, June 28, 1996, the Federal debt stood at $5,118,683,000,000. Five trillion, one hundred eighteen billion, six hundred eighty-three million.

Ten years ago, June 28, 1991, the Federal debt stood at $3,537,988,000,000. Three trillion, five hundred thirty-seven billion, nine hundred eighty-eight million.

Twenty-five years ago, June 28, 1976, the Federal debt stood at $610,417,000,000. Six hundred ten billion, four hundred seventeen million, which reflects a debt increase of more than $5 trillion, $5,053,553,068,775.88. Five trillion, fifty-three billion, five hundred fifty-three million, sixty-eight thousand, seven hundred seventy-five dollars and eighty-eight cents during the past 25 years.

ADDITIONAL STATEMENTS

TRIBUTE TO ABE SILVERSTEIN

Mr. DeWINE. Mr. President, I rise today to recognize a man who employed his knowledge and vision to take America into Space. I am speaking of Cleveland resident, Abe Silverstein, who just passed away this month at 92 years of age, leaving a legacy of invention and innovation in the field of Space Flight.

Abe Silverstein played a part in a number of “space firsts,” and received many prestigious honors for his work. In the company of Orville Wright, William Boeing, and Charles Lindbergh, Abe won the Guggenheim Award for the advancement of flight.

Abe Silverstein designed, tested, and operated the world’s first supersonic wind tunnel. It was the largest, fastest, and most powerful in the world. The research that was conducted with the tunnel allowed the highest powered combat airplanes in World War II. This tunnel now resides in the NASA Glenn Space Research Facility in Cleveland, which Abe directed from 1961–1969.
He was also the first director of NASA Space Flight Operations and worked on the Mercury, Gemini, Apollo, and Centaur projects. The Centaur project involved the launching vehicles that propelled spacecraft to Mars, Jupiter, Saturn, Uranus, and Neptune.

Serving his country in World War II by producing new technology and helping his country achieve its goals in Space was not enough for Abe Silverstein. After retiring from NASA, Abe went on to work for Republic Steel Corporation, where he developed pollution controls to help keep our air cleaner for future generations.

Abe Silverstein always was contributing to his country, whether it be through wind-tunnel research or in serving as a Trustee at Cleveland State University. He was a man of great personal virtue and strength of character. I am grateful to have known this man today, who his NASA colleagues once described as “a man of vision and conviction, [a man who] contributed to the ultimate success of America’s unmanned and human space programs.” “A man of innovative, pioneering spirit lives on in the work we do today.”

I thank Mr. Silverstein for all his hard work and sacrifice, and I hope that my colleagues will join me in my gratitude.

TRIBUTE TO LES AND MARYLIN GORDON

Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Les and Marilyn Gordon, owners of The Candlelite Inn in Bradford, NH, on being named as Inn of the Year by the Complete Guide to Elegant & Breakfast Inns and Guesthouses in the United States, Canada and Worldwide.

Built in 1897, The Candlelite Inn has provided a relaxing atmosphere for visiting guests for over 100 years. The Gordons purchased the Inn in 1993, and have successfully continued the tradition of accommodating the needs of discriminating travelers touring the Lake Sunapee Region.

Throughout the year The Candlelite Inn hosts special weeks for their guests to enjoy including: Currier & Ives Maple Sugar Weekend in March, Old Glory Heritage Tours in July, August and September, Folage Midweek Getaways in September and October, and Murder Mystery Parties throughout the year.

I commend Les and Marilyn for the economic contributions they have made to the hospitality and tourism industries in our state. The citizens of Bradford, and New Hampshire, have benefited from their dedication to quality and service at The Candlelite Inn. It is truly an honor and a privilege to represent them in the United States Senate.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States and nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2605. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Bifenazate; Pesticide Tolerances for Emergency Exemptions” (FRL67885–5) received on June 21, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2606. A communication from the Director of the Office of Personnel Policy, Department of the Interior, transmitting, pursuant to law, the report of a nomination for the position of Commissioner, Reclamation, Bureau of Reclamation, received on June 28, 2001; to the Committee on Energy and Natural Resources.

EC–2607. A communication from the Director of the Office of Personnel Policy, Department of the Interior, transmitting, pursuant to law, the report of the reappointment for the position of Director of the National Park Service, received on June 28, 2001; to the Committee on Energy and Natural Resources.

EC–2608. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Inspector General, received on June 28, 2001; to the Committee on Armed Services.

EC–2609. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of the Army, Civil Works, received on June 28, 2001; to the Committee on Armed Services.

EC–2610. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Army, Civil Works, received on June 28, 2001; to the Committee on Armed Services.

EC–2611. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Assistant Secretary of the Army, received on June 28, 2001; to the Committee on Armed Services.

EC–2612. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the designation of acting officer for the position of Secretary of the Army, received on June 28, 2001; to the Committee on Armed Services.

EC–2613. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Secretary of the Army, received on June 28, 2001; to the Committee on Armed Services.

EC–2614. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the designation of acting officer for the position of Secretary of the Army, received on June 28, 2001; to the Committee on Armed Services.

EC–2615. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of the Air Force, Financial Management and Comptroller, received on June 28, 2001; to the Committee on Armed Services.

EC–2616. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Secretary of the Army, Manpower and Reserve Affairs, received on June 28, 2001; to the Committee on Armed Services.

EC–2617. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of General Counsel, received on June 28, 2001; to the Committee on Armed Services.

EC–2618. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of the Navy, Research, Development, and Engineering, received on June 28, 2001; to the Committee on Armed Services.

EC–2619. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant of the Navy, Financial Management and Comptroller, received on June 28, 2001; to the Committee on Armed Services.

EC–2620. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Deputy Under Secretary of Defense, Acquisition and Technology, received on June 28, 2001; to the Committee on Armed Services.

EC–2621. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Deputy Under Secretary of the Navy, Installations and Environment, received on June 28, 2001; to the Committee on Armed Services.
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EC–2623. A communication from the Assistant Director, Office of Economic and Policy Analysis, Department of Commerce, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary of the Navy, received on June 28, 2001, to the Committee on Armed Services.

EC–2624. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a nomination for the position of Administrator, Drug Enforcement Administration, received on June 28, 2001, to the Committee on the Judiciary.

EC–2625. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a nomination for the position of Commissioner, Immigration and Naturalization Service, received on June 28, 2001, to the Committee on the Judiciary.

EC–2626. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a nomination for the position of Director, Community Relations Service, received on June 28, 2001, to the Committee on the Judiciary.


EC–2628. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Withdrawal of Notice of Federal Tax Lien Certain Circumstances” (RIN1545–AY700) received on June 21, 2001, to the Committee on Finance.

EC–2629. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Time Limitation for Requesting Refunds of Harbor Maintenance Fees” (RIN1515–AC04) received on June 26, 2001, to the Committee on Finance.

EC–2630. A communication from the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Medical Letter” (RIN0969–A706) received on June 26, 2001, to the Committee on Finance.

EC–2631. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Nondiscrimination Requirements for Certain Defined Contribution Plans” (RIN1545–AY36) received on June 28, 2001, to the Committee on Finance.

EC–2632. A communication from the Director of the Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled “Veterans Education: Increased Allowance for the Educational Assistance Test Program” (RIN2900–AK41) received on June 27, 2001, to the Committee on Veterans’ Affairs.

EC–2633. A communication from the Director of the Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled “Increase in Rates Under the Montgomery GI Bill—Active Duty and Survivors’ and Dependent’s Educational Assistance” (RIN2900–AK41) received on June 27, 2001, to the Committee on Veterans’ Affairs.

EC–2634. A communication from the Director of the Office of Compensation Management, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled “Ornits to States for Construction and Acquisition of Veterans Affairs Facilities” (RIN2900–AJ43) received on June 28, 2001, to the Committee on Veterans’ Affairs.

EC–2635. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled “Changes in Flood Insurance Regulations” (44 CFR 31183) received on June 27, 2001, to the Committee on Banking, Housing, and Urban Affairs.

EC–2636. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled “Suspension of Community Eligibility” (Doc. No. FEMA–P–7783) received on June 27, 2001, to the Committee on Banking, Housing, and Urban Affairs.

EC–2637. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled “Changes in Flood Insurance Regulations” (44 CFR P–7762) received on June 27, 2001, to the Committee on Banking, Housing, and Urban Affairs.

EC–2638. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled “Investment Securities; Bank Activities and Operations; Leasing” (12 CFR Parts 1, 7, 23) received on June 27, 2001, to the Committee on Banking, Housing, and Urban Affairs.

EC–2639. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled “Fiduciary Activities of National Banks” (RIN1557–AB09) received on June 27, 2001, to the Committee on Banking, Housing, and Urban Affairs.

EC–2640. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report of a rule of the International Anti-Bribery and Fair Competition Act of 1998 dated July 2001, to the Committee on Banking, Housing, and Urban Affairs.

EC–2641. A communication from the Acting Executive Secretary of the Agency for International Development, transmitting, pursuant to law, the report of a nomination for the position of Assistant Administrator, Bureau for Asia and the Near East, received on June 27, 2001, to the Committee on Foreign Relations.

EC–2642. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Sweden; to the Committee on Foreign Relations.

EC–2643. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–2644. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–2645. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–2646. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–2647. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed Technical Assistance Agreement for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to France; to the Committee on Foreign Relations.

EC–2648. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the annual report required by Section 655 of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

EC–2649. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the annual report required by Section 655 of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

EC–2650. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposal for the proposed Technical Assistance Agreement for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to The Netherlands; to the Committee on Foreign Relations.

EC–2651. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area” received on June 27, 2001, to the Committee on Commerce, Science, and Transportation.

EC–2652. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Northeastern United States; Black Sea Bass Fishery; Commercial Quota Harvested for Quarter 2 Period” received on June 27, 2001, to the Committee on Commerce, Science, and Transportation.

EC–2653. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the
CONGRESSIONAL RECORD—SENATE

JUNE 29, 2001

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time, and referred to the appropriate committees:

By Mr. ALLEN:
S. 1138. A bill to allow credit under the Federal Employees' Retirement System for certain Governmental employees which has performed abroad after December 31, 1988, and before May 24, 1998; to the Committee on Governmental Affairs.

S. 1139. A bill to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mr. FEINGOLD, Mr. GRASSLEY, Mr. LEAHY, Mr. WARNER, Mr. BREUER, Mr. BURNS, Mr. RIEP, Mr. FISCHER, Mr. TORSKELLI, Mr. BENNETT, Ms. SNOWE, Mr. DEWINE, Mr. THOMAS, and Mr. HUTCHINSON):
S. 1140. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts; to the Committee on the Judiciary.

By Mr. GRAMM (for himself, Mr. NICKLES, Mrs. HUTCHINSON, Mr. MURkowski, and Mr. GRASSLEY):
S. 1141. A bill to amend the Internal Revenue Code of 1986 to treat distributions from regulated investment companies, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN:
S. 1142. A bill to amend the Internal Revenue Code of 1986 to repeal the minimum tax preference for exclusion for incentive stock options; to the Committee on Finance.

By Mr. CAMPBELL:
S. 1143. A bill to require the Secretary of the Treasury to mint coins in commemoration of former President Ronald Reagan; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. LEVIN, Mr. DURBIN, and Mr. AKAKA):
S. 1144. A bill to amend title III of the Federal Emergency Management Act (42 U.S.C. 5281 et seq.) to reauthorize the Federal Emergency Management Food and Shelter Program, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. BOXER:
S. 1145. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to encourage the hiring of certain veterans, and for other purposes; to the Committee on Finance.

By Mr. ALLARD:
S. 1146. A bill to amend title X and title XI of the Federal Emergency Management Act (42 U.S.C. 5361 et seq.), to reauthorize the Federal Emergency Management Food and Shelter Program, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. BOXER:
S. 1147. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to encourage the hiring of certain veterans, and for other purposes; to the Committee on Finance.

By Mr. ALLEN:
S. 1148. A bill to convey the Lower Yellowstone Irrigation Project, the Savage Unit of the Pick-Sloan Missouri Basin Program, and the Headwaters of the Upper Yellowstone irrigation districts; to the Committee on Energy and Natural Resources.

By Mr. NICKLES:

By Ms. LANDRIEU, Mr. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. LEAHY, Mr. COCHRAN, Mr. BREAUX, Mr. CHAMBER, Mr. BIDEN, Mr. BOND, Mrs. CARNAHAN, Mr. CARPER, Mr. CHAFEE, Mr. CLELAND, Mrs. CLINTON, Mr. DODD, Mr. EDWARDS, Mr. FRIST, Mr. GREGG, Mr. HELMS, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. McKUSICK, Mr. MULLER, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SESSIONS, Mr. SHELEY, Mr. SMITH of New Hampshire, Mr. THOMPSON, Mr. THUMMON, Mr. TORICELLI, and Mr. WARNER:
S. 1150. A bill to amend the Immigration and Nationality Act to establish a new non-immigrant category for chefs and individuals in related occupations; to the Committee on the Judiciary.

By Mr. SMITH of New Hampshire:
S. 1150. A bill to waive tolls on the Interstate System during peak holiday travel periods; to the Committee on Environment and Public Works.

By Mr. REID (for himself and Mr. ENZI):
S. 1151. A bill to amend the method for achieving quiet technology specified in the National Air Transportation Act of 2000; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN (for himself, Mr. DASCHLE, Ms. MURRAY, Mr. CORZINE, Ms. LANDRIEU, Mr. FEINGOLD, Mr. LIEBERMAN, Mr. KENNEDY, Mr. SARBAKES, Mr. MIKULSKI, Mr. TOBBINELLI, Mr. BREUER, Mr. SCHUMER, Ms. STABENOW, and Mr. JOHNSON):
S. 1152. A bill to ensure that the business of the Federal Government is conducted in the public interest and to provide for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenditures; and for other purposes; to the Committee on Governmental Affairs.

By Mr. CRAIG (for himself and Mrs. FEINGOLD):
S. 1153. A bill to amend the Food Security Act of 1985 to establish a grassland reserve program to assist owners in restoring and protecting grassland; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SMITH of New Hampshire (for himself and Mr. WARNER):
S. 1154. A bill to preserve certain actions brought in Federal court against Japanese defendants by members of the United States Armed Forces held by Japan as prisoners of war during World War II; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. WARNER) (by request):
S. 1155. A bill to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, to prescribe personnel strengths for fiscal year 2002, and for other purposes; to the Committee on Armed Services.

By Mr. SMITH of Oregon:
S. 1156. A bill to modify the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (for himself, Ms. LANDRIEU, Mr. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. LEAHY, Mr. COCHRAN, Mr. BREAUX, Mr. CHAMBER, Mr. BIDEN, Mr. BOND, Mrs. CARNAHAN, Mr. CARPER, Mr. CHAFEE, Mr. CLELAND, Mrs. CLINTON, Mr. DODD, Mr. EDWARDS, Mr. FRIST, Mr. GREGG, Mr. HELMS, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. McKUSICK, Mr. MULLER, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SESSIONS, Mr. SHELEY, Mr. SMITH of New Hampshire, Mr. THOMPSON, Mr. THUMMON, Mr. TORICELLI, and Mr. WARNER):
S. 1157. A bill to reauthorize the consent of Congress to the Northeast Interstate Dairy Compact and to grant a conditional seat to the Southern Dairy Compact, a Pacific Northwest Dairy Compact, and an
SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. AKAKA, Mr. STEVENS, Mr. CONRAD, Mr. BROWNACK, Mr. MCCAIN, Mr. DASCHLE, Mr. JOHNSON, Mr. COCHRAN, Mr. BAucus, Mr. CONRAD, Mr. DOMENICI, Ms. STAKES, Mr. BINGHAM, Mr. CHAFo, Mrs. MURRAY, Ms. CANTWELL, Mr. WRESSSTONE, Mr. THOMAS, Mrs. BOXER, Mr. KENNEDY, Mr. DAYTON, Mr. CRAIG, Mr. REID, Mr. SMITH of Oregon, Mr. KERRY, Mr. ALLARD, Mr. DORGAN, Mr. SCHUMER, and Mr. BREAUX):

S. Res. 118. A resolution to designate the month of November 2001 as "National American Indian Heritage Month"; to the Committee on the Judiciary.

By Mr. BARAY (for himself, Mr. SMITH of Oregon, Mr. DASCHLE, Mr. LEAHY, Mr. BINGHAM, Mr. Lugar, Mrs. FEINSTEIN, Mr. DORBON, Mr. KERRY, Mr. KENNEDY, Mr. LIEBERMAN, Mrs. CLINTON, Mr. WRESSSTONE, Mr. DEWINE, Mr. RICHARD, Mr. ROCKEFELLER, Mr. LEVIN, Mr. COEYNE, Mr. SPECTER, Mr. TORRICELLI, Mr. GRAHAM, and Ms. SNOWE):

S. Res. 119. A resolution combating the Global AIDS pandemic; to the Committee on Foreign Relations.

By Mr. DASCHLE (for himself and Mr. LOTTY):

S. Res. 120. A resolution relative to the organization of the Senate; considered and agreed to.

By Mr. KERRY (for himself, Ms. SNOWE, Mr. HOLLINGS, Mr. MCCAIN, Mr. SERRANO, Ms. BOXER, Mr. KENNEDY, and Mr. FEINGOLD):

S. Res. 121. A resolution expressing the sense of the Senate regarding the policy of the United States at the 53rd Annual Meeting of the International Whaling Commission; to the Committee on Foreign Relations.

By Mr. MCCONNELL (for himself and Mr. LEAHY):

S. Res. 122. A resolution relating to the transfer of Slobodan Milosevic to the International Criminal Tribunal for Yugoslavia, and for other purposes; to the Committee on Foreign Relations.

By Mr. KERRY (for himself and Mr. BOND):

S. Res. 123. A resolution amending the Standing Rules of the Senate to change the name of the Committee on Small Business to the "Committee on Small Business and Entrepreneurship"; considered and agreed to.

By Mr. KENNEDY (for himself and Mr. BROWNACK):

S. Con. Res. 57. A concurrent resolution recognizing the Hebrew Immigrant Aid Society; to the Committee on the Judiciary.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. Con. Res. 58. A concurrent resolution expressing support for the tenth annual meeting of the Asia Pacific Parliamentary Forum; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 170

At the request of Mr. REID, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 351

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 351, a bill to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting use of mercury fever thermometers and improving collection, recycling, and disposal of mercury, and for other purposes.

S. 496

At the request of Mr. LEAHY, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 496, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 499

At the request of Mr. GREGG, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 499, a bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and for other purposes.

S. 497

At the request of Mr. LEAHY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 497, a bill to express the sense of Congress that the Department of Defense should field currently available weapons, other alternatives, and operational concepts that provide suitable alternatives to anti-personnel mines and mixed anti-tank mine systems and that the United States should end its use of such mines and join the Convention on the Prohibition of Anti-Personnel Mines as soon as possible, to expand support for mine action programs including mine victim assistance, and for other purposes.

S. 530

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 530, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind.

S. 532

At the request of Mr. DORGAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 532, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State.

S. 562

At the request of Mr. REID, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 562, a bill to amend the Immigration and Nationality Act with respect to the record of admission for permanent residence in the case of certain aliens.

S. 611

At the request of Ms. MIKULSKI, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefits (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 624

At the request of Mr. GREGG, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 624, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off and biweekly work programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 799

At the request of Mr. DODD, his name was added as a cosponsor of S. 799, a bill to prohibit the use of racial and other discriminatory profiling in connection with searches and detentions of individuals by the United States Customs Service personnel, and for other purposes.

S. 847

At the request of Mr. DAYTON, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 860

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 860, a bill to amend the Internal...
Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

At the request of Mr. Reid, the names of the Senator from Ohio (Mr. DeWine) and the Senator from Arkansas (Mrs. Lincoln) were added as cosponsors of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

At the request of Mr. Gregg, the name of the Senator from Georgia (Mr. Cleland) was added as a cosponsor of S. 952, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

At the request of Mr. Feingold, the name of the Senator from Maryland (Ms. Mikulski) was added as a cosponsor of S. 999, a bill to prohibit racial profiling. At the request of Mr. Dodd, his name was added as a cosponsor of S. 989, supra.

At the request of Mr. Dodd, his name was added as a cosponsor of S. 989, supra.

At the request of Mr. Bingaman, the names of the Senator from New Hampshire (Mr. Smith) and the Senator from Colorado (Mr. Allard) were added as cosponsors of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

At the request of Mr. Dodd, the name of the Senator from Minnesota (Mr. Dayton) was added as a cosponsor of S. 1017, a bill to provide the people of Cuba with access to food and medicines from the United States, to ease restrictions on travel to Cuba, to provide scholarships for certain Cuban nationals, and for other purposes.

At the request of Mr. Conrad, the name of the Senator from Maine (Ms. Snowe) was added as a cosponsor of S. 1030, a bill to improve health care in rural areas by amending title XVIII of the Social Security Act and the Public Health Service Act, and for other purposes.

At the request of Mrs. Hutchison, the name of the Senator from Mississippi (Mr. Lottt) was added as a cosponsor of S. 1037, a bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes.

At the request of Mr. Johnson, his name was added as a cosponsor of S. 1109, a bill to establish objectives for negotiating, and procedures for, implementing certain trade agreements.

At the request of Mr. Liederman, the name of the Senator from New Mexico (Mr. Domениchini) was added as a cosponsor of S. 1134, a bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock.

At the request of Mr. Hatch, the name of the Senator from Colorado (Mr. Campbell) was added as a cosponsor of S. J.Res. 7, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

At the request of Mr. Harkin, the names of the Senator from Connecticut (Mr. Dodd) and the Senator from North Dakota (Mr. Conrad) were added as cosponsors of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

At the request of Mr. Reid, the name of the Senator from Delaware (Mr. Biden) was added as a cosponsor of S. Res. 109, a resolution designating the second Sunday in the month of December as “National Children’s Memorial Day” and the last Friday in the month of April as “Children’s Memorial Flag Day.”

At the request of Mr. Fitzgerald, the name of the Senator from Iowa (Mr. Harkin) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

At the request of Mr. Johnson, his name was added as a cosponsor of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

At the request of Mr. Hagel, the names of the Senator from Minnesota (Mr. Wellstone), the Senator from Michigan (Ms. Stabenow), the Senator from Maryland (Mr. Sarbanes) and the Senator from Nebraska (Mr. Nelson) were added as cosponsors of S. Con. Res. 53, supra.

At the request of Mr. Hagel, the names of the Senator from Minnesota (Mr. Wellstone), the Senator from Maryland (Ms. Stabenow) and the Senator from Nebraska (Mr. Nelson) were added as cosponsors of S. Con. Res. 53, supra.

AMENDMENT NO. 821

By Mr. Hatch (for himself, Mr. Feingold, Mr. Grassley, Mr. Leahy, Mr. Breaux, Mr. Burns, Mr. Reid, Mr. Craig, Mr. Torricelli, Mr. Bennett, Ms. Snowe, Mr. DeWine, Mr. Thomas, and Mr. Hutchinson), a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts; to the Committee on the Judiciary.

Mr. Hatch. Mr. President, I rise today to introduce S. 1140, “The Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001.” I am pleased to be joined in cosponsorship of this legislation by Senators Feingold, Grassley, Leahy, Warner, Breaux, Burns, Reid, Craig, Torricelli, Bennett, Snowe, DeWine, Thomas, and Hutchinson. Our bill is intended to allow automobile dealers their day in court when they have disputes with the manufacturers.

As automobile dealers throughout Utah have pointed out to me, the
motor vehicle dealer contract often includes mandatory arbitration clauses, and they also point out their unequal bargaining power. This is usually the result of various factors, including the manufacturers’ discretion to allocate vehicle inventory and control on the timing of delivery. Manufacturers can, thus, determine the dealer’s financial future with the allocation of the best-selling models. Manufacturers can also exercise leverage over the flow of revenue to dealers, such as warranty payments. Manufacturers can limit dealers’ rights to transfer ownership or control of the business, even to family members. And manufacturers have tried, arbitrarily, to take businesses away from dealers without cause.

I recognize the efficiencies of mandatory arbitration clauses in general, but the specific circumstances in the manufacturer-dealer relationship were not the basis of this widely-supported bipartisan proposal. It is worthy to note that Congress in 1956 enacted the Automobile Dealer Day in Court Act, which provided a small business dealer in limited circumstances the right to proceed in Federal court when faced with abuses by manufacturers. And State legislatures have enacted significant protections for auto dealers.

S. 1140 amends Title 9 of the U.S. Code and make arbitration of disputes in motor vehicle franchise contracts optional. This would allow dealers to opt voluntarily for arbitration or use procedures and remedies available under State law, such as State-established administrative boards specifically established to resolve dealer-manufacturer disputes. I must note that this legislation is extremely narrow and affects only the unique relationship between small business auto dealers and motor vehicle manufacturers, which is strictly governed by State law. This legislation is necessary to respect the State’s interest in regulating the motor vehicle dealer-manufacturer relationship.

All States, except for Alaska, have enacted laws specifically designed to regulate the economic relationship between motor vehicle dealers and manufacturers to prevent unfair manufacturer contract terms and practices. In most States, including my home State of Utah, effective State administrative forums already exist to handle dealer/manufacturer disputes outside of the court system. Indeed, in the majority of States, a special State agency or forum is charged with administering and enforcing motor vehicle franchise law. These State forums provide an inexpensive, speedy, and non-judicial resolution of disputes.

I urge my colleagues to support this worthwhile legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.
be elected. But it is essential for public policy reasons and basic fairness that both parties to this type of contract have the freedom to make their own decisions based on the circumstances of the case.

I urge my colleagues to join me in supporting this legislation to address this unfair franchise practice.

Mr. President, I rise today to introduce, with my distinguished colleague from Utah, Senator Hatch, the Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001. I want to recognize the efforts of the Senator from Iowa, Senator Grassley, in advancing this legislation in the last Congress, and note how pleased I am that the distinguished ranking member and former chairman of the Judiciary Committee has decided to take action, and I applaud him. By the time the 106th Congress concluded, we had the support of 56 Senators for this bill. So I believe we have an excellent opportunity to pass this bill this year, and I look forward to working with the Senator from Utah to make that happen.

While alternative methods of dispute resolution such as arbitration can serve a useful purpose in resolving disputes between parties, I am extremely concerned about the increasing trend of stronger parties to a contract forcing weaker parties to waive their rights and agree to arbitrate any future disputes that may arise. In every Congress since 1994, I have introduced the Civil Rights Procedures Protection Act, which amends certain civil rights statutes to prevent the involuntary imposition of arbitration to claims that arise from unlawful employment discrimination and sexual harassment. A few years ago, it came to my attention that the automobile and truck manufacturers, which often present dealers with “take it or leave it” contracts, are increasingly including mandatory and binding arbitration clauses as a condition of entering into or maintaining an auto or truck franchise. This practice forces dealers to submit their disputes with manufacturers to arbitration. As a result, dealers are required to waive access to judicial or administrative forums, substantive contract law, and the ability to seek protection. In short, this practice clearly violates the dealers’ fundamental due process rights and runs directly counter to basic principles of fairness.

Franchise agreements for auto and truck dealerships are typically not negotiable between the manufacturer and the dealer. The dealer accepts the terms offered by the manufacturer, or it loses the dealership, plain and simple. Dealers have been forced to rely on the States to pass laws designed to balance the manufacturers’ far greater bargaining power and to safeguard the rights of dealers.

The first State automobile statute was enacted in my home State of Wisconsin in 1937 to protect citizens from injury and to ensure that auto and truck distributors induced a Wisconsin citizen to invest considerable sums of money in dealership facilities, and then canceled the dealership without cause. Since then, all States except Alaska have enacted substantive laws to balance the enormous bargaining power enjoyed by manufacturers over dealers and to safeguard small business dealers from unfair automobile and truck manufacturer practices.

A little known fact is that under the Federal Arbitration Act, FAA, arbitrators are not required to apply the particular Federal or State law that would be applied by a court. That enables the stronger party, in this case the auto or formalCourt supervised discovery process often necessary to learn facts and provide factual or legal discussion of the decision in a written opinion; and 4. arbitration often does not allow for procedural due process. In short, this practice exists often necessary to learn facts and gain documents; 2. an arbitrator need not follow the rules of evidence; 3. arbitrators generally have no obligation to provide factual or legal discussion of the decision in a written opinion; and 4. arbitration often does not allow for judicial review.

The most troubling problem with this sort of mandatory binding arbitration is the absence of judicial review. We have seen dealers forced to rely on the States to pass laws designed to balance the manufacturers’ far greater bargaining power and to safeguard the rights of dealers.

The legislative history of the FAA indicates that Congress never intended to have the Act used by a stronger party to force a weaker party into binding arbitration. Congress certainly did not intend the FAA to be used as a tool to coerce parties to relinquish important protections and rights that would have been afforded them by the judicial system. Unfortunately, this is precisely the current situation.

Although contract law is generally the province of the States, the Supreme Court’s decision in Southland Corp. has in effect made any State action on this issue moot. Therefore, along with Senator Hatch, I am introducing this bill today to ensure that dealers are not coerced into waiving their rights. Our bill, the Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001, would simply provide that each party to an auto or truck franchise contract has the option of selecting arbitration, but cannot be forced to do so.

The bill would not prohibit arbitration. On the contrary, the bill would encourage arbitration by making it a fair choice that both parties to a franchise contract may willingly and knowingly select. In short, this bill would ensure that the decision to arbitrate is truly voluntary and that the rights and remedies provided for by our judicial system are not waived under coercion.

In effect, if small business owners today want to obtain or keep their auto or truck franchise, they may be able to do so only by relinquishing their legal rights and foregoing the opportunity to use the courts or administrative forums. I cannot say this more strongly, this is unacceptable; this is
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wrong. It is at great odds with our tradition of fair play and elementary notions of justice. I therefore urge my colleagues to join in this bipartisan effort to put an end to this invidious practice.

By Mr. LIEBERMAN:

S. 1142. A bill to amend the Internal Revenue Code of 1986 to repeal the minimum tax preference for exclusion for incentive stock options; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, today I am reintroducing a proposal with regard to the perverse impact of the Alternative Minimum Tax, AMT, on Incentive Stock Options, ISOs. I previously introduced this proposal on April 30, 2001, as Section 5 of S. 798, the Productivity, Opportunity, and Prosperity Act of 2001. I am reintroducing this proposal as a separate bill to highlight the importance of this issue.

Incentive stock options and the AMT did not exist when Franz Kafka's 'The Castle' was published in 1926. The book describes how a young, innocent tax collector finds himself trapped, and punished or threatened with punishment before they even have offended the authorities.

The AMT/ISO interaction would be one that Kafka would appreciate. In the case of ISOs an employee who receives ISOs as an incentive can be taxed on the phantom paper gains the tax code deems to exist when he or she exercises an option, and be required to pay the AMT tax on these "gains" even if the "gains" do not, in fact, exist when the tax is paid. This means the taxpayer may have no gains, no profits or assets, with which to pay the AMT and might even have to borrow funds to pay the tax or even go into default on his or her ISO liability.

This Kafkaesque situation is unfair. It is not fair to impose tax on "income" or "gains" unless the income or gains exist. With the AMT tax on ISOs, it is not relevant if the "gains" exist in a financial sense. That they exist on paper is sufficient to trigger the tax.

This situation is also inconsistent with many well-established Federal Government policies. For example, our country favors stock options as an incentive for hard-working and productive employees of entrepreneurial companies. In most cases, entrepreneurs take enormous risks, receive less compensation than employees working for established companies, and have no company-sponsored pension plan. In addition, our country favors employee ownership of firms. This ownership gives these employees a huge stake in the success of the company and motivates them to dedicate themselves to the firm's success. Finally, our country also favors long-term investments that generate growth. We know that growth is more likely when entrepreneurs take risks over the long-term and build fundamental value for their companies and shareholders and owners. The policy favoring long-term investments is reflected in the fact that capital gains incentives are available only if an investment is held for at least one year. An investment sold before the end of this "holding period" receives no capital gains benefit. The application of the AMT to ISOs is inconsistent with all three of these public policies.

Let me explain the difference between ISOs and NSOs. Incentive stock options are sanctioned by the Internal Revenue code. Under current law the employer pays the employee on or after he exercises the option and buys the company's shares at the stock option price. The company receives no tax deduction on the spread, the difference between the option price and the market price of the stock. The holder must hold the stock for two years after the grant of the option and one year after the exercise of the option, he or she pays the capital gains tax on the difference between ISOs and NSOs. ISOs are "non-qualifying stock options." With NSOs the employee is taxed immediately when the option is exercised on the spread between the grant and exercised price. This forces an employee to sell stock as soon as he or she exercise their option, he or she pays the capital gains tax on the difference between the exercise and sale price on the sale of the stock. The tax payment is deferred until the stock is sold and the tax is paid on the real gains that are realized from the sale.

ISOs are stock options that do not satisfy the tax code requirements for ISOs. They are "non-qualifying stock options" or NSOs. With NSOs the employee is taxed immediately when the option is exercised on the spread between the grant and exercised price. This forces an employee to sell stock as soon as he or she exercise their option, he or she pays the capital gains tax on the difference between the exercise and sale price on the sale of the stock. This is a zero sum game for the employee, selling the stock he or she has just bought to pay a tax on the spread. Even worse, because the stock is not "held" for one year, this tax is paid at the ordinary income tax rates, not the preferential capital gains tax rates. The company receives a business expense deduction on the spread. If this were the whole story, it is clear that companies would tend to offer ISOs rather than NSOs to their employees. Employees would be encouraged to hold their shares for at least a year after the option is exercised, which helps to bind them to the company. They would then qualify for capital gains tax rates on the realized gains.

The problem is that ISOs come with a major liability, the application of the Alternative Minimum Tax, AMT, to the spread at the time of exercise. This tax is imposed on the exercise price of the stock minus the spread at the time the option is exercised. This tax at the time of exercise defeats the purpose of ISOs, forces employees to sell their stock, to pay the AMT tax, before the end of the holding period, and pay ordinary income tax rates. The difference between ordinary income tax rates and capital gains tax rates can be 15 percent or more.

The AMT tax is imposed on the spread at the time the option is exercised and it is irrelevant if the stock price at the time when the AMT tax is paid or when the stock is sold is a fraction of this price. The "gains" at the time of exercise are what count, not real gains in a financial sense when the investment is finally sold.

The application of the AMT at the time of exercise to ISOs is a major disincentive for companies to offer ISOs to their employees. The purpose of the ISO law when it was enacted by Congress back in 1981 was to encourage long-term holding of ISOs. This purpose is defeated by the AMT application at the time of exercise. Even if firms could educate their employees about the AMT liability, the fact that this tax is imposed at the time of exercise on phantom gains would remain a major disincentive for them to offer ISOs. The risks are too great that the employee will have no real gains with which to pay the tax, that employee will have to sell stock immediately at ordinary income tax rates to make sure that funds are available to pay the tax when it is due, or take the risk of holding the stock.

My understanding is that the firms that are most likely to grant ISOs are those firms that have no ability to use the corporate deduction that is available for NSOs. These are small firms with no tax liability for which the deduction is simply a tax loss carryforward with no current year value. With these firms the ISO held out the possibility of the employees receiving capital gains tax treatment of their gains. It is particularly sad that it is these firms and these employees which are feeling the brunt of the AMT/ISO problem.

The application of the AMT to ISOs is strange because long-term holdings of stock, as required by the ISO law, are classic capital gains transactions and we do not apply the AMT to the capital gains tax rate. They are classic capital gains transactions and we do not apply the AMT to the capital gains tax. Under the AMT only "tax preference items" enumerated in the AMT are included when the AMT calculation is made. The capital gains differential, the difference between the capital gains tax rate and the lower capital gains rate, is a tax benefit but that differential is not included in the AMT. Given all the problems we are now seeing with the AMT
the capital gains differential should not be included as a preference item. But, by an act of Congress, we have enacted a conforming amendment removing the AMT applied to ISOs. This makes no sense and it is an anomaly in the tax code. When the Congress restored the capital gains differential, it did not include it as an AMT tax preference item. This is why we need to set the record straight and do more.

With the AMT applied to ISOs, taxpayers are caught in a Catch-22 situation. If they hold the stock for the required year, they can qualify for capital gains treatment on the eventual sale of the stock. But, in doing so they are taking a huge risk that the AMT tax bill will exceed the value of the stock when the AMT is paid. If the tax is too low, they may have to sell their stock before the capital gains holding period has run and pay ordinary income tax rates on any gains. This is a form of lottery that serves no public policy.

The idea was created to ensure the rich cannot use tax shelters to avoid paying their “fair share.” Taxpayers are supposed to calculate both their regular tax and the AMT bill, then pay whichever is higher. The AMT is likely to snare 1.5 million taxpayers this year and nearly 36 million by 2010. But the case with ISOs is one where the taxpayers may never see the “gains,” and none of these tax them. Whatever the merits might be for the AMT for taxpayers with real gains, they have no bearing on taxpayers who may never see the gains. It is simply unfair to impose a tax on gains that exist only on paper. If the employee does realize gains, they should in fact pay tax on them, but only if and when the gains are realized.

Of course, with the recent huge drop in values for some stocks, many entrepreneurs are now being hit with immense AMT tax bills on the paper gains on stocks that are now worth a fraction of the price at the time of exercise. At a townhall meeting held in California by Representative Lofgren, Representative Bob Matsui, Kathy Swartz, a Mountain View woman, six months pregnant and soon to sell her “dream house” because she and her husband Karl owe $2.4 million in AMT, asked, “How many victims do you need before you say it’s horrible?” We are talking about taxpayers who in fact owe five- to seven-figure tax bills on gains they never realized.

My bill would change those tax rules so that the AMT no longer applies to ISOs and no tax is owed at the time when the entrepreneur exercises the option. This change would eliminate the unfair tax on paper gains on ISOs. This would encourage long-term holdings of stock, not immediate sale of the stock as a hedge against AMT tax liability. It would do nothing to exempt entrepreneurs from paying tax on their real gains when they eventually sell the stock.

My bill would solve this problem going forward. It would not, as drafted, provide relief to the taxpayers who already have been hit with AMT taxes on phantom gains. There is a bipartisan group in the House and Senate focusing on this group of taxpayers. This group has a strong claim for relief based on the inherent unfairness of the AMT as applied to ISOs. The unfairness of this law leads me to call for reform going forward should be remedied for current, as well as future taxpayers.

Let me be clear about the cost and budget implications of my bill. The Joint Tax Committee on Taxation has found that my proposal would reduce government tax revenues by $12.412 billion. This is explained by both this estimate, but there is no way for me to appeal it. The JTC does not provide explanations for its estimates, but I would assume that this estimate is based on the likelihood that there would be fewer tax payments at the time options are exercised as firms move from NSOs to ISOs, those employees with ISOs would not be paying the AMT, and there will be more employees who hold the stock and pay capital gains tax rates. Offsetting this, there will be fewer companies taking the deduction for NSOs. The revenue loss year-by-year is as follows: $1.821 billion (2002), $1.126 (2003), $858 (2004), $825 (2005), $941 (2006), $1.106 (2007), $1.341 (2009), $1.620 (2010), and $1.910 (2011). The loss during the 2002-2006 period is $5.494 billion. I will not propose to enact my bill unless this sum is financed and will have no impact on the Federal budget.

I am pleased that Rep. Zoe Lofgren (D-CA) has introduced legislation on AMT/ISO in the other body (H.R. 1497). Her bill has attracted a bipartisan group of cosponsors. I look forward to working with her and other Members to remedy this inequity in the tax code and to do so with regard to current as well as future taxpayers.

Let me note that I have proposed in S. 798 to provide a special capital gains tax rate, in fact to set a zero tax rate, for stock purchased by employees in stock option plans, by investors in Initial Public Offerings, and similar purchases of company treasury stock. This zero rate would be effective, however, only if the shares are held for at least three years, so the AMT gamble would be even more dramatic. During the first year of that holding period, the AMT would have to be paid and during the remaining period the value of the stock could well dive from the exercise price creating an even more invidious trap.

Kafka “The Castle” should remain as magnificent fiction. We have no place for taxes on phantom income and paper gains. Our taxpayers should be able to communicate effectively with the castle, not be caught in a bureaucratic nightmare that makes no sense and serves no policy.

By Mr. CAMPBELL:
S. 1143. A bill to require the Secretary of the Treasury to mint coins in commemoration of former President Ronald Reagan; to the Committee on Banking, Housing, and Urban Affairs.
Mr. CAMPBELL. Mr. President, today I introduce the “Ronald Reagan Commemorative Coin Act of 2001.”

The bill I am introducing today would accomplish two worthy goals. First, it would help Ronald Reagan, the 40th President of the United States. Second, it would also help raise much needed resources to help families across the United States provide care for their loved ones who have been stricken by Alzheimer’s disease.

I believe that a commemorative coin program would honor Ronald Reagan’s life and contributions to our Nation, while also raising funds to help American families in their day to day struggle against this terrible disease.

This legislation’s worthiness and timeliness were underscored just last night when ABC televised a powerful program in which Diane Sawyer interviewed Nancy Reagan. Watching Mrs. Reagan as she so openly and eloquently shared touching insights about their ongoing struggle with Alzheimer’s disease was moving. There is no doubt about the truly deep bonds that unite Ronald and Nancy Reagan and that we need to do what we can to fight the disease that has slowly taken its terrible toll on the Reagans and so many other American families.

Ronald Reagan has worn many hats in his life, including endeavors as a sports announcer, actor, governor and President of the United States. He was first elected president in 1980 and served two terms, becoming the first president to serve two full terms since Dwight Eisenhower.

Ronald Reagan’s boundless optimism and deep-seated belief in the people of the United States and the American Dream helped restore our Nation’s pride in itself and brought about a new “Morning in America.” His challenge to Gorbachev to “tear down this wall,” his successful revival of our economic power, his determination to rebuild our armed forces in order to contain the spread of communism, and his international summity skills are as seen at Reykjavik. Iceland, combined to help bring an end to the Cold War. Ronald Reagan left our Nation in much better shape than it was when he took office.

As Alzheimer’s sets in, brain cells gradually deteriorate and die. People afflicted by the disease gradually lose their cognitive ability. Patients eventually become completely helpless and dependent on those around them for...
even the most basic daily needs. Each of the millions of Americans who is now affected will eventually, barring new therapeutic advances in treatment, lose their ability to remember recent and past events, family and friends, even simple things like how to take a bath or turn on lights. Ronald Reagan, one of the most courageous and optimistic Presidents in American history, is no exception.

Shortly after being shot in an assassination attempt, Ronald Reagan's courage and good humor in the face of a life threatening situation were evident when he famously apologized to his wife Nancy saying "Sorry honey. I forgot to duck." Unfortunately, once Alzheimer's disease takes hold, it delivers a slow mind destroying bullet that none of us can duck to avoid. As Ronald Reagan wrote in his book "An American Journey," learning of his diagnosis "I only wish there was some way I could spare Nancy from this painful experience." From the moment of diagnosis, it's "a truly long, long, goodbye," Nancy Reagan said.

Fortunately, funding for Alzheimer's research has increased significantly over the past several years. Ronald Reagan's courage in coming forward and publicly announcing his condition played an important role in raising public awareness of Alzheimer's and paved the way for the recent increases in research funding. This bill would complement these efforts.

Once again, the legislation I am introducing today authorizes the U.S. Mint to produce commemorative coins honoring Ronald Reagan while raising funds to help families care for their family members suffering from Alzheimer's disease. I urge my colleagues to support passage of this legislation.

Ronald Reagan's eternal optimism and deep seated belief in an even better future for our Nation was underscored when he said, "I know that for America, there will always be a bright future ahead." This bill, in keeping with this quote's spirit, will help provide for a better future for many American families.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE.
This Act may be cited as the "Ronald Reagan Commemorative Coin Act of 2001".

SEC. 2. COIN SPECIFICATIONS.
(a) DESIGN REQUIREMENTS.—
(1) In general.—The design for the coins minted under this Act shall—
(A) be emblematic of the presidency and life of former President Ronald Reagan;
(B) bear the likeness of former President Ronald Reagan on the obverse side; and
(C) inscriptions of the words "Liberty", "E Pluribus Unum", "United States of America", and "Platinum Unum".

(b) DESIGN SELECTION.—The design for the coins minted under this Act shall be selected by the Citizens Coin Advisory Committee after consultation with the Commission of Fine Arts; and

(c) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 3. SOURCES OF BULLION.
(a) LATINUM AND GOLD.—The Secretary shall obtain platinum and gold for minting coins under this Act from available sources.
(b) PLATINUM.—The Secretary shall obtain platinum for minting coins under this Act from stockpiles established under the Strategic and Critical Materials Stock Piling Act and from other available sources.

SEC. 4. DESIGN OF COINS.
(a) DESIGN REQUIREMENTS.—
(1) In general.—The design of the coins minted under this Act shall—
(A) be emblematic of the presidency and life of former President Ronald Reagan;
(B) bear the likeness of former President Ronald Reagan on the obverse side; and
(C) inscriptions of the words "Liberty", "E Pluribus Unum", "United States of America", and "Platinum Unum".

(b) DESIGN SELECTION.—The design for the coins minted under this Act shall be selected by the Citizens Coin Advisory Committee after consultation with the Commission of Fine Arts; and

(c) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.
(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.
(b) MINT FACILITY.—Only one facility of the United States Mint may be used to strike any particular combination of denominations and quality of the coins minted under this Act.

SEC. 6. SALE OF COINS.
(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—
(1) the face value of the coins;
(2) the surcharge provided in subsection (d) with respect to such coins; and
(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.
(c) PREPAID ORDERS.—
(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(d) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.
(e) SURCHARGES.—All sales of coins issued under this Act shall include a surcharge established by the Secretary, in an amount equal to not more than—
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(1) $50 per coin for the $10 coin or $35 per coin for the $5 coin; and
(2) $10 per coin for the $1 coin.

SEC. 7. DISTRIBUTION OF SURCHARGES.
(a) In General.—Subject to section 5139(f) of title 31, United States Code, the proceeds from the sale of coins issued under this Act shall be subject to the audit requirements of Health and Human Services under subsection (2) of title 31, United States Code, who are trying to feed and shelter their population but also to working people who are trying to feed and shelter their family at entry-level wages. Services supplemented by the EFS funding, such as food bank and emergency rent/util-

ity assistance programs, are especially helpful to families with big responsibilities but small paychecks.

One of the things that distinguishes the EFS program is the extent to which it relies on non-profit organiza-
tions. Local boards in counties, parishes, and municipalities across the country advertise the availability of funds, decide on non-profit and local government agencies to be funded, and monitor the recipient agencies. The local boards, like the program’s National Board, are made up of charitable organizations including the National Council of Churches, the United Jewish Communities, Catholic Charities, USA, the Salvation Army, and the American Red Cross. By relying on community participation, the program keeps ad-

ministrative overhead to an unusually low amount, less than 3 percent.

The EFS program is operated without authorization since 1994 but has been sustained by annual appropria-
tions. The proposed bill will re-authorize the program for the next three years. It will also authorize modest funding increases over the amounts appropri-
at ed in recent years. A similar bill introduced by Senator Thompson and me in the last Congress, S. 1516, passed the Senate by Unanimous Con-

sent.

In summary, FEMA’s Emergency Food and Shelter Program is a highly efficient example of the government re-
ylying on the country’s non-profit orga-
nizations to help people in innovative ways. The EFS program aids the home-

less and the hungry in a majority of the Nation’s counties and in all fifty States, and I ask my colleagues to sup-
port this program and our re-author-
ing legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1144

Be it enacted by the Senate and House of Repre-
sentatives of the United States of America in Congress assembled.

SECTION 1. AUTHORIZATION OF APPROPRIA-
TIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11332) is amended to read as follows:

SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $150,000,000 for fiscal year 2002, $160,000,000 for fiscal year 2003, and $170,000,000 for fiscal year 2004.

SEC. 2. NAMING REQUIREMENTS FOR NOMINATING ORGANIZATION.

Section 301(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331(b)) is amended—

(5) United Jewish Communities.

SEC. 3. PARTICIPATION OF HOMELESS INDIVIDUALS IN CREDIT.

Section 316(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11346(a) is amended by striking paragraph (6) and inser-
ting the following:

(6) guidelines requiring each local board to include in their membership not less than 1 homeless individual, former homeless indi-

vidual, homeless advocate, or recipient of shelter services, except that such guidelines may waive such requirement for any board unable to meet such requirement due to its size or other circumstances.

By Mrs. BOXER:

S. 1145. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to encourage the hiring of certain veterans, and for other purposes; to the Committee on Finance.

Mrs. BOXER. Mr. President, I am in-


troducing legislation to help the esti-

mated 1.5 million veterans who are now living in poverty by giving a tax credit to those employers who hire them and put them on the road to financial inde-


pendence. This idea was proposed and is supported by the National Coalition for Homeless Veterans and the Non-
Commissioned Officers Association.

This legislation is based upon the current tax credit offered for employ-

ers who hire those coming off welfare. Veterans groups tell me that the current tax credit is underutilized by vet-


ers because many are not receiving food stamps or are not on welfare. Be-

cause the bill I am introducing today bases eligibility on the poverty level, more veterans will be able to benefit from this credit.

My bill would allow employers to re-

ceive a hiring tax credit of 50 percent of the veteran’s first year wages and a retention credit of 25 percent of the veteran’s second year wages. Only the first $20,000 of wages per year will count toward the credit.

I offered this legislation as an am-

endment to the tax bill. While my amendment failed on a procedural vote, 49–50, opponents indicated that enacting this legislation would be a good thing to do. This being the case, I am hopeful that the Senate will take up and pass the bill I am introducing today in a bipartisan manner. It is the least we can do for our veterans who so bravely served our Nation and deserve our help.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1145

Be it enacted by the Senate and House of Repre-
sentatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans Opportunity to Work Act.”

SEC. 2. EXPANSION OF WORK OPPORTUNITY TAX CREDIT.
(a) In General.—Section 51(d)(1) of the Internal Revenue Code of 1986 (relating to
members of targeted groups) is amended by striking paragraph (H) and inserting "or", and by adding at the end the following:

"(I) a qualified low-income veteran."

(b) QUALIFIED LOW-INCOME VETERAN.—Section 51(d) of the Internal Revenue Code of 1986 (relating to members of targeted groups) is amended by adding the following to paragraph (10) thereof as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following:

"(10) QUALIFIED LOW-INCOME VETERAN.—

"(A) IN GENERAL.—The term 'qualified low-income veteran' means any veteran whose gross income for the taxable year preceding the taxable year including the hiring date, was below the poverty line (as defined by the Office of Management and Budget) for such preceding taxable year.

"(B) VETERAN.—The term 'veteran' has the meaning given such term by paragraph (3)(B).

(c) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified low-income veteran—

"(i) subsection (a) shall be applied by substituting in paragraph (1)(B) and (G) of the qualified first-year wages and 25 percent of the qualified second-year wages for '40 percent of the qualified first-year wages', and

"(ii) in lieu of paragraphs (2) and (3) of subsection (b), the following definitions and special rule shall apply:

"(I) QUALIFIED FIRST-YEAR WAGES.—The term 'qualified first-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer.

"(II) QUALIFIED SECOND-YEAR WAGES.—The term 'qualified second-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under subclause (I).

"(III) ONLY FIRST $20,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of the qualified first-year wages which may be taken into account with respect to any individual shall not exceed $20,000 per year.

(d) PERMANENCE OF CREDIT.—Section 51(c)(4) of the Internal Revenue Code of 1986 (relating to termination) is amended by inserting "(except for wages paid to a qualified low-income veteran)" after "individual".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

By Mr. ALLARD:

S. 1146. A bill to amend the Act of March 3, 1875, to permit the State of Colorado to use land held in trust by the State as open space; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, today I am introducing legislation to fulfill the wishes of my fellow Coloradans to allow the State to protect 300,000 acres of State land as open space.

The amendment was introduced on the floor of the House of Representatives on March 1, 1997, by Representative Nickles. It was passed by the House on March 12, 1997, and sent to the Senate. The bill was referred to the Committee on Energy and Natural Resources. The bill was reported on May 23, 1997, with amendments. The amendments were approved by the Senate on May 30, 1997. The bill was then sent to the House of Representatives. The House of Representatives passed the bill on June 25, 1997. The bill was then sent to the President of the United States. The President signed the bill into law on July 1, 1997.

The Colorado State Land Board has a clear mission for implementing the Stewardship Trust: to protect the crown jewels of the State's trust lands and ensure that these lands receive special protection from sale or development.

It is also clear that Colorado voters wanted to set aside 300,000 acres from potential development. I want to help the State fulfill these goals. This is a unique bill and ensures the state's flexibility in managing the trust lands. It does not change the intent of the Stewardship Trust, just ensures that the Enabling Act and the State Constitution are consistent.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

With no objection, the bill was ordered to be printed in the RECORD as follows:

S. 1146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. COLORADO TRUST LAND.

Section 7 of the Act of March 3, 1875 (18 Stat. 475, chapter 139) (commonly known as the Colorado Enabling Act), is amended by inserting before the period at the end the following: "and for use for open space, wildlife habitat, scenic value, or other natural value, regardless of whether the land generates income for the common schools as described under section 14, except that the amount of land used for natural value shall not exceed 300,000 acres."
more than 600 Residential Properties is expected to be substantially complete by the end of this year. Decommissioning of the facility site, with the exception of groundwater, is expected to conclude in 2004. Cleanup requirements at Kress Creek have not been determined, and until those are established, the costs associated with the cleanup of that vicinity property cannot be accurately projected.

The significant costs associated with the West Chicago cleanup are a result, in large part, of extensive government use of the facility during the development of our country's nuclear defense program, including the Manhattan project. With the exception of Kress Creek and groundwater, total cleanup costs at the factory site and all vicinity properties can now be estimated with reasonable certainty. The $122 million authorized by this bill will permit the government to begin reimbursing the amount it is already in arrears to the thorium licensee. It also will provide the authorization necessary for the government to pay its share of costs, excluding costs for Kress Creek and for groundwater, that will be incurred by the licensee through completion of West Chicago cleanup.

Funding for this reauthorization would come from the General Treasury. Thus, this legislation will diminish the availability of funds in the DOE's Decontamination and Decommissioning Fund, from which both Title X uranium licensees and the DOE's gaseous diffusion plants receive funding.

I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF THORIUM REIMBURSEMENT.

(a) Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended by striking "$140,000,000" and inserting "$263,000,000".

(b) Section 1003(a) of such Act (42 U.S.C. 2296a) is amended by striking "$490,000,000" and inserting "$613,000,000".

(c) Section 1003(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f-1) is amended by striking "$685,333,333" and inserting "$805,833,333".

By Mr. BURNS:

S. 1148. A bill to convey the Lower Yellowstone Irrigation Project, the Savage Unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the appurtenant irrigation districts; to the Committee on Energy and Natural Resources.

Mr. BURNS. Mr. President, I rise today to introduce a piece of legislation that helps a large number of family farmers on the border of Montana and North Dakota. The Lower Yellowstone Irrigation Projects Title Transfer moves ownership of these irrigation projects from Federal control to local control. Both the Bureau of Reclamation and those relying on the projects for their livelihood agree there is little value in having the Federal Government retain ownership.

I introduced this legislation in the last Congress, and continue to believe it helps us to achieve the long term goals of Montana irrigators, and the mission of the Bureau of Reclamation. Just this week I attended the confirmation hearing of John W. Keys, III, who is the designate for Commissioner of the Bureau of Reclamation. I asked his position on title transfers of irrigation projects like the Lower Yellowstone, where local irrigation districts have seized control of the Federal properties, and where the Bureau has encouraged the transfer of title to the Districts. His response to me was very encouraging. He stated this type of title transfer "makes sense and is an opportunity to move facilities from Federal ownership to more appropriate control." He has promised to work with me and the Irrigation District to make this a reality, and I look forward to it.

The history of these projects dates to the early 1900's with the original Lower Yellowstone project being built by the Bureau of Reclamation between 1906 and 1910. The Savage Unit was added in 1947-48. The end result was the creation of fertile, irrigated land to help spur economic development in the area. To this day, agriculture is the number one industry in the area.

The local impact of the projects is measurable in numbers, but the greatest impacts can only be seen by visiting the area. The 500 family farms rely on these projects for economic substance, and the entire area relies on them to create stability in the local economy. In an area that has seen booms and busts in oil, gas, and other commodities, these irrigated lands continue producing and offering a foundation for the businesses in the area.

As we all know, the agricultural economy is not as strong as we'd like it to be, but these irrigated lands offer a reasonable return on time and are the foundation for strong communities based upon the ideals that have made this country successful. The 500 families impacted are hard working, honest producers, and I can think of no better people to manage their own irrigation projects.

Every day, we see an example of where the Federal Government is taking on a new task. We can debate the merits of these efforts on an individual basis, but I think we can all agree that while the government gets involved in new projects there are many that we can safely pass on to state or local control. The Lower Yellowstone Projects are a prime example of such an opportunity, and I ask my colleagues to join me in seeing this legislation passed as quickly as possible.

By Mr. SMITH of New Hampshire:

S. 1150. A bill to waive tolls on the Interstate System during peak holiday travel periods; to the Committee on Environment and Public Works.

Mr. SMITH of New Hampshire. Mr. President, I rise to introduce the Interstate Highway System Toll-Free Holiday Act.

As we move into this Fourth of July holiday to celebrate our nation's 225th birthday, many will do so in true American fashion by loading up the kids and the dog in the family car and heading out for a fun-filled vacation. Unfortunately, many of those family trips will quickly turn into frustration. Just as you get on the road and begin that family outing, you are greeted by a screeching halt, faced with what seems to be an endless line that is not moving. Soon, the kids will grow restless and angry. You've just reached the end of the line of the first toll booth and the delay and frustration begins. Of course, when you do finally make it to the booth, they take your money. Every holiday, no exception, I want to help make those holiday driving vacations more enjoyable by removing that toll booth frustration. My legislation will provide the much deserved relief from all of that holiday grief.

The Interstate Highway System Toll-Free Holiday Act provides that no tolls will be collected and no vehicles will be stopped at toll booths on the Interstate System during peak holiday travel periods. The exact duration of the toll waivers will be left to the States to determine, but will include, at a minimum, the entire 24 hour period of each legal Federal holiday. The bill will also authorize the Secretary of Transportation to reimburse the State, at the State's request, for lost toll revenues out of the Highway Trust Fund, which is funded by the tax that we all pay when we purchase gas for our cars. I want to keep the State highway funds whole, and, at the same time, provide relief to all those who simply want a hassle-free holiday trip.

There are currently some 2,200 miles of toll facilities on the 42,800 mile Interstate System. On peak holiday travel days, traffic increases up to 50 percent over a typical weekday. In New Hampshire last year, the I-95 Hampton toll booth had a 10 percent average increase in traffic over the four-day Fourth of July weekend compared to the previous weekend. That is equivalent to an additional 8,000 vehicles passing through this one toll booth every day. That increase in volume at the toll sites is not only an inconvenience in time and money, but also adds to safety concerns and, because vehicle
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emissions are higher when idling, air quality suffers. I am pleased that this bill will alleviate congestion headaches and problems associated with increased toll booth traffic on holidays.

This is just one of what will be a series of bills that I will be introducing, as the Ranking Member of the Environment and Public Works Committee, to address transportation needs in New Hampshire and across the Nation, as we prepare for the reauthorization of the next major comprehensive highway bill in 2003.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Interstate Highway System Toll-Free Holiday Act.”

SEC. 2. WAIVER OF TOLLS ON THE INTERSTATE SYSTEM DURING PEAK HOLIDAY TRAVEL PERIODS.

(a) DEFINITIONS.—In this section, the terms “ Interstate System”, “public authority”, “Secretary”, “State”, and “State transportation department” have the meanings given the terms in section 101(a) of title 23, United States Code.

(b) WAIVER.—

(1) IN GENERAL.—No tolls shall be collected, and no vehicle shall be required to stop at a toll booth, for any toll highway, bridge, or tunnel on the Interstate System during any peak holiday travel period determined under paragraph (2).

(2) PEAK HOLIDAY TRAVEL PERIODS.—For the purposes of paragraph (1), the State transportation department or the public authority having control over the toll highway, bridge, or tunnel shall determine the number and duration of peak holiday travel periods, which shall include, at a minimum, the 24-hour period of each legal public holiday specified in section 6103(a) of title 5, United States Code.

(c) FEDERAL REIMBURSEMENT.—

(1) IN GENERAL.—For each fiscal year, upon request by a State or public authority and approval by the Secretary, the Secretary shall reimburse the State or public authority for the amount of toll revenue not collected by reason of subsection (b).

(2) REQUESTS FOR REIMBURSEMENT.—On or before September 30 of each fiscal year, each State or public authority that desires a reimbursement fund described in paragraph (1) shall submit to the Secretary a request for reimbursement, based on actual traffic data, for the amount of toll revenue not collected by reason of subsection (b) during the fiscal year.

(d) USE OF REIMBURSED FUNDS.—A request for reimbursement under paragraph (2) shall include a certification by the State or public authority that the amount of the reimbursement will be used only for debt service or for operation and maintenance of the toll facility, including reconstruction, re-facing, restoration, and rehabilitation.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this subsection.

By Mr. REID (for himself and Mr. ENSSIGN):

S. 1130 was introduced to amend the method for achieving quiet technology specified in the National Parks Air Tour Management Act of 2000; to the Committee on Commerce, Science, and Transportation.

Mr. REID. Mr. President, I rise today along with my good friend and colleague from Nevada, Senator Enson because I am deeply concerned that the Federal Aviation Administration has failed to develop the incentives for quiet technology aircraft.

The bill we are introducing today, the “Grand Canyon Quiet Technology Implementation Act,” completes the Congressional mandates contained in the National Park Air Tour Management Act of 2000 which called for the implementation of “reasonably achievable” quiet technology standards for the Grand Canyon air tour operators.

Key provisions of the Act called for the Federal Aviation Administration, by April 5th of this year, to: 1. Designate reasonable achievable standards for fixed-wing and helicopter aircraft necessary for such aircraft to be considered as employing quiet aircraft technology; and 2. Establish corridors for commercial air tour operations by fixed-wing and helicopter aircraft that employ quiet aircraft technology, or explain to Congress why they can’t. The agency has failed to comply with any of these provisions.

The Act also provides that operators employing quiet technology shall be exempted from operational flight caps. This relief is essential to the very survival of many of these air tour companies. By not complying with these Congressional mandates, the Federal Aviation Administration places the viability of the Grand Canyon air tour industry in jeopardy.

While Senator Ensign and I along with the air tour community have sought to work with the Federal agencies in a cooperative manner, our repeated overtures have been summarily ignored, which forces us to take further legislative action.

Our bill simply requires the Federal Aviation Administration to do its job. It identifies “reasonably achievable” quiet technology and provides relief for air tour operators who have spent many years and millions of dollars of their money voluntarily transitioning to quieter aircraft to help restore natural quiet to the Grand Canyon.

I would like to compliment my good friend from Arizona, Senator John McCain for his vision and leadership in the Senate in recognizing that quieter aircraft was the key to restoring natural quiet to the Grand Canyon. During his tenure as chairman of the Senate Commerce Committee, it was Senator McCain who insisted on the quiet technology provisions contained in the National Park Air Tour Management Act of 2000. It was Senator McCain who wanted to ensure that these air tour companies which have made huge investments in current technology quiet aircraft modifications were rewarded for their initiative. It was Senator McCain, an advocate for restoring natural quiet to the Grand Canyon, who took the lead in seeking to ensure that the elderly, disabled and time-constrained visitor still would be able to enjoy the magnificence of the Grand Canyon by air. The legislation we are introducing today, supports Senator McCain’s vision.

The National Park Air Tour Management Act of 2000 is clear. It calls for the implementation of “reasonably achievable” quiet technology incentives. Our Grand Canyon Quiet Technology Implementation legislation is based on today’s best aircraft technology.

Some may ask what is “reasonably achievable”? It constitutes the following: replacing smaller aircraft with larger and quieter aircraft with more seating capacity, reducing the number of passenger needed to carry the same number of passengers; adding propellers on turbine-powered airplanes and main rotor blades on helicopters which reduces prop tip speeds by reducing engine RPMs; modifying engine exhaust systems with high-tech mufflers to absorb engine noise; modifying helicopter tail rotors with high-tech components for quieter operation.

These modifications typically reduce the sound produced by these aircraft by more than 50 percent.

This is what is “reasonably achievable” in aviation technology. In the year 2001, this is essentially all that can be done to make aircraft quieter. Operators which have spent millions of dollars to make these modifications, in our view, have complied with the intent of the law and deserve relief.

Let us not forget the original intent of this legislation to help restore natural quiet to the Grand Canyon and, as the 1916 Organic Act directs, to provide for the enjoyment of our national parks “in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

Air touring is consistent with the Park Service mission.

Based on current air tour restrictions, more than 1.7 million tourists will be denied access to the Grand Canyon during the next decade at a cost to air tour operators conservatively estimated at $250 million.

Senator Ensign and I agree that, to the extent possible and practical, the quieter these air tour aircraft can be made to be, the better for everyone.

That’s why it is so important that the Grand Canyon Quiet Technology Implementation Act become the law.
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I ask unanimous consent that the text of the Grand Canyon Quiet Technology Implementation Act be printed in the Record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the “Grand Canyon Quiet Technology Implementation Act”.

SECTION 2. AMENDMENTS TO QUIET AIRCRAFT TECHNOLOGY ACT.

(a) In GENERAL.—Section 804 of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) is amended by adding at the end the following new subsection:

“(f) ALTERNATIVE QUIET AIRCRAFT TECHNOLOGY.—

“(1) GENERAL RULE.—Notwithstanding any other provision of law, an air tour operator based in Clark County, Nevada or at the Grand Canyon National Park shall be treated as satisfying the requirements for quiet aircraft technology that apply with respect to commercial air tour operations for tours described in subsection (b), if the air tour operator has met the following requirements:

“(A) The aircraft used by the air tour operator for such tours—

“(i) meet the requirements designated under subsection (a); or

“(ii) if not previously powered by turbine engines, have been modified to be powered by turbine engines and, after the conversion—

“(I) have a higher number of propellers (in the case of fixed-wing aircraft) or main rotor blades (in the case of helicopters) than the aircraft had before the conversion, thereby resulting in a reduction in prop or blade tip speeds and engine revolutions per minute;

“(II) have current technology engine exhaust mufflers;

“(III) in the case of helicopters, have current technology quietier tail rotors; or

“(IV) other modifications, approved by the Federal Aviation Administration, that significantly reduce the aircraft’s sound;

“(B) The air tour operator has replaced, for use for the tours, smaller aircraft with larger aircraft that have more seating capacity, thereby reducing the number of flights needed to transport the same number of passengers;

“(C) The air tour operator can safely demonstrate, through flight testing administered by the Federal Aviation Administration that applies a sound measurement methodology accepted as standard, that the tour operator can fly existing aircraft in a manner that achieves a sound signature in the same noise range or having the same or similar sound effect as the aircraft that satisfy the requirements of subparagraphs (A) or (B);

“(2) EXEMPTION FROM FLIGHT CAPS.—Any air tour operator that meets the requirements described in paragraph (1) shall be—

“(A) exempt from the operational flight altitudes referred to in subsection (c) and from flight curfews and any other requirement not imposed solely for reasons of aviation safety; and

“(B) granted air tour routes that are preferred for the quality of the scenic views for—

“(i) tours from Clark County, Nevada to the Grand Canyon National Park Airport; and

“(ii) ‘local loop’ tours referred to in subsection (b)(2),

“(b) RESTATEMENT OF CERTAIN AIR TOUR ROUTES.—Any air tour route from Clark County, Nevada, to the Grand Canyon National Park, Tusayan, Arizona, that was eliminated by regulation or by action by the Federal Aviation Administration, on or after January 1, 2001, and before the date of enactment of this Act shall be reinstated effective as of such date of enactment and no further changes, modifications, or elimination of any other air tour route by an air tour company based in Clark County, Nevada or at the Grand Canyon National Park Airport, Tusayan, Arizona may be made after such date of enactment without the approval of Congress.

By Mr. CRAIG (for himself and Mrs. FEINSTEIN):

S. 1153.

I ask unanimous consent that the Food Security Act of 1985 to establish a grassland reserve program to assist owners in restoring and protecting grassland; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CRAIG. Mr. President, I rise today to introduce the “Grassland Reserve Act”, a bill to authorize a voluntary program to purchase permanent or 30 year easement from willing producers in exchange for protection of grasslands, ranchlands, and lands of high resource value. I am pleased that Senators FINGOLD, and THOMAS, have joined as original cosponsors.

Grasslands provided critical habitat for complex plant and animal communities throughout much of North America. However, many of these lands have been, and are under pressure to be converted to other uses, threatening and eliminating plant and animal communities unique to this continent. A significant portion of the remaining lands are working ranches. Ranchland provides important open-space buffers for animal and plant habitat. Moreover, ranching forms the economic backbone for much of rural western United States. Loss of this economic activity will invariably lead to the loss of the open space that is indispensable for plant and animal communities and for citizens who love the western style of life.

As a rancher from a rural community in Idaho, I have noticed the changes taking place in some parts of my State where, for a number of reasons, working ranchers have been sold into ranchettes leaving the landscape divided by fences and homes where cattle and wildlife once roamed. Currently, no Federal programs exist to conserve grasslands, ranches, and other lands of high resource values, other than wetlands, on a national scale. I believe the United States needs a voluntary program to conserve these lands, and the Grasslands Reserve Act does just that.

Specifically, this bill establishes the Grasslands Reserve program through the Natural Resources Conservation Service to assist owners in restoring and conserving eligible land. To be eligible to participate in the program an owner must enroll no contiguous acres of land west of the 90th meridian, or 50 contiguous acres of land east of the 90th meridian. A maximum of 1,000,000 acres may be enrolled in the program in the form of a permanent or a 30-year easement. The program includes: native grasslands, working ranches, other areas that contain animal or plant populations of significant ecological value, and land that is necessary for the efficient administration of the easement.

The terms of the easements allow for grazing in a manner consistent with maintaining the viability of native grass species. All uses other than grazing, such as hay production, may be implemented according to terms of a written agreement between the landowner and easement holder. Easements prohibit the production of row crops, and other activities that disturb the surface of the land covered by the easement. The Secretary will work with the State technical committee to establish criteria to evaluate and rank applications for easements which will emphasize support for grazing operations, plant and animal biodiversity, and native grass and shrubland under the greatest threat of conversion. The Secretary may prescribe terms to the easement outlining how the land shall be restored including duties of the landowner and the Secretary. If the easement is violated, the Secretary may require the owner to refund all or part of the payments including interest. The Secretary may also conduct periodic inspections, after providing notice to the owner, to determine that the landowner is in compliance with the terms of the easement. The easement may be held and enforced by a private conservation, land trust organization, or a State agency in lieu of the Secretary, if the Secretary determines that granting such permission will promote grassland protection and the landowner agrees.

This legislation requires the Secretary to make payments for permanent easements based on the fair market value of the land less the grazing value of the land encumbered by the easement, and for 30 year easements the payment will be 30 percent of the fair market value of the land less the grazing value of the land encumbered by the easement. Payments may be made in one lump sum or over a 10 year period. Landowners may also choose to enroll their land in a 30-year rental agreement instead of a 30-year easement where the Secretary would make thirty annual payments which approximate the value of a lump sum payment the owner would receive under a 30-year easement. The Secretary is required to assess the payment schedule every five years to make sure that the payments do approximate the value of
a 30-year easement. USDA is also required to cover up to 75 percent of the cost of restoration and provide owners with technical assistance to execute the easement and restore the land.

I believe this legislation fills a need we have in our agriculture policy and I look forward to working with other members to include the Grasslands Reserve program in a responsible and balanced farm bill.

Mrs. FEINSTEIN. Mr. President, today I am pleased to join my colleagues to introduce legislation that provides fair compensation to producers and other landowners who maintain open spaces for plants and animals to thrive.

This bill creates a voluntary program authorizing the United States Department of Agriculture, USDA, to obtain either 30-year or permanent easements from landowners in exchange for a cash payment. Easements allow for grazing while maintaining the viability of native grass species. Moreover, these uses must only occur upon the conclusion of the local bird nesting season.

Vast amounts of grassland are being lost to urban development every year in large part because of economic pressures faced by ranchers, livestock producers, and other grassland owners.

Currently, there are no long-term programs to protect grasslands on a national scale. The Grassland Reserve Act provides real options to financially-strapped land owners of grasslands who wish to keep their lands in a natural state. There is a need for this bill because existing programs to protect lands, such as the Forest Legacy program, target forested lands only.

This legislation represents a win-win situation for both the environment and people who make their livelihood on grasslands. The loss of grassland is a serious problem for preserving wildlife habitat and a rural way of life. This bill is a step in the right direction to protect these lands from future development.

I have always felt that protecting our Nation’s unique natural areas, including grasslands, should be one of our highest priorities. I invite my colleagues to join Senator Craig and me in supporting this legislation.

By Mr. LEVIN (for himself and Mr. WARNER) (by request):

S. 1155. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 2002”.

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Sec. 535. Defense Language Institute Foreign Language Center.

Subtitle D—Decorations, Awards, and Commendations

Sec. 541. Authority for Award of the Medal of Honor to Humbert R. Versace for Valor During the Vietnam War.

Sec. 542. Issuance of Duplicate Medal of Honor.

Sec. 543. Repeal of Limitation on Award of Bronze Star to Members in Receipt of Special Pay.

Subtitle E—Uniform Code of Military Justice

Sec. 551. Revision of Punitive UCMJ Article Regarding Drunk Driving Operation of Vehicle, Aircraft, or Vessel.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2002.


Sec. 603. Funeral Honors Duty Allowance for Retirees.

Sec. 604. Basic Pay Rate for Certain Reserve Commissioned Officers with Prior Service as an Enlisted Member or Warrant Officer.

Sec. 605. Family Separation Allowance.

Sec. 606. Housing Allowance for the Chaplain for the Corps of Cadets, United States Military Academy.

Sec. 607. Clarifying Amendment that Space-Required Travel for Annual Training Reserve Duty Not Obligate Transportation Allowances.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Authorize the Secretary of the Navy to Prescribe Submarine Duty Incentive Pay Rates.

Sec. 612. Extension of Authorities Relating to Payment of Other Bonuses and Special Pays.

Sec. 613. Extension of Certain Bonuses and Special Pay Authorities for Nurse Officer Candidates, Registered Nurses, Nurse Anesthetists, and Dental Officers.

Sec. 614. Extension of Authorities Relating to Nuclear Officer Special Pays.

Sec. 615. Extension of Special and Incentive Pays.

Sec. 616. Accession Bonus for Officers in Critical Skills.

Sec. 617. Critical Wartime Skill Requirement for Eligibility for the Individual Ready Reserve Bonus.

Sec. 618. Hazardous Duty Incentive Pay: Maritime Board and Search.

Subtitle C—Travel and Transportation Allowances

Sec. 621. Funded Student Travel: Exchange Programs.

Sec. 622. Payment of Vehicle Storage Costs in Advance.

Sec. 623. Travel and Transportation Allowances for Family Members to Attend the Burial of a Deceased Member of the Armed Forces.

Sec. 624. Shipment of Privately Owned Vehicles When Executing CONUS Permanent Change of Station Moves.

Subtitle D—Other

Sec. 631. Montgomery GI Bill—Selected Reserve Eligibility Period.

Sec. 632. Improved Disability Benefits for Certain Reserve Component Members.

Sec. 633. Acceptance of Scholarships by Officers Participating in the Funded Legal Education Program.

TITLE VII—ACQUISITION POLICY AND ACQUISITION MANAGEMENT

Subtitle A—Acquisition Policy

Sec. 701. Acquisition Milestone Changes.

Sec. 702. Clarification of Inapplicability of the Requirement for Core Logistics Capabilities Standards to the Nuclear Redundancy of an Aircraft Carrier.

Sec. 703. Depot Maintenance Utilization Waiver.

Subtitle B—Acquisition Workforce

Sec. 705. Acquisition Workforce Qualifications.

Sec. 706. Tenure Requirement for Critical Acquisition Positions.

Subtitle C—General Contracting Procedures and Limitations

Sec. 710. Amendment of Law Applicable to Contracts for Architectural and Engineering Services and Construction Design.

Sec. 711. Streamlining Procedures for the Purchase of Certain Goods.


Sec. 713. One-Year Extension of Commercial Items Test Program.

Sec. 714. Modification of Limitation on Retirement or Dismantlement of Strategic Nuclear Delivery Systems.

Subtitle D—Military Construction General Provisions

Sec. 715. Exclusion of Unforeseen Environmental Hazard Remediation from the Limitation on Cost Increases for Military Construction and Family Housing Construction Projects.

Sec. 716. Increase of Overseas Minor Construction Threshold Using Operations and Maintenance Funds.

Sec. 717. Leasebacks of Base Closure Property.

Sec. 718. Alternative Authority For Acquisition and Improvement of Military Housing.

Sec. 719. Annual Report to Congress on Design and Construction.

TITLE VIII—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Department of Defense Organizations and Positions

Sec. 801. Organizational Alignment Change for Director for Expeditionary Warfare.

Sec. 802. Consolidation of Authorities Relating to Department of Defense Regional Centers for Security Studies.

Sec. 803. Change of Name for Air Mobility Command.

Sec. 804. Transfer of Intelligence Positions in Support of the National Imagery and Mapping Agency.

Subtitle B—Reports

Sec. 811. Amendment to National Guard and Reserve Component Equipment: Annual Report to Congress.

Sec. 812. Elimination of Triennial Report on the Roles and Missions of the Armed Forces.

Sec. 813. Change in Due Date of Commercial Activities Report.

Subtitle C—Other Matters

Sec. 821. Documents, Historical Artifacts, and Obsolete or Surplus Material: Loan, Donation, or Exchange.

Sec. 822. Charter Air Transportation of Members of the Armed Forces.

TITLE IX—GENERAL PROVISIONS

Subtitle A—Matters Relating to Other Nations

Sec. 901. Test and Evaluation Initiatives.

Sec. 902. Cooperative Research and Development Projects: Allied Countries.

Sec. 903. Recognition of Assistance from Foreign Nationals.

Sec. 904. Personal Service Contracts in Foreign Areas.

Subtitle B—Department of Defense Civilian Personnel


Sec. 912. Authority for Designated Civilian Employees Abroad to Act as a Notary.

Sec. 913. Inapplicability of Requirement for Studies and Reports When All Directly Affected Department of Defense Civilian Employees Are Reassigned to Comparable Federal Positions.

Sec. 914. Preservation of Civil Service Rights for Employees of the Former Defense Mapping Agency.

Sec. 915. Financial Assistance to Certain Employees in Acquisition of Critical Skills.

Sec. 916. Pilot Program for Payment of Retraining Expenses.

Subtitle C—Other Matters

Sec. 921. Authority to Ensure Demilitarization of Significant Military Equipment Formerly Owned by the Department of Defense.

Sec. 922. Motor Vehicles: Documentary Requirements for Transportation for Military Personnel and Federal Employees on Change of Permanent Station.

Sec. 923. Department of Defense Gift Initiatives.

Sec. 924. Repeal of the Joint Requirements Oversight Council Semi-Annual Report.

Sec. 925. Access to Sensitive Unclassified Information.


Sec. 927. Repeal of Requirement For Separate Budget Request For Procurement of Reserve Equipment.

Sec. 928. Repeal of Requirement For Two-Year Budget Cycle for the Department of Defense.

TITLE I—PROCUREMENT

Authorization of Appropriations

Sec. 101. Army.
TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and Maintenance Fundings.
Sec. 302. Working Capital Funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Acquisition of Logistical Support for Security Forces.

Sec. 5 of the National Defense Sealift Fund and Observers Participation Resolution (Public Law 97-132; 95 Stat. 1695; 22 U.S.C. 3424) is amended by adding at the end the following new subsection:

"(d) The United States may use contractors or other means to provide logistical support to the Multinational Force and Observers under this section in lieu of providing such support through a logistical support unit comprised of members of the armed forces. Notwithstanding subsections (a) and (b) and section 7(b), support by a contractor or other means under this subsection may be provided without reimbursement, whenever the President determines that such action enhances or supports the national security interests of the United States."

Sec. 305. CONTRACT AUTHORITY FOR DEFENSE WORKING CAPITAL FUNDS.

Contract authority in the amount of $427,100,000, to remain available until September 30, 2002, is hereby authorized and appropriated to the Defense Working Capital Fund for the procurement, lease-purchase with substantial private sector risk, capital or operating multiple-year lease, of a capital equipment, multiple-year lease, of a commercial craft or vessel and associated services.

Subtitle B—Environmental Provisions

Sec. 310. Reimburse EPA for Certain Costs in Connection with Hooper Sands Site, in South Berwick, Maine.

Sec. 311. Extension of Pilot Program for the Sale of Air Pollution Emission Reduction Incentives.

Sec. 312. Elimination of Report on Contractor Reimbursement Costs.

Sec. 313. Reimburse EPA for Certain Costs in Connection with Hooper Sands Site, in South Berwick, Maine.

(a) AUTHORITY TO REIMBURSE EPA.—Using funds described in subsection (b), the Secretary of the Navy, $1,026,000 to the Hooper Sands Special Account within the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986, reimburses the Environmental Protection Agency in full for the remaining Past Response Costs incurred by the agency for actions taken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601, et seq.) at the Hooper Sands site in South Berwick, Maine, pursuant to an Interagency Agreement entered into by the Department of the Navy and the Environmental Protection Agency in January 2001.

(b) SOURCE OF FUNDS.—Any payment under subsection (a) shall be made using the amounts authorized to be appropriated by paragraph (15) of title 10, United States Code.

Sec. 311. EXTENSION OF PILOT PROGRAM FOR THE SALE OF AIR POLLUTION EMISSION REDUCTION INCENTIVES

Section 351(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1629, 1692) is amended to read as follows:

"(2) The Secretary may carry out the pilot program during the period beginning on the date of enactment of this Act through September 30, 2003."
SEC. 316. REIMBURSEMENT FOR NON-COMMISSARY USE OF COMMISSARY FACILITIES.

(a) In General.—Chapter 147 of title 10, United States Code, is amended by inserting at the beginning of the chapter the following new section:

"§ 2481. Reimbursement for non-commissary use of commissary facilities.

"If a commissary facility acquired, constructed, or improved in whole or in part with commissary surcharge revenues is used for non-commissary purposes, the Secretary of the military department concerned shall reimburse the commissary surcharge revenues for the commissary's share of the depreciable value of the facility.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 147 is amended by inserting before the item relating to section 2482 the following new item:

"2481. Reimbursement for non-commissary use of commissary facilities."

SEC. 317. COMMISSARY CONTRACTS AND OTHER AGENCIES AND INSTRUMENTALITIES.

Section 2482(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) Where the Secretary of Defense authorizes the Defense Commissary Agency to sell limited exchange merchandise as commissary store inventory under section 2486(b)(11) of this title, the Defense Commissary Agency may enter into a contract or other agreement to obtain such merchandise from the Armed Service Exchanges, provided that such merchandise shall be obtained at a price no more than the exchange retail price less the amount of commissary surcharge authorized to be collected by section 2486 of this title. If such sales provide intelligence, including countercointelligence, support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program, the Joint Military Intelligence Program, and the Tactical Intelligence and Related Activities aggregate, the Secretary of Defense or the Secretary of the Army, as the Secretary determines, may authorize deviant from established Reserve and National Guard personnel and training procedures.

SEC. 320. REIMBURSEMENT FOR RESERVE INTELLIGENCE SUPPORT.


SEC. 329. REIMBURSEMENT FOR RESERVE INTELLIGENCE SUPPORT.

(a) Appraisements available to the Department of Defense for operations and maintenance may be used to reimburse National Guard and Reserve units or organizations for the pay, allowances, and other expenses which are incurred by National Guard and Reserve units or organizations when members of the National Guard or Reserve provide intelligence, including countercointelligence, support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program, the Joint Military Intelligence Program, and the Tactical Intelligence and Related Activities aggregate.

(b) The authority to reimburse such agencies deviates from established Reserve and National Guard personnel and training procedures.

SEC. 321. DISPOSAL OF OBSOLETE AND EXCESS MATERIALS ACQUIRED IN THE NATIONAL DEFENSE STOCKPILE.

Subject to the conditions specified in section 10(c) of the Strategic and Critical Materials Control Act (50 U.S.C. §488–490(c)), the President may dispose of the following obsolete and excess materials contained in the National Defense Stockpile in the following quantities:


TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End Strengths for Active Forces.

SEC. 402. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for Active Reserves of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 406. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVE.

Within the end strength prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2002, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purposes of organizing, administering, recruiting, instructing, or training the reserve components:


(2) The Air Force Reserve, 74,700.

(3) The Coast Guard Reserve, 8,000.

(4) The Marine Corps Reserve, 39,558.

(5) The Air National Guard of the United States, 350,000.

(6) The Army Reserve, 205,000.

(7) The Naval Reserve, 87,000.

(8) The Air Force Reserve, 67,000.

(9) The Marine Corps Reserve, 39,558.

The Reserve Components of the Army and the Air Force are authorized strengths for military technicians (dual status) as of September 30, 2002, as follows:

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<thead>
<tr>
<th>AGR Population</th>
<th>0-4 (MAI)</th>
<th>0-5 (LTC)</th>
<th>0-6 (COL)</th>
</tr>
</thead>
<tbody>
<tr>
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<td>521</td>
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<td>538</td>
<td>193</td>
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<tr>
<td>22,000</td>
<td>1,503</td>
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<td>263</td>
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<tr>
<td>23,000</td>
<td>1,564</td>
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<td>273</td>
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<td>24,000</td>
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"U.S. Marine Corps Reserve"

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<th>0-6 (COL)</th>
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"Air Force Reserve"

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<th>0-6 (COL)</th>
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<tbody>
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<td>335</td>
<td>251</td>
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<td>6,000</td>
<td>344</td>
<td>345</td>
<td>261</td>
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<td>7,000</td>
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<td>357</td>
<td>271</td>
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<tr>
<td>8,000</td>
<td>368</td>
<td>369</td>
<td>281</td>
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<tr>
<td>9,000</td>
<td>380</td>
<td>381</td>
<td>291</td>
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<td>10,000</td>
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"Army Reserve"

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"U.S. Air Force Reserve"

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<th>0-6 (COL)</th>
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"U.S. Navy Reserve"

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<th>0-6 (COL)</th>
</tr>
</thead>
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</tr>
<tr>
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<tr>
<td>13,000</td>
<td>980</td>
<td>503</td>
<td>173</td>
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</table>
equal to not more than 5% of the authorized strength in that controlled grade.

**SEC. 410. INCREASE IN AUTHORIZED STRENGTHS FOR AIR FORCE OFFICERS ON ACTIVE DUTY IN THE GRADE OF E-8.**

The table in section 523(a)(1) of title 10, United States Code, is amended by striking the figures under the heading “Major” relating to the Air Force and inserting the following:

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<td>670</td>
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<td>770</td>
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</table>

**TITLE V—MILITARY PERSONNEL POLICY**

Subtitle A—Officer Personnel Policy

Sec. 501. Elimination of Certain Medical and Dental Requirements for Army Early-Deployers.

Sec. 502. Medical Deferral of Mandatory Retirement or Separation.

Sec. 503. Officer in Charge; United States Navy Band.

Sec. 504. Removal of Requirement for Certification for Certain Flag Officers to Retire in Their Highest Grade.


**SEC. 501. ELIMINATION OF CERTAIN MEDICAL AND DENTAL REQUIREMENTS FOR ARMY EARLY-DEPLOYERS.**

Section 1074a of title 10, United States Code, is amended——

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

**SEC. 502. MEDICAL DEFERMENT OF MANDATORY RETIREMENT OR SEPARATION.**

Section 640 of title 10, United States Code, is amended——

(1) by inserting “(a)” at the beginning of the paragraph;

(2) by striking “cannot” and inserting “may not”; and

(3) by adding at the end the following new subparagraph (b):

“(b) An officer whose mandatory retirement or separation under this chapter or chapter 63 of this title is subject to deferral under this section, may be extended for a period not to exceed 30 days following completion of the evaluation requiring hospitalization or medical observation.”.

**SEC. 503. OFFICER IN CHARGE; UNITED STATES NAVY BAND.**

(a) DETAIL AND GRADE.—Chapter 565 of title 10, United States Code, is amended by inserting after section 6221 the following new section:

<table>
<thead>
<tr>
<th>Sec</th>
<th>Title</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>6221a</td>
<td>United States Navy Band: officer in charge</td>
<td><code>An officer serving in a grade not below lieutenant commander may be detailed as Officer in Charge of the United States Navy Band. While so serving, an officer who holds a grade lower than captain shall hold the grade of captain if he is appointed to that grade by the President, by and with the advice and consent of the Senate. Such appointment may occur notwithstanding the limitation of subsection 5596(d) of this title.</code></td>
</tr>
</tbody>
</table>

**SEC. 504. REMOVAL OF REQUIREMENT FOR CERTIFICATION FOR CERTAIN FLAG OFFICERS TO RETIRE IN THEIR HIGHEST GRADE.**

Section 1370a(a)(1) of title 10, United States Code, is amended——

(1) by striking “certifies in writing to the President and Congress” and inserting “determines in writing”; and

(2) by adding at the end of the paragraph the following new sentence:

“The Secretary of Defense shall issue regulations to implement this paragraph.”

**SEC. 505. THREE-YEAR EXTENSION OF CERTAIN FORCE DRAWDOWN TRANSITION AUTHORITIES RELATING TO PERSONNEL MANAGEMENT AND BENEFITS.**

(a) EXTENSION OF EARLY RETIREMENT AUTHORITY FOR ACTIVE DUTY MEMBERS.—Section 4403(l) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1290 note) is amended by striking “October 1, 2001” and inserting “October 1, 2004”.

(b) EXTENSION OF AUTHORITY FOR SPECIAL SEPARATION BENEFIT AND VOLUNTARY EARLY RETIREMENT.—Section 1174a(h)(1) of title 10, United States Code, is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(c) EXTENSION OF AUTHORITY FOR SELECTIVE EARLY RETIREMENT BOARDS.—Section 63 8a(a) of such title is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(d) TIMING IN-GRADE REQUIREMENT FOR RETENTION OF GRADE UPON VOLUNTARY RETIREMENT.—(1) Section 1370a(a)(2)(A)(i) of such title is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(2) Section 1370(a)(5) of such title is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(e) MINIMUM COMMISSIONED SERVICE FOR VOLUNTARY RETIREMENT AS AN OFFICER.—(1) Section 3901(b) of such title is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(2) NAVY.—Section 6323(a)(2) of such title is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(3) AIR FORCE.—Section 8911(b) of such title is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(4) TRAVEL, TRANSPORTATION, AND STORAGE BENEFITS.—(1) Section 406(c)(1)(C) of title 37, United States Code, is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(2) Section 406(b)(2)(B)(v) of such title is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(3) Section 406(a)(2)(B)(v) of such title is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

(4) Section 406(c)(1) of such title is amended by striking “December 31, 2001” and inserting “September 30, 2004”.

**CONGRESSIONAL RECORD—SENATE**

June 29, 2001
SEC. 506. REVIEW OF ACTIONS OF SELECTION BOARD.—(a) IN GENERAL.—Chapter 79 of title 10, United States Code, is amended by adding at the end of the chapter the following new sections:—

*(g) EXISTING JURISDICTION.—(1) Nothing in this section limits the jurisdiction of any court of the United States under any provision of law to determine the validity of any statute, regulation, or policy relating to selection boards, except that, in the event that any such statute, regulation, or policy is held invalid, the remedies prescribed in this section shall be the sole and exclusive remedies available to any person challenging the constitutionality of a special board on the basis of the invalidity.

*(h) TIMELINESS OF ACTION.—(1) For the purposes of subsection (e)—

*(j) REGULATIONS.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(k) CONTINUED ENROLLMENT OF DEPENDENTS.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(l) TRANSITIONAL COMMISSARY AND EXCHANGE BENEFITS.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(m) TEMPORARY SPECIAL AUTHORITY FOR FORCE REDUCTION PERIOD RETIREMENTS.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(n) RETIRED PAY FOR NON-REGULAR SERVICE.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(o) AFFILIATION WITH GUARD AND RESERVE UNITS.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(p) RESERVE MONTGOMERY GI BILL.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(q) AUTHORIZATION ACT FOR FISCAL YEAR 1993.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(r) RECOVERY OF BENEFITS.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(s) WORKER-ARMED FORCES PROGRAM.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(t) COMPENSATION, PAY, AND ALLOWANCES.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(u) SELECTING FOR MODERATE DUTY.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(v) MODERATE DUTY.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(w) MODERATE DUTY.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(x) MODERATE DUTY.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(y) MODERATE DUTY.—(1) The Secretary concerned may prescribe regulations to carry out this section.

*(z) MODERATE DUTY.—(1) The Secretary concerned may prescribe regulations to carry out this section.
board nor denied consideration by a special board, the Secretary shall be deemed to have been denied such consideration.

“(B) If, not later than one year after the convening of a special board, the Secretary concerned shall not have taken final action on the report of such board, the Secretary shall be deemed to have denied relief to the person applying for consideration by the board.

“(2) Under regulations prescribed in accordance with subsection (d), the Secretary concerned may delegate an individual application from the time limits prescribed in this subsection if the Secretary determines that the application warrants a longer period of consideration.

“A military department under this paragraph may not be delegated.

“(c) does not include a promotion special selection board convened under section 628 or 14052 of this title.

“(2) The term ‘selection board’—

“(A) means a selection board convened under any authority to consider any claim based to any extent on the records of that person for consideration by a previously convened selection board which considered or should have considered that person:

“(B) includes a board for the correction of military or naval records convened under section 1552 of this title, if designated as a special board by the Secretary concerned; and

“(C) does not include a promotion special selection board convened under section 628 or 14052 of this title.

“(3) The term ‘selection board’—

“(A) means a selection board convened under section 573(c), 580, 580a, 581, 611(b), 637, 638, 638a, 14101(b), 14701, 14704, or 14705 of this title, and any other board convened by the Secretary concerned under any authority to recommend persons for appointment, enlistment, reenlistment, assignment, promotion, retention, separation, re- tirement, or transfer to inactive status in a reserve component of the armed forces for the purpose of reducing the number of persons serving in the armed forces; and

“(B) does not include—

“(i) a special selection board convened under section 573(f), 611(a), or 14101(a) of this title;

“(ii) a special selection board convened under section 628 of such title;

“(iii) a special selection board convened under section 573(f), 611(a), or 14101(a) of this title;

“(iv) a board for the correction of military records convened under section 1552 of this title.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1407 of title 10 is amended—

“(1) in paragraph (1), by striking ‘and apply for transfer’ and inserting ‘has re- quested not to be transferred to the Retired Reserve’ before the semicolon; and

“(2) in paragraph (2), by striking ‘and applies’ and inserting ‘unless the officer re- quests not to be transferred to the Retired Reserve’ after ‘is not qualified or’.

Title 10 is amended—

“(2) The table of sections at the beginning of chapter 1407 of such title 10 is amended by striking the item relating to section 14513 and inserting the following new item:

“14513. Separation or retirement for failure of selection for promotion.’.

(c) RETIREMENT FOR YEARS OF SERVICE OR AFTER SELECTION FOR EARLY REMOVAL.—Sec- tion 14514 of such title 10 is amended—

“(1) in paragraph (1), by striking ‘and applies’ and inserting ‘unless the officer re- quests not to be transferred to the Retired Reserve’ before the semicolon; and

“(2) in paragraph (2), by striking ‘and applies’ and inserting ‘unless the officer re- quests not to be transferred to the Retired Reserve’ after ‘is not qualified or’,

“d) RETIREMENT FOR AGE.—Section 14515 of such title 10 is amended—

“(1) in paragraph (1), by striking ‘and applies’ and inserting ‘unless the officer re- quests not to be transferred to the Retired Reserve’ before the semicolon; and

“(2) in paragraph (2), by striking ‘does not apply for such transfer’ and inserting ‘has requested not to be transferred to the Re- tired Reserve’ after ‘is not qualified or’.

“e) DISCHARGE OR RETIREMENT OF WARRANT OFFICERS FOR YEARS OF SERVICE OR AGE.—(1) Chapter 1207 of such title 10 is amended by adding at the end the following new section:

“12244. Warrant officers: discharge or retire- ment for years of service or for age.

‘Each warrant officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the max- imum years of service or age prescribed by the Secretary concerned shall—

“(1) be transferred to the Retired Reserve, if the warrant officer is so qualified for such transfer, unless the warrant officer requests not to be transferred to the Retired Reserve; or
"(2) if the warrant officer is not qualified for such transfer or requests not to be transferred to the Retired Reserve, be discharged.".

(2) The table of sections at the beginning of such title 10 of such United States Code is amended by adding at the end the following new item: "12244. Warrant officers: discharge or retirement for years of service or for age.".

(D) DISCHARGE, OR RETIREMENT OF ENLISTED MEMBERS FOR YEARS OF SERVICE OR AGE.—(1) Chapter 121 of title 10 of such United States Code is amended by adding, at the end of the following new section:

12108. Enlisted members: discharge or retirement for years of service or for age.

Each reserve enlisted member of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretary concerned shall—

(2) by transferring to the Retired Reserve, if the member is so qualified for such transfer, unless the member requests not to be transferred to the Retired Reserve; or

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item: "12108. Enlisted members: discharge or retirement for years of service or for age.".

SEC. 512. AMENDMENT TO RESERVE PERSTEMPO DUTY STATUS.

Section 101(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "active" before "service" and adding at the end the following new sentence:

"For the purpose of this definition, the housing in which a member of a reserve component resides is either the housing the member normally occupies when on garrison duty or the member's permanent civilian residence.";

(2) by striking paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3) respectively; and

(4) in paragraph (3) (as redesignated, by striking subparagraph (A) and (B)."

SEC. 513. INDIVIDUAL READY RESERVE PHYSICAL EXAMINATION REQUIREMENT.

Section 101(b) of title 10, United States Code, is amended—

(1) in subsection (a), by striking "Ready Reserve" and inserting "Selected Reserve";

(2) by designating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection:

(b) As determined by the Secretary concerned, each member of the Individual Ready Reserve or Inactive National Guard shall be provided a physical examination, if required—

(1) to determine the member's fitness for military duty; or

(2) for promotion, attendance at a military school or other career progression requirements.".

SEC. 514. BENEFITS AND PROTECTIONS FOR MEMBERS IN FLIGHT CREW DUTY STATUS.

(a) PERSONS SUBJECT TO THE UNIFORMED CODE OF MILITARY JUSTICE.—Section 602 of title 10, United States Code, is amended—

(1) in subsection (a)(3), by inserting "or in a funeral honors duty status" after "in inactive-duty training"; and

(2) in subsection (b)(2), by inserting "or in a funeral honors duty status" after "in inactive-duty training".

(b) BENEFITS FOR DEPENDENTS OF A DECEASED RESERVE COMPONENT MEMBER.—Section 1061 of such title 10 is amended—

(1) in subsection (b)(1), by striking "or" the first time it appears and inserting "or funeral honors duty" before the semicolon; and

(2) in subsection (b)(2), by striking "or" the first time it appears and inserting "or funeral honors duty" before the period.

(c) PAYMENT OF A DEATH GRATUITY.—(1) Section 175(a) of such title 10 is amended—

(A) by redesigning paragraphs (3), (4) and (5) as paragraphs (4), (5) and (6), respectively;

(B) by inserting after paragraph (2) the following new paragraph:

(3) a Reserve of an armed force who dies while performing funeral honors duty; and

(C) in paragraph (4) (as redesignated in subsection (c)(1))—

(i) striking "or" both time it appears;

(ii) inserting "or funeral honors duty" after "Public Health Service";

(iii) inserting a comma before and after "inactive duty training" the second time it appears in the paragraph; and

(iv) inserting "or funeral honors duty" before the semicolon.

(2) Section 176(a) of such title 10 is amended—

(A) in paragraph (1)(A), by striking "or";

(B) in paragraph (1)(B), by striking the period and inserting "; or;

(C) by adding at the end of paragraph (1) the following new subparagraph:

"(C) funeral honors duty; and"

(D) in paragraph (2)(A), by striking "or" the first time it appears and inserting "or funeral honors duty" after "inactive-duty training".

(d) MILITARY AUTHORITY FOR MEMBERS OF THE COAST GUARD RESERVE.—Section 104 of title 10, United States Code, is amended by—

(1) striking "or" the first time it appears in the second sentence; and

(2) inserting "; or", and funeral honors duty after "inactive-duty training".

(e) BENEFITS FOR MEMBERS OF THE COAST GUARD RESERVE.—Section 704 of such title 10, United States Code, is amended by—

(1) striking "or" the first time it appears and inserting "or funeral honors duty" after "inactive-duty training".

(2) by redesigning paragraphs (3), (4) and (5) as paragraphs (2) and (3) respectively; and

(3) by inserting in "paragraph (1)"—

(1) the first time it appears and inserting "; or" after "inactive-duty training".

SEC. 515. FUNERAL HONORS DUTY PERFORMED BY MEMBERS OF THE NATIONAL GUARD.

(a) DEFENSE.—Section 1491(b) of title 10, United States Code, is amended in subsection (b) in support of a contingency operation as defined in section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title.

(b) INCREASE IN AUTHORIZED DAILY AVERAGE.—Section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title.

(c) INCREASE IN AUTHORIZED DAILY AVERAGE FOR COMMISSIONED OFFICERS IN PAY GRADES O-4, O-5 AND O-6 ON ACTIVE DUTY UNDER CERTAIN CIRCUMSTANCES.—Section 520 of title 10, United States Code, is amended—

(1) in paragraphs (a)(1) and (a)(2), by striking "subsection (c)" and inserting subsections (c) and (d)"; and

(2) by adding at the end the following new subsection:

"(e) The Secretary of Defense may increase the authorized daily average number of commissioned officers on active duty in an armed force in pay grades O-4, O-5 and O-6 on active duty under certain circumstances.

(1) the Secretary of Defense may increase the authorized number of commissioned officers on active duty in an armed force in pay grades O-4, O-5 and O-6 on active duty under certain circumstances.

(3) the following "limitation"—

(3) redesignating paragraphs (1), (2) and (4) as subparagraphs (A), (B), (C) and (D) respectively; and

(4) inserting after subparagraph (D) as redesignated by section (a)(3) the following new paragraph:

(3) A member of the Army National Guard of the United States who serves as a member of a funeral honors detail in a duty status authorized under state law shall be considered to be a member of the armed forces for the purpose of fulfilling the two member funeral honors detail requirement in paragraph (2)."

SEC. 516. STRENGTH AND GRADE CEILING ACCOUNTING FOR RESERVE COMPONENT MEMBERS ON ACTIVE DUTY IN SUPPORT OF A CONTINGENCY OPERATION.

(a) ACTIVE DUTY STRENGTH ACCOUNTING.—Section 115(c) of title 10, United States Code is amended—

(1) in subparagraph (1), by striking "and" at the end of the subparagraph; and

(2) in subparagraph (2), by striking the period and adding "; and" at the end of the sub-paragraph; and

(3) by adding the following new subparagraph:

"(3) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by a number equal to the number of members of the reserve components on active duty under section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title.

(b) INCREASE IN AUTHORIZED DAILY AVERAGE.—Section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title.

(c) INCREASE IN AUTHORIZED DAILY AVERAGE FOR COMMISSIONED OFFICERS IN PAY GRADES O-4, O-5 AND O-6 ON ACTIVE DUTY UNDER CERTAIN CIRCUMSTANCES.—Section 520 of such title 10 is amended—

(1) in paragraphs (a)(1) and (a)(2), by striking "subsection (c)" and inserting subsections (c) and (d)"; and

(2) by adding at the end the following new subsection:

"(e) The Secretary of Defense may increase the authorized total number of commissioned officers serving on active duty at the end of any fiscal year pursuant to subsection (a) by the number of commissioned officers of a reserve component of the Army, Navy, Air Force, or Marine Corps on active duty under section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title.

(d) INCREASE, IN AUTHORIZED STRENGTHS FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY UNDER CERTAIN CIRCUMSTANCES.—Section 530 of such title 10 is amended—

(1) in paragraphs (a)(1) and (a)(2), by striking "subsection (c)" and inserting subsections (c) and (d)"; and

(2) by adding at the end the following new subsection:

"(e) The Secretary of Defense may increase the authorized total number of commissioned officers serving on active duty at the end of any fiscal year pursuant to subsection (a) by the number of commissioned officers of a reserve component of the Army, Navy, Air Force, or Marine Corps on active duty under section 12301(d) of this title in support of a contingency operation as defined in section 101(a)(13) of this title.

"(2) by inserting "(e) Except as provided in paragraph (2), the following "Limitations"—

(3) redesignating paragraphs (1), (2) and (4) as subparagraphs (A), (B), (C) and (D) respectively; and

(4) inserting after subparagraph (D) as redesignated by section (d)(3) the following new paragraph:

(3) A member of the Army National Guard of the United States who serves as a member of a funeral honors detail in a duty status authorized under state law shall be considered to be a member of the armed forces for the purpose of fulfilling the two member funeral honors detail requirement in paragraph (2)."

CONGRESSIONAL RECORD—SENATE

June 29, 2001

12513
SECTION 517. RESERVE HEALTH PROFESSIONALS STUDENT TRAINING PROGRAM EXPANDED.—(a) PURPOSE OF PROGRAM.—Section 16201(a) of title 10, United States Code, is amended to read as follows:

"(a) Purpose of Program.—For the purpose of obtaining adequate numbers of commissioned officers in the reserve component who are qualified in health professions, the Secretary of each military department may establish and maintain a program to provide financial assistance under this chapter to persons engaged in training that leads to a degree or certificate in medical or dental hygiene and to a health professions specialty critically needed in wartime. Under such a program, the Secretary concerned may agree to pay a financial stipend to persons engaged in health care education and training in return for a commitment to subsequent service in the Ready Reserve.

(b) MEDICAL AND DENTAL STUDENT STIPEND.—Section 16201 of such title 10 is amended by—

(1) redesignating subsections (b), (c), (d) and (e) (as redesignated by section (b));

(2) inserting the following new subsection:

"(b) MEDICAL AND DENTAL SCHOOL STUDENTS.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) is eligible to be appointed as an officer in a Reserve component;

(B) is enrolled or has been accepted for enrollment in an institution in a course of study that results in a degree in medicine or dentistry;

(C) signs an agreement that, unless sooner separated, the person will—

(i) complete the educational phase of the program;

(ii) accept a reappointment or redesignation within his reserve component, if tenured, based upon his health profession, following satisfactory completion of the educational and intern programs; and

(iii) participate in a residency program; and

(D) if required by regulations prescribed by the Secretary of Defense, agrees to apply for, if eligible, and accept, if offered, residency training in a health profession skill which has been designated by the Secretary of Defense as a critically needed wartime skill.

(2) Under the agreement—

(A) the Secretary of the military department concerned shall agree to pay the participant a stipend, in the amount determined under subsection (f), for the period or the remainder of the period the student is satisfactorily progressing toward a degree in medicine or dentistry while enrolled in an accredited medical or dental school;

(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as an officer for service in the Ready Reserve;

(C) the participant shall be subject to such active duty as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

(D) the participant shall agree to serve, upon successful completion of the program, one year in the Selected Reserve for each six months, or part thereof, for which the stipend was paid while enrolled in medical or dental school.

"(c) WARTIME CRITICAL SKILLS.—Section 16201(c), (as redesignated by section (b)), is amended—

(1) by inserting "WARTIME" following "CRITICAL" in the heading; and

(2) in paragraph (a), by inserting "or has been appointed as a medical or dental officer in the Reserve of the armed force concerned" before the semicolon at the end of the paragraph.

(d) SERVICE OBLIGATION REQUIREMENT.—Subparagraph (2)(D) of subsection (c), as redesignated by section (b), and subparagraph (2)(D) of subsection (d), as redesignated by section (b), are amended by striking "two years in the Ready Reserve for each year," and inserting "three years in the Ready Reserve for each six months."

(e) CLERICAL AMENDMENTS.—Subparagraphs (2)(A), (2)(B), (2)(C), (2)(D), (as redesignated by section (b)), are amended by striking "subsection (e)" and inserting "subsection (f)

SECTION 518. RESTRICTION ON ACTIVE DUTY FOR A PERIOD OF THREE YEARS OR LESS.—(a) CLARIFICATION OF EXEMPTION.—Section 614(d)(1) of title 10, United States Code, is amended to read as follows:

"(D) on active duty under section 12002(d) of this title, provided that such active duty does not exceed a period of three years or less and continued placement on the reserve active-status list under section 641(1)(D), as amended by section 1251 or sections 632–637 of title 10, as amended by section 1231 of the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2020, 2008) is amended to read as follows:

"(1) in subsection (a), by striking "(a) Waiver Authority for Army OCS Graduates..." and inserting "(a) Waiver Authority for Army OCS Graduates—The Secretary of the Army may authorize for one person per year, or part thereof, for which the stipend was paid while enrolled in medical or dental school, to perform critical wartime functions..."

"(b) in subsection (b), by striking "2000" and inserting "2003".

SEC. 519. ACTIVE DUTY END STRENGTH EXEMPTION.—This act shall become effective on the date of enactment of this Act, provided they other- wise meet the conditions specified in section 614(d)(1) as amended by this Act.

SEC. 520. CLARIFICATION OF FUNCTIONS THAT MAY BE ASSIGNED TO ACTIVE GUARD AND RESERVE PERSONNEL ON FULL-TIME NATIONAL GUARD DUTY UNDER SECTION 502(f) OF TITLE 32 IN CONNECTION WITH FUNCTIONS REFERRED TO IN SUBSECTION (A), AFTER "ON ACTIVE DUTY AS DESCRIBED IN SUBSECTION (A)":

"(c) Duty of the President to Provide a Degree of Master of Strategic Studies...";

"(b) Regulation.—The Secretary of the Navy shall promulgate regulations under which the Director of the faculty of the Marine Corps War College of the Marine Corps University may confer the degree of master of strategic studies upon graduates of the college who fulfill the requirements for the degree.

"(a) Authority for the Marine Corps University to Award the Degree of Master of Strategic Studies.—

"(1) AUTHORITY TO CONFER DEGREE.—Upon the recommendation of the Director and faculty of the Marine Corps War College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of strategic studies upon graduates of the college who fulfill the requirements for the degree.

"(b) Regulation.—The Secretary of the Navy shall promulgate regulations under which the Director of the faculty of the Marine Corps War College of the Marine Corps University shall administer the authority in subsection (a).

"(c) Effective Date.—The authority to award degrees by subsection (a) shall become effective on the date on which the Secretary of Education determines that the requirements established by the Marine Corps War College of the Marine Corps University for the degree of master of strategic studies are in accordance with generally applicable requirements for a degree of master of arts.
SEC. 532. RESERVE COMPONENT DISTRIBUTED LEARNING.

(a) COMPENSATION FOR DISTRIBUTED LEARNING.—Section 206(d) of title 37, United States Code, is amended to read as follows:

"(d) A Reserve Component may be paid compensation under this section for the successful completion of courses of instruction undertaken by electronic, paper-based, or other distributed learning. Distributed learning is structured learning that takes place without requiring the physical presence of an instructor. To be compensable, the course must be required by law, Department of Defense policy, or service regulation and may be accomplished either independently or as part of a group."

(b) DEFINITION OF INACTIVE-DUTY TRAINING.—Section 101(22) of title 37, United States Code, is amended by striking "", but does not include work or study in connection with a correspondence course of a uniformed service"".

SEC. 533. REPEAL OF LIMITATION ON NUMBER OF LEADERSHIP RESERVE OFFICERS' TRAINING CORPS (JROTC) UNITS.

Section 2631(a)(1) of title 10, United States Code, is amended by striking the second sentence.

SEC. 534. MODIFICATION OF THE NURSE OFFICER CANDIDATE ACCESION PROGRAM REQUIRING ENROLLMENT ON STUDENTS CONTENDING CIVILIAN EDUCATIONAL INSTITUTIONS WITH SENIOR RESERVE OFFICERS' TRAINING PROGRAMS.

Section 2130a of title 10, United States Code, is amended—

(1) in paragraph (a)(2), by striking "that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title," and

(2) by adding at the end "or that has a Senior Reserve Officers' Training Program for which the student is ineligible.".

SEC. 535. DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER.

(a) Subject to subsection (b), the Commandant of the Defense Language Institute Foreign Language Center may confer an Associate of Arts degree in Foreign Language upon graduates of the Institute who fulfill the requirements for the degree.

(b) The degree may be conferred upon any student under this section unless the Proctor certifies to the Commandant of the Institute that the student has satisfied all the requirements prescribed for such degree.

(c) The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of Defense.

Subtitle D—Decorations, Awards, and Commendations

Sec. 541. Authority for Award of the Medal of Honor to Humbert R. Versace for Valor During the Vietnam War.

Sec. 542. Issuance of Duplicate Medal of Honor.

Sec. 543. Repeal of Limitation on Award of Bronze Star to Members in Receipt of Special Pay.

SEC. 541. AUTHORITY FOR AWARD OF THE MEDAL OF HONOR TO HUMBERT R. VERSACE FOR VALOR DURING THE VIETNAM WAR.

(a) WAIVER OF TIME LIMITATIONS.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons serving in the military service, the President may award the Medal of Honor under section 3741 of that title to Humbert R. Versace for the acts of valor referred to in subsection (b).

(b) ACTION DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of Humbert R. Versace between October 29, 1963, and September 29, 1965, while interned as a prisoner of war by the Communist National Liberation Front (Viet Cong) in the Republic of Vietnam.

SEC. 542. ISSUANCE OF DUPLICATE MEDAL OF HONOR.

(a) Section 3747 of title 10, United States Code, is amended—

(1) in the section heading, by adding at the end "issues of duplicate medal of honor;"

(2) by striking "Any medal of honor" and inserting "(a) REPLACEMENT OF MEDALS.—Any medal of honor;"

(3) by inserting "stolen," before "lost or destroyed," and

(4) by adding at the end the following new subsection:

"(b) ISSUANCE OF DUPLICATE MEDAL OF HONOR.—Upon written application by a person to whom a medal of honor has been awarded under this chapter, the Army may issue such person, without charge, one duplicate medal of honor, with ribbons and appurtenances. Such duplicate shall be marked, in a manner the Secretary may determine, as a duplicate or for display purposes only. The issuance of a duplicate medal of honor under the authority of this subsection shall not constitute the award of more than one medal of honor with the meaning of section 3744(a) of this title.".

(b) Section 6233 of such title is amended—

(1) in the section heading, by adding at the end "issues of duplicate medal of honor;"

(2) by striking "The Secretary of the Navy may replace" and inserting "(a) REPLACEMENT OF MEDALS.—The Secretary of the Navy may replace;"

(3) by inserting "stolen," before "lost or destroyed," and

(4) by adding at the end the following new subsection:

"(b) ISSUANCE OF DUPLICATE MEDAL OF HONOR.—Upon written application by a person to whom a medal of honor has been awarded under this chapter, the Secretary of the Navy may issue such person, without charge, one duplicate medal of honor, with ribbons and appurtenances. Such duplicate shall be marked, in a manner the Secretary may determine, as a duplicate or for display purposes only. The issuance of a duplicate medal of honor under the authority of this subsection shall not constitute the award of more than one medal of honor with the meaning of section 3744(a) of this title.".

(c) Section 6247 of such title is amended—

(1) in the section heading, by adding at the end "issues of duplicate medal of honor;"

(2) by striking "Any medal of honor" and inserting "(a) REPLACEMENT OF MEDALS.—Any medal of honor;"

(3) by inserting "stolen," before "lost or destroyed," and

(4) by adding at the end the following new subsection:

"(b) ISSUANCE OF DUPLICATE MEDAL OF HONOR.—Upon written application by a person to whom a medal of honor has been awarded under this chapter, the Secretary of the Army may issue such person, without charge, one duplicate medal of honor, with ribbons and appurtenances. Such duplicate shall be marked, in a manner the Secretary may determine, as a duplicate or for display purposes only. The issuance of a duplicate medal of honor under the authority of this subsection shall not constitute the award of more than one medal of honor with the meaning of section 3744(a) of this title.".

(d) EFFICACY DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to offenses committed on or after that date.

SEC. 543. REPEAL OF LIMITATION ON AWARD OF BRONZE STAR TO MEMBERS IN RECEIPT OF SPECIAL PAY.

Section 1123 of title 10, United States Code, is repealed.

Subtitle E—Uniform Code of Military Justice

Sec. 551. Revision of Punitive UCMJ Article Regarding Drunken Operation of Vehicle, Aircraft, or Vessel.

Sec. 551. Revision of Punitive UCMJ Article Regarding Drunken Operation of Vehicle, Aircraft, or Vessel.

(a) STANDARD FOR DRUNKEN OPERATION OF VEHICLE, AIRCRAFT, OR VESSEL.—Paragraph (2) of section 911 of title 10, United States Code (article III of the Uniform Code of Military Justice), is amended by striking "0.10 grams or more of alcohol" and inserting "0.08 grams or more of alcohol" both places such term appears.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to offenses committed on or after that date.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in Basic Pay for Fiscal Year 2002.


Sec. 603. Funeral Honors Duty, Allowance for Retirees.

Sec. 604. Basic Pay Rate for Certain Reserve Commissioned Officers with Prior Service as an Enlisted Member or Warrant Officer.

Sec. 605. Family Separation Allowance.

Sec. 606. Housing Allowance for the Chaplain for the Corps of Cadets, United States Military Academy.

Sec. 607. Clarify Amendment that Space-Required Travel for Annual Training Reserve Duty Does Not Obviate Transportation Allowances.

Sec. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2002.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2002 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.
SEC. 602. PARTIAL DISLOCATION ALLOWANCE AUTHORIZED UNDER CERTAIN CIRCUMSTANCES.

(a) Authorization of Partial Dislocation Allowance.—Section 407 of title 37, United States Code is amended—

(1) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively;

(2) in subsections (a)(1) and (b)(1), by striking “subsection (c)” and inserting “subsection (d)”;

(3) by inserting after subsection (b) the following new subsection:

“(c) Partial Dislocation Allowance.—(1) Under regulations prescribed by the Secretary concerned, a member ordered to occupy or to vacate Government family housing for the convenience of the Government (including pursuant to the privatization or renovation of housing), and not pursuant to a permanent change of station, may be paid a partial dislocation allowance of $500.

“(2) Effective on the same date that the monthly rates of basic pay for members are increased for a subsequent calendar year, the Secretary of Defense shall adjust the rate for the partial dislocation allowance for that calendar year by the percentage equal to the percentage increase in the rate of basic pay for that calendar year.

“(3) Payments made under this subsection are not subject to the fiscal year limitations in subsection (e); and

“(4) in subsection (d)(1) as redesignated by paragraph (1) by striking at the beginning “The amount” and inserting “Except as provided in subsection (c), the amount”;

(b) Effective Date.—The amendments made by this section shall take effect on October 1, 2001.

SEC. 603. FUNERAL HONORS DUTY ALLOWANCE FOR RETIREES.

Section 435 of title 37, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end “or a retired member of the armed forces who performs at least two hours of duty preparing for or performing honors at the funeral of a veteran”;

(2) by adding at the end the following new section:

“(d) Concurrent Payment.—Notwithstanding any other provision of law, the allowance paid to a retired member of the armed forces under subsection (a) shall be in
addition to any other compensation authorized under title 37, and title 38 to which the retired member may be entitled.

SEC. 604. BASIC PAY RATE FOR CERTAIN RESERVE COMMISSIONED OFFICERS WITH EIGHT YEARS' SERVICE AND MEDICALLY ENLISTED MEMBER OR WARRANT OFFICER.

Section 323 of title 37, United States Code, is amended by inserting ‘‘or who earns a total of more than 1,460 points credited under section 12738(a)(2) of title 10 while serving as a warrant officer or as a warrant officer on active duty under this chapter following ‘or as a warrant officer and enlisted member’’.

SEC. 605. FAMILY SEPARATION ALLOWANCE.

Section 427(c) of title 37, United States Code, is amended by striking the first sentence to read as follows:

“(a) A member who elects to serve an unaccompanied tour of duty because dependent movement to the permanent station is denied for certified medical reasons is entitled to an allowance under subsection (a)(1)(A).

(b) A member who elects to serve a tour under subsection (a) following ‘‘or as a warrant officer and enlisted member’’.

SEC. 606. HOUSING ALLOWANCE FOR THE CHAPLAIN FOR THE CORPS OF CADETS, UNITED STATES MILITARY ACADEMY.

Section 4337 of title 10, United States Code, is amended by striking the second sentence and inserting ‘‘Notwithstanding any other provision of law, the chaplain is entitled to the same basic allowance for housing allowed to an officer colonel, and to fuel and light for quarters in kind.’’

SEC. 607. CLARIFYING AMENDMENT THAT SPACE-REQUIRED TRAVEL FOR ANNUAL TRAINING RESERVE DUTY DOES NOT OBLIGATE TRANSPORTATION ALLOWANCES.

Section 4233 of title 10, United States Code, is amended by striking ‘‘annual training duty or’’ each time such term appears.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Authorize the Secretary of the Navy to Prescribe Submarine Duty Incentive Pay Rates.

Sec. 612. Extension of Authorities Relating to Payment of Other Bonuses and Special Pays.

Sec. 613. Extension of Certain Bonuses and Special Pay Authorities for Nurse Officer Candidates, Registered Nurses, Nurse Anesthetists, and Dental Officers.

Sec. 614. Extension of Authorities Relating to Nuclear Officer Special Pay.

Sec. 615. Extension of Special and Incentive Pays.

Sec. 616. Accession Bonus for Officers in Critical Skills.

Sec. 617. Critical Skills Training Requirement for Eligibility for the Individual Ready Reserve Bonus.

Sec. 618. Hazardous Duty Incentive Pay: Navy and Special and Incentive Pay: Naval Special Warfare.

Sec. 611. AUTHORIZE THE SECRETARY OF THE NAVY TO PRESCRIBE SUBMARINE DUTY INCENTIVE PAY RATES.

(a) In General.—Section 301(c) of title 37, United States Code, is amended by striking subsection (b) and inserting the following:

(b) A member who meets the requirements prescribed by the Secretary of the Navy, but not more than $1,000 per month, may be entitled to an amount prescribed by the Secretary of the Navy, but not more than $1,000 per month, by striking ‘‘or as a warrant officer and enlisted member’’.
SEC. 622. PAYMENT OF VEHICLE STORAGE COSTS IN ADVANCE.

Section 238(h)(1) of title 10, United States Code, is amended—

(1) by striking ''a combat or combat support skill of''; and

(2) by inserting —

(A) the surviving spouse (including a remarried surviving spouse) of the deceased member; and

(B) by adding at the end following new paragraph:

(3) If a deceased member is interred in a common grave in a national cemetery, the parents (as defined in section 401(a)(2)) of the deceased member; and

(C) if no person described in subparagraph (A) is paid travel and transportation allowances under this section, then—

(i) if otherwise authorized under applicable regulations; or

(ii) if otherwise authorized under applicable regulations.

SEC. 623. TRAVEL AND TRANSPORTATION ALLOWANCES FOR FAMILY MEMBERS TO ATTEND THE BURIAL OF A DECEASED MEMBER OF THE ARMED FORCES.

(a) CONSOLIDATION OF AUTHORITIES.—Section 411f of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting —

(1) because of—

(i) age;

(ii) physical condition; or

(iii) other justifiable reason, as determined under uniform regulations prescribed by the Secretary concerned, as defined in section 1076(a)(2)(C) of such title 10, or if otherwise authorized under applicable regulations;

(2) if a dependent of a deceased member who is authorized travel and transportation allowances under this section is unable to travel unassisted to and attending the burial ceremonies of the deceased member—

(A) because of—

(i) age;

(ii) physical condition; or

(iii) other justifiable reason, as determined under uniform regulations prescribed by the Secretary concerned, as defined in section 1076(a)(2)(C) of such title 10, or if otherwise authorized under applicable regulations;

(3) Section 1076(a)(2)(C) of such title 10 is amended by inserting before the period: —

(iii) the children of the deceased member; and

(iv) the grandchildren of the deceased member; and

(b) LIMITATION ON ALLOWANCES.—(l) Except as provided in paragraphs (2) and (3) and—

(2) by adding at the end of subsection (b) the following new paragraph:

(3) If a deceased member is interred in a common grave in a national cemetery, the parents (as defined in section 401(a)(2)) of the deceased member; and

(4) if otherwise authorized under applicable regulations; or

(5) if otherwise authorized under applicable regulations.

(c) DEFINITIONS.—(1) In this section, the term—

(A) the surviving spouse (including a remarried surviving spouse) of the deceased member; and

(B) if no person described in subparagraph (A) is paid travel and transportation allowances under this section, then—

(i) the person who directs the disposition of the remains of the deceased member under section 1482(e)(2) of such title 10, United States Code, and two additional persons selected by that person who are closely related to the deceased member; or

(ii) the person who directs the disposition of the remains of the deceased member whose remains are commingled and buried in a common grave in a national cemetery, the person who would have been designated under section 1482(e)(2) of such title 10, United States Code, by inserting after the semicolon: —

(iii) or if otherwise authorized under applicable regulations.

(d) ELIGIBILITY FOR DISABILITY RETIREMENT OR SEPARATION.—(1) Section 1206(2)(B)(ii) of such title 10 is amended by inserting before the semicolon: —

(ii) or if otherwise authorized under applicable regulations.

(2) Section 1206(c)(2) of such title 10 is amended by inserting before the semicolon: —

(ii) or if otherwise authorized under applicable regulations.

(e) ELIGIBILITY FOR PAY.—(1) Section 294 of title 37, United States Code, is amended by inserting before the period: —

(ii) or if otherwise authorized under applicable regulations.

(2) Section 294(h)(1) of such title 37 is amended by inserting before the period: —

(ii) or if otherwise authorized under applicable regulations.
if otherwise authorized under applicable regulations.

(f) COMPENSATION FOR INACTIVE-DUTY TRAINING.—Section 260(a)(3)(C) of such title 37 is amended by inserting before the period: "or, if otherwise authorized under applicable regulations".

SEC. 633. ACCEPTANCE OF SCHOLARSHIPS BY OFFICERS PARTICIPATING IN THE FUNDED LEGAL EDUCATION PROGRAM.

(a) ACCEPTANCE OF SCHOLARSHIP.—Section 2603 of such title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) An officer detailed at a law school under this section also may accept a fellowship, scholarship, or grant under section 2603 of this title, Any service obligation incurred under section 2603 shall be served consecutively with the service obligation incurred under subsection (b)(2)(C).

(b) CONFORMING AMENDMENT.—Section 2603 of such title 10 is amended by adding at the end the following new subsection:

"(c) A member who accepts a fellowship, scholarship, or grant under subsection (b) of this section is also required under subsection (a) also may be detailed at a law school under section 2604 of this title, Any service obligation incurred under section 2604 shall be served consecutively with the service obligation incurred under subsection (b)."

TITLE VII—ACQUISITION POLICY AND ACQUISITION MANAGEMENT

SUBTITLE A—Acquisition Policy

Sec. 701. Acquisition Milestone Changes.

Sec. 702. Clarification of Inapplicability of the Requirement for Core Logistics Capabilities Standards to the Nuclear Refueling of an Aircraft Carrier.

Sec. 703. Depot Maintenance Utilization Waiver.

Sec. 704. Clarification of Inapplicability of the Requirement for Core Logistics Capabilities Standards to other Nuclear Refueling of an Aircraft Carrier.

Sec. 705. Acquisition Workforce Qualifications.

Sec. 706. Tenure Requirement for Critical Acquisition Positions.

SUBTITLE B—Acquisition Workforce

Sec. 707. Acquisition Workforce Qualifications.

Sec. 708. Acquisition Workforce Qualifications.

(2) in subsection (c)(1), by striking "demilitarization and validation" and inserting "system development and demonstration.";

(3) in subsection (c)(2) by striking "engineering and manufacturing development" and inserting "production and deployment.";

(4) in subsection (c)(3) by striking "production and deployment" and inserting "full rate production.";

(5) MILESTONE DESIGNATORS.—Section 8102(b) of Public Law 106-259 is amended—

"(1) by striking "milestone I" and inserting "milestone I";

"(2) by striking "milestone II" and inserting "milestone C";

"(3) by striking "milestone III" and inserting "full rate production";

"(g) MILESTONE DESIGNATORS.—Section 811(c) of Public Law 106-388 is amended—

"(1) by striking "milestone I" and inserting "milestone I";

"(2) by striking "milestone II" and inserting "milestone I";

"(3) by striking "milestone III" and inserting "full rate production".

"(i) TRAINING.—Section 206(a)(3)(C) of such title 10 is amended by striking "Milestone C."

"(j) The Secretary of Defense shall establish qualification requirements for such Contingency Contracting Force, to include—

"(A) completion of at least 24 semester credit hours, or the equivalent, of study from an accredited institution of higher education, or similar educational institution as determined by the Secretary, in any of the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management.

"(B) passing an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to those required to be an individual certified as an acquisition manager by the Association for the Advancement of Cost Engineering, or similar educational institution as determined by the Secretary.

"(C) such additional education and experience requirements as the Secretary may prescribe.

"(k) DEVELOPMENTAL OPPORTUNITIES.—Not withstanding other provisions of law, the Secretary of Defense may establish one or more programs for the purpose of selecting, appointing, educating, qualifying, and developing the careers of personnel to meet the requirements of subsections (a) and (b) of section 2489(c) of title 10, United States Code, above for contracting positions in the Department of Defense covered by this section; may appoint individuals to developmental positions in those programs; and may separate from the civil service any person appointed under this subsection who, as determined by the Secretary, fails to complete satisfactorily any program developed pursuant to this subsection. To qualify for any developmental program under this subsection, an individual must have met one of the following requirements:

"(1) Been awarded a baccalaureate degree from an accredited educational institution authorized to grant baccalaureate degrees,

"(2) Completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the disciplines of accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management.

"(e) EXCEPTION.—(1) The requirements imposed under subsection (a) or (b) shall not apply to an employee or member who—

"(A) served as a contracting officer with authority to award or administer contracts in excess of the simplified acquisition threshold in the Executive agency on or before September 30, 2000;

"(B) served, on or before September 30, 2000, in a position in an Executive agency either as an employee in the GS-1102 series or as a member of the acquisition force in similar occupational specialty; or

"(C) is determined by the Secretary of Defense to be a member of the Contingency Contracting Force.

"(2) The requirements imposed under subsection (a) or (b) of this section shall not apply to an employee or member who—

"(A) served in the area of operations of the United Nations after September 11, 2001.

"(B) served, on or before September 30, 2000, in a position in an Executive agency either as an employee in the GS-1102 series or as a member of the acquisition force in similar occupational specialty; or

"(C) is determined by the Secretary of Defense to be a member of the Contingency Contracting Force.
apply to an employee for purposes of qualifying for a position in which the employee was serving on October 1, 1993, or any other position in the same or lower grade and involving the same or lower level of responsibility as the position in which the employee was serving on such date.

(3) To qualify for the exceptions in subparagraphs (A) or (B) of paragraph (1) of this subsection, a civilian employee must have met one of the following requirements, or have been granted a waiver under subsection (f), on or before September 30, 2000—

(A) have received a baccalaureate degree from an accredited educational institution authorized to grant baccalaureate degrees;

(B) completed at least 24 semester credit hours, or the equivalent, of study from an accredited institution of higher education in any of the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management;

(C) passed an examination as considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least the equivalent of 4 years of full-time study in any of the disciplines listed in subparagraph (B); or

(D) on October 1, 1991, had at least 10 years of experience in acquisition positions, in comparable positions in other government agencies or the private sector, or in similar positions in which an individual obtains experience directly relevant to the field of contracting.

(4) Waiver.—The acquisition career program director may waive any of the requirements of subsections (a) and (b) with respect to an individual if the board certifies that the individual possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated job performance and qualifying experience. With respect to each waiver granted under this subsection, the board shall set forth in a written document the rationale for its decision to waive such requirement and the document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.

(b) CLERICAL AMENDMENT.—Section 1732(c)(2) of such title 10 is amended by inserting a comma between “business” and “finance.”

SEC. 706. TENURE REQUIREMENT FOR CRITICAL ACQUISITION POSITIONS.

Section 7319 of title 10, United States Code, is amended—

(1) in paragraph (a)(1), by inserting “as a program manager, deputy program manager, or senior contracting official of a major system, or as that term is defined in section 2302(5) of this title,” after “an employee”;

(2) by striking subsection (a) and inserting—

(A) provisions.

Sec. 711. Streamlining Procedures for the Purchase of Certain Goods.

Sec. 712. Repeat of the Requirement for the Limitations on the Use of Air Force Civil Engineering Supply Function Contracts.

Sec. 713. One-Year Extension of Commercial Items Test Program.

Sec. 714. Modification of Limitation on Remediation, Provided That Such Remediation Requirements Could Not Be Reasonably Anticipated at the Time of Budget Submission.

Sec. 715. Exclusion of Unforeseen Environmental Hazard Remediation from the Limitation on Cost Increases for Construction and Family Housing Construction Projects.

Sec. 716. Increase of Overseas Minor Construction Threshold Using Operations and Maintenance Funds.

Sec. 717. Leasebacks of Base Closure Property.

Sec. 718. Alternative Authority For Acquisition of Missile Defense, Field and Family Housing Con- construction and Family Housing Construction Projects.

Sec. 719. Annual Report to Congress on Defense Construction and Acquisition.

Sec. 720. Amendment of Law Applicable to Contracts for Architectural and Engineering Services and Construction Design.

Sec. 721. Streamlining of Exclusion of Unforeseen Environmental Hazard Remediation from the Limitation on Cost Increases for Construction and Family Housing Construction Projects.

Sec. 722. Modification of Limitation on Remediation, Provided That Such Remediation Requirements Could Not Be Reasonably Anticipated at the Time of Budget Submission.

Sec. 723. Exclusion of Unforeseen Environmental Hazard Remediation from the Limitation on Cost Increases for Construction and Family Housing Construction Projects.

Sec. 724. Increase of Overseas Minor Construction Threshold Using Operations and Maintenance Funds.

Sec. 725. Leasebacks of Base Closure Property.

Sec. 726. Alternative Authority For Acquisition of Missile Defense, Field and Family Housing Con- construction and Family Housing Construction Projects.

Sec. 727. Annual Report to Congress on Defense Construction and Acquisition.

Sec. 728. Amendment of Law Applicable to Contracts for Architectural and Engineering Services and Construction Design.


Sec. 730. Repeat of the Requirement for the Limitations on the Use of Air Force Civil Engineering Supply Function Contracts.

Sec. 731. One-Year Extension of Commercial Items Test Program.

Sec. 732. Modification of Limitation on Remediation, Provided That Such Remediation Requirements Could Not Be Reasonably Anticipated at the Time of Budget Submission.

Sec. 733. Exclusion of Unforeseen Environmental Hazard Remediation from the Limitation on Cost Increases for Construction and Family Housing Construction Projects.

Sec. 734. Increase of Overseas Minor Construction Threshold Using Operations and Maintenance Funds.

Sec. 735. Leasebacks of Base Closure Property.

Sec. 736. Alternative Authority For Acquisition of Missile Defense, Field and Family Housing Con- construction and Family Housing Construction Projects.

Sec. 737. Annual Report to Congress on Defense Construction and Acquisition.

Sec. 738. Amendment of Law Applicable to Contracts for Architectural and Engineering Services and Construction Design.

Sec. 739. Streamlining Procedures for the Purchase of Certain Goods.

Sec. 740. Repeat of the Requirement for the Limitations on the Use of Air Force Civil Engineering Supply Function Contracts.

Sec. 741. One-Year Extension of Commercial Items Test Program.

Sec. 742. Modification of Limitation on Remediation, Provided That Such Remediation Requirements Could Not Be Reasonably Anticipated at the Time of Budget Submission.

Sec. 743. Exclusion of Unforeseen Environmental Hazard Remediation from the Limitation on Cost Increases for Construction and Family Housing Construction Projects.

Sec. 744. Increase of Overseas Minor Construction Threshold Using Operations and Maintenance Funds.

Sec. 745. Leasebacks of Base Closure Property.

Sec. 746. Alternative Authority For Acquisition of Missile Defense, Field and Family Housing Con- construction and Family Housing Construction Projects.


Sec. 748. Amendment of Law Applicable to Contracts for Architectural and Engineering Services and Construction Design.

Sec. 749. Streamlining Procedures for the Purchase of Certain Goods.

Sec. 750. Repeat of the Requirement for the Limitations on the Use of Air Force Civil Engineering Supply Function Contracts.

Sec. 751. One-Year Extension of Commercial Items Test Program.

Sec. 752. Modification of Limitation on Remediation, Provided That Such Remediation Requirements Could Not Be Reasonably Anticipated at the Time of Budget Submission.

Sec. 753. Exclusion of Unforeseen Environmental Hazard Remediation from the Limitation on Cost Increases for Construction and Family Housing Construction Projects.

Sec. 754. Increase of Overseas Minor Construction Threshold Using Operations and Maintenance Funds.

Sec. 755. Leasebacks of Base Closure Property.

Sec. 756. Alternative Authority For Acquisition of Missile Defense, Field and Family Housing Con- construction and Family Housing Construction Projects.

Sec. 757. Annual Report to Congress on Defense Construction and Acquisition.

Sec. 758. Amendment of Law Applicable to Contracts for Architectural and Engineering Services and Construction Design.

Sec. 759. Streamlining Procedures for the Purchase of Certain Goods.

Sec. 760. Repeat of the Requirement for the Limitations on the Use of Air Force Civil Engineering Supply Function Contracts.

Sec. 761. One-Year Extension of Commercial Items Test Program.

Sec. 762. Modification of Limitation on Remediation, Provided That Such Remediation Requirements Could Not Be Reasonably Anticipated at the Time of Budget Submission.

Sec. 763. Exclusion of Unforeseen Environmental Hazard Remediation from the Limitation on Cost Increases for Construction and Family Housing Construction Projects.

Sec. 764. Increase of Overseas Minor Construction Threshold Using Operations and Maintenance Funds.

Sec. 765. Leasebacks of Base Closure Property.

Sec. 766. Alternative Authority For Acquisition of Missile Defense, Field and Family Housing Con- construction and Family Housing Construction Projects.

Sec. 767. Annual Report to Congress on Defense Construction and Acquisition.

Sec. 768. Amendment of Law Applicable to Contracts for Architectural and Engineering Services and Construction Design.

Sec. 769. Streamlining Procedures for the Purchase of Certain Goods.

Sec. 770. Repeat of the Requirement for the Limitations on the Use of Air Force Civil Engineering Supply Function Contracts.

Sec. 771. One-Year Extension of Commercial Items Test Program.

Sec. 772. Modification of Limitation on Remediation, Provided That Such Remediation Requirements Could Not Be Reasonably Anticipated at the Time of Budget Submission.

Sec. 773. Exclusion of Unforeseen Environmental Hazard Remediation from the Limitation on Cost Increases for Construction and Family Housing Construction Projects.

Sec. 774. Increase of Overseas Minor Construction Threshold Using Operations and Maintenance Funds.

Sec. 775. Leasebacks of Base Closure Property.

Sec. 776. Alternative Authority For Acquisition of Missile Defense, Field and Family Housing Con- construction and Family Housing Construction Projects.

Sec. 777. Annual Report to Congress on Defense Construction and Acquisition.

Sec. 778. Amendment of Law Applicable to Contracts for Architectural and Engineering Services and Construction Design.

Sec. 779. Streamlining Procedures for the Purchase of Certain Goods.

Sec. 780. Repeat of the Requirement for the Limitations on the Use of Air Force Civil Engineering Supply Function Contracts.

Sec. 781. One-Year Extension of Commercial Items Test Program.

Sec. 782. Modification of Limitation on Remediation, Provided That Such Remediation Requirements Could Not Be Reasonably Anticipated at the Time of Budget Submission.

Sec. 783. Exclusion of Unforeseen Environmental Hazard Remediation from the Limitation on Cost Increases for Construction and Family Housing Construction Projects.

Sec. 784. Increase of Overseas Minor Construction Threshold Using Operations and Maintenance Funds.

Sec. 785. Leasebacks of Base Closure Property.

Sec. 786. Alternative Authority For Acquisition of Missile Defense, Field and Family Housing Con- construction and Family Housing Construction Projects.

Sec. 787. Annual Report to Congress on Defense Construction and Acquisition.

Sec. 788. Amendment of Law Applicable to Contracts for Architectural and Engineering Services and Construction Design.

Sec. 789. Streamlining Procedures for the Purchase of Certain Goods.

Sec. 790. Repeat of the Requirement for the Limitations on the Use of Air Force Civil Engineering Supply Function Contracts.
the term by the department or agency concerned.

“(iii) Except as provided in clause (v) below, a lease under clause (i) may not require rental payments by the United States.

“(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to or related to the use for which under the lease. Exercising of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.

“(v) Notwithstanding clause (iii) or chapter 137 of title 10, United States Code, where the department or agency concerned leases a substantial portion of the installment, the department or agency that may obtain, at a rate no higher than that charged to non-Federal tenants, facility services and common area maintenance from the redevelopment authority's assignee as a provision of a lease under clause (i). Facility services and common area maintenance shall not include municipal services that the state or local government is required by law to provide to all landowners in its jurisdiction without direct charge, or firefighting or security-guard functions.”

SEC. 718. ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) In General.—Subchapter IV of Chapter 169 of title 10, United States Code, is amended by adding at the end the following new section:

“§2886. Reimbursement of funds related to the execution of military family housing privatization projects

“The Secretary of Defense may, during the first year of an initiative under this Subchapter, transfer funds from appropriations available for the operation and maintenance of family housing to appropriations available for the pay of military personnel in such amount as the Secretary determines necessary to offset additional housing allowance costs incurred as a result of such initiative.”.

(b) Clerical Amendment.—The table of sections at the beginning of such subchapter IV of chapter 169 of title 10 is amended by inserting after the item relating to section 2865 the following:

“§2886. Reimbursement of funds related to the execution of military family housing privatization projects.”

SEC. 719. ANNUAL REPORT TO CONGRESS ON DESIGN AND CONSTRUCTION.

(a) In General.—Section 2861 of title 10, United States Code is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of such chapter 169 of such title 10 is amended by striking the item referring to section 2861.

TITLE VIII—DEPARTMENT OF DEFENSE ORGANIZATIONS AND POSITIONS

Subtitle A—Department of Defense Organizations and Positions

Sec. 801. Organizational Alignment Change for Director for Expeditionary Warfare Systems.

Sec. 802. Consolidation of Authorities Relating to Department of Defense Regional Centers for Security Cooperation.

Sec. 803. Change of Name for Air Mobility Command.

Sec. 804. Transfer of Intelligence Positions and Responsibilities to National Imagery and Mapping Agency.

SEC. 801. ORGANIZATIONAL ALIGNMENT CHANGE FOR DIRECTOR FOR EXPEDITIONARY WARFARE SYSTEMS

Section 4302(a) of title 10, United States Code, is amended by striking “Office of the Deputy Chief of Naval Operations for Requirements, Warfare Requirements, and Assessments” and inserting “Office of the Deputy Chief of Naval Operations for Warfare Requirements and Programs.”

SEC. 802. CONSOLIDATION OF AUTHORITIES RELATING TO DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY COOPERATION

(a) In General.—Chapter 6 of title 10, United States Code, is amended by adding at the end the following new section:

“§169. Regional centers for security studies

“(a) AUTHORITY TO ESTABLISH, OPERATE AND TERMINATE REGIONAL CENTERS.—The Secretary of Defense may establish, operate and terminate regional centers for security studies to serve as forums for bilateral and multilateral military and civilian exchanges. Such regional centers shall use professional military education, civilian defense education, and related academic and other activities, as the Secretary deems appropriate, to pursue such communication and exchanges. The Secretary of Defense, in writing, shall evaluate the performance and value to the United States of each such regional center and determine whether to continue to operate such regional centers.

“(b) ACCEPTANCE OF GIFTS AND CONTRIBUTIONS.—(1) The Secretary may accept, hold, administer, and use gifts and contributions of funds, materials (including research materials), property, and services for the purpose of defraying the costs or enhancing the operations of one or more of the Regional Centers, and may pay all reasonable expenses in connection with the conveyance or transfer of any such gifts. Contributions of money and proceeds from the sale of property accepted by the Secretary under this subsection shall be credited to funds available for the operation or support of the Center or Centers intended to benefit from such contributions, and shall remain available until expended. No gift or contribution may be accepted under this subsection from a foreign state, or instrumentality or national thereof, or organization domiciled therein, nor anyone acting on behalf of any of them.

“(c) LIMITATION.—The Secretary may not accept a gift or donation under subsection (b) if the acceptance of the gift or donation would compromise or appear to compromise—

“(1) the ability of the Department of Defense, any employee of the Department or members of the armed forces to carry out the responsibilities or duty of the Department in a fair and objective manner; or

“(2) the integrity of any program of the Department of Defense or any person involved in such a program.

“(d) ADMINISTRATION.—(1) The Secretary may take appropriate action to ensure that the mission of Regional Centers operated under this section:

“(A) EMPLOYMENT AND COMPENSATION FOR FACILITY PERSONNEL.—Notwithstanding the provisions of title 5, United States Code, regarding appointment, pay and classification, the Secretary may employ such civilian directors, faculty, and staff members for Regional Centers operated under this section as the Secretary determines necessary.

“(2) PAYMENT OF EXPENSES.—In addition to waiver of reimbursement of costs described in paragraph (2), the Secretary of Defense may pay the travel, subsistence, and similar personal expenses of foreign participants in connection with the attendance of such personnel at conferences, seminars, courses of instruction, or similar educational activities of such Regional Centers if the Secretary determines that payment of such expenses is in the national security interest of the United States.”

“(e) REPORT TO CONGRESS.—The Secretary shall report annually to the appropriate committees of Congress on the status, operations, and foreign participation of the Regional Centers.

“(f) DEFINITIONS.—In this section:

“(1) ‘Terrorism’ means the term ‘Terrorism’ as defined in section 1381 of the United States Code.

“(2) ‘Terrorist’ means the term ‘Terrorist’ as defined in section 1381 of the United States Code.


“(4) ‘Terrorist act’ means the term ‘Terrorist act’ as defined in section 1381 of the United States Code.”

“(b) CONFORMING AMENDMENTS.—(1) Section 1036 of the National Defense Authorization Act for Fiscal Year 1995, (Public Law 103–337; 107 Stat. 2929) is repealed.

“(2) Section 1065 of the National Defense Authorization Act for Fiscal Year 1997, (Public Law 104–201; 110 Stat. 2633) is amended as follows:

“(A) by striking subsections (a) and (b); and

“(B) by striking the subsection designation ‘(c)’.

“(3) Section 1595 of title 10, United States Code, is amended as follows:

“(A) in subsection (c), by striking paragraphs (3) and (5); and

“(B) by redesignating subparagraph (c)(4) as subparagraph (c)(3); and

“(C) by striking subsection (e).

“(4) Section 2611 of title 10, United States Code, is repealed.

“(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 155 of such title 10 is amended by striking the item relating to section 2611; and

“(2) The table of sections at the beginning of chapter 6 of such title 10 is amended, by adding at the end the following new item:

“169. Regional Centers for Security Studies.”

SEC. 803. CHANGE OF NAME FOR AIR MOBILITY COMMAND.

(a) Section 2544(d) of title 10, United States Code, is amended by striking “Air Mobility Command” and inserting “Air Mobility Command”.

(b) Section 2543(a) of such title 10 is amended by striking “Military Airlift Command” and inserting “Air Mobility Command”.

(c) Section 8074 of such title 10 is amended by striking subsection (c).

(d) Section 430(b) of title 37, United States Code, is amended by striking “Military Airlift Command” and inserting “Air Mobility Command”.

(e) Section 432(b) of such title 37 is amended by striking “Military Airlift Command” and inserting “Air Mobility Command”.

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“(2) WAIVER OF COSTS.—The Secretary may waive reimbursement of the cost of conferences, seminars, courses of instruction or similar educational activities of such Regional Centers for foreign participants if the Secretary determines that attendance of such personnel with the reimbursement is in the national security interests of the United States.”
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SEC. 804. TRANSFER OF INTELLIGENCE POSITIONS.

Section 1066 of title 10, United States Code, is amended by striking "§ 117" and inserting "§ 118a".

Subtitle B—Reports

Sec. 811. Amendment to National Guard and Reserve Component Equipment: Annual Report to Congress.

Sec. 811. Amendment to National Guard and Reserve Component Equipment: Annual Report to Congress.

Sec. 812. Elimination of Triennial Report on the Roles and Missions of the Armed Forces.

Sec. 813. Change in Due Date of Commercial Activities Report.

Sec. 811. Amended—

(a) REPEAL OF REQUIREMENT FOR REPORT ON ASSIGNMENTS AND MISSES.

(b) ROLES AND MISSIONS AS PART OF DIRECTIONS ON NATIONAL SECURITY.

Sec. 111b(e) of such title 10 is amended by inserting after the first sentence the following two new sentences: "The Chairman shall also include his assessment of the assignment of functions (or roles and missions) to the Armed Forces and recommendations for change the Chairman considers necessary to achieve the maximum efficiency of the Armed Forces. This roles and missions assessment should consider the unnecessary duplication of effort among the armed forces and changes in technology that can be applied effectively to warfare.".

Sec. 812. Amendment to National Guard and Reserve Component Equipment: Annual Report to Congress.

Section 1064i of title 10, United States Code, is amended to read as follows:

"(a) The Secretary of Defense shall submit to the Congress each year, not later than March 1, a written report concerning the equipment of the National Guard and the Reserve components of the armed forces, to include the U.S. Coast Guard Reserve. This report shall cover the current fiscal year and three succeeding years. The focus should be on major items of equipment which address large-dollar-requirement, critical Reserve component shortages and major procurement items. Specific major items of equipment shall include ships, aircraft, combat vehicles and key combat support equipment.

"(b) Each annual report under this section should include the following:

"(1) Major items of equipment required and on-hand in the inventories of each Reserve component.

"(2) Major items of equipment which are expected to be procured from commercial sources or transferred from the Active component to the Reserve components of each Service.

"(3) Major items of equipment in the inventories of each Reserve component which are substitutes for a required major item of equipment.

"(4) A narrative explanation of the plan of the Secretary concerned to equip each Reserve component, including an explanation of the plan to equip units of the Reserve components that are short major items of equipment, to support the out-of-war or a contingency operation.

"(5) A narrative discussing the current status of the compatibility and interoperability of equipment between the Reserve components and the active forces, the effect of that level of compatibility or interoperability on combat effectiveness, and a plan to achieve full equipment compatibility and interoperability.

"(6) A narrative discussing modernization shortfalls and maintenance backlogs within the Reserve components and the effect of those shortfalls on combat effectiveness.

"(7) A narrative discussing the overall age and condition of equipment currently in the inventories of Reserve component.

"(c) Each report under this section shall be expressed in the same format and with the same level of detail of the information presented in the Future Years Defense Program Procurement Annex prepared by the Department of Defense.

Sec. 812. ELIMINATION OF TRIENNIAL REPORT ON THE ROLES AND MISSIONS OF THE ARMED FORCES.

(a) REPEAL OF REQUIREMENT FOR REPORT ON ASSIGNMENTS AND MISSIONS.

Sec. 153 of title 10, United States Code, is amended—

(1) in subsection (a), by striking the catch-line and section heading "PLANNING: ADVISE; POLICY FORMULATION.--": and

(2) by striking subsection (b).

(b) ROLES AND MISSIONS AS PART OF DIRECTIONS ON NATIONAL SECURITY.

Subsection 111b(e) of title 10 is amended by striking after the first sentence the following two new sentences: "The Chairman shall also include his assessment of the assignment of functions (or roles and missions) to the Armed Forces and recommendations for change the Chairman considers necessary to achieve the maximum efficiency of the Armed Forces. This roles and missions assessment should consider the unnecessary duplication of effort among the armed forces and changes in technology that can be applied effectively to warfare.".

Sec. 901. TEST AND EVALUATION INITIATIVES.

(a) AUTHORITY TO ENGAGE IN COOPERATIVE TESTS AND EVALUATION AT U.S. AND FOREIGN RANGES AND OTHER FACILITIES WHERE TESTING MAY BE CONDUCTED.

(1) Direct cost means any item of cost that is easily and readily identified to a specific unit of work or output within the range or facility where such testing and evaluation occurred, that would not have been incurred if such testing and evaluation had not taken place. Direct cost may include labor, materials, facilities, utilities, equipment, supplies, and any other resources of the range or facility where such testing and evaluation occurred, that is consumed or damaged during such test and evaluation, or maintained for the recipient country or international organization.

(2) The recipient country or international organization may be charged for the direct costs related to the use of the range or other facility where testing may be conducted only as specified in the memorandum of understanding or other formal agreement.

(3) RETENTION OF FUNDS COLLECTED FROM ELIGIBLE COUNTRIES AND INTERNATIONAL ORGANIZATIONS.

Amounts collected under subsection (b)(6) from eligible countries and international organization shall be credited to the appropriation accounts under which such costs were incurred.

(4) definitions.

"(1) Direct cost means any item of cost that is easily and readily identified to a specific unit of work or output within the range or facility where such testing and evaluation occurred, that would not have been incurred if such testing and evaluation had not taken place. Direct cost may include labor, material, facilities, utilities, equipment, supplies, and any other resources of the range or facility where such test and evaluation occurred, that is consumed or damaged during such test and evaluation, or maintained for the recipient country or international organization.

(2) Indirect costs means any item of cost that cannot readily, or directly, be identified to a specific unit of work or output. Indirect costs may include general and administrative expenses, costs for the support of the range, such as manufacturing expenses, supervision, office supplies, utility, costs, etc. Such costs are accumulated in a cost pool and allocated to customers appropriately.

(3) DELEGATION OF AUTHORITY.

The Secretary may delegate to the Deputy Secretary...

(4) Approval of Reciprocal Use of Ranges and Other Facilities Where Testing May Be Conducted.

(5) Approval of Reciprocal Use of Ranges and Other Facilities Where Testing May Be Conducted.

(6) Declaration of Authority.

The Secretary may delegate to the Deputy Secretary...
of Defense and to the head of one designated office in the Department of Defense to determine the appropriateness of the amount of indirect costs included in such charges.”.5

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 57 of title 10, United States Code, is amended by adding at the end the following new item:

“Sec. 5725. Agreements for the cooperative use of ranges and other facilities and services involving the joint use of ranges and other facilities and services by the United States, NATO, and other nations.”

(c) AUTHORITY TO USE MAJOR RANGE AND TEST FACILITY INSTALLATIONS OF THE MILITARY FOR THE USE OF A NON-NATO ALLY.—Section 2681(c) of title 10, United States Code, is amended—

(1) by inserting “(1)” after “(c)”;

(2) by striking “the Secretary so determines.” and inserting “the Secretary”;

(3) by striking “the Secretary shall” in the first sentence and inserting “the Secretary, if he so determines.”; and

(4) by striking “and” at the end of the second sentence and inserting “and, if he so determines.”.

SEC. 904. PERSONAL SERVICE CONTRACTS IN FOREIGN AREAS.

Under such regulations as the Secretary of State, with the concurrence of the Secretary of Defense, may prescribe, the Department of State shall use authority available to the Department of State to enter into personal service contracts with individuals to perform services in support of the Department of Defense in foreign countries.

Subtitle B—Department of Defense Civilian Personnel


Sec. 912. Authority for Designated Civilian Employees Abroad to Act as a Notary.

Sec. 913. Inapplicability of Requirement for Studies and Reports When All Directly Affected Department of Defense Civilian Employees Are Reassigned to Comparable Civilian Positions.

Sec. 914. Preservation of Civil Service Rights for Employees of the Former Defense Mapping Agency.

Sec. 915. Financial Assistance to Certain Employees in Acquisition of Critical Skills.

Sec. 916. Pilot Program for Payment of Reimbursement Expenses.


Sec. 918. Removal of Limits on the Use of Voluntary Early Retirement Authority and Voluntary Separation Incentive Pay for Fiscal Years 2002 and 2003.


Sec. 923. Amendments to the Uniformed Services Employment and Reemployment Rights Act of 1994.

Section 2303a of title 10, United States Code, is amended as follows:

(1) in the title for Section 2303a—by striking “allied” and inserting “NATO ally, major non-NATO ally, other friendly foreign country, or NATO organization”; and

(2) in paragraph (a), by striking “(1)” and inserting “(1)”.

(3) in paragraphs (b) and (c), by striking “NATO ally” and inserting “NATO ally, major non-NATO ally, other friendly foreign country, or NATO organization”.

(4) in paragraphs (d)(1), (e)(1), (f)(1), and (g)(1), by striking “major allied” and inserting “NATO ally, major non-NATO ally, other friendly foreign country, or NATO organization”.

(5) in paragraphs (d)(2), (e)(2), (f)(2), and (g)(2), by striking “allied” and inserting “NATO ally, major non-NATO ally, other friendly foreign country, or NATO organization”.

(6) in paragraph (d)(3), by striking “NATO ally, major non-NATO ally, other friendly foreign country, or NATO organization” and inserting “NATO ally, major non-NATO ally, other friendly foreign country, or NATO organization”.

(7) in paragraph (e)(1)(B)(2)(A), by striking “one or more of the major allies of the United States,” and inserting “a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization”.

(8) in paragraph (e)(1)(B)(2)(B), by striking “one or more major allies of the United States or NATO organizations” and inserting “a NATO ally, a major non-NATO ally or other friendly foreign country or NATO organization”.

SEC. 902. RECOGNITION OF ASSISTANCE FROM FOREIGN NATIONS.

(a) IN GENERAL.—Chapter 7 of title 10, United States Code, is amended by inserting after section 1133 the following:

“§1134. Recognition of assistance from foreign nationals.

“1134. Recognition of assistance from foreign nationals.

“The Secretary of Defense may issue regulations, with the concurrence of the Secretary of State, authorizing members of the armed forces of foreign nations, commercial organizations, individuals, or other sources to act as compensation for services rendered in support of the United States armed forces, to be recognized by the United States as having provided assistance to the United States.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 10, United States Code, is amended by inserting after the item relating to section 1133 the following new item:

“§1134. Recognition of assistance from foreign nationals.”

(1) by striking “major allied” and inserting “a NATO ally, major non-NATO ally, or other friendly foreign country or NATO organization”.

(2) by striking “shall not apply when all directly affected Department of Defense civilian employees serving on permanent appointments

(3) by striking “major allied” and inserting “a NATO ally, major non-NATO ally, or other friendly foreign country or NATO organization.”
SEC. 914. PRESERVATION OF CIVIL SERVICE RIGHTS FOR EMPLOYEES OF THE FORMER DEFENSE MAPPING AGENCY.

Notwithstanding section 1612 of title 10, United States Code, the provisions of subchapters II and IV (sections 7511 through 7514 and sections 7531 through 7535, respectively) of chapter 75 of title 5, United States Code, continue to apply, for as long as the employee continues to serve as a Department of Defense employee in the National Imagery and Mapping Agency without a break in service, to each of those former Defense Mapping Agency employees who occupied positions established under title 5, United States Code, and who on October 1, 1996, became employees of the National Imagery and Mapping Agency under paragraph 1601(a)(3) of title 10, United States Code pursuant to Title XI of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–20 1; 110 Stat. 2675, et seq.) and for whom the provisions, content of chapter 75 of title 5, United States Code, applied before October 1, 1996. Each such employee, at any time, may elect in writing to waive the provisions of this section. In all cases, however, shall be permanent as to that employee.

SEC. 915. FINANCIAL ASSISTANCE TO CERTAIN EMPLOYEES IN ACQUISITION OF CRITICAL SKILLS.

The Secretary of Defense may provide the Director, National Imagery and Mapping Agency, the authority to establish an undergraduate training program with respect to civilian employees of the National Imagery and Mapping Agency that is similar in purpose, content, and administration to the program which the Secretary of Defense is authorized to establish for civilian employees of the National Security Agency under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).

SEC. 916. PILOT PROGRAM FOR PAYMENT OF RE-TRAINING EXPENSES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410o. Pilot program for payment of re-training expenses.

(1) Authority.—The Secretary of Defense may establish a pilot program for the payment of retraining expenses in accordance with this section to facilitate the reemployment of eligible employees of the Department of Defense who are involuntarily separated due to a reduction-in-force or due to relocation resulting from transfer of function, realignment, or change of duty station. Under the pilot program, the Secretary may pay retraining incentives to encourage non-Federal employers to hire and retain such employees.

(2) Eligible employers.—For purposes of this section, an eligible employee is an employee of the Department of Defense, serving under a covered assignment, without time limitation, who has been employed by the Department of Defense for a continuous period of at least 12 months and who has been given notice of a reduction-in-force or a reorganization, without time limitation, that such term does not include—

(1) a re-employed annuitant under subchapter III of chapter 83 of title 5, United States Code, chapter 84 of such title, or another retirement system for employees of the Government;

(2) an employee who, upon separation from Federal service, is eligible for an immediate annuity under subchapter III of chapter 83 of title 5, United States Code, or subchapter II of chapter 84 of such title; or

(3) an employee who is eligible for disability retirement under any of the retirement systems referred to in paragraph (1).

(3) Retraining Incentive.—(1) Under the pilot program, the Secretary may enter into an agreement with a non-Federal employer under which the non-Federal employer agrees—

(A) to employ an eligible person referred to in subsection (a) for at least 12 months for a salary that is mutually agreeable to the employer and such person; and

(B) to cover the cost of any necessary training with the employment by that employer.

(2) The Secretary may pay a retraining incentive to the non-Federal employer upon the employee's completion of 12 months of continuous employment with that employer. Subject to this section, the Secretary shall prescribe the amount of the incentive.

(3) The Secretary may pay a prorated amount of the retraining incentive to the non-Federal employer for an employee who does not remain employed by the non-Federal employer for at least 12 months.

(4) In no event may the amount of the retraining incentive paid for the training of any one person under the pilot program exceed the amount certified for that person under paragraph (1) or $10,000, whichever is greater.

(5) Duration.—No incentive may be paid under the pilot program for training commenced after September 30, 2005.

(e) Definitions.—The following definitions apply in this section:

(1) The term "non-Federal employer" means an employer that is not an Executive agency, as defined in section 105 of title 5, United States Code, or the legislative or judicial branch of the Federal Government.

(2) "Reduction-in-force" and "transfer of function" shall have the same meaning as in chapter 95 of title 5, United States Code.

(b) CERIAL AMENDMENT.—The table of sections at the beginning of such Chapter 141 is amended by adding at the end the following new section:

"2410o. Pilot program for payment of re-training expenses.".

Subtitle C—Other Matters

Sec. 921. Authority to Ensure Demilitarization of Significant Military Equipment Formerly Owned by the Department of Defense.

Sec. 922. Motor Vehicles: Documentary Requirements.

Sec. 923. Department of Defense Gift Initiatives.

Sec. 924. Repeal of the Joint Requirements Oversight Council Semi-Annual Report.

Sec. 925. Access to Sensitive Unclassified Information.

Sec. 926. Water Rights Conveyance, Andersen AFB, Guam.

Sec. 927. Repeal of Requirement For Separate Budget Request For Procurement of Reserve Equipment.

Sec. 928. Repeal of Requirement for Two-Year Budget Cycle for the Department of Defense.
SEC. 922. MOTOR VEHICLES: DOCUMENTARY REQUIREMENTS FOR TRANSFERTION FOR MILITARY PERSONNEL AND FEDERAL EMPLOYEES ON BEHALF OF THE DEPARTMENT OF DEFENSE.

(a) Military Personnel.—Section 2634 of title 10, United States Code, is amended as follows:

(1) by redesignating subsections (f), (g) and (h) as subsections (g), (h), and (i) respectively; and

(2) by inserting after subsection (e) the following new subsection:

``(f) Motor vehicles transported under this section are not subject to the provisions of the Anti Car Theft Act of 1992, as amended, or any implementing regulations. The Secretary of Defense (and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a Service in the Navy) will prescribe regulations designed to ensure members do not present for shipment stolen vehicles.''.

(b) Civilian Employees.—Section 5727 of title 5, United States Code, is amended as follows:

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

``(f) Motor vehicles transported under this section are not subject to the provisions of the Anti Car Theft Act of 1992, as amended, or any implementing regulations. Regulations prescribed under section 5738 of this title shall be intended only to ensure employees do not present for shipment stolen motor vehicles under subsection (b) of this section.''

SEC. 923. DEPARTMENT OF DEFENSE GIFT INITIATIVES.

(a) Loan or Gift of Obsolete Material and Articles of Historical Interest.—Section 7546 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting the following catchline after the subsection designator: “ADDITIONAL ITEMS TO BE DONATED BY THE SECRETARY OF THE NAVY.”;

(B) by striking “books, manuscripts, works of art, drawings,” and all that follows to the dash and inserting “obsolete combat or shipboard material not needed by the Department of the Navy,”;

(C) in paragraph (5), by striking “World War I or World War II” and inserting “a foreign war’’;

(D) in paragraph (6), by striking “soldiers” and inserting “servicemen”;

(E) in paragraph (8), by inserting “or memorial” after “a museum”;

(2) in subsection (b), by inserting the following after the subsection designator: “MAINTENANCE OF THE RECORDS OF THE GOVERNMENT.”;

(3) in subsection (c), by inserting the following after the subsection designator: “SECRETARIAL AUTHORITY TO MAKE GIFTS OR LOANS.”;

(4) by adding at the end the following new subsection:

``(g) AUTHORITY TO TRANSFER A PORTION OF A VESSEL.—The Secretary may lend, give or transfer any portion of the hull or superstructure of any vessel, including the Naval Vessel Register and designated for scrapping to a qualified organization listed under subsection (a). The terms and conditions of any agreement for the transfer of any portion of a vessel under this section shall include a requirement that the transferee will maintain the material contained in a condition that will enhance its historical or physical value of the material or bring discredit upon the Navy.”

(b) Loan, Gift, or Exchange of Documents, Historical Artifacts, and Confiscated or Obsolete Combat Material.—Section 2572(a)(1) of such title 10 is amended by inserting the period after “Municipal corporations” and inserting county or other political subdivision of a state.”.

SEC. 924. REPEAL OF THE JOINT REQUIREMENTS OVERSIGHT COUNCIL SEMI-ANNUAL REPORT.


SEC. 925. ACCESS TO SENSITIVE UNCLASSIFIED INFORMATION.

(a) In General.—Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

``2332. Limited access to sensitive unclassified information by administrative support contractors

“(a) AUTHORITY.—Notwithstanding sections 552a of title 5, 2321 of title 10, and 1905 of title 18, United States Code, the Secretary of Defense may provide administrative support contractors with limited access to, and use of, sensitive unclassified information, provided that—

``(1) such disclosure is not otherwise prohibited by law;

``(2) access shall be limited to sensitive unclassified information that is necessary for the administrative support contractor to perform contractual duties;

``(3) administrative support contractors shall be subject to the same restrictions on storing, modifying, distributing, displaying, releasing or disclosing such sensitive unclassified information as are applicable to employees of the United States; and

``(4) administrative support contractors shall be subject to the same civil and criminal penalties for unauthorized disclosure or use of such sensitive unclassified information as are applicable to employees of the United States.

“(b) DEFINITIONS.—The following definitions apply to this section:

``(1) The term ‘sensitive unclassified information’ means all unclassified information for which disclosure to an administrative support contractor is prohibited by the Privacy Act (5 U.S.C. §552a); section 2321 of this title; or the Trade Secrets Act (18 U.S.C. §1837).

``(2) The term ‘administrative support contractor’ means an employee of a contractor or subcontractor who performs any of the following for or on behalf of the Department of Defense: secretarial or clerical work; filling routine or miscellaneous support; data entry; document reproduction, scanning, or imaging; operation, management, or maintenance of paper-based or electronic information; installation, operation, management, or maintenance of Internet or intranet systems, networks, or computer systems; and facilities or information security.”.

SEC. 926. WATER RIGHTS CONVEYANCE, ANDERSEN AIR FORCE BASE.

(a) Authority To Convey.—In conjunction with the conveyance of a utility system under the authority of section 2388 of title 10, United States Code, and in accordance with all the requirements of that section, the Secretary of the Air Force may convey all right, title, and interest of the United States, or such lesser estate as the Secretary considers appropriate to serve the interests of the United States, in the water rights related to Andy South (also known as the Andersen Administrative Annex, MARBO (Marianas Bonis Base Command), and the Andersen Water Supply Annex (also known as the Tumon Water Well or the Tumon Maui Well)), Air Force properties located in the water rights related to Andersen Air Force Base, the Secretary may exercise the authority contained in subsection (a) only if the Secretary has determined that there exists adequate supplies of potable groundwater under Andersen Air Force Base that are sufficient to meet the current and long-term requirements of the installation for water;

(b) Additional Requirements.—The Secretary may exercise the authority contained in subsection (a) only if—

(i) the Secretary determines that it is in the best interests of the United States to transfer title to the water rights and utility systems at Andy South and Andersen Water Supply Annex prior to placing into service a new replacement water system and well field on Andersen Air Force Base, the Secretary may require that the United States have the primary right to all water produced from Andy South and Andersen Annex until such new replacement water system and well field is placed into service and operates to the satisfaction of the Secretary. In exercising the authority of this subsection, the Secretary may retain a reversionary interest in the water rights and utility systems at Andy South and Andersen Water Supply Annex until such time as the new replacement water system and well field is placed into service and operates to the satisfaction of the Secretary.

(d) Sale of Excess Water Authorized.—(1) If the Secretary exercises the authority contained in subsection (a), he may provide in any such conveyance that the conveyee of the water system and well field on private entities such water from Andersen Air Force Base as the Secretary determines to be excess to the needs of the United States. In the event the Secretary authorizes the conveyee to resell water, the Secretary shall negotiate a reasonable return to the United States of the value of such excess water sold by the conveyee. Any conveyee of water that may receive in the form of reduced charges for utility services provided by the conveyee.

(2) If the Secretary cannot meet the requirements of subsection (a), the Secretary determines to proceed with a water utility system conveyance under section 2388
Multinational Force and Observers (MFO) for the year 2002. The budget authority included in the President’s Budget for fiscal year 2002 for the Armed Forces Retirement Home, including the United States Soldiers’ and Airmen’s Home and the United States Naval Home in amounts equal to the budget authority included in the President’s Budget for fiscal year 2002.

SEC. 927. REPEAL OF REQUIREMENT FOR SEPARATE BUDGET FOR PRO-CUREMENT OF RESERVE EQUIP-MENT. Section 1104 of title 10, United States Code, is repealed.


SECTIONAL ANALYSIS

Sections 101 through 106 provide procure- ment authority for the Military Depart- ments and for Defense-wide appropriations in amounts equal to the budget authority in- cluded in the President’s Budget for fiscal year 2002.

Section 201 provides for the authorization of early retirement of active-duty military personal and of reservists and evaluation appropriations for the Mili- tary Departments and the Defense Agencies in amounts equal to the budget authority included in the President’s Budget for fiscal year 2002.

Section 301 provides for authorization of the operation and maintenance appropri- ations of the Military Departments and De- fense-wide activities in amounts equal to the budget authority included in the President’s Budget for fiscal year 2002.

Section 302 authorizes appropriations for the Working Capital Funds and the National Defense Sealift Fund in amounts equal to the budget authority included in the President’s Budget for fiscal year 2002.

Section 303 authorizes appropriations for fiscal year 2002 for the Armed Forces Retire- ment Home Trust Fund for the Armed Forces Retirement Home, including the United States Soldiers’ and Airmen’s Home and the United States Naval Home in amounts equal to the budget authority included in the President’s Budget for fiscal year 2002.

Section 304 would amend section 5(a) of the Multinational Force and Observers (MFO) Partition and Reconstitution, to authorize the President to approve contracting out logistical support functions in support of the MFO that are currently performed by U.S. military personnel and equipment. The resolution was adopted December 1981, in order to authorize the United States to de- ploy peacekeepers and observers to Sinai, Egypt to assist in the fulfillment of the Camp David Accord. It is also should be noted that section 5(a) authorizes any agency of the United States to provide administrative and logistical support and services to the MFO without reimbursement when the provision of such support or services would not result in significant incre- ments of real costs to the United States. Administrative and technical support is provided under section 5(a) by the U.S. Army’s 1st Support Battalion pursuant to international agreements with the Arab Rep- ublic of Egypt, the State of Israel, and the MFO. These agreements stipulate the types of unit functions required to be performed and the amounts equal to the budget authority included in the President’s Budget for fiscal year 2002. If these contracts were required to be annual contracts, there could be significant oper- ational degradation and excessive demand on the DoD's working capital fund and on onload requirements at potentially annual periods.

The commercial market standard is for multiple year charter periods and there are savings to DoD by negotiating multiple year leases, consistent with commercial practices. In ad- dition, DoD would not be able to effectively compete for annual contracts because foreign flag carriers are not interested in com- peting for short-term contracts due to the costs they incur to re-flag the vessels and to modify ships to meet DoD's needs. Past experience indicates that the costs to DoD would be significantly higher if com- petition were limited to currently U.S.-flag vessels on an annual basis.

If the legislation is not enacted, MSC will be required to negotiate the contracts on an annual basis, resulting in increased costs and possible disruptions of services.

Section 310. The Navy and the U.S. Envi- ronmental Protection Agency (EPA) entered into an agreement in January 2001 for pay- ing for a Superfund site at the 138 acres of the Sands Site, South Berwick, Maine for EPA’s remaining past response costs incurred by the agency for the period from May 12, 1992 through July 31, 2000. Activities of the Navy are liable under the Comprehensive Environ- mental Response, Compensation and Liabil- ity Act of 1980 as generators who arranged for disposal of the hazardous substances that ended up at the site, and there are no other viable responsible parties. Under the agree- ment, the Navy would pay for EPA’s final re- response actions that were undertaken to pro- tect human health and the environment at this site. The agreement also stipulated that the Navy would seek authorization from Congress in the FY02 legislative program for payment of costs previously incurred by EPA at the site. Should Congress approve this legis- lative proposal, the Navy would pay EPA up to two years from the date of enactment. Section 325 of the National Defense Authorization Act for Fiscal
June 29, 2001

Year 2000 (Public Law 106-65; 113 Stat. 512) extended the two-year deadline an additional two years.

The initial extension was requested because the Department of Defense implementation guidance, required by the statute, has not been released. The two-year extension is necessary to fulfill the purpose of the legislation and adequately assess the feasibility and admissibility of the sale of economic incentives, the pilot program was extended another two years from its original deadline. We are requesting an additional two-year extension to allow another opportunity for the Department to assess the feasibility of the program. States have been slower to develop emission-trading programs than initially anticipated and more time is desired to allow military installations to become familiar with the benefits of economic incentive programs.

Section 351 also provides authority to the Department of Defense (DoD) to retain proceeds from the sale of Clean Air Act emission reduction credits, allowances, offsets, or other limited-use credits that are generated through activities that are exempt from the purview of Federal law and regulations generally require proceeds from the sale of government property to be deposited in the U.S. Treasury. These include amounts appropriated to the DoD to keep the funds generated by reducing air emissions and selling the credits as does private industry. This inhibits the reinvestment of those funds to purchase other credits needed in other areas and eliminates any incentive for installations to spend the money required to generate the credits in order to sell them.

The Clean Air Act (CAA) mandates that states establish state implementation plans (SIPs) to attain and maintain the national ambient air quality standards derived from health based standards established for certain criteria air pollutants, e.g., ozone, particulate matter, carbon monoxide. To further this mandate, the 1990 Clean Air Act Amendments provided language encouraging the states to include "economic incentive" programs in their SIPs. Such programs encourage further reductions in air pollutants by offering monetary incentives for the reduction of emissions of criteria air pollutants.

A significant and growing number of state and local air quality districts have established various types of emission trading systems. Absent the proposed legislation, the military services would be required to remit any proceeds from the sale of economic incentives to the U.S. Treasury. The proposed legislation grants military installations authority to sell the economic incentives and to retain the proceeds in order to create a local economic incentive to reduce air pollution above and beyond legal requirements. Retention and use of proceeds at the installation level is a key component of the pilot program.

Section 312 would remove the requirement for the Department of Defense to submit an annual report to Congress on its reimbursement of environmental response action costs for the top 20 defense contractors, as well as on the amount and status of any pending requests for such reimbursement by those same firms. This reporting requirement was slated to end in December 1999 pursuant to section 4(b) of the Federal Real Property Releas- nation and Sunset Act of 1995, Pub. L. 104-66; however, it was reinstated by section 1831 of the National Defense Authorization Act for Fiscal Year 1999, Pub. L. 106-55.

The Department strongly recommends removal of this statutory reporting requirement because the data collected are not necessary to make determinations allowing environmental response action costs on Government contracts. Moreover, the Department does not routinely collect data on the other categories of contractor overhead costs.

This reporting requirement is very burdensome on both the Department and contractors, diverting limited resources for data collection efforts that do not benefit the procurement process. Not only are there 20 different firms involved, but for most of these firms, the selling price for multiple locations in order to get an accurate company-wide total. In many cases the data must be derived from company records because it is not normally maintained in contractor accounting systems. After the data is collected, Department contracting officers must review, assemble, and forward the data through their respective chains of command to the Defense Contract Audit Agency for validation. After validation, the data is provided to the Department's staff for consolidation into the summary report provided to Congress.

In addition, the summary data provided to Congress in the annual report to Congress have shown that the Department is not expending large sums of money to reimburse contractors for such costs. The Department's share of such costs in FY99 was approximately $11 million. In the preceding years the costs were, $13 million in FY98, $17 million for FY97, and $4 million for FY96. Section 315 would amend section 2482(b)(1) of title 10, to extend its reach to all Defense working capital fund activities that provide the Defense Commissary Agency services, and allow them to recover those administrative and handling costs the Defense Commissary Agency would be required to pay for acquiring such services.

Currently, section 2482(b)(1) restricts the amount that the United States Transportation Command could charge to the Defense Commissary Agency for such services to the price at which the service could be obtained through full and open competition, as section 4(b) of the Office of Federal Procure- ment Policy (41 U.S.C. 3304(b)) defines such prices. The Proposed section would expand the definition of competitive pricing so that the Defense Commissary Agency would be able to acquire such services.

If enacted, the proposed amendment would end this inequity, by applying a single cost-effective guideline for such charges to all Defense working capital fund activities. It should also be noted that the last sentence of the proposed amendment continues the current policy of not allowing costs associated with mobilization requirements, maintenance of readiness, or establishment or maintenance of the infrastructure to support mobilization or readiness requirements, are not passed on to the customers of the Defense Commissary Agency.

This proposal will not increase the budgetary requirements of the Department of Defense.

Section 316 requires that the Defense Com- missary Agency surcharge account be reim- burshed to make unique contributions to the in- tegration and reintegration programs of active and reserve military personnel; and to be used for non-commisary related purposes.

Section 317 would permit the Defense Com- missary Agency (DECA) to limit the exchange merchandise at locations where no exchange facility is operated by an Armed Service Exchange. Under Section 2486(b) of title 10, United States Code, the Secretary of Defense can purchase and sell and commissary store inventory as a limited line of exchange merchandise. This amendment is required to obtain the necessary authority for DECA to procure the exchange merchandise items from the Armed Service Exchange. The Armed Service Exchange (ASX) will allow the DECA to procure items that would not exceed the normal exchange retail cost less the amount of the commissary surcharge, so that the amount paid by the patron would be the same. If the Exchange cannot supply the items authorized to be sold by DECA, DECA may procure them from any authorized source subject to the limitations of section 2486(e) of title 10 (i.e., that such items are only exempt from competitive procurement if they comply with the brand name sale requirements of being sold in the same terms as the brand which from whom such items are procured, they must be sold in commissaries at cost plus the amount of the surcharge.

Section 318 would amend a portion of section 2482 of title 10 that is entitled "Private Operation" to delete overly restrictive language. The current section authorizes Commissary stores operated by private persons under a contract, but prohibits the contractor from carrying out functions for the procurement of products to be sold in the store, or from engaging in transactions related to the actual management of the store. Consequently, the Department is precluded from realizing the potential benefits of consolidating, optimizing, and streamlining the operation and management of the stores. By deleting this language a private contractor selected to operate Commissary stores would be allowed to apply best commercial prac- tices in both store operations and supply chain management, and to achieve economy of scale savings in procurement, distribution, and enabling infrastructure, so that the items procured could be sold in the Commissary stores. This change will allow the Department to initiate pilot programs to test these potential benefits at selected Commissary stores.

Section 320 would establish permanent au- thority for active Department of Defense units and organizations to reimburse Na- tional Guard and Reserve units and organiza- tions for the expenses incurred when Guard and Reserve personnel provide them intel- ligence and counterintelligence support. For the last five years, Congress has authorized such reimbursement in each year's defense appropriations act. See e.g., section 8059 of the Department of Defense Appropriations Act, 2001 (Public Law 106-55; 114 Stat. 656, 687). For the past several years the language of these annual provisions has remained un- changed, and the Department proposes to estab- lish authority for such reimbursement on a permanent basis.

Such reimbursement constitutes an excep- tion to the general principle that funds on for active DoD organizations cannot be expended to pay the expenses of Guard and Re- serve units, and vice versa. By their training and experience, reserve intelligence per- sonnel are uniquely positioned to contribute to the intelligence and counterintelligence programs of active DoD units and organizations. They also provide invaluable surveillance capability to national defense intelligence agencies. Guard and Reserve units do not program funds for such support of active DoD units
and organizations, which makes it essential that the units and organizations authorized to receive or signifi-
cant changes in legislation when the size of the Active Guard and Reserve force changes. The methodology would be com-
ments for the expenses they occur in providing support.

provide for a non-static method of author-
izations for active duty Air Force officers in the grade of major. This would continue progress toward achieving an appropriate distribution of officers within the Air Force. An appro-
ate distribution may be achieved by in-
creasing the authorized strengths of commis-
Secton 504 would repeal subsections 632, 637 of this Act, which requires certain health care for Selected Re-
serve members of the Army assigned to units scheduled to deploy within 75 days after mo-
bilitation. Section 632, 637 are hereby terminated, the Department has implemented several programs to ensure Reserve component members are medically ready.

The Armed Forces have adopted a program called FEDS–HEAL, which is an alliance of the Department of Veterans Affairs (DVA) and the Department of Health and Human Services (DHHS) that allows Army Reserve and National Guard members to complete physical examinations, receive in-
oculations and complete other medical re-
equirements in DVA and DHHS healthcare fa-
cilities across the country. This significantly enhances access for Reserve component members of the Army to meet medical and dental readiness requirements in a timely manner. DoD policy now requires an annual dental examination. To track Reserve component dental readiness, the Department has developed a standard dental examination form that can be completed by a member's personal civilian dentist. Moreover, the re-
cently expanded TRICARE Dental Program provides Reserve component members with an affordable means of completing dental ex-
aminations and receiving dental care through a much larger provider network.

The current statutory requirement to con-
duct a full physical examination every two years for members over the age of 40 and dental care identified during the annual den-
tal examination is an important health information for a select population that is very fluid with a relatively high turnover of individuals each year. Those Reserve Component units and in-
donors identified as early-deploying change frequently. The annual cost to the Department to meet this requirement would be $15 million per year. The budgetary impact of this proposal on Air Force Military Personnel appropriation budget requirements would be a net increase of $310 million, phased in, and a net increase of approxi-
mately $20 million per year thereafter.

Secton 505 would repeal subsection 1251 of this Act, which requires the Army Reserve and National Guard members to complete physical examinations, receive imm-
oculations and complete other medical re-
equirements. Section 1251 is hereby terminated. The Navy has one Limited Duty Officer captain (0–6) Bandmaster (6430) billet—the position of Officer in Charge of the United States Navy Band. While so serving, an officer who holds a

The Secretary of Defense report to Congress on the means of improving medical and dental care for Reserve Component members, which Secretary Cohen sent to Congress on November 5, 1999.

Section 502 would amend section 640 of title 10, United States Code, to afford mem-
ers whose mandatory deployment or retirement were delayed due to medical deferment, a period of time to transition to civilian life following termination of medical deferment. It would afford active duty mem-
ers whose mandatory separations or retire-
ments had been in Chapter 9 or Chapter 63 of the title, a period of time to transition, not to exceed 30 days, following termination of suspensions made under section 640, to transition to civil-
ian life. As currently written, section 640 requires immediate separation or retirement of those medically deferred members who would have been subject to mandatory separation or re-

terminations of a medical deferment, could cause undue hardship on those whose planned departure to civilian life was unex-
Navy has one Limited Duty Officer captain (0–6) Bandmaster (6430) billet—the position of Officer in

Senior Officer (H) positions in the United States are characterized by their independence and author-
Naval Forces, comprised of the United States Navy and the United States Marine Corps, is the Navy's premier musical rep-

While so serving, an officer who holds a

The Navy has one Limited Duty Officer captain (0–6) Bandmaster (6430) billet—the position of Officer in

D.C. is the Navy's premier musical rep-

As currently written, section 640 requires immediate separation or retirement of those medically deferred members who would have been subject to mandatory separation or re-

Secton 503 would add a new section to title 10, United States Code, to provide for the de-

Navy has one Limited Duty Officer captain (0–6) Bandmaster (6430) billet—the position of Officer in
technical skill required of the incumbent; to provide proper recognition and compensation for the skills required as the Band's leader; and to elevate and maintain this organization's status at an appropriate level.

Army, Marine Corps, and Air Force premilitary and precommissioning Officers/Commanders are also 0-4 billets and selection for those positions is accomplished in a manner different from that used by the U.S. Navy Band. Upon assignment to these positions, leaders of the Army, Marine Corps, and Air Force bands are specifically "selected" to 0-4. That is, they are considered in the same manner as an Officer-in-Charge/Leader of the U.S. Navy Band because selection for and appointment to this position is limited to the Limited Duty Officer Community. As such, those selected for this special appointment are generally officers with 28-32 years of total active service at the time of selection and appointment as Officer-in-Charge/Leader, U.S. Navy Band. However, the established career path of Limited Duty Officers typically results in selection for this position while serving as a senior officer of lieutenants commander (0-4) or commander (0-5) and flow points normally do not provide an opportunity for promotion to 0-6 prior to statutory retirement.

Section 504, General/flag officers serving above the grade of 0-6 serve in a temporary grade that is authorized by the position. Such officers generally hold a permanent grade of 0-8. Under current law, for the officer to retire in a grade above 0-8, the Secretary of Defense must determine and then certify to the President and the Congress that such officer served satisfactorily on active duty in the higher grade. Most officers who serve in grades above 0-8 are approved for retirement at age and service above 0-8. Section 504 would retain the requirement for the Secretary of Defense to certify that the service of an officer on active duty in a grade above 0-8 was satisfactory in order for the officer to be retired in the grade above 0-8, but would do away with the requirement for the Secretary of Defense to provide that certification to the President and the Congress. Further, Section 504 would require the Secretary of Defense to issue written regulations to implement these procedures.

Section 505, The Secretary of Defense is authorized to issue regulations to extend temporary military drawdown authorities through 2024, and to issue interim regulations. Congress. Further, Section 504 would require the Secretary of Defense to issue written regulations to implement these procedures.

Section 506, Subsection (a) adds a new section 1558 to the end of chapter 79 of title 10: "Military Officers Special Appointments." Time in commission on the Special Appointments Board, retroactive to the date of the original board.

Section 1558(b) provides that, in the case of a person chal- lenged for a selection board's recommendation, or if a special board, it will be deemed a denial of the requested relief. The Secretary, acting personally, may extend these time limits in appropriate cases, but may not delegate the authority to do so.

Section 1558(c) provides that if section 1558 does not apply to the Coast Guard when it is not operating as a service in the Navy.

Section 1558(d) defines "special board" to encompass any board, other than a special selection board convened under section 629 or 14502 of title 10, convened by the Secretary concerned to consider a person for appointment, enlistment, reinstatement, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component, in place of consideration by a prior selection board that considered or should have considered the person. A board for correction of military or naval records under section 1552 of title 10 may be a special board if so designated by the Secretary concerned.

Section 1558(e) provides that a special board outcome unfavorable to the person considered confirms the action of the original board, retroactive to the date of the original board.

Section 1558(f) provides that the remedies provided in section 1558 are the exclusive remedies available to a person challenging the action or recommendation of a selection board, as that term is defined in section 1558(i).

Section 1558(g) provides that section 1558 does not limit the existing jurisdiction of any federal court to determine the validity of rules, regulations, or policies relating to selection boards, but limits relief in such cases to that provided for in section 1558.

Section 1558(h) contains time limits for action by the Secretary concerned on a request for consideration by a special board (six months) and on the recommendation of a special board (one year after convening the board). If the board does not act, its will be deemed a denial of the requested relief. The Secretary, acting personally, may extend these time limits in appropriate cases, but may not delegate the authority to do so.

Section 1558(i) provides that section 1558 does not apply to the Coast Guard when it is not operating as a service in the Navy.

Section 1558(j)(1) defines "special board" to encompass any board, other than a special selection board convened under section 629 or 14502 of title 10, convened by the Secretary concerned to consider a person for appointment, enlistment, reinstatement, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component, in place of consideration by a prior selection board that considered or should have considered the person. A board for correction of military or naval records under section 1552 of title 10 may be a special board if so designated by the Secretary concerned.

Section 1558(j)(2) defines "selection board," for the purposes of section 1558, as encompassing existing statutorily established selection boards, (except a promotion selection board convened under section 14011 (a) of title 10), and any other board convened by the Secretary concerned to recommend persons for appointment, enlistment, reinstatement, assignment, promotion, or retention in the armed forces, or for separation, retirement, or transfer to inactive
status in a reserve component for the purpose of reducing the number of persons serving in the armed forces.

Subsection (b) adds new subsections (g), (h) and (i) to section 628 of title 10, the section authorizing special selection boards for promotion of active duty list commissioned and warrant officers (redesignating existing subsection (g) as subsection (j). New subsections (g) and (h) correspond exactly to subsections (g) and (h) of section 14502 of title 10, the RPMFA authorization providing special selection boards for promotion of reserve active status list commissioned and warrant officers.

New subsection (g) provides that no court or official of the United States shall have power or jurisdiction over any claim by an officer or former officer based on his or her failure to be selected for promotion unless the officer has first been considered by a special selection board, or his claim has been rejected by the Secretary concerned without consideration by a special selection board. In addition, this subsection precludes any official or court from granting relief on a claim for promotion if the officer has been selected for promotion by a special selection board.

Subsection (h) permits judicial review of a decision of a selection board. A court may overturn such a decision and remand to the Secretary concerned to convene a special selection board if it finds that decision to be arbitrary, capricious, not based on substantial evidence, or otherwise contrary to law. The term "concerned" is intended to encompass con-stitutions as well as statutory provisions.

Subsection (i) provides that if a court finds that the action of a special selection board was contrary to law or involved material error, it shall remand to the Secretary concerned for a new special selection board. No other form of judicial relief is authorized.

Subsection (i) provides that nothing in this legislation limits the existing jurisdiction of any court to determine the validity of any statute, regulation or policy relating to selection boards. This subsection limits relief in cases to that provided for in this legislation, and (2) that nothing in this legislation limits the existing authority of the Secretary of a military department to correct a military record under section 1552 of title 10.

Subsection (c) provides that the amendments made by this legislation are retroactive in effect, except that they do not apply to any judicial proceeding commenced in a federal court before the date of enactment.

Section 511 would allow the Service Secretaries to routinely transfer Reserve officers to the Retired Reserve—without requiring that the officer request such a transfer—for those officers who are required by statute to be removed from the reserve active status list because of failure of selection for promotion, length of service, or age. This section would add a similar authority with respect to warrant officers and enlisted members who have reached the maximum age or years of service as prescribed by the Secretary concerned. This authority would allow these members to request discharge or, in some cases, transfer to an inactive status list in lieu of transfer to the Retired Reserve. Giving the Service Secretaries this authority would also help protect those members who entered military service after September 7, 1980. Members who entered military service after that date are not charged after qualifying for a non-renewal retirement (former members) remain eligible to receive retired pay, but that pay is calculated on the pay scale in effect when discharged, rather than the pay scale in effect when they retired. This is significant since the retired pay for a former member in most cases, is significantly higher than the pay for a member of the Retired Reserve because of the pay scale used to determine the amount of retired pay. This amendment would require reservists to make a positive election to be discharged with the full understanding of the possible economic consequences of that decision.

Section 512 would provide that with respect to Reserve component members was added as section 991(b)(2) of title 10, United States Code, by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398). The purpose of this definition was to ensure consistent treatment of Active and Reserve component members serving under comparable circumstances and preclude Reserve component members from being credited with deployed days when they could spend off-duty time in their homes.

As provided in the National Defense Authorization Act for Fiscal Year 2001, the active component will count "home station training" as training whenever the member is unable to spend off-duty hours in the housing in which he or she resides while on garrison duty at his or her permanent duty station or homeport. Absent the proposed change in Section 512, an active duty member who is not able to spend off-duty time in the housing in which he or she resides while in a funeral honor duty status, or homeport, because the member is performing home station training, will be credited with a day of deployment, while a Reserve component member serving under comparable circumstances, will not because they will be within the 100-mile or three-hour limit. This amendment would correct this inconsistency between Active and Reserve component members, the definition of deployment with respect to Reserve component members must be amended.

Section 513 would provide that any judicial proceeding commenced in a federal court before the date of enactment for Reserve component members, which was separated from or died after the effective date of Section 513, would be subject to the jurisdiction of the Uniformed Court of Military Justice. Section 513 would specify that this Reserve Component Court to the Uniform Code of Military Justice while performing funeral honors duty under 10 U.S.C. 12903.

Section 514 would amend titles 10, 14 and 38, United States Code (U.S.C.), to provide the same benefits and protections for Reserve Component members while in a funeral honors duty status as provided when RC members perform inactive duty training (IDT) or traveling to or from IDT. Sections to be amended are:

1. 10 U.S.C. 802—persons subject to the Uniform Code of Military Justice. Section 514 would specify that a Reserve Component member would be subject to the Uniform Code of Military Justice 6131—eligibility for commissary and exchange benefits for dependents of a deceased Reserve Component member. Section 514 would specify that the dependents of a Reserve Component member who died while in a funeral honor duty status, or while traveling to or from such duty would be eligible for commissary and exchange benefits as the surviving dependents of an active duty member.

2. 10 U.S.C. 1476 and 1476—payment of a death gratuity. Section 514 would authorize payment of a death gratuity of a Reserve Component member who died while in a funeral honor duty status, or while traveling to or from such duty.

3. 10 U.S.C. 704—authority of members of the Coast Guard Reserve. Section 514 would specify that a member of the Coast Guard Reserve would have the same authority, rights and privileges as a member of the Regular Coast Guard of a corresponding grade or rating when the member is in a funeral honors duty status.

4. 14 U.S.C. 705—benefits for members of the Coast Guard Reserve. Section 514 would specify that a member of the Coast Guard Reserve would have the same benefits as a member of the Naval Reserve of a corresponding grade, rating and length of service when the member is in a funeral honors duty status.

5. 38 U.S.C. 101—definitions. Section 514 would add the term "funeral honors duty" and define that term, and then include that term in the definitions of statutory provisions.

Amending the various statutes to add funeral honors duty as a duty status in which these benefits are provided is important to ensure a viable program of rendering honors at the funerals of our veterans.

Section 515 would specify that the performance of funeral honors by members of the Army National Guard of the United States or Air National Guard of the United States, while in a state status, satisfies the two-person funeral honors detail requirement. While members of the National Guard would meet this requirement when called to duty under section 515 of title 32, United States Code (U.S.C.), they are not in a federal status when performing duty in a state military duty status, and therefore the Department is not entitled to be reimbursed for performing funeral honors when in a state status. Amending section 515 of title 10 or title 32, United States Code (U.S.C.), to provide for a federal status when performing duty in a state military duty status, and therefore would be entitled to reimbursement for performing funeral honors when in a state status.

Section 516 would permit National Guard members to fulfills this requirement when called to duty under section 515 of title 32, United States Code (U.S.C.), to permit National Guard members to fulfill this requirement when called to duty under section 515 of title 32, United States Code (U.S.C.), to be eligible to receive the funeral honors pay authorized under section 515 of title 32, United States Code (U.S.C.), and to be eligible to be reimbursed for providing funeral honors when in a state status.
Section 516 would authorize Reserve Component members who are involuntarily called to active duty to serve component officers serving on active duty in support of a contingency operation.

Currently, Reserve Component members who are involuntarily called to active duty are exempt from the strength limitations in sections 115, 517 and 523 of title 10. Just as the Services involuntarily call Reserve Component members to support a contingency operation under title 10 U.S.C. 12304, to meet the operational requirements to support a contingency, the Services also use volunteers from their Reserve components to meet the operational requirements of a contingency operation. These volunteers are called to active duty under 10 U.S.C. 12301(d). Regardless of the authority under which a volunteer is called to active duty, the additional manpower represents an unplanned expansion of the force to meet operational requirements. The authority to increase the end strength limits and grade ceilings would permit the Services to meet contingency operation requirements without removing the support from the programs for other national security objectives. Finally, absent such an authority, the Services have an incentive to use non-volunteers to support these operations to avoid adversely affecting their end strength. This authority to expand the force by the number of Reserve Component members serving under title 10 U.S.C. 12301(d) would encourage the Services to use volunteers to meet these mission requirements.

Section 517 would authorize payment of the financial assistance provided under 10 U.S.C. 16281 to a student who has been accepted into an accredited medical or dental school. Section 517 would further amend section 16281 to authorize payment of subsequent financial assistance to an officer who received financial assistance under this section while a student enrolled in medical or dental school and has now graduated and enters residency training in a healthcare professional wartime skill designated by the Secretary of Defense as critically short. When such a student agrees to financial assistance for residency training, the two-for-one service commitment previously incurred for financial assistance while attending medical or dental school may be reduced to one year for each year for each year, or part thereof, of financial assistance previously provided. However, the service obligation incurred for residency training would remain at two-for-one. Finally, Section 517 would authorize the service obligation incurred for financial assistance to be incurred for six-month increments for those agreements that require a two-for-one pay back. Thus, for every six months, or part thereof, of benefits paid the last six months of the residency training that will be obligated for one year of service in the Selected Reserve. Currently, two years of service obligation is incurred for each partial year of financial assistance provided, regardless of the number of months in that partial year.

These amendments would provide a more robust incentive program that recruiters and other personnel could use to entice professionals in order to entice them into joining the Guard or Reserve. The current medical recruiting incentives, which originated in the early to mid 1980s, must be updated to enable reserve recruiters to compete with hospitals, HMOs and communities who offer financial incentives. Thus, section 518 would allow Reserve recruiters to extend the period of time in which they may return for a commitment to work for them once they become a qualified physician or dentist. As an example, both the Army Reserve and the Army National Guard, which account for 65 percent of Army medical requirements, have not been able to achieve medical recruiting goals and are experiencing serious medical end strength shortfalls.

In summary, Section 517 would enhance the recruiting incentives targeted at student medical and dental school students in four ways: (1) allow medical and dental school students to receive a stipend, (2) allow subsequent financial assistance for officers who are called to active duty to attend dental school and enter residency training in a critically short wartime skill, (3) allow the service obligation to be reduced to one-for-one when a physician or dentist accepts the financial assistance for residency training, and (4) allow those service obligations which require a two-for-one pay back to be incurred in six-month increments.

Section 518. Section 521 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398) amended section 641(1)(D) of the United States Code (U.S.C.), to exclude certain reserve component officers serving on active duty for periods of three years or less from the active duty list for promotion purposes. These officers, however, should compete for selection for promotion with their contemporaries not serving on active duty in the same manner as their contemporaries not serving on active duty. Reserve component general/flag officers would, under service regulations, be retained on the reserve active-status list and authorized to serve on active duty for a period of three years or less under the provisions of 10 U.S.C. 526(b)(2).

Finally, Section 518 would allow the Services to conscript any student to the reserve active status list who otherwise met the criteria of this exemption, but for the fact that the officer was on active duty already before being placed on the active duty list at the time section 641(1)(D), as amended by Public Law 106-398, was enacted.

Section 519 would permit Reserve component members on active duty and members of the National Guard on full-time National Guard duty to prepare for and perform funeral honors for veterans as required by section 1491 of title 10, United States Code, without counting against active duty end strength. The delivery of funeral honors to veterans is a continuous peacetime mission that has escalated from its recent inception and mandate in Public Law 105-261. Further, funeral honors mission requirements are projected to continue their expansive growth in the out years. Section 519 would allow the Department of Defense to use National Guard personnel to fulfill the funeral honors mission without adversely impacting readiness and affecting the end strength needed to meet their wartime missions. For the Department to meet the requirements of the law regarding the provision of funeral honors for veterans, it is critical to have Reserve component participation in this Total Force mission. Additionally, the end strength needed to remove an impediment to greater Reserve component participation in funeral honors, provide greater latitude in manpower application, and greatly assist the Department in meeting the expanding requirements of the veterans’ funeral honors law.

Section 520. Section 555 of the National Defense Authorization Act for Fiscal Year 2000 amended section 12310(b) of title 10, United States Code, to expand the duties that may be assigned to Reserve, who are on active duty in connection with administering, recruiting, instructing, or training the reserve components. While the apparent intent of the amendment was to expand the possible activities of the Guard and Reserve (AGR) personnel, practically, the amendment applies only to AGR personnel performing active duty under section 12301(d) of title 10 and does not include AGR personnel performing full-time National Guard duty under title 32 of the United States Code. Therefore, Section 520 seeks to clarify the current law, aligning the current practices in these missions with the legislative authority governing them. This change is necessary because, effectively, there are few distinctions between the roles of AGR personnel serving on active duty and the roles of reservists performing full-time National Guard duty, outside of the different chains of command that each respective group must report to.

This section would amend section 12310(b) by inserting language that clearly would make the section applicable to Reserves who are on active duty in connection with serving on full-time National Guard duty under section 502(f) of title 32 in connection with organizing, administering, recruiting, instructing, or training the reserve components. It would ensure that National Guard AGR personnel are treated in the same manner as
Section 521 would amend section 516 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) to provide that the Secretary of the Army may waive the applicability of section 12205(a) of title 10, United States Code, to reserve officers commissioned through the Army Officer Candidate School. Section 12205(a) provides that no person may be appointed to a grade above the grade of first lieutenant in the Army Reserve, Air Force Reserve, or Marine Corps Reserve or to a grade above the grade of lieutenant (junior grade) in the Naval Reserve, or be federally recognized in a grade above the grade of lieutenant as a member of the Army National Guard or Air National Guard, unless that person has been awarded a baccalaureate degree and serves in an active duty component. Section 12205(a) also provides that any waiver of the applicability of section 12205(a) to any officer who before the enactment of Public Law 105–261 was commissioned through the Army’s Officer Candidate School. The waiver may continue in effect for for no more than two years. A waiver under the section may not be granted after September 30, 2000.

Section 521 would amend section 516 to permit the Secretary of the Army to waive the applicability of section 12205(a) to any officer who was commissioned through the Army’s Officer Candidate School without regard to the date of commission. The Secretary of the Army may provide an exception to the statutory requirement of a baccalaureate degree during the relatively short period before they are eligible for promotion to captain and during times when they may be engaged in intensive training or deployments for long periods.

Section 522 would amend section 12305 of title 10, United States Code, to afford members whose mandatory dates of separation or retirement were delayed due to stop loss action, a period of time to transition to civilian life following termination of stop loss action. Specifically, section 522 would add subsection (c) to afford active duty members whose mandatory separations or retirements incident to sections 1251 or 632–637 are delayed due to stop loss action, a period of time to transition to civilian life following termination of stop loss.

As currently written, section 12305 requires immediate separation or retirement of those affected by stop loss, who, without stop loss, would have been entitled to separation or retirement under this title for age (section 1251), length of service (sections 633–636), or promotion (sections 632, 637). An abrupt termination of stop loss would result in undue hardship for those whose planned departure to civilian life was unexpectedly interrupted and now must be resumed post haste. For example, the Air Force invoked stop loss in support of Operation Allied Force in 1998. Following the termination of stop loss on 22 June 1998, eight officers with less than a year of promotion were required to retire upon their original date of separation (1 July 1998); another three officers were required to separate/retire by 1 August 1998. On the other hand, members with a date of separation set by policy were given the option of either extending their dates of separation up to 6 months or withdrawing them. Some leeway must also be provided for members with dates of separation established by law to reschedule the many details incident to final departure from military life.

Section 531. The Marine Corps War College seeks Congressional authority and regional accreditation to issue a master’s degree in Military Strategy. That authority to begin this process is vested in the Commanding General of the Marine Corps Combat Developments Command and was authorized on 1 June 1996. In June 1998, the Marine Corps University achieved a seven-year goal by being accredited by the Southern Association of Colleges and schools to award a master’s degree in Military Strategy. While this accreditation was awarded to the Marine Corps University, it specifically addressed only the degree awarded by the Command and Staff College. The Marine Corps War College now seeks similar authority.

The uniqueness of the Marine Corps War College’s curriculum and program of study is unparalleled by other civilian universities or Federal War Colleges. Most of the Marine graduates of the Marine Corps War College become faculty members of the Command and Staff College. The Command and Staff College already awards a master’s degree, it would be very beneficial for these future faculty members to possess the required academic training when arriving at their new positions at the Command and Staff College.

A master’s degree program would enhance the professional reputation and prestige of the Marine Corps War College. This would facilitate the Marine Corps War College’s efforts to sustain and recruit a world class faculty and demonstrate a high level of faculty competence as first rate scholars and speakers. Section 531 is intended only as a technical amendment to the existing legislation. Enactment of this section would not result in an increase in the budgetary requirements of the Marine Corps.

Section 532. Section 206(d) of title 37, United States Code, states that “[t]his section does not authorize compensation for work or study by a member of a reserve component in connection with correspondence courses if the study is similar to the limitation in the definition of “inactive-duty training” found in 37 U.S.C. 101(22), which states inactive-duty training “does not include an activity performed by a member of the Reserve component with a correspondence course of a uniformed service.” Since the correspondence course restrictions were enacted more than 50 years ago, technological advances affecting instructional methodology have made these restrict-
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than 2,900 secondary schools. The statutory
mission for JROTC is to instill in students
the value of citizenship, service to the
United States, personal responsibility, and a
sense of accomplishment. Surveys of JROTC
cadets indicate that about 40 percent of the
graduating high school seniors with more
than two years participation in the JROTC
program are interested in some type of military affiliation (active duty enlistment, officer program participation, or service in the
Reserve or Guard). Translating this to hard
recruiting numbers, in Fiscal Years (FY)
1996–2000, about 9,000 new recruits per year
entered active duty after completing two
years of JROTC. The proportion of JROTC
graduates who enter the military following
completion of high school is roughly five
times greater than the proportion of nonJROTC students. Therefore, the program
pays off in citizenship as well as recruiting.
Recognizing the merits of the JROTC program, the Military Services have undertaken
an aggressive expansion program and are
committed to reach the statutory maximum
of 3,500 by FY 2006. As a result of this
planned growth, the Military Services have
witnessed a marked increase in the number
of schools seeking establishment of JROTC
units. We now face the real potential that
DoD and a waiting school might both wish to
proceed with an activation, yet face a legislative cap that prevents execution of such a
mutually-desirable course of action. Enactment of Section 533 would permit DoD to be
responsive to mutually agreeable school
needs which might exceed the present 3,500–
unit cap set in law.
Section 534 would extend eligibility for the
Nurse Officer Candidate Accession Program
to students enrolled at civilian educational
institutions with a Senior Reserve Officers’
Training Program (SROTP) who are not eligible for Senior Reserve Officers’ Training
Programs.
The Nurse Officer Candidate Accession
Program (NCP) is a primary accession source
of new nurse officers and provides a hedge
against difficulty in the direct procurement
market. It provides financial assistance to
students enrolled in a baccalaureate nursing
program in exchange for an active duty commitment upon graduation.
Market projections indicate increasing difficulty in recruiting students for the NCP
due to an increase in civilian career opportunities and declining nursing school enrollment. Evidence from nursing journals and
employment industry statistics confirm that
a tightening job market for nurses is expected over the next few years.
Section 2130a of title 10, United States
Code, currently restricts eligibility for the
NCP to students enrolled in a nursing program at a civilian educational institution
‘‘that does not have a Senior Reserve Officers’ Training Program.’’
Eligibility requirements for the SROTP
limit age to 27 years. SROTP scholarships
for junior or senior level students are limited
to a few quotas each year only to replace
students lost through attrition. The NCP age
limit is up to 34 years and only bars those
within six months of graduation. Recruiters
report considerable interest in the NCP program by SROTP-ineligible students.
Extending NCP eligibility to SROTP-ineligible students would expand the potential
applicant pool and demonstrate strong Congressional support and commitment to providing future nurse officers with the necessary skills to meet our healthcare mission
around the world.
Section 535. The Defense Language Institute Foreign Language Center serves as the

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Defense Department’s primary foreign language teaching and resource center. The Institute has been accredited by the Accrediting Commission for Community and Junior
Colleges of the Western Association of
Schools and Colleges (Commission) since
1979. The Commission has recommended that
the Institute obtain degree-granting status
to maintain its accreditation. The Secretary
of Education has endorsed that recommendation. Section 535 would provide the authority
for the Institute to grant an Associate of
Arts degree. There are no resource implications other than the routine administrative
requirements to produce a diploma suitable
for presentation upon graduation.
Section 541 is pursuant to the provisions
and procedures of section 1130 of title 10,
United States Code. The Honorable Sherrod
Brown of the House of Representatives requested the Secretary of the Army, the appropriate official under section 1130, to review the circumstance of this case. Section
541 follows the determination made under
section 1130(b)(2) that the award of the decoration warrants approval. It further recommends a waiver of the specified time restrictions prescribed by law. The Secretary
of the Army and the Chairman of the Joint
Chiefs of Staff both agree and recommend
that Humbert R. Versace be awarded the
Medal of Honor. Section 541 would waive the
period of time limitations under Section 3744
of title 10 to authorize the President to
award Humbert R. Versace the Medal of
Honor.
Section 541 would authorize the President
to award the Medal of Honor to Humbert R.
Versace, who served in the United States
Army during the Vietnam War and who was
assigned as a Captain with A Detachment,
5th Special Forces Group. It would waive the
specific provisions of section 3744 of title 10
that the award be made within three years of
the date of the act upon which the award is
based. The acts of then-Captain Humbert R.
Versace clearly distinguish him conspicuously by gallantry and intrepidity at the
risk of his life above and beyond the call of
duty, as required by section 3741 of title 10 to
merit this legislation and the award.
Section 542 would amend sections 3747, 6253
and 8747 of title 10, United States Code, to
provide clear authority for the Secretaries of
the military departments to replace certain
medals if stolen and to issue medal of honor
recipients one duplicate medal of honor, with
ribbons and appurtenances.
Sections 3747, 6253 and 8747 currently authorize free replacement of any medal of
honor, distinguished service cross, distinguished service medal, silver star, Navy
cross, Navy and Marine Corps medal, or Air
Force cross that is lost or destroyed or becomes unfit for use without the fault or neglect of the recipient. Enactment of Section
542 would also clarify the intent of these sections to authorize specifically the replacement of medals that are stolen, subject to
the limitation that the theft was without
the fault or neglect of the recipient.
If enacted, Section 542 would also authorize the Service Secretaries to issue each
medal of honor recipient one duplicate medal
free of charge. There is no provision in title
10 that authorizes issuance of a duplicate
medal of honor so that the recipient can donate the original medal or otherwise safeguard it and wear the duplicate to functions
and events. In fact, sections 3747, 6253 and
8747 of title 10, in conjunction with sections
3744(a), 6247 and 8744(a) of such title, may be
construed to prohibit the issuance of a duplicate medal of honor.

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If Section 542 is enacted, medal of honor
recipients would have to make written application to the Secretary concerned for the
issuance of a duplicate medal, which would
be marked, as determined by the Secretary
concerned, as a duplicate or for display purposes only. The issuance of a duplicate medal
under this new authority would not constitute the award of ‘‘more than one’’ medal
of honor to the same person. Sections 3744(a),
6247 and 8744(a) of title 10 prohibit the award
of ‘‘more than one’’ medal of honor to a person.
Issuance of a duplicate medal of honor for
display purposes would allow recipients to
place their original medals in safekeeping or
donate them to institutions for permanent
display while retaining the duplicate to wear
at events. Medal of honor recipients are expected to wear their medals at many of the
events to which they are invited. According
to the Congressional Medal of Honor Society,
many of the 152 living recipients would like
to donate or otherwise safeguard their original medals because the value of the medals
on the ‘‘black market’’ has made them an attractive target for theft. Medals marked as
duplicates, by contrast, would presumably
have little or no ‘‘black market’’ value and
would be less attractive targets for theft.
The cost of issuing duplicate medals of
honor would be minimal. The current cost of
a medal of honor is approximately eightyfive dollars. If every living recipient requested a duplicate, the cost would not exceed $15,000, including shipping.
Section 543. Section 541 of the Floyd D.
Spence National Defense Authorization Act
(U.S.C.), that restricts eligibility for the
Bronze Star Medal to members of the Armed
Forces who are in receipt of special pay
under section 310 of title 37, U.S.C., at the
time of the events for which the decoration
is to be awarded or who receive such pay as
a result of those events. ‘‘Special pay’’ under
section 310 includes both hostile fire pay
(HFP) and imminent danger pay (IDP). The
reason for the change stemmed from the belief that someone whose duties never took
them away from home did not perform the
same kind of service as someone who was in
the combat zone. The perception was that
most people who received IDP or HFP served
in a combat zone.
Currently, military personnel serve in 43
areas which qualify for IDP or HFP, but only
two areas are further designated ‘‘combat
zones’’—Yugoslavia (Serbia, Kosovo, Albania, the Adriatic Sea, the Ionian Sea above
the 39th parallel, and the airspace above
these areas) and the Persian Gulf. Service
members qualify for IDP not only in wartime
conditions, but also if they are subject to
physical harm or imminent danger due to
terrorism, civil insurrection, or civil war.
HFP is awarded when a service member is
subject to hostile fire or explosion of hostile
mines; on duty in an area in which he is in
imminent danger of being exposed to hostile
fire or explosion of hostile mines; or is
killed, injured, or wounded by hostile fire,
explosion of a hostile mine, or any other hostile action. The decision to declare an area
eligible for receipt of IDP or HFP is not immediate. A recommendation is made by the
regional commander in chief, endorsed by
the Joint Chiefs of Staff, and then approved
by DoD Force Management Policy.
No other higher-level valor award, e.g., the
Medal of Honor, Service Cross, Silver Star,
or Distinguished Flying Cross, has similar
eligibility criteria. Historically, the Bronze

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Star Medal has been awarded outside of combat among the Korean conflict when it was approved for personnel stationed in Okinawa for meritorious service in connection with military operations against North Korea, limitingeligibility for the Bronze Star Medal to only those members serving in an area where imminent danger pay is authorized or to those receiving pay. This would exclude any number of deserving members of the Armed Forces.

Awarding of the Bronze Star Medal should be discontinued and any requirement for IDP or HFP and should instead stand alone. The revolution in military warfare has changed the U.S. view on traditional force application and the decorations, many of whose origins recognized traditional ground combat operations, must also keep up and recognize the changes in the way the U.S. conducts warfare.

Section 551 would amend the Uniform Code of Military Justice to lower the blood alcohol concentration (BAC) limit of established drunken operation of a motor vehicle from 0.1 to 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams per 210 liters of breath. The change would bring military practice in line with the recently enacted nationwide drunk driving standard found in section 351 of the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 2001, Public Law 106-346, 114 Stat. 3563-34.

On March 3, 1998, President Clinton directed the Secretary of Transportation to develop a plan to promote a .08 BAC legal limit, which would include “setting a .08 BAC standard on Federal property, including . . . on Department of Defense installations, and ensuring strong enforcement and publicity of this standard. . . .”

Consistent with this planning effort, DoD legislation was proposed in its omnibus legislation package in the spring of 1999 to amend the Uniform Code of Military Justice to reduce the blood and breath alcohol levels for the offense of drunken operation of a vehicle, aircraft, or vessel from 0.10 to 0.08 grams. The U.S. Senate adopted section 562 of S. 158, corresponding changes to the United States Code. H.R. 1401, as adopted by the U.S. House of Representatives, contained no similar provision. The Conference Report to S. 1589, National Defense Authorization Act for Fiscal Year 2000, requested the Secretary of the United States Department of Defense Committees “on the Department’s efforts to reduce alcohol-related disciplinary infractions, traffic accidents, and other such incidents. The report should include the Secretary’s recommendation regarding any appropriate changes.” The Conference Report noted that a recent General Accounting Office (GAO) study concluded that statutory reductions, by themselves, did not appear sufficient to reduce the number and severity of alcohol-related accidents.

The GAO study cited by the Conference Report found that “. . . BAC laws in combination with other drunk driving laws as well as sustained public education and information efforts and strong enforcement can be effective, [but] the evidence does not conclusively establish that. . . BAC laws in combination with other drunk driving laws as well as sustained public education and information efforts and strong enforcement can be effective, but the evidence does not conclusively establish that. . . BAC laws by themselves result in reductions in the number and severity of crashes involving alcohol.” GAO Report at 22-23.

The GAO report further found that “it is not the effectiveness of the laws that would save if all states passed .08 BAC laws. The effect of a .08 BAC law depends on a number of factors, including the degree to which the law is publicized; how well it is enforced; other existing drunk driving laws in effect; and the unique culture of each state, particularly public attitudes concerning alcohol.” GAO Report at 23. “. . . BAC law can be an important component of a state’s overall highway safety program, but a .08 BAC law is not a ‘silver bullet’. . . .” The GAO report noted that “the best countermeasure against drunk driving is a combination of laws, sustained public education, and vigorous enforcement.” GAO Report at 23.

Since 1983, DoD has pursued a “comprehensive approach” to reduce drunk driving, believing that the best countermeasure against drunk driving is a combination of laws, public education, and enforcement. This comprehensive range of programs currently includes: a .10 BAC alcohol concentration (BAC) statute enforceable by court-martial; strong policies to achieve a reduction in impaired driving; a system for preliminary and mandatory suspension of licenses in cases of impaired driving; education and training programs; and a screening program for identifying alcohol dependent individuals; a process to notify State driver’s license agencies regarding licenses suspended for impaired driving; a local awards program for successful impaired driving programs; and a system to monitor and ensure quality control for impaired driving programs.

Together, these programs have resulted in a reduction in alcohol-related traffic accidents for DoD personnel which compares favorably to analogous statistics from the National Highway Traffic Safety Administration (NHTSA) for the 50 states and the District of Columbia.

DoD recommends that the effectiveness of the existing DoD programs be further enhanced through the amendment of Article 111(2) of the Uniform Code of Military Justice, 10 U.S.C. § 9111(c), to reduce the enforceable BAC level to 0.08.

Reducing the BAC level to 0.08 would be consistent with statutes or administrative policies already in effect in 19 States, the District of Columbia, and Puerto Rico. Six additional States currently have under consideration legislation to change to the 0.08 BAC level. If enacted, DoD believes the 0.08 BAC limit would be an important component of our overall traffic safety program and support a significant reduction in the annual number of alcohol-related fatal and non-fatal crashes involving DoD personnel, with corresponding human and economic savings.

Section 601 The primary purpose of military compensation is to provide a force structure that can support defense manpower requirements and policies. To ensure that the uniformed services can recruit and retain a force of sufficient numbers and quality to support the military, strategic and operational plans of this nation, military compensation must be adequate. Comparison of military members with their civilian counterparts suggests that without some adjustment to both the level and structure of basic pay, the military will continue to face difficulties in both recruiting and retaining.

The results of the military and civilian earnings profile comparisons and the life-cycle cost analysis of the 9th Quadrennial Review of Military Compensation (9th QRMC) lead to several recommendations that both raise the level of pay and alter the structure of the pay table as well. The structural modifications include targeting pay raises to the enlisted mid-grade ranks that will better match their earnings profile, over a career, with that of similarly-educated civilian counterparts and provide a sufficient incentive for these members to complete a military career. Recommended adjustments:

Target large basic pay increases for enlisted members serving in the E-5 to E-7 grades with 6-20 years of service. This would eliminate the BAC structure and thus the shape of the earnings profile, increasing the slope of the earnings profile for midgrade enlisted members to partially achieve the levels suggested by the 9th QRMC.

Raise basic pay for grades E-8 and E-9, to maintain incentives throughout the enlisted career and prevent pay inversion.

Provide a modest increase in basic pay for junior enlisted members. This increase reflects the importance of preventing further deterioration in the percentage of high quality enlistments.

Provide for structural changes in selected pay cells for E3, E4, and E5 to motivate members to seek early promotion in the junior grades.

Raise basic pay for grades O-3 and O-4 to provide increased retention incentives.

Provide a modest increase for other officers to recognize their contribution to the defense effort.

Subsection (a) waives the adjustment in basic pay that is prescribed in section 1009 of title 37, United States Code. Subsection (b) provides a pay table describing the changes in basic pay. These increases are summarized in the table on the following page:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Percentage Increase</th>
<th>Grade</th>
<th>Percentage Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>E-1</td>
<td>9.0</td>
<td>W-1</td>
<td>8.5*</td>
</tr>
<tr>
<td>E-2</td>
<td>8.0</td>
<td>W-2</td>
<td>8.5*</td>
</tr>
<tr>
<td>E-3</td>
<td>6.0</td>
<td>W-3</td>
<td>8.0</td>
</tr>
<tr>
<td>E-4</td>
<td>6.5*</td>
<td>W-4</td>
<td>7.5</td>
</tr>
<tr>
<td>E-5</td>
<td>7.5*</td>
<td>W-5</td>
<td>7.0</td>
</tr>
<tr>
<td>E-6</td>
<td>8.0</td>
<td>W-6</td>
<td>6.5</td>
</tr>
<tr>
<td>E-7</td>
<td>8.5*</td>
<td>W-7</td>
<td>6.5</td>
</tr>
<tr>
<td>E-8</td>
<td>9.0</td>
<td>W-8+</td>
<td>5.0</td>
</tr>
</tbody>
</table>

The following pay cells are increased by a different percentage for structural purposes:

E-4 <2: 13.0; E-4 >6 (through >26): 6.0
E-5 <2: 12.0; E-6 <2: 8.0
E-6 <2: 10.0
E-6 >25: 7.0
W-1 <2: 7.5; W-1 >25: 14.0
W-2 <2: 6.0; W-2 >25: 11.0; W-2 >4: 11.0

Section 602 would amend section 407 of title 37, United States Code, to authorize payment of a partial dislocation allowance of $500 to members who are ordered, for the convenience of the Government (including pursuant to the privatization or renovation of housing), to move into or out of military family housing. Section 601 would allow members to receive a partial dislocation allowance for a government-directed move at the current permanent duty station. Currently, a member directed to move due to privatization or renovation of government housing does so at the member’s expense. In line with the current dislocation allowance authority, the member is making an authorized move; however, there is no authority to provide the member a dislocation allowance. Section 601 would limit payment in these circumstances to $500 initially. Adjustments would be made annually in a manner...
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consistent with the full dislocation allow-
ance. However, this would require status con-
pent members to incur additional training and
pay, and any other compensation. Section 602
not only would reduce the administrative
burden placed on the Defense Finance and
Accoun-
tability. It also would provide an incentive to retirees who, in the vast
majority of cases, would otherwise actually receive less compensation than that provided
by the retiree pay because of other compen-
sation provided under titles 10, 37 and 38. This rec-
ognizes that military retirees are a valuable
personnel resource that can be employed to
meet the funeral honors mission. By using
retirees to perform this mission, it would
allow active duty and reserve personnel to
continue to train for and perform other vital
military missions. It also recognizes that
this minimal level of compensation could be
used to encourage retirees to volunteer to
perform this mission. Finally, by not requir-
ing a retiree to serve in the lower pay
grade or O-1, O-2 or O-3 who are not on ac-
tive duty, but have accumulated a minimum of
1,460 points (the equivalent of four years of active
duty service) as a warrant officer or an enlisting
member, to be paid at the O-1E, O-2E or O-
3E rate. Currently, a company grade officer
with at least four years of prior active duty
service as a warrant officer or as an enlisted
member is entitled to be paid at a slightly
higher rate. The increase in pay recognizes the
additional experience these officers have gained
by serving in the lower pay grade or as an enlisted
member and rewards them ac-
cordingly. A Reserve commissioned officer
who has accumulated at least 1,460 points
(equivalent to four years of active
duty service) has gained significant military experience similar
to that of a member who qualifies for
this increase in pay because of prior active
duty service. Moreover, because of the part-
time nature of their service, these officers
have gained that experience over a longer pe-
riod of time and are generally more mature.
Allowing these officers to receive this in-
crease in pay recognizes and rewards that ex-
perience on the same basis as officers who
have gathered their experience purely through
active-duty service.

Section 605 would modify section 427 of
title 10, United States Code, to authorize a
housing allowance for the chaplain for the
Corps of Cadets at the United States Mili-
tary Academy. The chaplain, who is a civil-
ian employee of the Academy, would receive
the same allowance for housing as is allowed
for a lieutenant colonel. The chaplain would
also receive fuel and light for quarters in
kind.

Currently, section 4337 reads as follows:

"There shall be a chaplain at the Academy,
who must be a clergyman, appointed by
the President for a term of four years. The chap-
lain is entitled to the same allowances for
public quarters as are allowed to a captain,
and to fuel and light for quarters in kind.
The chaplain may be reappointed." Although
section 4337 specifically provides for a quarters
allowance for the chaplain at the Academy with
fuel and light in kind, the Comptroller General has determined that
this part of the section has been effectively
repealed.
The source statute for section 4337 was en-
acted in 1896 and codified as part of title 10
on August 10, 1906. The Comptroller General
issued an opinion on August 28, 1959, which
held that Congress intended the Classifica-
tion Act of 1949 to supersede the source stat-
ute for section 4337. The purpose of the Clas-
sification Act was to ensure that Federal
employees in like positions received equal
pay. The Comptroller General concluded that
the pay allowances for the academy chaplain were closely
related to compensation and, therefore, the reenactment of the quarters provision as part of active duty pay was unnecessary. Ms. J. A. McCullough, Comp Gen., B-140003. Consequently, the mili-
tary academy chaplain, although charged
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now, nominal retention rates must improve. The case of the Nuclear Officer Incentive Pay demonstrates Congressional commitment to ensuring that adequate staffing is provided for hard-to-retain and critical skills in the nuclear power industry, due to their education, experience, and recognition of their importance to our national security posture. Maintaining this unparalleled coverage Secretaries to recruit officers with critical skills. This is intended to preclude the possibility of insufficient training of commissioned officers who have chosen to reap the rewards of higher levels of potential earnings and without the arduous supervisory assignments. Eventually, many of these remaining officers find the sacrifice of personal time to ensure the maximum officer payment rate at mid grade enlisted pay grades—mid grade enlisted Sailors and junior to mid grade officers. This would increase the maximum enlisted pay rate from $355 to $425, but would maintain the maximum officer payment rate at $595. Therefore, the budgetary impact of Section 611 would be a net increase of approximately $14.5 million per year thereafter through FY 2007. Section 612 would extend the authority to employ accessions and retention incentives to support staffing for nurse and dentist billets which have been chronically undersubscribed. Experience shows that retention in those skills would be unacceptable low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing a replacement. The Department and the Congress have long recognized the cost-effectiveness of financial incentives in supporting effective staffing in critical military skills.

Section 613 would extend the authority to employ accessions and retention incentives to support staffing for nurse and dentist billets which have been chronically undersubscribed. Experience shows that retention in those skills would be unacceptable low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing a replacement. The Department and the Congress have long recognized the cost-effectiveness of these incentives in supporting effective personnel levels within these fields.

Section 614 would extend the authority to deploy accessions and retention incentives, ensuring adequate manning is provided for hard-to-retain skills, including occupations that are arduous or feature extremely high training costs. Experience shows retention in those skills would be unacceptable low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing a replacement. The Department and the Congress have long recognized the cost-effectiveness of these incentives in supporting effective staffing in these occupations. In the case of the Nuclear Officer Incentive Pay Program, a two-year extension demonstrates support to career-oriented officers.

Nuclear officer accessions and retention continues to be a challenge below that required to sustain the post-drawdown force structure. Fiscal Year (FY) 1999 retention for submarine officers was 30 percent (required 29 percent). For trained Surface Warfare Officers (SWO(N)e) it was 20 percent (required 21 percent). FY 2000 retention for submarine officers was 28 percent (required 24 percent) and for trained Surface Warfare Officers (SWO(N)e) it was 20 percent (required 21 percent). Although adequate for now, nominal retention rates must improve by FY 2001 to 38 percent for submarine officers to adequately meet growing manning requirements. Likewise, current accession production must improve. Although nuclear accessions exceeded the first time meeting submarine officer accessions since FY 1991, FY 2001 nuclear officer accession goals have increased to meet the manning requirements for an increased force size.

Inadequate accessions in previous years and continued poor retention only compound the manning requirements for remaining, as demanding and stressful sea tours are lengthened to meet safety and readiness. Shortfall of offcers due to both effects is sufficiently severe, the entire sea/shore rotation plan becomes unbalanced, and officers eventually must rotate directly from one sea tour to the next. This was the case in the 1960s and 1970s when many officers spent as many as 16 or more of their first 20 years in sea duty and nuclear warfare had not begun, and the Navy had no means of replacing this trained military asset in the Total Force. The prior service enlistment bonus offers an incentive to those individuals with prior military service to transition to the Selected Reserve.

The Reserve components have historically found it challenging to meet the required manning in the health care professions. The incentive that targets those healthcare professionals who possess a skill that has been identified as critically short is essential if the Reserve components can meet the manning requirements. Moreover, the special pay for enlisted members assigned to certain high priority units provides the Services with an incentive to meet prioritized manning shortfalls in critical undermanned units.

The expanded role of the Reserve components requires not only a robust Selected Reserve force, but also a robust manpower pools—the Individual Ready Reserve. Extending the Individual Ready Reserve bonus authority would allow the Reserve component to target this bonus at individuals who possess skills that are under-subscribed, but are critical in the event of mobilization. Combined, the Reserve component bonuses and special pays provide meaningful incentives that are necessary if the Reserve components are to meet manning requirements. Extending these authorities would ensure continuity of these programs. Since these incentive programs are recurring Service budget items, there is no additional cost for extending these authorities.

Section 616 would amend title 37, United States Code, by establishing a broad authority for an Officer Critical Skill Accession Bonus to provide needed flexibility for Service Secretaries to recruit officers with critical skills. This is intended to preclude the need to add future individual statutory bonus provisions for specific officer career categories experiencing an accession shortfall. Over the past several years, officers with certain critical skills have separated from the uniformed services at higher than historical rates, and recruitment of officers into these critical specialties has declined. This, in large measure, likely a result of higher compensa- tion and benefits being offered for these skills in the private sector. Recruitment shortages among officer skills can be expected to further erode absent enactment of certain authorities for recruitment bonuses that can be utilized to offset the pull on these critical specialties from the civilian.
marketplace. Examples of specialties currently in demand include interior design, graphic design, and marketing. These professions are expected to grow by 20% and 30%, respectively, by 2023.

2. Educational credentials contribute to a successful career. Graduates with a bachelor’s degree in business administration or information technology have a 22% higher starting salary than those with a high school diploma. Additionally, a master’s degree in finance can lead to an average salary increase of 67%.

3. Networking opportunities are crucial. Joining professional organizations, attending industry events, and maintaining a strong online presence can open doors to potential employers. According to the National Society of Professional Engineers, networking is one of the most effective ways to find job opportunities.

4. Demonstrating a commitment to professional development is essential. Pursuing certifications, attending workshops, and taking courses can enhance skills and expand career prospects. According to the American Society for Engineering Education, 72% of engineers who have completed professional development programs report a higher level of job satisfaction.

5. Being flexible and adaptable is key. As the job market evolves, the ability to adapt to new technologies and changing job responsibilities is crucial. This flexibility can also open doors to new career opportunities.

In conclusion, combining a strong educational background, networking skills, professional development, and adaptability can lead to a successful and rewarding career in the engineering profession.
The Funeral Transportation and Living Expense Benefits Act of 1974, section 411f(b), restricts the time necessary for travel and transportation allowances to attend the burial of deceased family members. The Act, enacted in 1974, authorizes the payment of travel and transportation allowances for a period limited to two days and the time necessary for travel.

Section 411f would be amended by adding a new subsection (d) to define burial transportation allowances to include "the deceased's widow, children, stepchildren, mother, father, stepfather and stepmother." If none of the family members in the preceding sentence "desire to be granted such benefits," then the benefits may be granted to the deceased's brothers, sisters, half-brother, and half-sisters.

For members of the armed forces serving during World War II and the Korean War whose remains have recently been recovered and identified, there may be no surviving spouse or child, and other expenses for travel and transportation allowances to attend the burial. As noted above, under section 411f, dependents who may receive travel and transportation allowances include the spouse of a deceased soldier and certain unmarried children, primarily those under age 21, who are not surviving spouse or qualifying child. However, in the case of surviving spouse and parents, the surviving spouse may be deceased and no child may qualify because of their age. Section 623 would amend section 411f and add a new provision similar to the provision in section 1482(d) of title 10, concerning the burial of remains that are commingled and cannot be identified. Under Section 623, if there is surviving spouse and qualified child or parent, the person designated to direct disposition of the remains could receive travel and transportation allowances along with two additional persons closely related to the deceased member selected by the person who directs disposition of the remains.

In many cases, this would likely include an adult child or children of the deceased member.

Section 623 would also amend section 411f to authorize the payment of travel and transportation allowances for a person to accompany a family member who qualifies for travel and transportation allowances but who is unable to travel alone to the burial ceremonies because of age, physical condition, or other justifiable reason as determined under uniform regulations prescribed by the Secretary concerned.

Sections 2004 of title 10, United States Code, authorizes the Secretary of a Military Department to detail selected commissioned officers at accredited law schools to serve on active duty following commencement in any single year. Officers detailed for legal training must agree to serve Component members, which was sent to Congress on November 5, 1999, recognized this shortcoming and recommended that the law be amended to provide medical coverage when the member remains overnight between successive training periods, even if they reside within reasonable commuting distance.

Section 633. Section 2004 of title 10, United States Code, authorizes the Secretary of a Military Department to detail selected commissioned officers at accredited law schools for training leading to the degree of bachelor of laws or juris doctor. No more than 25 officers from each Military Department may commence such training in any single year. Officers detailed for legal training must agree to serve on active duty following completion of the training for a period of two years each for each year of legal training. This service obligation is in addition to any service obligation incurred by the officer under any other provision of law or agreement.

Section 626 would extend the maximum period that a member of the Selected Reserve has to use the educational benefits provided under the Montgomery GI Bill–Selected Reserve (MGIB–SR) from the current 10-year limit to 14 years. With the increased use of the Reserve component, members of the Selected Reserve are facing increased unscheduled leave. The additional time spent performing military service reduces the amount of time they have available for other activities—be it work, school, or other leisure activities, or civilian education. Balancing a full-time civilian career and a military career is becoming increasingly more challenging. One area that is likely to suffer the greatest result of civilian education. Increasing the number of years that a member of the Selected Reserve has to use this benefit will allow them to reorganize their schedule to support their military service and provide them with an extended opportunity to use this benefit. Additionally, since membership in the Selected Reserve is voluntary, the MGIB–SR educational benefit, it would also serve as a retention incentive for those who have not been able to use the benefit by the current 10-year limiting period.

Section 622 would add overnight health care coverage when authorized by regulations for Reserve Component members who, although they may reside within a reasonable commuting distance, have a selective reserve duty training site, are required to remain overnight between successive drills at that training site because of mission requirements when it is not feasible for members to return to their residence impractical. On those occasions when it is not feasible for members who live in the area to return to their residence between successive drills because of mission requirements, they are currently not protected should they become injured or ill during the overnight period. A Military Defense report to Congress on the means of improving medical and dental care for Reserve Component members, which was sent to Congress on November 5, 1999, recognized this shortcoming and recommended that the law be amended to provide medical coverage when the member remains overnight between successive training periods, even if they reside within reasonable commuting distance.

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Section 620 of title 10, United States Code, authorizes the Secretary of a Military Department to detail selected commissioned officers at accredited law schools to serve on active duty following commencement in any single year. Officers detailed for legal training must agree to serve on active duty following completion of the training for a period of two years each for each year of legal training. This service obligation is in addition to any service obligation incurred by the officer under any other provision of law or agreement.
obtain education or training under the section
of the acquisition with the approval of the States
The purpose of this proposed legislation is
to make changes in current statutes, which was based on the old milestone 0/II/III model, so that they correspond to similar milestones in the new model. There is no intent to diminish con
gressional oversight or to change the con
tent or amount of reporting requirements to the Congress, although the timing of some reports will change.
Under the new milestone A/B/C model, pro
gram initiation would be under the old milestone 0/II/III model. The reason for this is that the new model anticipates more extensive technology development before committing to a new program using those
technologies, while the old model completed technology development after program initi
ation. Approval to begin analysis of alter
natives that previously occurred at Milestone
0 (that now corresponds to Milestone A) will continue to be done in Concept and Technology Development. Work that was previously done in the Technology Development phase (Program Development and Risk Reduction) is split around Milestone B with the technology development work being done before Milestone B and the system proto
typing and engineering and manufacturing development being done in System Develop
ment and Demonstration phase, intended to apply to an initi
ation program, are changed to be required at Milestone A/B/C prior to System Development and Demonstration. Likewise, requirements identified in law for Milestone II or prior to the Engineering and Manufacturing Develop
ment, intended to apply to system engineer
ing work, are changed to be required at Mile
stone B or prior to System Development and Demonstration, both of which encompasses this work effort. All requirements identified in the law for Milestone III or prior to pro
duction would be required at the full rate production phase. Sections 2366, 2400, 2432 and 2434, are essen
tially unchanged in reporting requirements.
Section 2435 of Title 10 requires an acquisi
tion program baseline for Low-Rate Initial Production prior to entering work following each of the mile
stone I, II, and III decisions. In the case of the acquisition program baseline, a new baseline description will be generated at pro
gram initiation, and at each major transi
tion point (from system development and demonstration to low-rate production, and from low-rate production to full-rate produc
tion). The first and second program baselines will be completed later than baselines gener
ated under current statute. The first baseline
will continue to describe the system concept at program initiation and will also serve to describe the program through engi
neering development. The second baseline will describe the system as engineered prior
to beginning production. There will be no change in the description for the third base
line.
Section 802(b) of Public Law 106-259 and Section 811 (c) of Public Law 106-398 require Information Technology certification at each major decision point (i.e., milestone). These certifications will differ as always been translated from the milestones III/III of the old model to milestones A/B/C of the new model.
Section 702 conforms the nuclear aircraft carrier to current practice by specifying that the exclusion from maintaining core logistics capabilities, with respect to nuclear aircraft carriers currently under design and development, is established in section 2603 to authorize an officer detailed to law school under section 2603 to authorize an officer detailed to law school and attending a school that will grant in-state tuition rates to out-of-state students. This effectively pro
hibits officers from seeking admission to many other in-state tuition rates in the United States. If an officer could accept a scholarship to cover all or part of the costs of attending law school, it may be unneces
sary for an officer to attend law school at which the officer qualifies for in-state tuition rates.
Section 633 would amend sections 2004 and 2603 to authorize an officer detailed to law school for legal training under section 2004 to accept a scholarship from the school or other entity under section 2603, with the services covered under both sec
tions to be covered consecutively.
Section 701. As a result of studies done in response to direction in Section 912 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85), Defense Science Board reports, and General Accounting Office reports, as well as a desire to im
prove industrial base capabilities, the Depart
ment rewrote its acquisition policy doc
uments. The purpose of the rewrite was to fo
cus on providing proven technology to the warfighter faster, reducing total ownership cost, and emphasizing affordability, supportability, and interoperability. As part of the rewrite, the Department created a new model of the acquisition process that separ
ates technology development from system integration, allows multiple entry points into the acquisition process, and requires demonstration of utility, supportability, and interoperability prior to making a commit
ment to production. As part of the new model, milestone names were changed to Milestone A (approval to begin analysis of alter
natives), Milestone B (approval to begin in
tegrated system development and demon
stration), and Milestone C (approval to begin low-rate production). The phases of ac
quisition were changed to Concept and Tech
ology Development (in which alternative concepts are considered and technology de
velopment is conducted), System Develop
ment and Demonstration (in which compo
nents are integrated into a system and the system is demonstrated), and Production and De
ployment (in which the system is produced and introduced at a low-rate to allow for initial oper
ational test and evaluation, creation of a production base, efficient ramp-up of produc
tion, and deployment). The Integration of the Production and Deployment phase is the Full-Rate Production Decision Review at

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applicable to military members in similar occupations employed by the Department of Defense for which
they would need to increase the threshold to $85,000. This would be so disproportionate to the $85,000 statutory threshold that it is more appro-
propriate to seek a legislative change.

DOD would continually readjust the threshold over time to reflect changes in small business participation. For example, in fiscal year 1999, DOD achieved a small business A&E participation rate of 40 percent, significantly below the 40 percent goal established by the Demonstration Pro-
history. Historically, approximately 30 percent of A&E service contracts were awarded to small busi-
nesses. Continual adjustments to the threshold to reflect such changes in small business participation would be impractical and con-
fusing to both contracting officials and small businesses.

Repealing section 2855(b) will eliminate the $85,000 threshold. As a result, A&E contracts for small business construction and military fam-
ily housing projects could be set aside exclu-
sive for small businesses to achieve the small business competitiveness demonstration A&E goal mandated by 15 U.S.C. 644. Ac-
cordingly, this proposal would eliminate conflicting statutory provisions that cur-
rently are making it unnecessarily difficult for DOD to achieve the small business goal for A&E contracts.

Section 711. Section 2384 of title 10, United States Code provides that ball and roller bearing contracts must be awarded to small business con-
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Further, DOD would need to continually readjust the statutory threshold that it is more appro-
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The committee also directed the Secretary of the Air Force to change the procurement operation of any CACAOs, or to permit any combinations of supply and services functions in upcoming procurement, that would violate the tenets of the existing CACAOs contract agreement. The Committee had similar language in its report on the 1997 Defense Authorization Act (and directed the Secretary of the Army and the Secretary of the Navy to consider the application of the CACAOs program as a means to further reduce the cost of essentially the same functions).

FY 99 Defense Authorization Act

Congressional concerns over CACAOs led to an amendment that formed the CACAOs-style operation. With the proposed combined competition or contract, the agency has to explain why a combined competition or contract is the best method to obtain supplies and services. The Comptroller General reviews the report and submits to Congress a briefing regarding whether the cost savings and efficiencies identified in the report are achieved.

The CACAOs law was based upon the assumption that the government would be running an inefficient supply operation for materials to be used in Government operations. The environment today is entirely different. Due to A-76 emphasis, Civil Engineering (CE) is a viable source; Home Depot and super stores and the International Merchant Purchase Authorization Card (IMPACT) make it unnecessary to maintain supply inventories; and greater competition is obtained when the supply function is included in the CE effort. CACAOs was designed to replace inefficient government management of commercial inventories. As we contract out CE and other base support functions, the users of these supplies will be dependent on the contractor to provide these materials. The Department will end up creating situations where the CE contractor, or the Most Efficient Organization (MEO), will be required to obtain supplies from the CAO contractor in order to do their work. These common commercial items would become Government Furnished Property (GFP) under the contract and the CE contractor cannot be held fully responsible for all aspects of project completion. If CACAOs fails to provide suitable materials on schedule, the CE contractor could be entitled to an equitable adjustment for late or defective GFP.

As a general rule, the Department should only provide GFP when the government owns an identifiable piece of property and supplies from commercial inventories. As we contract out CE and other base support functions, the users of these supplies will be dependent on the contractor to provide these materials. The Department will end up creating situations where the CE contractor, or the Most Efficient Organization (MEO), will be required to obtain supplies from the CAO contractor in order to do their work. These common commercial items would become Government Furnished Property (GFP) under the contract and the CE contractor cannot be held fully responsible for all aspects of project completion. If CACAOs fails to provide suitable materials on schedule, the CE contractor could be entitled to an equitable adjustment for late or defective GFP.

Section 435(b)(6) states that “Ninety-five percent of the cost savings through the use of contractor-operated civil engineering supply stores is due to savings in the actual cost of procuring supplies.” This statement means no longer accurate and seems to apply to Form 9 processing costs, not IMPACT card costs.


Section 2301(g) of title 10, United States Code, and sections 2303(g) and 427 of title 41, United States Code, permit the use of special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold (SAT). SAT Section 4202 of the Clinger-Cohen Act.

Section 457. The proposed legislation seeks to modify section 4202 of the Clinger-Cohen Act. Applying the test program to Certain Commercial Items, extended the authority to use special simplified procedures to purchases for amounts greater than the SAT but not to exceed the simplified acquisition threshold. The purpose of this test program is to vest contracting officers with additional procedural discretion and flexibility, so that commercial item acquisitions in this dollar range may be solicited, offered, evaluated, and awarded in a simplified manner that maximizes efficiency and economy and minimizes burden and administration costs for both Government and industry.

The test program was enacted into law on February 10, 1996. Final changes to the Federal Acquisition Regulation (FAR) to implement the test program were issued on the statutory deadline of January 1, 1997. The due date for the Comptroller General report does not provide time to process a legislative proposal that would prevent the test program from expiring once the Comptroller General has submitted the report. This provision creates a potential test program authority to January 1, 2003, to provide sufficient time to assess this potentially valuable acquisition reform authority based on the GAO’s findings and, if warranted, seek to make this authority permanent.

Section 714 eliminates the prohibition on using funds to retire or dismantle Peacekeeper intercontinental ballistic missiles below certain levels. This provision is in specific support of the amended budget and will result in considerable savings.

Section 101. The proposed change would provide the Services the flexibility to proceed with construction contracts without disruption or delay by excluding the cost associated with unforeseen environmental hazard remediation from the limitation on cost increases. Unforeseen environmental hazard remediation refers to asbestos removal, radon abatement, and any other environmental remediation that the contractor could not be reasonably anticipated at the time of contract award. The threshold on unspecified minor construction projects is increased to $750,000 for general projects (from $500,000) and to $1,500,000 for projects involving life safety issues (from $1,000,000). The O&M unspecified minor construction thresholds were last raised in 1997.

The current threshold limits the Services’ ability to complete projects in areas with high costs of construction, such as overseas and in Alaska and Hawaii. The reality is $500,000 does not buy much construction, even in “normal” cost areas, at a time when the average regular military construction (MicCon) project costs $12 million. On these small construction projects, labor costs cut heavily into the amount of tangible “brick and mortar” which any project must deliver to make a facility usable to its customer. Without this relief, there may be a two or three year delay in completing needed small construction projects if MicCon appropriations are not used, as unspecified minor construction funds within this appropriation are very limited and regular MicCon projects must be individually authorized and appropriated in advance.

Section 717. The proposed legislation seeks authority for Federal tenants to obtain facility services and common area maintenance funds from the Federal Acquisition Regu- lator (FARA) or the LRA’s assignee as part of the leaseback arrangement rather than procure such services competitively in compliance with Federal procurement laws and regulations. This authority to pay the LRA or LRA’s assignee for such services under this authority would be allowed only when the Federal tenant leases a substantial portion of the installation; only so long as the facility services or the specific type of common area maintenance are not of the type that a state or local government is obligated by state law to provide to all landowners in its jurisdiction for no individual cost; and only when the rate charged to the Federal tenant is no higher than that charged to non-Federal entities. The proposed legislation also expands the availability of using leaseback authority for property on bases approved for closure in BRAC 1988.

A leaseback is when the Department of Defense transfers surplus facilities base closure to a state or local government, by deed or through a lease in furtherance of conveyance to an LRA. The transfer requires the LRA to lease the property back to the Federal Department or Agency at a Federal tenant’s request to satisfy a Federal need for the property.

Current leaseback legislation does not exempt Federal tenants from Federal procure- ment laws and regulations. Therefore, Federal tenants attempt to obtain facility services and common area maintenance, such as janitorial,
Much of the same information as required in current law, etc., provides Congress with budget submission, budget testimony and reporting requirements, etc., to create a comprehensive budgetary overview of Federal operations and allow Congress to assess the effectiveness.

In addition, this report was recommended for termination in 1995 based on survey data collected under the Paperwork Reduction Act, with estimated cost savings of at least $50,000 per year.

Section 802 amends chapter 6 of title 10, United States Code, by adding a new section 109 to consolidate the various existing legal authorities governing the DoD Regional Centers to ensure each of the Regional Centers can operate under the same set of authorities, which will ensure they can operate effectively.

The Department of Defense Regional Centers for Security Studies are an important national security initiative developed by the Secretary of Defense, William Perry. These Centers, which serve as essential institutions for bilateral and multilateral communication and military and civil matters, exchanges, now exist for each major region—Europe, Asia, Latin America, Africa and most recently for the Middle East.

The Regional Centers are very important tools for achieving U.S. foreign and security policy objectives, both for the Secretary of Defense and for the regional CINCs. The Centers allow the Secretary and the CINCs to bring together in a comprehensive manner with other militaries and defense establishments around the world to lower regional tensions, strengthen civil-military relations in developing nations and address critical regional challenges. The Department has had extremely good results with the Centers in each region. For example, more than twenty Marshall and Asia-Pacific Center for Strategic Studies (also known as the Asia-Pacific Center for Strategic Studies) are currently charged with providing balance, shared regional leadership from developed nations, whose contributions provide balance, shared regional leadership and non-U.S. perspectives, pay for their own travel, lodging, meals and expenses in connection with Center activities, and invite participants from defense-related government agencies and non-governmental organizations to bring together participants from across the spectrum of the national security establishment in their respective countries.

Broadening this pool to include participants from non-governmental organizations and legislative institutions will further strengthen the quality of discussion at the Centers and help establish additional important professional relationships among participants from the various regions.

Finally, enactment of section 802 would confirm the authority of the Secretary of Defense to manage all the Centers effectively. The Military and civilian authorities and unique organizational structures have made effective management and oversight of the Centers quite challenging. Defense to manage all the Centers effectively.

The proposal reflects that organizational change.
apply them to all of the Centers will further improve the management structure at the Regional Centers, and I am sure that the Regional Centers are thoroughly in-corporated into the Department's broader engagement strategy and funded appropri-ately.

This proposal provides no new spending au-thority. No additional resources are needed to implement these changes and as the exist-ing departmental management structure mat-tures, the Department expects to realize greater efficiencies in the management of the Regional Centers.

Second, we will amend all references to the former "Military Airlift Command" con-tained in title 10 and title 37 to refer to the command by its current designation as the "Air Mobility Command." By Special Order AMC GA–1, 1 June 1992, Air Mobility Com-mand replaced the Military Airlift Command as a United States Air Force Major Com-mand. This change was previously recognized to a certain extent in title 10, United States Code 130a (Management headquarters and headquarters support activities personnel; limited duration) (b) (Military Airlift Command Headquarters and Headquarters Support Personnel Assigned to United States Transportation Command), which specifi-cally designated the Air Mobility Command as a component command of United States Trans-portation Command. That provision in section 130a was deleted by section 921 of Public Law 106–65, 5 October 1999. As Military Airlift Command no longer exists and Air Mobil-ity Command is not referenced in any stat-ute, updating the listed provisions of the United States Code is appropriate.

Section 801 would amend section 1066 of title 10, United States Code, to increase the number of Defense Intelligence Senior Exec-utive Service (DISES) positions to 566, within the Defense Civilian Intelligence Per-sonnel System (DCIPS) from 517 to 544. En-actment of the proposed amendment would enable the Secretary of Defense to allocate the 27 additional DISES positions to the Na-tional Imagery and Mapping Agency (NIMA), as the Director of Central Intelligence (DCI) simulated in section 1113 of title 10, United States Code, 104–201, 110 Stat. 2745, 2747) the number of DISES po-sitions was set at 492. This ceiling, however, was raised to 517 positions by section 1142 of the Floyd D. Spence National Defense Authoriza-tion Act for Fiscal Year 2001 (Public Law 106–398, 114 Stat. 1654).


The conference report accompanying the conference report a more meaningful and up-to-date projections into the report, thus making the time to incorporate the President's budget pro-jections into the report, thus making the report more meaningful and up-to-date re-quire the implementation of a legislative process. This would also officially require data from the U.S. Coast Guard Reserve, which has been provided in past years but is not re-quired by law.

Subsection (b) would eliminate the re-quirement for data that is no longer viable, such as the full wartime requirement of equipment over successive 30-day periods and non-deployable personnel. It would also expand the requirement for the current status of equipment compatibility to all Reserve Components, instead of just for the Army. Overall, the revised subsection (b) is written to expand the scope and remove the restrictive nature of the language. This would provide the Reserve the ability to present a clearer and more com-plete picture of the Reserve Component equipment needs.

Section 112 would repeal subsection 153(b) of title 10 and amend section 118(e) to con-solidate redundant reporting requirements related to the assessment of service roles and missions. Subsection 153(b) requires the Chairman to submit to the Secretary of De-fense, a review of the assignment of roles and missions to the armed forces. The review must be prepared once every three years, or upon the request of the President or the Secre-tary.

Section 118 of title 10 established a perma-num requirement for the Secretary to con-duct a Quadrennial Defense Review (QDR) in conjunction with the Chairman. The Depart-ment of Defense has designed the QDR to be a fundamental and comprehensive examina-tion of America's defense needs from 1997–2015, to include assessments of potential threats, strategy, force structure, readiness posture, military modernization programs, defense infrastructure, and other elements of the defense program. Amending subsection 118(e) would explicitly require the Chair-man's review of the QDR to include an as-sessment of service roles and missions and recommendations for change that would maximize force efficiency.

Simultaneously preparing the QDR and the roles and missions study requires the con-centrated efforts of many Joint Staff action officers for a period of eighteen months. Eliminating this duplication of ef-fort, however, will significantly enhance the Joint Staff's ability to meet an expanding list of congressionally or Department of De-fense mandated reporting requirements on a wide variety of sensitive defense topics. These topics include joint experimentation, training, and, integration of the armed forces, examination of new force structures, operational concepts, and joint doctrine; global information operations; and homeland defense, particularly with regard to man-aging the consequences of the use of weapons of mass destruction within the United States, its territories and possessions.

Section 811 would amend section 10841 of title 10 concerning the annual report to Con-gress on National Guard and Reserve Compo-nent equipment. During the preparation of the budget year 2000 National Guard and Re-serve Component Equipment Report, it be-came clear that changes were needed to both the report and process in order to make the report more relevant to Congress. As a re-sult, a joint working group was commis-sioned from the Office of the Assistant Sec-retry of Defense for Reserve Affairs to ana-lyze the report and process. Key changes to the report and process are as follows:

1. Incorporating all Reserve Components, instead of just for the Army.
2. Expanding the requirement for data that is no longer viable, such as the full wartime requirement of equipment over successive 30-day periods and non-deployable personnel. It would also fold the legislative process.
3. Officially require data from the US Coast Guard Reserve.

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CONGRESSIONAL RECORD—SENATE 12543
Section 821 would amend section 2572 of title 10, United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. However, there are exceptions to these standards for cases where national interests require the use of condemned materiel. This amendment would codify these exceptions and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 822(1) of the proposal would authorize the Secretary of Defense to exchange ''condemned combat materiel'' with foreign air carriers. This provision would allow the Department of Defense to exchange ''condemned combat materiel'' with foreign air carriers to reduce the cost of disposal. This exchange is consistent with the United States obligations under international law and would benefit foreign allies.

Section 822(2) would require ''check-rides'' to be conducted for the Department of Defense. This provision would ensure that military personnel are adequately trained before conducting test and evaluation activities. The Secretary of Defense would be authorized to conduct check-rides for military personnel, and the results of these check-rides would be used to improve the training program.

Section 822(3) of the proposal would require ''technical changes'' to be made in the Department of Defense's policies. This provision would allow the Secretary of Defense to make changes to policies to improve the effectiveness of test and evaluation activities. The amendment would also require the Secretary of Defense to consult with the test organization when making these changes.

Section 822(4) of the proposal would authorize the Secretary of Defense to require ''reciprocal use'' of test and evaluation facilities. This provision would allow the Department of Defense to share test and evaluation facilities with other countries to improve U.S. interoperability. The Secretary of Defense would be authorized to enter into reciprocal agreements with foreign governments or international organizations.

Section 822(5) would amend subsection (i) of section 2640 title 10 United States Code. This provision would require the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 823 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 824 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 825 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 826 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 827 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 828 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 829 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 830 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 831 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 832 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 833 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 834 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 835 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 836 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 837 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 838 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 839 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 840 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 841 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 842 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 843 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 844 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 845 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 846 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 847 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 848 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 849 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 850 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.

Section 851 would amend section 23501 of title 10 United States Code. This section requires the Department of Defense to establish uniform standards for handling condemned materiel. This amendment would codify these standards and authorize the Secretary of Defense to determine if the estimated value of condemned materiel justifies the expense of disposal.
In the past, MRTFB Installations did not charge defense contractors a fully burdened rate to use their facilities when conducting test in association with a defense contract. A Service audit finding opined that the MRTFB installations had misspent the law and charged defense contractor’s costs to be commercial users, thereby requiring them to be charged the fully burdened rate. However, weapons programs have prepared their budget under the assumption that the fully burdened rate would not be charged to the defense contractors acting on their program’s behalf. The amended subsection (c) of this proposal would make MRTFB test and evaluation services available to defense contractors under the same access and user charge policies as applied to the sponsoring Department of Defense component. This would assure that the MRTFB is able to perform its fundamental role of support to defense acquisition programs under the same policies as existed prior to section 2681, while continuing to leave the choice of “where to test” to the defense contractors. The amendment proposed in subsection (c) of this proposal would extend this concept to the contractors of other U.S. government agencies. If section 1003(c) is never enacted, there may be a need to increase to specific research and development programs.

Section 902 would amend 10 U.S.C. §2350a to improve the department’s ability to enter into cooperative research and development projects with other countries. This amendment would incorporate references to the terms “Major non-NATO ally” to allow countries like Australia, South Korea or Japan to be recognized, not just as other friendly foreign countries, but as major allies.

Section 913 would amend chapter 53 of title 10, United States Code, to provide the Secretary of Defense the authority to recognize superior noncombat achievements or performance by members of friendly foreign forces and other foreign nationals that significantly enhance or support the National Security Strategy of the United States.

Currently, the department has authority to recognize superior achievements and performance by foreign nationals is limited to awarding military decorations to military attaches, and only to very few, individual acts of heroism, extraordinary achievement or meritorious achievement, when such acts have been of significant benefit to the United States or materially contributed to the successful prosecution of a military campaign of the Armed Forces of the United States. Section 913, as included, would provide authority to DoD to recognize superior achievements and performance by members of friendly foreign forces and other foreign nationals that significantly enhance or support the National Security Strategy of the United States.

Section 912 would amend 10 U.S.C. §2350a to improve the department’s ability to enter into cooperative research and development projects with other countries. This amendment would incorporate references to the terms “Major non-NATO ally” to allow countries like Australia, South Korea or Japan to be recognized, not just as other friendly foreign countries, but as major allies.

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One of many examples of how this gap in legislative authority adversely impacts on American servicemembers is the experience of the United States Army Special Forces Command (Airlborne). Since the first Special Forces unit was activated on June 19, 1902, Special Forces personnel have routinely de-

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CONGRESSIONAL RECORD—SENATE 12545
extend notary authority to civilian non- 
Lawyers – 64 para
d and legal assistance office in- 
take personnel. 

Section 913 would amend section 2461 of title 10, United States Code, are met using the commercial activities study procedures of A-76 and the Revised Suggestion Survey Method. 

The program, which may be created at the discretion of DoD, would involve censuses on permitting a company to recoup the costs it incurs in training an employee for a job with that company. The purpose of this incentive is to encourage non-federal em- 
ployees to hire and retain employees whose employment with DoD is terminated. To be eligible for the reimbursement, a company must have employed the former DoD em- 
ployee for at least 12 months. In short, this proposal allows for training for a specific job; it is not designed towards ge-

Section 913 clarifies that former Defense Imagery and Mapping Agency personnel transferred into the National Imagery and Mapping Agency pursuant to the National Defense Authorization Act for Fiscal Year 1997, Public Law 104- 
201, retain third party appeal rights under chapter 75 for such time as they remain De- 
artment of Defense employees employed without a break in service in the National Imagery and Mapping Agency. The section also permits the employees so affected to waive the provisions of this section. How- 
ever, by doing so, the employee forfeits his or her rights under this section. 

Questions on the amount of compensation due a possessor of these materials have aris- 
ened in the determination of what has been permitted. This proposal, if enacted, would provide needed clarification on several 

Motor vehicles shipped under the authority of sections 2634 of title 10 and section 5727 of title 5 are owned or leased by members of the armed forces or federal employees and are being transported out of the country pursuant to the member’s or employee’s change of permanent station orders. The vast majority of motor vehicles shipped under these two provisions of law belong to Department of Defense personnel, and are for personal use by the member or employee. In the vast majority of cases in which a stolen vehicle has been shipped overseas by a military member or federal employee, the Customs Act does not authorize the Secretary of Defense to provide the Director, NIMA, the authority to set up a critical skills under-

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Section 921 responds to section 1051 of the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261), which identified the need for improved procedures for deemili- 

tarianization. In recent years, the possession improperly deemilitarized De- 
partment of Defense property by individuals and business entities has caused grave con- 

section 922 would revise section 2634 of title 10, and section 5727 of title 5, which do not have such a limitation. Transportation 

The program will not increase the budgetary requirements of the Depart- 
ment of Defense or other federal agencies,

The Custom Service for the purpose of determining whether automobiles being exported for the purpose of entering into the commerce of a foreign country and normally may not be sold to foreign nation- 
als in the country to which the military member or employee is assigned. Their ship-

The proposal will exempt shipments of motor vehicles under these sections from the Act, and provide the authority to continue to regulate such shipments in a manner that is consistent with the needs of the various 

The proposal would remove from the Customs Act the authority to continue to regulate such shipments in a manner that is consistent with the needs of the various 

The proposal will not increase the budgetary requirements of the Depart- 
ment of Defense or other federal agencies,
and may result in savings from not having to store or manage potentially environmentally harmful materials.

Section 923 concerns Department of Defense gift initiatives. The amendments would clarify items which may be loaned or given under section 7545 of title 10, United States Code. Amendments to section 7545(a) of title 10 would clarify that the Secretary may donate either obsolete ordinance material or obsolete combat material to qualified organizations under section 10 U.S.C. 2572, a statute which is similar, but not identical, to section 7545. Addition of the term “obsolete shipboard material” covers items such as anchors and ship propellers, which are frequently sought from the Navy for use as display items.

The deletion of “World War I or World War II” and the island of the USS America would allow coverage of other wars, such as the Korean, Vietnam, and Persian Gulf wars as well as any future war. The deletion of “soldiers” and the term “men’s” would clarify that associations related to any branch of military service are qualified organizations.

A new subsection (d) is added because currently no federal statute expressly addresses the loan or gift of a major portion of the hull or superstructure of a Navy submarine or surface combatant. The Navy has received two requests for large portions of vessels currently slated for scrapping. These requests pertain to the sail of a Navy submarine currently slated for scrapping. These requests pertaining to the sail of a Navy submarine currently slated for scrapping. These requests pertaining to the sail of a Navy submarine currently slated for scrapping.

The Secretary of the Navy has existing authority under title 10 U.S.C. § 7306 to donate material and historical artifacts described in 10 U.S.C. 2572 and 7545. A new subsection (e) adds to the authority granted in section 129a of title 10, United States Code, the Secretary of Defense has promulgated personnel policies and procedures promoting the downsizing and outsourcing of administrative support (e.g., secretarial or clerical services, mail room operation, and management of computer or network resources). By employing such measures, the Department has realized substantial savings, often contracting out these services in the least costly way to perform them consistent with military requirements and the needs of the Department. In many cases, however, additional savings must be forgone, because such duties may not be transferred to the civilian sector. But this is contingent on there being adequate potable groundwater on Andersen AFB.

The CJCS has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles). The Army has directed the JROC to refocus on Emerging Threats and Capabilities on the west side of the Island about 4 miles wide and 2–4 miles long (24.5 square miles).
The base system needs to be built due to the advancing age (35-50+ years) and corrosive environment that has deteriorated the system components. The logistics involved in performance of maintenance and repair work off-base make it difficult for the mechanics to control the deterioration. As a result, more pipes, valves, and pumps are failing. In 2013, the tank leaked at a rate of 200-250 gallons per minute and was repaired under pressure. The tank isolation valves are so old they are not used because of the potential for break major to the transmission line or the 50-year-old Santa Rosa Tank could leave the Main Base with only 250,000 gallons of available water (less than 15% of the average daily demand). This amount is insufficient for fire protection and normal operations.

The base estimates it costs about $800,000 per year for electricity just to produce and transmit water to the Main Base from the off-base wells. Savings of 20-40% are expected in the short run but the long-term value of wells on Andersen AFB, either the Main Base or Northwest Field, and repair the existing systems on the base.

By Mr. SMITH of Oregon
S. 1156. A bill to amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH of Oregon. Mr. President, today I introduce the Electric Bike Safety Act of 2001. This bill will encourage and provide more opportunities for Americans to enjoy the leisure and health benefits of riding bicycles. This legislation would amend the Consumer Product Safety Act CPSA, to provide that low-speed electric bicycles are consumer products subject to such Act. As the CPSA is now written, low-speed electric bicycles are not considered consumer products, but rather a motorized vehicle subject to all regulations set by the National Transportation Safety Administration, NHTSA, which regulates automobiles and motorcycles.

As a result of low-speed electric bicycles being treated as motorcycles, they are required to meet burdensome and unnecessary standards, making low-speed electric bicycles much more costly than they need to be. Subjecting electric bicycles to motor vehicle requirements would mean the addition of a large array of costly and unnecessary requirements. This legislation would amend the Columbia Grade headlights, and rearview mirrors.

Making electric bicycles accessible for more Americans will benefit the lives of thousands of Americans. Electric bicycles provide disabled riders the freedom of mobility without the cost or stigma of an electric wheelchair. Electric bicycles provide older riders with increased lifestyle flexibility due to increased mobility that electric bicycles allow them. Electric bicycles provide a practical way to patrol neighborhoods and towns in a manner consistent with the highly successful emphasis on “Community Policing”. Electric bicycles provide short and medium distance, and health benefits of riding bicycles.

In my home State of Oregon, there are thousands of people who ride bicycles each day, whether as a means of transportation, exercise, or recreation. The City of Corvallis has thousands of miles of bike lanes and paths and as a result has a very high number of people who commute to work on their bicycles. Area companies such as Hewlett-Packard and CHEM-Hill even offer changing areas and showers to a work incentive to encourage their employees to ride bicycles to work. The Corvallis Police Department is also able to utilize electric bikes as a community friendly way to patrol the city.

I believe that placing bicycle electric under the regulation of the Consumer Product Safety Commission will not only ensure the safety of electric bicycles, but will promote their use by making electric bicycles an affordable alternative form of transportation to millions of Americans.

By Mr. SPECTER (for himself, Ms. LANDRIEU, Ms. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. LEAHY, Mr. COCHRAN, Mr. BREAX, Mr. ALLEN, Mr. BIDEN, Mr. BOND, Mrs. CARNAHAN, Mr. CARPER, Mr. CHAFEE, Mr. CLELAND, Mrs. CLINTON, Mr. DODD, Mr. EDWARDS, Mr. FIST, Mr. GREGG, Mr. HEMS, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. LIEBERMAN, Ms. LINCOLN, Ms. MIKULSKI, Mr. MILLER, Mr. REED, Mr. ROGUE, Mr. SARBANES, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICE and Mr. WARNER)

S. 1157. A bill to reauthorize the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact, a Pacific North West Dairy Compact, and an Interstate Dairy Compact; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I join my colleagues in introducing legislation authorizing Interstate dairy compacts. Members of the U.S. House of Representatives have introduced similar legislation with 162 cosponsors, including 17 members of the Pennsylvania delegation.

This legislation will create a much needed safety net for dairy farmers in the Northeast and other regions and will bring greater stability to the prices paid to farmers. The bill authorizes the Interstate Dairy Commission to take such steps as necessary to assure consumers of an adequate local supply of fresh fluid milk and to assure the continued viability of dairy farming within the compact region. Specifically, states that choose to join a compact would enter into a voluntary agreement to create a minimum farm price for milk within the compact region to form a safety net for dairy...
farmers when farm milk prices fall below the established compact price. This price would take into account the regional differences in the cost of production for milk, thereby providing dairy farmers with a fair and equitable price for their product.

Specifically, the bill would authorize Pennsylvania, New Jersey, Delaware, New York, Maryland, and Ohio to join the existing Northeast Interstate Dairy Compact, which has been in operation since July 1997. Most of these States have already agreed to join the Compact with strong support from their governors and legislatures. In the Commonwealth of Pennsylvania, Governor Ridge has been a very strong supporter and advocate of the Compact. The Pennsylvania Senate and House of Representatives have sent a clear signal to Congress by voting with overwhelming majorities of 44 to 6 and 181 to 20, respectively, to authorize the Commonwealth’s participation in the Northeast Dairy Compact.

In addition to expanding the current Northeast Interstate Dairy Compact, the bill would authorize southern States to form a similar compact to provide price stability in their region. I am pleased to join so many of my colleagues from the South in introducing this legislation. Finally, the legislation would allow formation of other compacts in the Pacific Northwest and Intermountain region within three years. We have included language in this bill to recognize the efforts in these States to support dairy compacts and to avoid their exclusion if these efforts lead to passage of compact legislation by their State governments.

In total, twenty-five States have already approved dairy compact legislation. The bill would also mandate that States that are attempting to meet the needs of dairy farmers, producers, consumers and other citizens concerned with the future of their milk supply. These States recognize the many positive aspects of dairy compacts. The benefits include providing dairy farmers with a fairer and more stable price structure; providing consumers with price stability and a steady, reliable source of local milk for their consumption; enhancement of conservation efforts; providing technical assistance; and maintenance of rural economies that have been suffering for quite some time from the loss of income-generating farmers.

Over the last several years, I have worked closely with my colleagues in the Senate in order to provide a more equitable price for our nation’s milk producers. I supported amendments to the Farm Bills of 1981 and 1985, the Emergency Supplemental Appropriations Act of 1996, the Balanced Budget Resolution of 1995 and the most recent Farm Bill in 1996 in an effort to ensure that dairy farmers receive a fair price. As a member of the U.S. Senate Agriculture Appropriations Subcommittee, I have worked to ensure that dairy programs have received the maximum possible funding. Funding for dairy research conducted at Penn State University. I have also been a leading supporter of the Dairy Export Incentive Program which facilitates the development of an international market for United States dairy products. In recent years, however, dairy farmers have faced low prices for dairy products. Prices have fluctuated greatly over the past several years, thereby making any long-term planning impossible for farmers. These economic conditions have placed our Nation’s dairy farmers in an all but impossible position and this is borne out in dairy farmers’ declining ranks.

Our Nation’s farmers are some of the hardest working and most dedicated individuals in America. During my tenure as a United States Senator, I have visited numerous small dairy farms in Pennsylvania. I have seen these hard working men and women who have dedicated their lives to their farms. The downward trend in dairy prices is an issue that directly affects all of us. We have a duty to ensure that our Nation’s dairy farmers receive a fair price for their milk. If we do nothing, many small dairy farmers will be forced to sell their farms and leave the agriculture industry. This will not only impact the lives of these farmers, but will also have a significant negative impact on the rural economies that depend on the dairy industry for support. Further, the large-scale departure of small dairy farmers from agriculture could place our nation’s steady supply of fresh fluid milk in jeopardy, thereby affecting every American.

We must recognize the importance of this problem and take prompt action. Twenty-five States have asked us to pass this legislation and provide a necessary tool for their dairy farmers. I urge my colleagues to cosponsor and support this legislation as we continue to work in Congress to bring greater stability to our Nation’s dairy industry.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

S. 1137

SECTION 1. SHORT TITLE. This Act may be cited as the “Dairy Consumers and Producers Protection Act of 2001.”

SEC. 2. NORTHEAST INTERSTATE DAIRY COMPACT. Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7356) is amended—

(1) in the matter preceding paragraph (1), by striking “States” and all that follows through “Vermont” and inserting “States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont”;

(2) by striking paragraphs (1), (3), and (7) and inserting the following:

“(1) in the matter preceding paragraph (A), inserting “Class III-A” and inserting “Class IV”;

(4) by striking paragraph (4) and inserting the following:

“SECTION 3. SOUTHERN DAIRY COMPACT.

SEC. 1. In General.—Congress consents to the Southern Dairy Compact entered into among the States of Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, subject to the following conditions:

(1) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Southern Dairy Compact Commission may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I fluid milk, as defined by a Federal milk marketing order issued under section 8 of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1987 (referred to in this section as a “Federal milk marketing order”) unless Congress has first consented to and approved such authority by a law enacted after the date of enactment of this joint resolution.

(2) ADDITIONAL STATES.—Florida, Nebraska, and Texas are the only additional States that may join the Southern Dairy Compact, individually or otherwise.

(3) COMPENSATION OF COMMODITY CREDIT CORPORATION.—(a) APPROPRIATIONS.—The Southern Dairy Compact Corporation may not purchase milk and milk products by the Corporation that result from the operation of the Federal milk marketing order during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 533 of title 7, United States Code.

(4) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Southern Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Southern Dairy Compact Corporation for the purpose of carrying out the provisions of this Act as authorized by the Southern Dairy Compact Commission.

“ARTICLE I. STATEMENT OF PURPOSE.

FINDINGS AND DECLARATION OF POLICY

1. Statement of purpose, findings and declaration of policy

“1. Purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogatives of the States under the United States Constitution to act in an interstate manner for the southern region. The mission of the commission is to take such steps as are necessary to
assure the continued viability of dairy farming in the south, and to assure consumers of an adequate, local supply of pure and wholesome milk.

"The participating states find and declare that milk is an essential component of the agricultural activity of the south. Dairy farms, and associated suppliers, marketers, processors and retailers are an integral component of the state's economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

The participating states find and declare that dairy farms are essential and they are an integral part of the region's rural communities. The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

"In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the federal order system nor encourage the merging of federal orders. The compact itself set forth this basic principle.

"Designed as a flexible mechanism able to adjust to a regulated marketplace, the compact also contains a contingency provision should the federal order system be discontinued. In that event, the interstate commission is authorized to regulate the marketplace in replacement of the order system. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the order system. By so doing, all the participating states affirm that their ability to regulate the price which southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, which is an integral part of the south. Dairy farms, some milk.

Recent, dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The federal order system, established by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preemption of the power of states to regulate milk prices above the minimum levels so established.

"In today's regional dairy marketplace, cooperative, rather than individual state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized state actions may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

**ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION**

**§ 2. Definitions**

"For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise provided in the context:

"(1) 'Class I milk' means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subdivision (b) of section 9. The term 'milk' means only skim, butterfat, or any supplemental or concurring legislation otherwise required by the context:

"(2) 'Commission' means the Southern Dairy Compact Commission established by this compact.

"(3) 'Commission marketing order' means regulations adopted by the commission pursuant to sections nine and ten of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations adopted by the commission. The regulations may establish lower or exempt from the price established in federal marketing orders or by state farm price regulations plantings in any area. Such orders may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission.

"(4) 'Compact' means this interstate compact.

"(5) 'Compact over-order price' means a minimum price required to be paid to producers for Class I milk established by the commission in regulations adopted pursuant to sections nine and ten of this compact, which is above the price established in federal marketing orders or by state farm price regulations in any area. Such orders may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission.

"(6) 'Milk' means the lactose secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the commission for regulatory purposes.

"(7) 'Partially regulated plant' means a milk plant not located in a regulated area but having operations within such area. The commission may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

"(8) 'Participating state' means a state which has become a party to this compact by the enactment of concurring legislation.

"(9) 'Pool plant' means any milk plant located in a regulated area.

"(10) 'Region' means the territorial limits of the states which are parties to this compact.

"(11) 'Regulated area' means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

"(12) 'Region full price' means any state regulation of dairy prices, and associated assessments, whether by statute, marketing order or otherwise.

**§ 3. Rules of construction**

"(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the commission the option to replace them with one or more commission marketing orders pursuant to this compact.

"(b) The compact shall be construed liberally in order to achieve the purposes and intent enumerated in section one. It is the intent of this compact to establish a basic structure by which the commission may achieve those purposes through the application, adoption, and promulgation of the regulations and other techniques historically associated with milk marketing and to afford the commission broad flexibility to devise regulatory mechanisms to serve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which are commonly understood general meanings are not defined herein but the commission may further define the terms used in this compact and develop additional concepts and definitions as it deems appropriate to achieve its purposes.

**ARTICLE III. COMMISSION ESTABLISHED**

**§ 4. Commission established**

"There is hereby created a commission to administer the compact, composed of delegations of the participating states. The commission shall be known as the Southern Dairy Compact Commission. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one representative of the participating states by submitting copies to the governor, both houses of the legislature, and
the head of the state department having re-
sponsibility for agriculture.

(d) In addition to the powers and duties elsewhere prescribed in this compact, the commission shall have the power:

(1) To sue and be sued in any state or fed-
eral court;

(2) To have a seal and alter the same at its
pleasure;

(3) To acquire, hold, and dispose of real and personal property by gift, purchase, 
lease, license, or other similar manner, for its
educational purposes;

(4) To borrow money and issue notes, to
provide for the rights of the holders thereof
and to pledge the revenue of the commission
as security therefor, subject to the provi-
sions of section eighteen of this compact;

(5) To appoint such officers, agents, and
employees as it may deem necessary, pre-
scribe their powers, duties and qualifica-
tions; and

(6) To create and abolish such offices, em-
ployments and positions as it deems nec-
essary for the purposes of the compact and
provide for the salaries, term, tenure, com-
 pense, fringe benefits, pension, and re-
tirement rights of its officers and employees.
The commission may also retain personal
services on a contract basis.

§ 7. Rulemaking power

In addition to the power to promulgate a
compact over-order price or commission
marketing orders as provided by this com-
pact, the commission is further empowered
to make and enforce such additional rules and
regulations as it deems necessary to im-
plement any provisions of this compact, or
to exercise in any other respect the pur-
poses of this compact.

ARTICLE IV. POWERS OF THE COMMISSION

§ 8. Powers to promote regulatory uni-
formity, simplicity, and interstate coopera-
tion

The commission is hereby empowered to:

(1) Investigate or provide for investiga-
tions or research projects designed to re-
view the effects of the present and past re-
quirements of the participating states, to con-
side rations for the administration of the dairy mar-
ket ing laws and regulations and to prepare
estimates of cost savings and benefits of
such programs.

(3) Encourage the harmonious relation-
ships between the various elements in the in-
dustry for the solution of their material
problems. Conduct symposia or conferences
designed to improve industry relations, or a
better understanding of problems.

(4) Prepare and release periodic reports on
activities and results of the commission’s ef-
corts to the participating states.

(5) Review the existing marketing system
for milk and milk products and recommend
changes in the existing structure for assem-
bl y and distribution of milk which may as-
sist, improve or promote more efficient as-
sembly and distribution of milk.

(6) Investigate costs and charges for pro-
duction, handling, processing, dis-
 tributing and for all other services performed
with respect to milk.

(7) Examine current economic forces af-
fecting the present and probable changes in pro-
duction and consumption, the level of dairy
farm prices in relation to costs, the financial
conditions of dairy farmers, and the need for
an emergency order to relieve critical condi-
tions on dairies.

§ 9. Equitable farm prices

(a) The powers granted in this section and
text section ten shall apply only to the establish-
ment of a compact over-order price, so long as the
compact over-order price is in effect in the region.
In the event that any or all such orders are terminated, this article shall
apply to all or any part thereof as defined in the order.

(b) A compact over-order price estab-
lished pursuant to this section shall apply only to
Class I milk. Such compact over-
order price shall not exceed one dollar and
fifty cents per gallon at Atlanta, Ga., how-
ever, this compact over-order price shall be
adjusted upward or downward at other loca-
tions in the region to reflect differences in
minimum such order prices. Beginning in
nineteen hundred ninety, and using that year
as a base, the foregoing one dollar fifty cents
per gallon maximum shall be adjusted annu-
ally by the rate of change in the Consumer
Price Index as reported by the Bureau of
Labor Statistics of the United States De-
partment of Labor. For purposes of the pool-
ing and equalization of an over-order price,
the value of milk used in other use classi-
 fications shall be calculated at the appro-
priate class price established pursuant to the
appropriate federal order or state dairy regu-
lation and the value of unregulated milk shall
be calculated in relation to the nearest
prevailing class price in accordance with and
subject to such adjustments as the commis-
sion may prescribe.

(c) A commission marketing order shall ap-
ply to all classes and uses of milk.

(d) The commission is hereby empowered
to establish a compact over-order price for
milk to be paid by pool plants and partially
regulated plants. The commission is also em-
powered to establish a compact over-order
price to be paid by all other handlers receiv-
ing milk from producers located in a regu-
lated area and not established ei-
er or as a compact over-order price or by one
or more commission marketing orders. When-
such a price has been established or
established shall be determined
by the terms and purpose of the regu-
lation without regard to the situs of the
transfer of title, possession or any other fac-
tors not related to the purposes of the regu-
lation and the compact. Producer-handlers
as defined in an applicable federal market
marketing order shall not be subject to a compact over-
order price. The commission shall provide
for similar treatment of producer-handlers
under commission marketing orders.

(e) In determining the price, the commis-
sion shall consider the balance between pro-
duction and consumption of milk and milk
products in the regulated area, the costs of
production, the shipment of milk regulated
to the price of feed, the cost of labor including
the reasonable value of the producer’s own labor
and management, machinery expense, and
minimum federal order prices. The price for
milk outside the regulated area, the pur-
chasing power of the public and the price
necessary to yield a reasonable return to the
producer shall be determined.

(f) When establishing a compact over-
order price, the commission shall take such
other action as is necessary and feasible to
help ensure that the price does not
cause or compensate producers so as to
gen eral local production of milk in excess
of those quantities necessary to assure con-
sumers of an adequate supply for fluid pur-
poses.

(g) The commission shall whenever pos-
sible enter into agreements with state or fed-
eral agencies for exchange of information or
services for the purpose of reducing the regu-
larly burden and cost of administering the
compact. The commission may reimburse
other agencies for the reasonable cost of pro-
viding these services.

§ 10. Optional provisions for pricing order

"Regulations establishing a compact over-
order price or a commission marketing order
may contain, but shall not be limited to any
of the following:

(1) Provisions classifying milk in accord-
ance with the form in which or purpose
for which it is used, or creating a flat pricing
program.

(2) With respect to a commission mar-
keting order only, provisions establishing or
providing a method for establishing separate
minimum prices for each use classification
by the commission for a single
minimum price for milk purchased from pro-
ducers or associations of producers.

(3) With respect to an over-order mini-
mum price, provisions establishing or pro-
viding a method for establishing such mini-
imum price for Class I milk.

(4) Provisions for establishing either an
over-order price or a commission marketing
order may make use of any reasonable meth-
for establishing such price or prices in-
cluding flat pricing and formula pricing.

(5) Provision may also be made for location
adjustments, zone differentials and for com-
petitive credits with respect to regulated
handlers who market outside the regulated area.

(6) Provisions for the payment to all pro-
ducers and associations of producers deliv-
ering milk to all handlers of uniform prices
for all milk so delivered, irrespective of the
uses made of such milk by the individual
handler to whom it is delivered, or for the
payment of producers delivering milk to the
solo or wholly included within any such
marketing area.

(7) With respect to any commission mar-
keting order, as defined in section two, sub-
division three, which replaces one or more
terminated federal orders or state dairy reg-
ulations, the marketing area of now separate
state or federal orders shall not be merged
without the affirmative consent of each
state, voting through its delegation, which is
partly or wholly included within any such
new marketing area.

(8) Provisions requiring persons who bring
Classes I milk into the regulated area to make
compensatory payments with respect to all
such milk to the extent necessary to equal-
ize the cost of milk purchased by handlers
subject to a compact over-order price or com-
mission marketing order. No such provi-
sions shall discriminate against milk pro-
ducers outside the regulated area. The provi-
sions for compensatory payments may re-
quire payment of amounts based on the
Class I price required to be paid for such
milk in the state of production by a federal
milk marketing order or state dairy regu-
lation. The Class I price established by the
compact over-order price or commission
marketing order.
§13. Producer referendum

(a) For the purpose of ascertaining whether the public interest will be served by the establishment of a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection (4) hereof, or amendment thereof, as provided in Article IV, the commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by the commission, and the terms and conditions of the proposed order or amendment shall be described by the commission in the formal rulemaking proceeding. The nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

(b) An order or amendment shall be deemed approved by producers if the commission determines that it is approved by at least two-thirds of the voting producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which is regulated by such order; but producers may, with respect to such order or amendment, refer any allegation of a violation of this compact to the commission for action in the manner prescribed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553).

§14. Termination of over-order price or marketing order

(a) The commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which is regulated by such order; but termination may be ordered only if it is announced on or before such date as may be specified in such marketing agreement or order.

(b) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this article and shall require no hearing, but shall comply with the requirements for informal rulemaking prescribed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553).

ARTICLE VI. ENFORCEMENT

§15. Records; reports; access to premises

(a) The commission may by rule prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the commission is authorized to examine the books and records of any regulated person relating to his or her milk business and for that purpose, the commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(b) Information furnished to or acquired by the commission, employees, or its agents pursuant to this section shall be confidential and shall not be excepted from the extent to which the commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the commission. The commission may promulgate regulations further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements as to whether and how it intends to cast a block vote shall, before submitting its ap-

(c) No officer, employee, or agent of the commission shall intentionally disclose information, by inference or otherwise, which is made confidential pursuant to this section. Any person violating the provisions of this section shall, upon conviction, be subject to a fine of not more than one thousand dollars or to imprisonment for not more than one year, or to both.

§16. Subpoena; hearings and judicial review

(a) The commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signa-

(b) Any handler subject to an order may file a written petition with the commission stating that any such order or any provision
of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the commission. After such hearing, the commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

"(C) The district courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within thirty days from the entry of such ruling. Service of process in such proceedings may be had upon the commission by delivering to it a copy of the complaint. If the court determines that the commission is not in accordance with law, it shall remand such proceedings to the commission with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subdivision shall not hinder, or prevent the commission from obtaining relief pursuant to section seventeen. Any proceedings brought pursuant to section seventeen, except that the manner of commencing such proceedings in institutions pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties, and involving the same subject matter, instituted pursuant to this section.

§ 17. Enforcement with respect to handlers

(a) Any violation by a handler of the provisions of regulations establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

(1) constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of any state or states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

(2) constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

(b) With respect to handlers, the commission shall enforce the provisions of this compact, regulations establishing an over-order price, or a commission marketing order, or other regulations adopted pursuant to this compact shall:

(1) Commencing an action for legal or equitable relief brought in the name of the commission of any state or federal court of competent jurisdiction; or

(2) Refer to the state agency for enforcement by judicial or administrative remedy with the agreement of the appropriate state agency of a participating state.

(c) With respect to handlers, the commission may bring an action for injunction to enforce the provisions of this compact, and regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

"ARTICLE VII. FINANCE

§ 18. Finance of start-up and regular costs

(a) To provide for its start-up costs, the commission may borrow money pursuant to its general power under section six, subdivision (d), paragraph (6), to finance the costs of administration and enforcement of this compact, including payback of start-up costs, the commission is hereby empowered to collect an assessment from each handler, the assessment to be based on the number of handler sales of milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to two months from the date the commission convenes, in an amount not to exceed $0.05 per hundredweight of milk purchased from producers during the period of the assessment. Such assessment may apply to the projected purchases of handlers for the two-month period following the date the commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the commission’s ongoing operating expenses.

(b) The commission shall not pledge the credit of any participating state or of the United States. Notes issued by the commission and all other financial obligations incurred by it, shall be its sole responsibility and shall be neither chargeable to a participating state nor to the United States and shall be liable therefor.

§ 19. Audit and accounts

(a) The commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the commission shall be audited by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(b) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the commission.

(c) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection.

ARTICLE VIII. ENTRY INTO FORCE; ADDITIONAL MEMBERS AND WITHDRAWAL

§ 20. Entry into force; additional members

The compact shall enter into effect when enacted into law by any three states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia and when the consent of Congress has been obtained.

§ 21. Withdrawal from compact

Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the commission and the governors of all other participating states. No withdrawal shall affect any liability already incurred by or chargeable to a participating state prior to the time of such withdrawal.

§ 22. Severability

If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision of the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact.

In the event Congress consents to this compact subject to conditions, said conditions shall not impair the validity of this compact when said conditions are accepted by three or more compacting states. A compacting state may accept the conditions of Congress by implementation of this compact.

SEC. 4. PACIFIC NORTHWEST DAIRY COMPACT.

Congress consents to a Pacific Northwest Dairy Compact proposed for the States of California, Oregon, and Washington, subject to the following conditions:

(1) TEXT.—The text of the Pacific Northwest Dairy Compact shall be identical to the text of the Southern Dairy Compact, except as follows:

(A) References to “south”, “southern”, and “Southern” shall be changed to “Pacific Northwest”.

(B) In section 9(b), the reference to “Atlanta, Georgia” shall be changed to “Seattle, Washington.”

(C) In section 20, the reference to “any three” and all that follows shall be changed to “California, Oregon, and Washington.”

(2) LIMITATION OF FORWARD PRICE REGULATION.—The Dairy Compact Commission established to administer the Pacific Northwest Dairy Compact (referred to in this section as the “Commission”) may regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined herein, by Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1997 (7 U.S.C. 1671, as reenacted by the Federal Milk Marketing Order Act of 1997 as a “Federal milk marketing order”).

(3) EFFECTIVE DATE.—Congressional consent under this section takes effect on the date (not later than 3 years after the date of enactment of this Act) on which the Pacific Northwest Dairy Compact is entered into by the second of the 3 States specified in the matter preceding paragraph (1).

(4) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year after the adoption of the price regulations under the Pacific Northwest Dairy Compact, the Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that relate to the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commissions) using notice and comment procedures provided in section 553 of title 5, United States Code.

(5) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Commission and be compensated for that assistance.

SEC. 5. INTERMOUNTAIN DAIRY COMPACT.

Congress consents to an Intermountain Dairy Compact proposed for the States of Colorado, Nevada, and Utah, subject to the following conditions:

(1) TEXT.—The text of the Intermountain Dairy Compact shall be identical to the text of the Southern Dairy Compact, except as follows:

(A) In section 1, the references to “south” and “southern” shall be changed to “Intermountain” and “Intermountain region”, respectively.

(B) References to “Southern” shall be changed to “Intermountain”.

(C) Tennessee, Texas, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia and when the consent of Congress has been obtained.
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12554

(C) In section 9(b), the reference to “Atlanta, Georgia” shall be changed to “Salt Lake City, Utah”.
(D) In section 20, the reference to ‘any three’ and all that follows shall be changed to “Colorado, Nevada, and Utah’.

(2) MANUFACTURING PRICE REGULATION.—The Dairy Compact Commission established to administer the Intermountain Dairy Compact (referred to in this section as the ‘Commission’) may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, I, II, or fluid milk confined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 668c), reenacted as the “Federal milk marketing order’’.

(3) EFFECTIVE DATE.—Congressional consent under this section takes effect on the date (not later than 3 years after the date of enactment of this Act) on which the Intermountain Dairy Compact is entered into by the States, which is granted the authority to set a minimum farm price for Class I (fluid) milk. The difference between the compact price and the Federal milk order price, or the “over-order obligation,” is paid to the commission by the processors. The commission then redistributes these funds to farmers in each State based on the volume of milk sold by the farmer within the region.

The success of the Northeast Dairy Compact in promoting the viability of dairy farming and sustaining rural communities in New England has not gone unnoticed. Nineteen additional State legislatures have overwhelmingly passed compact legislation. Our legislation recognizes this strong support for compacts on the state level and provides Congressional consent for these States to join the Northeast compact or form compacts of their own.

For all that the Compact accomplishes for farmers in the Northeast, one might think that it puts farmers face to face with competitive disadvantage. However, this is not the case. The Compact Commission has instituted safeguards, as required by the authorizing legislation, that prevents the overproduction of milk. Incentive payments are provided to farmers who do not increase production and have actually led to a decrease of 0.6 percent in the amount of milk produced in the region. Consequently, we can be sure that surplus milk from the Northeast is not impacting milk markets in other regions of the country. It is important to note that our legislation includes the overproduction protections included in the original Dairy Compact legislation.

The Northeast Dairy Compact is set to expire on September 30, 2001. While the saying goes that all good things must come to an end, I do not believe that ought to be the case with the Compact. Dairy farmers in my State and many more are in danger of shutting down unless we authorize the return of milk pricing power back to the States. Had Louisiana been a member of a Southern Dairy Compact last year, its 458 dairy farms would have received $11.9 million in compact payments, increasing income for the average Louisianan dairy farmer by nearly thirteen percent. This, at a time when dairy farmers are faced with depressed prices not seen in the last 25 years.

There are those in Congress who have opposed dairy compacts on the day the idea was introduced. However, dairy compacts are not antitrade, do not increase milk production and milk from outside the compact region is not excluded from sale in the compact region. Over the past five years, New England’s dairy farmers have put into practice the compact’s promise of providing stable prices for farmers and consumers, strengthening rural communities and preserving our environment. It is time to allow the States the opportunity to provide their farmers the stability they so desperately need.

Ms. LANDRIEU. Mr. President, today I rise, along with thirty-eight of my colleagues, to introduce legislation which would reauthorize the Northwest Dairy Compact Act, the Southern, Pacific and Intermountain Compacts.

State officials and dairy producers across the country are concerned that the current Federal milk marketing order pricing system does not fully account for regional differences in the costs of producing milk. As a result, 25 States, including my State of Louisiana, have passed legislation requesting that Congress approve their right to form regional compacts. The compact, when ratified by Congress, authorizes creation of an interstate compact commission which would guide the pricing of fluid milk sold in the region. Consumers, processors, and producers, State officials, and the public all participate in determining Class I fluid milk prices.

The Northeast Dairy Compact, enacted in 1996, and due to expire this year, has proven extremely successful in balancing the interests of consumers, dairy farmers, processors and retailers by maintaining milk price stability and doing so at no cost to taxpayers.
of such uncertainty, the current Federal price support system was designed to provide basic levels of assistance to dairy farmers. Unfortunately, the support provided, while helpful, is often inadequate. Many dairy farmers in New York and elsewhere are unable to operate at a profit. As a remedy, the Dairy Compact was designed to provide producers with supplemental support, through assessments to processors, when the Marketing Order price is low. Most importantly, the price stability afforded by the Compact is especially important to farmers as a planning tool.

As originally implemented, the Dairy Compact did not include New York. The Bill that has been introduced would allow New York State and other States in the Northeast, Southeast and elsewhere to expand the Compact. The New York Legislature, like 25 other State Legislatures, has voted to join the Compact. Why? Because over the 4 years that the Compact has been in existence it has made the difference for many families by allowing them to survive as a dairy producer or selling their land for development which is slowly decimating our rural landscape. It has helped us maintain a local supply of affordable milk for consumers including women and children throughout the Compact region at no cost to the government and without placing an undue burden on consumers.

New York is an important dairy producing and consuming State. As of the year 2000, we had about 7,200 dairy herds and produced 11.9 billion pounds of milk. That year, New York ranked third behind California and Wisconsin in both the number of milk cows and total milk produced. The viability of dairy farms is very important to my State. If New York had not been a member of compact that year when dairy prices were at rock bottom, they would have received an average payment per farm of $18,200. While that size payment will not lead to prosperity, it will help keep the farm going. Several New York dairy farms sell milk to the Compact, and thus receive some of these benefits. I want to ensure that all dairy farms are in the State can participate, and the only way to do that is to expand the Compact.

Opponents of the Compact claim that if it were to be expanded, farmers in the Compact region would overproduce fluid milk thus driving prices down in other parts of the country. This is not the case. The Compact legislation that we propose today specifically acts to prevent such an over production through a supply management feature that rewards dairy producers in the Compact who maintain relatively stable levels of production. If necessary, this tool could be used to control over-production from an expanded Compact and thus minimize negative impacts elsewhere.

Other important features of the Compact that are important to remember include the following: It has been fully reviewed and found to be legal. It includes a feature to protect disadvantaged women, infant and children, and in fact, in the year 2000, the Compact paid the WIC program close to $1.8 million to reimburse WIC for any extra expense the program incurred under the Compact. Approximately 1 percent of Compact payments are similarly set aside to reimburse school lunch programs.

I am concerned about the move towards consolidation in the dairy industry. While some concentration is to be expected, recent trends indicate that a few very large dairy operations and processing plants are grabbing up more and more. Many dairy operations are also succumbing to sprawl. By helping small at-risk farms stay afloat, the Compact is a hedge against unhealthy amounts of consolidation. It also helps to preserve the rural lifestyle, the countryside settings with open spaces, and the economic core of communities that are so important to my New York and so many others.

In sum, the Dairy Compact is an effective way for States, New York and others, to obtain from Congress the regulatory authority over the region’s interstate markets for milk. It offers a price stability that is incredibly helpful, and it helps to slow the demise of a tradition that our country holds dear, the family farm.

Ms. SNOWE. Mr. President, I rise today to join Senator SPECTER of Pennsylvania in support of the Dairy Consumers and Producers Protection Act of 2001. We are joined by 37 of our colleagues from New England and throughout the Mid-Atlantic and the Southern New England Compact.

This legislation reauthorizes the very successful Northeast Interstate Dairy Compact, which allows the producers of milk to, as a dairy farmer from York Country, ME, recently said, set a little higher bottom for the price of locally produced fresh milk. The current Compact only adds a small incremental cost to the current Federal milk marketing order system that already sets a floor price for fluid milk in New England. The bill also gives approval for States contiguous to the participating New England States to join, in this case, Pennsylvania, New York, New Jersey, Delaware, and Maryland.

The legislation also grants Congressional approval for a new Southern Dairy Compact, made up of 14 States: Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia.

This issue is really a State rights issue more than anything else, Mr. President, as the only action the Senate needs to take is to give its congressional consent under the Compact Clause of the United States Constitution, Article I, section 10, clause 3, to enable the 25 States to join with their two independent compacts.

All of the legislatures in these twenty-five States have ratified legislation that allows their individual States to join a Compact, and the Governor of every State has signed a compact bill into law. Half of the States in this country, await our Congressional approval to address farm insecurity by stabilizing the price of fresh fluid milk on grocery shelves and to protect consumers against volatile price swings.

All of the Northeast and Southern Compact States together make up about 28 percent of the Nation’s fluid milk market—New England production is only about 31.2 percent of this. This Dairy Compact originated as Minnesota and Wisconsin which together make up to 24 percent of the fluid milk market. California makes up another 20 percent.

Over ninety-seven percent of the fluid milk market in New England is contained within the area, and fluid milk markets are local due to the demand for freshness and because of high transportation costs, so any complaints raised in other areas about unfair competition simply does not hold water. The existence of the Northeast Dairy Compact does not threaten or financially harm any other dairy farmer in the country. Nor is there one penny of Federal funds involved—not one cent.

Only the consumers and the processors in the New England region pay to support the minimum price to provide for a fairer return to the area’s family dairy farmers and to protect the delightful way of life important to the people of the Northeast. Importantly, under the Compact, New England retail milk prices have been among the lowest and the most stable in the country. No wonder other States want to follow our lead.

When Congress wants to try something new, it often sets up a pilot program to test out an idea in a particular locality or region, and then appraises the outcome to see if the project was successful. This is how the Northeast Dairy Compact got its start in 1993, and was included in the 1996 Farm Bill as a three year pilot program—to sunset on April 4, 1999—at the same time as the adoption of the required consolidation of Federal milk marketing orders. The milk marketing orders were extended until October 1, 1999 in the Omnibus Appropriations of FY 1999, which also automatically extended the Compact until October 1, 1999.

Because of efforts by myself and other Compact supporters, we fought to receive a two-year extension of the Northeast Compact, which was incorporated in the Omnibus spending bill funding several government agencies
for FY 2000. The Compact will expire on September 30 of this year if no further action is taken by this body.

I wish to make it clear to my colleagues how important the continuation of the Northeast Dairy Compact is to me and the dairy farmers and consumers in Maine. I stand here not with my hand outstretched for federal farm dollars for Maine—of all income received by farmers in my State, only about 9 percent comes from Federal funding, unlike other States whose income received through Federal dollars is well over 75 percent—rather to urge you to support a very successful program that does not cost the federal government one penny—not one cent, and is supported by the very people who are affected by it.

I plan to use every avenue open to me to maintain fluid milk prices high enough to operate as, once the Compact Commission is shut down even temporarily, it cannot magically be brought back to life again. It would take many months if not a year to restore the successful process that is in place. I will not gamble with the livelihoods of the dairy farmers of Maine in that irresponsible fashion.

All during the time of the Northeast Compact, fluid milk prices in New England have been among the lowest and have reflected great price stability. The consumers of New England have been spending a few extra pennies for fresh fluid milk—a recent University of Connecticut report recently estimated no more than 4.5 cents a gallon—to ensure a safety net for dairy farmers so that they can continue a historic way of life that is helpful to the regional economy.

I have been pleasantly surprised that, while many dairy farmers are not content when gasoline prices rise by pennies, I have not received any swell of outrage from consumer complaints about milk prices over the last 3 1/2 years that the Compact has been in place. The reality is that the initial pilot Compact project we so thoughtfully created has been a huge success.

In 2000, dairy farmers in Maine received on average, $10,500 per dairy farm from the Compact Commission, the governing body set up to keep overproduction of fluid milk in check, and operate as, once the Compact Commission is shut down even temporarily, it cannot magically be brought back to life again. It would take many months if not a year to restore the successful process that is in place. I will not gamble with the livelihoods of the dairy farmers of Maine in that irresponsible fashion.

Dairy Compact opponents. No other region of the United States has been as fortunate to have the Northeast Dairy Compact. It is now known that, throughout New England, there has been a decline in the number of dairy farmers going out of business. In Maine, for instance, the loss of dairy farms was 16 percent from 1993 to 1997. The Compact then went into effect and from that time until now, the loss of dairy farms has dropped to 9 percent.

The Compact has given dairy farmers a measure of confidence in the near term for the price of their milk so they have been willing to reinvest in their operations by upgrading and modernizing facilities, acquiring more efficient equipment, purchasing additional cropland and improving the genetic base of their herds. Without the Compact, farmers have not had the courage to do these things and their lenders would not have had the willingness to meet their capital needs.

The Compact has also protected future generations by helping local milk processors place their products and preventing a dependence on milk a single source of milk that can lead to higher milk prices through increased transportation costs and increased vulnerability to natural catastrophes.

The bottom line is, the Compact has helped the economies of the New England States. The presence of farms are protecting open spaces critical to every State’s recreational, environmental and conservation interests. These open spaces also serve as a buffer to urban sprawl and boost tourism so important to my home state of Maine.

Through its bylaws, the Compact has also preserved State sovereignty by adopting the principle of “one state—one vote” and providing that any pricing change be approved by two-thirds of the participating states in the Compact.

There are compensation procedures that are implemented by the New England Dairy Commission specifically to protect against increased production of fresh milk. The Compact requires that the Compact Commission take such action as necessary to ensure that a minimum price set by the commission for the region over the Federal milk marketing order floor price does not create an incentive for producers to generate additional supplies of milk. When there has been a rise in the Federal floor price for Class I fluid milk, the Compact has automatically shut itself off from the pricing process. Since there is no incentive to overproduce, there has been no rush to increase milk production in the Northeast as was feared by Compact opponents. No other region should feel threatened by a dairy compact for fluid milk produced and sold mainly at home.

The consumers in the Northeast Compact area, the now in the Mid-Atlantic area and the Southeast area, have shown their willingness to pay a few pennies more for their milk if the additional money is going directly to the dairy farmer. Environmental organizations have also supported dairy compacting as Compacts help to preserve dwindling agricultural land and open spaces.

I urge my colleague not to look success in the face and turn the other way, but to support us in passing this legislation that half of our states have requested.

Mrs. CLINTON. Mr. President. I am pleased to join with my colleagues today as an original cosponsor of the Dairy Consumers and Producers Protection Act of 2001. This legislation is vitally important to New York dairy farmers, New York’s economy, and rural communities around the country.

In addition, New York farmers, from Glen Falls to Ithaca and Jamestown, NY farmers and New York farms are an invaluable part of our State’s economy and its landscape. Agriculture is one of New York’s top industries. What is grown in our State makes its way to homes and kitchen tables across the country, and around the world.

In particular, the dairy industry is a pillar of New York’s economy. Milk is New York’s leading agricultural product, creating almost $2 billion in receipts. And New York ranks third in the country in terms of the value of dairy products sold, surpassed only by California and Wisconsin.

Yet, as I travel throughout New York State, I meet dairy farmers who are working harder, but still struggling to make ends meet. Volatile milk prices make it very difficult for New York dairy farmers to negotiate loans, to invest in expansion, and to plan for the future with any certainty.

That is why it is so important that we join with our colleagues from other States to expand the Northeast Dairy Compact to include New York. If New York had been a member of the Northeast Dairy Compact last year, the over 7,000 dairy farms in New York would have received an estimated $132.6 million in payments, an average of $18,200 for each farm, thereby increasing income for the average New York dairy farm by approximately eight percent.

In addition, New York cropland and farms have become prime land for development and sprawl. We must make sure that farmers all across New York and around the country get the help that they need to hold onto their farms, and to preserve our fields and open spaces. They are an important part of what makes New York so unique and so beautiful.

Helping to preserve New York’s dairy farms by expanding the Northeast Dairy Compact is the right thing to do. Not only does it ensure the security of our dairy farmers in New York and in other parts of the country, it guarantees an adequate supply of fresh milk.
June 29, 2001

Mr. President, today, I rise today to express my support for the Dairy Consumers and Producers Protection Act of 2001, important legislation that would re-authorize and expand the Northeast Dairy Compact, and ratify a Southern Compact. Growing support and recognition of the effectiveness and ingenuity of the Northeast Dairy Compact has led twenty-five States to enact compact legislation. These States now look to Congress to grant them the right to join the Northeast Compact, or to form a Southern Compact.

It is critical that we keep pace with the demands of State governments, and provide them with the authority to develop a regional pricing mechanism for Class I (fluid) milk. Using a formal process, States, including producers, processors, retailers and consumer representatives, will be able to establish a price level that is appropriate for producers, processors, retailers, and consumers.

The Northeast Dairy Compact was originally authorized as a three-year pilot program in the 1996 Farm Bill. Since July of 1997, when the Compact Commission first set the Class I over-order price at $16.94, the Northeast Dairy Compact has proven to be a great success, providing farmers with a fair price for their milk, protecting consumers from price spikes, reducing market dependency upon milk from a single source, controlling excess supply, and helping to preserve rural landscapes by strengthening farm communities. And, unlike so many of our country's remaining rural programs, the benefits of the dairy compact are realized at no cost to the Federal Government.

The Northeast Dairy Compact is managed by the Compact Commission. The Commission, comprised of 26 delegates from the six New England states, includes producers, processors, retailers and consumer representatives. Each State governor appoints three or five delegates to represent their State's vote on the Commission. The Commission meets monthly to evaluate and establish the current Compact over-order price for Class I (fluid) milk. Using a formal rule-making process, the Commission hears testimony to establish a price that takes into account the purchasing power of the public, and the price necessary to yield a reasonable return to producers and distributors. Any price change proposed by the Commission is subject to a two-thirds vote by the State delegations as well as a producer referendum.

The Compact Commission's price regulation works in conjunction with the Federal Government's pricing program, which establishes minimum prices paid to dairy farmers for their raw milk. Under the Compact, processors pay the difference between the Compact over-order price for fluid milk, currently $16.94, and the price established monthly by federal regulation for the same milk. The over-order premium is paid on class I (fluid) milk, and is only paid when the Compact over-order price is higher than the price set by the Federal milk marketing orders. Processors purchasing milk for other dairy products such as cheese or ice cream are not subject to the Compact's pricing regulations, although all farmers producing milk in the region, for any purpose, share equally in the Compact's benefits.

In order to protect low-income consumers from any increases in cost caused by the Compact, the Compact legislation imposes regulations on the Commission requiring that the Women, Infants and Children, WIC program, as well as School Lunch Programs, must be reimbursed for any additional costs they may incur as a result of compact activity. Three percent of the pooled proceeds are set aside to fulfill these obligations.

Compact legislation also contains a clause that holds the Commission responsible for any purchases of milk or milk products by the Commodity Credit Corporation, CCC, that result from the operation of the Compact. The Secretary of Agriculture has the authority to determine those costs and ensure that the Commission honors its obligations.

After money is withheld for the WIC and School Lunch programs, as well as the CCC, the Compact Commission makes disbursements to farmer cooperatives, partnerships and firms. These entities then make payments to individual farmers based on their level of production. These payments are only made when the Federal market order price falls below the price set by the Compact Commission, effectively creating a floor for milk prices. This, in turn, decreases price volatility in the region.

The stability created by the Compact pricing mechanism is important for farmers, as it guarantees farmers a fair price for their product and allows them to plan for the future. Farmers, knowing that they can count on a fair price, can allocate money to purchase and repair machinery, improve farming practices, and above all, stay in business.

Throughout our great Nation, the family farm continues to be a vital part of our rural community and agricultural infrastructure. In New England and across our country, farms continue to support our rural economies. Farms create economic stability by supporting local businesses such as feed stores, farm equipment suppliers and local banks. The continuing disappearance of small farms is making life very difficult for agribusinesses and for the overall rural economic infrastructure.

The importance of the family farm extends well beyond the rural economy, however. Preservation of the family farm has important environmental consequences as well. Numerous environmental organizations have expressed their support for dairy compacts. They recognize the ability of compacts to protect our farms and preserve our dairy industry. These organizations include the Sierra Club, the Conservation Law Foundation and the National Trust for Historic Preservation. These groups, as well as numerous other environmentally conscious organizations, recognize farmers as good stewards of the land, and value the ability of farms to sustain productive use of the land, while preserving open space.

Even though compacts enjoy widespread support across much of our country, opponents have worked tirelessly to discredit the merits of dairy compacts. These critics, however, must contend with the strong record of success that the Northeast Dairy Compact has put forth.

During its first four years, the Northeast Compact has stood up to numerous legal challenges. Courts have ruled in favor of the Compact on every level, including the U.S. Supreme Court. The courts have recognized the Compact as a proper and constitutional grant of congressional authority, permitted under the Commerce and Compact clauses of the U.S. Constitution. These decisions have upheld the Commission's authority to regulate milk within the region, as well as milk produced outside the region.

Concerns have also been raised about the Compact's effect on interstate trade. Opponents of the Northeast Compact argue that compacts restrict the movement of milk between States that are in the Compact, and States that lie outside the Compact. Compacts, however, do not restrict the movement of milk into the region. For example, producers in eastern New York State benefit from the Northeast Compact. By shipping their milk into the region, farmers are eligible to receive the Compact price for their products.

Another common misconception is that the Compact leads to overproduction. The Northeast Dairy Compact, however, has not led to overproduction during its first four years. In fact, during 2000, the Northeast Dairy Compact states produced 4.7 billion pounds of milk, a 0.6 percent reduction from 1999. Since the Northeast Dairy Compact was established, milk production in the region has risen by just 2.2 percent. Nationally, milk production rose 7.4 percent from 1997 to 2000. Over this same period, California, the largest...
Finally, opponents argue that compacts are harmful to consumers, especially low-income consumers. The facts show that this is not the case. On May 2, 2001, an independent study out of the University of Connecticut’s Food Marketing Policy Center offers new evidence regarding the impact of the Northeast Dairy Compact on consumer prices. The Food Marketing Policy Center performed a four-year analysis of retail milk prices using supermarket scanner data from 18 months prior to Compact implementation, up through July of 2000. This period of time captured the volatile prices preceding Compact implementation, as well as the pricing behavior that followed. The study found that the Northeast Dairy Compact was responsible for only 4.5 cents of the 29-cent increase in retail prices following Compact implementation. The study concludes that wider profit margins by processors and retailers account for 11 cents of the 29-cent increase. Since the Compact went into effect, these wider profit margins have drawn nearly $50 million out of the pockets of New England consumers.

The study suggests that retail stores and processors have used the Compact to lock in wider profit margins. The study states: “Leading firms in the supermarket-marketing channel have used their dominant market positions to lock in wider profit margins. Despite these wider profit margins, we maintain the safety and continuity of our milk supply, protecting the rights of states to form a unified pricing mechanism. By supporting the rights of states to form dairy compacts, we maintain the safety and continuity of our milk supply, protecting consumers from volatile milk prices, and conserve open land.”

Tillison continues by examining the reasons why consumers support the Compact. These include decreases in retail price volatility and the need for fresh milk. Tillison states, “Consumers like the idea of milk for their kids. It has a different mystique. It has a different mystique. It is because of consumers’ desire for (and the availability of) fresh milk.” At this time, I would ask unanimous consent that Jim Tillison’s article, “Let’s Talk About Compacts” be submitted for the RECORD.

Under our legal system, individual states have the authority to establish their own dairy pricing mechanism. Because of the nature and size of the dairy industries in the Northeast and South, states in these regions are better served by coming together to form a unified pricing mechanism. By supporting the rights of states to form dairy compacts, we maintain the safety and continuity of our milk supply, protect consumers from volatile milk prices, and conserve open land.

Originally created as a three-year pilot program, the Northeast Dairy Compact has been extremely successful in demonstrating the merits of compacts. We no longer need to speculate about the potential effects of compacts. We now have the hard evidence, from consumers, and good for the environment.

I ask that the Senate recognize this by extending and expanding the Northeast Dairy Compact, and ratifying a Southern Compact.

In closing, I urge the Senate to support this important legislation. Our States have come to us, and asked us to grant them the right to regulate the minimum farm price of milk, the right to save their family farms. We must grant them that right.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

From the Cheese Market News, May 11, 2001

Lift’s Talk About Compacts

(By Jim Tillison)

Here we go again. The issue of dairy compacts is “heating up” once again. Studies have been done and to now one’s surprise they are biased depending on which aide you are on. Let’s go back to the rhetoric to what is causing all the stir and discuss the stir that is being caused.

First, let us review the process involved in putting a dairy compact in place.

Essentially, the compact process result in negotiating interstate commerce laws. In other words, it allows the dairy producers in a number of states to regulate the price of milk paid by fluid processors in those states. Any milk brought into the state for fluid purposes is subject to the compact. Any milk brought into the state for fluid purposes is subject to the compact. Any milk brought into the state for fluid purposes is subject to the compact. The fact is that more money hasn’t brought on more milk in the one compact area currently in existence. Only one of the Northeast compact states, Vermont, is in the top 20 milk-producing states. And, the total area has not seen milk production rise faster than the national average.

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Here we go again. The issue of dairy compacts is “heating up” once again. Studies have been done and to now one’s surprise they are biased depending on which aide you are on. Let’s go back to the rhetoric to what is causing all the stir and discuss the stir that is being caused.

First, let us review the process involved in putting a dairy compact in place.

Essentially, the compact process result in negotiating interstate commerce laws. In other words, it allows the dairy producers in a number of states to regulate the price of milk paid by fluid processors in those states. Any milk brought into the state for fluid purposes is subject to the compact. Any milk brought into the state for fluid purposes is subject to the compact. Any milk brought into the state for fluid purposes is subject to the compact. The fact is that more money hasn’t brought on more milk in the one compact area currently in existence. Only one of the Northeast compact states, Vermont, is in the top 20 milk-producing states. And, the total area has not seen milk production rise faster than the national average.
vote on the compact on its own. It was only supposed to be a transition program while federal order reform was taking place. Secretary of Agriculture Dan Glickman didn’t have to implement it. Doremus didn’t have to respond to those kind of comments. What hearing was ever held or separate vote taken on forward contracting? I don’t recall any serious discussion of the portion of a recent budget bill that exempted one county in Nevada from federal order Class I differentials. Of course Glickman had to implement it . . . and the pet project of a Vermont Democratic senior senator in an election year. Think about it.

The dairy industry has many more important issues to spend political capital on. Issues that really are having, or will have, an impact on it. Instead of fighting over compacts, it should be working together to improve our potential for growth in world markets with really pushing for fair trade, dealing with environmental and food safety issues and developing programs that will allow all segments of the industry to continue into the 21st century.

The views expressed by CMN’s guest columnists are their own opinions and do not necessarily reflect those of Cheese Market News.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 118—TO DESIGNATE THE MONTH OF NOVEMBER 2001 AS “NATIONAL AMERICAN INDIAN HERITAGE MONTH”

Mr. CAMPBELL. Mr. President, along with thirty of my colleagues today I am pleased to introduce a resolution to recoup the many contributions American Indians and Alaska Natives have made to this great Nation and to designate November, 2001, as “National American Indian Heritage Month” as Congress has done for nearly a decade.

American Indians and Alaska Natives have left an indelible imprint on many aspects of our everyday life that most Americans often take for granted. The arts, education, science, the armed forces, medicine, industry, and government are a few of the areas that have been influenced by American Indian and Alaska Native people over the last 500 years. In the medical field, many of the healing remedies that we use today have been borrowed from Native Americans and are still utilized today in conjunction with western medicine.

Many of the basic principles of democracy in our Constitution can be traced to practices and customs already in use by American Indian tribal governments including the doctrines of freedom of speech and separation of powers.

The respect of Native people for the preservation of natural resources, reverence for elders, and adherence to tradition, mirrors our own values which we developed in part, through the contact with American Indians and Alaska Natives. These values and customs are deeply interwoven and thrive with generation after generation of Native people.

From the difficult days of Valley Forge through our peace keeping efforts around the world today, American Indians and Alaska Native people have proudly served and dedicated their lives in the military readiness and defense of our country in wartime and in peace.

It is a fact that on a per capita basis, Native participation rate in the Armed Forces far exceeds that of every other group in this Nation. Many American Indian men made the ultimate sacrifice in the defense of this Nation, some even before they were granted citizenship in 1924. Many of the words in our language have been borrowed from Native languages, including many of the names of the rivers, cities, and States across our Nation. Indian arts and crafts have also made a distinct impression on our heritage.

It is my hope that by designating the month of November 2001, as “National American Indian Heritage Month,” we will continue to encourage self-esteem, pride, and self-awareness amongst American Indians and Alaska Natives of all ages.

November is a special time in the history of the United States: we celebrate the Thanksgiving holiday by remembering the Indians of the Northeast and English settlers as they enjoyed the bounty of their harvest and the promise of new kinships.

By recognizing the many Native contributions to the arts, governance, and culture of our Nation, we will honor their past and ensure a place in America for Native people for generations to come. I ask for the support of my colleagues on both sides of the aisle for this resolution, and urge the Senate to pass this important matter.

SENATE RESOLUTION 119—COMBATING THE GLOBAL AIDS PANDEMIC

Mr. BAYH (for himself, Mr. SMITH of Oregon, Mr. DASCHLE, Mr. LEAHY, Mr. BINGAMAN, Mr. LUHAR, Mrs. FEINSTEIN, Mr. DORGAN, Mr. KERRY, Mr. KENNEDY, Mr. BINGAMAN, Mr. JOHN, Mr. BINGAMAN, Mr. JOHN, Mr. BINGAMAN, Mr. JOHN, Mr. BINGAMAN, Mr. JOHN, Mr. BINGAMAN, Mr. JOHN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 119

Whereas the international AIDS pandemic is of grave proportions and is growing;

Whereas the epicenter of the AIDS pandemic is sub-Saharan Africa, and incidences of contraction of HIV, AIDS, and related diseases are growing in the Caribbean basin, Russia, China, Southeast Asia, and India at alarming rates;

Whereas AIDS pandemic-related statistics are especially staggering in sub-Saharan Africa:

(1) the infection rate is 8 times higher than the rest of the world;

(2) in the region, over 17,000,000 people have already lost their lives to AIDS or AIDS-related illnesses, with another 24,000,000 living with AIDS, according to the World Health Organization and Joint United Nations Program on HIV/AIDS;

(3) in many countries in the region, life expectancy will drop by 50 percent over the next decade;
Whereas the United States has joined the international community in addressing the AIDS pandemic and related illnesses; and

Whereas in today’s globalized environment, goods, services, people—and disease—are moving at the fastest pace in world history;

Whereas we cannot insulate our citizenry from the global AIDS pandemic and related opportunistic disease, and we must provide leadership if we are to reverse global infection rates;

Whereas the AIDS pandemic is perhaps the most serious and challenging transnational issue facing the world in the post-Cold War era;

Whereas the AIDS pandemic is decimating local skilled workforces, straining fragile governments, diverting national resources, and undermining states’ ability to provide for their national defense or international peacekeeping forces.

Whereas United Nations Secretary General, Kofi Annan, asserts that between $7,000,000,000 and $10,000,000,000 is needed annually to address the AIDS pandemic, yet current international assistance efforts total roughly a little more than $1,000,000,000 per annum;

Whereas the United States has joined the call from the United Nations Secretary General, Kofi Annan, and others in support of a global fund to assist national governments, international organizations, and nongovernmental organizations in the prevention, care, and treatment of AIDS and AIDS-related illnesses; and

Whereas the United Nations Special Session on AIDS, taking place in June 2001, and the Group of Eight Industrialized Nations meeting in July 2001, are key opportunities for more states, governments, international organizations, the private sector, and civil society to donate assistance to the global fund: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the tragedy of the AIDS pandemic in human terms, as well as its devastating impact on national economies, infrastructures, political systems, and all sectors of society;

(2) strongly supports the formation of a Global AIDS and Health Fund;

(3) calls for the United States to remain open to providing greater sums of money to the global fund as other donors join in supporting this endeavor;

(4) calls on other nations, international organizations, foundations, the private sector, and civil society to join in providing assistance to the global fund;

(5) urges all national leaders in every part of the world to go beyond to their people about how to avoid contracting or transmitting the HIV virus;

(6) calls for the United States to continue to invest heavily in AIDS treatment, prevention, and research;

(7) urges international assistance programs to continue to emphasize science-based best practices and prevention in the context of a comprehensive program of care and treatment;

(8) encourages international health care infrastructures to better prepare themselves for the successful provision of AIDS care and treatment, including the administration of AIDS drugs;

(9) urges the Administration of President George W. Bush to encourage participants at the United Nations General Assembly Special Session on AIDS in June, and the Group of Eight Industrialized Nations meeting in July, to contribute to the global fund; and

(10) calls for United States representatives at the United Nations General Assembly on Industrialized Nations meeting to emphasize the need to maintain focus on science-based best practices and prevention in the context of a comprehensive program of care and treatment, combating mother-to-child transmission of the HIV virus, defeating opportunistic infections, and improving infrastructure and environments where treatment medicines are available, and seek additional resources to support the millions of AIDS orphans worldwide.

S. RES. 121—ORGANIZATION OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to—

S. Res. 120

Resolved, That the Majority Party of the Senate for the 107th Congress shall have a one seat majority on every committee of the Senate, except that the Select Committee on Ethics shall continue to be composed equally.

SEC. 2 Notwithstanding the provisions of Rule XXV the Majority and Minority Leaders of the Senate are hereby authorized to appoint their respective committees consistent with this resolution.

SEC. 3 Subject to the authority of the Standing Rules of the Senate, any agreements entered into regarding committee funding and space prior to June 5, 2001, between the Chairman and Ranking member of each committee shall remain in effect, unless modified by subsequent agreement between the Chairman and Ranking member.

SEC. 4 The provisions of this resolution shall cease to be effective, except for Sec. 3, if the ratio in the full Senate on the date of adoption of this resolution changes.

S. RESOLUTION 121—EX-PRESSING THE SENSE OF THE SENATE REGARDING THE POLICY OF THE UNITED STATES AT THE 53RD ANNUAL MEETING OF THE INTERNATIONAL WHALING COMMISSION

Mr. KERRY (for himself, Ms. SNOWE, Mr. HOLLINGS, Mr. MCCAIN, Mr. BIDEN, Mr. SARBANES, Mrs. BOXER, Mr. KENNY, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 121

Whereas whales have very low reproductive rates, making whale populations extremely vulnerable to pressure from commercial whaling;

Whereas whales migrate throughout the world’s oceans and international cooperation is required to successfully conserve and protect whale stocks;

Whereas in 1946 the nations of the world adopted the International Convention for the Regulation of Whaling, which established the International Whaling Commission to provide for the proper conservation of the whale stocks;

Whereas the Commission adopted a moratorium on commercial whaling in 1982 in order to conserve and promote the recovery of the whale stocks;

Whereas the Commission has designated the Antarctic Ocean and the ocean waters around Antarctica as whale sanctuaries to further enhance the recovery of whale stocks;

Whereas many nations of the world have designated waters under their jurisdiction as whale sanctuaries where commercial whaling is prohibited, and additional regional whale sanctuaries have been established by nations that are members of the Commission;

Whereas several member nations of the Commission have taken reservations to the Commission’s moratorium on commercial whaling and 1 member nation is currently conducting commercial whaling operations in spite of the moratorium and the protests of other nations;

Whereas the Commission has adopted several resolutions at recent meetings asking member nations to abandon plans to initiate or continue commercial whaling activities conducted under reservation to the moratorium;

Whereas another member nation of the Commission has taken a reservation to the Commission’s Southern Ocean Sanctuary and continues to conduct unnecessary lethal scientific whaling in the waters of that sanctuary;

Whereas the Commission’s Scientific Committee has repeatedly expressed serious concerns about the scientific need for such lethal whaling;

Whereas scientific information on whales can readily be obtained through non-lethal means;

Whereas the lethal take of whales under reservations to the Commission’s policies have been increasing annually;

Whereas there continue to be indications that whale meat is being traded on the international market despite a ban on such trade under the Convention on International Trade in Endangered Species (CITES), and that meat may be originating in one of the member nations of the Commission;

Whereas engaging in unauthorized commercial whaling and lethal scientific whaling undermines the conservation program of the Commission; Now, therefore, be it,

Resolved, That it is the sense of the Senate that—

(1) at the 53rd Annual Meeting the International Whaling Commission the United States should—

(A) remain firmly opposed to commercial whaling;

(B) initiate and support efforts to ensure that all activities conducted under reservations to the Commission’s moratorium or sanctuaries are ceased;

(C) oppose the lethal taking of whales for scientific purposes unless such lethal taking

(2) calls on other nations to remain open to providing greater sums of money to the Commission as other donors join in supporting this endeavor;

(3) calls on nations to support the formation of a Global Whaling Fund;

(4) calls for the United States to remain open to providing greater sums of money to the global fund as other donors join in supporting this endeavor;

(5) urges all national leaders in every part of the world to go beyond to their people about how to avoid contracting or transmitting the HIV virus;

(6) calls for the United States to continue to invest heavily in AIDS treatment, prevention, and research;

(7) urges international assistance programs to continue to emphasize science-based best practices and prevention in the context of a comprehensive program of care and treatment;

(8) encourages international health care infrastructures to better prepare themselves for the successful provision of AIDS care and treatment, including the administration of AIDS drugs;

(9) urges the Administration of President George W. Bush to encourage participants at the United Nations General Assembly Special Session on AIDS in June, and the Group of Eight Industrialized Nations meeting in July, to contribute to the global fund; and

(10) calls for United States representatives at the United Nations General Assembly on Industrialized Nations meeting to emphasize the need to maintain focus on science-based best practices and prevention in the context of a comprehensive program of care and treatment, combating mother-to-child transmission of the HIV virus, defeating opportunistic infections, and improving infrastructure and environments where treatment medicines are available, and seek additional resources to support the millions of AIDS orphans worldwide.

(3) resolutions to the Commission’s moratorium or sanctuaries are ceased;

(4) calls on nations to support the formation of a Global Whaling Fund;

(5) calls for the United States to remain open to providing greater sums of money to the global fund as other donors join in supporting this endeavor;

(6) urges all national leaders in every part of the world to go beyond to their people about how to avoid contracting or transmitting the HIV virus;
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is specifically authorized by the Scientific Committee; and
(D) seek the Commission’s support for speci-
cific efforts by member nations to end illegal
trade in whale meat; and
(E) support the permanent protection of
whale populations through the establish-
ment of whale sanctuaries in which commer-
cial whaling is prohibited;
(2) at the 12th Conference of the Parties to
the Convention on International Trade in
Endangered Species, the United States should
oppose all efforts to reopen inter-
national trade in whale meat or downlist any
whale population; and
(3) the United States should make full use
of all appropriate diplomatic mechanisms, re-
levant international laws and agreements, and
other appropriate mechanisms to imple-
ment the goals set forth in paragraphs (1) and
(2).

Mr. KERRY. Mr. President, as Chair-
man of the Oceans and Fisheries Sub-
committee, I rise today to submit a res-
olution regarding the policy of the
United States at the upcoming 53rd An-
nual Meeting of the International Whaling
Commission, IWC. I wish to thank the Ranking Member of the
committee, Ms. SNOWE, for co-spon-
soring this resolution. I wish to also
thank my colleagues Mr. HOLLINGS, Mr.
McCAIN, Mr. BIDEN, Mrs. BOXER, Mr.
SARBANES, Mr. KENNEDY and Mr. FEIN-
GOLD for co-sponsoring as well.

The IWC will meet in London from
July 23-27th. Despite an IWC morato-
rium on commercial whaling since 1985,
Japan and Norway have harvested over
1000 minke whales since the morato-
rium was put in place. Whales are al-
ready under enormous pressure world
wide from collisions with ships, entan-
glement in fishing gear, coastal pollu-
tion, noise emanating from surface ves-
sels and other sources. The need to con-
serve and protect these magnificent
mammals is clear.

The IWC was formed in 1946 in rec-
ognition of the fact that whales are
highly migratory and that they do not
belong to any one Nation. In 1982, the
IWC agreed on an indefinite morato-
rium on all commercial whaling begin-
ning in 1985. Unfortunately, Japan has
been using a loophole that allows coun-
tries to issue themselves special per-
mits for whaling under scientific pur-
poses. The IWC Scientific Committee
has not requested any of the informa-
tion obtained by killing these whales
and has stated that Japan’s scientific
whaling data is not required for man-
agement. Norway, on the other hand,
objects to the moratorium on whaling and
openly pursues a commercial fish-
ery for whales.

This resolution calls for the U.S. del-
egation to the IWC to remain firmly
opposed to commercial whaling. In ad-
dition, this resolution calls for the U.S.
 to oppose the lethal taking of whales for
scientific purposes unless such le-
thal taking is specifically authorized by
the Scientific Committee of the
Commission. The resolution calls for
the U.S. delegation to support an end

to the illegal trade of whale meat and
to support the permanent protection of
whale populations through the estab-
lishment of whale sanctuaries in which
commercial whaling is prohibited.

I ask unanimous consent to insert
into the RECORD a statement from the
World Wildlife Fund, WWF, concerning
the upcoming meeting of the IWC and
the protection of whales.

There being no objection, the ma-
terial was ordered to be printed in the
RECORD, as follows:

STATEMENT OF WORLD WILDLIFE FUND

Today, populations of nearly all the
whales are at depressed levels, a legacy
of unsustainable whaling during the last
two centuries. Some, such as the North
Atlantic right and Antarctic blue whales,
survive as a few hundred, individuals at the brink of ex-
tinction, having failed to rebound from past
exploitation. Others are believed to be
returning to healthy levels. While direct
human impacts are clearly the greatest,
other more diffuse threats may ultimately
exact a greater toll. Rapid climate warming
in the next few decades is expected to disrupt
whale migration, and could reduce
whaling support. And accumulation of DDT,
PCBs, and other toxic contaminants in the
marine food chain is already affecting some
whales and may en-
danger their future reproduc-
tion. Such broad-based threats to the
environment are difficult to address in
ways that will alleviate harm to whales
specifically, and make it all the more impor-
tant that whales are not also threatened by
uncontrolled commercial whaling.

The International Whaling Commission,
IWC, was formed at the 1946 Inter-
national Convention for the Regulation
of Whaling, and is the sole international regu-
latory body charged with the management of
cetaceans. International regulation of whal-
ing was recognized by the UN Convention
on the Law of the Sea, and reaffirmed by Agen-
da 21 as essential for these highly migratory
species.

Despite the global moratorium on
commercial whaling put in place by the IWC in 1986,
over 1000 Northern and Southern minke
whales are harvested each year. Within the IWC, Japan continues to catch
hundreds of whales (many in the Southern
Ocean which is designated as an IWC
whale sanctuary) using a loophole for scientific re-
search, while Norway pursues an openly
commercial hunt under a legal “objection”
to the moratorium. For over a decade, both
countries have proceeded without IWC ap-
proval and instead in the face of repeated cens-
sure by the Commission. Norway is currently
moving to re-open international trade in
whale products despite a ban under CITES.
Japan and Just has extensively its scientific
whaling to include sperm and Bryde’s whales
in addition to the two species of minke.

Japan and Norway’s insistence on hunting
whales despite the moratorium has brought
IWC to a dangerous impasse. No sound man-
gerane scheme currently exists to ensure
the sustainability of whaling, although a Re-
vised Management Scheme, RMS, that could
help to do so has been under discussion in
the IWC for several years.

Japan and Norway have long said they
viewed completion of the RMS as a turning
point in their efforts to lift the whaling mor-
atatorium, and both countries have harshly
criticized the IWC’s approach to the
RMS. In recent IWC talks, however, the
great majority of countries present
sought to include crucial safeguards on the
Convention and conditions on the
RMS. They did so over the strengths and re-
peated objections of Japan and Norway, who
seemed unwilling to agree to safeguards that
would ensure that commercial whaling does not
threaten whale populations.

In addition, Japan and Norway are sup-
ported in the IWC by the votes of a loyal
group of countries, small is-
land states that receive significant assist-
ance from Japan. This gives the whalers a
blocking minority of votes and has exacer-
bated the IWC’s deadlocks.

Because a tiny minority of countries in
the IWC refuses to cease commercial whaling, it
is imperative that new safeguards (including
highly precautionary catch limits and provi-
sions on monitoring, surveillance, and con-
trol such as DNA sampling of all whales
cought, a diagnostic DNA register, and sanc-
tions for non-compliance) be agreed that will
contain their activities and bring them back
under full IWC control at the earliest pos-
sible date. An RMS could advance this goal by
containing rigorous safeguards, including
a Revised Management Plan that sets all catch limits at zero unless oth-
wise calculated and approved. Such an RMS would replace the now obsolete
1974 management scheme.

The IWC 53rd Conference of Parties meets
this year. The Hammersmith meeting must
make progress in resolving the impasse
in the IWC, bringing whaling by Norway and
Japan under international control as a mat-
ter of urgency, and ensuring that any discus-
sion on the RMS incorporate rigorous safe-
guards to rein in current and potential whal-
ing abuses.

The IWC’s mandate requires first and fore-
most that it prevent the return of uncon-
trolled large-scale commercial whaling. This
is the near-term agenda by which it will be
judged and is currently the main contribu-
tion it has to offer conservation of cetaceans
more broadly. For the IWC to remain rel-
evant over the long term, however, it must
expand its scope of engagement to address
the other human activities which threaten
whales and focus action on ensuring the sur-
vi
l
 Of the most endangered species.

Ms. SNOWE, Mr. President, the reso-
lution that Senator KERRY and I are
submitting is very timely and impor-
tant. As we work here in the Senate
today, representatives of nations from
around the globe are preparing for the
53rd Annual Meeting of the Inter-
national Whaling Commission to be
held in London July 23-27, 2001. At this
meeting, the IWC will determine the
fate of the world’s whales through con-
sideration of proposals to end the cur-
cent global moratorium on commercial
whaling. The adoption of any such pro-
posals by the IWC would mark a major
setback in whale conservation. It is
imperative that the United States remain
opposed to any proposal to resume commer-
cial whaling and that we, as a nation, continue to speak
out passionately against this practice.

It is also time to close one of the
loopholes used by nations to continue
whaling without regard to the morato-
rium or established whale sanctuaries.
The practice of unnecessary lethal sci-
entific whaling is outdated and the
value of the data of such research has

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been called into question by an international array of scientists who study the same population dynamics questions raised by whaling in the name of science. This same whale meat is then processed and sold in the marketplace. These sentiments have been echoed by the Scientific Committee of the IWC which has repeatedly passed resolutions calling for the cessation of lethal scientific whaling, particularly that occurring in designated whale sanctuaries. They have offered to work with all interested parties to design research protocols that will not require scientists to harm or kill whales.

Last year, Japan expanded their scientific whaling program over the IWC’s objections. The resolution that we are offering expresses the sense of the Senate to the IWC that as long as whales continue to remain firmly opposed to any resumption of commercial whaling and oppose, at the upcoming IWC meeting, the non-necessary lethal taking of whales for scientific purposes.

Commercial whaling has been prohibited for many species for more than sixty years. In 1982, the continued decline of commercially targeted stocks led the IWC to declare a global moratorium on all commercial whaling which went into effect in 1986. The United States was a leader in the effort to establish the moratorium, and since then we have consistently provided a strong voice against commercial whaling and have worked to uphold the moratorium. This resolution reaffirms the United States’ strong support for a ban on commercial whaling at a time when our negotiations at the IWC must need that support. Norway, Japan, and other countries have made it clear that they intend to push for the elimination of the moratorium, and for a return to the days when whales were treated as commodities.

The resolution would reiterate the U.S. objection to activities being conducted under reservations to the IWC’s moratorium. The resolution would also oppose all efforts made at the Convention on International Trade in Endangered Species, CITES, to reopen international trade in whale meat or to downlist any whale population. In addition, the Senate resolution should note that the United States has established whale sanctuaries that would prevent whaling in specified areas even if the moratorium were to be lifted. Despite these efforts to give whale stocks a chance to rebuild, the number of whales harvested has increased in recent years, tripling since the implementation of the global moratorium in 1986. This is a dangerous trend that does not show signs of stopping.

Domestically, we work very hard to protect whales in U.S. waters, particularly those considered threatened or endangered. Our own laws and regulations are designed to give whales one of the highest standards of protection in the world, and as a result, our own citizens are subject to rules designed to protect against even the accidental taking of whales. Commercial whaling is, of course, strictly prohibited. Given what is asked of our citizens to protect against even accidental injury to whales here in the United States it would be grossly unfair if we retreated in any way from our position opposing commercial, intentional whaling by other countries. Whales migrate throughout the world’s oceans, and as we protect whales in our own waters, so should we act to protect them internationally.

Whales are among the most intelligent animals on Earth, and they play an important role in the marine ecosystem. Yet, there is still much about them that we do not know. Resuming the intentional harvest of whales is irresponsible, and it could have ecological consequences that we cannot prevent. Furthermore, in some cases the threat to even consider easing conservation measures.

The right policy is to protect whales across the globe, and to oppose the resumption of commercial whaling. I urge my colleagues to support swift passage of this resolution.

SENATE RESOLUTION 122—RELATING TO THE TRANSFER OF SLOBODAN MILOSEVIC TO THE INTERNATIONAL CRIMINAL TRIBUNAL FOR YUGOSLAVIA, AND FOR OTHER PURPOSES

Mr. MCCONNELL (for himself and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 122

Whereas Slobodan Milosevic has been transferred to the International Criminal Tribunal for Yugoslavia to face charges of crimes against humanity; Whereas the transfer of Slobodan Milosevic and other indicted war criminals is a triumph of international justice and the rule of law in Serbia; Whereas corruption and warfare under the Milosevic regime caused Yugoslavia extensive economic damage, including an estimated $29,400,000,000 in lost output and a foreign debt that exceeds $12,200,000,000; and Whereas democrats and reformers in the Federal Republic of Yugoslavia deserve the support and encouragement of the United States; Now, therefore, be it

Resolved, That (a) the Senate hereby—

(1) recognizes the courage of Serbian democrats, in particular, Serbian Prime Minister Zoran Djindjic, in facilitating the transfer of Slobodan Milosevic to the International Criminal Tribunal; and

(2) calls for the continued transfer of indicted war criminals to the International Criminal Tribunal for Yugoslavia and the release of all political prisoners held in Serbian prisons.

(b) It is the sense of the Senate that the United States should remain committed to supporting efforts to support the success of economic, political, and legal reforms in the Federal Republic of Yugoslavia.

Mr. MCCONNELL. Mr. President, Senator LEAHY and I welcome the news that the transfer yesterday of Slobodan Milosevic and other indicted war criminals to the International Criminal Tribunal for Yugoslavia, ICTY. Last year, we worked to include language in the fiscal year 2001 Foreign Operations Appropriations bill to condition assistance to Serbia on, among other things, full cooperation by the President that the government is cooperating with the ICTY on the ‘‘surrender and transfer’’ of war criminals to The Hague.

While our efforts to secure justice for the victims of Milosevic’s atrocities through Section 504 of P.L. 106–429 contributed to dramatic events in early April, when Milosevic was first arrested and, again yesterday, the real credit for facilitating the transfer belongs to economic reconstruction in Serbia, in particular Prime Minister Zoran Djindjic. I am pleased that they recognize the importance of forward progress on the issue of war crimes, and I think it bodes well for the country’s overall prospects for successful economic, political, and legal reforms.

The resolution we submit today recognizes the courage of Serbian democrats and reaffirms our commitment to providing U.S. foreign assistance to support much needed reforms in the Federal Republic of Yugoslavia (FRY). We hope that Prime Minister Djindjic, and other reformers, continue to demonstrate courageous leadership, such as they did yesterday. Other indicted war criminals should be transferred to The Hague and all political prisoners in Serbian jails should be immediately released.

There is no victory sweeter than justice. It is now up to the ICTY to deliver justice to the victims and the survivors of atrocities committed in Kosovo, Bosnia, and Croatia.

Mr. LEAHY. Mr. President, last year, when Senator MCCONNELL and I included language in the fiscal year 2001 Foreign Operations bill to condition United States assistance to Serbia on the Federal Republic of Yugoslavia’s cooperation with the War Crimes Tribunal, we could not predict what the effect of our provision would be. While we both wanted to support democracy and economic reconstruction in Serbia, we also felt strongly that if Serbia’s leaders wanted our assistance they should fulfill their international responsibility to apprehend and surrender indicted war criminals to The Hague.

I am very grateful for the way Senator MCCONNELL and his staff have worked closely with me and my staff on this. It has been a classic case of how conditioning our assistance and our cooperation to the administration, can achieve a result that significantly advances the cause of international justice. Milosevic’s transfer to the War Crimes Tribunal should bring
hope to millions of people throughout the former Yugoslavia.

Above all, as Senator MCCONNELL has already noted, we should congratulate Prime Minister Djindjic and other Serb leaders who have risked their lives and their careers for their country’s future. It is a legacy that few people in history can claim. Those who have criticized Prime Minister Djindjic for surrendering Milosevic should be aware that for the United States there is no alternative. We will not support a Serb Government that does not cooperate with the War Crimes Tribunal. We expect the apprehension and transfer to The Hague of the other publicly indicted war criminals who remain at large in Serb territory, and the release of the remaining political prisoners in Serbia’s jails.

I also want to recognize the Serb people who suffered terribly under Milosevic’s disastrous policies, and who increasingly saw that in order to rebuild their country and establish democracy and the rule of law on a solid footing, it was necessary to bring to justice the people who devastated the former Yugoslavia in their names. We submit this resolution on their behalf, and on behalf of Milosevic’s other victims, dead and alive, in Kosovo, Bosnia, and Croatia.

SENATE RESOLUTION 123—AMENDING THE STANDING RULES OF THE SENATE TO CHANGE THE NAME OF THE COMMITTEE ON SMALL BUSINESS TO THE “COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP”

Mr. KERRY (for himself and Mr. BOND) submitted the following resolution; which was considered and agreed to:

Resolved, That the Standing Rules of the Senate are amended—

(1) by striking “Business, to and inserting “Business and Entrepreneurship, to”; and

(2) by inserting “and Entrepreneurship” after “Committee on Small Business” each place that term appears;

(3) in paragraph (3)(a) of rule XXV, by inserting “and Entrepreneurship” after “Committee on Small Business”; and

(4) by deleting “and Entrepreneurship” after “Committee on Small Business” each place that term appears.

SENATE CONCURRENT RESOLUTION 57—RECOGNIZING THE HEBREW IMMIGRANT AID SOCIETY

Mr. KENNEDY (for himself and Mr. BROWNBACK) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

Whereas the United States has always been a country of immigrants and was built on

the hard work and dedication of generations of those immigrants who have gathered on our shores;

Whereas, over the past 120 years, the Hebrew Immigrant Aid Society (HIAS), the oldest international migration and refugee resettlement agency of the United States, has assisted more than 4,500,000 migrants of all faiths to immigrate to the United States, Israel, and other safe havens around the world;

Whereas, since the 1970s, HIAS has resettled more than 400,000 refugees from more than 50 countries and has provided high quality resettlement services through a network of local Jewish community social service agencies;

Whereas HIAS has helped bring to the United States such outstanding individuals as former Secretary of State Henry Kissinger, artist Marc Chagall, Olympic gold medalist Lenny Kravitz, poet and Nobel Laureate Joseph Brodsky, and author and restaurateur George Lang;

Whereas HIAS has assisted with United States refugee programs, often through joint voluntary agency, providing refugee processing, cultural orientation, and other services in Moscow, Vienna, Kiev, Tel Aviv, Rome, and Geneva;

Whereas through publications, public meetings, and radio and television broadcasts, HIAS is a crucial provider of information, counseling, legal assistance, and other services, including outreach programs for the Russian-speaking immigrant communities, to immigrants and asylum seekers in the United States;

Whereas HIAS plays a vital role in serving the needs of refugees, immigrants, and asylum seekers, and continues to work in areas of conflict and instability, seeking to rescue those who are fleeing from danger and persecution;

Whereas on September 9, 2001, HIAS will celebrate the 120th anniversary of its founding; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) Congress—

(1) recognizes the Hebrew Immigrant Aid Society (HIAS), and the immigrants and refugees that HIAS has served, for the contributions they have made to the United States; and

(2) congratulates HIAS on the 120th anniversary of its founding;

(b) It is the sense of Congress that the President should issue a proclamation recognizing September 9, 2001, as the 120th anniversary of the founding of the Hebrew Immigrant Aid Society, and calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate appreciation for the contributions made by HIAS to the United States.

Mr. KENNEDY. Mr. President, I am proud to submit a resolution honoring the 120th anniversary of the founding of the Hebrew Immigrant Aid Society. During its distinguished history, the Society has helped more than 4,5 million immigrants of all faiths who have come to the United States, Israel, and other safe havens around the world. Since 1970, the Society has assisted more than 400,000 refugees from more than 50 countries in resettling in the United States, and these individuals have provided indispensable contributions to this country.

I also commend the Hebrew Immigrant Aid Society for its continuing efforts to remind this country of the importance of a wise policy on refugees. As refugees continue to arrive from every corner of the world, the Society has helped ensure that the United States has an effective and humane response to each human tragedy. By maintaining a vigorous refugee resettlement program, we set an example for other nations to follow.

The Hebrew Immigrant Aid Society continues to have a vital role in serving the needs of refugees, immigrants, and asylum seekers. Our country owes it an enormous debt of gratitude, and I urge the Senate to agree to this well-deserved tribute.

SENATE CONCURRENT RESOLUTION 58—EXPRESSING SUPPORT FOR THE TENTH ANNUAL MEETING OF THE ASIA PACIFIC PARLIAMENTARY FORUM

Mr. AKAKA (for himself and Mr. INOUYE) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

Resolved by the Senate (the House of Representatives concurring), That

(a) in recognition of the Asia Pacific Parliamentary Forum established by former Japanese Prime Minister Yasuhiro Nakasone in 1993, the Tokyo Declaration, signed by 59 parliamentarians from 15 countries, entered into force as the founding charter of the forum on January 14 and 15, 1993, establishing the basic structure of the forum as an inter-parliamentary organization;

(b) the forum, originally 15 members, one of which was the United States, has increased to 27 member countries;

(c) the forum serves to provide regional identification and cooperation through discussion of matters of common concern to all member states and serves, to a great extent, as the legislative arm of the Asia-Pacific Economic Cooperation;

(d) the forum lies in resolving political, economic, environmental, security, law and order, human rights, education, and cultural issues;

(e) the forum will hold its tenth annual meeting on January 6 through 9, 2002, which will be the first meeting of the forum hosted by the United States;

(f) approximately 270 parliamentarians from 27 countries in the Asia Pacific region will attend this meeting;

(g) the Secretariat of the meeting will be the Center for Cultural and Technical Exchange Between East and West in Honolulu, Hawaii;

(h) the East-West Center is an internationally recognized education and research organization established by the United States Congress in 1960 largely through the efforts of the Eisenhower administration and the Congress;

(i) the mission of the East-West Center is to strengthen understanding and relations between the United States and the Asia Pacific region and to help promote the establishment of a stable, peaceful and prosperous Asia Pacific community in which the United States is a natural, valued and leading partner;

(j) whereas it is the agenda of this meeting to advance democracy, peace, and prosperity in the Asia Pacific region;

(k) therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—
well the spirit of Aloha.

leaders on both sides of the Pacific for

including human rights, security, law,

in these countries to hear and ex-

provide an opportunity for legislators

Costa Rica, Mongolia, the Philippines,

tralia, Canada, Chile, China, Russia,

annual meeting will be hosted by the

Chile sponsored the ninth annual meet-

heads of state meeting of the Asia Pa-

of this organization which was created

founders. Our former colleague, Sen-

of the United States is one of the original

ment of the Asia Pacific Para-

The Pacific Parliamentary Forum consists of 27 countries of which

Participating countries include Aus-

invites my colleagues to attend next

year's early January meeting in Ha-

The first meeting was held in Singa-

in Singapore in 1991, and, earlier this year,

in Hawaiian. The Center for Cultural and Technical Exchange

Between East and West, better known as the East West Center, will provide

the Secretariat for the meeting which is expected to attract approximately

270 parliamentarians from countries in the

Asia-Pacific region.

Participating countries include Aus-

tralia, Canada, Chile, China, Russia,

Mexico, South Korea, Peru, Ecuador,

Costa Rica, Mongolia, the Philippines,

New Zealand. Discussions and de-

bates are frank and open. The meetings provide an opportunity for legislators

in these countries to hear and ex-

change views on a diversity of topics

including human rights, security, law,

the economy, and the environment.

I invite my colleagues to attend next

year's early January meeting in Ha-

waii. It is an occasion to meet with

leaders on both sides of the Pacific for

frank discussions and to experience as

well the spirit of Aloha.

AMENDMENTS SUBMITTED AND

PROPOSED

SA 850. Mr. NICKLES proposed an amendment

to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

SA 851. Mr. CRAIG proposed an amendment

to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage, as follows:

At the appropriate place insert the fol-

lowing:

SEC. . SENSE OF THE SENATE REGARDING FULL

AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) FINDINGS.—The Senate finds:

(1) Medical savings accounts eliminate bu-

reacracy and put patients in control of

their health care decisions.

(2) Medical savings accounts extend cov-

erage to the uninsured. According to the

Treasury Department, one-third of MSA pur-

chasers previously had no health care cov-

erage.

(3) The medical savings account demo-

stration program has been hampered with

restrictions that put medical savings ac-

counts out of reach for millions of Ameri-

cans.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that a patients' bill of rights should remove the restrictions on the pri-

vate-sector medical savings account dem-

stration program to make medical savings accounts available to more Americans.

SA 852. Mr. REID proposed an amendment

to the bill S. 1052, to amend the Public Health Service Act and the Em-

ployee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 154, between lines 2 and 3, insert the fol-

lowing:

(II) LIMITATION ON AWARD OF ATTORNEYS' FEES.—

(A) IN GENERAL.—Subject to subparagraph (B), with respect to a participant or bene-

ficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that ac-

tion, the amount of attorneys' contingency fees that a court may award to such partici-

pant or beneficiary, or any arrangement, or any arrangement, (or any arrangement, (or any arrangement, or any arrangement, (or any arrangement, or any arrangement, (or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any arrangement, or any 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SA 853. Mr. THOMPSON proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 170, between lines 21 and 22, insert the following:

"(9) DAMAGES OPTIONS.—In addition to plans or coverage that are subject to this Act, a plan or issuer may offer, and a participant or beneficiary may accept, a plan or coverage that provides for one or more of the following remedies, in which case the damages authorized by this section shall not apply:

"(i) Equitable relief as provided for in subsections (a)(1)(B).

"(ii) Unlimited economic damages, including reasonable attorneys fees.

"(B) PROTECTION OF THE REGULATION OF QUALITY OF MEDICAL CARE UNDER STATE LAW.—Nothing in this paragraph shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A claim that is based on or otherwise relates to a group health plan's administration or determination of a claim for benefits (notwithstanding the definition contained in paragraph (2)) shall not be deemed to be the delivery of medical care under any State law for purposes of this section. A health claim shall be maintained exclusively under this section."

On page 170, between lines 21 and 22, insert the following:

"(9) DAMAGES OPTIONS.—

"(A) IN GENERAL.—In addition to plans or coverage that are subject to this Act, a plan or issuer may offer, and a participant or beneficiary may accept, a plan or coverage that provides for one or more of the following remedies, in which case the damages authorized by this section shall not apply:

"(i) Equitable relief as provided for in subsections (a)(1)(B).

"(ii) Unlimited economic damages, including reasonable attorneys fees.

"(B) PROTECTION OF THE REGULATION OF QUALITY OF MEDICAL CARE UNDER STATE LAW.—Nothing in this paragraph shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A claim that is based on or otherwise relates to a group health plan's administration or determination of a claim for benefits (notwithstanding the definition contained in section 502(n)(2)) shall not be deemed to be the delivery of medical care under any State law for purposes of this section. Any such claim shall be maintained exclusively under section 502.

SA 855. Mr. CARPER proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 153, strike line 9 and all that follows through page 154, line 2, and insert the following:

"(10) STATUTORY DAMAGES.—The remedies set forth in this subsection shall be the exclusive remedies for any cause of action brought under this Act. Such remedies shall include economic and noneconomic damages, but shall not include any punitive damages.

SA 856. Mr. FRIST (for himself and Mr. BREAUX) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Patients' Bill of Rights Act of 2001."

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 101—Patients' Bill of Rights.
Sec. 102—Right to Advice and Care.
Sec. 103—Patient access to obstetric and gynecological care.
Sec. 104—Access to pediatric care.
Sec. 105—Timely access to specialists.
Sec. 106—Continuity of care.
Sec. 107—Protection of patient-provider communications.
Sec. 108—Patients' right to prescription drugs.
Sec. 109—Coverage for individuals participating in approved clinical trials.
Sec. 110—Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.
Sec. 111—Prohibition of discrimination against providers based on licensure.
Sec. 112—Generally applicable provision.
Sec. 113—Right to Information About Bankruptcy and Foreclosures.
Sec. 114—Health plan information.
Sec. 115—Information about providers.
Sec. 116—Study on the effect of physician compensation methods.
Sec. 117—Right to Hold Health Plans Accountable.
Sec. 119—Enforcement.
Sec. 120—D—Remedies.
Sec. 121—Availability of court remedies.
Sec. 122—State Flexibility.
Sec. 123—Preemption; State flexibility; construction.

Sec. 132—Coverage of limited scope dental plans.

Title II—Miscellaneous Provisions

Sec. 161—Definitions.

Title II—Amendments to the Public Health Service Act

Sec. 201—Application to certain health insurance coverage.

Sec. 202—Application to individual health insurance coverage.

Sec. 203—Limitation on authority of the Secretary of Health and Human Services with respect to non-Federal governmental plans.

Sec. 204—Cooperation between Federal and State authorities.

Title III—Amendments to the Employee Retirement Income Security Act of 1974

Sec. 301—Application of patient protection standards to group health plans and group health insurance coverage.

Sec. 302—Cooperation between Federal and State authorities.

Title IV—Amendments to the Internal Revenue Code of 1986

Sec. 401—Application to group health plans under the Internal Revenue Code of 1986.

Sec. 402—Conforming enforcement for women's health and cancer rights.

Title V—Effectiveness Date

Sec. 501—Effective date and related rules.

Sec. 502—Severability.

Sec. 503—Annual review.

Title I—Patients' Bill of Rights

Subtitle A—Right to Advice and Care

Sec. 101—Access to emergency medical care.

Sec. 102—Offering of choice of coverage options.

Sec. 103—Patient access to obstetric and gynecological care.

Sec. 104—Access to pediatric care.

Sec. 105—Timely access to specialists.

Sec. 106—Continuity of care.

Sec. 107—Protection of patient-provider communications.

Sec. 108—Patients' right to prescription drugs.

Sec. 109—Coverage for individuals participating in approved clinical trials.

Sec. 110—Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.

Sec. 111—Prohibition of discrimination against providers based on licensure.

Sec. 112—Generally applicable provision.

Subtitle B—Right to Information About Bankruptcy and Foreclosures

Sec. 121—Health plan information.

Sec. 122—Information about providers.

Sec. 123—Study on the effect of physician compensation methods.

Subtitle C—Right to Hold Health Plans Accountable


Sec. 132—Enforcement.

Subtitle D—Remedies

Sec. 141—Availability of court remedies.

Subtitle E—State Flexibility

Sec. 151—Preemption; State flexibility; construction.

Sec. 152—Coverage of limited scope dental plans.

Subtitle F—Miscellaneous Provisions

Sec. 161—Definitions.

Subtitle II—Amendments to the Public Health Service Act

Sec. 201—Application to certain health insurance coverage.

Sec. 202—Application to individual health insurance coverage.

Sec. 203—Limitation on authority of the Secretary of Health and Human Services with respect to non-Federal governmental plans.

Sec. 204—Cooperation between Federal and State authorities.

Subtitle III—Amendments to the Employee Retirement Income Security Act of 1974

Sec. 301—Application of patient protection standards to group health plans and group health insurance coverage.

Sec. 302—Cooperation between Federal and State authorities.

Subtitle IV—Amendments to the Internal Revenue Code of 1986

Sec. 401—Application to group health plans under the Internal Revenue Code of 1986.

Sec. 402—Conforming enforcement for women's health and cancer rights.

Subtitle V—Effectiveness Date

Sec. 501—Effective date and related rules.

Sec. 502—Severability.

Sec. 503—Annual review.
(1) IN GENERAL.—In the case of medically necessary and appropriate items or services related to the emergency medical condition that may be provided to a participant, beneficiary, or enrollee by a nonparticipating provider after the participant, beneficiary, or enrollee is stabilized, the nonparticipating provider shall contact the plan or issuer as soon as practicable, but not later than 1 hour after stabilization occurs, with respect to whether—

(A) the provision of items or services is approved;

(B) the participant, beneficiary, or enrollee will be transferred; or

(C) other arrangements will be made concerning the care and treatment of the participant, beneficiary, or enrollee.

(2) FAILURE TO RESPOND AND MAKE ARRANGEMENTS.—If a group health plan, and a health insurance issuer that offers health insurance coverage, fails to respond and make arrangements within 1 hour of being contacted in accordance with paragraph (1), then the plan or issuer shall be responsible for the cost of any additional items or services furnished to or by the nonparticipating provider if—

(A) coverage for items or services of the type furnished by the nonparticipating provider is available under the plan or coverage;

(B) the items or services are medically necessary and appropriate and related to the emergency medical condition involved; and

(C) the timely provision of the items or services is medically necessary and appropriate.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a group health plan, and a health insurance issuer that offers health insurance coverage, to provide reimbursement to a nonparticipating provider under this section.

(b) AUTHORITY.—The authority of a group health plan, and a health insurance issuer that offers health insurance coverage, to provide coverage for—

(A) the transfer or discharge of the participant, beneficiary, or enrollee (or, with respect to a pregnant woman, the obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access designation of a participating health care professional described in subsection (b)(2) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological items and services provided by a participating physician who specializes in obstetrics or gynecology;

(B) obstetrical and gynecological care; and

(C) any items or services that are provided, authorized, ordered, or otherwise authorized under subsection (a)(2) by a physician unless such items or services are related to obstetric or gynecologic care.

(c) REQUIREMENT.—If a group health plan, and a health insurance issuer that offers health insurance coverage, described in subsection (b) may not require authorization or refer a participant for the exercise of a point-of-service option other than that of a participating health care professional, the plan shall offer the participant the exercise of a point-of-service option.

(d) REIMBURSEMENT TO A NONPARTICIPATING PROVIDER.—In the case of a nonparticipating provider who seeks coverage for obstetrical or gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access designation of a participating health care professional described in subsection (b)(2) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating physician who specializes in obstetrics or gynecology, the plan shall—

(1) provide coverage for obstetric or gynecologic care; and

(2) require the designation by a participating physician who specializes in obstetrics or gynecology of a health plan provider other than a physician who specializes in obstetrics or gynecology.

(1) REQUIREMENT.—If a group health plan provides coverage for benefits only through a participating health care professional, the plan shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan and at such other times as the plan offers the participant a choice of coverage options.

(b) POINT-OF-SERVICE COVERAGE DEFINED.—In this section, the term ‘point-of-service coverage’ means, with respect to benefits covered under a group health plan coverage of such benefits when provided by a nonparticipating health care professional.

(c) RULING OF CONSTRUCTION.—Nothing in this section shall be construed to require—

(1) that a group health plan or a health insurance issuer approve or provide coverage for—

(A) any items or services that are not covered under the terms and conditions of the plan or coverage;

(B) any items or services that are not medically necessary and appropriate; or

(C) any items or services that are provided, authorized, ordered, or otherwise authorized under subsection (a)(2) by a physician unless such items or services are related to obstetric or gynecologic care;

(2) to preclude a group health plan or health insurance issuer from requiring that the plan provider that offers health insurance coverage, described in subsection (b)(2), notify the designated primary care professional or case manager of treatment decisions in

(12566)
according to a process implemented by the plan or issuer consistent with the applicable State licensure, credentialing, and scope of practice laws and regulations.

(5) to preclude the participant, beneficiary, or enrollee from designating a health care professional other than a physician as a primary care provider if such designation is permitted by the plan, or issuer and the treatment by such professional is consistent with State licensure, credentialing, and scope of practice laws and regulations; or

(b) PROVIDER TERMINATION.—If a participant, beneficiary, or enrollee from requiring that a participant, beneficiary, or enrollee obtain specialty care from a participating specialist is not available to provide such care to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such care by a non-participating specialist.

(II) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a group health plan, or a health insurance issuer that offers health insurance coverage, determines that a participating specialist is not available to provide specialty care referred to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such specialty care by a non-participating specialist.

(III) IN GENERAL.—With respect to specialty care under this section, if a group health plan, or a health insurance issuer that offers health insurance coverage, determines that a participating specialist is not available to provide such specialty care referred to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such specialty care by a non-participating specialist.

(IV) REQUIREMENT.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from requiring that a participant, beneficiary, or enrollee obtain specialty care from a participating specialist if such specialist is not available to provide such care to the participant, beneficiary, or enrollee.

(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from requiring that a participant, beneficiary, or enrollee obtain specialty care from a participating specialist if such specialist is not available to provide such care to the participant, beneficiary, or enrollee.

(2) IN GENERAL.—With respect to specialty care under this section, if a group health plan, or a health insurance issuer that offers health insurance coverage, determines that a participating specialist is not available to provide such specialty care referred to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such specialty care by a non-participating specialist.

(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from requiring that a participant, beneficiary, or enrollee obtain specialty care from a participating specialist if such specialist is not available to provide such care to the participant, beneficiary, or enrollee.

(3) INSTITUTIONAL OR INPATIENT CARE.—The 90 day limitation described in subparagraph (B) shall extend until the earlier of—

(c) TREATMENT PLANS.—

(1) IN GENERAL.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from requiring that specialty care be provided pursuant to a treatment plan so long as the treatment plan is—

(A) developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee;

(B) if the plan or issuer requires such approval, approved in a timely manner by the plan or issuer consistent with the applicable quality assurance and Utilization review standards of the plan or issuer.

(2) NOTIFICATION.—Nothing in this paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide the plan or issuer with regular updates on the specialty care provided, as well as all other necessary medical information.

(d) SPECIALIST DEFINED.—For purposes of this section, the term ‘‘specialist’’ means, with respect to the medical condition of the participant, beneficiary, or enrollee, any health care professional, facility, or center (such as a center of excellence) that has the appropriate expertise (including age-appropriate expertise) to provide appropriate treatment and experience.

SEC. 106. CONTINUITY OF CARE.

(a) TERMINATION OF PROVIDER.—If a contract between a group health plan, and a health insurance issuer that offers health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (e)(4)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan or coverage, and an individual who is a participant, beneficiary, or enrollee under such plan or coverage, from requiring the provider at the time the plan or issuer receives or provides notice of such termination, the plan or issuer shall—

(1) notify the individual, or arrange to have the individual notified pursuant to subsection (d)(2), on a timely basis of such termination;

(2) provide the individual with an opportunity to notify the plan or issuer of the individual’s need for transitional care; and

(3) subject to subsection (c), permit the individual to elect to continue to be covered with respect to the active course of treatment with the provider’s consent during a transitional period (as provided for under subsection (b)).

(b) TRANSITIONAL PERIOD.—

(1) SERIOUS AND COMPLEX CONDITIONS.—The transitional period under this section with respect to a serious and complex condition shall extend for up to 90 days from the date of the notice described in subsection (a)(1) of the provider’s termination.

(2) INSTITUTIONAL OR INPATIENT CARE.—

(A) IN GENERAL.—The transitional period under this section for institutional or inpatient care of a provider shall extend until the earlier of—

(i) the expiration of the 90-day period beginning on the date on which the notice described in subsection (a)(1) of the provider’s termination is provided; or

(ii) the date of discharge of the individual from such care or the termination of the person’s institutional care.

(B) SCHEDULED CARE.—The 90 day limitation described in subparagraph (A)(1) shall...
include post-surgical follow-up care relating to a participant, beneficiary, or enrollee who the provider believes is eligible for the treatment of the terminal illness.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under paragraph (1) of section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider’s terminal of participation; and

(B) the provider was treating the terminal illness before the date of termination;

the transitional period under this subsection with respect to a provider’s terminal of participation shall extend through the provision of post-partum care directly related to the delivery.

4. TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under paragraph (1) of section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider’s terminal of participation; and

(B) the provider was treating the terminal illness before the date of termination;

the transitional period under this subsection shall extend for the remainder of the individual’s life for care that is directly related to the treatment of the terminal illness.

(c) PROVIDER'S TREATMENT OF TERMINAL ILLNESS.—A group health plan, and a health insurance issuer that offers health insurance coverage, may condition coverage of continued treatment at a provider under this section upon the provider agreeing to the following terms and conditions:

(1) The treating health care provider agrees to accept reimbursement at rates applicable to such plan’s or coverage’s terms and conditions of the plan or coverage for services rendered by the provider agreeing to the following terms and conditions of the plan or coverage.

(2) Either—

(A) the referring physician is a participating provider with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in this section had not been terminated; or

(B) the provider agrees otherwise to adhere to such plan’s or coverage’s terms and conditions of the plan or coverage.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed as requiring a group health plan from requiring that the health care professional and has constituted—

(1) provide that the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care professional and has constituted—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is eligible for transitional care under this section.

(e) CONTRACT.—The term ‘contract between a group health plan, and a health insurance issuer that offers health insurance coverage that requires a health care professional and has constituted—

(1) ensure that the participation of physicians and pharmacists in developing and reviewing such formulary; and

(2) in accordance with the applicable quality assurance and utilization standards of the plan or issuer provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from excluding coverage for a specific drug or class of drugs if such drugs or class of drugs is expressly excluded under the terms and conditions of the plan or coverage.

SEC. 109. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, and a health insurance issuer that offers health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b); and

(B) subject to subsections (c), (d), and (e) may not defer the amount that would exceed the cost-sharing that could have been imposed if the contract referred to in this section had not been terminated.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term “qualified individual” means an individual who is a participant, beneficiary, or enrollee on the basis of the participant’s, beneficiary’s, or enrollee’s participation in such trial.

(1) IN GENERAL.—Subject to subsection (b), a group health plan, and a health insurance issuer that offers health insurance coverage, including, in the case of a health care professional and has constituted—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b); and

(B) may not prohibit or otherwise restrict a health care professional and has constituted—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary; and

(2) in accordance with the applicable quality assurance and utilization standards of the plan or issuer provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from excluding coverage for a specific drug or class of drugs if such drugs or class of drugs is expressly excluded under the terms and conditions of the plan or coverage.

SEC. 108. PATIENT'S RIGHT TO PRESCRIPTION DRUGS.

(a) IN GENERAL.—Subject to subsection (b), a group health plan, and a health insurance issuer that offers health insurance coverage, including, in the case of a health care professional and has constituted—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b); and

(B) may not prohibit or otherwise restrict a health care professional and has constituted—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary; and

(2) in accordance with the applicable quality assurance and utilization standards of the plan or issuer provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from excluding coverage for a specific drug or class of drugs if such drugs or class of drugs is expressly excluded under the terms and conditions of the plan or coverage.

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(B) subject to subsections (c), (d), and (e) may not defer the amount that would exceed the cost-sharing that could have been imposed if the contract referred to in this section had not been terminated.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term “qualified individual” means an individual who is a participant, beneficiary, or enrollee on the basis of the participant’s, beneficiary’s, or enrollee’s participation in such trial.

(1) IN GENERAL.—Subject to subsection (b), a group health plan, and a health insurance issuer that offers health insurance coverage, including, in the case of a health care professional and has constituted—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b); and

(B) may not prohibit or otherwise restrict a health care professional and has constituted—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary; and

(2) in accordance with the applicable quality assurance and utilization standards of the plan or issuer provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from excluding coverage for a specific drug or class of drugs if such drugs or class of drugs is expressly excluded under the terms and conditions of the plan or coverage.

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(a) IN GENERAL.—Subject to subsection (b), a group health plan, and a health insurance issuer that offers health insurance coverage, including, in the case of a health care professional and has constituted—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b); and

(B) may not prohibit or otherwise restrict a health care professional and has constituted—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary; and

(2) in accordance with the applicable quality assurance and utilization standards of the plan or issuer provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer that offers health insurance coverage, from excluding coverage for a specific drug or class of drugs if such drugs or class of drugs is expressly excluded under the terms and conditions of the plan or coverage.

SEC. 109. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, and a health insurance issuer that offers health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b); and

(B) subject to subsections (c), (d), and (e) may not defer the amount that would exceed the cost-sharing that could have been imposed if the contract referred to in this section had not been terminated.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term “qualified individual” means an individual who is a participant, beneficiary, or enrollee on the basis of the participant’s, beneficiary’s, or enrollee’s participation in such trial.

(1) IN GENERAL.—Subject to subsection (b), a group health plan, and a health insurance issuer that offers health insurance coverage, including, in the case of a health care professional and has constituted—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b); and

(B) may not prohibit or otherwise restrict a health care professional and has constituted—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary; and

(2) in accordance with the applicable quality assurance and utilization standards of the plan or issuer provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate.
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provide for payment for routine patient costs described in subparagraph (a), but is not required to pay for costs of items and services that are reasonably expected to be paid for by the sponsors of an approved clinical trial.

(2) TERMINATION OF DETERMINATION OF PATIENT COSTS ASSOCIATED WITH CLINICAL TRIAL PARTICIPATION.—

(A) IN GENERAL.—The Secretary shall, in accordance with this paragraph, establish standards relating to the coverage of routine patient costs for individuals participating in clinical trials that group health plans and health insurance issuers must meet under this section.

(B) FACTORS.—In establishing routine patient cost standards under subparagraph (A), the Secretary shall consult with interested parties and take into account—

(i) quality of patient care;

(ii) routine patient care costs versus costs associated with the conduct of clinical trials, including unanticipated patient care costs as a result of participation in clinical trials;

(iii) previous and on-going studies relating to patient care costs associated with participation in clinical trials.

(C) APPOINTMENT OF MEETINGS OF NEGOTIATED RULEMAKING COMMITTEE.—

(i) PUBLICATION OF NOTICE.—Not later than November 15, 2002, the Secretary shall publish notice of the establishment of a negotiated rulemaking committee, as provided for under section 566(a) of title 5, United States Code, to develop the standards described in subparagraph (A), which shall include—

(I) the proposed scope of the committee;

(II) the interests that may be impacted by the standards;

(III) a list of the proposed membership of the committee;

(IV) the proposed meeting schedule of the committee;

(V) a solicitation for public comment on the committee; and

(VI) the procedures under which an individual may apply for membership on the committee.

(ii) COMMENT PERIOD.—Notwithstanding section 583 of title 5, United States Code, the Secretary shall provide for a period, beginning on the date on which the notice is published under clause (i) and ending on November 30, 2002, for submission of written comments on the committee under this subparagraph.

(iii) APPOINTMENT OF COMMITTEE.—Not later than December 30, 2002, the Secretary shall appoint the members of the negotiated rulemaking committee under this subparagraph.

(iv) FACILITATOR.—Not later than January 10, 2003, the negotiated rulemaking committee shall nominate a facilitator under section 566(c) of title 5, United States Code, to carry out the activities described in subsection (d) of such section.

(v) MEETINGS.—During the period beginning on the date on which the facilitator is nominated under clause (iv) and ending on March 30, 2003, the negotiated rulemaking committee shall meet to develop the standards described in subparagraph (A).

(D) PRELIMINARY COMMITTEE REPORT.—

(i) IN GENERAL.—The negotiated rulemaking committee appointed under subparagraph (c) shall report to the Secretary, by not later than March 30, 2003, regarding the committee’s progress on achieving a consensus with regard to the rulemaking proceedings. Such a report is not necessary if the committee has achieved such consensus by the target date described in subsection (f).

(ii) TERMINATION OF PROCESS AND PUBLICATION OF RULE.—If the committee reports under clause (i) that the committee has failed to make significant progress towards such consensus or is unlikely to make such consensus by the target date described in the section, the Secretary shall terminate such process and provide for the publication in the Federal Register, by not later than June 30, 2003, of a rule under this paragraph through such other methods as the Secretary may provide.

(E) FINAL COMMITTEE REPORT AND PUBLICATION OF RULE.—

(i) IN GENERAL.—If the rulemaking committee is not terminated under subparagraph (D)(i), the committee shall submit to the Secretary, by not later than May 30, 2003, a report containing a proposed rule.

(ii) PUBLICATION OF RULE.—If the Secretary receives a report under clause (i), the Secretary shall provide for the publication in the Federal Register, by not later than June 30, 2003, of the proposed rule.

(iii) TARGET DATE FOR PUBLICATION OF RULE.—From the date the rule is published under subparagraph (C)(i), and for purposes of this paragraph, the “target date for publication” (referred to in section 566(a)(5) of title 5, United States Code) shall be June 30, 2003.

(iv) EFFECTIVE DATE.—The provisions of this paragraph shall apply to group health plans and health insurance issuers that offer health insurance coverage for inpatient hospital stay for the treatment of breast cancer provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of any treatment, other than the treatment described in clause (i), that is medically appropriate.

(b) INPATIENT CARE.—A group health plan, and a health insurance issuer that offers health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient hospital stay for the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(c) SECONDARY CONSULTATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer that offers health insurance coverage, may not modify the terms and conditions of coverage based on the determination by a participant, beneficiary, or enrollee to request less than the minimum coverage required under subsection (a).

(d) STUDY AND REPORT.—

(1) STUDY.—The Secretary shall study the impact on group health plans and health insurance issuers for covering patient care costs for individuals who are entitled to benefits under this section and who are enrolled in an approved clinical trial program.

(2) REPORT TO CONGRESS.—Not later than January 1, 2006, the Secretary shall submit a report to Congress that contains an assessment of—

(A) any incremental cost to group health plans and health insurance issuers resulting from the provisions of this section;

(B) a projection of expenditures to such plans and issuers resulting from this section; and

(C) any impact on premiums resulting from this section.
are not sufficiently available from specialists or the plan or issuer with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that no price is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan or issuer:

(2) PRECERTIFICATION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

(d) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider’s license or certification under applicable State law, solely on the basis of such license or certification.

SEC. 112. GENERALLY APPLICABLE PROVISION.

(a) In General.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider’s license or certification under applicable State law, solely on the basis of such license or certification.

(b) Construction.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage, of a particular benefit or service or to prohibit a plan or issuer from including, providers only to the extent necessary to meet the needs of the plan’s or issuer’s participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or coverage.

SEC. 113. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSE OR CERTIFICATION.

(a) In General.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider’s license or certification under applicable State law, solely on the basis of such license or certification.

(b) Construction.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage, of a particular benefit or service or to prohibit a plan or issuer from including, providers only to the extent necessary to meet the needs of the plan’s or issuer’s participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or coverage.

SEC. 114. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSE OR CERTIFICATION.

(a) In General.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider’s license or certification under applicable State law, solely on the basis of such license or certification.

(b) Construction.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage, of a particular benefit or service or to prohibit a plan or issuer from including, providers only to the extent necessary to meet the needs of the plan’s or issuer’s participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or coverage.

(b) Provision of Information.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) Required Information.—The information materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) Benefits.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventative services covered under the plan or coverage when such services are covered;

(C) any benefit limitations, including any payment limits or caps, the terms and conditions for the length of stay, length of stay for hospitalization, the number of visits, days, or services, and any specific coverage exclusions; and

(D) any definition of medical necessity used in making the coverage determination by the plan, issuer, or claims administrator.

(2) Cost Sharing.—A description of any cost-sharing requirements, including—

(A) any deductible, coinsurance, copayment amounts, and liability for balance billing above any reasonable and customary charges, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for any participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(3) Additional Payments.—A description of any payments, such as copayments, coinsurance, and deductibles, required under the plan or coverage for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(3) SERVICE AREA.—A description of the plan or issuer’s service area, including the provision of any out-of-area coverage.

(4) Precertification.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name and address of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

(5) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, or enrollees in selecting, changing, or replacing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits network service providers), to select a pediatrician as a primary care provider under section 104 for a participant, beneficiary, or enrollee who is a child at such time as applies.

(6) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(7) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(8) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including the right to timely coverage for access to specialists care under section 105 if such section applies.

(9) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved cancer clinical trials under section 109 if such section applies.

(10) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to prescription drugs under section 107 if such section applies.

(11) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the rights of a participant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 101, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.
(i) all types of compensation arrangements, including financial incentives, risk-sharing arrangements, and arrangements that do not contain such incentives and risk sharing, that reflect the complexity of organizational relationships between health plans and medical providers, and
(ii) arrangements that are based on factors such as utilization management, cost control, quality improvement, and patient or enrollee satisfaction; and
(iii) arrangements between the plan or issuer and provider, as well as down-stream arrangements among providers and subcontracted providers;

(B) an analysis of the effect of such differing arrangements on physician behavior with respect to the provision of medical care to patients, including whether and how such arrangements affect the quality of patient care and the ability of physicians to provide care that is medically necessary and appropriate.

(3) Study design.—The Secretary shall consult with the Director of the Agency for Healthcare Research and Quality in preparing the scope of work and study design with respect to the contract under paragraph (1).

(4) Report.—Not later than 24 months after the date of enactment of this Act, the Secretary shall forward to the appropriate committees of Congress a copy of the report and study conducted under subsection (a).

(b) Research.—

(I) IN GENERAL.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, shall conduct and support research to develop scientific evidence regarding the effects of differing physician compensation methods on physician behavior with respect to the provision of medical care to patients, particularly issues relating to the quality of patient care and whether patients receive medically necessary and appropriate care.

(2) Authorization of appropriations.—For purposes of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

Subtitle C—Right to Hold Health Plans Accountable

SEC. 131. AMENDMENTS TO EMPLOYEE RETIREMENT Income SECURITY ACT OF 1974.

(a) In general.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 501 (29 U.S.C. 1133) the following:

"SEC. 503A. CLAIMS AND INTERNAL APPEALS PROCEDURES FOR GROUP HEALTH PLANS.

"(a) Initial claim for benefits under group health plans.—

"(1) Procedures.—

"(A) In general.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a determination on a claim for benefits is made within 30 business days of the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim, in no case shall such determination be made later than 30 business days after the receipt of the claim for benefits.

"(B) Right to appeal.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, may require that the participant or beneficiary (or authorized representative) provide written confirmation of such request in a timely manner.

"(2) Timeliness for making determinations.—

"(A) Prior authorization determination.—

"(i) In general.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a prior authorization determination on a claim for benefits is made within 14 business days of the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization, but in no case shall such determination be made later than 28 business days after the receipt of the claim for benefits.

"(ii) Expedited determination.—Notwithstanding clause (i), a group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, may require that the participant or beneficiary (or authorized representative) provide written confirmation of such request in a timely manner and that any time during the process for making a determination and the treating health care professional substantiates, with the request, that a determination under the procedures described in clause (i) would seriously jeopardize the life or health of the participant or beneficiary. Such determination shall be made within 72 hours after a request is received by the plan or issuer under this clause.

"(iii) Concurrent determinations.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall maintain procedures for expediting a prior authorization determination on a claim for benefits described in such clause when a request for such an expedited determination is made by a participant or beneficiary (or authorized representative) at any time during the process for making a determination and the treating health care professional substantiates, with the request, that a determination under the procedures described in clause (i) would seriously jeopardize the life or health of the participant or beneficiary. Such determination shall be made within 72 hours after a request is received by the plan or issuer under this clause.

"(B) Failure to act.—The failure of a plan or issuer to make a determination on a request for prior authorization is grounds for appeal under subsection (a) within the applicable timeline established for such a determination under such subsection shall be treated as a denial of a claim for benefits for purposes of proceeding to external review under this subsection.

"(3) Notice of a denial of a claim for benefits.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, may require that the participant or beneficiary (or authorized representative) provide written confirmation of such request in a timely manner.

(b) Internal appeal of a denial of a claim for benefits.—

"(1) Right to internal appeal.—

"(A) In general.—A participant or beneficiary may file a written request for an internal appeal of any denial of a claim for benefits under subsection (a) in accordance with instructions on how to initiate an appeal in accordance with subsection (b).

"(B) Time for appeal.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall ensure that a participant or beneficiary (or authorized representative) has a period of not less than 60 days beginning on the date of a denial of a claim for benefits under subsection (a) in which to appeal such denial under this subsection.

"(C) Failure to act.—The failure of a plan or issuer to issue a determination on a request for an internal appeal is grounds for appeal under subsection (a) within the applicable timeline established for such a determination under such subsection and shall be treated as a denial of a claim for benefits for purposes of proceeding to external review under this subsection.

"(D) Plan waiver of external review.—A group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, may waive the internal review process under this subsection and permit a participant or beneficiary (or authorized representative) to proceed directly to external review under section 503B.

"(2) Timelines for making determinations.—

"(A) Oral requests.—In the case of an appeal of a denial of a claim for benefits under subsection (b) of this section and permit a participant or beneficiary (or authorized representative) to proceed directly to external review under section 503B.
"(B) ACCESS TO INFORMATION.—With respect to a claim for benefits under this subsection, the plan or issuer shall provide the participant or beneficiary (or authorized representative) and the treating health care professional (if any) shall provide the participant or beneficiary (or authorized representative), the participant or beneficiary involved (or authorized representative), and the treating health care professional (if any) shall provide the participant or beneficiary involved (or authorized representative) and the treating health care professional (if any) shall provide the participant or beneficiary involved (or authorized representative), the participant or beneficiary involved (or authorized representative), and the treating health care professional (if any) shall provide the participant or beneficiary involved (or authorized representative), the participant or beneficiary involved (or authorized representative), and the treating health care professional (if any) shall 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section, as determined by the entity, not later than 30 days after the date on which a request is referred to the qualified external review entity under paragraph (1), or earlier as determined appropriate by the entity to meet the applicable timelines under clauses (i) and (ii) of subsection (e)(1)(A).

(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

(i) any of the conditions described in subsection (b)(2)(A) have not been met;

(ii) the thresholds described in subparagraph (B) have not been met;

(iii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2); or

(iv) the denial of the claim for benefits is a decision as to the application of a specific exclusion or limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage unless the decision is a denial described in subsection (d)(2).

Upon making a determination that any of clauses (i) through (iv) applies with respect to the request, the determining entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d), and shall provide notice in accordance with subparagraph (D).

(B) THRESHOLDS.—

(i) IN GENERAL.—The thresholds described in this subparagraph are that—

(A) the total amount payable under the plan or coverage for the item or service that was the subject of such denial exceeds $100; or

(B) a physician has asserted in writing that there is a significant risk of placing the life, health, or development of the participant or beneficiary in jeopardy if the denial of the claim for benefits is sustained.

(ii)c) NOT APPLIED.—The thresholds described in this subparagraph shall not apply if the plan or issuer involved waives the internal appeals process with respect to the denial of a claim for benefits involved under section 503A(b)(1)(D).

(C) PROCESS FOR MAKING DETERMINATIONS.—

(i) NO DEFECTION TO PRIOR DETERMINATIONS.—In making determinations under subparagraph (A), there shall be no deference to prior determinations made by the plan or issuer under section 503A or the recommendation of a treating health care professional (if any).

(ii) APPLICABLE PERSONNEL.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

(D) U.S. FEDERAL TIMELINES FOR DETERMINATION.—

(i) NOTICE IN CASE OF DENIAL OF REFERRAL.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant or beneficiary (or authorized representative), or treating health care professional, as appropriate based on the context, of the reason why no referral is being made.

(ii) DENIALS BASED ON MEDICAL NECESSITY AND APPROPRIATENESS.—A determination of medical necessity and appropriateness of the item or service is an independent medical review decision and shall be based on the medical condition of the participant or beneficiary (or authorized representative), and the valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and establishing expert consensus.

(iii) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require the plan, issuer, participant or beneficiary (or authorized representative), or group health plan, insurance coverage in connection with a health care professional that offers health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage that are not covered regardless of any determination relating to medical necessity and appropriateness, experimental or investigational nature of the treatment, or an evaluation of the medical facts in the case involved.

(E) EVIDENCE AND INFORMATION TO BE USED IN MEDICAL REVIEWS.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

(A) The determination made by the plan or issuer, participant or beneficiary (or authorized representative), or group health plan, insurance coverage in connection with a health care professional that offers health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage; and

(B) The plan or coverage document.

(ii) INDEPENDENT DETERMINATION.—In making the determination, the independent medical reviewer shall—

(A) consider the claim under review within the timeframes set forth in subsection (c), prepare a written determination to uphold or reverse the denial under review and, in the case of a reversal, the timeframe within which the plan or issuer shall authorize coverage to comply with the determination. Such written determination shall include the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific-evidence based rationale used in making the determination. The reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not be treated as part of the determination.

(B) TIMELINES AND NOTIFICATIONS.—

(i) IN GENERAL.—The independent medical reviewer (or reviewers) shall make a determination on an independent denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) not later than 14 business days after receipt of all relevant evidence and information necessary to make an informed decision as to whether or not the denial satisfies the criteria set forth in subsection (b)(1)(A).

(ii) FINDINGS AND CONCLUSIONS.—A determination shall include findings and conclusions of the independent medical reviewer that are based on the information and evidence available to the independent medical reviewer.

(iii) NO DEFERENCE TO PRIOR DETERMINATIONS.—If the entity did not make a referral to an independent medical reviewer, the entity shall make the determination in accordance with the timeliness and notice requirements applicable under this section.

(iii) NOTICE.—The independent medical reviewer shall provide a written determination to the plan, issuer, participant or beneficiary (or authorized representative), or group health plan, insurance coverage in connection with a health care professional that offers health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage that are not covered regardless of any determination relating to medical necessity and appropriateness, experimental or investigational nature of the treatment, or an evaluation of the medical facts in the case involved.

(iv) DENIALS BASED ON MEDICAL NECESSITY AND APPROPRIATENESS.—A determination of medical necessity and appropriateness of the item or service is an independent medical review decision and shall be based on the medical condition of the participant or beneficiary (or authorized representative), and the valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and establishing expert consensus.

(v) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require the plan, issuer, participant or beneficiary (or authorized representative), or group health plan, insurance coverage in connection with a health care professional that offers health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage that are not covered regardless of any determination relating to medical necessity and appropriateness, experimental or investigational nature of the treatment, or an evaluation of the medical facts in the case involved.

(iv) EVIDENCE AND INFORMATION TO BE USED IN MEDICAL REVIEWS.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

(A) The determination made by the plan or issuer, participant or beneficiary (or authorized representative), or group health plan, insurance coverage in connection with a health care professional that offers health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage; and

(B) The plan or coverage document.

(v) INDEPENDENT DETERMINATION.—In making the determination, the independent medical reviewer shall—

(A) consider the claim under review within the timeframes set forth in subsection (c), prepare a written determination to uphold or reverse the denial under review and, in the case of a reversal, the timeframe within which the plan or issuer shall authorize coverage to comply with the determination. Such written determination shall include the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific-evidence based rationale used in making the determination. The reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not be treated as part of the determination.

(B) TIMELINES AND NOTIFICATIONS.—

(i) IN GENERAL.—The independent medical reviewer (or reviewers) shall make a determination on an independent denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) not later than 14 business days after receipt of all relevant evidence and information necessary to make an informed decision as to whether or not the denial satisfies the criteria set forth in subsection (b)(1)(A).

(ii) FINDINGS AND CONCLUSIONS.—A determination shall include findings and conclusions of the independent medical reviewer that are based on the information and evidence available to the independent medical reviewer.

(iii) NO DEFERENCE TO PRIOR DETERMINATIONS.—If the entity did not make a referral to an independent medical reviewer, the entity shall make the determination in accordance with the timeliness and notice requirements applicable under this section.

(iv) NOTICE.—The independent medical reviewer shall provide a written determination to the plan, issuer, participant or beneficiary (or authorized representative), or group health plan, insurance coverage in connection with a health care professional that offers health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage that are not covered regardless of any determination relating to medical necessity and appropriateness, experimental or investigational nature of the treatment, or an evaluation of the medical facts in the case involved.
after the receipt of information under subsection (c), the plan or issuer shall provide for reimbursement of the costs of such items or services. Such reimbursement shall be made only to a physician for such independent medical reviewer in connection with a review of treatment that is recommended or provided by a physician, such referral may be made only to a physician for such independent medical review.

(4) COMPLIANCE. —

(A) IN GENERAL. — Subject to subparagraph (B), each independent medical reviewer in a case shall—

(i) not provide a referral to a physician for such independent medical reviewer in connection with a review of treatment that is recommended or provided by a physician, such referral may be made only to a physician for such independent medical review.

(B) EXCEPTION. — Nothing in this subparagraph (A) shall be construed to—

(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

(A) the individual is not a related party (as defined in paragraph (7));

(ii) prohibit an individual who has staff privileges at the institution where the treatment referred to in paragraph (1) is to be provided from serving as an independent medical reviewer if the referral is to a physician who has staff privileges at the institution where the treatment referred to in paragraph (1) is to be provided; and

(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

(5) AGE-APPROPRIATE EXPERTISE. — The independent medical reviewer shall have expertise under paragraph (2) that is age-appropriate for the individual involved.

(6) LIMITATIONS ON REVIEWER COMPENSATION. — Compensation provided by a qualified external review entity for an independent medical reviewer in connection with a review under this section shall—

(A) be fair and reasonable for the services performed; and

(B) not be greater than the median compensation paid to the reviewer for services performed in the geographic area in which the services were rendered.
(A) not exceed a reasonable level; and
(B) be consistent with the standards the Secretary shall establish to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner.

(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for the designation or selection of qualified external review entities in a manner determined by the State to assure an unbiased determination in conducting external review activities. In conducting reviews under this section, an entity designated or selected under this subparagraph shall comply with provisions of this section.

(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITIES.—As provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall—

(A) be consistent with the standards the Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and
(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as requiring the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant or beneficiary (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—In this section, the term ‘qualified external review entity’ means, in relation to a plan or issuer, an entity that is initially certified (or recertified) under subparagraph (C) as meeting the following requirements:

(I) The entity has (directly or through contracts) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making decisions on recertification (as defined in paragraph (1)(B)) and providing for independent medical reviews under subsection (d).

(II) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers.

(III) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to a case.

(IV) The entity has provided assurances that it will provide information in a timely manner upon request.

(V) The entity meets such other requirements as the Secretary provides by regulation.

(B) INDEPENDENCE REQUIREMENTS.—

(I) IN GENERAL.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

(1) is not a related party (as defined in subsection (g)(7));

(2) does not have a material familial, financial, or professional relationship with such a party; and

(3) does not otherwise have a conflict of interest with such a party (as determined under paragraph (3)).

(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

(I) not exceed a reasonable level; and

(II) not be contingent on the decision rendered by the entity or by any independent medical reviewer.

(C) CERTIFICATION AND RECERTIFICATION.—

(I) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

(I) under a process that is recognized or approved by the Secretary; or

(II) by a qualified private standard-setting organization that is approved by the Secretary under clause (iii).

(ii) PROCESS.—The Secretary shall not recognize or approve a process under clause (i) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

(IV) in the case of recertification, shall review the matters described in clauses (I) and (II).

(iii) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the Secretary may approve a qualified private standard-setting organization if the Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the requirements required for the certification (or recertification) of external review entities under clause (i).

(iv) CONSIDERATIONS IN RECertiFICATION.—In conducting recertification of a qualified external review entity under this paragraph, the Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

(I) Provision of information under subparagraph (D).

(II) Adherence to applicable deadlines (both by the entity and independent medical reviewers it refers to).

(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers to).

(IV) Compliance with applicable independence requirements.

(v) PERIOD OF CERTIFICATION OR RECertiFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 5 years.

(vi) REVOCATION.—A certification or recertification under this paragraph may be revoked by the Secretary or by the organization providing such certification upon a showing of cause.

(D) PROVISION OF INFORMATION.—

(I) IN GENERAL.—A qualified external review entity shall provide to the Secretary, in such manner and at such times as the Secretary may require, such information (relating to the denial which has been referred to the entity for the conduct of external review under this section) as the Secretary determines appropriate to assure compliance with the independence and other requirements of this section and to assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

(I) The number and types of denials for which a request for review has been received by the entity.

(II) The disposition by the entity of such denials, including the number referred to an independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

(III) The length of time in making determinations with respect to such denials.

(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity’s performance of external review activities.

(iii) INFORMATION TO BE PROVIDED TO CERTIFIED ORGANIZATION.—
subject to authorization of coverage or utilization review. (ii) For eligibility, or for payment in whole or in part, for medical care or services under a group health plan or health insurance coverage offered by a health insurance issuer in connection with a group health plan.

(3) GROUP HEALTH PLAN.—The term ‘group health plan’ shall have the meaning given such term in section 733(b)(1). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

(4) HEALTH INSURANCE COVERAGE.—The term ‘health insurance coverage’ has the meaning given such term in section 733(b)(1). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

(5) HEALTH INSURANCE ISSUER.—The term ‘health insurance issuer’ has the meaning given such term in section 733(b)(2).

(6) PRIOR AUTHORIZATION DETERMINATION.—The term ‘prior authorization determination’ means a determination by the group health plan, health insurance issuer, or group health plan’s designee, after a determination of coverage of the items and services as a condition of coverage of the items and services under the terms and conditions of the plan or coverage.

(7) TREATING HEALTH CARE PROFESSIONAL.—The term ‘treating health care professional’ with respect to a group health plan, health insurance issuer or provider sponsored organization means a physician (as defined in paragraph (13)(G)) or other health care practitioner who is acting within the scope of his or her State licensure or certification for the delivery of health care services and who is primarily responsible for delivering those services to the participant or beneficiary.

(8) UTILIZATION REVIEW.—The term ‘utilization review’ with respect to a group health plan or health insurance coverage means procedures used in the determination of coverage for a participant or beneficiary, such as procedures to evaluate the medical necessity, appropriateness, efficacy, quality, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, retrospective review, medical management, case management, discharge planning, or retroreview.

(9) CONFLICTING AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by adding after the item relating to section 503B the following:

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Sec. 503A. Claims and internal appeals procedures for group health plans.

Sec. 503B. Independent external appeals procedures for group health plans.
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SEC. 132. ENFORCEMENT.

Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended by adding at the end the following:

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(8) The Secretary may assess a civil penalty against the plan and the plan shall pay such penalty to the participant or beneficiary involved.
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SEC. 141. AVAILABILITY OF COURT REMEDIES.

SEC. 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

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(i) A person or entity shall provide the organization with the information provided to the Secretary under clause (1).

(ii) ADDITIONAL INFORMATION.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

(iii) USE OF INFORMATION.—

(A) IN GENERAL.—Information provided under this subparagraph may be used by the Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

(B) REPORT TO CONGRESS.—Not later than 2 years after the date on which the Bipartisan Patients’ Bill of Rights Act of 2001 takes effect under section 501 of such Act, and every 2 years thereafter, the Secretary, in consultation with the Secretary of Health and Human Services, shall prepare and submit to the appropriate committees of Congress, a report that contains—

(1) a description of the information provided to the Secretary under clause (ii);

(2) a description of the effect that the appeals process established under this section and section 503A had on the access of individuals to health insurance and health care;

(3) a description of the effect on health care services and who is primarily responsible for delivering those services to the participant or beneficiary (or authorized representative) of the information provided under item (1); and

(4) a description of the quality and consistency of determinations by qualified external review entities.

(III) RECOMMENDATIONS.—The Secretary may from time to time submit recommendations to Congress with respect to proposed modifications to the appeals process based on the reports submitted under subsection (II).

(II) CONFORMING AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

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Sec. 503A. Claims and internal appeals procedures for group health plans.

Sec. 503B. Independent external appeals procedures for group health plans.
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(C) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

(i) IN GENERAL.—Notwithstanding the direct participation (as defined in paragraph (3)(C)(i)) of an employer or plan sponsor, in any case in which there is deemed to be a designated decisionmaker described in clause (ii) that meets the requirements of paragraph (2)(A) for an employer or other plan sponsor,

(ii) all liability of such employer or plan sponsor (and any employer thereof acting within the scope of employment) under this subsection in connection with any participation or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

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(iii) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

(i) IN GENERAL.—Notwithstanding the direct participation (as defined in paragraph (3)(C)(i)) of an employer or plan sponsor, in any case in which there is deemed to be a designated decisionmaker described in clause (ii) that meets the requirements of paragraph (2)(A) for an employer or other plan sponsor,

(ii) all liability of such employer or plan sponsor (and any employer thereof acting within the scope of employment) under this subsection in connection with any participation or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

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(II) with respect to such liability, the designated decisionmaker shall be subject to all applicable provisions of paragraph (1), the actual making of such decision or the actual exercise of control in making such decision.

(b) Requirements for Designated Decisionmaker of Group Health Plans—

(1) In general.—For purposes of subparagraph (B)(ii), the requirements relating to the financial obligation of an entity for liability under such subsection shall not apply in the case of a group health plan if the entity has the ability to assume the liability described in paragraph (1), the actual making of such decision or the actual exercise of control in making such decision.

(2) Requirements for designated decisionmaker of group health plans—

(A) In general.—For purposes of this subsection and section 514(c)(3), a designated decisionmaker meets the requirements of this subparagraph with respect to any participant or beneficiary if—

(i) such designation is in such form as may be prescribed in regulations of the Secretary;

(ii) the designated decisionmaker—

(I) serves as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (1), the actual making of such decision or the actual exercise of control in making such decision;

(III) any participation by the employer or other plan sponsor (or employee) in the plan or the benefits provided under the plan; and

(IV) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1); and

(2) The Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect.

The appropriate amounts of liability insurance, minimum capital and surplus levels that are maintained by such entity to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this paragraph—

(i) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insulate such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this paragraph; and

(ii) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this paragraph.

(C) Qualifications for designated decisionmaker of group health plans—

(1) In general.—Subject to clause (i), an entity may be designated as a designated decisionmaker for purposes of section 514(c) if the entity has the ability to assume the liability described in section 514(c)(3) in effect relating to such participant and beneficiary.

(2) Requirements for designated decisionmaker of group health plans—

(A) Causes of action against employers and plan sponsors precluded.—Subject to subparagraph (B), paragraph (1) does not authorize a cause of action against an employer or other plan sponsor relating to such plan or (against an employee of such an employer or sponsor acting within the scope of employment).

(B) Limitation on appointment of treating physicians.—A treating physician who directly delivered the care, treatment, or services for which the patient is a subject of a cause of action by a participant or beneficiary under this subsection or section 514(c) may not be designated as a designated decisionmaker under this paragraph with respect to such participant or beneficiary.

(C) Exclusion of employers and other plan sponsors.—

(A) Causes of action against employers and plan sponsors precluded.—Subject to subparagraph (B), paragraph (1) does not authorize a cause of action against an employer or other plan sponsor relating to such plan, or (against an employee of such an employer or sponsor acting within the scope of employment).
(II) any provision that may have been made for or plan established for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

(d) Requirement of Exhaustion of Independent Medical Review.—

(1) In General.—Paragraph (1) shall apply only if a final determination denying a claim for benefits under section 503A has been referred for independent medical review under section 503B of such Act and a written determination referred to an independent medical reviewer to reverse such final determination has been issued with respect to such review or where the coverage for the benefit at issue is referred to the independent medical reviewer but prior to the determination of the reviewer under section 503B, or a period of time elapsing after the denial is referred to the independent medical reviewer.

(2) Exception to Exhaustion for Needed Care.—A participant or beneficiary may seek relief under subsection (2)(a)(1)(B) prior to the decision of the independent medical reviewer under sections 503A or 503B (as required under subparagraph (A)) if it is demonstrated to the court, by a preponderance of the evidence, that there are extraordinary circumstances in the situation that would cause irreparable harm to the health of the participant or beneficiary.

(3) Limitations on Recovery of Damages.—

(A) Maximum Award of Noneconomic Damages.—The aggregate amount of liability for noneconomic loss in an action under paragraph (1) may not exceed the greater of—

(i) $750,000; or

(ii) an amount equal to 3 times the amount awarded for economic loss.

(B) Increase in Amount.—The amount referred to in subparagraph (A)(i) shall be increased by the consumer price index for urban consumers (as published by the Bureau of Labor Statistics, for September of the preceding calendar year that ends after December 31, 2002, by the same percentage as the percentage by which the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the Index for September of 2002.

(C) Severe Liability.—In the case of any action commenced pursuant to paragraph (1), the designated decision-maker may not award any noneconomic damages attributable to such designated decision-maker in direct proportion to such decision-maker's share of fault or responsibility for the injury suffered by the participant or beneficiary. In all such cases, the liability of a designated decision-maker for noneconomic damages shall be several and not joint.

(D) Treatment of Collateral Source Payments.—

(i) In General.—In the case of any action commenced pursuant to paragraph (1), the total amount of damages received by a participant or beneficiary under such action shall be reduced by the amount of any award of noneconomic damages that was the subject of the action.

(ii) Limitation on Reduction.—The amount by which an award of damages to a participant or beneficiary for an injury shall be reduced under clause (i) shall be—

(I) the total amount of any payments (other than such award) that have been made or that will be made to such participant or beneficiary to pay costs of or compensate such participant or beneficiary for the injury that was the subject of the action; less

(II) the amount paid by such participant or beneficiary (or by the spouse, parent, or legal guardian of such participant or beneficiary) to secure the payments described in clause (I).

(E) Determination of Amounts from Collateral Source Payments.—The amount required under clause (ii) shall be determined by the court in a pretrial proceeding. At the conclusion of such proceeding, no evidence shall be admitted as to the amount of any charge, payments, or damage for which a participant or beneficiary—

(i) has received payment from a collateral source for the injury sustained, or a representative which has been assured by a third party; or

(ii) is, or with reasonable certainty, will be eligible to receive from a collateral source which will, with reasonable certainty, be assigned to a third party.

(F) Prohibition of Award of Punitive Damages.—Notwithstanding any other provision of law, in the case of any action commenced pursuant to paragraph (1), the court may not award any punitive, exemplary, or similar damages against a defendant.

(G) Affirmative Defenses.—In the case of any cause of action under paragraph (1), it shall be an affirmative defense that—

(A) the designated decision-maker of a group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, involved did not receive from the participant or beneficiary (or authorized representative) the information required by the plan or issuer regarding the medical condition of the participant or beneficiary that was necessary to make a determination of benefits under section 503B or a final determination on a claim for benefits under section 503A.

(B) the participant or beneficiary (or authorized representative) had—

(i) was in possession of facts that were sufficient to enable the participant or beneficiary (or authorized representative) to know that an expedited review under sections 503A or 503B would have prevented the harm that is the subject of the action; and

(ii) failed to notify the plan or issuer of the need for such an expedited review.

(C) the qualified external medical reviewer failed to meet the timelines applicable under section 503B, or a period of time elapsing after coverage has been authorized.

Nothing in this paragraph shall be construed to limit the application of any other affirmative defense that may be applicable to the cause of action in question.

(7) Waiver of Internal Review.—In the case of any cause of action under paragraph (1), the waiver or nonwaiver of internal review under section 503B, or a period of time elapsing after the date on which the failure described in paragraph (1) occurred.

(8) Limitations on Actions.—Paragraph (1) shall not apply in connection with any action that is commenced more than 3 years after the date on which the failure described in paragraph (1) occurred.

(9) Protection of the Regulation of Quality of Medical Care Under State Law.—Nothing in this subsection shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A claim that is based on or otherwise relates to a group health plan's administration or determination of a claim for benefits (as such term is defined in section 502A and notwithstanding the definitions contained in section 502A) shall not be deemed to be the delivery of medical care under any State law for purposes of this section.

(10) Construction.—Nothing in this subsection shall be construed as authorizing a plan or group health plan to impose a penalty or make a refusal to pay for the failure of a group health plan or health insurance issuer to provide an item or service for which there is a written determination under section 503B, or a period of time elapsing after the denial is referred to the independent medical reviewer. Nothing in this subsection shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A claim that is based on or otherwise relates to a group health plan's administration or determination of a claim for benefits (as such term is defined in section 502A and notwithstanding the definitions contained in section 502A) shall not be deemed to be the delivery of medical care under any State law for purposes of this section.

(11) Construction.—Nothing in this subsection shall be construed as authorizing a plan or group health plan to impose a penalty or make a refusal to pay for the failure of a group health plan or health insurance issuer to provide an item or service for which there is a written determination under section 503B, or a period of time elapsing after the denial is referred to the independent medical reviewer. Nothing in this subsection shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A claim that is based on or otherwise relates to a group health plan's administration or determination of a claim for benefits (as such term is defined in section 502A and notwithstanding the definitions contained in section 502A) shall not be deemed to be the delivery of medical care under any State law for purposes of this section.
that is specifically excluded under the plan or coverage. A group health plan shall only be brought under the Employee Retirement Income Security Act of 1974. In this paragraph, the terms ‘group health plan’ and ‘health insurance coverage’ have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

(b) AUTHORITY TO IMPOSE CIVIL PENALTIES FOR NONCOMPLIANCE.—In connection with a group health plan, any such action shall only be brought under the Employee Retirement Income Security Act of 1974.

§151. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION

(a) LIMITATION ON PREEMPTION OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), any such action by a State law shall apply in connection with a group health plan. Any such action shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement relating to health insurance issuers (in connection with group health plans or individual health insurance coverage) and non-Federal governmental plans except to the extent that such standard or requirement prevents the application of a requirement of such subtleties; and
(b) The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) on or after October 1, 2002.

Subtitle E—State Flexibility

SECTION 151. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION

(a) LIMITATION ON PREEMPTION OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), any such action by a State law shall apply in connection with a group health plan. Any such action shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement relating to health insurance issuers (in connection with group health plans or individual health insurance coverage) and non-Federal governmental plans except to the extent that such standard or requirement prevents the application of a requirement of such subtleties; and
(b) The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) on or after October 1, 2002.

Subtitle E—State Flexibility

§151. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION

(a) LIMITATION ON PREEMPTION OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), any such action by a State law shall apply in connection with a group health plan. Any such action shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement relating to health insurance issuers (in connection with group health plans or individual health insurance coverage) and non-Federal governmental plans except to the extent that such standard or requirement prevents the application of a requirement of such subtleties; and
(b) The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) on or after October 1, 2002.

Subtitle E—State Flexibility

§151. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION

(a) LIMITATION ON PREEMPTION OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), any such action by a State law shall apply in connection with a group health plan. Any such action shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement relating to health insurance issuers (in connection with group health plans or individual health insurance coverage) and non-Federal governmental plans except to the extent that such standard or requirement prevents the application of a requirement of such subtleties; and
(b) The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) on or after October 1, 2002.

Subtitle E—State Flexibility

§151. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION

(a) LIMITATION ON PREEMPTION OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), any such action by a State law shall apply in connection with a group health plan. Any such action shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement relating to health insurance issuers (in connection with group health plans or individual health insurance coverage) and non-Federal governmental plans except to the extent that such standard or requirement prevents the application of a requirement of such subtleties; and
(b) The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) on or after October 1, 2002.

Subtitle E—State Flexibility

§151. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION

(a) LIMITATION ON PREEMPTION OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), any such action by a State law shall apply in connection with a group health plan. Any such action shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement relating to health insurance issuers (in connection with group health plans or individual health insurance coverage) and non-Federal governmental plans except to the extent that such standard or requirement prevents the application of a requirement of such subtleties; and
(b) The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) on or after October 1, 2002.
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(B) STATE LAW DESCRIBED.—A State law described in this subparagraph is a State law that imposes, with respect to health insurance issuers in connection with group health plans or individual health insurance coverage) and to non-Federal governmental plans, an obligation to permit the Board to make the determination described in paragraph (3) (as defined in subsection (b)(3)) that are covered under the law for which the State is seeking a certification. Such certification shall be accompanied by such information as may be required to permit the Board to make the determination described in paragraph (3), as applicable.

(A) IN GENERAL.—The Board shall promptly review a certification submitted under paragraph (1) with respect to a State law to make the determination described in paragraph (3) with respect to the certification.

(B) APPROVAL DEADLINES.—(i) INITIAL REVIEW.—Not later than 60 days after the date on which the Board receives a certification under paragraph (1), the Board shall—

(I) notify the State involved that specified additional information is needed to make the determination described in paragraph (3); or

(ii) submit a recommendation to the Secretary (through a certification under subsection (c)(4)) as being consistent with a patient protection requirement (as defined in paragraph (3)).

(C) DETERMINATIONS WITH RESPECT TO CERTIFICATIONS.—

(1) IN GENERAL.—For purposes of the continued application of certain State laws under subsection (b)(1), a State may, on or after May 1, 2002, submit to the Board established under subsection (d) a certification that the State law involved is consistent with the patient protection requirements (as defined in subsection (b)(3)) that are covered under the law for which the State is seeking a certification. Such certification shall be accompanied by such information as may be required to permit the Board to make the determination described in paragraph (3), as applicable.

(2) DUTIES.—(A) IN GENERAL.—The Board shall promptly review a certification submitted under paragraph (1) with respect to a State law to make the determination described in paragraph (3) with respect to the certification.

(B) APPROVAL DEADLINES.—(i) INITIAL REVIEW.—Not later than 60 days after the date on which the Board receives a certification under paragraph (1), the Board shall—

(I) notify the State involved that specified additional information is needed to make the determination described in paragraph (3); or

(ii) submit a recommendation to the Secretary through a certification under paragraph (3) with respect to a State law to make the determination described in paragraph (3).
(1) BOARD.—The term ‘‘Board’’ means the Patient Protection and Affordable Care Act established under subsection (d).
(2) STATE, STATE LAW.—The terms ‘‘State’’ and ‘‘State law’’ shall have the meanings given such terms in section 2722(d) of the Public Health Service Act (42 U.S.C. 300gg–23(d)).

Subtitle F—Miscellaneous Provisions

SEC. 161. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ‘‘Secretary’’ means the Secretary of Health and Human Services, in consultation with the Secretary of Labor.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title—

(1) ENROLLEE.—The term ‘‘enrollee’’ means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(2) HEALTH CARE PROFESSIONAL.—The term ‘‘health care professional’’ means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(3) HEALTH CARE PROVIDER.—The term ‘‘health care provider’’ includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(4) NETWORK.—The term ‘‘network’’ means, with respect to a group health plan or health insurance issuer offering health insurance coverage granting health care professionals and providers through which the plan or issuer provides health care items and services to a participant, beneficiary, or enrollee.

(5) NONPARTICIPATING.—The term ‘‘nonparticipating’’ means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(6) PARTICIPATING.—The term ‘‘participating’’ means, with respect to a health care provider, the provision of health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(7) PRIOR AUTHORIZATION.—The term ‘‘prior authorization’’ means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(8) TERMS AND CONDITIONS.—The term ‘‘terms and conditions’’ includes, with respect to a group health plan or health insurance coverage, any requirements imposed under this title with respect to the plan or coverage.

TITLE II—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO CERTAIN HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

‘‘SEC. 2707. PATIENT PROTECTION STANDARDS AND ACCOUNTABILITY.

‘‘(a) IN GENERAL.—Each health insurance issuer shall comply with the patient protection requirements under title I of the Bipartisan Patients’ Bill of Rights Act of 2001 with respect to non-Federal governmental group health insurance coverage offered by such issuers, and such requirements shall be deemed to be incorporated into this section.

‘‘(b) ACCOUNTABILITY.—The provisions of sections 503 through 503B of the Employee Retirement Income Security Act of 1974 (as in effect as of the date after the date of enactment of the Bipartisan Patients’ Bill of Rights Act of 2001) shall apply to non-Federal governmental group health insurance coverage offered by health insurance issuers with respect to an enrollee in the same manner as they apply to health insurance coverage offered by a participant or beneficiary in connection with a group health plan and the requirements referred to in such sections shall be deemed to be incorporated into this section. For purposes of this subsection, references in such sections 503 through 503B to the Secretary shall be deemed to be references to the Secretary of Health and Human Services.’’.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting ‘‘other than section 2707’’ after ‘‘requirements of such subparts’’.

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subparagraph (3 relating to other requirements) as subparagraph (2); and

(2) by inserting after section 2752 the following:

‘‘SEC. 2753. PATIENT PROTECTION STANDARDS AND ACCOUNTABILITY.

‘‘(a) IN GENERAL.—Each health insurance issuer shall comply with the patient protection requirements under subparts A and B of title I of the Bipartisan Patients’ Bill of Rights Act of 2001 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this section.

‘‘(b) ACCOUNTABILITY.—The provisions of sections 503 through 503B of the Employee Retirement Income Security Act of 1974 (as in effect as of the date of enactment of the Bipartisan Patients’ Bill of Rights Act of 2001) shall apply to individual health insurance coverage offered by a health insurance issuer, and such requirements shall be deemed to be incorporated into this section.

SEC. 203. LIMITATION ON AUTHORITY OF THE SECRETARY OF HEALTH AND HUMAN SERVICES WITH RESPECT TO NON-FEDERAL GOVERNMENTAL PLANS.

Section 2722(b) of the Public Health Service Act (42 U.S.C. 300gg–22(b)) is amended—

(1) in paragraph (1), by striking ‘‘only—’’ and all that follows through the period and inserting ‘‘only as provided under subsection (a)(2);’’; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ‘‘any’’ non-Federal governmental plan that is a group health plan and ‘‘; and

(B) in subparagraph (B), by striking ‘‘by—’’ and all that follows through the period and inserting ‘‘by a health insurance issuer, the issuer is liable for such penalty.’’.

SEC. 204. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–91 et seq.) is amended by adding at the end the following:

‘‘SEC. 2783. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

‘‘(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of any or all of the Secretary’s authority under this title to enforce the requirements applicable under title I of the Bipartisan Patients’s Bill of Rights Act of 2001 to health insurance issuers in connection with non-Federal governmental plans and individual health insurance coverage.

‘‘(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.’’.

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 201. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE IN CONNECTION WITH A GROUP HEALTH PLAN.

Subpart 2 of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is further amended by adding at the end the following new section:

‘‘SEC. 714. PATIENT PROTECTION STANDARDS.

‘‘(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall comply with the requirements of title I of the Bipartisan Patients’ Bill of Rights Act of 2001 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

‘‘(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

‘‘(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), in so far as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Bipartisan Patients’ Bill of Rights Act of 2001 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to comply with such requirements as long as the plan sponsor or its representatives did not cause such failure by the issuer:

CONGRESSIONAL RECORD—SENATE June 29, 2001
"(A) Section 101 (relating to access to emergency care)."

"(B) Section 102 (relating to consumer choice option)."

"(C) Section 103 (relating to patient access to obstetrical and gynecological care)."

"(D) Section 104 (relating to access to pediatric care)."

"(E) Section 105 (relating to timely access to specialists)."

"(F) Section 106 (relating to continuity of care), but only as given as a replacement issuer assumes the obligation for continuity of care.

"(G) Section 108 (relating to access to needed prescription drugs)."

"(H) Section 109 (relating to coverage for individuals participating in approved clinical trials)."

"(1) Section 110 (relating to required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations)."

"(J) Section 121 (relating to the provision of information).

"(2) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offering health insurance coverage with a group health plan takes an action in violation of any of the following sections of the Bipartisan Patients' Bill of Rights Act of 2001, the group health plan shall not be liable for such violation unless the plan caused such violation:

"(A) Section 107 (relating to prohibition of discrimination based on beneficiary race)."

"(B) Section 111 (relating to prohibition of discrimination based on beneficiary sex)."

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

"(4) TREATMENT OF CONSISTENT STATE LAWS.—For purposes of applying this subsection, a health insurance issuer offering coverage in connection with a group health plan shall be deemed to be in compliance with one or more of the patient protection requirements of the Bipartisan Patients' Bill of Rights Act of 2001 and the amendments made by such Act that are otherwise applicable to such issuer (or plan) under section 714 unless the issuer (or plan) shall be deemed to be in violation of any of the following provisions of that Act:

"(A) the issuer (or plan) is in compliance with a State law, with respect to the patient protection requirements involved, that has been certified in accordance with section 151(c) of such Act; or

"(B) the issuer (or plan) is in compliance with a State law, with respect to the patient protection requirements involved, that has been determined by the Secretary as not preventing the application of the patient protection requirements involved, in accordance with section 151(c)(8)(B) of such Act.

"(c) CONFORMING REGULATIONS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title.

"(d) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(b)) is amended—

"(1) by inserting "‘(a)’ after "‘(Sec. 503.’’); and

"(2) by adding at the end the following:

"(B) A participant, beneficiary, plan fiduciary, or the Secretary may not bring an action to enforce the requirements of section 714 against a group health plan (or such group health plan) where the patient protection requirements of the Bipartisan Patients' Bill of Rights Act of 2001 (as defined in section 151(b)(3) of such Act) otherwise applicable to such issuer (or plan) under section 714 do not apply because the issuer (or plan) is in compliance with a State law, with respect to the patient protection requirements involved, that has been certified or a determination made in accordance with section 151(c)."

"(e) CONFORMING AMENDMENTS.—

"(1) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended by striking "‘section 711’" and inserting "‘sections 711 and 714’.

"(2) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

"‘Sec. 714. Patient protection standards.’.

"(f) SEC. 502(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(b)(3)) is amended by inserting "‘(other than section 135(b))’ after "‘part 7’.

"(g) SEC. 302. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

"Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following:

"‘(c) RESPONSIBILITY OF STATE WITH RESPECT TO HEALTH INSURANCE ISSUERS.—(1) AGREEMENTS.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under section 1110 of title 26, or 504 to enforce the requirements applicable under title I of the Bipartisan Patients' Bill of Rights Act of 2001 to health insurance issuers in connection with a group health plan.

"(2) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this subsection may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.''

TITLE IV—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 401. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

"(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"‘Sec. 9813. Standard relating to patients' bill of rights.’;

"and (2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of title I of the Bipartisan Patients' Bill of Rights Act of 2001 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.'"
request that the Institute of Medicine of the National Academy of Sciences prepare and submit to the appropriate committees of Congress a report concerning the impact of this Act, and the amendments made by this Act, on the number of individuals in the United States with health insurance coverage.

(b) LIMITATION WITH RESPECT TO CERTAIN PLANS.—If the Secretary, in any report submitted under subsection (a), determines that more than 1,000,000 individuals in the United States have lost their health insurance coverage as a result of the enactment of this Act, as compared to the number of individuals with health insurance coverage in the 12-month period preceding the date of enactment of this Act, section 141 and the amendments made by such section shall be repealed effective on the date that is 12 month after the date on which the report is submitted, and the submission of any further reports under subsection (a) shall not be required.

(c) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 2003 and 2004, the Secretary of Health and Human Services shall provide for such funding as the Secretary determines necessary for the conduct of the study by the National Academy of Sciences under this section.

SA 857. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 179, after line 14, add the following:

SEC. 1. IMMUNITY FOR HEALTH CARE PROFESSIONALS.

Section 6(6) of the Volunteer Protection Act of 1997 (42 U.S.C. 14506(6)) is amended by adding at the end the following flush sentence:

"Such term includes a health care professional (as defined in section 151 of the Bipartisan Patient Protection Act) who is providing medical services and who meets the requirements of subparagraphs (A) and (B) with respect to the provision of such services including compensation from any source."
SEC. 304. SENSE OF THE SENATE CONCERNING The Average Offered by a Health Insurance Issuer under a Group Health Plan or Health Insurance Coverage of a Participant, Beneficiary, or Enrollee or Their Personal Representative.

SEC. 305. REQUIREMENTS FOR INSURANCE ISSUERS WITH RESPECT TO THE FEDERAL HEALTH CARE CONSUMER ASSISTANCE OFFICE.

(a) Definitions.—In this section—

(i) the term "health care consumer assistance office" means a health care consumer assistance office established by the Secretary as provided by this section;

(ii) the term "participant, beneficiary, or enrollee" means, with respect to a group health plan—

(A) any individual who is or has been covered by the plan, including an individual for whom the plan provides health care benefits;

(B) any individual who may become a participant, beneficiary, or enrollee through an election by another participant, beneficiary, or enrollee; and

(C) any participant, beneficiary, or enrollee of a health plan of a group health plan covered by this section;

(iii) the term "Federal health care consumer assistance office" means the office established under this section; and

(iv) the term "Secretary" means the Secretary of Health and Human Services.

(b) Sense of the Senate.—It is the sense of the Senate that the court should consider the loss of a non-wage earning spouse or parent as an economic loss for the purposes of this section. Furthermore, the court should define the compensation for the loss not as minimum services, but, rather, in terms that fully compensate for the true and whole replacement value.

(c) Minimum Amount.—In no case shall the amount provided to a State under this subsection for a fiscal year be less than an amount equal to 0.5 percent of the amount appropriated for such fiscal year to carry out this section.

(d) Prohibition on Discrimination.—The Secretary shall ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistent with applicable Federal and State confidentiality laws, collect, use or disclose aggregate information that is not individually identifiable (as defined in section 164.501 of title 45, Code of Federal Regulations).

(1) General.—From amounts provided under a grant awarded under this subsection, the Federal health care consumer assistance office shall, directly or through a contract with an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers (including individuals covered under a group health plan or health insurance coverage of a participant, beneficiary, or enrollee or their personal representative), provide support for activities directly or by contract with an entity that otherwise meets the requirements of this section.

(d) Prohibition on Discrimination.—The Secretary shall ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistent with applicable Federal and State confidentiality laws, collect, use or disclose aggregate information that is not individually identifiable (as defined in section 164.501 of title 45, Code of Federal Regulations).

(1) General.—From amounts provided under a grant awarded under this subsection, the Federal health care consumer assistance office shall, directly or through a contract with an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers (including individuals covered under a group health plan or health insurance coverage of a participant, beneficiary, or enrollee or their personal representative), provide support for activities directly or by contract with an entity that otherwise meets the requirements of this section.

(e) Use of Funds.—(1) By State.—A State shall use amounts provided under a grant awarded under this section to carry out consumer assistance activities directly or by contract with an independent, nonprofit organization. An eligible entity may use some reasonable amount of such grant to ensure the adequate training of its personnel in serving the needs of health care consumers (including individuals covered under a group health plan or health insurance coverage of a participant, beneficiary, or enrollee or their personal representative). The Federal health care consumer assistance office shall ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistent with applicable Federal and State confidentiality laws, collect, use or disclose aggregate information that is not individually identifiable (as defined in section 164.501 of title 45, Code of Federal Regulations).

(2) Designation of Responsibilities.—(A) In General.—If the health care consumer assistance office of a State is located within an existing State regulatory agency or office of an elected State official, the Secretary shall ensure that—

(i) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency; and

(ii) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by a participant, beneficiary, or enrollee or their personal representative and their health care providers, group health plans, or health insurance issuers with the office and to ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative.

(B) Contract Entity.—In the case of an entity that enters into a contract with a State that, through contract, establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols, consistent with applicable Federal and State laws, to ensure the confidentiality of all information shared by a participant, beneficiary, or enrollee or their personal representative and their health care providers, group health plans, or health insurance issuers with the office and to ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative.
Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a hearing to receive testimony on legislative proposals related to energy efficiency, including S. 352, the Energy Emergency Response Act of 2001; title XIII of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001, sections 602-606 of S. 388, the National Energy Security Act of 2001; S. 95, the Federal Energy Bank Act; S.J. Res. 15, providing for congressional disapproval of the rule submitted by the Department of Energy relating to the postponement of the effective date of energy conservation standards for central air conditioners.

The hearing will take place on Friday, July 13, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building. Those wishing to submit written statements on the legislation should address them to the Committee on Energy and Natural Resources, Attn: Shirley Neff, U.S. Senate, Washington, DC 20510.

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a hearing to receive testimony on energy and security Act of 2001. titles VIII, XI and Division E of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; sections 111, 122, 123, 125, 127, 201, 205, title IV and title V of S. 472, the Nuclear Energy Electricity Supply Assurance Act of 2001; and S. 90, the Department of Energy Nanoscale Science and Engineering Research Act; S. 193, the Department of Energy Advanced Scientific Computing Act; S. 242, the Department of Energy University Nuclear Science and Engineering Act of 2001; S. 269, the Nuclear Industry Partnerships Improvement Act of 2001; and S. 636, a bill to direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test reactor located in northwest Arkansas.

The hearing will take place on Wednesday, July 18, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building. Those wishing to submit written statements on the legislation should address them to the Committee on Energy and Natural Resources, Attn: Robert Simon, U.S. Senate, Washington, DC 20510.

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a hearing to receive testimony on legislative proposals related to removing barriers to distributed generation, renewable energy, and other advanced technologies in electricity generation and transmission, including section 301 and title VI of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; sections 110, 111, 710, and 711 of S. 388, the National Energy Security Act of 2001; and S. 933, the Combined Heat and Power Advancement Act of 2001. In addition, the hearing will consider proposals relating to the hydroelectric relicensing procedures of the Federal Energy Regulatory Commission, including title VII of S. 388, title VII of S. 597; and S. 71, the Hydroelectric Licensing Process Improvement Act of 2001.
The hearing will take place on Thursday, July 19, 2001, at 9:30 a.m., in room SD–335, of the Dirksen Senate Office Building in Washington, DC.

Those wishing to submit written statements on the legislation should address them to the Committee on Energy and Natural Resources, Attn: Deborah Estes, U.S. Senate, Washington, DC 20510.

For further information, please contact Deborah Estes at (202) 224–5360 or Mary Katherine Ishee at (202) 224–7865.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: No. 166, Nos. 168 through 181, including the nominations on the Secretary’s desk; that the nominations be confirmed en bloc, the motions to reconsider be laid on the table en bloc, the President be immediately notified of the Senate’s action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

AIR FORCE

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general


To be colonel of the Air Force

Neal A. McCaleb, of Oklahoma, to be an Assistant Secretary of the Interior.

NAVY

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be major general


To be major general


The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Tex W. Tanberg, Jr., 0000.

To be major general


ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general


To be major general


To be colonel of the Army

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general


To be lieutenant general


PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Krisann Kleibacker, a fellow in Senator Daschle’s office, be granted the privilege of the floor during debate on S. 1052.

The PRESIDING OFFICER. Without objection, it is so ordered.

To be lieutenant general


To be lieutenant general


The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general


NAVY

The following named officer for appointment as Chief of the Bureau of Medicine and Surgery and Surgeon General and for appointment to the grade indicated under title 10, U.S.C., sections 601 and 5137:

To be vice admiral

Rear Adm. Michael L. Cowan, 0000.

To be vice admiral

Vice Adm. Patricia A. Tracey, 0000.

ARMY

PN536 Air Force nominations (59) beginning STEVEN L. ADAMS, and ending JANNETTE YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of June 18, 2001

PN29 Army nominations (108) beginning KEITH S. * ALBERTSON, and ending ROBERT V. ZUEHLKE, which nominations were received by the Senate and appeared in the Congressional Record of January 3, 2001

PN484 Army nominations (169) beginning ERIC D. * ADAMS, and ending DAVID S. ZUMBRO, which nominations were received by the Senate and appeared in the Congressional Record of May 21, 2001

PN435 Army nominations (8) beginning GREGGORY R. CLUFF, and ending STEVEN W. VINSON, which nominations were received by the Senate and appeared in the Congressional Record of May 21, 2001

PN485 Army nominations (16) beginning GILL P. BECK, and ending MARGO D SHERIDAN, which nominations were received by the Senate and appeared in the Congressional Record of June 5, 2001

PN486 Army nominations (179) beginning CYNTHIA J ABRADINI, and ending THOMAS R * YARBROUGH, which nominations were received by the Senate and appeared in the Congressional Record of June 5, 2001

PN517 Army nominations (3) beginning JAMES E. GELETA, and ending GARY S OWENS, which nominations were received by the Senate and appeared in the Congressional Record of June 12, 2001

PN518 Army nominations (6) beginning FLOYD E BELL, JR., and ending STEVEN N. WICKSTROM, which nominations were received by the Senate and appeared in the Congressional Record of June 12, 2001
DEAR COLLEAGUE: We write as Chairman and Ranking Republican Member of the Judiciary Committee to inform you that we are prepared to examine carefully and assess such presidential nominations. We both believe that such openness in the nomination process shall no longer be designated or treated as Committee confidential.

Sincerely,

PATRICK J. LEAHY, Chairman.

ORRIN G. HATCH, Ranking Republican Member.


DEAR COLLEAGUE: On June 29, 2001, the Senate passed the organizing resolution which states, in part, that subject to the authority of the Standing Rules of the Senate, any agreements entered into regarding committee funding and space prior to June 5, 2001, be consistent with this resolution. We both recognize and have every intention of following the practices and precedents of the Committee and the Senate when considering Supreme Court nominees.

Sincerely,

PATRICK J. LEAHY, Chairman.

ORRIN G. HATCH, Ranking Republican Member.


DEAR COLLEAGUE: We write as Chairman and Ranking Republican Member of the Judiciary Committee to inform you of a change in Committee practice with respect to nominations. The “blue slips” that the Committee has traditionally sent to home State Senators to ask their views on nominees to be U.S. Attorneys, U.S. Marshals and federal judges, will be treated as public information. We both believe that such openness in the confirmation process will benefit the Judiciary Committee and the Senate as a whole. Further, it is our intention that this policy openness with regard to “blue slips” and the blue slip process continue in the future, regardless of who is Chairman or which party is in the majority in the Senate. Therefore, we write to inform you that the Chairman of the Judiciary Committee, with the full support of the former Chairman and Ranking Republican Member, is exercising the authority of the Senate for the 107th Congress with respect to Supreme Court nominations. It is the intent of the Committee on Rules and Administration to continue such practice.

Sincerely,

CHRISTOPHER J. DODD, Chairman.

MITCH McCONNELL, Ranking Member.

Mr. DASCHLE. Madam President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. 120) was agreed to, as follows:

S. Res. 120
Resolved, That the Majority Party of the Senate for the 107th Congress shall have a one seat majority on every committee of the Senate, except that the Select Committee on Ethics shall continue to be composed of equal members from both parties. No Senator shall lose his or her current committee assignments by virtue of this resolution.

Notwithstanding the provisions of Rule XXV the Majority and Minority Leaders of the Senate are hereby authorized to appoint their members of the committees consistent with this resolution.

Sec. 3 Subject to the authority of the Standing Rules of the Senate, any agreements entered into regarding committee funding and space prior to June 5, 2001, between the Chairman and Ranking member of each committee shall remain in effect, unless modified by subsequent agreement between the Chairman and Ranking member.

Sec. 4 The provisions of this resolution shall cease to be effective, except for Sec. 3, if the ratio in the full Senate on the date of adoption of this resolution changes.

Mr. DASCHLE. Madam President, the resolution we have just adopted is one that provides for the reorganization of the U.S. Senate.

This is a unique time of transition for the Senate, and I understand that it is a difficult time for many of my Republican colleagues.

If there is one thing that supercedes the status of any Senator or any party, it is our desire to do the work we were sent here to do. That, of course, requires getting the Senate organized to do it.

By passing this resolution, our colleagues can retake their rightful places on committees, committees can take action on legislation, and importantly, we can move forward with Presidential nominations.

This organizing resolution is the result of thorough bipartisan negotiations over the last several weeks.

Many people deserve credit. First and foremost, I thank Senator LOTT. Senator LOTT and I have been through many challenges together. Each of those challenges has strengthened our friendship, and our unique relationship, and this is no exception.

I also thank Senators McCONNELL, DOMENICI, GRANN, HATCH, and SPECTER. Their good faith in the negotiating process, and their patience as the process played out, has been instrumental in helping us reach this point.

This resolution provides for a one-seat margin on Senate committees,
which is consistent with Senate precedent.

It clarifies that—subject to the standing rules of the Senate—the agreements on funding and space that were made between chairman and ranking members early in this Congress will remain in effect for the duration of this Congress.

This resolution also makes it clear that all of these provisions will sunset if the ratio in the Senate changes during this Congress.

I especially commend Senator LEAHY. Senator LEAHY, in his typically fair and wise way, played a critical role in solving the most difficult questions we faced in these negotiations: those involving Supreme Court and other Presidential nominees.

Together, he and Senator HATCH were able to find a constructive solution to the way in which we handle “blue slips,” and the way in which we consider nominees to the Supreme Court.

On the subject of blue slips, Senators LEAHY and HATCH have agreed that these forms—traditionally sent to home-state Senators to ask their views on nominees to be U.S. Attorneys, U.S. Marshals, and federal judges—will now be treated as public information.

I share their belief that this new policy of openness will benefit not only the Judiciary Committee, but the Senate as a whole. I also share their hope that this policy will continue in the future, regardless of which party is in the majority.

In the course of our negotiations, a number of our Republican colleagues also raised concerns about how Democrats would deal with potential Supreme Court nominations, should that need arise.

In a letter to Thomas Jefferson, James Madison explained that the Constitution’s Framers considered the Senate to be the great “anchor” of the Government.

For 212 years, that anchor has held steady. The Senate has withstood Civil War and constitutional crises. In each generation, it has been buffeted by the winds and tides of political and social change.

Today I believe we are proving that this great anchor of democracy can withstand the forces of unprecedented internal changes as well.

I am confident that this resolution is the right way to keep the Senate working. I am appreciative of the support given by my colleagues today as we now adopt it.

If I may, I will say one other thing about this particular resolution. There is a member of my staff whose name is Mark Childress; our colleagues know him for many good reasons, as I am to all of my staff. But no one deserves more credit and more praise for the job done in reaching this successful conclusion than Mark Childress. Publicly, I acknowledge his contribution, his incredible work and effort. I thank him from the bottom of my heart for what he has done to make this possible.

Mr. LOTT. Madam President, I ask unanimous consent to insert in the RECORD a memo from the Congressional Reference Service. As this memo makes clear, the Senate has a long record of allowing the Supreme Court nominees of the President to be given a vote on the floor of the Senate. No matter what the vote in committee on a Supreme Court nominee, it is the precedent of the Senate that the individual nominated is given a vote by the whole Senate.

The letter inserted in the RECORD as a part of the agreement accompanying the organization resolution refers to the “traditional” practice of reporting Supreme Court nominees for a vote on the floor. This memo from CRS shows that since 1881, there is only one case where the nominee was not given a floor vote. In that case, there was no opening on the Court for the nominee to fill and thus the nominee was withdrawn. So this precedent is even purer than the “99 and 44/100ths” soap test.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE

Senate Consideration of Supreme Court Nominations prior to 1880

Hon. TRENT LOTT,
Senate Republican Leader.

This memorandum is in response to your request, made during our telephone conversation earlier today, for a short written answer to the specific question, “Is it the case that since 1880 all Supreme Court nominations, irrespective of Judiciary Committee recommendation, have received consideration by, and a vote of, the full Senate?”

Research by CRS has found that from President James A. Garfield’s nomination of Stanley Matthews on to the present, every person nominated to the Supreme Court except one has received Senate consideration and a vote on his or her nomination. Nonetheless, it should be noted, during the time frame of 1880 to the present, there have also been two other instances, besides the already mentioned exception, in which Supreme Court nominations failed to receive consideration; in both cases, however, the individuals in question were re-nominated shortly thereafter, with one receiving Senate confirmation and the other Senate rejection.

The one instance when the Senate did not consider and vote on an individual nomination was a Supreme Court Justice involved President Lyndon B. Johnson’s nomination of federal appellate judge Homer Thornberry in 1968. Judge Thornberry was nominated to be an associate justice of the Supreme Court on June 26, 1968, the same day on which President Johnson nominated then-Associate Justice Abe Fortas to be Chief Justice. Judge Thornberry’s nomination to the Associate Justice vacancy that was to be created upon Justice Fortas’s confirmation as Chief Justice. However, after being favorably reported by the Judiciary Committee, the Fortas nomination failed to gain Senate confirmation. On October 1, 1968, the fourth day of Senate consideration of the Fortas nomination, motion to call the nomination failed by a 45–43 vote. Three days later, on October 4, 1968, President Johnson withdrew both the Fortas and Thornberry nominations.

Prior to Senate action on the Fortas nomination, the Judiciary Committee held hearings simultaneously on Fortas and Thornberry, but upon conclusion of the hearings released only one nomination. One detailed history of the Fortas nomination reported that it was apparent “that the committee would take no action on Thornberry until the Fortas nomination was settled.”

As noted in the second paragraph of this memorandum, there also have been two instances in which Supreme Court nominations failed to receive Senate consideration, only to be followed by the individuals in question being re-nominated shortly thereafter and then receiving Senate consideration. The earlier of these instances involved President Rutherford B. Hayes’s nomination of Stanley Matthews on January 26, 1881 in the final days of the 46th Congress. According to one historical account, the nomination did not enjoy majority support in the Senate Judiciary Committee and was not reported out by the Committee or considered by the full Senate before the end of the Congress. However, Matthews was renominated by Hayes’s successor, President Garfield, on March 14, 1881. Although the second nomination was reported with an adverse recommendation by the Judiciary Committee, it was considered by the full Senate and confirmed on May 12, 1881.

A second instance in which a Supreme Court nomination failed to receive Senate consideration, only to have the individual in question be re-nominated, involved Grover Cleveland’s nomination of William Hornblower in 1893. Hornblower was first nominated on September 19, 1893, with no record
of any Judiciary Committee action or Senate consideration of the nomination indicated in Journal of the Executive Proceedings of the Senate volume for that (the 53rd) Congress. Hornblower was re-nominated by President Cleveland on December 6, 1893. After his second nomination was reported adversely by the Judiciary Committee on January 8, 1894, Hornblower was rejected by the Senate on January 15, 1894 by a 24-30 vote.

I trust the above information is responsive to your request. If I may be of further assistance please contact me at 7-7162.

DENIS STEVEN RUTKUS
Specialist in American National Government

CHANGING THE NAME OF THE COMMITTEE ON SMALL BUSINESS TO “COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP”

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 123, submitted earlier today by Senators KERRY and BOND.

The PRESIDING OFFICER. The Clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 123) amending the Standing Rules of the Senate to change the name of the Committee on Small Business to the “Committee on Small Business and Entrepreneurship.”

There being no objection, the Senate proceeded to consider the resolution.

Mr. KERRY. Madam President, I would like to take a few minutes to explain the historic importance of the Resolution I am putting forward with Senator BOND to change the name of the Senate Committee on Small Business to the Senate Committee on Small Business and Entrepreneurship. This is the first piece of legislation I am putting forward as the new Chairman of the Small Business Committee. I am pleased that it is a bipartisan Resolution, continuing the tradition of the Committee.

I would like to thank Senator BOND for cosponsoring this Resolution, and the Majority Leader and Republican Leader for their cooperation and support in bringing it to the floor of the Senate so quickly.

As many of my colleagues may know, the needs and circumstances of today’s entrepreneurial companies differ from those of traditional small businesses. For instance, entrepreneurial companies are much more likely to depend on investment capital rather than loan capital. Additionally, although they represent less than five percent of all businesses, entrepreneurial companies create a substantial number of all new jobs and are responsible for developing a significant portion of technological innovations, both of which have substantial benefits for our economy.

Taken together, an unshakable determination to grow and improved productivity lie at the heart of what distinguishes fast growth or entrepreneurial companies from more traditional, albeit successful, small businesses. Early on, it is critical to someone to distinguish a small business from an entrepreneurial company. Only when a company starts to grow fast and make fundamental changes in a market do the differences come into play. Policies that support entrepreneurship become critical during this phase of the business cycle.

Our public policies can only play a significant role during this critical phase if we understand the needs of entrepreneurial companies and are prepared to respond appropriately.

I believe that adding “Entrepreneurship” to the Committee on Small Business’s name will more accurately reflect the Committee’s valuable role in helping to foster and promote economic development and entrepreneurial companies and the spirit of entrepreneurship in the United States.

I urge my colleagues to support this Resolution. Thank you.

Mr. DASCHLE. Madam President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, that any statements relating thereto be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 123) was agreed to.

The (resolution is located in today’s RECORD under “Statements on Submitted Resolutions.”)

COMPLIMENTING SENATORS

Mr. DASCHLE. Madam President, let me just say this before I make my final comments. Senator KENNEDY is on the floor today. I talked to him a couple of weeks ago as we completed our work on the education bill, a historic and landmark piece of legislation, and I am grateful to him for his extraordinary contribution to that bill.

So on behalf of all of our caucus, I daresay on behalf of the Senate, I thank Senator KENNEDY, our chairman, for the role he has played.

I also acknowledge and thank our colleague from North Carolina, Senator JOHN EDWARDS. Senator EDWARDS has done a remarkable job. In a very short period of time, he has demonstrated his capabilities for senatorial leadership. He came to the Senate without the experience of public service, but in a very brief period of time he has demonstrated his enormous ability to adapt to the Senate and elevate himself to a true leader. I am grateful to him for his extraordinary contribution to this bill.

Let me also thank Senator JOHN MCCAIN. This bill is truly bipartisan in many ways, but it is personified in that bipartisanship with the role played by Senator MCCAIN, not unlike other bills in which he has participated. I will mention especially the campaign finance reform bill.

Senator MCCAIN has been the key in bringing about the bipartisan consensus that we reached again today. On a vote of 59-36, we showed the bipartisanship that can be displayed even as we take on these critical and difficult issues. That would not have been possible were it not for his effort.

Let me thank, as well, Senator JUDD GREGG and many of our colleagues on the Republican side for their participation. They fought a hard fight; they made a good case; they argued their amendments extremely well; and they were prepared to bring this debate to closure tonight. I am grateful to them for their willingness to do so.

Finally, I thank Senator HARRY REID. He wasn’t officially a part of the committee, but Senator REID has made a contribution once again to this bill, as he has on so many other bills, that cannot be replicated. What did not happen were it not for his remarkable—and I would say incredible—efforts on the Senate floor each and every day. He is a dear friend. He is someone unlike anyone I think we have seen in recent times. He cares deeply for this body and has worked diligently to bring about a successful conclusion to this bill. We thank him.

Having thanked our colleagues, let me also thank our staff—our floor staff, my personal staff, the leadership staff, the staff of the committee. Were it not for them, we simply could not have done our work. I am extraordinary grateful to them as well.

ORDERS FOR MONDAY, JULY 9, 2001

Mr. DASCHLE. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 12 noon, Monday, July 9. I further ask consent that on Monday, July 9, immediately following the prayer and the pledge, the
Journal of proceedings is approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 1 p.m., with Senators permitted to speak for up to 10 minutes each, with the following exceptions: Senator DURBIN, or his designee, from 12 to 12:30 p.m.; Senator THOMAS, or his designee, 12:30 p.m. to 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PRINTING OF S. 1052
Mr. DASCHLE, Madam President, I ask unanimous consent that S. 1052, as passed by the Senate, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT
Mr. DASCHLE, Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res. 176, following the conclusion of the remarks of Senator Kennedy.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished senior Senator from Massachusetts.

PASSAGE OF THE BIPARTISAN PATIENT PROTECTION ACT
Mr. KENNEDY. Madam President, I want to take a brief moment to thank some very special people who were absolutely instrumental in bringing us to the point of the passage of the legislation which gives so much hope—and should give so much hope—to millions of American families who now are going to be treated by the doctors in whom they have confidence, by the health care staff from whom they are going to get true recommendations, and not have judgments and decisions overridden by their HMOs. We have not finished the job, but this is a giant step forward.

I want to, as others have done—I feel strongly about it —first thank some special Members of this body. We just heard our leader, Senator DASCHLE. I can remember when Senator DASCHLE was asked after he assumed the leadership role in the majority leader in the Senate, what was going to be his first priority, and he mentioned the Patients’ Bill of Rights. For 5 years—for 5 years—we have waited for this moment this evening. For 5 years we have waited for that short time he has assumed the leadership of the Senate, in a closely divided Senate, he has been able to develop the broad support evidenced in vote after vote, bipartisan in such important public policy areas.

I thank my good friend, JOHN EDWARDS, whose leadership at critical times during this debate and during very important moments was absolutely indispensable and essential. He was extremely effective in his quiet and soft-spoken way, and the strength that is reflected in his great passion on so many of the issues which are in his soul. He has made an enormous difference in making sure we reached this point tonight.

I thank Senator MCCAin. Senator MCCAin, as he has said many times, traveled this country as a Presidential candidate and saw the importance of this legislation. He came back and wanted to know how he could play a role in making sure it came to fruition. He was willing, as he has on so many issues, to take on tough challenges and stay the course, but he has been an absolutely extraordinary leader on this issue, as on many others. It has been a great pleasure to work with him closely on this matter.

As has been mentioned, JOHN EDWARDS has provided extraordinary leadership on this issue. He was indispensable in so many different aspects of the development of the legislation, likely all of which deal with accountability. We know the importance of the relationship between accountability and patient protections in this bill. He was always a steadying force, a strong force, a tireless voice for patients and has made an extraordinary mark on this legislation for which we are grateful. This has been a historic team, and I am grateful for them.

I have great appreciation for HARRY REID. I listened the other evening when my good friend Senator BYRD, mentioned that he had been a deputy leader. He said Senator BYRD was really one of the best. Having been a deputy leader myself many years ago, it truly can be said he is the best I have seen in all the time I have been in the Senate. He is a tireless worker and always there to find common ground.

He has this incredible ability to say no and make you feel good, which is very difficult but challenging at best for any leader, and he does it on a regular basis, repeatedly, and still Members of this body know he is a selfless devotee to this institution and to the issues in which he is involved. He has made such an extraordinary difference in this legislation as well.

I want to thank Senator DASCHLE, and I see chairing tonight my good friend, DEBBIE STABENOW. All of us, as we have been working on this legislation, know this has been such a motivating force in her public life experience. She has been an extraordinary resource and supporter for this legislation. No one in this body cares more deeply about this issue than Senator STABENOW. She reminds us all of that wonderful child, Jessica, of whom she has spoken. She continues to be a presence in this Senate on this issue.

I thank a number of our colleagues who were involved, and I will not be able to mention them all, but I think of Senator SNOWE and Senator BAWIN who worked across the aisle to fashion a very important amendment that helped clarify some important provisions that we had not felt needed further clarification, but they pointed out the reasons for it in a constructive way in working through it.

I thank my friend, Dr. FRIST, who has been the chairman of our Public Health Subcommittee and with whom I have worked on many different issues. We differed on this issue, but we worked closely on many other issues. I have great respect for him.

I thank JUDD GREGG who has been a worthy adversary as well as an ally on different public policy issues this year. I enjoy working with him.

Some Senators I had not expected to be as involved as they have been and yet were enormously helpful are Senator NELSON, Senator LANTORE, Senator LINCOLN, and Senator BAYH. Senator Jeffords spent a lot of time on this issue previously and worked with us and knows the issue carefully.

I have listened to him in small meetings including at the White House with the President, explaining the importance of this legislation enormously effectively as he does. He has been a wonderful help generally. We didn’t always agree on some of these issues, but nonetheless I value both his friendship and his views.

Senator BREAUX has been very much involved with health policy issues and was very involved in this.

Tom HARKIN has been a champion on the Patients’ Bill of Rights from the beginning. He has been there every time we needed a strong voice. He knows this issue. He speaks passionately about it. He understands the significance of the importance not only in the areas of disability protections and health standards and medical necessity, but he also understands the nuances and the standards which were used and how that impacts broad numbers of our populations. He was absolutely invaluable throughout this process.

I thank particularly the staff members. These issues are complex. It is
difficult to always be able to anticipate the interrelationship between these issues. The importance of what we are doing and how it affects other legislation we have passed, what the impact will be with States and local communities, the impact with the business community, consumers, and others. We have been very, very well served across the board by the staff who have worked tirelessly on this issue just as they did on the education issue. There are an incredible number of very capable men and women who have devoted an extraordinary amount of time and effort and who have made an extraordinary mark on this legislation.

I thank all of them: For Senator McCain, Sonya Sotak, Jean Bumpus, Cassandra Wood and Mark Busee; for Senator Edwards, Jeff Lane, Miles Lackey, Kyle Kinner, Hunter Pruett, and Lisa Zeldner. I want to thank the staff of Senator Daschle and Senator Reid, all of the floor staff and the clerks, including Marty Paone, Lula Davis, Gary Myrick, and also in particular Elizabeth Hargrave and Deborah Adler. I thank them very much. Senator Daschle has mentioned Mark Childress and Mark Patterson. They are leaders of a very capable and able team that works very closely with Senator Daschle. They are not only fiercely loyal and committed to him but they are enormous sources of help and assistance to all Members in our caucus. We are all very grateful to all of them. For Senator Gregg, Stephanie Monroe, and Steve Irrigary, and Kim Monk.

Now to my own staff, to whom I am incredibly grateful. No one has worked longer or harder, has been more committed or with greater success in terms of legislative achievement than David Nexon, the head of my health care team. Dave has been an invaluable resource, and I remember very clearly when I interviewed him for the job and asked him to write an essay about health care. I still remember his strong commitment in that essay to universal coverage, comprehensive coverage, quality at a price people can afford. He has never let up on that ideal. It is one of the reasons I admire him so much. I am incredibly grateful to him. I will mention others in no particular order. I thank Michael Myers who is our chief of staff for our whole committee and takes on the broad responsibilities in health, education, and all the matters of that committee. Michael and I go back a long time, initially working together on refugee issues, and he is a master of what he does. He is tireless and effective and helpful in our efforts in that cause. And now, he has been good enough to stay the course with me and has just been an extraordinary leader for our committee. I am grateful to him for his friendship and leadership on the committee.

I thank Jeff Teitz who is a master of many complicated aspects of the bill. If you have a complex issue that needs to be mastered, call Jeff Teitz. Sarah Bianchi has full energy and intelligence and has had a distinguished career in working with former Vice President Gore. She has been a great addition to our team. Jerry Wesevich, I thank him so much for his presence on the Hill, strongly committed to improving our society, and I regret losing him. I know that though he will be involved in making a better community.

Janie Oates is the master of all trades and knows every TRIO program, every program that reaches out to the most needy in our country and society, and has been enormously helpful to me in this endeavor as well. I also thank Stacey Sachs who was here day in and day out and always seemed to have the answer. I remember the debate on the questions on the standard of medical necessity and the points being made about the standard we used in the Federal employers health plan. Stacey knew, yes, that was true but in the appeal provision a different standard was used. She knew the details of it, which was a key point. She is an extraordinary reservoir of good common sense and knowledge.

Jim Manley has been a great help and a good friend and has helped so much in terms of being able to communicate these issues and this whole policy area effectively. Jim has been tireless. Elizabeth Field, Marty Walsh, so many others worked not just here on the floor but outside, as well, in terms of working with various groups and helping to bring what is happening at the grass roots here to the Senate floor. Amelia Dungan and Jackie Gran. I thank David Bowen very much. He is a great master in understanding so much of the new research and what is happening in the outer edges of biomedical research. We had debate on some of those issues, and we will have more later. These are complex ethical issues and questions. Dave is a master of all of them. Beth Cameron and Paul Kim also deserve thanks. Paul joined our staff and has been enormously valuable and helpful, as he was in the House of Representatives.

Thanks also go out to our many dedicated interns, Dan Miano, Madhu Chugh, Tarak Shah, Nina Dutta, Nicole Salazar-Austin, Abby Moncrieff, Eddie Santos, Kent Mitchel, Haris Hardaway, Nirav Shah, Charita Sinha, Les Chun and Wyley Proctor. Their energy and dedication certainly helped us along the way.

I appreciate our Presiding Officer and our Senate staff for their patience this evening while we make sure that the history of tonight will include so many who did so much to make tonight a very important step toward helping our fellow American citizens get better quality health care.

ADJOURNMENT UNTIL MONDAY, JULY 9, 2001

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 12 noon, Monday, July 9, 2001.

Thereupon, the Senate, at 8:59 p.m., adjourned until Monday, July 9, 2001, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 29, 2001:

DEPARTMENT OF THE TREASURY

HARRIETTA HOLSMAN FORE, OF NEVADA, TO BE DIRECTOR, DEPARTMENT OF THE TREASURY FOR A TERM OF FIVE YEARS, VICE JAY JOHNSON, RESIGNED.

NATIONAL TRANSPORTATION SAFETY BOARD

MARION BLAYKE, OF MISSISSIPPI, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF TWO YEARS, VICE JAMES E. HALL, TERM EXPIRED.

MARION BLAYKE, OF MISSISSIPPI, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF TWO YEARS, VICE JOHN HAMMERSCHMIDT, TERM EXPIRED.

DEPARTMENT OF STATE

JIM NICHOLSON, OF COLORADO, TO BE AMBASSADOR EXTRAORDINARY AND PLeniTENIENT OF THE UNITED STATES OF AMERICA TO THE HOLY See.

CHARLOTTE L. BEERS, OF TEXAS, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY, VICE EVE LYN SOMERS, RESIGNED.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

DENNIS L. SCHORINACK, OF MICHIGAN, TO BE COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA, VICE THOMAS L. BALDWIN, RESIGNED.

INTERNATIONAL MONETARY FUND

RANDALL QUARLES, OF UTAH, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF TWO YEARS, VICE KARIN LISSAKER, RESIGNED.

DEPARTMENT OF EDUCATION

CAROL D'AMICO, OF INDIANA, TO BE ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION, DEPARTMENT OF EDUCATION, VICE PATRICIA WENTWORTH MCNEIL, RESIGNED.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

HENRIETTA HOLSMAN FORE, OF NEVADA, TO BE DIRECTIONAL MEMBER OF THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA, VICE THOMAS L. BALDWIN, RESIGNED.


To be colonel

CARL R. BAGWELL, 000

JAMES E. CROALL JR., 000

ALLEN M. BARRON, 000

To be captain

MARK M. ABRAMS, 000

JOSE A. ACSOSTA, 000

MARTINES M. P. ALLAN, 000

THOMAS P. ALLAN, 000

SANDRA L. ALMEID, 000

FETER E. AMATO, 000

DERVY L. ANDERSON, 000

STEVEN B. ANDERSON, 000

SUSAN N W ANDERSON, 000

ULYSSES J. ARBETTER III, 000

JOAN R. ATCHISON, 000

JAMES D. BACCHETTI, 000

BRUCE A. BARBOS, 000

JOHN D. BARTY, 000

MARK R BATEMAN, 000

JOHN A BATTLE III, 000

SUSAN R BAZEMORE, 000

THOMAS E BEEMAN, 000

CONGRESSIONAL RECORD—SENATE

June 29, 2001
The following named officers for regular appointment to the grades indicated in the United States Navy under title 10, U.S.C., sections 531 and 532:

To be commander

Michael J. Nyilas, 0000
Kolbe F. Weyer, 0000

To be lieutenant commander

Charles P. Chiappetti, 0000
Christopher D. Connors, 0000
Vincent P. Giordano, 0000
Daniel M. Jaffer, 0000
Neviana I. Koh, 0000
Edward G. Korman, 0000
Michael E. Legue, 0000
Robert K. McRae, 0000
David L. McKay, 0000
Ronald D. Parker, 0000
Erfurth R. Petrie, 0000
Timothy L. Peilipps, 0000
Jacqueline Frutt, 0000

To be lieutenant

Allen D. Adkins, 0000
Deniss A. Alba Jr., 0000
Ennesto C. Alvarado Jr., 0000
Bradley A. Appleman, 0000
Priscilla A. Barleff, 0000
Oscar A. Barroso, 0000
Amey L. Becker, 0000
Nathan B. Belsey, 0000
Robert E. Bell, 0000
Arturith S. Blem, 0000
Drewlan L. Bookier, 0000
Michael E. Bosher, 0000
Robert W. Bosher, 0000
Theodore A. Bowers, 0000
William M. Brekenridge, 0000
Gregory K. Brotherton, 0000
Charles L. Cappoianetti II, 0000
David J. Campbell, 0000
Andrew J. Campbell, 0000
Abhikas J. Catalpadotta, 0000
Julie L. Donahue, 0000
Corey A. Cook, 0000
Giorgio B. Correa, 0000
Daniel R. Croucher, 0000
Janet F. Cuffley, 0000

To be ensign

Richard B. Bevis, 0000
Blair A. Biergen, 0000
Bruce A. Bierman, 0000
Richard J. Bierman, 0000
Edward Bologniano, 0000
Kerry M. Bollano, 0000
Bruce B. Boswell, 0000
Tomm J. Bottoms, 0000
Dorris J. Braunbeck, 0000
William J. Brennan, 0000
Dale R.布鲁克, 0000
Mary A. Burke, 0000
Victor D. Callahan, 0000
Salvatore R. Camplino Jr., 0000
Leonard M. Carbo, 0000
Laurie J. Cantwell, 0000
John S. Cantwell Jr., 0000
Katharine B. Chrislin, 0000
Mark M. Cunningham, 0000
Warren G. Clark, 0000
John V. Conti Jr., 0000
David J. Coughlin, 0000
Amy L. Counts, 0000
Michael C. Crowell, 0000
Steven Crossland, 0000
Patricia L. Crowley, 0000
Jehiel A. Datz, 0000
Daniell B. Dhaton, 0000
Francisco S. Del Vecchio, 0000
Cynthia A. Dogola, 0000
Joyce D. Donegan, 0000
Janet B. Donovan, 0000
Dana L. Dockstrom, 0000
Donald W. Drayton, 0000
Onton D. Drayton, 0000
Brian L. Drayton, 0000
Gary R. Drayton, 0000
Joan A. Drayton, 0000
Richard J. Frederick, 0000
Pamela A. Frick, 0000
Terry C. Ganzel, 0000
Michael J. Garcia, 0000
William S. Garner Jr., 0000
Robert L. Geddes Jr., 0000
James P. Gell, 0000
Neil F. Gitin, 0000
Sherri L. Goldstein, 0000
Richard L. Hamilton, 0000
Naurick A. Haminou, 0000
Kathleen A. Rass, 0000
Gerald B. Haynes, 0000
Michael W. S. Hays, 0000
Donna M. Hendel, 0000
Barbara D. Heng, 0000
Lee C. Henwood, 0000
Carl J. Hodge, 0000
James M. Hofstein, 0000
Elliott S. Hoge, 0000
Gary B. Horowitz, 0000
Jenny G. Howell, 0000
Michael P. Hughes, 0000
Robert M. Hulander, 0000
David J. Hurt, 0000
James M. Jarego, 0000
Joseph J. Jankiewicz, 0000
Christopher W. Jensen, 0000
Deborah A. Jetter, 0000
James M. Jochem, 0000
Stanley E. Johnson, 0000
Stephen E. Johnson, 0000
Donna L. Kahn, 0000
Robert M. Kanhor, 0000
Rebeca D. Killgore, 0000
Edward M. Kilpatrick Jr., 0000
Nir Kosovsky, 0000
Marcelo Kotacka, 0000
Pamela A. Lampley, 0000
Mark A. Libbeman, 0000
Frank F. Liberman Jr., 0000
Marian L. Macdonald, 0000
Darlene M. Marko, 0000
John M. Marmolejo, 0000
John B. Mastafield, 0000
Martin L. Mathiesen, 0000
Fredric E. Matthew's, 0000
Pamela W. McGuine, 0000
Barry C. MacDonald, 0000
Kathleen M. McConn, 0000
Joseph N. Mecca, 0000
Stevens M. Meldrum, 0000
David J. Miesch, 0000
Alexandria Moldiansky, 0000
Patricia W. Montgomery, 0000
Cathy A. Morano, 0000
Leilani M. Morison, 0000
Edward V. Oanhlan, 0000
Chad A. Bartke, 0000
John B. Oldershaw, 0000
Gailellen P. Olds, 0000
Frank W. Osandroski, 0000
Paul M. O'Sullivan, 0000
Kaye R. Owen, 0000
Agnieszka Palomo, 0000
Jeffrey A. Padovan, 0000
Denies J. Patkin, 0000
Philip J. Paullino, 0000
Julie A. Prabson, 0000
Mark W. Prediman, 0000
Michael L. Potter, 0000
Scott M. Pottinger, 0000
Michael J. Price, 0000
Christopher A. Proctor, 0000
CONGRESSIONAL RECORD—SENATE

DEPARTMENT OF THE INTERIOR

NEAL A. MCCALER, OF OKLAHOMA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR. THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO QUESTIONS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. SECTION 624:

To be major general
BRIG GEN MICHAEL A. RAMIL, 0000
THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. SECTION 624:

To be major general
BRIG GEN DALE W. MYSERSHOE, 0000
BRIG GEN WILBERT D. PEARSON JR., 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. SECTION 624:

To be brigadier general
COL REX W. TANBERG JR., 0000
THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. SECTION 1220:

To be major general
BRIG GEN JAMES P. COLLINS, 0000
THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. SECTION 1220:

To be major general
BRIG GEN EDWARD L. CORREA JR., 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C. SECTION 661:

To be vice admiral
VICE ADM. GORDON S. HOLDEN, 0000
VICE ADM. PATRICIA A. TRACEY, 0000

CONFIRMATION
Executive Nominations Confirmed by the Senate June 29, 2001:

To be lieutenan
general
MJA. GEN. EDWARD HAMLIN JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF THE BUREAU OF MEDICINE AND SURGERY AND SUGENOM IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. SECTIONS 661 AND 5127:

To be vice admiral
BRAD ADM. MICHAEL L. COGAN, 0000
THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. SECTIONS 661:

To be vice admiral
Vice ADM. JAMES L. GELATA, 0000

IN THE AIR FORCE


IN THE ARMY


THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO QUESTIONS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.
HONORING THE LATE JIMMIE ICARDO

HON. WILLIAM M. THOMAS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. THOMAS. Mr. Speaker, I am sad to report that Kern County, California lost one of its most prominent and successful farmers when Jimmie Icardo passed away. Few can or will match commitment to his family, his church and to Kern County.

The businesses Jimmie developed are going to be models for young Californians for years to come. He built strong family farm operations that produced quality melons, tomatoes, peppers and other crops. He was active in the oil and gas, banking and real estate industries. Jimmie made his own successes through honest dealings with his neighbors and a tremendous amount of hard work. He was equally committed to his community.

Jimmie Icardo will also be remembered for the tremendous support he has given the California State University at Bakersfield over the years, in particular the University's athletic programs. Jimmie ran barbecues to raise money for athletic scholarships, established a trust to benefit the program and supported the school in other ways. His strong support over several decades helped build CSU Bakersfield into the school it is today. The school's decision to re dedicate its athletic center as the Jimmie and Marjorie Icardo Activities Center is only a start toward acknowledging how hard Jimmie worked over the years to support an important educational resource for Kern County.

Jimmie Icardo was a person you asked for help to get things done. His strengths and sense of commitment to our community are going to be missed by those who now have to measure up to his example.

REMOTE SENSING APPLICATION ACT OF 2001

HON. MARK UDALL
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing the Remote Sensing Applications Act of 2001. This bill would help communities grow more smartly by giving them powerful informational planning resources to the table.

One new space-age tool is the use of satellites to provide images of the Earth's surface. We now have technology using geospatial data from satellites—that can produce very accurate maps that show information about vegetation, wildlife habitat, flood plains, transportation corridors, soil types, and many other things. Satellite imagery and remote sensing, when combined with Geographic Information System (GIS) and Global Positioning Satellite (GPS) system information, can be invaluable tools for use in such areas as land-use planning, transportation, emergency response planning, and environmental planning. Getting this integrated geospatial data to local communities would give planners important information they could use to avoid problems and help communities grow more smartly.

As a member of the House Science Committee and the Space and Aeronautics Subcommittee, I have learned about the technological opportunities available from federal agency activities and capabilities. The bill I am introducing would establish a program that will demonstrate the effectiveness of the use of integrated geospatial data to other governmental sectors.

The bill would establish in NASA a program of grants for competitively awarded pilot projects to explore the integrated use of geospatial and other geospatial information to address state, local, regional, and tribal agency needs. This proposed legislation would build on and complement an applications program that NASA's Office of Earth Science announced earlier this year. Like NASA's program, the Remote Sensing Applications Act would seek to translate scientific and technical capabilities in Earth science into practical tools to help public and private sector decisionmakers solve practical problems at the state and local levels.

The Remote Sensing Applications Act has the potential to begin to bridge the gap between established and emerging technology solutions and the problems and challenges that state and local communities face regarding growth management and other issues. I look forward to working with Rep. GREENWOOD and other Members of the House to move forward with this important initiative.

IN HONOR OF DOCTOR OFEM AJAH

HON. EDOLPHUS AJAH
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Doctor Ofem Ajah for his dedication to the field of medicine and health education.

Doctor Ajah, born in Nigeria, was faced with many obstacles throughout his education. Born to peasant farmers, Ofem was required to help on the farm while he attended school. His family was further impoverished and his education interrupted when war broke out in Nigeria. He continued with his secondary education on an academic scholarship. His academic excellence propelled him to the University of Ilorin in Nigeria for both his undergraduate and medical degrees.

Ofem is and always has been involved in community affairs. In high school, he was editor-in-chief of the school magazine. His involvement continued into medical school where he served as Secretary of the Medical Students Union as well as Chief Organizer of the Nigerian Medical Students' Games. After completing his medical degree, Ofem taught mathematics in a high school in Nigeria.

It was only after Ofem finished his medical internship that Ofem immigrated to the United States. As a distinguished physician, Ofem continued his medical training at the Interfaith Medical Center in Brooklyn where he became Chief Resident. Pursuing his inner quest for knowledge, Ofem obtained a specialty in gastroenterology.

For Ofem Ajah, being an accomplished doctor has enabled him to give of his free time. Dr. Ajah regularly donates his time and energy to educating everyone about colon cancer. He is also currently working on his second novel.

Ofem devotes himself to the love of his life, Francine Smalls-Ajah. Together, they have one daughter, Achayen, and two sons, Anijah and Tuniche.

Mr. Speaker, Doctor Ofem Ajah has devoted his life to serving his community through his excellent knowledge of medicine. As such, he is more than worthy of receiving our recognition today. I hope that all of my colleagues will join me in honoring this truly remarkable man.
Susan Chasson’s dedication and perseverance in breaking through the silence of child abuse reminds us that one person’s idea can make all the difference in the world. While it is disappointing that child abuse remains an issue in the 21st Century, Susan Chasson’s vision and endeavors must be commended. She is truly a hero for us all.

THE NURSING CRISIS

HON. DANNY K. DAVIS
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to call your attention to a growing crisis—the shortage of nurses in health care facilities. This problem is literally across the nation. Nurses are an absolutely essential component of our health care system—no piece of medical equipment will ever replace the around-the-clock surveillance provided by our Nation’s nurses. There is simply no substitute for the element of humanity that nurses bring to medicine. Therefore, I find it extremely alarming that one in five nurses plans to quit the profession within five years due to unsatisfactory working conditions. By the year 2008, the Bureau of Labor Statistics projects that we will need 450,000 additional registered nurses in order to meet present demands. This projection nears the fact that around that same time, 78 million baby boomers will start becoming eligible for Medicare.

How did we end up in this situation? Imagine for a moment, if you will, that you are one of the millions of young people across the country trying to decide upon a career. Suppose nursing is a profession that sincerely interests you. Would you still be interested upon discovering that nurses can expect to work nights, weekends, and holidays? Would you still be interested after learning that nurses routinely work 16-hour shifts or longer, and can be forced under threat of dismissal to work mandatory overtime? Would you still be interested after realizing that nurses receive lower salaries, less vacation, and less retirement benefits than their classmates who chose other professions? Would you still be interested after finding out that, with the advent of managed care, nurses now have to spend almost as much time scrambling to fill out paperwork as they do caring for patients? Would you still be interested when you learn that the very real possibility exists that you may be the only hospital staff member available to supervise the well-being of an entire floor of critically-ill patients? It doesn’t take a great deal of insight to realize that no matter how passionate your intentions, the disadvantages of the nursing profession have become increasingly prohibitive.

Yet, as bad as the nursing crisis is for nurses, its worst consequences will be felt by patients. Last year, an investigative report by the Chicago Tribune revealed that since 1995, at least 1,720 hospital patients have been accidentally killed, and 9,654 others injured as a result of the actions of registered nurses across the country. Interestingly enough, instead of attacking the Tribune report, nurses applauded it because it proved to the American public what they had known for a long time—our nation’s nursing corps is being stretched too thin, in part due to reckless penny-pinching by managed care companies, and in part due to government underfunding of hospitals.

How bad is the crisis? In the mid-90’s, short-sighted budget cuts, both by the government and by managed care companies, forced many hospitals that were staffed entirely by registered nurses to rely on lesser-trained practical nurses and nurse aides instead. Nurse aides, many of whom are not required to have high school diplomas, now constitute over one-third of nursing staffs in many hospitals. In my hometown of Chicago, the situation is so dire that housekeeping staff hired to clean rooms have been pressed into duty as aides to dispense medicine. Hospitals now routinely order nurses to care for 15 patients or more at a time, almost double the recommended patient load. Overworked nurses are being forced to juggle more tasks than any single person can be expected to handle, and are being asked to do procedures that they haven’t been adequately trained for.

Our nurses have reached the end of their rope. To quote Kim Cloninger, a registered nurse from Illinois: “I wake up every day and hope I don’t kill someone today. Every day I pray: God protect me. Let me make it out of there with my patients alive.” Or perhaps more tellingly, Tricia Hunter, executive director of the California branch of the American Nurses Association states: “I don’t know a nurse who would leave anyone they love in a hospital alone.”

Mr. Speaker, this is the face of nursing today. The nursing profession needs our help. As a profession, nurses have a rich history of doing whatever it takes to provide adequate patient care. Nurses generally don’t make a big fuss over working conditions. The fact that they are tells me that something is seriously wrong with our health care system today. Therefore, I support legislation that recommends upwardly adjustable nurse staffing ratios as a condition of participation in Medicare and Medicaid, and I support legislation banning mandatory overtime. I also support the Patients’ Bill of Rights introduced by Mr. McCaskill, Mr. Edwards, and Mr. Kennedy in the Senate, and by Mr. Ganske and Mr. Dingell in the House because it includes a provision that protects health care professionals from retaliation when they speak out for their patients. Lastly, I support the Nurse Reinvestment Act, H.R. 1436, because it addresses the need to attract more people into the nursing profession. I support all of these measures because if we don’t act to solve our current nursing crisis, we will all pay the price at some point down the line.

IN HONOR OF ANDREW KIM

HON. EDOPHOLUS TOWNS
OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Andrew Kim on the occasion of his installation

EXTENSIONS OF REMARKS

HON. BOB BARR
OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BARR of Georgia. Mr. Speaker, this summer, the City of Emerson will move into a new City Hall facility. In honor of this occasion, I would like to recognize some of the unique historical facts underlying the development of this small and growing town in Bartow County, Georgia.

The history of Emerson, at least for human purposes, begins with its settlement by native Americans. At the time the first European settlers arrived, it was inhabited primarily by Cherokee Indian tribes, whose artifacts still line the shores of the Etowah River. Following its settlement, Emerson began to grow into a community built on nearby rail lines; rich agricultural lands; and near iron, graphite, and gold deposits. During the Civil War, the area in and around Emerson was crossed by numerous military forces as Sherman began his infamous drive toward the sea.

Returning war veterans found their homes near Emerson in desolation. Fortunately, the people had a spirit that could not be conquered. They began working to rebuild their town, and succeeded in having it incorporated in 1889.

That spirit of community and growth continues in Emerson today, as the town continues to expand to accommodate growth near metro Atlanta, while retaining its picturesque small town character. I join the citizens of Emerson in saluting their city as it passes an important milestone and moves into a new City Hall.

CONGRATULATIONS TO SUSAN CHASSON

HON. CHRIS CANNON
OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. CANNON. Mr. Speaker, I would like to congratulate Susan Chasson, a woman of great compassion. This afternoon Ms. Chasson will be awarded the Robert Wood Johnson Foundation Community Leadership Program Award. As a nurse and a victims’ advocate, Ms. Chasson was able to supervise the well-being of an entire floor of critically ill patients. Last year, an investigative report by the Chicago Tribune revealed that since 1995, at least 1,720 hospital patients have been accidentally killed, and 9,654 others injured as a result of the actions of registered nurses across the country. Interestingly enough, instead of attacking the Tribune report, nurses applauded it because it proved to the American public what they had known for a long time—our nation’s nursing corps is being stretched too thin, in part due to reckless penny-pinching by managed care companies, and in part due to government underfunding of hospitals.

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IN HONOR OF ANDREW KIM

HON. EDOPHOLUS TOWNS
OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Andrew Kim on the occasion of his installation
as president of the almost half million member Korean American Association of Greater New York and the obstacles that he had to overcome to attain such a prestigious position. Mr. Kim has overcome many personal obstacles that others might have stumbled upon. Contracting Polio in his native Republic of South Korea, Mr. Kim was stigmatized and labeled as "unlucky." In fact, Mr. Kim is self-educated because he chose to cut short his formal education as he saw it as a burden to his parents. Mr. Kim was also denied employment because of his disability and therefore found himself with a unique opportunity to found his own electronic repair shop. Mr. Kim, fascinated with America, studied for a test that would allow him to immigrate and have a job.

Mr. Kim is a firm believer in the American dream. America offered Andrew Kim a fresh start away from the cultural attitudes of South Korea. Mr. Kim marked his way up in New York going from job to job. Mr. Kim is also a devoted husband and father. He married his wife Theresa two years after coming to America. Together they have three children.

Mr. Kim's biggest business success has come in the form of his Lisa Page store, a leading cell phone and pager retailer. Working in a diverse neighborhood has encouraged Mr. Kim to learn the numerous languages of his customers, which has led to him being a major community resource. Mr. Kim has donated uniforms for a softball team in his neighborhood and all the kids on the team respect Mr. Kim for his involvement and mentoring. In fact, after they won a trophy, the presented it to Mr. Kim as a token of their appreciation for all that he does in the community.

Mr. Kim has enjoyed growing recognition throughout the community, which has led him to become more involved in the community. He served as president of the Korean American Association of Mid-Queens. He recently found himself in a tough election campaign for president of the Korean American Association of Greater New York, where he was once found himself in a tough election campaign for the Korean American Association of Greater New York, where he was once

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Mr. Speaker, Andrew Kim has overcome many obstacles in his life to become the president of a half million-member organization. For these achievements, he is more than worthy of receiving our recognition today as he is awarded a truly hard-earned honor. I hope that all of my colleagues will join me in honoring this truly remarkable man.

RECOGNIZING THE CHIEFTAIN’S MUSEUM, ROME, GEORGIA

HON. BOB BARR
OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. BARR of Georgia. Mr. Speaker, it has been written that “Cherokee tradition held that anywhere three rivers met was holy, and Head of Coosa is just that.” The Oostanaula, Etowah and Coosa Rivers meet in the center of Rome, Georgia, which is noted as one of the top small cities in the country.

A leader in the Cherokee Nation, Chief Ridge chose to settle in the 1800’s with his wife, Susannah, on the banks of the Oostanaula near the point where the three rivers meet. The home was called “the Chief- tain.” Chief Ridge, who had been given the title “Major” by Andrew Jackson, agreed to sign the Treaty of New Echota in 1835 and left his home in Rome a year before “The Trail of Tears.” The museum tells the story of Major Ridge and his son for signing the treaty.

After Major Ridge left his home, “the Chief- tain,” was passed through a number of hands, and eventually was donated to the Junior League of Rome. The museum remains open to the public because of the Chieftains Museum Association, a non-profit organization. Members of the organization continue to search for pieces of history with regard to “the Chieftain” and the Cherokee people.

The museum, built by Monovian and Cherokee craftsmen, is open to the public. A large collection of books on Major Ridge and the Cherokee Nation in Georgia are available at the museum. The period furniture and many artifacts, some found on the site as a result of ar- cheological digs, are on display at the museum. The museum is also aware of the culture of the people who were forced to sacrifice their “Enchanted Land.”

IN MEMORY OF MR. ROBERT L. DILLARD, JR.

HON. RALPH M. HALL
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. HALL of Texas. Mr. Speaker, I rise to pay tribute to an outstanding citizen of the State of Texas, the late Robert L. Dillard, Jr. of Dallas, who died at the end of November, 2000. Mr. Dillard was an active and beloved member of his community—and he will be dearly missed.

Robert was born on September 30, 1913, the son of an independent oilman. He followed in his father’s footsteps as a young man working in the oil fields of Texas to finance his education. His hard work paid off when he received his law degree from Southern Methodist University in 1935 and an LLM from Harvard in 1936. After receiving his degrees, Robert served as Assistant City Attorney for the City of Dallas from 1941-1945. From 1945 until his retirement in 1978, he worked in an executive capacity for Southland Life Insurance Company of Dallas, retiring as Executive Vice President.

Robert volunteered much of his time and talents to many civic endeavors. He served as president of The Board of Education of the Dallas Independent School District from 1961-1962, chairman of the Board of Trustees of Methodist Medical Center, chairman of the National Board of Directors of Camp Fire Girls, chairman of Region 10 Education Service Center, and a member of the Board of Directors of The C.C. Young Retirement Home. He was also active in local and state government and in Highland Park United Methodist Church, where he served as a lay leader and a long-time Sunday School teacher.

A special part of Robert’s life, fifty-six years total, was devoted to membership in the Dallas Scottish Rite of Freemasonry. He was initiated in 1938 into Dallas Lodge No. 760 and held numerous leadership positions within the organization, including being a co-founder of a new Lodge in Dallas, serving as president of the Board of Directors of the Masonic Home and School of Texas and vice-chairman of the Board of Trustees of Texas Scottish Rite Hospital for Children. In 1953 he became a Thirty-Third Degree Inspectors General Honorary, in 1961 was a Grand Master of Masons in Texas, and in 1977 served as the Venerable Master of the Dallas Lodge of Perfection. As the culmination of his lifetime of dedication to the Freemasons, in 1995 Robert became one of only eight men in Texas in the past one hundred years to receive the highest honor the Supreme Council of the Scottish Rite can bestow, the Grand Cross of Honor.

Robert left behind a loving family, including his wonderful wife of 63 years, Dundee, a son, two daughters, 13 grandchildren, and three great grandchildren. He was devoted to his family, his community and his Fraternity of Freemasons—and he leaves behind a legacy of dedication and service that will be remembered by many.

Mr. Speaker, Robert was one of a kind—and we will miss him. As we adjourn today, let us do so in memory of a great American and friend, Mr. Robert L. Dillard, Jr.

IN RECOGNITION OF DANIEL LEVIN

HON. DANNY K. DAVIS
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to recognize one of Chicago’s finest citizens, Mr. Daniel Levin, who last week was named the American Jewish Committee’s 2001 Human Rights Medallion Award recipient.

Since 1963, the Human Rights Medallion has been awarded annually to leading Chicago citizens who have stood for the goals that have shaped the American Jewish Committee since it was established in 1906: human rights and equal opportunity for all, and constructive relations between America’s many religious, ethnic and racial communities.

Chairman of The Habitat Company, Dan Levin has been a real estate developer since 1957. He has been active in development and management activities involving in excess of
20,000 residential units, and has been principally responsible for the financing, structuring and equity syndication of the development. In 1987, Dan Levin, with The Habitat Company, was appointed Receiver of The Chicago Housing Authority family housing development program by the U.S. District Court in Chicago. He is also the managing general partner of the East Bank Club, which is considered the finest physical fitness and social facility of its kind in the country.

Dan Levin's first major Chicago development, in partnership with James P. McHugh of McHugh Levin Associates, was South Commons, a 30-acre urban renewal site between 26th and 31st Street on the south side of the City. During his career, he has also developed a wide variety of subsidized and non-subsidized housing including, on the South Side, Quadrangle House and Long Grove House. Dan Levin also developed Wheaton Center, a 28-acre urban renewal development in downtown Wheaton. On Chicago's Gold Coast, he has developed, among other properties, Newberry Plaza, Huron Plaza, Aspen Plaza, Columbus Plaza and the Residences of Cityfront Center.

The largest urban redevelopment in which Dan Levin has been involved is the Presidential Towers complex located on a two square block area in the near west loop constructed in 1983. The land on which Presidential Towers was developed had become a skid row district of deteriorating residential hotels and industrial properties. Presidential Towers was considered to be a major factor in the revitalization of the area.

Dan Levin graduated from the University of Chicago with a B.A. and J.D. degree. He is a member of the Visiting Committee of the University of Chicago School of Public Policy, a Trustee of WTTW, a member of the IIT College of Architecture Board of Overseers, a member of the Board of Trustees for the Jewish Reconstructionist Rabbinical College, a Director of the American Jewish Committee, a Director of the Environmental Law and Policy Center, a Director of the Multi-Family Housing Development Corporation, and is active in other community and professional organizations.

Dan Levin has proven that he is a man to emulate in both business and in public service. He has helped to create homes, jobs and other opportunities for people in need of a helping hand, and he has played a major role in the economic growth and development of Chicago. It is with great pleasure that I commend Dan Levin for his years of service and congratulate him on being named this year's Human Rights Medallion awardee. Mr. Speaker, I ask that you join our colleagues, Dan's friends, his wife Fay and the rest of his family, the American Jewish Committee, and me in recognizing Dan Levin's outstanding and invaluable service to the Chicago community.

In Honor of The Reverend Doctor Glyser G. Beach

HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Reverend Doctor Glyser G. Beach, Senior Pastor of Vanderveer Park United Methodist Church, in recognition of his service to his community.

Reverend Beach is a lifetime learner, always taking on new challenges. He holds an A.A. from Lon Moris College as well as a B.A. and M.A. in Behavioral Science from Scarlett College. Rev. Beach also earned a Masters of Divinity as well as a Doctorate of Ministry from Drew University. He also holds a D.Th from the California Graduate School of Theology in addition to his D.D. from Teamer School of Religion.

His devotion to ministry began while he served in the United States Army. He is the Deputy Chaplain of the 77th Regional Support Command. Graduating Officer Basic and Officer Advance Courses and also the U.S. Army's Command and General Staff College, Dr. Beach holds the rank of L.T.C.

For the last 23 years, Glyser Beach has dedicated himself to the United Methodist Church. He has pastored churches in the Bronx, Queens, Manhattan and Brooklyn. Rev. Beach has special training in many areas including Critical Incident Debriefings, Suicide Awareness and Prevention Counseling, Family Restructuring, Marriage Enrichment, and Youth Counseling.

Rev. Beach's activism is apparent throughout the entire New York area. He was instrumental in electing a fellow pastor to office. He also helps thousands of immigrants become citizens. He was a member of the Board of Directors of Harlem Congregations for Community Improvement, which under his tenure developed over 1000 units of housing. The Reverend also served as the Executive Director of Metropolitan Community Young Adult Training Program, which houses and give guidance to young adults who are homeless, drug free, and in need of higher education. He is actively involved in helping war veterans receive the benefits and services due to them.

Mr. Speaker, Reverend Doctor Glyser G. Beach has devoted his life to serving his community, his church and his people. As such, he is more than worthy of receiving our recognition today. I hope that all of my colleagues will join me in honoring this truly remarkable man.

Recognizing the Honorable Tom Price, M.D.—State Senator, Georgia

HON. BOB BARR
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. BARR of Georgia. Mr. Speaker, it is in doing what is right that a man encounters the essential challenges of life. Oftentimes the most difficult part of this challenge is the perception of what precisely is the "right" thing to do. The Honorable Dr. Tom Price is being honored for having done the right thing respecting the health of others. His service to others has been truly outstanding. He has always shown an intense concern for the physical well being of the people entrusted to his representation and medical practice. Coming from a profession whose traditional oath was to "first do no harm," he has been well-educated according to the principles on which the protection of public health must be grounded. The man who lives for these principles as these is truly honorable and ought to be awarded with the honors and the respect of the people.

Currently in his third term in the Georgia Senate, Dr. Price has made a name for himself by taking on several difficult issues; measures to insure the safety of our childcare centers, to strengthen the prevention of drunk driving, and to provide greater patient choice. Life in a society must be mutually beneficial and comfortable to the citizenry. In order for this life to be possible, the public health must be protected. Dr. Tom Price has made this his primary legislative concern and it is for this that on July 17, 2001 he is to be given the Dr. Nathan Davis Award for Outstanding Government Service by the American Medical Association. I join in saluting Dr. Tom Price for his heroic dedication to the public health of the State of Georgia.

In Honor of Our Emery County Public Lands Council

HON. CHRIS CANNON
OF UTAH
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. CANNON. Mr. Speaker, throughout the prosperous history of this great state, our ancestors valued harmony between community growth and preservation of resources. We are encircled by beautiful landscapes and enjoy the ability to find escape and solace in the vast mountains, meandering rivers, or immense desert lands. Utah's natural beauty and rich resources demand a careful balance between protection and growth of competing interests.

The Emery County Commissioners, along with the citizens of Emery County, responded to the need for a thoughtful, responsible, and cooperative effort in planning wise land management policy within the county. In an effort to provide a forum for all interested parties to voice their concerns and influence policy, an invitation was extended to elected representatives, federal and state land management agencies, county citizens, and individuals representing various recreational land user and environmental groups to establish the Emery County Public Lands Council. Their charge was to find the best possible solution for managing lands within Emery County’s boundaries, while setting aside their differences to become a united and cohesive voice.

The Emery County Public Lands Council soon learned that it agrees on more issues than earlier anticipated. All groups express an earnest aspiration to safeguard the San Rafael Swell. As so ably spoken by County Commissioner Randy Johnson, “Environmentalists share with Emery County a great desire to protect the lands of the San Rafael, but differ philosophically over what kinds of management approaches should be implemented. Each land user possesses a deep commitment to protect the San Rafael Swell and safeguard its matchless and distinctive qualities for posterity. Members of the Council advocate for
local users and work with federal and state agencies to develop a public lands strategy. They contribute to land use planning to guarantee cooperation among these eclectic bodies and Emery County interests.

In our quest for a united effort to safeguard and protect our land for thoughtful use and community stability, I recognize the need for a joint endeavor to accomplish our objectives. I commend the Emery County Public Lands Council for acting as a model for all counties, states, and individuals who desire to preserve our nation’s beautiful natural resources.

IN MEMORY OF HENRY WADE

HON. RALPH M. HALL
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a great and legendary District Attorney, the late Henry Wade of Dallas, whose 35-year career brought him national attention for his handling of the murder trial of Jack Ruby and the landmark abortion case Roe v. Wade. Henry passed away on March 1 at the age of 86, leaving a powerful legacy that will be reviewed and remembered as part of our Nation’s history.

It is said that Henry never lost a case he personally prosecuted. He took office in 1951 and compiled one of the Nation’s lowest rates of acquittal. In 1964, Henry led the prosecution of Jack Ruby, who shot to death Lee Harvey Oswald, the man charged with assassinating President Kennedy. Ruby died in prison while awaiting a death sentence. The 1973 Roe v. Wade decision establishing the right to abortion began in Texas when a pregnant woman, identified in court documents as “Jane Roe,” sued Henry for enforcing a state law prohibiting abortion except when necessary to save a woman’s life.

These famous cases will be reviewed by attorneys, the courts, and students of history for years to come. The name, “Henry Wade,” evokes an image of a quintessential Texas prosecuting attorney—a formidable and compelling advocate in the courtroom—whose folksy, country-boy demeanor disguised his keen intellect. Henry was a 1938 graduate of the University of Texas law school with highest honors, an editor of the law review, and a member of the Order of the Coif and Phi Beta Kappa. Throughout his illustrious career, Henry was a role model for countless young prosecuting attorneys—as well as a nemesis for defense lawyers.

Following law school, Henry practiced law, was an FBI special agent in the United States and abroad, and served in the Navy during World War II. After the war, he joined the district attorney’s office in Dallas, becoming chief felony prosecutor before winning election as district attorney. And the rest is history.

During World War II Henry served as a Fighter Director for Navy pilots. At one time he was at the top of the list in “splashes”—the term used for destroyed Japanese planes. Henry and his lifelong friend and fellow Navy officer, Thomas Unis, were inseparable during the War, and they both made a great and successful transition into public civilian life. The late Tom Unis prosecuted with Henry and later was a leading and highly regarded attorney and partner in the Dallas firm, Strasburger, Price, Kelton, Martin and Unis. I was privileged to litigate with both Henry and Tom and served with them at a couple of bases in the Pacific toward the end of World War II. I dearly respected and loved these two guys—and did all who knew them.

Mr. Speaker, Henry was a great and legendary District Attorney, a super American, and a good friend of mine. He will be missed by his children and their families, Michele Brandenberger and husband, Mike; William Kim Wade and wife, Suzanne; Henry Wade, Jr., and wife, Kristin; Wendy Ballew and husband, David; Bari Henson and husband, Dave; and 15 grandchildren. And he will be remembered as we adjourn today, let us do so by paying our last respects to “The Chief,” as he was known around the Dallas courthouse—Henry Wade.

HONORING UNITED STATES NAVAL RESERVE CAPTAIN JAMES W. KELLEY, JR. UPON HIS RETIREMENT

HON. GARY G. MILLER
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. GARY G. MILLER of California. Mr. Speaker, I rise today to commend the achievements of United States Naval Reserve Captain James W. Kelley, Jr. and wish him well upon his retirement.

In August of 1970, a time in which military service was socially unfavorable, Captain Kelley enlisted in the United States Marine Corps. He served with the Sixth Marines in Camp LeJune, North Carolina and the Fourth Marines in the Republic of South Viet Nam. He graduated from Villanova University with a Bachelor of Arts Degree in Political Science in 1975. He also holds a Master of Arts Degree in Criminal Justice from New York University and a Juris Doctorate Degree from Seton Hall School of Law.

In September of 1978, Captain Kelley received his commission as an Ensign in the Judge Advocate Corps. During his active duty military career, Captain Kelley served as a Navy Trial Counsel and a Staff Judge Advocate.

Captain Kelley was released from active duty in January of 1985, and he affiliated with Naval Reserve Intelligence Unit NISRRO 2310. As an intelligence officer, he served with VP94, USS America, US CINCLANT, and Commander Naval Reserve Intelligence Command.

In August of 1987, Captain Kelley was selected as a Canvasser Recruiter Officer, and he reported to Naval Reserve Readiness Center in Houston, Texas. He was later reassigned to the Naval Reserve Recruiting Command Detachment THREE, Dallas, where he served as the Department Head for Enlisted Programs. In September of 1994, he reported to the Bureau of Naval Personnel, as the Branch Head for Total Force Recruiting Policy.

He was then transferred to the Chief of Naval Operations as an Assistant for Manpower Policy. In May of 1997, Captain Kelley was assigned as the Officer in Charge, Naval Reserve Recruiting Command Detachment FIVE, Washington, DC. Last November, he became the Commanding Officer of Naval Reserve Recruiting Command Area FIVE upon the redesignation of Detachment FIVE to area status. This distinguished career has been celebrated with numerous awards, including, but not limited to, the Meritorious Service Medal (three awards), Navy Commendation Medal (two awards), Navy Achievement Medal (two awards), Meritorious Unit Commendation Ribbon (two awards), and the National Defense Service Medal (two awards). Additionally, he is considered to be a Navy Expert Rifleman and Navy Expert Pistol Shot.

Mr. Speaker, I ask that this 107th Congress join Captain Kelley’s wife Judy, and his children, Ryan, John, Kevin, and Megan, as he retires from the United States Naval Reserve.

CONGRATULATIONS, ALEXANDER CHRISTOFIDES

HON. DONALD M. PAYNE
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to ask my colleagues here in the U.S. House of Representatives to join me in honoring an outstanding public servant, Mr. Alexander Christofides, who was chosen to receive the Commissioner’s Citation, the Social Security Administration’s highest honor award.

This prestigious award is presented to those select employees who have made exceptional contributions meriting agency-wide recognition. Based on Mr. Christofides’ superior accomplishments and exemplary performance, he was chosen for this high honor. Mr. Christofides was selected based on his outstanding performance as an Operations Supervisor in the Clinton Hill District Office. He won praise for his innovative efforts in regard to service delivery to the customers of his District Office, which resulted in reduced waiting times and speedier claims processing. Furthermore, it was Mr. Christofides’ extraordinary leadership and motivational skills which enabled his entire staff to work together for the public good, in a true spirit of teamwork, towards a shared goal.

Mr. Speaker, Alexander Christofides embodies the finest tradition of government service. We are proud of his dedication to his work, his problem-solving ability and the high standards of excellence he has set in the workplace. Let us take this opportunity to extend our appreciation and congratulations to Mr. Christofides and to wish him continued success. We are indeed fortunate to have a man of his caliber serving in the Social Security Administration.
Mr. GILMAN. Mr. Speaker, I rise today to discuss a moving article from the Washington Post, which I request to be inserted and printed in the Record at the end of my statement.

The article, entitled “The Changing World One Clip at a Time,” by Dita Smith, describes a most unusual, uplifting tribute to the 6 million victims of the Holocaust by a class of Tennessee Eighth-graders and their teachers.

In 1998, the students of Whitwell Middle School, together with two dedicated teachers, Mr. David Smith, and Ms. Sandra Roberts, took it upon themselves to collect 6 million paper clips and turn them into a Memorial Sculpture in commemoration of the victims of the Holocaust. What made the ambitious project even more unique was the fact that it was conceived in a very homogeneous white, Christian town of just 1,600.

In fact, the project didn’t even originate as a project, but rather, an intimate extra-curricular course to educate the predominantly uninformed students about the tragedy of the Holocaust.

This voluntary after-school course had such a profound impact on the small-town students, that they decided to take action. The eighth-graders derived their idea from the Norwegians, who, during World War II, pinned paper clips to their lapels to express solidarity with their fellow Jewish Citizens inspired by this gesture, the students set up their own web page asking for donations of paper clips.

Their initiative quickly caught fire, and what began as a local cause, soon became an international phenomenon.

The students were overwhelmed by the outpouring of all sorts of paper clips from all over the world. They even received a donation from President Clinton.

To date, the students have collected 23 million paper clips, well surpassing their 6 million goal.

For the last leg of the project, the students have determined to find the necessary funding for an authentic German Holocaust era railroad car in which to load and display their paper clips and countless letters.

I have worked closely with Nancy Gallagher, the Educational Director, and Rabbi Justin Schwarz, the religious advisor of the Rockland County Hebrew High School to help them see this project through to completion.

Their task is a daunting one, but judging by the tenacity exhibited by the students, thus far, I have no doubt that they will succeed.

I invite my colleagues to help the Whitwell Middle School realize their noble goal, and in the process, spread their vital message of tolerance and compassion and to remember this devastating, inhumane chapter of world history.
EXTENSIONS OF REMARKS

June 29, 2001

Mr. MCHUGH. Mr. Speaker, as a life-long resident of Northern New York, I have watched the 24th Congressional District thrive as a bustling arena of agricultural production, aluminum processing, automobile parts fabrication, paper-making, tourism and textile manufacturing.

Regrettably, in the last decade or so, the trends have been altered dramatically and the manufacturing sector—which in the Northeast—has diminished considerably. Furthermore, our small family farmers have seen a dramatic decline in the price they receive for their hard-earned production, forcing many of them to abandon their beloved way of life. The statistics, unfortunately, bear this out; earlier this month it was reported that Northern New York continues to have the State's highest unemployment rate. While the unadjusted state-wide unemployment rate was 4 percent and the national rate was 4.1 percent, the rate in the ten counties in my rural Northern and Central New York District ranged as high as 9.1 percent.

Mr. Speaker, we are a proud and independent people who have long relied on our ingenuity and integrity to make our way through life. While we have accomplished

...
much through our resourcefulness, there is more that can, and must, be achieved to return greater goods to what we call "God's country." That is why I rise today to introduce a legislative package of rural economic development initiatives that I believe will create at least the initial incentives to bring new business and industry opportunities—and the attendant job creation—to our rural communities.

First, the use of high-speed Internet access is no longer limited to the wealthy or so-called computer techies. It has fast become a mainstay of everyday life, particularly in the business world. Accordingly, the first measure I am introducing, the Rural America Digital Accessibility Act, contains four incentives to help bridge the digital divide in rural America.

The technology bond initiative would provide a new type of tax incentive to help state and local governments invest in a telecommunications structure and partner with the private sector to expand broadband deployment in their communities, especially underserved rural areas. The broadband expansion grant initiative would provide these bonds by utilizing grants and loan guarantees in underserved rural communities to accelerate private-sector deployment of high-speed connections so that our residents can access the Internet with a local, rather than a long-distance, phone call. The third initiative targets funding for research to increase rural America’s broadband accessibility and make it more cost-effective.

With six four-year universities and colleges and seven-two-year colleges within my District’s boundaries, it only makes good sense for us to tap the expertise of our national educators to assist in our endeavors. Accordingly, the fourth incentive will help small- and medium-sized businesses connect with educational institutions that can provide technological assistance designed to improve the business’ competitiveness and promote economic growth.

Second, to help our farm community, I am introducing the Agricultural Producers Marketing Assistance Act. This measure would establish an Agriculture Innovation Center demonstration basis and provide desperately-needed technical expertise to assist producers in forming producer-owned, value-added endeavors. It would also help level the financial playing field for producers by providing a tax credit for eligible farmers who participate in these activities. In this way, farmers and producer groups can earn more by reaching up the educational marketing chain to capture more of the profits their product generates.

Lastly, but certainly not least, I am introducing the Rural America Job Assistance and Creation Act. This comprehensive measure is designed to address a host of issues that have been identified as problematic for residents and businesses in rural America.

Because many small businesses lack the financial capacity to support the training of highskilled workers, this legislation establishes regional skills alliances to help identify needed skills and develop and implement effective training solutions. It also encourages cooperation between educational institutions and entrepreneurs who have innovative ideas but who cannot afford the legal and consultant fees necessary to convert their concepts into reality.

Another incentive involves an expansion of the work opportunity tax credit to include small businesses located in, and individuals living in, communities experiencing population loss and slow job growth rates such as those found in rural Northern and Central New York. Approximately 100 such communities would be designated, subsidizing some 8,000 jobs in each area.

Mr. Speaker, when employees face layoffs or the shutdown of their place of employment, thereby losing some or all of their family income, the one thing that provides them some small sense of security is severance pay. While this is without a doubt a welcome helping hand in a time of need, unfortunately, this recipients often lose a third of their severance pay to taxes because they are pushed into a higher tax bracket. My legislation excludes from gross income up to $25,000 of any qualified severance payment, limited to payments of $150,000 or less.

When a company that employs 100 or more workers makes the decision that it can no longer stay in business or must reduce its workforce, the Worker Adjustment and Retraining Notification, or WARN, Act requires 60 days advance notice on a pre-established or plant closing. As part of the notification requirement, current law states that notice be served upon, among others, the applicable State dislocated worker unit and the chief elected official of the appropriate unit of local government. I believe we must expand the notification process to include, as well, the appropriate Federal- and State-elected officials, i.e., U.S. Representatives and Senators and State Legislators. The expansion included in my legislation serves two purposes: (1) to alert these officials to the situation and the impact it will have on workers and the community and (2) to provide these officials with the opportunity to assist in determining if State and/or Federal resources are available and can be utilized to prevent closure or layoffs and the loss of employment opportunities. As publicly-elected officials, we have access to many avenues that many laid-off workers and assistance at this troubling and uncertain time.

Mr. Speaker, my Congressional District borders the Canadian Provinces of Ontario and Quebec, and we consider Canadians to be not only our neighbors to the North, but our friends, as well. One valuable benefit of this association is the symbiotic relationship we have nurtured in the area of economic development and job creation. Unfortunately, the current immigration visa procedures for H–1 B professional specialty workers often complicate the employment related Travel of Canadians to the United States and preclude what should be a seamless and unencumbered process. In September 2000, the General Accounting Office reported that Immigration and Naturalization Service decisions about the priority of H–1 B applications in comparison to other types of petitions handled by INS have resulted in delays of several months in processing employers’ requests for H–1 B workers. Delays of this nature mean that businesses across the nation, but particularly in Northern New York's community, are penalized. In my border communities, workers oftentimes travel mere miles to cross the border to provide the skilled labor needed by American companies. In these instances, there appears to be no justification for the onerous delays they face in gaining timely entry into the United States to perform their duties. To streamline the process and eliminate the separate requirement that employers first submit a Labor Condition Application (LCA) to the U.S. Department of Labor for certification and then to the INS along with their petition for H–1 B workers. My legislation corrects this situation. In addition to submitting the LCA to Labor, employers would be required to submit the immigration petition and the LCA simultaneously to INS, which will continue to review and evaluate the information contained on both the LCA and the petition.

Another component of the package I am introducing will give statutory authority to the already-existing National Rural Development Partnership and State Rural Development Councils. The NRDP and its principal organization, the National Rural Development Council, have helped generate local solutions to rural development needs and a specific authorization would help establish a dedicated and predictable funding source for their activities.

Mr. Speaker, the U.S. travel and tourism industry is one of America’s largest employers and my Congressional District is no exception to that statistic. Northern New York State contains some of the most scenic and environmentally-unique lands in the entire nation: The Adirondack Mountains, the St. Lawrence River Valley and Seaway, the Champlain Valley and the Thousand Islands region. Tourism is a critical component of our economy and is universally recognized as a significant contributor to the region’s visibility, economic development, and overall quality of life. But the full potential of the industry remains untapped. Some of the factors that have limited the benefits to be realized from the tourism industry include the vastness of the region, the fragmented and unpredictable funding source for their activities. They have helped generate local solutions to rural development needs and a specific authorization would help establish a dedicated and predictable funding source for their activities.

Mr. Speaker, the U.S. travel and tourism industry is one of America’s largest employers and my Congressional District is no exception to that statistic. Northern New York State contains some of the most scenic and environmentally-unique lands in the entire nation: The Adirondack Mountains, the St. Lawrence River Valley and Seaway, the Champlain Valley and the Thousand Islands region. Tourism is a critical component of our economy and is universally recognized as a significant contributor to the region’s visibility, economic development, and overall quality of life. But the full potential of the industry remains untapped. Some of the factors that have limited the benefits to be realized from the tourism industry include the vastness of the region, the fragmented and unpredictable funding source for their activities.
The Center would fill the critical deficiency we need to play a crucial role in the economic revitalization of Northern New York. The final element of my job creation and assistance legislation mandates the General Accounting Office to examine and report to Congress on how best to address the long-term problems resulting from a lack of infrastructure and a lack of venture capital in rural areas. The study will focus on the need for expanding existing economic development and small business loan/grant programs and will include tourism and agriculture-related projects. The study will help us better identify the problems that presently exist and evaluate how infrastructure, venture capital and federal programs can be better utilized to enhance rural areas.

Mr. Speaker, during the nearly nine years I have been honored and privileged to represent the residents of Northern and Central New York, in the U.S. House of Representatives, I have joined in a wide variety of efforts to help revitalize rural America—from tax relief for individuals and the business community, protection and enhancement of the environment and addressing our energy problems to preserving our health care system, promoting fair international trade and enhancing transportation opportunities.

Most recently, since the start of the 107th Congress in January, I have spearheaded several efforts to help rural America and its citizens. I am involved in legislative initiatives that would assist our communities recover and develop property known as brownfields, and are designed to complement broader, more comprehensive brownfields legislation moving through Congress. The Brownfields Redevelopment Incentives Act provides direct federal funding, loans and loan guarantees, and tax incentives to increase the amount of support available to assess and clean pieces of abandoned, idled, or underused property where expansion, redevelopment, or reuse is complicated by environmental contamination or perceived contamination. I have also joined with several of my House colleagues from New York in introducing the Acid Rain Control Act. By reducing sulfur and nitrogen emissions, the measure would result in more than $60 billion in annual benefits by providing improvements to human health, visibility, aquatic and forest ecosystems, and buildings and cultural structures. At the same time, the EPA estimates costs associated with implementation of the Act to be about $5 billion. I think it is safe to say that this is the kind of cost-effective legislation we strive to achieve, with 12 times the benefits for the costs involved.

A third initiative I introduced earlier this year, the Self-Employed Health Affordability Act, provides for the full deductibility of health insurance costs for the self-employed. Current law provides for 100 percent deductibility in 2003, but we need to make the change immediately in order to bring relief to the many hard-working small business and farm families who must pay their own health insurance premium. Coupled with estate tax reform, rate cuts for small business, reductions and pension improvements, among other tax code changes recently enacted into law, this is another step toward helping our taxpayers keep more of their hard-earned money and decide for themselves how it should be spent.

Mr. Speaker, as stated earlier, my constituents are proud and resourceful. They, too, have continued to take the initiative to help themselves and their communities develop the tools necessary to fulfill our mutual goals.

The economic development package I am introducing today is simply one step, albeit of a more comprehensive nature, that I am taking in a long line of legislative initiatives designed to assist our communities manage the wide-ranging challenges faced by rural America in the 21st century.

### REMEMBERING WAYNE CONNALLY

HON. RALPH M. HALL
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HALL of Texas. Mr. Speaker, I rise today to recognize the late Texas Senator Wayne Connally, my friend and colleague with whom I served in the Texas State Senate, who died on December 20. Wayne was a member of the famous Connally political family and the brother of the late Governor John Connally and Judge Merrill Connally—and was an esteemed public servant in his own right. Wayne was born and raised in Floresville, Texas, and educated in public schools in Floresville and San Antonio. He attended the University of Texas at Austin before enlisting in the U.S. Army Air Corps during World War II, after which he ranched in his native region. He viewed public service as a tenet of good citizenship and was elected to the Texas House of Representatives in 1964 and elected to the Texas Senate two years later. He represented Senate District 21 from the 59th through the 62nd Texas Legislatures and was honored by his peers as “Governor for a Day” on October 7, 1971. I served with Wayne in the Texas Senate. He was a terrific Senator—eloquent, able, and ready to stand up and fight for his District and the State of Texas. Wayne was also so very capable of friendship, and he was always responsive to anyone in need. Wayne’s over-riding goal was to uphold integrity and responsibility in government. He worked with his brother, Governor Connally, to create the first upper-level higher education institution in Laredo in 1970, the first step toward establishing Texas A&M International University in 1993. A tall, imposing figure who spent his life working as a rancher and a public leader, Wayne embodied the Texas persona—and he leaves behind a legacy of faithful service to the people of his native state that he so loved. He will be missed by his many friends and family, including his children, Wyatt, Pamela and Wesley; four grandchildren; his brother, Merrill Connally; and sister, Blanche Kline. The Texas State Senate introduced a resolution on March 19, Wayne’s birthday, recognizing his many contributions during his years of public service and his devotion to the State of Texas. As the House adjourns today, I ask that my colleagues from Texas and in the Congress join me in also paying tribute to this outstanding American, the late Wayne Connally.

### TRIBUTE TO AUDREY WEST

HON. DONALD M. PAYNE
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. PAYNE. Mr. Speaker, I would like my colleagues here in the U.S. House of Representatives to join me in paying tribute to a very special person, Mrs. Audrey West, who will be honored at a Gala Retirement Celebration on Friday, June 29, 2001 by the Newark Preschool Council, Inc. Board of Directors and Head Start Policy Council for her eleven years of dedicated service.

Audrey West began her Head Start career in September 1990. She has brought a wealth of administrative experience in providing social services and human development strategies to the operational goals of the Newark Preschool Council. Mrs. West’s leadership encompasses a broad vision and wide range of knowledge, expertise, mobilization skills and community strengthening approaches, which were vital to the successful implementation of new programs demonstrating the mission of the Newark Preschool—to prepare our children to enter kindergarten LEARN READY TO READ. As the Executive Director of the Newark Preschool Council, Mrs. West has led an agency that is on the cutting edge of the national movement to develop family advocacy and sound educational beginnings for our children as they begin their successful journeys toward good citizenship. Mrs. West’s accomplishments, role modeling and mentorship certainly serve as an outstanding example of generosity and community involvement.

A native of Trenton, New Jersey, Audrey West received her Bachelor of Arts Degree from Howard University, Washington, D.C. Ms. West holds a Master’s Degree in Public Administration from Rutgers University. She served ten years as the Director of the New Jersey Division of Public Welfare (1968–1978) and ten years as the Deputy Director and Director of the New Jersey Division of Public Welfare in the Department of Health and Human Services (1978–1988). A true pioneer, she was the first African American to serve in these positions. Audrey West was also Special Assistant to the Commissioner in the New Jersey State Department of Personnel (1988–1990).

Mr. Speaker, we in New Jersey are so proud of Mrs. West and it is a pleasure to share her achievements with my colleagues here in the U.S. House of Representatives. Please join me in expressing our congratulations to her for a job well done and our best wishes for continued health and happiness as she begins a new phase of her life.

### TRIBUTE TO ROSANNE BADER

HON. GARY G. MILLER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. GARY G. MILLER of California. Mr. Speaker, I rise to pay tribute and honor the
accomplishments of Rosanne Bader, of Pomona, California. Mrs. Bader is retiring after thirty-two years of dedicated service to the Pomona Unified School District. From her first assignment in 1969, as a teacher at Diamond Bar Elementary School, to her current position as Principal of Diamond Point Elementary School, Mrs. Bader has demonstrated outstanding teaching skills, supervisory expertise, and leadership in the development of innovative educational programs. She was the Teacher of the Year nominee in 1979 and 1980.

Numerous, well deserved honors, have been awarded to Mrs. Bader for her involvement in professional, civic and youth organizations. Mrs. Bader was recently appointed to Mount San Antonio Community College’s Board of Directors.

Mrs. Bader’s impressive record of academic, career and community service has earned the admiration and respect of those who have had the privilege of working with her. I ask that this 107th Congress join me to congratulate her on her accomplishments and thank her for her service to her community.

REVEREND VIRGINIA C. HOCH’S MEMORIAL DAY TRIBUTE

HON. BENJAMIN A. GILMAN
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. GILMAN. Mr. Speaker, I rise today to share the insights of a post-modern preacher and a veteran, Reverend Virginia C. Hoch, concerning Memorial Day patriotism. In order to share Rev. Hoch’s thoughts with my colleagues, I request that her remarks be inserted and printed in the RECORD at the end of my statement.

Reverend Hoch delivered this moving tribute for the Memorial Day Observance in the Goshen, NY, United Methodist Church, on May 28, 2001, on the eloquent words of the proper way to commemorate Memorial Day. Rev. Hoch contrasted, what she termed, “Pathetic Patriotism” with “Prophetic Patriotism.” The former, she described as exhibiting only the pathos of war and elevating the gore of the battlefield to idolatrous levels. The latter, she explained as working for a vision of the nation which embraces the achievements, the potentials, and diversities of our inhabitants, and in which the fortunate share their blessings with those whose lives seem unblemished.

Reverend Hoch, in her sermon, discussed her own personal, familial anecdotes. She spoke of her father’s experiences as a B-17 pilot in the then U.S. Army Air Corps, and his numerous military honors, including the Air Medal, the Theatre Medal, and the Distinguished Flying Cross. However, she noted how he gave up his career in the Air Corps when he broke formation to save the lives of his crew due to the failure of his aircraft’s oxygen system. Reverend Hoch brands this action as a form of “Prophetic Patriotism,” not because he disobeyed an order, but because he put the lives of others over his own.

Reverend Hoch also shared the lessons she gained as a flight nurse in the U.S. Air Force during the Vietnam Conflict. Having witnessed first-hand the horrors of battle, she passionately deplored the glorification of war, and the tendency to desensitize ourselves to human casualty.

Reverend Hoch’s underlying message is an important one. She challenged her congregation to substitute wisdom for weapons, choose diplomacy over deployment, and to predispose peace over power. She noted, by any means, forgetting the sacrifices of our countrymen, but rather, judging and questioning decisions to engage in war. Rev. Hoch makes a crucial observation which often falls by the wayside in our Memorial Day commemorations. Accordingly I invite my colleagues to consider this powerful message in Memorial Days to come.

PATHETIC PATRIOTISM OR PROPHETIC PATRIOTISM? (Memorial Day Observance, Goshen, May 28, 2001, Rev. Virginia C. Hoch)

Today, we gather amid the pageantry, parades, and penances to recognize and remember those persons who have given their measures of devotion to protecting our national interests, the greatness of which is the right of every American to live in freedom. Yet we do not honor them nor commemostrate if the sole patriotism we portray is pathetic patriotism. We only bring their and our sacrifices into full bloom when the proper patriotism we put forth is prophetic patriotism.

To be patriotic in our patriotism is to exhibit only the pathos of war—those sentiments which long for the comradery of wars of yesteryear, and which elevate the gore of the battlefield to idolatrous stry. While it may be understandable that some may seek the regular companionship and commemoration of only those like mind and experience, the pathos of living only in past glories is to deny the truth of that for which they once fought: for the people of our country, and indeed for the people of all the people of all the world—a people of all callings, a people of all places, a people in the leisure of a lasting peace.

Rather, we are to work, pray, and long for a prophetic patriotism: a vision of our nation which accepts the wonderful achievements, the potentials, and diversities of the peoples of America as a foundation for sharing our blessings with those whose lives seem unblemished by any Divine Being, and sharing our strengths with those whom weaknesses in governmental structure and in personal living are so evident that they live on the margins of existence. It is this kind of patri- otism to which all of our celebrations ought to point.

Two years ago, Mayor Mathews told of her uncle’s struggles and triumphs in a war once fought. Today, I’d like to tell you about my first hero—my Dad.

My father was a decorated B-17 pilot in the then US Army Air Corps, receiving the Air Medal, the Theatre Medal, and the Distinguished Flying Cross. He was a lieutenant, stationed with the 309th Bombardier Group of the 8th Air Force in Thurling, England. We flew 35 missions, returning one time with a 69 shrapnel hole in his craft. His flight log is replete with the stuff that makes the hair stand on end and the heart leap for joy, but also with humor. On one occasion, they dropped un-used payloads into the English Channel, straddling the bombbay and shaking bombs, the objective of the drop was the dieting of the local population. On another, Dad missed a mission due to a bad sinus infection, and that day his crew was shot down, and the person in his seat was killed. Such is one story I have told my mind is the man who my father is, and it is a prime example of prophetic patriotism. On one of the missions, which averaged eight hours in length, when his ‘Flying Fortress’ reached altitude, he realized his oxygen mask was not working in the belly of the airship, and thus half of his crew would not survive the mission. Dad broke formation, returned to base, and saved the lives of his crew. That disobedience cost him his rank, his timely return to the states, and his career in the Air Corps. But it saved the lives of American military men. One of those men, the only one besides my father who still survives, is Father Ken Ross, a former POW, who is now a Catholic priest in East Chester, NY. My Dad lived to save lives, not to destroy them. That is a brand of prophetic patriotism that I commend, not because he disobeyed an order, but because he used his integrity to weigh the costs, and found that he could only choose life for his crew over his own ease and good fortune.

What you may not know is that I am also a veteran. Prior to entering the ministry, I served as a flight Nurse in the US Air Force during the so-called Vietnam Conflict. And it is from the perspective of the era that I speak. For Memorial Day is about the sacrifices of men and women of all our nation’s wars, starting with the Revolution. But often, we remember only those associated with wars that were popular with our country. Despite the fact that it took Congress over fifty years to establish a WW II monu- ment, the two World Wars were quite uncontested in America, as people felt the need to protect our growing democracy. As the better parts of the newly-released film “Pearl Harbor” call to mind to what extent of governance was under attack, and there was a sense of urgency among all people in our country to protect and defend our land. But then the picture got fuzzy. With Korea, we were moving to a new concept: the defense of other lands against a growing ideology with which we did not agree—a frightening entity called communism. By the time we entered Viet Nam, our country was divided in its self-image and its ideology. The pathos of patriotism had faded, and the prophetic nature of our national purpose was ever more tenuous. Our women and men went to fight an undeclared war for an undefined purpose. And they returned, not to the hero’s welcome which could have helped to put their gory memories into some sort of higher perspective, but to shame and hiding more met as renegade felons than as revered fellows. And thousands of our brothers, sisters, fathers, mothers, sons, daughters, and friends remained as dead fodder for distant turf—so many undisclosed that MIA became a cause and a banner for decades to come. Four count- less thousands of our Vietnam vets, death upon a foreign shore would have been preferable to the reality of life in a hovel of memory and torment. The pathos of patriot- ism had shown us its worst side, and we were not enthused.

Since Nam we have seen the ‘sterile’ wars in Grenada, the Persian Gulf, and the “War on Terrorism.” We have watched on TV as missiles travelled as if they were blips on a video-game screen, and we have not understood in our souls that these wars were comfort, but they were coarse. We still harbor a patriotism of pathos—that pathetic allegiance which believes that if we are there, then we belong, and all losses are okay. Yet the war is both distant and near, but to many, war still has all the allure of a video arcade to young boys on holiday.

EXTENSIONS OF REMARKS June 29, 2001
I would challenge us on this day of memorializing our war dead, to turn instead to patriotism of prophetic witness. That patriotism says not, “My country right or wrong,” but “my country—what can I do to make it right?” This is more than “America’s values above all else,” but “America’s values balanced by the needs of the peoples of the whole world.” It says not, “Might makes right,” but “Might makes mercy a mandate.” To be prophetically patriotic means to cherish the values of our country, while at the same time seeking to learn from others how their values form a free and life-giving society. It means substituting wisdom for weapons, choosing diplomacy over deployment, preferring peace over power.

Today we can choose either pathetic patriotism or prophetic patriotism. As for me and my house, we choose to honor our heroes by living prophetically patriotic lives, loving America and listening to her voice as one among many in the harmonic choir of a world community. Do we therefore still strive to learn about Bunker Hill, Gettysburg, Pearl Harbor, Okinawa & Hiroshima, Normandy, the 88th parallel, the Ho-Chi-Minh Trail, Baghdad, Chechnia, and other names that live in infamy? Of course we do, for to forget our history is to render ourselves vulnerable to a repetition of errors in judgment that is very costly to our democracy. To forget our history is to relinquish our identity as a people who are willing to sacrifice far more than the high price of a gallon of gas to serve our nation. But do we learn these names to reveal in our self-perceived supremacism over other countries? I think not. We learn, that we might be prophetic in our patriotism, working through the obstacles which confront us, while embracing the opportunities to be a people of vision who see through eyes of red, white, and blue, a world fulfilled in the memory of eternal peace.

BILLY TAYLOR IS "POSITIVELY MILWAUKEE"

HON. THOMAS M. BARRETT
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. BARRETT of Wisconsin. Mr. Speaker, I appreciate the opportunity to share with my colleagues the admiration and respect that I have for my constituent and friend Bill Taylor. On Friday, June 29, 2001, Bill Taylor is retiring from his position as a news anchorman with WTMJ-TV. He will be missed. He has been a genuine leader in our community, and I’m honored to know him.

Bill’s Model career began when he served in the U.S. Army in Saigon, Vietnam, working for the Armed Forces Radio and Television Network. He joined the WTMJ news team in 1972 and is widely respected in his field. He is the personification of dedication and loyalty. His knowledge of Milwaukee and genuine love and concern for his viewers is remarkable.

When providing expansive coverage of breaking news, Bill always has closed his breaking news, Bill always has closed his broadcasts by asking his viewers to “Do Something Positive Today.” His bright outlook on life and contagious optimism inspired TMJ4 to feature him in a segment called “Positively Milwaukee,” where he focuses on people in the Milwaukee area whose actions positively impact the community. Bill has not only inspired others to follow his advice, but he has also practiced what he preaches. He has been a part of the TMJ4 newsroom for nearly 29 years and has had a profound impact on the lives of the people of Milwaukee. Bill Taylor is “Positively Milwaukee.”

Bill has won numerous Milwaukee Press Club awards and American Bar Association certificates. In addition, he received a Regional Emmy nomination for his work on WTMJ-TV. He has set an extremely high standard for those who will follow him in the years to come, and he will be deeply missed both by his peers and his viewers. Please join me in honoring Bill Taylor for his enormous contributions to Milwaukee and wishing him well in the future.

CONGRATULATING JANICE HAHN ON HER SWARING-IN AS COUNCILWOMAN IN THE CITY OF LOS ANGELES

HON. JANE HARMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Ms. HARMAN. Mr. Speaker, I rise today to congratulate my friend, Janice Hahn, who will be sworn in this weekend as Councilwoman representing the 15th District of the City of Los Angeles. There are few public servants as well suited as Janice to represent this diverse and unique district, much of which just happens to overlap with my own 36th District congressional seat.

A life-long resident of Los Angeles, Janice grew up in a family that honored and respected the notion of public service. Her father, the late Supervisor Kenneth Hahn, brought new meaning to the office of Supervisor. He worked tirelessly for his constituents, and bestowed this ethic to his daughter, who will now represent many of the same constituents as a member of the Los Angeles City Council.

The same ethic was imbued in her brother as well. LA City Attorney Jim Hahn, the incomparable mayor of the city of Los Angeles, will also be sworn in this weekend and I also congratulate him.

Janice ran a race that emphasized her responsiveness to community concerns and her professional experiences tell why. Janice worked as Director of Community Outreach for Western Waste Industries, Vice President for Prudential Securities in Public Finance, and Public Affairs region manager at Southern California Edison. She also served as an elected member of the Los Angeles City Charter Commission and was the Democratic nominee for Congress in 1998, when she waged a hard-fought and honorable campaign to succeed me in the 36th District.

Janice will serve in the outstanding tradition of her father and will continue to make contributions on behalf of her constituents and the city of Los Angeles.

I am honored to join her family and friends in wishing her well in her new elective office.

TRIBUTE TO THE LATE JOHN FERRARO

HON. HENRY A. WAXMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. WAXMAN. Mr. Speaker, today the Los Angeles City Council Chamber will be dedicated in the name of John Ferraro, a highly respected and beloved City Council member who died on April 17, 2001.

John made a name for himself long before he joined the City Council in 1966. The youngest of eight children, he won an athletic scholarship to the University of Southern California where he played football for the USC Trojans. He was an all-American tackle and played in Rose Bowl games in 1944, 1945, and 1947. He was named to the National Football Foundation Hall of Fame in 1984, 1995, and the Rose Bowl Hall of Fame in 1996. More recently, he was named to the Best College Football Team of the Century by the Los Angeles Times.

After earning a Bachelor of Science Degree in Business Administration, John established a successful insurance brokerage firm in Los Angeles and became active in Democratic politics. In 1966 he was appointed to serve on the Los Angeles City Council after Council member Harold Henry died. He subsequently won nine elections and was serving his thirty-fifth year when he passed away. He served as City Council President longer than anyone in Los Angeles history.

John’s political skills were sharply honed and he made important contributions to the City of Los Angeles, including his crucial role in bringing improvements of the Los Angeles Zoo and drawing the 1984 Olympics and the Democratic National Convention 2000 to Los Angeles.

In addition to serving on the City Council, John served as President of the League of California Cities and Independent Cities Association, and he served on the boards of the National League of Cities, the Museum of Contemporary Art, the Autry Museum of Western Heritage and the Hollywood-Wilshire YMCA.

John’s dedication to public service brought him numerous awards, including the Central City Association’s 2000 Heart of the City Award, the L.A. Headquarters Association’s Asa V. Calvert Hall of Fame in 1974, the USC Hall of Fame in 1995, and the Rose Bowl Hall of Fame in 1996. More recently, he was named to the Best College Football Team of the Century by the Los Angeles Times.

John’s loss has been felt deeply by the residents of Los Angeles and the Council members who were fortunate to serve with him. He never grandstanded. He didn’t expect credit for his accomplishments. He worked quietly and effectively to achieve his goals. He was very simply a decent man and skilled advocate for the people of Los Angeles. The Dedication of the Council Chamber will help keep his memory and the generous contributions he made alive as a model for the future.
ON THE DEATH OF PATRICK B. HARRIS, FORMER STATE LEGISLATOR AND CIVIC LEADER OF ANDERSON, SOUTH CAROLINA

HON. LINDSEY O. GRAHAM OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. GRAHAM. Mr. Speaker, I am saddened to report to the House of Representatives the death of Patrick B. Harris of Anderson, South Carolina. He is survived by his wife of more than 60 years, Elizabeth.

I had the distinct honor of serving with ‘Mr. Pat’ in the South Carolina House of Representatives where he served for more than twenty years. It truly was an honor to serve with him as he was a tireless advocate on behalf of senior citizens and people with mental illness.

Among his numerous accomplishments in public office were the creation of a property-tax homestead exemption for people older than 65, creating a sales tax exemption on prescription drugs for those age 50 and older, making elder abuse a crime, and allowing prescription drugs for those age 50 and older, tax homestead exemption for people older than 60 years, Elizabeth.

With the passing of Pat Harris South Carolina has lost an extraordinary statesman and gentleman. I’m sure other Members of the House join me in sending our condolences to his family and loved ones.

EXTENSIONS OF REMARKS

ON THE PEOPLE’S REPUBLIC OF CHINA’S ROLE IN THE EXECUTION OF PRISONERS AND TRAFFICKING OF THEIR ORGANS

HON. FRANK R. WOLF OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. WOLF. Mr. Speaker, I want to share with you this statement presented before a hearing at the House International Relations Subcommittee for Human Rights and International Operations on June 27, by Wang Guoqi, a physician from the People’s Republic of China. Mr. Wang was a skin and burn specialist at the Paramilitary Police Tianjin General Brigade Hospital. Mr. Wang writes that his work “required me to remove skin and corneas from the corpses of over one hundred executed prisoners, and, on a couple of occasions, victims of intentionally botched executions.”

In a very graphic example, Mr. Wang describes how he harvested the skin off of a man who was still living and breathing.

What kind of government skins alive its own citizens?

I urge our colleagues to read this statement and to keep this egregious abuse of human rights in mind when voting on China’s trade status this year.

TESTIMONY OF WANG GUOQI, FORMER DOCTOR AT A CHINESE PEOPLE’S LIBERATION ARMY HOSPITAL

My name is Wang Guoqi and I am a 38-year-old physician from the People’s Republic of China. In 1981, after standard childhood schooling and graduation, I joined the People’s Liberation Army. By 1984, I was studying medicine at the Paramilitary Police Paramedical School. I received advanced degrees in Surgery and Human Tissue Studies, and consequently became a specialist in the burn victims unit at the Paramilitary Police Tianjin General Brigade Hospital in Tianjin.

My work required me to remove skin and corneas from the corpses of executed prisoners, and, on a couple of occasions, victims of intentionally botched executions. It is with deep regret and remorse for my actions that I stand here today testifying against the practices of organ and tissue sales from death row prisoners.

My involvement in harvesting the skin from prisoners began while performing research on cadavers at the Beijing People’s Liberation Army Surgeons Advanced Studies School, in Beijing’s 304th Hospital. This hospital is directly subordinate to the PLA, and so connections between doctors and officers were very close. In order to secure a corpse from the execution grounds, security officers and court units were given “red envelopes” with cash amounting to anywhere between 200-500 RMB per corpse. Then, after execution, the body would be rushed to the autopsy room rather than the crematorium, and we would extract skin, kidneys, livers, bones, and corneas for research and experimental purposes. I learned the process of preserving skin tissues to burn victims, and skin was subsequently sold to needy burn victims for 10 RMB per square centimeter.

After completing my studies in Beijing, and returning to Tianjin’s Paramilitary Police General Brigade Hospital, I assisted hospital directors Liu Lingfeng and Song Heping in acquiring the necessary equipment to build China’s first skin and tissue storehouse. Soon afterward, I established close ties with Section Chief Xing, a criminal investigator of the Tianjin Higher People’s Court.

Acquiring skin from executed prisoners usually took place around major holidays or during the government’s anti-drug, anti-corruption, and anti-crime campaigns, when prisoners would be executed in groups. Section Chief Xing would notify us of upcoming executions. We would put an order in advance notifying the section that we needed skin. The nine-person section would prepare all necessary equipment and arrive at the Beicang Crematorium in plain clothes with all official license plates on our vehicles replaced with civilian ones. This was done on orders of the criminal investigation section. Before removing the skin, we would cut off the ropes that bound the criminals’ hands and remove their clothing. Each criminal had identification papers in his or her pocket that detailed the executee’s name, residence, age, profession, unit, address, and crime. Nowhere on these papers was there any mention of voluntary organ donation, and clearly the prisoners did not know how their bodies would be used after death.

We had to work quickly in the crematorium, and 10-20 minutes were generally allowed to remove all possible tissue. Whatever remained was passed over to the crematorium workers. Between five and eight times a year, the hospital would send a number of teams to execution sites to harvest skin. Each team could process up to four corpses, and they would take as much as was demanded by both our hospital and fraternal hospitals. Because this system allowed us to treat so many burn victims, our department became the most reputable and profitable department in Tianjin.

Huge profits prompted our hospital to urge other departments to design similar programs. The urology department thus began its program of kidney transplant surgeries. The complexity of the surgery called for a price of $120–150,000 RMB per kidney.

With such high prices, primarily wealthy or high-ranking people were able to buy kidneys. They had the money, and the legal system would be a donor-recipient match. In the first case of kidney transplantation in August, 1990, I accompanied the urology surgeon to the higher court to collect blood samples from four death-row prisoners. The policeman escorting us told the prisoners that we were there to check their health conditions; therefore, the prisoners did not know the purpose for their blood samples or that their organs might be up for sale. Out of the four samplings, one basic and sub-group blood match was found for the recipient, and the prisoner’s kidneys were deemed fit for transplantation.

One, aged 24, was found to have a kidney that was muscled and that died five years after the surgery. Considering the high cost of tissues, the medical staff made an agreement with the patient’s family to use anyone’s kidneys after death to save lives.

With the passing of Pat Harris South Carolina has lost an extraordinary statesman and gentleman. I’m sure other Members of the House join me in sending our condolences to his family and loved ones.
Extensions of Remarks

I hereby expose all these terrible things to the light in the hope that this will help to put an end to this evil practice.

Tribute to the Mount Hope Housing Company, Inc.

Hon. Jose E. Serrano

Of New York

In the House of Representatives

Thursday, June 28, 2001

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the Mount Hope Housing Company, Inc. (MHHC) as they celebrate their 15th anniversary today.

The Mount Hope Housing Company, Inc. was formed in 1986 as a part of intense organizing efforts of residents and community groups in the Mount Hope neighborhood in the South Bronx. Focusing first on the pressing need for the availability of affordable housing, Mount Hope completed one of the first housing tax credit projects in the United States in 1986 and to date has rehabilitated over 1,400 housing units. As a result of this intense and comprehensive effort, one in six residents of the Mount Hope neighborhood lives in a building operated by the MHHC.

Since its founding, the MHHC has continued to enhance its abilities and expand its services to the community. In 1994, the MHHC opened a thrift shop. One year later, the Mount Hope Primary Care Center opened. And in 1996, the New Bronx Employment Service was inaugurated, followed by the Neighborhood Housing Service/MHHC Home Maintenance Training Center in 1998. And now MHHC is planning to develop a community center that will house programs for area youth like a Boys and Girls Club, affordable child care and a state of the art center for computer training.

Mr. Speaker, the Mount Hope Housing Company, Inc. is another fine example of a community organization dedicated to empowering Bronx residents and revitalizing the community, using a comprehensive, self-sustaining and long-term approach. Its success reminds all of us of the contributions local organizations have made to improving the lives of citizens in their respective communities.

Mr. Speaker, I ask my colleagues to join me in paying tribute to the Mount Hope Housing Company, Inc. and in wishing them continued success.

Congressional Testimony of David Hoffman

Hon. Mike Thompson

Of California

In the House of Representatives

Thursday, June 28, 2001

Mr. THOMPSON of California. Mr. Speaker, I rise today to request that the testimony given by David Hoffman, President of Internews in Arcata, CA, be submitted into the CONGRESSIONAL RECORD. Mr. Hoffman’s valuable testimony before the House Appropriations Subcommittee on Foreign Operations is as follows:

Electronic media are the most powerful force for social change in the world today. As Americans, we live in a wide-open information age. Media are central to our economy, our culture, our political system and our everyday lives. But in many countries around the world, free media can by no means be taken for granted. In Russia, President Putin has prosecuted Victor Guizensky, whose influential television network has been critical of the government. In Ukraine, Prime Minister Kuchma has been accused of ordering the murder of a dissident journalist. In China, the government selectively censors Internet web sites that challenge the official version of events. In Iran, dozens of newspapers have been banned and their editors thrown in jail. In Zimbabwe, journalists have been beaten and jailed. In Kazakhstan and Azerbaijan, independent television stations have been suppressed.

And of course, former President Milosevic used state media as a propaganda weapon to foment hatred and violence in the Balkans. But with US government funds, Internews and other NGOs were able to provide critical support to independent broadcasters in Serbia that formed the nucleus of opposition to the Milosevic regime. In Serbia and many countries around the world, independent media have been on the front lines in the fight for freedom and democracy. With significant funding from USAID, Internews helped developed 150 independent, non-governmental broadcasters in 23 countries. During the past ten years, we have also trained 16,000 media professionals.

In all these countries we have learned that open media are essential for holding free and fair elections, for exposing corruption and human rights abuses, for allowing the free exchange of ideas, for promoting respect for uncensored news outlets, therefore, should be at the top of our foreign policy agenda.

Second, support for local broadcast media is the most effective means for building...
open, civil societies and healthy market economies in support of democratic ideals. This support needs to be sustained for the long run until stable economies and civil societies are in place.

And third, in the developing world, locally-produced television programs and other media coverage are unparalleled in their potential to effectively educate mass populations about urgent social problems such as HIV/AIDS.

We would urge the committee to give special attention to this last point.

ROLE OF MEDIA IN COMBATING HIV/AIDS IN THE DEVELOPING WORLD

At a time when the incidence of HIV/AIDS has reached catastrophic proportions in Africa, there is an important opportunity to harness the power of local media to reduce the spread of this disease. Over 17 million African children have died of AIDS since the epidemic began in the late 1970s. In at least eight sub-Saharan African nations, infection levels in the general population are 15% or higher. Yet local news coverage of this epidemic is often seriously flawed. African journalists do not usually specialize in one particular area, so their stories on this issue may be shallow and the language they use may inadvertently further stigmatize victims of HIV/AIDS. As a recent Time magazine cover story concluded, "Ignorance is the crucial reason the epidemic has run out of control."

By training local African journalists in how to cover this issue effectively and responsibly, as Internews has done in Russia and Ukraine, we can reduce the ignorance and fear that exacerbate the suffering. One of the biggest challenges of the AIDS pandemic is in reaching young audiences with needed information before they become sexually active. By focusing a media campaign on pre-pubescent African children, we can begin to get ahead of the spread of this deadly virus.

Internews therefore requests that this Committee recommend funding in the amount of $2 million for Internews to implement a media training program to combat the spread of HIV/AIDS in Africa.

As an example of what we know better than most the unequalled power of the media to inform and motivate the public. In Africa and the developing world, nothing is more effective than hearing local people in their own language speak the truth directly in their local dialect. If we can educate those voices about the true nature of the HIV virus, we can begin to change the attitudes and practices that have allowed this disease to run out of control.

WOMEN AND MEDIA IN THE DEVELOPING WORLD

In the developing world, women have a special role to play in changing public health practices and on a wide range of social issues.

In his book Development As Freedom, Nobel Prize winner Amartya Sen illustrates the importance of women in the media. Let us educate the women of women's NGOs to utilize the media to deliver their messages. Let us help start new radio programs that address the needs of women. For example, with a grant from USAID's Office of Transition Initiatives, Internews helped develop the first radio program in Indonesia specifically targeted to a female audience. This type of assistance decried for years by civil rights leaders will have the power to transform the continent. A democratic, open media in Africa is both a moral and a political imperative.

ABOUT INTERNEWS

Internews is an international non-profit organization that reaches open media worldwide. The company fosters independent media in emerging democracies, produces innovative television and radio programming and Internet content, and uses the media to reduce conflict within and between countries.

Internews programs are based on the conviction that vigorous and diverse media form an essential cornerstone of a free and open society. Internews projects currently span the former Soviet Union and Western Europe, the Middle East, Southeast Asia, Africa and the United States.

Formed in 1982, Internews Network, Inc. is a 501(c)(3) organization incorporated in California, with offices in 23 countries worldwide. The organization currently has offices in Armenia, Azerbaijan, Georgia, Kazakhstan, Uzbekistan, Tajikistan, the Kyrgyz Republic, Russia, Ukraine, Belarus, Bosnia-Herzegovina, the Federal Republic of Yugoslavia, Kosovo, France, Belgium, Israel/Palestine, Lebanon, Indonesia, Thailand, Iran, Rwanda, Tanzania, and the United States.

To support independent broadcast media, Internews has done the following (as of 12/31/00):

Since 1992, Internews has trained over 16,000 media professionals in the former Soviet Union, the Balkans, the Middle East, and Indonesia in broadcast journalism and station management.

The organization has worked with over 1500 non-governmental TV and radio stations since 1992.

Internews has also supported the development of 16 independent national television networks linking nongovernmental TV stations in the former Soviet Union, the former Yugoslavia, and the West Bank and Gaza.

Internews has formed or supported 19 national media associations around the world.

In 2000 Internews, working with local producers, created approximately 740 hours of television and radio programming. Internews' original programs reach a potential audience of 308 million viewers and listeners worldwide.

In addition, since 1994 Internews' Open Skies program has selected, acquired, versioned and distributed over 1000 hours of high-quality international documentary programming to independent television broadcasters in the former Soviet Union and the former Yugoslavia.

Just since last year the company has provided over $2 million in television and radio production equipment to nongovernmental media, in the form of grants or no-cost equipment.

Internews is primarily supported by grants. Funders include the US Agency for International Development, the Open Society Institute, the Rockefeller Foundation, the W. Alton Jones Foundation, the Joyce Mertz-Gilmore Foundation, the Corporation for Public Broadcasting, the Miriam and Ira D. Wallach Foundation, the W.K. Kellogg Foundation, and many others. The organization had a budget of $15 million in 2000.
MOTION PICTURE PRODUCTION: TO RUN OR STAY MADE IN THE USA

HON. JOHN CONYERS, JR. OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. CONYERS. Mr. Speaker, I submit that the following article from the Entertainment Law Review, by Pamela Conley Ulrich and Lance Simmons, be placed in the CONGRESSIONAL RECORD.

MOTION PICTURE PRODUCTION: TO RUN OR STAY MADE IN THE U.S.A.

(Pamela Conley Ulrich and Lance Simmons)  

I. INTRODUCTION

Globalization profoundly impacts traditional ways of conducting business, and the entertainment industry is no exception. The result is job loss, decreased income, and decreased tax receipts for states and cities. The issue of preserving the entertainment industry in the United States has received increasing attention in recent years, with the introduction of bipartisan legislation to address the problem of ‘runaway production’—the practice of shooting motion pictures in another country to take advantage of lower labor costs and incentives. This article provides an overview of the history of the entertainment industry in the United States, the factors leading to the transformation of the industry, and the possible solutions to the problem of ‘runaway production.’

II. THE HISTORY OF ‘RUNAWAY PRODUCTION’

Runaway production is not a new phenomenon. In the 1920s, when the United States was the dominant producer of motion pictures, the industry began to lose market share to other countries. The industry responded by establishing production facilities in other countries to take advantage of lower labor costs and incentives. This practice continued into the 1950s, when the United States was still the dominant producer of motion pictures.

In the 1960s, the United States began to lose market share to other countries, particularly Japan and the United Kingdom. The industry responded by establishing production facilities in other countries to take advantage of lower labor costs and incentives. This practice continued into the 1980s, when the United States was no longer the dominant producer of motion pictures.

In the 1990s, the United States began to lose market share to other countries, particularly Japan and the United Kingdom. The industry responded by establishing production facilities in other countries to take advantage of lower labor costs and incentives. This practice continued into the 2000s, when the United States was no longer the dominant producer of motion pictures.

III. CAUSES OF RUNAWAY PRODUCTION

In the Department of Commerce Report, the government delineated factors leading to runaway film and television production. These factors have contributed to the ‘substantial transformation of what was to be a traditional and quintessentially American industry into an increasingly dispersed global industry.’

A. Vertical Integration: Globalization

Vertical integration is defined by the International Monetary Fund as ‘the increasing integration of economies around the world, particularly through trade and financial flows.’ The term refers to the movement of people (labor) and knowledge (technology) across international borders.

Consequently, companies may now produce and distribute their work both domestically and internationally. As a result, the entertainment industry is now more globalized than ever before.

EXTENSIONS OF REMARKS

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‘Apart from the fact that thousands of job opportunities [are] lost, all [of the causes of runaway production] are examples of global labor issues, including the dislocation of labor from the United States. . . . The rate of unemployment here is a day we’re unemployed here.’

— Jack L. Daley, Executive Secretary of the Screen Actors Guild (‘‘SAG’’), and actor Charlton Heston also testified before this subcommittee. Daley stated: ‘We examined, within the context of evasion, all the causes [of runaway production] we knew. Included as compelling foreign production were foreign financial subsidies, lack of investment, low wages, and the loss of authenticity.’

‘We proposed consideration of a spread of five or seven years over which tax rebates would be paid on the average, not on the highest, income for those years.’

— An expert testimony was given before the Department of Commerce Report, that analyzed the quantity of motion pictures shot abroad and resulting from the flight of motion pictures outside of the United States. This report was prepared by the United States Department of Commerce.

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EXTENSIONS OF REMARKS

June 29, 2001

B. Rising Production and Distribution Costs and Distribution

By the end of the 1990s, studio executives began to alter their business methods. Despite aggressive cost-cutting, layoffs, strategic joint ventures and movement of production facilities abroad, rising production and distribution costs have consumed profits over the last decade. Production costs rose from an average of $25.8 million to $51.5 million. Distribution costs for new feature films more than doubled. In 1990, the average motion picture cost $11.97 million to distribute, and by 1999, this cost rose to $24.53 million. At the same time, profit margins dropped. For example, Disney Studio’s profits decreased from 25 percent in 1987 to 19 percent in 1997, and Viacom’s profits dropped from 13 percent in 1997 to less than 6.5 percent in 1997. Additionally, both Time Warner and News Corporation, parent of Fox, showed declines.

C. Technological Advances

According to the Department of Commerce Report, “[N]ew technologies and tools may well be contributing to the increase in the amount of foreign production of U.S. entertainment programming.” Ten years ago, even if a foreign country had lower labor costs, it would have been prohibitively expensive to transport equipment and qualified technicians to produce a quality picture abroad. However, new technology is defeating that barrier. Everything shot on film can be transferred or scanned into a videotape format; this process creates what is referred to as dailies. However, many foreign production centers are not capable of instantly produce dailies from film. Nevertheless, technological advancement has led to the creation of high definition video, which, like dailies, offers immediate viewing capabilities approximating video. Nevertheless, technological advancement has led to the creation of high definition video, which, like dailies, offers immediate viewing capabilities approximating video.

D. Government Sweeteners

Canada is extremely aggressive in its application of both Federal and provincial subsidies to entice production north of the border. “At the federal level, the Canadian government offers tax credits to compensate for salary and wages, provides funding for equity contributions made to the plans on behalf of workers, and other workers in fields too numerous to mention.” This fiscal loss ripples through the economy affecting peripheral industries. In addition to the direct economic loss discussed above, the Monitor Report calculated an additional $3.6 billion lost in indirect expenditures. Indirect expenditures include real estate, restaurants, clothing and hotel revenues, which are not realized. In addition to these private industry losses, the government lost $1.9 billion in taxes to runaway production. As opposed to the $10.3 billion lost to the foreign production, those figures will be between $13 and $15 billion in 2001.

B. The U.S. Production Drought

“The Monitor Report stated that between 1990 and 1998, U.S. film production growth fell sharply behind the growth occurring in the top U.S. runaway production locations of Canada, Australia and the U.K. It stated that Australia “is growing at 28.4 percent annually in production of United States-U.S.-developed feature films, or more than three times the U.S. growth rate.” Similarly, “Canada is growing at 18.2 percent annually in production of U.S.-developed television projects, more than double the U.S. rate.” During the same period, annual growth rates in the United States were less than 3 percent for feature films, and 2.6 percent for television.”

C. Job Loss

Runaway production also impacts the U.S. labor market. It is estimated there are 200,000 jobs directly involved in production. It is further estimated that 20,000 jobs were lost in 1998 alone due to runaway production. However, these statistics do not fully reflect the impact of economic runaway production on employment. They fail to account for spin-off employment that accompanies film production. It is estimated by the Commerce Department that the ripple effect of secondary and tertiary jobs associated with the industry might easily double or triple the number of jobs dependent upon the industry. Regardless of the magnitude of the economic impact, the Commerce Department acknowledges that at least $18 billion in direct and indirect export revenues and $20 billion in economic activity are generated by the industry annually.

D. Loss of Pension and Health Benefits

Performers and others who work on foreign productions may lose valuable pension and health benefits. As mentioned in the Monitor Report, producers for filming in California, Australia or other countries are unable to negotiate this benefit for work performed in Canada.

B. Cultural Identity

In 1961, Congress was warned that the trend of runaway production was threatened to destroy a valuable “national asset” in the field of worldwide mass communications. As H. O’Neill Shankis, John Lehners and Robert Landis of the Hollywood AFL Film Council testified in 1961, if Hollywood became “obsolete as a production center” and the United States voluntarily surrendered its position in the world market, it would lose the prestige of leadership in the field of worldwide mass communications. As the Cold War is no longer a reason to protect cultural identity, today U.S.-produced pictures are still a conduit through which our values, such as democracy and freedom, are promoted.

V. Solutions

A. The Film California First Program

California remains a leading force in the industry, and last year took a legislative step to remedy the problem of runaway production. It passed a three-year, $45 million program aimed at reimbursing film costs incurred on public property. The Film California First (“FCF”) program is specifically directed toward increasing the state’s competitive edge in attracting and retaining film projects. To accomplish this goal, the legislation provides various subsidies to production companies for filming in California, including offering property leases at below-market rates. This legislation should serve as a model for other states, as they too struggle with an issue of increasing economic importance.

B. Wage-Based Tax Credit

A possible solution could be patterned after a legislative proposal offered, but never advanced, in the 196th Congress. Specifically, this proposal called for a wage-based tax credit for targeted productions and provided: (1) a general business tax credit that would be a dollar-for-dollar offset against any federal income tax liability; (2) a credit cap at twenty-five percent of the first $25,000 in wages and salaries paid to any employee whose work is in connection with a film or television program substantially produced in the United States and (3) availability of credit only to targeted film and television productions with costs of more than $500,000 and less than $10 million.

C. Future Solutions

To rectify the problems of runaway productions, legislation at the local, state and federal levels is paramount. Over the past thirty years, the film industry has expanded beyond California to become a major engine of economic growth in states such as New York, Texas, Florida, Illinois and North Carolina. To achieve effective legislative remedies, it is critical to examine the successful programs implemented by other nations.

Maybe it is the inexorable result of a changing world. Regardless, the proliferation of foreign subsidies for U.S. film production, which is occurring at an increasing rate worldwide, raises troubling questions of fairness, such as democracy and freedom. From a competitive standpoint, it appears as though the deck is no longer a reason to protect cultural identity, today U.S.-produced pictures are still a conduit through which our values, such as democracy and freedom, are promoted.
that provides commensurate benefits in the United States.

It is apparent that a laissez-faire, market-oriented approach to the American worker. Unemployment is extraordinarily high within the creative community, leading to seventy percent of SAG’s 100,000 plus members earning less than $7,500 annually. This economic hardship is exacerbated by runaways. Thus, it is abundantly clear that legislative remedies attempting to more adequately level the playing field must be pursued. Amid encouraging signs that a tax bill of significant consequence is likely to pass Congress in the coming months, it is imperative that the creative community take a proactive position to ensure that the tax bill provides incentives for domestic film production. It must use all resources to secure the concerns presented in the two reports outlined in this Article. Organizations, such as SAG, must work with Congress to develop a proposal that is acceptable in terms of cost and other political considerations.

While it seems unlikely that there is the political will or desire to match the incentives offered by our competitors, it is conceivable to the authors that an effective approach can be designed to substantially close the gap on cost savings without eliminating them. Thus, the approach advocated involves identifying the level where cost savings of filming abroad are minimized so as not to be the determinative location factor. An appropriate level may be in the range of ten percent cost savings versus the twenty-six percent cost savings now common in some European locations.

It is important to note the strategy used to fashion a remedy is just as important as the relief sought. The industry should be willing to approach the tax-writing committee staff with the afore-mentioned concept and work closely with them in designing a legislative remedy. This strategy represents a holistic approach to a global problem. It is important to remember the United States risks losing its economic advantage in a vital industry which carries with it enormous economic consequences. As noted in the Department of Commerce Report:

“If the most rapid growth in the most dynamic area of film production is occurring outside the United States, then employment, infrastructure, and technical skills will also grow more rapidly outside the United States, and the country could lose its competitive edge in important segments of the film industry.”

VI. CONCLUSION

Politics represents the art of the possible. The approach advocated in this Article should find a receptive ear in the halls of Congress if for nothing else than its simplicity. Timing is crucial. Left unchecked, the only continuing runaways production with the attendant of economic costs, lost jobs, and diminished tax revenues at all levels of government. In a time of waning economic growth and warning signs of dwindling surpluses and future economic weakness, including production incentives into any upcoming tax relief is essential to preserving the U.S. workforce in the American entertainment industry.

EXTENSIONS OF REMARKS

PERSONAL EXPLANATION

HON. JAMES H. MALONEY
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. MALONEY of Connecticut. Mr. Speaker, on Tuesday, June 26, 2001, I was unavoidably detained and missed rollocall No. 190. Had I been present, I would have voted No on rollocall vote No. 190.

TRIBUTE TO THE CITY OF MURRIETA, 10TH ANNIVERSARY

HON. KEN CALVERT
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. CALVERT. Mr. Speaker, it is with great pleasure today to pay tribute to a wonderful, young city in my district as they prepare to celebrate their 10th Anniversary—Murrieta, California, a “Gem of the Valley.” Murrieta is an expansive valley covered with grasses and dotted with oak trees.

Incorporated as a city in July of 1991 after an overwhelming supportive vote, Murrieta has seen tremendous growth since its small beginnings as a sheep ranch. It was a young Don Juan Murrieta who first recognized the natural beauty and vitality of this California valley and bought 52,000 acres in 1873. As the years passed by, the city saw slow growth and finally a boom when the railroad came through. By 1890, almost 800 people lived in the valley. Unfortunately, by 1935 the city had gone bust like so many western towns whose livelihood depended upon the railroad.

It would not be until 1987, more than fifty years later, that Murrieta Valley would once again come into its own. That year saw explosive growth for this sleepy little town. Totaling only 542 residents in 1970 and little more than 2,250 a decade later it found its population increase by a multiple of eight by 1991, to 20,000 residents, when Murrieta became an incorporated city. This year, as they celebrate their 10th Anniversary it finds itself the home of some 50,000 residents.

As a city and community, Murrieta has thrived with the greater control of its destiny over the last 10 years. That includes providing services from within the community instead of outside, such as police, fire and library systems of its own rather than contracting for these services.

In 10 short years, the City of Murrieta has seen its population and communities grow because of dedication to affordable housing, protecting the natural beauty of the valley, good schools, low crime and clean air. The city adopted its first General Plan after more than 50 public meetings to draft a vision of what the new city would become over the next several decades. The police department was created in 1992, the fire department in 1993 and the library system in 1998. Public services like these are what bind a city together along with the building of parks and recreational facilities and more. In fact, for their incredible progress as a city Murrieta has won numerous awards for innovation and performance.

Mr. Speaker, looking back, the city of Murrieta and its residents can hold their heads high with pride at what their once small town has become in only 10 short years. I wish to extend to them my congratulations as families, community leaders and business leaders gather on this Saturday, June 30th, to celebrate their 10th Anniversary. Congratulations to the “Gem of the Valley!”

PERSECUTION OF THE MONTAGNARD PEOPLES IN VIETNAM

HON. CASS BALLINGER
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. BALLINGER of North Carolina. Mr. Speaker, today I am introducing a resolution concerning the persecution of the Montagnard peoples in Vietnam.

The Montagnards are indigenous peoples of the Central Highlands of Vietnam who have long suffered discrimination and mistreatment at the hands of successive Vietnamese governments. In the 1960’s and 1970’s the Montagnard freedom fighters were the first line in the defense of South Vietnam against invasion from the North, fighting courageously beside members of the Special Forces of the United States Army, suffering disproportionately heavy casualties, and saving the lives of many of their American and Vietnamese comrades in arms. Today the Montagnards are singled out by the Vietnamese government due to their past association with the United States, their strong commitment to their traditional way of life and to their Christian religion.

Due to this persecution, many Montagnards have attempted to flee Vietnam to other countries, including Cambodia. The Royal Government of Cambodia has announced that Montagnards found in Cambodia who express a fear of return to Vietnam will be placed under the protection of the United Nations High Commissioner for Refugees rather then forcibly repatriated to Vietnam. Unfortunately, it appears there is a policy of systematic repatriation of Montagnard asylum seekers to Vietnam by some officials of the central government. There also are credible reports that Vietnamese security forces are operating openly in the Mondulkiri and Ratanakiri provinces of Cambodia to repatriate Montagnards.

My resolution urges the government of Vietnam to allow freedom of religious belief and practice to all Montagnards, return all traditional Montagnard lands that have been confiscated, allow international humanitarian organizations to deliver humanitarian assistance directly to Montagnards in their villages, and to withdraw its security forces from Cambodia and stop hunting down refugees. It also recommends the Royal Government of Cambodia for its official policy of guaranteeing temporary asylum for Montagnards fleeing Vietnam and urges the Cambodian government to take all necessary measures to ensure that all officials and commanders of the local provincial and central governments fully obey the policy of providing temporary asylum. Finally, this resolution has the Department of State make clear to the Government of Vietnam that continued
mistratment of the Montagnard peoples represent a grave threat to the process of normalization of relations between the governments of the United States and Vietnam. I urge my colleagues to join me in supporting the Montagnard peoples of Vietnam by cosponsoring this resolution.

INTRODUCTION OF THE SMALL BUSINESS WELFARE BENEFITS PROTECTION ACT

HON. JERRY WELLER OF ILLINOIS IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. WELLER. Mr. Speaker, today, Representative NEAL (D-MA) and I introduced the Small Business Welfare Benefits Protection Act which deals with Welfare Benefit Plans governed by Section 419A of the Tax Code. The Code currently allows a deduction for contributions to multiple employer welfare benefit plans.

The purpose of this legislation is to provide some clarity to this section of the code in a fashion that protects pension tax law while allowing small businesses to provide important benefits, such as life and health insurance, long term care insurance and severance benefits to their employees. While any employer can utilize Section 419A plans, they allow small business to compete with large employers in attracting and retaining talented staff by enabling them to offer meaningful benefits like the ones I just mentioned.

Section 419A plans are independently trusted and administered ensuring employees that the funds set aside for their benefit are there when they need them most, when a company is facing economic difficulties. This is the right policy and we should do everything in our power to encourage small businesses to protect their employees against the proverbial rainy day.

In terms of clarifying the Code, my legislation would ensure that all full time employees benefit. The allowable deduction would be limited to the cost of the benefit for the year in which the deduction is taken. Finally, the bill would prevent an employer who terminates participation in plan from plundering the assets of the plan at the expense of the rank and file employees.

This legislation will ensure that 419A plans work the way they were intended to by Congress, namely to benefit employees, especially small business employees.

ACKNOWLEDGING ALL THOSE SUFFERING WITH THE DEADLY DISEASE OF HIV/AIDS IN THE CARIBBEAN

HON. CHARLES B. RANGEL OF NEW YORK IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. RANGEL. Mr. Speaker, while we take into account the millions who die each year in Africa from this deadly disease we know as HIV/AIDS, we must also focus our attention on the Caribbean, as the second largest population to become infected with this devastating disease. As the front page of the Washington Post on June 19, 2001, for those who may have missed it, I submit it for the record.

Two-thirds of all those diagnosed with the AIDS virus in the Caribbean are dead within two years. What is even more outrageous is that AIDS is the leading cause of death in the Caribbean for those aged 15 to 45 and the numbers are growing.

About one in every 50 people in the Caribbean, or 2% of the population has AIDS or is infected with HIV, the virus which causes AIDS, more than 4% in the Bahamas, and 13% among urban adults in Haiti.

The UN estimates that there were 9,600 children infected in the Caribbean. Further, the Caribbean Epidemiology Centre (CAREC) as well estimates that the overall child mortality rate will increase 60% by 2010 if treatment is not improved.

Clearly, there is a need not only for the United States government's assistance but also for those major private foundations that provide AIDS money for Africa to also develop programs that will come to the aid of those in the Caribbean.

I proudly commend Congresswoman DONNA CHRISTENSEN and her efforts to raise awareness in the community, as this disease is kept silent. I also commend the government of the Bahamas as being the only country in the region that has offered universal antiretroviral treatment over the last several years.

While we simply take medical services and treatment for granted in this country, as the number of AIDS cases decreases per year in North America and increases in the Caribbean; it is our obligation to help provide assistance to these governments in order for them to provide a simple service to their people, enabling them to live prosperous and healthy lives.

A TRIBUTE TO LT. AUGUSTUS HAMILTON, JR. AND THE MEMBERS OF THE FORCED LANDING ASSOCIATION

HON. JANICE D. SCHAKOWSKY OF ILLINOIS IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Ms. SCHAKOWSKY. Mr. Speaker, today is June 28th. We are only a few days away from the July 4th Independence Day celebrations. As fireworks light up the sky, houses are adorned with crisp flags, and children gaze in wonder at the passing parades, we must not forget the many brave men and women who courageously sacrificed their lives to preserve the freedoms and ideals we all enjoy as Americans.

Throughout our short history, America’s security as a nation has been tested and tried. It is truly wonderful that you have been spared the horrors of war. However, for all those who have known war and have died for the sake of this great country, let it be said that they did not die in vain. The gratitude felt by all Americans and our many allies throughout the world is immeasurable.

Let us extend particular thanks to the veterans of World War II. During World War II, Adolf Hitler and his Nazi regime came alarmingly close to achieving world domination. It is difficult to envision what our world might have looked like had Hitler succeeded but, thanks to the heroism of World War II veterans, we will never have to find out.

I’d now like to share a story about one very special World War II veteran, a man by the name of Augustus Hamilton, Jr., and a remarkable group of people in France who have dedicated themselves to ensuring that the memories of World War II veterans endure. This story was told to me by Mr. Hamilton’s niece, Beth White from Chicago, Illinois, and I want to thank Ms. White for taking the time to contact me.

Augustus Hamilton was born on January 4, 1922. At the age of twenty, he enlisted in the U.S. Army Air Corps the day after Pearl Harbor and quickly advanced to First Lieutenant of the 358th Fighter Group, 355th Squadron. By all accounts, he had always been a family hero—an athlete (amateur golf champion for the state of North Carolina) and football fan (also for the University of North Carolina on a football scholarship), good student, caring brother, and loving son. He was also a new husband and when he went overseas, his wife was pregnant with their child.

Lt. Hamilton served as a fighter pilot in World War II and was awarded an air medal with two oak leaf clusters. According to an excerpt from Thunderbolts over High Halden by Graham J. Hukins, "Lt. Hamilton was last seen diving on a flight of four enemy planes with another four on.

At the time of his death, Lt. Hamilton had never met or seen a photo of his only son, for the baby was born when he was overseas. He had named his fighter plane after his wife and son, "Mrs. Ham/Lil Ham 3rd." Following the crash, two of his family members persisted in denying his death. He had told his family that if he were ever seriously injured in combat, he would not come home due to his injuries, or perhaps had developed amnesia and could not contact them.

In 1993, almost half a century later, the gift of emotional closure was finally given to Lt. Hamilton’s surviving family members by a French man named Jean Luc Grusson and his volunteer organization, Forced Landing Association. In an amazing demonstration of appreciation for the U.S. soldiers who fought in World War II, the members of Forced Landing Association devote themselves to finding each of the more than 150 crash sites reported within a 30 kilometer radius of Tillieres sur Avre, an area of intense air battles because of the close proximity of three German airfields. The Association was established in 1986 and has 11 members who live in France. To date, its members have discovered 30 crash sites, including that of Lt. Hamilton.

M. Grusson uncovered Lt. Hamilton’s plane in 1993. He then spent a full year tracking down Lt. Hamilton’s surviving family members.

EXTENSIONS OF REMARKS

June 29, 2001
to return Lt. Hamilton's dog tags, "wings" (a lapel pin), a belt buckle, and other items. When the Hamilton family asked M. Grusson why he and his associates devote so much time, energy, and personal expense unearthing these crash sites, he replied, "The pilots who gave their lives need to be honored. We owe these men our freedom. They gave us our country. We must honor them." M. Grusson's associate, Jacques Larousse, also shared a personal account of the profound impact American soldiers had on him as a young child. He explained that his mother washed the uniforms of American soldiers during the war to make money. When the Americans would come to their home to retrieve their uniforms, they always brought food and chocolate bars to M. Larousse and his mother. Given the scarcity of the time, the kindness of the Americans and their generous gifts made a lasting impression on M. Larousse.

M. Grusson and M. Larousse continue to reverence these American soldiers as heroes to this very day. In fact, the members of Forced Landing Association are completing individual memorials at the crash sites of both Lt. Hamilton and Edward Blevins, Hamilton's squadron member. These sites will contain photographs and descriptive accounts of these men to commemorate their tremendous service. There will also be a ceremony on July 8th in remembrance of these fallen soldiers.

I applaud the tireless work of M. Grusson and the Forced Landing Association to keep the memory of our veterans illuminated. I hope that on this July 4th holiday, we will not take for granted the countless freedoms we enjoy. Rather, I hope we always remember that such freedoms have been kept alive through the sacrifices of others.

INTRODUCTION OF EDUCATION BILLS

HON. RON PAUL OF TEXAS IN THE HOUSE OF REPRESENTATIVES Thursday, June 28, 2001

Mr. PAUL. Mr. Speaker, I rise to introduce two bills designed to help improve education by reducing taxes on parents, teachers, and all Americans who wish to help improve education. The first bill, the Hope Plus Scholarship Act, extends the HOPE Scholarship tax credit to K–12 education expenses. Under this bill, parents could use the HOPE Scholarship to pay for a rate or reduce school tuition or to offset the cost of home schooling. In addition, under the bill, all Americans could use the Hope Scholarship to make cash or in-kind donations to public schools. Thus, the Hope Scholarship could help working parents finally afford to send their child to a private school, while other parents could take advantage of the Hope credit to help purchase new computers for their children's school.

Mr. Speaker, reducing taxes so that Americans can devote more of their own resources to education is the best way to improve America's schools. This is not just because expanding the HOPE Scholarship bill will increase the funds devoted to education but because, to use a popular buzz word, individuals are more likely than federal bureaucrats to insist that schools be accountable for student performance. When the federal government controls the education dollar, schools will be held accountable for their compliance with bureaucratic paperwork requirements and mandates that have little to do with actual education, or for students performance on a test that may measure little more than test-taking skills or the ability of education bureaucrats to design or score the test so that "no child is left behind," regardless of the child's actual knowledge. Federal rules and regulations also divert valuable resources away from classroom instruction into fulfilling bureaucratic paperwork requirements. The only way to change this system is to restore control of the education dollar to the American people so they can ensure schools meet their demands that children be provided a quality education.

My other bill, the "Professional Educators Tax Relief Act" would provide a one year tax credit to all professional educators, including librarians, counselors, and others involved in implementing or formulating the curriculum. This bill helps equalize the pay gap between educators and other professionals, thus ensuring that quality people will continue to seek out careers in education. Good teaching is the key to a good education, so it is important that Congress raise the salaries of educators by cutting their taxes.

Mr. Speaker, I urge my colleagues to join with me in returning education resources to the American people by cosponsoring my Hope Plus Scholarship Act and my Professional Educators Tax Cut Act.

VIRGIN RIVER DINOSAUR FOOTPRINT PRESERVATION ACT

HON. JAMES V. HANSEN OF UTAH IN THE HOUSE OF REPRESENTATIVES Thursday, June 28, 2001

Mr. HANSEN. Mr. Speaker, it is with pleasure that I rise today to introduce the Virgin River Dinosaur Footprint Preserve Act. This legislation is vital if we hope to preserve some of our nation's most intact and rare pre-Jurassic paleontological discoveries.

In February of 2000, Dr. Sheldon Johnson began development preparations on land adjacent to the Virgin River in southern Utah. After dropping the backhoe and noticing a square to the Virgin River in southern Utah. After dropping the backhoe and noticing a square footprint in the Navajo sandstone, Mr. Johnson picked up the phone. To his utter amazement, there in the stone were dinosaur tracks, taildraggings, and skin imprints of unprecedented quality. These paleontological discoveries are touted by scientists in the field as some of the most amazing ever discovered. The clarity and completeness of the imprints are unparalleled.

Since that time over 140,000 people from all 50 states and at least 54 foreign countries have visited the site. This attention is welcomed by the present owners, but overwhelming at the same time. Over 5,000 people came to visit on Easter weekend alone when only two volunteers were available to help! With current facilities meager at most, this is beginning to cause traffic and congestion problems for the owners and neighbors of the sight, as well as for the city of St. George, Utah.

In addition to the logistical nightmare caused by this discovery, the preservation of these valuable resources is now in jeopardy. The fragile sandstone in which the impressions have been made is susceptible to the heat and wind typical of the southern Utah climate. Rain is nearly catastrophic for these unearthed impressions.

The community and the land owners have come together and have done what they can to help. They have constructed makeshift shelters for the exposed impressions and volunteers have stepped up to help with tours. Even after all of these efforts, they still need help. The community has asked if there is anything Congress can do to help. Since these resources are of value to the entire world, there is a legitimate role for Congress and the Administration. We have discussed the possibility that the area might be worthy of National Monument designation. It is my hope that by introducing this legislation, we will attract the attention of the Administration and protect these irreplaceable resources at the same time.

We must act quickly if these national treasures are to be saved. This bill would authorize the Secretary of the Interior to purchase the land where the footprints and taildraggings are found, then authorize the conveyance of the property to the city of St. George, Utah, which will then work with the property owners and the county to preserve and protect the area and resources in question. The Secretary of the Interior would then enter into a cooperative agreement with the city and provide assistance to help further the protection of the resources.

The American people deserve the chance to see these treasures and the scientific community deserves to be able to study and learn from them as well. Without this legislation, this opportunity might not be possible. Who knows what the cost of inaction might be. I hope my colleagues will support this bill.

CHILD PASSENGER PROTECTION EDUCATION GRANTS EXTENSION ACT

HON. CONSTANCE A. MORELLA OF MARYLAND IN THE HOUSE OF REPRESENTATIVES Wednesday, June 27, 2001

Mrs. MORELLA. Mr. Speaker, I rise in support of H.R. 691 which will extend the Child Passenger Protection Grant Program for an additional two years—making the program consistent with the TEA 21 reauthorization cycle.

Currently, the Child Passenger Protection Grant program authorizes $7.5 million each year for the Secretary of Transportation to make incentive grants to states to encourage the implementation of child passenger protection programs in those states. This program is critical to ensuring that child passenger safety is on the minds of citizens nationwide.

Motor vehicle crashes are the single largest cause of child fatalities in the United States.
Each year more than 1,400 children die as motor vehicle passengers, and an additional 280,000 are injured. Despite these horrifying figures, parents are still allowing their children to ride unrestrained.

More disturbing is the fact that of children who are buckled up, roughly half are restrained incorrectly—increasing the risk of serious or fatal injuries. Tragically, most of these injuries could have been prevented. Car seats are proven life savers, reducing the risk of death by 69 percent for infants and 47 percent for toddlers.

With programs like the Child Passenger Protection Grants, we can prevent these senseless deaths and injuries by increasing awareness in our communities.

In my district, the Drivers’ Appeal for National Awareness (DANA) Foundation has worked tirelessly to increase public awareness for child passenger safety. Joe Colella, from Montgomery, and a hearty “Hi-yo Silver, away!” Foundation in memory of his niece, Dana, who died because of injuries sustained in a crash while riding in a child restraint that was installed with an incompatible system.

Joe deserves great credit for bringing the incompatibility problem to the attention of the National Highway Transportation Safety Administration (NHTSA) and to Congress. Because of the DANA Foundation’s efforts, the nation is now better educated and aware about the proper installation of children’s safety seats in motor vehicles.

Protecting our children is a national issue that deserves national attention. I urge my colleagues; to support H.R. 691, as well as other that deserves national attention. I urge my colleagues to support H.R. 691, as well as other

BROWN v. BOARD OF EDUCATION
50TH ANNIVERSARY COMMISSION

SPEECH OF
HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. RANGEL. Mr. Speaker, I rise today to raise my colleagues on both sides of the aisle for yesterday’s overwhelming passage of H.R. 2133. This legislation would establish a commission to encourage and provide for commemorating the 50th anniversary of the Supreme Court’s unanimous and landmark 1954 decision in Brown v. Board of Education of Topeka Kansas—the most momentous in the 20th Century.

While the 13th, 14th, and 15th Amendments to the Constitution outlawed slavery, guaranteed rights of citizenship to naturalized citizens and due process, equal protection and voting rights, nearly a century would pass before the last vestiges of “legalized” discrimination and inequality would be effectively revoked. The right of equal protection under the law for African-Americans was dealt a heavy blow with the Supreme Court’s 1875 decision to uphold a lower court in Plessy v. Ferguson. The Plessy decision created the infamous “separate but equal” doctrine that made segregation “constitutional” for almost 80 years.

It was not until the 1950’s, when the NAACP defense team led by the Honorable Thurgood Marshall as general counsel, launched a national campaign to challenge segregation at the elementary school level that effective and lasting change was achieved. In five individually unique cases filed in four states and the District of Columbia, the NAACP defense team not only claimed that segregated schools told Black children they were inferior to White children, but that the “separate but equal” ruling in Plessy violated equal protection. Although all five lost in the lower courts, the U.S. Supreme Court accepted each case in turn, hearing them collectively in what became Brown v. Board of Education. The Brown decision brought a decisive end to segregation and discrimination in our public school systems, and gradually our national, cultural and social consciousness as well.

The fight, however, did not end there. We may have overcome segregation and racism, but now the fight is economic, one in which some of our schools are inferior to others because of inadequate funding, overcrowded classrooms, dilapidated school buildings and a nationwide lack of teachers. We only have to look at the high levels of crime, drug use, juvenile delinquency, teen pregnancy and unemployment to know the value of a good education. If Brown taught us anything, it is that wealth is the foundation of educational tools, young people lose hope for the future.

No one challenges the concept of investing in human capital, but it is a well-known fact that we spend ten times as much to incarcerate than we do to educate. If we can find the resources to fund a tax cut and for a U.S. prison system with nearly 2 million inmates, we can give our public schools the repairs and facilities they desperately need, we can reduce class sizes and provide adequate pay to attract the best and brightest into the teaching profession.

Again, while I applaud yesterday’s passage of H.R. 2133, I urge my colleagues to remember the lessons of Brown v. Board of Education when we consider our national priorities by committing ourselves to addressing the unfulfilled promises of equality and opportunity contained in the Brown decision.

TEAM PROBLEM SOLVERS

HON. JANICE D. SCHAKOWSKY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Ms. SCHAKOWSKY. Mr. Speaker, recently, we debated ways to improve educational opportunities. I would like to draw my colleagues’ attention to a program that is doing just that.

The Future Problem Solving Program has a significant and positive impact on the education of students in grades 4 through 12. It is part of a nationwide and international effort to teach children and teens creative thinking and problem-solving skills. Problem-solving skills have been proven to be essential characteristics for young people entering the increasingly competitive job market. This non-profit program, which operates in 44 states as well as Australia, New Zealand, Malaysia, Chile, and Canada, teaches young people these important skills.

Students have the opportunity to apply their critical thinking skills to real-world problems such as restoration of imperiled natural habitats and genetic engineering. The program is structured around a six-step model for solving complex problems. The steps include recognizing potential challenges, generating and evaluating solutions and developing a plan for
action. Learning to apply these steps every day increases the ability of students to think critically and work efficiently.

Small teams of young people brainstorm solutions and implementation strategies for issues as varied as tourism, global interdependence, and water use. Students are taught to think not only critically but also creatively. Team Problem Solving, Action-Based Problem Solving, Individual Problem Solving, and Scenario Writing are all components of the program that reward dynamic thinkers. Students who work in small teams also learn the value of cooperation and teamwork. Young people in each of the three age divisions compete on the regional, state, and international levels. The Future Problems Solving Program is preparing the youth of today to face the demands of tomorrow.

I would like to officially recognize the contributions this program has made and will continue to make to society at large. I want to thank the adults who are enhancing the education of today's young people and the student participants who are taking the initiative to learn about and help solve today's difficult issues. These students are taking their futures into their own hands. Keep up the good work!

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BROWN v. BOARD OF EDUCATION 50TH ANNIVERSARY COMMISSION

SPEECH OF

HON. RON PAUL
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. PAUL. Mr. Speaker, I am pleased to join my colleagues in encouraging Americans to commemorate the 50th anniversary of Brown v. Board of Education and the end of legal segregation in America. However, I cannot support the legislation before us because it attempts to authorize an unconstitutional expenditure of federal funds for the purpose of establishing a commission to provide federal guidance of celebrations of the anniversary of the Brown decision. This expenditure is neither constitutional nor in the spirit of the brave men and women of the civil rights moment who are deservedly celebrated for standing up to an overbearing government infringing on individual rights.

Mr. Speaker, any authorization of an unconstitutional expenditure of taxpayer funds is an abuse of our authority and undermines the principles of a limited government which respects individual rights. Because I must oppose appropriations not authorized by the enumerated powers of the Constitution, I therefore reject this bill. I continue to believe that the best way to honor the legacy of those who fought to ensure that all Americans can enjoy the blessings of liberty and a government that treats citizens of all races equally is by consistently defending the idea of a limited government whose powers do not exceed those explicitly granted it by the Constitution.

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EXTENSIONS OF REMARKS
THE OUTFITTER POLICY ACT

HON. JAMES V. HANSEN
OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HANSEN. Mr. Speaker, I am pleased to introduce, today, the Outfitter Policy Act, which will create a statutory authority for permit terms and conditions across America's public lands.

Millions of Americans recreate on America's public lands every year, and the services Outfitters and guides allow our constituents to access many areas of our public lands that would otherwise be inaccessible. These are families and civic groups learning to enjoy and respect nature, including horse pack trips and float trips, which many of us have enjoyed.

Unfortunately, many of our federal agencies lack legislative guidance on permit administration. Without guidelines, the system is highly discretionary, and often inconsistent, creating confusion for Outfitters and guides, and ultimately reducing opportunities for our constituents to enjoy our public lands. The system established under this bill would eliminate inconsistencies, and would provide incentives for Outfitters to offer consistently high-quality services to all our constituents.

I would like to thank the original co-sponsors of this legislation for their willingness to join me in this effort to assure public lands access for all Americans, especially my good friend from Idaho, Mr. Otter. Without his hard work and dedication, this bill would never have been ready with such speed. This is a bill which appropriately balances public needs with conservation efforts, due in large measure because of his efforts. I thank him, as I thank all the co-sponsors of this bill, and hope that all my colleagues will support us in this effort.

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MICROBICIDES DEVELOPMENT ACT OF 2001

HON. CONSTANCE A. MORELLA
OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mrs. MORELLA. Mr. Speaker, I rise today to introduce the "Microbicides Development Act of 2001". I am pleased to be joined by many of my good friends and colleagues who have signed on as original co-sponsors to this legislation. My thanks go to them.

Mr. Speaker, this week the United Nations convened a special session of the U.N. General Assembly to address how to combat the spreading HIV/AIDS epidemic. We have entered the third decade in the battle against HIV/AIDS. June 5, 1981 marked the first reported case of AIDS by the Centers for Disease Control. Since that time, over 400,000 people have died in the United States. Globally 21.8 million people have died of AIDS.

Tragically, women now represent the fastest growing group of new HIV infections in the United States and women of color are disproportionately at risk. In the developing world, women now account for more than half of HIV infections and there is growing evidence that the position of women in developing societies will be a critical factor in shaping the course of the AIDS pandemic.

So what can women do? Women need and deserve access to a prevention method that is within their personal control. Women are the only group of people at risk who are expected to protect themselves without any tools to do...
so. We must strengthen women's immediate ability to protect themselves—including providing new woman-controlled technologies. One such technology does exist called microbicides.

The Microbicides Development Act of 2001 which I am introducing, will encourage federal investment for this critical research, with the establishment of programs at the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention. Through the work of the NIH, non-profit research institutions, and the private sector, a number of microbicide products are poised for successful development. But this support is no longer enough for actually getting microbicides through the development “pipeline” and into the hands of the millions who could benefit from them. Microbicides can only be brought to market if the federal government helps support critical safety and efficacy testing.

Health advocates around the world are convinced that microbicides could have a significant impact on HIV/AIDS and sexually transmitted diseases (STDs).

Researchers have identified almost 60 microbicides, topical creams and gels that could be used to prevent the spread of HIV and other STDs such as chlamydia and herpes, but interest in the private sector in microbicides research has been lacking.

According to the Alliance for Microbicide Development, 38 biotech companies, 28 for-profit groups and seven public agencies are investigating microbicides, and Phase III clinical trials have begun on four of the most promising compounds. The studies will evaluate the compounds’ efficacy and acceptability and will include consumer education as part of the compounds’ development. However, it will be at least two years before any compound trials are completed.

Currently, the bulk of funds for microbicide research comes from NIH—nearly $25 million per year—and the Global Microbicide Project, which was established with a $35 million grant from the Bill and Melinda Gates Foundation. However, more money is needed to bring the microbicides to market. Health advocates have asked NIH to increase the current budget for research to $75 million per year.

Mr. Speaker, today, the United States has the highest incidence of STDs in the industrialized world—annually it is estimated that 15.4 million Americans acquired a new STD. STDs cause serious, costly, even deadly conditions for women and their children, including infertility, pregnancy complications, cervical cancer, infant mortality, and higher risk of contracting HIV.

This legislation has the potential to save billions in health care costs. Direct cost to the U.S. economy of STDs and HIV infection, is approximately $8.4 billion. When the indirect costs, such as lost productivity, are included that figure rises to an estimated $20 billion.

With sufficient investment, a microbicide could be available around the world within five years.

I urge my colleagues to lend their support to this vital legislation.
JUNIOR ACHIEVEMENT VOLUNTEER AWARD OF EXCELLENCE WINNER, FRED HAMPTON, ALBUQUERQUE, NM

HON. HEATHER WILSON OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mrs. WILSON. Mr. Speaker, I rise to speak today about a distinguished member of my district who is being honored by an organization, which has had an immeasurable impact on America. Fred Hampton, a retired AT&T employee, is Junior Achievement’s National Volunteer Award of Excellence recipient this year. He has been a Junior Achievement volunteer for six years. During these six years, he has taught 60 classes and spent countless hours furthering the efforts of this organization.

Since moving to New Mexico, Fred has been involved in making a difference in the education of the area’s students. He regularly volunteers in classes of students with special needs and teaches JA classes in remote locations difficult to reach by others. In addition, his services extended beyond the classroom, as he has helped to recruit bilingual volunteers to teach JA classes in Spanish.

The history of Junior Achievement is a true testament to the indelible human spirit and American ingenuity. Junior Achievement was founded in 1919 by Horace Moses, Theodore Vail, and Senator Murray Crane of Massachusetts, as a collection of small, after-school business clubs for students in Springfield, Massachusetts.

As the rural-to-city exodus of the populace accelerated in the early 1900s, so too did the manufacturing in the nation’s youth an understanding of business, economics, and history. Junior Achievement’s success was recognized by the National Business Hall of Fame in 1975 and continues to strive for excellence not only in his community. He stresses the importance of equality in the workplace and focuses on minority recruiting. Additionally, his service extends beyond the classroom, as he has helped to recruit bilingual volunteers to teach JA classes in Spanish.

In 1940s, leaders of the day such as S. Bayard Colgate, James Cash Penney, Joseph Sprang of Gillette and others helped the organization grow rapidly. Stories of Junior Achievement’s accomplishments and of its students soon appeared in national magazines of the day such as TIME, Young Americans, Colliers, LIFE, the Ladies Home Journal and Liberty.

By 1982, Junior Achievement’s formal curriculum offering had expanded to Applied Economics (now called JA Economics), Project Business, and Business Basics. In 1988, more than one million students per year were estimated to take part in Junior Achievement programs. In the early 1990s, a sequential curriculum for grades K–6 was launched, catalyzing the organization into the classrooms of another one million elementary school students.

Today, through the efforts of more than 100,000 volunteers in the classrooms of America, Junior Achievement reaches more than four million students in grades K–12 per year. JA International takes the free enterprise message to more than one million students per year were estimated to take part in Junior Achievement programs. In the early 1990s, a sequential curriculum for grades K–6 was launched, catalyzing the organization into the classrooms of another one million elementary school students.

Mr. President, I wish to extend my heartfelt congratulations to Fred Hampton of Albuquerque, New Mexico for his outstanding service to Junior Achievement and the students of New Mexico. I am proud to have him as a member of my district and proud of his accomplishment.

SUPPORT OF NEW COLLEGE

HON. DAN MILLER OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. MILLER of Florida. Mr. Speaker, I am here today to congratulate New College on being the newest accredited independent liberal arts college in the state university system of Florida.

New College was founded in 1960 as an independent college by Sarasota and Bradenton civic leaders. When the school opened in 1964, it accepted students on their academic talents, not on their race, creed or gender. In 1975, during a time of financial uncertainty, this 650-student college joined with the University of South Florida. Even with this merger, New College retained its faculty, academic programs and competitive admissions.

New College is known as the Honors College of Florida, being the only public college or university in Florida designated as “Highly Competitive” by Barron’s Magazine. The graduates of New College are some of the brightest and most motivated of all college graduates in the country.

I wish the best of luck to New College and to all its students and faculty during its transition. They have met many challenges in the past and face more in the future, but New College will succeed and make Florida very proud. I am honored to represent this institution.

TRIBUTE TO W. GEORGE HAIRSTON III

HON. SPENCER BACHUS OF ALABAMA
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BACHUS. Mr. Speaker, I rise today to honor Mr. W. George Hairston III for his outstanding contributions to the U.S. commercial nuclear industry and, by extension, to the nation as a whole. Mr. Hairston currently serves as president and CEO of Southern Nuclear Operating Company, and was recently inducted into the State of Alabama Engineering Hall of Fame in recognition of his accomplishments.

Mr. Hairston’s resume is extensive and distinguished. He is a veteran of the United States Army Corps of Engineers and of the Vietnam War. His degrees were earned at some of the top engineering universities in the country, such as the undergraduate engineering degree from Auburn University and his Master’s in Nuclear Engineering from the Georgia Institute of Technology. Additionally, in 1991, he successfully completed the Massachusetts Institute of Technology’s Program for Senior Executives.

Mr. Hairston is also active in his community, holding positions on the Board of Directors for the Institute of Nuclear Power Operations (INPO), where he also served as chairman of the INPO National Nuclear Accrediting Board, and the WANO-Atlanta Center Governing Board. Mr. Hairston is currently a member of the Nuclear Energy Institute (NEI) Board of Directors, Executive Committee, and the Nuclear Strategic Issues Advisory Committee (NSIAIC). He also serves as Chairman of the NEI Government Relations Advisory Committee (GRC).

It is clear that such honors and qualifications are more than most individuals could obtain in a lifetime. However, Mr. Hairston continues to strive for excellence not only in his work but also in his community. He stresses the importance of equality in the workplace and focuses on minority recruiting. Additionally, he understands the importance of cultivating in the nation’s youth an understanding...
of and an interest in the field of engineering. By serving on the Board of Directors for Junior Achievement in Birmingham and the Auburn Alumni Engineering Council, and by chairing the INROADS/Birmingham Advisory Board, Mr. Hairston positions himself as a mentor for bright, young engineers. His refusal to remain content with serving and influencing any one area or group is both admirable and challenging. His accomplishments and legacy, it is his concern for his fellow citizens and our country that truly set him apart.

Mr. Speaker, please join me in honoring Mr. W. George Hairston III, an outstanding businessman, leader, and servant to the community.

CALL FOR HUMANITARIAN ASSISTANCE TO THE PEOPLE OF THE NUBA REGION IN SUDAN

HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. RANGEL. Mr. Speaker, I rise before you today to bring your attention to the grave situation in Sudan and specifically to the people of the Nuba region. I urgently call on President Bush and Secretary of State Colin Powell to work for an immediate lifting of the cruel siege of the Nuba region of Sudan.

For over ten years, the Government of Sudan has denied all humanitarian relief aid to the people of the Nuba, despite the terrible plight of tens of thousands of innocent civilians. Very recent reports indicate that the cumulative effect of this brutal siege has been to push 85,000 human beings to the very brink of starvation. Without immediate humanitarian intervention, thousands of people will begin to die—and they will continue to die until humanitarian aid is permitted into the region. Countless mothers will suffer the agonizing fate of watching helplessly as their children die for lack of food, and then succumbing themselves.

This is intolerable and utterly indefensible. Nowhere in the world is the denial of food aid used as a more vicious weapon of war than in the Nuba region of Sudan. Further, Government of Sudan offenses have recently burned thousands and thousands of people out of their homes, making them even more vulnerable in these precarious circumstances.

There is in Lökóchóko in northern Kenya, the center of relief operations for southern Sudan, humanitarian aid ready and able to assist the people of the Nuba tomorrow. What is required is access. It is imperative that the United States take the international lead in demanding, in the strongest possible terms, that the Government of Sudan lift this brutal siege immediately.

We must continue to work together as a nation to stop slavery, aerial bombardments of innocent civilians, religious persecution and induced famine in the Sudan. The recent passage of the Sudan Peace Act of 2001 with an overwhelming vote of 422 to 2 shows the tremendous support of the U.S. House of Representatives in applying all necessary means to bring an end to the 18-year civil war and its related atrocities. We must continue this momentum in the Senate, and show unified U.S. support with unanimous passage of the Sudan Peace Act when it comes to the Senate floor.

INTRODUCTION OF THE "ENDANGERED SPECIES CONSOLIDATION ACT"

HON. C.L. "BUTCH" OTTER
OF IDAHO
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. OTTER. Mr. Speaker, since 1970, two federal agencies have had jurisdiction over implementation and enforcement of the Endangered Species nationwide—the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS), which is part of the National Oceanic and Atmospheric Administration under the U.S. Department of Commerce. Before 1970, NMFS' programs were implemented by USFWS. This changed when President Nixon vetoed a bill extending it 3 years before the enactment of the Endangered Species Act. If President Nixon knew how ESA and NMFS would look today—30 years later—he probably would have second thoughts.

The U.S. Fish and Wildlife Service has jurisdiction of over 1,800 species of plants, mammals, birds, and fish, and an annual ESA budget of $112 million. NMFS—with responsibility for just 42 listed species of marine mammals and fish—has an annual ESA budget nearly as high as USFWS—$105 million. Many of NMFS' "species" include "evolutionarily significant unit" designations that NMFS created without Congressional authorization—an issue that is now pending in federal district court.

Mr. Speaker, the goals and activities of these two agencies have become blurred. For example, both NMFS and USFWS have undertaken the listing and recovery of Atlantic salmon, the Gulf sturgeon, and four species of sea turtles.

In the Pacific Northwest, the USFWS manages freshwater bull trout and hatchery salmon, while NMFS has devoted billions of dollars to regulate and enforce the recovery of "wild" salmon and steelhead in the same watersheds.

NMFS allows the commercial and tribal harvest of thousands of salmon that it acknowledges are endangered. NMFS' interpretation of ESA has caused hundreds of activities—including those having minimal impact—or those that actually aid—the recovery of species to be held up for months or years.

Instead of becoming more efficient, NMFS' response is to request more federal money and expand their regulatory activities while failing to identify goals of how many species of fish it needs to recover.

All species—fish and humans—deserve better from the federal government. That is why today I and my friend and colleague from Idaho, Congressman Mike Simpson, together will introduce the "Endangered Species Consolidation Act". This measure will ensure that ESA activities regarding fish that spawn in fresh or estuarine waters and migrate to ocean waters—and vice versa—are managed and coordinated through one agency—the U.S. Fish and Wildlife Service.

The bill will eliminate duplication and allow scarce resources to be focused on achieving the true objective of the Endangered Species Act—recovery of species through science-based management.

WRIGHT TOWNSHIP CELEBRATES 150TH ANNIVERSARY

HON. PAUL E. KANJORSKI
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. KANJORSKI. Mr. Speaker, I rise today to call the attention of the House of Representatives to the 150th anniversary of the founding of Wright Township in Luzerne County, Pennsylvania. I am honored to have been asked to participate in the township's Independence Day parade, which will double as a celebration of the sesquicentennial.

Wright Township was established by the Court of Quarter General Sessions on April 12, 1851. It is named for Hendrick Bradley Wright, a resident of Luzerne County who served four terms in this House between 1853 and 1881 and also served as speaker of the Pennsylvania House of Representatives and Luzerne County district attorney. In commemoration of the 150th anniversary, the National Archives and Records Administration recently donated to the township a framed photograph of Hendrick Wright taken in the 1860s.

The community was carved from Hanover Township, and has seen its population grow despite seeing part of its territory become incorporated into the new communities of Fairview Township, Rice Township and Nauvola Borough over the years. The township encompasses 13.9 square miles of land.

At its founding, Wright Township had just 152 inhabitants, and its character remained primarily rural until the 1950s. In 1950, the population was 948, which has more than quintupled to 5,593 in 2000. A major reason for the increase in population was the opening of the Crestwood Industrial Park in 1952. This 1,050-acre facility is home to more than 20 businesses that employ more than 3,000 people.

Wright Township continues to work with the Greater Wilkes-Barre Chamber of Business and Industry and businesses located or considering location in the industrial park.

To help preserve the quality of life, the residents enjoy and provide for orderly community and economic development, the township adopted a comprehensive plan and subdivision and land development and zoning ordinances in the late 1960s and early 1970s. As the township grew, it upgraded its public services to meet the citizens’ increasing needs. In 1972, the police, the public works department and the supervisors’ office moved into the newly constructed municipal building. Previously, the police operated out of the firehouse on a road developed out of a developer’s garage and the supervisors’ office was in the home of the secretary.

In the 1970s, the Wright Township Recreation Park was completed, and the township is
Mr. ETHERIDGE. Mr. Speaker, I rise today to recognize the long and distinguished career that my friend John Pittard has had in the public service arena. John has served on the City Council in my hometown of Murfreesboro, Tennessee, for 19 years, as well as other civic boards and organizations within the city.

John's pride for his community is obvious. He has helped guide the city through a period of tremendous growth, not only in population but also in quality of life. He is one of the most honorable public servants I know, and I've known him most of my life. In fact, we went to high school and college together.

John's devotion to public service comes honestly. Both his mother, Mabel Pittard, and his father, the late Homer Pittard, were long-time educators and gave much of themselves to their community. A Murfreesboro school—the Homer Pittard Campus School—was even named after John's father.

Murfreesboro owes a huge debt of gratitude to John, who never became disillusioned or cynical during his two decades of public service. He served the city because of his love for the community, nothing else. John's wife, Janice, and his daughters, Emily, Mary and Sarah, are fortunate to have such a good man in their lives.

I have a deep admiration for John and congratulate him for his many accomplishments. His decency transcends both his public and private life. Thank you, John, for being such an unselfish and caring public servant.

HONORING SKIIH ENTERPRISES, LTD.

HON. KAY GRANGER
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Ms. GRANGER. Mr. Speaker, today I want to recognize a great Texas company, SKIIH Enterprises, Ltd., on its 20th anniversary. Over the past 20 years, SKIIH has built a reputation as one of Texas' leading mechanical/industrial contractors. I want to extend my congratulations to the company's founders, Richard Skipper and Tom Hicks, and to everyone else who has had a hand in SKIIH's success.

In 1981, Richard Skipper and Tom Hicks formed SKIIH. Mr. Skipper and Mr. Hicks had both worked in the industry for many years, which gave them the experience and knowledge they needed to create a successful business together. They started with a simple business plan, focusing on not over-extending SKIIH's limited resources and on steady, controlled growth. Because of these wise business practices and high quality work, SKIIH has become one of the best respected mechanical/industrial contractors in the state of Texas.

Today, SKIIH is a full service mechanical/industrial contractor with over 220 employees. The company has a 38,000 square foot headquarters and fabrication shop in Fort Worth, Texas, and opened an office in Lubbock, Texas two years ago. SKIIH's volume was $1 million in its first year, $4 million in the second year, and was over $33 million in 2000.

SKIIH has worked on many large construction projects in Texas. One of SKIIH's first projects was renovating the Tarrant County Courthouse in downtown Fort Worth. SKIIH has also done extensive work in North Texas on Burlington Northern Santa Fe's corporate headquarters, Nestle's Texas Distribution Center, the James West Special Care Center for Alzheimer's Disease, the University of North Texas Health Science Center, Alcon Laboratories, and the Dallas-Fort Worth Rental Car Facility. In recent years, the company has also completed many projects outside of the Fort Worth area. The most notable is the United Spirit Arena at Texas Tech University in Lubbock.

SKIIH also gives back to the industry and community. In conjunction with the Construction Education Foundation, SKIIH provides workforce training classes at North Lake College and Trimble Tech High School. The Construction Education Foundation is a coalition of North Texas contractors that trains approximately 600 apprentices each year. SKIIH sends employees to high school career days and job fairs to promote the construction business. The company also provides on-the-job training for young men and women interested in a career in construction.

Additionally, SKIIH is an active member of the Associated Builders and Contractors. The company has been awarded for its quality work by the Associated Builders and Contractors on numerous occasions. Most recently, SKIIH was awarded First Place on the local level for the 2000 Associated Builders and Contractors Excellence in Construction Awards for its work on the Dallas-Fort Worth International Airport Rental Car Facility.

Once again, Mr. Speaker, I want to congratulate SKIIH Enterprises, Ltd., for 20 years of success. I know that the next 20 years will be even more productive.

HONORING THE 20TH ANNIVERSARY OF THE NATIONAL FOUNDATION FOR ECTODERMAL DYSPLASIAS

HON. JERRY F. COSTELLO
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the 20th anniversary of the National Foundation for Ectodermal Dysplasias (NFED) in Mascoutah, Illinois.

The NFED is the only organization in the United States providing comprehensive services to individuals affected by the ectodermal...
dysplasia syndromes (EDS) and their families. EDS are a group of genetic disorders which are identified by absent or deficient function of at least two dysmorphologies of the ectoderm (teeth, hair, nails or glands). There are at least 150 forms of EDS that have been identified. EDS was first recognized by Charles Darwin in the late 1860’s.

EDS affects many more people that had been originally thought by Darwin. Today, the number of those individuals affected by EDS has been estimated as high as 7 in 10,000 births. Individuals affected by EDS have abnormalities of the sweat glands, tooth buds, hair follicles and nail development. Some types of EDS are mild while others are more devastating. People with EDS have been identified as having frequent respiratory infections, hearing or vision defects, missing fingers or toes, problems with their immune system and a sensitivity to light. In rare cases, the lifespan of a person with EDS may be affected. Many individuals affected by EDS cannot perspire, requiring air conditioning in the home, at work or in school. Some individuals may have missing or malformed teeth or problems with their upper respiratory tract. EDS is caused during pregnancy, as the baby is developing. During the formation of skin tissues, defects in formation of the outer layers of the baby’s skin may lead to ED.

At this time there is no cure for ED. The NFED, incorporated in 1981, is the sole organization in the world providing comprehensive services to families affected by EDS. The NFED is committed to improving lives by providing information on treatment and care and promoting research. There are more than 3000 individuals served by the NFED in 50 states and 53 countries. They have provided more than $115,000 in financial assistance to families for their dental care, medical care, air conditioning, wiggs, cooling vests and other needs. The NFED has provided patient access and granted more than $237,000 to researchers studying the various aspects of EDS. These grants have stimulated more than 2 million dollars in ED research. They continue to host continuing educational programs on ED for health care professionals and provide the most comprehensive and current information on ED in the world.

Mr. Speaker, I ask my colleagues to join me in honoring the 20 years of service of the National Foundation for Ectodermal Dysplasias in the world.

Mr. COBLE. Mr. Speaker, the words courageous and heroic are sometimes used without thought or care. In the Sixth District of North Carolina, however, those adjectives and more should be applied to one of our young citizens who bravely came to his mother’s rescue. For his efforts, eight-year-old Michael Mathis from Denton, North Carolina, was recently awarded the North Carolina 911 hero award, and he was recognized by the National Emergency Number Association. Young Michael was caught in a terrible predicament which required him to show great courage while under severe pressure. Michael didn’t let his young age hold him back from stepping up to save the life of his mother.

On February 6, 2001, Michael was riding with his mother Cathy Surratt on a road near High Point. Michael’s mother suffers from a thyroid condition and she has constant migraine headaches. During the course of the drive, Cathy began to see swirls in her eyes, pulled to the side of the road, then lost consciousness. Michael immediately got out his mother’s cell phone in order to call his stepfather, but unfortunately the phone went dead, due to the fact that their minutes had expired. Knowing that a call to 911 was free, he then called the emergency number for help. Michael tried to tell the dispatcher where they were located, but with only trees and grass visible, he was only certain that they were on Highway 109.

Shortly after that, the car, which was a stick shift, began to roll forward. Michael’s voice suddenly turned to panic, and he pleaded with the dispatcher to have someone find them. The dispatcher instructed him to take the key out of the ignition. Though he was overcome with fear, Michael managed to get the key out, and the car stopped. The dispatcher told Michael to honk the horn and flash the lights in the hope that a passing car would stop. Michael quickly complied with the dispatcher’s orders. Finally, a car stopped, and to his good fortune, the passengers in the car were an emergency worker and a trained nurse. When Michael’s stepfather arrived, the car was surrounded by people who were there to help. Cathy Surratt was taken to an area hospital where she was successfully treated and released.

The Davidson County Sheriff’s Department named Michael a 911 hero, and he was awarded a plaque at a special ceremony. This week, the National Emergency Number Association recognized Michael at its 20th annual conference, along with other National 911 heroes. I am very pleased to be able to recognize Michael as one of our North Carolina 911 heroes. On behalf of the citizens of the Sixth District of North Carolina, we offer our personal congratulations to Michael Mathis—a true hero.

honorable representative from Clark County, Ohio

HON. DAVID L. HOBSON

of Ohio

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HOBSON. Mr. Speaker, I rise today to recognize the members of the Sayers Family from Clark County, Ohio and their combined commitment to shared American values. I rise today to commend the fact that four children of Charles and Virile Sayers have each married and raised their own families for a combined total of 231 years. The Sayer Family provides an excellent example for our community in Ohio, as well as for the country as a whole, of the importance and benefits of a strong family heritage.

In today’s society, it is very uplifting to hear stories such as these and to see the commitment this Ohio family has made to one another. It was through the Sayer Family’s strong foundation that they understood the meaning of hard work as well as the value of family. Growing up, the children were encouraged to be good students, trained in music, and helped run their family farm. They understood the meaning of responsibility and the importance of strong family ties.

I want to take this opportunity to recognize the Sayers’ for preserving such a strong family bond and for their traditional values and morals.

in the House of Representatives

Tribute to James E. Zini, D.O.

HON. MARION BERRY

of Arkansas

Thursday, June 28, 2001

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan and outstanding Osteopathic physician. I am proud to recognize James E. Zini, D.O., in the Congress for his invaluable contributions and service to his community, to our state, and to our nation.

Dr. Zini epitomizes the Osteopathic profession. With his application of Osteopathic practices and principals, he personifies the model D.O. physician—practicing in a small rural town taking care of people, not just treating symptoms. He started his family practice in rural Mountain View, Arkansas, in 1977. In his Mountain View and Marshall clinics, along with partner David Burnette, D.O., office manager Judy Zini, and the Zini Clinic staff, Jim makes sure that each patient visit—approximately 13,000 annually—is remembered as excellent, quality D.O. care.

Dr. Zini is Board Certified in Family Practice by the American College of Osteopathic Family Physicians and is a fellow of the college. Jim is also Board Certified by the American Board of Quality Assurance and Utilization Review Physicians.

As a founder and leader of the Arkansas Osteopathic Medical Association (AOMA), Dr. Zini tirelessly worked to advance the Arkansas Osteopathic profession: to promote the Osteopathic family in all areas affecting D.O.s; and to protect the licensure, practice and educational interests of all Arkansas D.O.s. Dr. Zini has served his state association with distinction: Founder, President, Vice President, Committee Chairperson, Member, and he received the first AOMA Physician of the Year Award in 1989. Jim is also the first D.O. to serve on the Arkansas State Medical Board—a position designated by law that he worked to enact.

Dr. Zini furthered his commitment to the Osteopathic profession at the national level: serving as an Arkansas delegate to the American Osteopathic Association (AOA) House of Delegates; numerous House committees; AOA Board of Trustees; several key AOA committees and chairmanships; and 2001–2002 AOA
President. As a community leader, Dr. Zini’s recognitions include: 1998 Flight Safety Award; Federal Aviation Administration; 1987 Distinguished Civilian Award, Mountain View Chamber of Commerce; 1996 Alumni of the Year Award, University of Health Sciences in Kansas City, Missouri; 1991 Federal Aviation Administration Certificate of Recognition; Sigma Sigma Phi Honorary Osteopathic Fraternity; and 1969 Ordained Minister, St. Paul’s United Church of Christ in Little Rock, Arkansas.

James E. Zini, D.O., is a physician, advisor and friend to many. He has dedicated his life to serving his fellow citizens as a leader in both his profession and his community, and he deserves our respect and gratitude for his priceless contributions. On behalf of the Congress, I extend congratulations and best wishes to my good friend James E. Zini, D.O., on his successes and achievements.

TRIBUTE TO CHIEF ROBERT R. GREENLAW

HON. MARGE ROUKEMA
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today to recognize and congratulate Chief Robert R. Greenlaw, C.E.M., for his outstanding achievements with the Ridgewood Emergency Services and his contributions to the protection of the Ridgewood community. Bob Greenlaw, who is now the Director of Ridgewood Emergency Services, has served the public in emergency situations for over forty years. On July 4, 2001, we will be honoring him in Ridgewood for his tremendous service. His leadership in the development of a trained volunteer fire and police department is only one of his remarkable achievements and I commend him for his efforts. The results of his dedicated service are felt throughout the Village of Ridgewood. As a leader of the men and women who protect our community, he is an inspiration for those all involved in public service.

Bob began his protection of the public in 1957 as a volunteer firefighter in Ridgewood, which is also my hometown. After a long and dedicated service in our community, Bob has assumed numerous leadership positions within the fire and police department. He was named Captain of the Ridgewood Auxiliary Police while also involving himself with emergency management. In 1980, Bob received the first two of many awards for his service, as he was given both the Emergency Medical Services Medal of Honor and the Village of Ridgewood Mayor’s Award of Excellence in the same year. Convinced that the fire and police departments could be structured differently in order to best serve the community, Bob asked the Village of Ridgewood to support a trained group of volunteers within the departments which would allow the fire and police professionals to focus on the most critical situations. Bob encouraged a handful of volunteers to join him in this program and today his inspiration has led to a department of 127 volunteers serving more than 500,000 hours each year.

EXTENSIONS OF REMARKS

The Low Income Gasoline Assistance Program Act of 2001 or LIGAP, is modeled on the successful LIHEAP program that helps seniors and disabled persons defray the cost of purchasing gasoline for travel to work, school, or regular healthcare appointments when the price of gasoline reaches or exceeds the unmanageable current levels. States will make LIGAP grants to income-eligible families who meet the distance requirements of driving at least 30 miles a day, or 150 miles per week for work, school, or medical care appointments. States are also encouraged to use their welfare reform block grant to provide transportation stipends to parents who meet the same distance standards.

This measure will enable states to operate the program through their Community Action agencies or welfare departments. Thus, states will have the flexibility to set income-eligibility standards similar to the current eligibility for LIHEAP. The prices at which the program triggers on and subsequently releases will then be set for each jurisdiction through consultation between the Secretary of Health and Human Services and the Secretary of Energy. LIGAP is not meant to be a substitute for the long-term energy solutions we all seek for our nation. Each of us understands the necessity of a comprehensive and balanced approach to energy development, but we must realize that in every state there are hard-working people and elderly individuals whose monthly budgets are being stretched to the breaking point by the cost of gasoline. While we must approach this country’s energy demand with the willingness to make the tough, long-range choices demanded of us, it is equally important that we heed the immediate damage being caused by the current high prices. We must show a willingness to provide some comfort for those Americans who are most at risk.

Mr. Speaker, we all recognize that people are suffering and that something must be done to help with the high cost of gasoline. I urge my colleagues to join us in this proposal that is both forward thinking and comprehensive.

HONORING THE LIFE AND SERVICE
FIRE CHIEF JACK FOWLER, JR.

HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to honor a life spent serving others, the life of Jack Fowler, Jr. Jack was a man that selflessly dedicated his life to protecting the lives of others. On Sunday,
EXTENSIONS OF REMARKS

June 29, 2001

June 24, 2001, Jack was killed on his way home from a training session with the Volunteer Fire Department of West Pueblo. Jack was born in the nearby community of La Junta. He graduated from La Junta High School, and started his career as a firefighter at the La Junta Volunteer Fire Department, following in the footsteps of his father and grandfather. After moving to Pueblo West in 1978, Jack then joined the Pueblo West Volunteer Fire Department where he was quickly promoted to Lieutenant. After serving only two short years on the Pueblo West squad, Jack was named Captain. Not only did Jack fulfill his duties as Captain, but went above and beyond these duties, by taking many courses that enhanced his career, Highway Emergency Response, Colorado Division of Disaster Emergency Services, and Emergency Response to Hazardous Materials Incidents. He was a true professional and a dedicated member of his community.

Friends of Disabled Adults and Children are being held on September 23rd at Mount Carmel Christian Church in Stone Mountain, Georgia. Mr. and Mrs. Butchart, and their staff, are to be commended for their diligence, hard work, and big hearts. The facility is now housed in the Seventh District of Georgia, who have been served by this fine organization, join me in congratulating them, and thanking them for their kindness.

IN HONOR OF REV. KURT W. KATZMAR

HON. BOB BARR
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. BARR of Georgia. Mr. Speaker, established in 1986 in order to provide medical equipment and computers to disabled people in the metro Atlanta area who could not otherwise afford it, Friends of Disabled Adults and Children is a full-time ministry which has reached out to all people with disabilities.

After retiring from a 20-year career in the Marines in 1978, Ed Butchart took a position selling medical diagnostics products. After having met many disabled people in need of products and service, he and his wife, Annie, with the support of Mount Carmel Christian Church, started a ministry in their home garage. Ed would repair and refurbish wheelchairs and give them to those disabled individuals who could not afford to purchase one.

Since then, the ministry has helped people ranging in age from 18 months to 103 years of age. It now houses in 64,800 sq. ft. building in Stone Mountain, Georgia and to date it has provided over 7,000 wheelchairs to needy persons. The retail value of all medical equipment that has been given away now totals over $20 million.

Friends of Disabled Adults and Children received its 501(c)(3) non-profit status in November 1987. Private donations, annual golf tournaments, and community fund raisers help it remain open and able to furnish medical equipment to those who truly need it. On numerous occasions, my staff members have referred disabled adults and children to this agency. It may take a little time to acquire a certain piece of medical equipment, but Friends of Disabled Adults and Children usually is able to accommodate these individuals. Recently a single mother, who has Multiple Sclerosis, was able to get out and watch her son play baseball, because she had received an electric scooter from Friends of Disabled Adults and Children. A senior citizen recently received a new walker, fitted just for her, because her old one was broken.

This organization distributes computers to those who are disabled. This sometimes allows the disabled to learn job skills. In fact, the agency employs many disabled adults. It has a community reentry program for those who suffer from an acquired brain injury. By volunteering at Friends, these people are provided with a caring environment in which they can regain crucial skills needed to once again become productive members of society.

The Butcharts give God full credit for the growth of the center and for the many blessings they have received over the years. The 15th anniversary celebration of Friends of Disabled Adults and Children will be held on September 23rd at Mount Carmel Christian Church in Stone Mountain, Georgia. Mr. and Mrs. Butchart, and their staff, are to be commended for their diligence, hard work, and big hearts. The facility is now housed in the Seventh District of Georgia, who have been served by this fine organization, join me in congratulating them, and thanking them for their kindness.

IN HONOR OF REV. DURIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor and recognize Rev. Kurt W. Katzmar for his many years of dedicated service to the First Congregational United Church of Christ. Rev. Katzmar has been the pastor of the First Congregational United Church of Christ since May 1991. As a young boy raised in Strongsville, Rev. Katzmar attended the church he now pastors. He, along with three other friends in the neighborhood, took a ride in Rev. David Hawk, founded the Berea Min- ister's Emergency Relief fund, a precursor to Church Street Ministries. This was one of many examples of his tireless support to the City of Berea, the people of Berea, and the ministry among the people of Berea.

Rev. Katzmar, along with many others in the community area, was a founder of the First Church's Church Street Ministries program. Together with Bob Dreese, Rev. Katzmar joined the church's Youth-at Risk program and the Second Mile Thrift Shop together as one ministry. When the businesses in the 17-19 Church Street building decided to move, they designed a combined program that could move into the building, enabling an expansion of the program to include the refugee-resettlement and crisis-response ministries. Rev. Katzmar made presentations to the boards, committees, and congregation, and after the grant was made, the Church Street Ministries was formed and dedicated on May 14, 1994 in a ceremony led by Rev. Katzmar.

My fellow colleagues, please join me in congratulating Rev. Katzmar on all his achievements in helping to create a welcoming atmosphere in the First Congregational United Church of Christ. His love and dedication to serving the Church has touched the hearts of all in the community.

PROTECTING AMERICAN STEEL

HON. KEN LUCAS
OF KENTUCKY
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. LUCAS of Kentucky. Mr. Speaker, America's steel industry has been hit by an unprecedented flood of low-priced, imported steel. As a member of the bipartisan Congressional Steel Caucus, I have become increasingly frustrated as I have watched this flood of low-priced imports force our steel producers to either slow production or close up shop. That is why I was pleased by the Administration's recent decision to heed the advice of the Congressional Steel Caucus in response to the unprecedented flood of low-priced, imported steel into our marketplace. If the investigation finds that unfair trade practices were used by foreign countries in the United States, we will be entitled to seek relief from imported steel—including imposing punitive tariffs and trade restrictions. This investigation is a step in the right direction. It puts foreign steel producers on notice that we will not simply stand by while unfairly subsidized steel imports leave our steel plants idle and our steelworkers without work. But we need to do more.

Over 15,000 steelworkers nationwide have lost their jobs due to the current industry crisis. Since 1997, at least 18 steel companies have filed for bankruptcy. The health insurance of 70,000 steel-company retirees is now in jeopardy—that's 70,000 Americans faced with losing health care coverage precisely at the time in their life when they can afford it the least. Although a Section 201 investigation must report its findings within 120 days, the
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HON. STRICKLAND OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. STRICKLAND. Mr. Chairman, I would like to thank our Subcommittee Chairman and Ranking Member for the hard work they put into this bill, which includes a number of programs that are very important to Southern Ohio. I would like to take this opportunity to comment on these Department of Energy programs that directly affect the workers and communities supporting the Portsmouth Gaseous Diffusion Plant located in Piketon, Ohio.

First, I would like to express my support for the $110,784,000 included in the Fiscal Year 2002 Energy and Water Appropriations bill for costs associated with winterization of the Portsmouth, Ohio Gaseous Diffusion Plant and maintaining the plant on cold standby. It was just over a year ago today that the United States Enrichment Corporation, Inc. (USEC) announced that it would close the only U.S. uranium enrichment plant capable of meeting industry’s nuclear fuel specifications. While I cannot overstate my disappointment, disagreement, and disgust with that decision, I am pleased that funding will be available in Fiscal Year 2002 to ensure that the Portsmouth facility remains in a cold standby condition so that it could be restarted if needed in the future. I have been assured by the Department of Energy that the funding levels in this year’s appropriations bill will allow the Department to meet its goals, as announced in Columbus, Ohio on March 1, 2001, and as stated by then Governor Bush last October.

I am aware of report language accompanying the bill which discusses the non-proliferation programs with Russia and, specifically, the Highly Enriched Uranium (HEU) Agreement. I support this incredibly important foreign policy initiative and I agree with the language calling for the Russian HEU to “be reduced as quickly as possible.” I am also aware that the purchase of the 500 metric tons of Russian HEU has not always stayed on schedule, and I support exploring ways to accelerate the purchase of the downblended weapons grade material from Russia. However, I would hope that we can accelerate this program without adversely affecting the domestic uranium enrichment industry. Today, there are dependents upon the downblended Russian HEU for approximately 50 percent of our domestic nuclear fuel supply. Increasing that dependence makes no sense to me, particularly at a time when we are debating a national energy strategy calling for greater energy independence, reduced volatility, and supply uncertainty. We must act in a manner that strikes a reasonable balance between this significant foreign policy objective and the need to maintain a reliable and economic source of domestic nuclear fuel.

I am disappointed that the Department of Energy’s Worker and Community Transition Office funding falls short of the President’s request. I am deeply concerned that the allocated funding is inadequate to address the needs of the Department of Energy workers and communities across the DOE complex who depend on these funds to help minimize the social and economic impacts resulting from the changes in the Department of Energy’s mission.

Finally, but not least of all, I am concerned about the slight reduction in the funding for the Department of Energy’s Environment, Safety and Health Office. I am hopeful that this reduction will not impact the extremely important medical monitoring program at the Portsmouth plant, which also serves to screen past and present workers at other sites throughout the DOE complex. I hope that these funds will be restored as the bill moves through the conference committee. We now know that many workers at DOE sites, including the one in Piketon, Ohio, handled hazardous and radioactive materials with little knowledge and, oftentimes, with inadequate safety practices. In fact, a May 2000 report issued by the Department’s Office of Oversight on the Piketon Gaseous Diffusion Plant states, “Due to weaknesses in monitoring programs, such as the lack of extremity monitoring, exposure limits may have unknowingly been exceeded. In addition, communication of hazards, the rationale for and use of protective measures, accurate information about radiation exposure, and the enforcement of protective equipment use were inadequate. Further, workers were exposed to various chemical hazards for which adverse health effects had not yet been identified.” Scaling back the medical monitoring program now would be unconscionable knowing what we know today. Furthermore, the compensation program established last fall by passage of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), designed to compensate employees made ill by the work they performed for the government, would be weakened if workers are then denied access to medical screening. Although the EEOICPA is not a perfect bill, it would be a shame to hobble a long overdue program before it is even out of the gate.

HONORING THE LIFE OF ED SMITH

HON. SCOTT MCINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. McINNIS. Mr. Speaker, I ask today to honor Ed Smith, a true hero, on behalf of Congress. Ed served as the Centennial football coach, as school district administrator, and he served as a model for how to win, how to lose graciously, and how never to give in. He was also a man devoted to his family up until his recent death just months before his 100th birthday.

Professionally, Ed was revered by his colleagues. Central coach, principal and teacher John Rivas told Loretta Sword of The Pueblo Chieftain, “He was the godfather of it all, you might say, and he was always there to help me if I had a problem or a situation I didn’t have a handle on;” Ms initiative helped ensure that the Dutch Clark Stadium had the financial and community support necessary to be built. Also, he made certain that the annual All-Star games were properly organized when they were in Pueblo, and that everything went smoothly and safely. For his success, he was even honored with a golf tournament which was honored for the work he did in the athletic arena for the community. Ed was a gifted athlete himself, and he never lost his love for competition, or his skill at it. When he was 91 years old, he hit a hole-in-one with thirty-year-old golf clubs he received as a retirement gift.

During his life, Ed received many honors and awards, including having his name on the rolls of the Greater Pueblo Sports Association Hall of Fame and the Centennial Hall of Fame, but his greatest reward was that, as former coach Sollie Rasco attested, “I honestly think . . . [he] and his wife, they were at peace with one another, their family, and their God.” Indeed, Ed was a dedicated husband up until his wife, Margaret Boyer Smith’s, death. He also devoted himself to his two sons, Dr. Dean B. Smith, who preceded him in death, Dr. E. Jim Smith, and to his sixteen grandchildren and nineteen great-grandchildren.

Clearly, Mr. Speaker, Ed Smith was an inspiration to his students, colleagues, family and friends throughout his life. I am proud to have this opportunity to pay tribute to such an amazing man.
Mr. BARR of Georgia. Mr. Speaker, few times each week we open our newspapers and read about someone who is making important contributions in a particular field. It is these individuals who continue to make America a great place to live, and we should never fail to recognize their contributions. However, it is with much less frequency that we hear about people who have spent a lifetime contributing to our society in numerous different areas, always rising to the top level in each endeavor.

One such individual is Al Fowler, a native of Douglasville, Georgia. After graduating from Douglas County High School and the University of Georgia, where he earned high honors and was active in Student Government and the Future Farmers of America, Al answered his country’s call and left to fight in World War II.

During the war, Al served in the 483rd Bomber Group in Italy, where his group of B-17s suffered a casualty rate of 107%, including replacements. Although he had the option to leave after surviving 30 missions, Al Fowler stayed on the front, and stopped flying only when the war ended on the morning before his 34th mission. During his tenure, he was promoted to Brigadier General and earned a Distinguished Flying Cross for bringing his crippled aircraft back to the ground after a particularly dangerous mission.

Fortunately, Al Fowler’s time in Italy was marked by more than just war and bloodshed. It was during this time that he met his wife, who was serving with the Red Cross in Italy. They went on to be married on the Isle of Capri. At that wedding, they exchanged rings made of gold confiscated from dead German soldiers by a friendly Italian jeweler, the bride wore a dress sewn from German parachute silk, and the couple departed from their wedding in a B-17 Flying Fortress flown by the groom.

After returning to Douglasville, Al won election to the Georgia General Assembly, where he served with pride and distinction for 16 years. Next, he won election to the Georgia Public Service Commission. During his political years, he truly helped develop the state of Georgia, and was instrumental in building its communities and transportation infrastructure. Later, Al went on to become Georgia’s Adjutant General, where he started the National Guard program we rely on today.

Mr. Fowler has already been honored by his community and the State of Georgia for his service. He was recently named the 2nd recipient ever of the Chairman’s Award at our Aviation Hall of Fame in Warner Robins, Georgia. An exhibit there will honor his contributions to freedom and prosperity in America.

As Al reaches his 81st birthday, and finally begins a well-deserved retirement, I hope that other members of this body will join me in thanking him for his service to our nation and our community in Georgia.
June 29, 2001

SELF-DETERMINATION FOR SIKH HOMELAND DISCUSSED ON CAPITOL HILL

HON. CYNTHIA A. MCKINNEY
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Ms. MCKINNEY. Mr. Speaker, on Friday, June 15, the Think Tank for National Self-Determination held a very informative meeting here on Capitol Hill in the Rayburn House Office Building. The featured speaker was Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. He laid out very well the strong case for self-determination for the Sikhs of Punjab, Khalistan, and for the other nations of South Asia, such as predominantly Christian Nagaland and predominantly Muslim Kashmir.

During his speech, Dr. Aulakh noted that "self-determination is the birthright of all peoples and nations." He quoted Thomas Jefferson, who wrote in our own Declaration of Independence that when a government tramples on the basic rights of the people, "it is the right of the people to alter or abolish it." Jefferson also wrote: "Resistance to tyranny is obedience to God."

India certainly is that kind of government. It has killed over 200,000 Christians in Nagaland since 1947, more than 250,000 Sikhs since 1984, over 75,000 Kashmiri Muslims since 1988, and many thousands of other minorities, including people from Assam, Manipur, Tamil Nadu, and members of the Dalit caste, the dark-skinned "Untouchables," who are the aboriginal people of South Asia, among others. Currently, there are 17 freedom movements in India.

Just recently, a group of Indian soldiers was caught trying to set fire to a Gurdwara, a Sikh temple, in Kashmir, and some houses. Local townspeople, both Sikh and Muslim, overwhelmed the soldiers and prevented them from committing this atrocity. Unfortunately, that is the reality of "the world's largest democracy."

Mr. Speaker, there are measures that America can take to prevent further atrocities and help the people of the subcontinent live in freedom. We should end our aid to the Indian government until it stops repressing the people and we should openly and publicly declare our support for self-determination for the people of Khalistan, Nagalim, Kashmir, and the other nations seeking their freedom in South Asia. This is the best way to help them. Unfortunately, that is the reality of "the world's largest democracy."

Mr. Speaker, I would like to insert Dr. Aulakh's speech into the Record for the information of my colleagues.

REMARKS OF DR. GURMIT SINGH AULAKH,
PRESIDENT, COUNCIL OF KHALISTAN

It is a pleasure to be back here with my friends at the Think Tank for National Self Determination. This is a very important organization and I am proud to support its work.

Self-determination is the birthright of all peoples and nations. Next month America will celebrate its Independence. Thomas Jefferson, author of the American Declaration of Independence, wrote that when a government

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tramples on the people's rights, "it is the right of the people to alter or abolish it." He also wrote that "resistance to tyranny is obedience to God." Sikhs share that view. We are instructed by the Gurus to be vigilant against tyranny and deface its ugly head. Guru Gobind Singh, the last of the Sikh Gurus, proclaimed the Sikh Nation sovereign. Every day we pray "Raj Kare Ga Khalsa," which means "the Khalsa shall rule."

Let me tell you a little about the history of Sikh national sovereignty. Sikhs established Kalsa Rule until 1716. In 1765, Sikh rule in Punjab was re-established, and it lasted until the British conquered the subcontinent in 1849. Under Maharaja Ranjit Singh, Hindus, Sikhs, and Muslims all served in the government. All people were treated equally and fairly. The Sikh state was extensive, at one point reaching all the way to Kabul.

At the time that the British quit India, three nations were supposed to get sovereignty. Jinnah got Pakistan for the Muslims on the basis that the Hindus got India. India made a deal with the Hindu maharajah of Kashmir to keep the state within India despite a Muslim majority population. India marched the troops into Hyderabad to annex it to India by defeating the Muslim ruler, Nizam of Hyderabad. Hyderabad had a time in a majority Hindu population and a Muslim maharajah.

The third nation that was to receive sovereignty was the Sikh Nation. However, Nehru tricked the Sikh leadership of the time into taking their share with India on the promise that Sikhs would enjoy "the glow of freedom" in Punjab and no law affecting the right to pass without Sikh consent. As soon as the ink dried, however, the Indian government broke those promises. They sent a memo to all officials declaring Sikhs "a criminal race" does that sound like a democracy or a totalitarian state in the Nazi/Communist mold?--and the repression of Sikhs began. No Sikh representative has ever signed the Indian constitution to this day.

In June 1984 the Indian government attacked the holiest of Sikh shrines, the Golden Temple, in Amritsar. Ask yourself, what is that? Was it an act against tyranny anywhere in the world? Was it an act of terror against the ruling BJP, murdered missionary Graham Staines and his two sons, aged 8 and 10, by burning them to death while they slept in their jeep. Nuns have been raped, priests have been killed, schools and prayer halls have been attacked. Last year, the RSF published a booklet on how to implicate Christians and other minorities in false criminal cases.

The BJP destroyed the Babri mosque in Ayodhya and still intends to build a Hindu temple on the site. Let's have some questions here: What do you think the police really murdered? Do you believe that everyone who lives in India must be Hindu or must be subservient to Hinduism? They have called for the "Indianization" of non-Hindu religions. Is that a democratic country? U.S. Congressman Edolphus Towns pointed out that "the mere fact that [Sikhs] have the right to choose their oppressors does not mean they live in a democracy." Congressman Dana Rohrabacher said that for the minorities in India, "freedom has become a joke.

Sikh martyr Jarnail Singh Bhindranwale said that "If the Indian government attacks the Golden Temple, it will lay the foundations of Khalistan. He was right. On October 7, 1987, the Sikh Nation declared the independence of its homeland, Punjab, Khalistan. India claims that there is no support for Khalistan. It also claims to be democratic despite the atrocities. Then why not simply put the issue of independence to a vote, the democratic way? What are they afraid of?

Self-determination is the right of all people and nations. America should sanction India and stop its aid until all the people of South Asia are allowed to live in freedom. Thank you for giving me this opportunity. I hope you will support freedom for Khalistan, Kashmir, Nagaland, and all the nations of South Asia.

TRADE RELATIONS REGARDING PRODUCTS OF KAZAKHSTAN

HON. ROBERT WEXLER
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. WEXLER. Mr. Speaker, I would like to place in the Congressional Record the following letter I received from A. Machkevitch

12625
In this context the Jewish community of Kazakhstan calls upon you to exert your influence in freeing Kazakhstan from this rudder of the past, which would undoubtedly strengthen relationship between our countries and testify by facts that voices of tens of thousands of the Kazakhstani Jews have been once again heard by our American friends.

Yours Sincerely, A. Mackevych, President.

RETIRED OF REV. LEO J. O’DONOVAN, S.J. AS PRESIDENT OF GEORGETOWN UNIVERSITY

HON. ELEANOR HOLMES NORTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. NORTON. Mr. Speaker, Leo J. O’Donovan, S.J., leaves Georgetown University on June 30th after twelve splendid and productive years as the president of the oldest Catholic university in the United States. I know I am joined by the Members of the House in recognizing Father O’Donovan’s very distinguished service to Georgetown, to higher education, to this city, and to his Catholic faith.

Father O’Donovan, a summa cum laude graduate of Georgetown College, a Jesuit institution, returned to his renowned alma mater, himself a distinguished Jesuit. He has led the University in the tradition of scholarly productivity, and has strengthened interfaith and intercultural relationships and cooperation and has been a staunch supporter of other religious institutions, for which we are grateful.

These figures are higher than the national average. In 2000–2001, Georgetown University has continued to achieve distinction nationally, earning some of the most prestigious awards in higher education, including 11 Rhodes Scholarships, 7 Marshall Scholarships, and 8 Luce Foundation Scholarships since 1990. George-town’s campus, and a member of the Jesuit community. His signature especially is on the religious identity of the institution to which he has brought fresh and innovative emphasis.

I am particularly grateful to Father O’Donovan for his leadership in making Georgetown an especially good D.C. citi- en. These contributions have been plentiful and varied, from the University’s D.C. Reads literacy tutors and faculty and student support for our Catholic elementary schools, to the University’s $1 million investment that helped launch a community bank, the City First Bank.

The Reverend Leo J. O’Donovan, S.J., became Georgetown University’s 47th president in 1989, 33 years after he graduated summa cum laude from Georgetown. A member of the Society of Jesus since 1957, Fr. O’Donovan is a specialist in systematic theology and holds advanced degrees in theology and philosophy from the University of Münster, Germany. At the time of his election to serve as president of Georgetown, he was a professor of systematic theology at Weston Jesuit School of Theology in Cambridge, Massachusetts, a visiting fellow at the Woodstock Theological Center on Georgetown’s campus, and a member of Georgetown’s Board of Directors.

Under his leadership in the past twelve years, Georgetown University has continued to flourish and grow as a world-class university with a vibrant Catholic and Jesuit identity. As president, Fr. O’Donovan has sustained and enhanced Georgetown University’s traditions of scholarship, faith, and service—advancing teaching and research, strengthening the University’s commitment to educating “men and women for others,” and guaranteeing that Georgetown serves as a strong non-profit citizen in Washington, D.C.

ACADEMIC EXCELLENCE

Ranked among the top 25 universities in the nation every year in the 1990s, as well as in 2000–2001, Georgetown has continued to strengthen academic excellence and deepen its longstanding commitment to teaching and research.

Georgetown’s outstanding students continue to achieve distinction nationally, earning some of the most prestigious awards in higher education, including 11 Rhodes Scholarships, 7 Marshall Scholarships, and 8 Luce Foundation Scholarships since 1990. Geor-getown’s Law Center ranks first in the nation in the number of graduates who go into public interest and public service law. And 64 judicial clerkships have recently been awarded to Law Center graduates.

At the School of Medicine, students continue to perform exceptionally well in residency assignments they receive through the National Residency Matching Program. In 2000, more than half of our graduates received their first choice for residency, and 80 percent received one of their top two choices. These figures are higher than the national average.
and course development and made a priority the creation and funding of new teaching and research initiatives. The number of Georgetown’s endowed professorships and endowed chairs has doubled in the past twelve years. Among the new chairs in the University’s first in computer science, econometrics, and linguistics, as well as the John Carroll Distinguished Professorship in Ethics, the Bryan Professorship in Moral Philosophy, and a chair to support the scholarship and teaching of a visiting Jesuit scholar.

From Fall 1998 through Fall 2000 the number of Main Campus full-time faculty (both tenure track and non-tenure track) increased 37%. From Fall 1990 through Fall 2000, the number of full-time faculty at the Georgetown University Law Center increased 38%. Georgetown Law Center has the largest faculty in the United States.

Research and Scholarship

Georgetown’s faculty include some of the nation’s leading scholars in a wide array of fields—from linguistics to constitutional law to cancer research to health care policy. Georgetown is supported by the Klingenstein Foundation for the Advancement of Teaching as a Research 1 institution in 1994 and a Doctoral/Research-extensive university in 2000.

From FY90 to FY99, research and development funding support has increased by 119 percent. Georgetown’s library holdings have increased by more than 25% in the past ten years.

Academic Developments and Innovations

In the past 12 years, Georgetown has steadily expanded its academic programs. Currently, there are more than 90 undergraduate and graduate degree programs, including 20 doctoral programs. In recent years, numerous new interdisciplinary graduate programs have been instituted, including programs in the neurosciences and molecular and cell biology. The undergraduate curriculum has been augmented by new minors in areas such as Catholic studies and environmental studies, a new major in political economy, and a joint program in Communication, Culture, and Technology.

New graduate and professional initiatives include the Asian Law and Policy Studies Program at the Law Center, and an International Executive MBA Program at the McDonough School of Business. In 1995, the Main Campus also completed a major reorganization of academic programs, incorporating the Faculty of Languages and Linguistics into the Georgetown College.

Under Fr. O’Donovan’s leadership, innovative academic and philanthropic planning has allowed Georgetown to create a number of new teaching and research initiatives, including:

- Law Casa, a center for research on Latin American law and policy issues, and the Supreme Court of the Law Center.
- The Center for Clinical Bioethics in the Medical Center.
- The Center for German and European Studies, the Center for Australian and New Zealand Studies, and the Center for Muslim-Christian Understanding in the Walsh School of Foreign Service.
- The Center for Social Justice Research, Teaching and Service on the Main Campus.

Achievements in Admissions & Financial Aid

As Georgetown’s academic programs and faculty have advanced in stature, the admissions process has become increasingly competitive. Georgetown accepts between 20 and 25 percent of its approximately 15,000 undergraduate applicants each year and thus ranks among the nation’s most selective institutions.

At the same time, Fr. O’Donovan has worked to ensure the accessibility and affordability of a Catholic and Jesuit education, maintaining its need-blind/full-need admissions policy and increasing significantly the amount of University funding appropriated annually for undergraduate aid. Institutional scholarship aid for undergraduates increased from $14 million in 1989 to more than $34.5 million in 2000-01. Each year more than 35% of the students at Georgetown receive some form of financial assistance. Including federal and private, grant, loan, and work-study programs, Georgetown awards a total of $67.5 million in undergraduate financial aid in 2000-01. Among the recent additions to financial aid resources are the Pedro Arrupe, S.J., Scholarship for Peace fund, generated by a generous anonymous gift to enable students from war-torn regions of the world to attend Georgetown, and a special scholarship fund financed by the William and Louise Haskins’ bequest for graduates of District of Columbia schools.

In 2000-01, the Law Center again received more applications than any law school in the nation, and more than 8,600 were applied for 717 seats in the School of Medicine. One of every four medical school applicants in the country applies to Georgetown. In addition, applicant’s LSAT scores continue to be well above average. Average LSAT scores of entering law students are in the 95th percentile nationally.

Diversity at Georgetown

In 2001, in an independent survey published in Black Enterprise, Georgetown was ranked number one among non-historically black colleges and universities as a place where African American students feel that their aspirations are supported. In 1999, the publication Hispanic Business ranked MBA programs and law schools in terms of places where Hispanic students were most likely to succeed. Approximately 22% of Georgetown’s undergraduate class of 2004 are international students and students from minority and ethnic backgrounds. Each year, around 10% of the first or second among highly selective private institutions in the number of applications by African American students.

Georgetown’s Law Center has become one of the most diverse in the nation, second only to Howard University in the number of African American attorneys graduated in the U.S. During Fall 2000, minorities made up 29.3 percent of the students in the J.D. program. The percentage of minority students in the School of Medicine has increased from 20 percent in 1994 to more than 28 percent in 2000.

Of the undergraduate students enrolled during Fall 2000 who indicated a religious preference, more than half (55.3 percent) indicated that they are Roman Catholic. About 25 percent reported another Christian denomination, while about five percent indicated they are of the Jewish faith. About three percent of the undergraduates stated that they are Muslim, two percent are Hindu and one percent are Buddhist. About seven percent indicated no religion and about four percent indicated some other religious preference. About eight percent of all undergraduate students specified a religious preference and about 2.5% indicated some other religious preference.

Georgetown also has made significant strides throughout the faculty and administration. Among Fr. O’Donovan’s administrative appointments have been the first women to serve as President and Vice President of the School of Medicine, Vice President and Treasurer, and Vice President and General Counsel.

Georgetown’s Catholic and Jesuit Identity

Throughout his tenure, Fr. O’Donovan has led Georgetown’s efforts to develop further the spiritual dimension of Georgetown’s campus and intellectual life. During the past 12 years, in addition to the new academic centers listed above, the University has launched innovative initiatives in Catholic Studies and Jewish Studies. Georgetown’s nationally recognized retreat programs have grown significantly, offering a broad range of retreat options to all members of the University community, with specific retreats for those of the Catholic, Protestant, Muslim, Orthodox Christian, and Jewish faiths. The University has hosted a wide range of conferences, symposia, and lectures devoted to religious issues and topics.

In 1995, Fr. O’Donovan initiated a University-wide dialogue about ways in which the University might further deepen its Catholic and Jesuit identity. As a result of this process, in 1997, he charged a faculty-led task force to make specific recommendations about steps Georgetown could take to enhance its identity. The task force filed its report in 1998. Fr. O’Donovan then invited the entire University community to respond to this report and in May 1999 appointed four faculty committees to begin developing implementation strategies for some of the recommendations. Following the work of the faculty committees, in September 2000, Fr. O’Donovan launched a series of initiatives aimed at enhancing Georgetown’s Catholic and Jesuit identity. These included:

- Inaugurating a second chair in Catholic Social Thought using a new endowment obtained by the University—the first chair, inaugurated last academic year, is currently held by the Rev. John P. Langan, S.J.
- Promoting dialogue among faculty about Jesuit pedagogy through the work of the Center for the Study of Catholic and Jesuit Identity.
- Launching the Center for the Study of Catholic and Jesuit Identity for Peace (CNDLS), a new center that will make these discussions a part of its overall mission.
- Supporting Jesuit recruitment through the establishment of a standing committee of Jesuits and other faculty members.
- Enhancing faculty diversity with increased funding for recruitment—Georgetown has already successfully recruited three new minority faculty members; and
- Augmenting the Social Justice Research, Teaching and Service to focus on expanding the ways that Georgetown integrates research and service into academic life.

To articulate the strong Catholic and Jesuit foundation of the University, Fr. O’Donovan also charged a faculty committee led by the Provost Dorothy Brown to draft a University mission statement. In September 2000, Georgetown’s Board approved the mission statement submitted by the committee for final approval by the University community.

New Investments in Space and Facilities

Throughout his tenure, Fr. O’Donovan has been dedicated to developing strategies for effective and long-term capital investment. More than $82 million dollars has been invested in the renovation of all undergraduate
student housing. In Fall 2000, the University broke ground for the Southwest Quadrangle, a $168.5 million construction project on schedule for completion in the fall of 2003. The approval allows the University to proceed with construction and renovation plans for all buildings proposed in the plan, including modifications to hospital facilities proposed by MedStar Health. New facilities for the sciences, performing arts, and the McDonough School of Business are also part of the Master Plan, and major gifts for these have been raised through Georgetown's Third Century Campaign.

Recent campus development at the Law Center includes the completion of the Gewirz Student Center, which provides the campus' first on-site housing for law students, and the opening of a new wing of the campus' central building, which includes technologically advanced classrooms and seminar rooms and expanded student activity space. Current projects include construction of a new academic health center on the Law Center property Georgetown purchased two years ago.

Important new strategic investments include the acquisition of the Wormley School building on Prospect Street and the National Academy of Sciences buildings on Wisconsin Avenue. At the Medical Center, a new wing was completed at the Hospital in 1993, and a new research building was dedicated in 1995.

GROWTH AND ACHIEVEMENTS IN ATHLETICS

During Fr. O'Donovan's tenure as president, Georgetown's Athletic Program has regularly undergone reviews, has been found in compliance with Title IX, and has received NCAA certification. Georgetown instituted women's soccer as a varsity sport and elevated women's lacrosse to a national level sport. The University also expanded the number of scholarships for women athletes. Men's ice hockey was elevated to Division 1 status, making the Hoyas one of the nation's premier teams. The Hoyas have won the National Championship in Men's Soccer twice and are one of the nation's premier women's soccer programs. Men's lacrosse has grown in stature to become a nationally ranked team. The University also expanded the number of scholarships for women athletes. Women's basketball, soccer, and softball received NCAA certification. Georgetown continues to regularly undergo reviews, has been found in compliance with Title IX, and has received NCAA certification.

MAJOR ADMINISTRATIVE PROJECTS

With the rise of managed care, the decline of government funding for health care, and other factors, Georgetown faced serious financial challenges at the Medical Center throughout Fr. O'Donovan's tenure. To address the Medical Center's increasing budget deficits, Fr. O'Donovan established a strong focus on cost cutting, revenue enhancement, and other management strategies. In 1999, the Medical Center was able to sign a letter of commitment to pursue exclusive negotiations to form a clinical partnership with MedStar Health, a non-profit regional health care system. In June 2000, Georgetown instituted a historic partnership agreement with MedStar in which MedStar assumed all responsibility for the operations of the clinical enterprise, which includes a 335-bed hospital, a faculty practice group, and a network of community physician practices. Georgetown continues to undertake similar projects that directly benefit the District and its residents. Two of those grants expanded the work done by Georgetown faculty and students in the Archdiocese's Catholic elementary schools, which are served by Georgetown's large corps of DC Reads literacy tutors. Dedicated as well to responsible non-profit citizenship, the University also made a $1 million founding investment to help launch City First Bank, which opened in 1999 to assist individuals and businesses in under-served communities.

Fr. O'Donovan led the development of a comprehensive strategy to build stronger relationships between the University community and its surrounding neighbors. He created the position of Assistant Vice President for External Relations to promote improved communication and collaboration between the University and the local D.C. community. In recent years, Georgetown has decreased the number of undergraduate students living off campus, instituted special beeth inside pickup at the beginning and close of each academic year, and advanced its plans to build a new 780 bed residence hall complex.

In June 2001, the University inaugurated a new University Health and Wellness Center to serve the children of faculty, students, and staff, the Hoya Kids Learning Center, a child development and pre-school facility, was established in 1997 on the Main Campus. Scholarships for families in need are funded by the Office of the President.

HONORING STANTON ENGLEHART

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. McINNIS. Mr. Speaker, I stand here today to honor a man who stretches the imagination, and who uses paint to express what words cannot about Colorado, and about the beauty of our nation. Stanton Englehart has been an active participant in bringing art to communities around Colorado.

Stanton Englehart has long been recognized as one of the most prominent painters of the Southwest. He carries the honor of Professor Emeritus of Fine Art at Fort Lewis College, and his popularity and enthusiasm has brought him international recognition. He says, "I hope my paintings express some of the beauty and mystery of the earth and the sky above it. . . . The paintings are most about energy and its power as a creative force in all things."

Stanton selflessly shares that energy with just about anyone who asks him. Charlie Langdon of The Durango Herald, says that when asked by an audience member at a lecture, "Mr. Englehart would be in more Colorado arts centers, he answered, "Just call me, and tell me how much wall space you have. I'll pack a show for you and truck it to your door." Incredibly, Stanton turns out about a hundred paintings a year. Many of them are enormous." All told, he has created more than 1200 paintings, some 21 feet wide. To ensure that those without the funds to enjoy his art can do so, he donates many paintings to public institutions.
TRIBUTE TO MELANIE STOKES
HON. BOBBY L. RUSH
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. RUSH. Mr. Speaker, I rise today to honor the memory of Melanie Stokes and all women who have suffered in silence from postpartum depression and psychosis with the introduction of the Melanie Stokes Postpartum Depression Research and Care Act.

Chicago native, Melanie Stokes was a successful pharmaceutical sales manager and loving wife of Dr. Sam Stokes. However, for Melanie, no title was more important than that of mother. Melanie believed motherhood was her life mission and fiercely wanted a daughter of her own. This dream came true on February 23, 2001 with the birth of her daughter, Sommer Sky. Unfortunately, with the birth of her daughter, Melanie entered into a battle for her life with a devastating mood disorder known as postpartum psychosis. Despite a valiant fight against postpartum psychosis, which included being hospitalized a total of three times, Melanie jumped to her death from a 12-story window ledge on June 11, 2001.

Melanie was not alone in her pain and depression. Each year over 400,000 women suffer from postpartum mood changes. Nearly 80 percent of new mothers experience a common form of depression after delivery, known as “baby blues.” The temporary symptoms of “baby blues” include mood swings, feelings of being overwhelmed, tearfulness, and irritability, poor sleep and a sense of vulnerability. However, a more prolonged and pronounced mood disorder known as postpartum depression affects 10 to 20 percent of women during or after giving birth. Even more extreme and rare, postpartum psychosis, whose symptoms include hallucinations, hearing voices, paranoia, severe insomnia, extreme anxiety and depression, strikes 1 in 1,000 new mothers. Postpartum depression and psychosis affect new mothers indiscriminately. Many of its victims are unaware of their condition. This phenomena is due to the inability of many women to self-diagnose their condition and society’s general lack of knowledge about postpartum depression and psychosis and the stigma surrounding depression and mental illness. Untreated, postpartum depression can lead to self-destructive behavior and even suicide, as was the case with Melanie. As was seen recently in the case of Andrea Yates of Houston, Texas who drowned her five children, postpartum depression and psychosis can also have a dire impact on one’s family and society in general.

In remembrance of Melanie Stokes and all the women who have suffered from postpartum depression and psychosis, as well as their families and friend who have stood by their side, I am introducing the Melanie Stokes Postpartum Depression Research and Care Act which will:

Expand and intensify research at the National Institute of Health and National Institute of Mental Health with respect to postpartum depression and psychosis, including increased discovery of treatments, diagnostic tools and educational materials for providers;

Provide grants for the delivery of essential services to individuals with postpartum depression and psychosis and their families, including enhanced outpatient and home-based health care, inpatient care and support services.

It is my hope that through this legislation we can ensure that the birth of a child is a wonderful time for the new mother and family, and not a time of mourning over the loss of yet another mother or child.

INSULAR AREAS OVERSIGHT AVOIDANCE ACT
HON. ROBERT A. UNDERWOOD
OF GUAM
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. UNDERWOOD. Mr. Speaker, today I would like to reintroduce the Insular Areas Oversight Avoidance Act, legislation I previously introduced during the 106th Congress. This legislation, which is cosponsored by Congresswoman DONNA CHRISTIAN-CHRISTENSEN from the Virgin Islands and Resident Commissioner ANIBAL ACEVEDO-VILA of Puerto Rico, seeks to hold the federal government more accountable in the manner that federal policy is developed towards the insular areas, which include Guam, the Virgin Islands, the Commonwealth of Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands. The bill would require that the Office of Management and Budget explain any omission of any insular area from policy treatment as part of the United States in any policy statement issued by the Office of Management and Budget on federal initiatives or legislation.

The impetus for the bill is to improve federal-territorial relations and to encourage greater use of government resources in a more cost-efficient manner. Given our geographical distance from Washington, D.C., and our political status as territories, it is very difficult for insular area officials to sometimes be heard at the federal level. We face repeated challenges in ensuring that the insular areas are not forgotten in federal initiatives and policies on a daily basis, whether it be international treaties, Presidential Executive Orders, proposed legislation by the Executive Branch or Congressional Members, or federal regulations.

It is my belief that the U.S. insular areas should be considered at the outset of the development of federal policies, including Presidential initiatives. I believe that such consideration would be a more effective way of ensuring that all Americans—in the fifty states, the District of Columbia, and the insular areas—are treated fairly.

The failure of the federal government to contemplate the impact of the insular areas in federal initiatives often results in the need for the federal government to expend an exorbitant amount of resources and energy to either rectify the “oversight” through legislation or through extensive and sometimes futile negotiations with federal agency officials.

An example of such a situation is the way in which U.S. Treasury Department officials negotiate international tax treaties. There are around 75 international tax treaties that the U.S. has negotiated with other countries. The treaties govern the bi-lateral relationships the U.S. has with other countries on tax matters, including foreign investment withholding rates.

In its definition of the term “United States,” there are several definitions used by U.S. negotiators. The most commonly employed definition explicitly excludes Guam and the other insular areas by name. Another definition explicitly includes the United States as comprising the “United States.”

Currently, the Congress is considering legislation I introduced, H.R. 309, the Guam Foreign Investment Equity Act, which is trying to rectify Guam’s exclusion in the case of international tax treaties. H.R. 309 provides the Government of Guam with the authority to tax foreign investors at the same rates as states under U.S. tax treaties. The bill passed the House on May 1, and is awaiting Senate consideration.

I would not have to be pushing for the Guam Foreign Investment Equity Act if the federal government had contemplated its impact on the insular areas, including Guam, when the current U.S. tax treaties with other countries were negotiated.

To understand why this “oversight” is detrimental to Guam and the federal government, let me give you an overview of how this action has stymied economic development on Guam. Currently, under the U.S. Internal Revenue Code, there is a 30% withholding tax rate for foreign investors in Guam. Since Guam’s tax law “mirrors” the rate established under the U.S. Code, the standard rate for foreign investors in Guam is 30% since Guam is not included in the definition of United States for international tax treaties. As an example, the U.S. withholding rate for foreign investors is 10%. That means while Japanese investors are taxed at a 10% withholding tax rate on their investments in the fifty states, those same investors are taxed at a 30% withholding rate on Guam. As 75% of Guam’s commercial development is funded by foreign investors, such an omission has deprived Guam of attracting foreign investment opportunities.

Other territories under U.S. jurisdiction have already remedied this problem or are able to offer alternative tax benefits to foreign investors through delinkage, their unique covenant agreements with the federal government, or through federal statute. Guam, therefore, is the only state or territory in the United States which is unable to provide this tax benefit or to offer alternative tax benefits for foreign investors.

The Insular Areas Oversight Avoidance Act would be helpful to insular area governments and the federal government by requiring that
situations like the U.S. negotiations on international tax treaties are for the good of all U.S. jurisdictions in the country, not just the fifty states. I urge the U.S. government is currently renegotiating with Japan on the tax treaty between our two countries. While I hope that Guam is not excluded from being part of this treaty, the record of U.S. negotiators on previous tax treaties does not provide me any level of comfort. This is a perfect example of why the bill I have introduced today is needed.

KLAMATH BASIN GOVERNMENT- CAUSED DISASTER COMPENSATION ACT

HON. WALLY HERGER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HERGER. Mr. Speaker, principles of fairness and justice demand that the Government not force some people to bear burdens, which should rightfully be borne by the public as a whole. However, that is precisely what is happening in the Klamath Basin in northern California and southern Oregon because of the Endangered Species Act (ESA), and today I rise, joined by my Oregon colleague, Congressman GREG WALDEN, to introduce legislation to address that.

The ESA has strayed far from its original mission. It was never intended to sacrifice human health and safety and economic well-being. Yet, the fact remains that under the guise of species protection, constitutionally-protected property rights are being trampled, local economies are being destroyed, families are being forced into bankruptcy and, in many cases, human health and safety are being jeopardized. There is little consideration given to the human species under the ESA. Once a species is “listed,” its needs must come first—before the rights and livelihoods of American people. As it is currently being implemented, the ESA requires species protections at any and all costs.

Regrettably, rural Western communities are disproportionately bearing the burdens and costs associated with species protection, burdens which should rightfully be borne by the public. The zero-water decision that was recently handed down in the Klamath Basin in northern California and southern Oregon has resulted in the taking by reducing contractual water deliveries to a mere percentage of their contract amounts because of pumping or other water use restrictions driven by the ESA. A rural area in my northern California Congressional District has incurred millions of dollars in excess costs on critically important infrastructure improvement projects because of ESA-mandated mitigation. In this same area a much-needed high school continues to be delayed at taxpayer expense because of the ESA. There are many examples, but the fact remains that people are suffering economically because of the implementation of the ESA.

These requirements and restrictions are, simply, an unfunded federal mandate. The federal government should not force some to bear the costs, but should bear the burden itself, or, if it cannot pay or is not willing to pay, then it should avoid the action altogether. Or, it must find some middle ground. That is simple accountability.

For these reasons, Mr. Speaker, I rise today to introduce the Klamath Basin Government-Caused Disaster Compensation Act. It requires the Secretary of the Interior to fully compensate the individuals of the Basin who have been economically harmed as a result of the restrictions that have been placed on the operations of the Klamath Project. Such payments would come from within the Department of Interior’s budget. This legislation sends a resounding message to Washington that if the federal government is going to force this kind of social and economic harm on rural America through its laws, it will be held accountable. And if rebukes these costs as unacceptable, then it will face the question of whether this kind of species protection—recklessly imposing requirements that may or may not benefit species, but that will certainly carry significant costs to real people—is a goal all Americans truly want, and if so, whether they’re willing and prepared to share the impacts.

Ultimately, the ESA itself must be modernized if we are to ensure that people and communities come first. However, real people can bear the burden as the direct result of the federal government’s actions in the Klamath Basin, and while the long-term social and other hidden impacts from this decision can never be fully mended, fairness and justice demand that the federal government step in to rectify the economic harm that it has caused.

TRIBUTE TO McNeiL FAMILY FOR 2001 NATIONAL WETLANDS AWARD

HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to offer my congratulations to a couple that has taken extensive efforts to promote land stewardship, wetlands conservation, research and education in the Klamath Basin. Mike and Cathy McNeil have truly exemplified the ideals honored with the 2001 National Wetlands Award of the Natural Resources Conservation Service, the U.S. Environmental Protection Agency and the Environmental Law Institute and I would like to add my thanks and appreciation to their labors.

Nested on the edge of Rock Creek just south of Monte Vista and neighborly by the Monte Vista National Wildlife Refuge, the McNeil ranch is the fourth-generation operation. Understanding the importance of responsible development and the intersection with environmental preservation, the McNeils have launched the Rock Creek Heritage Project— an effort which protected nearly 15,000 acres of farm and ranch land in the Rock Creek Watershed. This collaborative effort, involving 27 landowners, accentuates aspects including land protection, watershed enhancement, training in holistic management, community building and support for value-added marketing of agricultural products. Extending beyond land matters, the McNeils have adopted innovative calving patterns to provide their 800 mother cows warmer birthing periods during June and July rather than throughout the cooler winter months utilized by most ranchers in the area. In all of these endeavors the McNeils have exhibited innovation, excellence and outstanding effort.

Mr. Speaker, Mike and Cathy have been united in matrimony for 20 years and have the blessing of their daughter Kelly who is 14 years of age. The teachings of her parents are allowing Cathy to value and preserve the heritage from which she comes, through the extraordinary contributions of the McNeils, wetland protection and stewardship have been heralded and an example has been established for others to follow in order to obtain ecological health while not compromising agricultural profitability. The National Wetlands Award will be one of many awards that the McNeils have garnered from their hard work— alongside the distinct recognition of being the Colorado Association of Soil Conservation District’s Conservationists of the Year in 1999 and the 2001 Steward of the Land Award issued by the American Farmland Trust. The McNeils deserve to be applauded on a job well done and I, along with my colleagues, thank them for their sustained efforts in this critically important realm and foundation to life.
Mr. HEFLY. Mr. Speaker, I rise to speak today about an organization—which is headquartered in my district and has had an immeasurable impact on America. The history of Junior Achievement is a true testament to the indelible human spirit and American ingenuity. Junior Achievement was founded in 1919 as a collection of small, after-school business clubs for students in Springfield, Massachusetts.

As the rural-to-city exodus of the populace accelerated in the early 1900s, so too did the demand for workforce preparation and entrepreneurship. Junior Achievement students were taught to develop their accomplishments and build the financial support of companies and individuals. Junior Achievement recruited numerous sponsoring agencies such as the New England Rotarians, Boys Scouts, Girl Scouts, Boys & Girls Clubs the YMCA, local churches, playground associations and schools to provide meeting places for its growing ranks of interested students.

In a few short years JA students were competing in regional expositions and trade fairs and rubbing elbows with top business leaders. In 1925, President Calvin Coolidge hosted a reception on the White House lawn to kick off Junior Achievement’s expansion. By the late 1920s, there were nearly 800 JA Clubs with some 9,000 Achievers in 13 cities in Massachusetts, New York, Rhode Island, and Connecticut.

During World War II, enterprising students in JA business clubs used their ingenuity to find new and different products for the war effort. In Chicopee, Massachusetts, a contract to manufacture 10,000 pant hangers for the U.S. Army. In Pittsburgh, JA students developed a specially designed box to carry off incendiary devices, which was approved by the Civil Defense and sold locally. Elsewhere, JA students made baby incubators and used acetylene torches in abandoned locomotive yards to obtain badly needed scrap iron.

In the 1940s, leading executives of the day such as S. Bayard Colgate, James Cash Penney, Joseph Sprang of Gillette and others helped the organization grow rapidly. Stories of Junior Achievement appeared in national magazines. In the early 1990s, a sequential curriculum for grades K-6 was launched, catalyzing the organization into the classrooms of another one million elementary school students.

Today, through the efforts of more than 100,000 volunteers in the classrooms of America, Junior Achievement reaches more than four million students in grades K-12 per year. JA International takes the free enterprise message of hope and opportunity even further to more than 1.5 million students in 111 countries. Junior Achievement has been an influential part of many of today’s successful entrepreneurs and business leaders. Junior Achievement’s success is truly the story of America—the fact that one idea can influence and benefit many lives.

Mr. Speaker, I am proud to have Junior Achievement in my district and proud of its many successes over the years. It is my hope this great organization continues to prosper and benefit many in the years to come.

EXTENSIONS OF REMARKS

HON. JOEL HEFLY
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

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Mr. Speaker, I am proud to have Junior Achievement in my district and proud of its many successes over the years. It is my hope this great organization continues to prosper and benefit many in the years to come.

FHA-INSURED HOSPITAL CONVERSION AND REINVESTMENT ACT

HON. JOHN J. LAFLAC
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. LAFLAC. Mr. Speaker, today I am introducing the “FHA-insured Hospital Conversion and Reinvestment Act.” This legislation authorizes HUD to reinvest profits from FHA loan insurance programs, including those for health care, in FHA-insured hospitals. The Department of Housing and Urban Development (HUD) insures billions of dollars of loans for hospitals under the FHA Section 242 hospital loan program. According to the Administration’s fiscal year 2002 budget, FHA hospital and health care loan insurance programs are projected to make a profit for federal taxpayers of some $32 million next year. In addition, all FHA loan programs combined will make a profit of over $2.7 billion next year for the federal taxpayer.

Currently, all of these FHA profits are used to increase the federal budget surplus. The legislation I am introducing today would authorize HUD to use some of these profits generated by FHA to proactively assist FHA-insured hospitals, either for the purpose of converting excess hospital capacity to related health care use or for the purpose of paying debt service for FHA-insured hospitals.

Conversion of excess capacity helps the hospital which converts and the community it serves. It allows better use of hospital space in a way that is more responsive to the needs of the local community. Conversion also improves the ability of all hospitals in the local area to meet community health needs by reducing over-capacity and allowing some flexibility in the use to which the existing infrastructure can be put. Under my proposed legislation, conversion of excess hospital capacity is authorized for a range of purposes, including supportive housing for the elderly, assisted living, and nursing home beds—health care needs that may be more substantial for many communities than in-hospital care.

The authority under by legislation to use FHA surplus to pay debt service for FHA-insured hospitals is intended to safeguard FHA’s pre-existing investment. Such use is contingent on a determination by HUD that such assistance would reduce the risk of default and loss on the FHA-insured loan, and would improve the financial soundness of the hospital assisted. This new authority has the effect of giving HUD similar loss mitigation tools to those it currently has with respect to single-family and multi-family FHA-insured loans.

Congress has long recognized that pro-active loss mitigation is of financial benefit to the FHA insurance fund. For example, HUD gives wide latitude to servicers of FHA-insured single-family loans to restructure debt, including making partial claims, in order to forestall foreclosures. This can be financially advantageous to the FHA fund, since foreclosures typically create a much larger loss to the fund.

The ability to conduct loss mitigation with respect to hospital loans is further complicated by the fact that many FHA-insured hospital loans are structured as public bond offerings. This makes it very difficult to restructure loans, without calling the bonds. Allowing HUD to advance funds to pay debt service obviates the need to call bonds, while allowing HUD to proactively address looming financial problems, and avert foreclosure.

This legislation would help FHA-insured hospitals nationwide, but would be of particular benefit to hospitals within the state of New York, which has one of the highest percentages of FHA-insured hospitals nationwide.

Hospitals within our state have adapted to a wide range of challenges, including Medicare cuts, squeezed reimbursement rates from private insurers, and the transition to a de-regulated environment. Community hospitals, with their lack of access to capital, face particular challenges. The least we can do is reinvest profits from federal hospital loans in the hospitals which have generated these profits.

This legislation does precisely that. I urge Congress to adopt it and would welcome the support of my colleagues.

TRIBUTE TO LIMERICK TOWNSHIP

HON. JOSEPH M. HOEFFEL
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. HOEFFEL. Mr. Speaker, I rise today to congratulate Limerick Township in Montgomery County, Pennsylvania on its 275th Anniversary. Native Americans of the Delaware
tribe were the original inhabitants of this area followed later by William Penn, who in 1682, purchased large tracts of land from the Native Americans. He developed a love for photography. He then began to photograph the abandoned mines and quarries in the Pocono Mountains. His photography has won numerous awards, and helped make others aware of the beauty in Colorado that needs to be preserved. John's artistic ability does not stop with his photos; he is also a talented violinist who performs with chamber groups, and at fundraisers. It seems that John's talent and ability is boundless. The contributions that John has made to the artistic community of the State of Colorado, not to mention the nation, is why I believe, Mr. Speaker, that John Ninneman is worthy of the praise of Congress. The black and white photos that he has taken will live forever as a reminder to all how beautiful the United States is to all that view them. I thank John for sharing his amazing talents with the public.

"RENEWABLE ENERGY AND ENERGY EFFICIENCY ACT OF 2001" ("REEA")

HON. LYNN C. WOOLSEY
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Ms. WOOLSEY. Mr. Speaker, this week I introduced the "Renewable Energy and Energy Efficiency Act of 2001" ("REEA"). This bill is a blueprint for the House Science Committee as we develop legislative priorities for the renewable energy and energy efficiency programs at the Department of Energy (DOE). The Committee's role in the national energy debate is unique, because we are required to envision the future energy needs of our country, and determine the direction of DOE's research, development and demonstration (RD&D) programs. As the Ranking Member on the Science Committee's Energy Subcommittee, this bill is my statement on our priorities.

We must establish a more level playing field for renewable energy sources, so we can reduce our reliance on coal and fossil fuels. We must encourage the development of "green industries" through increased emphasis on energy efficiency technologies. We must expand those energy sources that will contribute to a more sustainable, long-term energy future. Increased federal investment in renewable energy sources and energy efficiency technologies is smart public policy because for every dollar invested in current DOE sustainable energy programs, the benefits total $200.

My vision for our energy future is that by the year 2020, twenty percent of our energy will be generated from renewable sources. Environmental groups agree, because we cannot continue to focus our priorities on limited fossil fuel sources. Unfortunately, our federal commitment to the RD&D programs that will help us meet this goal has declined significantly since 1980. This bill is a bold effort to reverse this funding scenario by outlining a robust R&D program to fund an aggressive energy efficiency agenda.

The comment I've heard most often from the renewable energy community is that a critical element of any successful R&D program is a stable funding stream that gradually increases over time. That's why over the next five fiscal years, "REEA" authorizes total funding for DOE renewable energy programs at $3.735 billion, and energy efficiency at $5.185 billion with an additional $300 million for NASA to work on aircraft energy efficiency. If Americans are to have a secure energy future, with reliable, clean and environmentally-friendly energy sources, we must invest in renewable energy sources and make great strides in energy efficiency, so we can reduce our overall energy consumption. This means increasing support for wind, solar, geothermal and biomass energy sources.

We must also ensure that promising renewable energy and energy efficient technologies, like hydrogen fuel cells, are given commercialization assistance so that individual consumers can afford to use them. My bill establishes a competitive grant program at DOE so that private sector entities can help advance development of new technologies. Many creative and entrepreneurial individuals need only access to financial assistance to demonstrate the successful application of their renewable energy or energy efficiency technology. That's why this bill directs that at least fifty percent of the $1 billion provided for such assistance goes to small businesses and startup companies.

Mr. Speaker, for too long we have overlooked renewable energy sources when setting our energy priorities. Now is the time for a responsible energy policy that makes significant investments in clean energy sources to supplement our current energy use. We must ensure that we prevent a repeat of the energy shortages Californians and West Coast residents now face. "REEA" will be a big step toward protecting our environment, and guaranteeing a better future for our children.

IN SUPPORT OF THE LOW INCOME FAMILIES FLOOD INSURANCE ACCESS ACT

HON. GENE GREEN
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. GREEN of Texas. Mr. Speaker, as we witnessed the damage wrought by Tropical Storm Allison after it went through Texas and up the East Coast, the importance of the National Flood Insurance Program (NFIP) really hit home. Thousands of my constituents suffered substantial flood damage to their homes and businesses, but some of these losses were mitigated because they had federal flood insurance.

Unfortunately, not all my constituents who needed flood insurance could afford to purchase a policy. Because of a recent redraw of Houston’s Flood Insurance Rate Map (FIRM) many of my low-income folks were brought into the 100-year flood plain, but could not afford the insurance. As a consequence of my constituents’ experience, I rise today to introduce the Low Income Families Flood Insurance Access Act.

This legislation helps bridge the insurance gap between those that can afford a flood policy and those that cannot. The bill would provide discounted flood insurance over a five-
June 29, 2001

EXTENSIONS OF REMARKS

GINA UPCHURCH RECEIVES COMMUNITY HEALTH LEADER AWARD

HON. DAVID E. PRICE
OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. PRICE of North Carolina. Mr. Speaker, I want to offer my congratulations to Gina Upchurch, one of 10 recipients of the 2001 Robert Wood Johnson Community Health Leader Award. Ms. Upchurch has earned this honor for her pathbreaking work with the Senior PHARMAssist Program based in Durham, North Carolina.

Each year, the Community Health Leadership Program recognizes ten individual who have found innovative ways to bring health care to communities whose needs have been ignored or unmet. Ms. Upchurch was selected for this prestigious recognition from a field of 577 nominees.

As founder and executive director of Senior PHARMAssist, Ms. Upchurch created a model to help seniors on limited incomes purchase expensive medications. PHARMAssist monitors the medications of their clients to help prevent life-threatening interactions and provides financial aid to those on limited incomes.

The program has helped more than 2,600 seniors get the medications they need and has educated over 800 older adults about safer usage of medication.

The counseling and support provided by PHARMAssist works. A recent study conducted by the University of North Carolina-Chapel Hill found that emergency room visits and over-night hospital stays had decreased by almost a third for seniors who had been in the program for at least one year.

Ms. Upchurch graduated from UNC with degrees in pharmacy and public health. She served in the Peace Corps in Botswana before returning to North Carolina to write her master's thesis, a policy analysis which recommended a program to provide health care to seniors throughout the state. This laid the groundwork for what eventually became Senior PHARMAssist. She oversees a $500,000 budget and has written a manual to help other communities establish a similar program.

Gina Upchurch has improved health care and helped those in need in our community. I am proud to recognize her achievements today.

DIRECT AIR SERVICE BETWEEN LOS ANGELES INTERNATIONAL AND WASHINGTON’S REAGAN NATIONAL AIRPORTS

HON. JANE HARMAN
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Ms. HARMAN. Mr. Speaker, today I have been joined by a bipartisan group of my colleagues in introducing legislation to preserve direct air service between Washington’s Reagan-National Airport (DCA) and Los Angeles International Airport (LAX).
This legislation is necessary because the Department of Transportation (DOT) decided to eliminate this critical service last Friday. In stead of permitting American Airlines, which purchased TWA, to have the TWA slots to continue to fly this route, the Department awarded them to Alaska Airlines, which will use them to start nonstop service between Washington and Seattle.

The DOT's decision disappointed tens of thousands of Californians and other passengers who have come to rely on this route and its connections to Bakersfield, Fresno, Monterey, Oakland, Palm Springs, San Diego, San Francisco, San Jose, San Luis Obispo, Santa Barbara, and elsewhere in the state.

Without this route, Los Angeles will be the largest U.S. city without non-stop air service to Washington's Reagan-National. In fact, California, the most populous state in the Union, will have no direct connection from Los Angeles to Washington. Earlier this year, 57 Members of Congress—including House Majority Leader Dick Armey and Democratic Leader Richard Gephardt and most Members of the California congressional delegation—wrote the DOT in support of American Airlines' efforts to preserve this critical service.

The legislation introduced today allows American Airlines to use two existing slot exemptions for service between Washington's Reagan National and Los Angeles. As such, it does not increase the total number of flights at Reagan-National and Los Angeles. In fact, this route, the Department of Transportation's (DOT) decision of permitting American Airlines to use two existing slot exemptions for service between Washington's Reagan National and permits Alaska Airlines to fly direct to Seattle.

Mr. Speaker, Californians rely upon nonstop air service between Los Angeles International Airport and Washington's Reagan National Airport. Without congressional action, this convenient nonstop air service will end in September.

I urge all my colleagues to support this legislation.

HONORING THE 125 YEAR HISTORY OF LA VETA, COLORADO

HON. SCOTT McINNIS
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay special tribute to La Veta, Colorado on its 125th Birthday. For over a century, the people of La Veta have contributed a rich heritage and cultural diversity to the state of Colorado. I would like Congress to wish the citizens of La Veta a very happy 125th birthday.

In 1862, Col. John M. Francisco, a former settler with the US Army at Fort Garland, and Judge Henry Daigle built Fort Francisco on land purchased from the Vigil-St. Vrain Land Grant, significantly south west of most of the San Luis Valley bound traffic. When Col. John Francisco looked down on the future site of La Veta in the mid 1850's he said, "This is paradise enough for me." The town of La Veta was incorporated on October 9, 1876.

As more settlers moved into this beautiful and fertile valley, the Fort increased in importance as shelter from Indians and as the commercial center for the area. The first Post Office, named Spanish Peaks, opened in the Plaza in 1871. By 1875 the business was almost completely gone. In 1876 the narrow gauge railroad came through La Veta several blocks north of the Fort on its way westward through the newly surveyed La Veta Pass. In 1877 the permanent rail depot was built beside the rails and the business community slowly moved north toward it. For many years, this stretch of the line between La Veta and Wagon Creek was the highest in the world.

The old depot building at the summit is listed on the National Register of Historic Places. The mountains of the Sangre de Cristo Range were long known by the Indians of the Southwest. Relics of the Basket Weaver Culture have also been found within the county. The Spanish Peaks are a historic landmark to travelers—from the early Indians to the vacationer. Besides being the railroad, La Veta has also been the center of local agriculture and coal mining.

Mr. Speaker, the citizens of Colorado are proud of La Veta's 125-year history. It is an area rich in culture, history and heritage. For that Mr. Speaker, I would like to wish La Veta happy birthday and wish its citizens good luck and prosperity for the next 125 years.

HONORING YAKOV SMIRNOFF ON THE 15TH ANNIVERSARY OF HIS CITIZENSHIP

HON. CHRISTOPHER COX
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 28, 2001

Mr. COX. Mr. Speaker, I rise today to pay tribute to Yakov Smirnoff, who will celebrate his 15th anniversary as a United States citizen on July 4, 2001.

When Yakov left the Soviet Union in 1977, he arrived in the U.S. with less than $100 in his pocket. But like so many new immigrants, Yakov quickly found a way to put his talents to use in his new country—and in only a few years he became one of America's most recognized comedians.

Yakov's brand of comedy appealed to so many Americans because it carried real insight. He poked fun at the daily consequences of Soviet tyranny, while displaying a remarkably American irreverence for our own foibles ("In the Soviet Union, I'd line up for three hours just to get a tasteless piece of meat and some stale bread; but in America, you can walk into any fast-food restaurant and get the same thing right away"). But he also reminded us of how fortunate we are to live in a free and democratic nation ("What a country!" became his signature line). In fact, Yakov has said that his comedy has helped him "share his experiences at becoming a real American with the audience."

Yakov's dream of becoming an American citizen was finally fulfilled on July 4, 1986, in a ceremony held at the Statue of Liberty. Describing his joy at the occasion, Yakov says: "I suddenly had two revelations. You can go to Italy but never become Italian. You can go to France but never become French. But you can come to America and become an American."

When freedom came to the formerly captive peoples of the Soviet Empire, Yakov joked that "the end of the KGB eliminated 100 percent of the torture in Russia; 50 percent of the spying—and 30 percent of my punch lines." But in fact Yakov enjoys continued success in his comedic routines. In 1992, he moved to Branson, Missouri, where he owns his own comedy theater and performs to perennially sold-out shows.

Yakov says he will continue to relish having a job that allows him to encourage Americans to cherish the freedom we have to laugh at ourselves—and yes, at our government. "I've learned that the secret to being happy is discovering your gift and having the opportunity to share it with the world," he once said. "As I found out for myself, it can be quite a ride before your gift defines itself and allows you to realize what it is."

Mr. Speaker, I urge my colleagues to join with me in paying tribute to Yakov Smirnoff on the 15th anniversary of his citizenship. He truly embodies what it means to be an American. As we prepare to celebrate the 4th of July, the United States Congress can all join with Yakov and say, "What a country!"
EXTENSIONS OF REMARKS

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Second, drilling in the lakes threatens fresh waters not salt waters, and a spill would compromise drinking water for millions.

Third, drilling in and along the lakes would yield only miniscule increases in energy supply for our nation. When the risks are so high and rewards so low, it makes no sense to move forward with plans to implement drilling of any kind.

Finally, I wish to highlight an often overlooked fact about Michigan's relationship with the Great Lakes. They are the foundation of our state's robust tourism industry. In fact, tourism is the second largest industry in our state.

Americans from throughout the Midwest and beyond come to our lakeshores for recreation and relaxation. Just as Florida fears significant negative economic consequences when fuel spills threaten her coastline, so does Michigan.

The Great Lakes supply fresh water to many. They offer recreational resources to millions. They contribute to the ecology of a significant portion of the United States. We would be foolish to endanger.

Vote yes on this amendment.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

SPEECH OF
HON. BETTY MCCOLLUM
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes:

Ms. MCCOLLUM. Mr. Chairman, I strongly oppose drilling of any kind beneath the Great Lakes and urge my colleagues to support the Bonior amendment.

Visit Minnesota's North Shore and you will immediately know why.

Lake Superior is a constant source of wonder. It helps shape our landscape and climate, it supports our economy and it enhances our quality of life.

Mr. Chairman, water is a precious resource in my state. We have over 10,000 lakes. Lake Superior, of course, is the most identifiable of Minnesota's lakes. Its familiar wolf head shape visible from outer space.

Did you know the greatest of the Great Lakes (Lake Superior) is over 31,000 square miles, the same size as the entire state of Maine? Lake Superior also holds more fresh drinking water than all the other Great Lakes combined—Lake Ontario, Lake Michigan, Lake Huron, and four Lake Erie's.

Each year, millions of people from all over the world visit the lake in Minnesota for sightseeing, fishing, scuba diving and boating.

Lake Superior serves also to the economies of Minnesota and the entire Upper Midwest. Duluth, Minnesota and Superior, Wisconsin make up the busiest international inland port in America.

Our lakes, especially Lake Superior, are not isolated.

We are a part of a great chain of lakes. What happens in one lake does have an impact in all of the Lakes.

Mr. Chairman, the Great Lakes provide over 35 million people with their fresh drinking water. These lakes constitute twenty percent of the Earth's fresh water, 95% in the United States.

Why would anyone put our nation's largest source of fresh drinking water at risk?

Data from the Michigan Department of Environmental Quality shows that only 28.5% of one day's consumption of natural gas and 2.2% of one day's consumption of oil in the United States has been produced. Not enough for even one day has been produced in over 20 years.

The House last week wisely stopped the President's proposal to drill off the shores of Florida and in our national monuments. The Great Lakes are no less important.

I oppose drilling of any sort for oil and natural gas beneath the Great Lakes. Not because we do not need to find additional resources. We do. These lakes are just too vital to too many families and it's not worth the risk.

We are making progress in using energy more efficiently and reducing our reliance on oil and natural gas through energy efficiency technology and conservation. We must make bigger investments in current programs. Investments don't have to cost money either. We can and we must reduce our consumption by supporting wind and solar power and renewable fuels like ethanol.

Future generations depend on us not to jeopardize our nation's greatest natural resource. An oil spill or any related disaster on the shores of a Great Lake would impact the fresh drinking water for 35 million people. And for what? Less than a day's worth of oil and natural gas.

The Great Lakes are important to this nation. They are important to my state and to millions of families. They have been crucial in the historical and economic development of our communities and they continue to play a significant role in Minnesota, the nation and the world.

I urge my colleagues today to protect the drinking water of future generations. I urge my colleagues to support this important amendment.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

SPEECH OF
HON. CHRISTOPHER H. SMITH
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes:

Mr. SMITH of New Jersey. Mr. Speaker, I would like to express my strong support for setting aside sufficient funding for Beach Protection projects, and to keep the current language in the bill which states that 65 percent of the initial construction costs of beach replenishment projects are to be financed by the Federal Government, and 35 percent of the costs are to be paid by states and local governments.

The fact of the matter is that our beaches are national assets that deserve national protection. Just like our national parks, our beaches are not enjoyed solely by those who live near or on them. Just the opposite is true: our beaches are visited by tens of millions of people from all over the country. Foreign tourists come from all parts of the globe to visit our coasts and beaches.

My good friend, Representative TOM TANCREDO of Colorado, has offered an amendment today to strike language in the bill that directs the Secretary of the Army to honor existing Federal contracts with States, counties, and cities throughout coastal America. Under the gentleman's amendment, the Federal government would essentially shirk its responsibility, and shuffle it onto the shoulders of state and local governments, by switching the cost share ratio to 35 percent federal/65 percent local.

I rise in opposition to this amendment, because it is bad national policy, as well as bad for local taxpayers in coastal communities.

Mr. Speaker, the record is clear: states and local governments have consistently shown their commitment to assist in the preservation and replenishment of beaches along the Nation's coastlines. The proposed 35 percent federal change in cost sharing would result in the delay or elimination of several important Corps of Engineers projects, which would potentially increase the property damage from hurricanes and severe storm events. Additionally, states and localities would not be able to absorb the increased costs without raising taxes or cutting other vital priorities.

Our nation's beaches contribute to our national economy—four times as many people visit our nation's beaches each year than visit all of our National Parks combined. Yet Congress provides copious funding for national parks—as it should. It is estimated that 75% of Americans will spend some portion of their vacation at the beach this year. Beaches are the most popular destination for foreign visitors to our country as well. The amount of money spent by beach-going tourists creates an extensive economic benefit—a portion of which goes back to the Federal government in the form of income and payroll taxes.

So to suggest, as the amendment from Mr. TANCREDO does, that beach protection confers benefits to only a handful of beach-house owners, is simply false. Just look at my own State of New Jersey. Tourism is the second greatest contributor to the New Jersey economy. In 1999, tourism brought $27.7 billion to the State. Out of the 167 million trips made to New Jersey in 1999, 101 million were to the Shore area.

I would also like to thank the Committee for setting aside $413,000 in funds to complete the next stage of the Manasquan Inlet Project, which extends from the Manasquan Inlet to the Barnegat Inlet and includes the beaches of several coastal towns in Ocean County, which are in my district.
Additionally, the Manasquan Inlet is absolutely crucial the fishing industry and the general economic health of the New Jersey metropolitan shore. It is through the Manasquan Inlet that many large deep-sea fishing vessels gain their entry to the ocean and where they can return with their catch. Nearly 22,000 people are employed by the fishing industry in New Jersey, with an economic output of almost $2.1 billion. Protecting the beaches and preventing erosion benefits more than just the tourism industry.

Mr. Speaker, I urge all members of Congress to protect our nation’s beaches, coastal communities and tourism industry by keeping the Federal/Local cost share at 65 percent.

**PCBS IN THE HUDSON RIVER**

HON. MAURICE D. HINCHNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. HINCHHEY. Mr. Speaker, I rise today to commend to my colleagues the following article written by Ned Sullivan on the issue of PCB contamination in the Hudson River of New York. Ned is the highly respected executive director of Scenic Hudson, Inc., a 37 year-old nonprofit environmental organization dedicated to protecting and enhancing the scenic, natural, historic, agricultural and recreational treasures of the Hudson River and its valley. Ned and I have worked together for many years in pursuit of removing sediment contaminated by polychlorinated biphenyls (PCBs) from the “hot spots” in the upper Hudson River, in order to reduce threats to public health, revive local economies, reopen recreational opportunities along the river. I appreciate Ned’s thoughtful analysis of this important issue.

**EXTENSIONS OF REMARKS**

PCBs POSE MAJOR HEALTH THREAT TO NEW YORK CITY, AND BEYOND

HON. MAURICE D. HINCHNEY

OF NEW YORK

June 29, 2001

For decades masses of the invisible, virtually indestructible cancer-causing PCBs that General Electric dumped from its factories on the Upper Hudson have moved down the majestic river, reaching dangerous levels in New York Harbor. They are still coming, clinging fiercely to the river’s shifting silt, threatening the health of millions.

There is no question that GE has the responsibility for cleaning up the worst of them at their source, as the U.S. Environmental Protection Agency has ruled after years of intensive study. In doing so the EPA employed methodologies endorsed by the General Accounting Office (GAO) and worldwide peer review.

GE has mounted a massive advertising and public relations effort aimed at reversing the EPA’s decision. It has a force of seventeen high-powered lobbyists hard at work on the matter in Washington. For good measure the company’s legal battalions have challenged provisions of the U.S. Superfund cleanup laws as unconstitutional.

However these are the facts of the matter:

According to the EPA, the Agency for Toxic Substances and Disease Registry (U.S. Public Health Service) and the World Health Organization among others, PCBs are “an acute and chronic health hazard.” Humans exposed to the lethal substances are subject to skin, liver and brain cancers; respiratory impairments; severe acne-like skin rashes; impaired immune systems, adult reproductive system damage, and perhaps worst of all neurological defects and developmental disorders in the children of exposed females.

David Carpenter, a highly respected former dean of the School of Public Health at SUNY/Albany, has stated: “Our understanding of hazards from PCBs is growing much more rapidly than PCB levels are declining. So over time, the net reason for concern has only gotten greater, not less. Any time you decrease the IQ of your next generation, that’s the ultimate pollution.”

The PCBs enter the food chain through fish and move upward rapidly through animals and humans. EPA health risk assessments rest that humans consuming just one meal of fish from the Hudson River per week are one thousand times more susceptible to cancer.

Unfortunately large numbers of people, including the underprivileged who fish for subsistence and not sport; ethnic groups whose cultures embrace fishing, and even upscale sportspersons whose enjoyment includes cooking the catch, continue to eat Hudson fish in quantity despite the warning signs posted up and down the river.

PCBs build up in the environment, the technical word is bioaccumulate, becoming more concentrated as they move up the food chain to the human level. Less than a month ago, scientists retained by the New York State Department of Environmental Conservation (DEC) released new evidence that the PCBs have been moving from the river’s bottom onto land, where they are contaminating soil and animals along the banks, and in residential back yards.

This stands in sharp contrast to the advertising campaign GE has been waging on the Upper Hudson, showing abundant, flourishing wildlife flying over and splashing in a sparkling river.

The public has not been taken in by GE’s massive disinformation campaign. A statistically valid (plus or minus 3.5 percent) Marist College poll sponsored by Scenic Hudson reveals that 84 percent of those interviewed said the river should be cleaned up. That qualifies as a landslide.

There is no question that the Hudson must be cleaned up. Scenic Hudson has interviewed senior representatives from more than two dozen scientific, academic, governmental and environmental institutions and found every one of them in favor of a clean up. GE stands alone in insisting that science is on its side.

It is high time General Electric honored its obligations to the public.
The Senate met at 12 noon and was called to order by the President pro tempore [Mr. BYRD].

SCHEDULE
Mr. REID. Mr. President, as the Chair announced, we are going to be in morning business until 1 p.m. At 1 p.m. the Senate will begin consideration of the supplemental appropriations bill under the previous order which calls for amendments to be offered prior to 6 p.m.

Over 40 amendments have been filed. I hope and guess that probably all of those will not be offered before 6 o’clock. But I would say to the Chair that I hope Senators will come to the floor and offer those amendments, debate them, so arrangements can be made as to whether the managers will accept the amendments or whether a time will be set in the future for votes. It is the leader’s expectation we will finish this bill tomorrow. There are other appropriations bills we would like to finish this week also. In fact, the leader has every desire to finish the Interior appropriations bill and the supplemental bill this week. We will hear more from the leader at a subsequent time. But these are the two bills we must finish this week, and if we can finish them Thursday, that will be fine. I am sure, if we can’t, the leader will want to go into Friday to complete the bills, or if it takes longer than that. I think they are both capable of being finished very quickly.

There are no rollcall votes today. There will be no rollcall votes until 2:15 tomorrow after the party caucuses.

BIPARTISAN PATIENTS’ BILL OF RIGHTS
Mr. REID. Mr. President, before we adjourned for the recess, the Senate passed the bipartisan McCain-Kennedy-Edwards Patients’ Bill of Rights and proved that protecting patients’ rights is not a partisan issue. We can all be proud of the strong bipartisan compromises we reached which have the support of virtually every health care provider group in this country. This bill has achieved such overwhelming support because it represents a balanced approach to ensuring patient safety and health plan accountability without significantly raising premiums or employer costs.

This landmark legislation will ensure that every privately insured American can enjoy important patient protection. For example, the bill will ensure that patients can have access to emergency room care; women can easily access OB/GYN services; children can access the specialty care they need; patients with ongoing health care needs have continuity of care; and patients can hold their managed care plan accountable when plan decisions to withhold or limit care result in injury or death.

When I went home this past week people said, What does the bill do? Briefly, it is very old-fashioned in nature. It allows a doctor to render care that that doctor believes is appropriate to take care of that patient, whether it be prescribing a medication for surgery or other treatment. That is what the bill does.

Passage of this bill would not have been possible without the dedication and hard work of many people. First of all, the distinguished majority leader, Mr. DASCHLE, was involved in this legislation in its formative stage and every day we were in the Chamber. I think this showed to the American public what most of us have known for many years—that Senator DASCHLE really is a great leader. He indicated we were going to finish the bill before the Fourth of July break. Some people smiled, some snickered, and some thought it would be totally impossible. But it was done. It was done with all amendments being offered. Cloture was not filed. It was the way legislation should move. We spent some long hours in this Chamber, but as a result of his leadership we were able to do this week. This is an issue on which he has been working for 5 years; for 5 years we have waited to pass this meaningful and enforceable Patients’ Bill of Rights that will protect all privately insured Americans. And I say again, Senator DASCHLE was able to forge bipartisan support for this critical legislation and ensure passage as a result of his patience.

We indeed also have to acknowledge the work done by the chairman of the Health, Education, Labor, and Pen- ders, Committee, Senator TAYLOR KEN- DEDY. He was on this floor every minute of every day not only for the 2 weeks it took to pass the Patients’ Bill of Rights but for 2 weeks prior to do the education bill. He has worked on this issue longer than anyone, was able to confront every contentious amend- ment, and managed to keep the integ- rity of the bill totally intact. Senator KENNEDY did great work. It shows what a fine Senator he is. Those of us who depend on him for leadership always...
have this bill to look to, to indicate what a great Senator he is.

Senator KENNEDY has had wide experience. One of the leaders in this bill was someone without the experience of Senator KENNEDY but who did great work: Senator Edwards of North Carolina. He proved his skill, his leadership, and his dedication to being a legislator by his work on this meaningful Patients’ Bill of Rights. He has, since he came to the Senate, been a tireless voice for America’s patients, and I and the rest of America are grateful for his contributions to the rest of this legislation.

Finally, I extend my thanks to Senator JOHN MCCAIN from the other side of the aisle. During his run for President of the United States, Senator McCain promised the American people he would fight to protect a Patient’s Bill of Rights, and he did that. His name was first on this bill and he was involved as we proceeded through this legislation. He has been an extraordinary leader on this issue. Without his work, this bill would not have been possible.

It would not be fair to talk only about the proponents of this legislation. Senator Judd Gregg did an outstanding job on this bill. He was here the entire 2 weeks. He had some difficult issues to work through. I think he did an excellent job of bringing the amendments that were meaningful to the floor at the right time. We were able to have complete and fair debate. I always had great appreciation of him.

I served with Senator Gregg when he became a Member of the House of Representatives. He left to become a two-term Governor of the State of New Hampshire. He came back—to the Senate.

I always had great respect for his abilities and certainly they were evident during the work he did on the Patients’ Bill of Rights. Even though he was on the losing side of votes on many of the amendments that were offered, he was always a gentleman and a scholar. I think he did himself and this Senate very well with his work.

The Senate-passed Patients’ Bill of Rights contains every one of the patient protections listed in President Bush’s statement of principles. I hope the House of Representatives will work towards swift passage of this bill and that the President will sign into law this truly bipartisan legislation that will improve the quality of care for all Americans.

The PRESIDENT pro tempore. The Chair will state the time until 12:30 p.m. will be under the control of the Senator from Illinois, Mr. DURBIN, or his designee, and from 12:30 p.m. until 1 p.m. will be under the control of the Senator from Wyoming, Mr. THOMAS, or his designee.

Mr. REID. Mr. President, if the Senator from Wyoming wishes to say a few words, I am happy to yield him time under our time. How much time does the Senator want?

Mr. THOMAS. I was going to ask the question the President pro tempore has already answered. Thank you.

Mr. REID. The Senator from North Dakota has the floor for the time.

The PRESIDENT pro tempore. The Senator from North Dakota.

MEXICAN LONG-HAUL TRUCKS ON U.S. HIGHWAYS

Mr. DORGAN. Mr. President, later this week and perhaps through the summer we will have a discussion in both the Senate and the House about a very controversial issue. This administration and this Government will allow Mexican long-haul trucks to move across the border from Mexico into this country to drive their trucks on the highways and byways of this country unrestricted. We insinuated the grounds that the North American Free Trade Agreement requires us to do so. However, after signing NAFTA the previous administration decided, because of serious safety concerns, not to allow the Mexican trucks to operate unrestricted on America’s highways. At the moment, we allow them to cross the border and operate only in a zone within 20 miles of the Mexican border, or short-haul trucks. The Bush administration is now going to lift that restriction. That is going to cause some very serious controversy. I want to explain today why that is an important issue.

A San Francisco Chronicle reporter named Robert Collier recently went on a 3-day trip with a long-haul trucker in Mexico. His article in the San Francisco Chronicle is quite interesting and quite revealing. I ask unanimous consent to have it printed at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See Exhibits 1.)

Mr. DORGAN. What is this issue of Mexican trucks coming into the United States? Why is it important and why will it provoke controversy? Simply, the issue is this: We inspect just 1 to 2 percent of the Mexican trucks that come into this country and operate within the 20-mile restriction. And 36 percent of those Mexican trucks are turned back into Mexico for serious safety violations.

In other words, up to now, we have told Mexican truckers: We will not allow Mexican trucks to come in unrestricted on American roads because you don’t meet American safety standards. Mr. President, 98 to 99 percent of the trucks were never inspected at all because we do not have nearly enough inspectors at the border. But of those that were inspected, 36 percent were turned back into Mexico for serious safety violations.

Mexico has a regime of safety issues dealing with truckers that is very lax. They are printed at the end of the article I previously mentioned. Let me run through a few of these. It says that those who drive service trucks and other trailers, which would be over 5,000 pounds on the American roads, are only subject to inspection if they get a violation. That is by law. And the maximum fine is just $600. These are professional drivers. In the United States, we limit truckers to 10 hours of consecutive driving and then they must rest. That is all you can do in the United States, 10 hours. In Mexico, the sky is the limit. In fact, this reporter rode with one Mexican long-haul tractor for 3 days. In 3 days of driving a truck, the Mexican driver slept 7 hours—7 hours in 3 days. There is no restriction on hours with respect to Mexican drivers and truckers.

Random drug tests: In the United States, yes for all drivers; in Mexico, no.

Automatic disqualification for certain medical conditions: In the United States, yes; in Mexico, no.

Maximum weight limit for trucks: In the United States, 80,000 pounds; in Mexico, 135,000 pounds.

The point is, under NAFTA, it has been determined that the United States should allow Mexican long-haul truckers into this country unrestricted. I wonder if you want a Mexican trucker in your rear-view mirror on an American interstate, coming down the highway with questionable brakes, with questionable equipment, in a circumstance where over a third of all the trucks that we have inspected—and we have only inspected an infinitesimal number—over a third of them have been found to have serious safety violations.

This isn’t rocket science. Of course, we would not allow unrestricted Mexican long-haul truckers to come into this country on America’s roads; not until they meet all the requirements for safety that we require of our own trucking companies and our own drivers. This is not a hard question.

On the appropriations bill in the House of Representatives there was an amendment added that prohibits funding for permitting Mexican truckers to come into this country on an unrestricted basis. I have indicated I intend to offer a similar amendment in the Senate. I have offered stand-alone legislation which is more comprehensive than that, but it seems to me it is useful to offer language identical to that of the House because then it would be non-conferenceable and the restriction would become law when the appropriations bill is signed.

Senator MURRAY, the chair of the Transportation Appropriations subcommittee, talked to me and I know she is working on some language. I have not yet had an opportunity to see what that language is, but I appreciate the work she is doing. I hope when the appropriations bill leaves the Senate,
we will have included similar or identical language to that in the House; language we want to send to the 18 Mexican long-haul trucks into this country on an unrestricted basis jeopardizing the safety of Americans who are driving on the roads—virtually all citizens who are driving on our roads. We don't know why safety questions have to be in their minds.

This is a very important issue. It is one more evidence of a trade strategy that is inherently weak, that trades away our interests. How can we adopt a trade policy with another country that says: Oh, by the way, we will not allow anything that reflects safety issues from one side or the other to come in the way of trade? It doesn't make any sense to me.

This is a paramount example of trading away our ability to make safety on America's roads something that is of significant concern. We have not gotten to the position of requiring safety equipment on logs, and making of service restrictions just because we want to regulate; we did it out of concern for safety. When you are driving down the road and have an 18-wheel truck behind you full of tons and tons of material, you want to make sure that truck has been inspected, that the truck has safety equipment, and that the truck is not going to come through the back of your car right up to the rearview mirror if you happen to put on your brakes in an emergency. This is an important issue on its own. Giving up our ability to decide whether we will allow unsafe trucks to enter United States highways from Mexico is almost unforgivable. But it is part and parcel of a trade policy that has been bankrupt for a long while.

That brings me to another question about trade agreements. The administration is talking a lot now about fast-track. They are telling us that we have to do new trade agreements. I have some advice for them. I say: If you really want to fast-track something, why don't you fast-track solving some trade problems that you, along with previous administrations, have created through signing past trade agreements. Don't deal with Congress if you need fast-track legislative authority for anybody or anything; deal with fast-track trade solutions yourself.

Let me give you some examples of issues that the Administration might want to fast-track.

Today, in Canada, they are loading trucks and railroad cars full of molasses to bring into the United States. The molasses is loaded with Brazilian sugar and sent to Canada so it can be added to molasses. The molasses is a carrier that is used to circumvent our quota on sugar imports. They subvert the sugar quota by sending Brazilian sugar through Canada loaded as molasses. It is called stuffed molasses. It is fundamentally unfair trade, but we can not get anything done about it.

If you want fast track, let's fast track a solution to solving the stuffed molasses scheme.

Fast track: How about this? Do you know how many American movies we got into China last year? Ten. Ten American movies got into China—a country with an $80 billion trade surplus with the United States. This is intellectual property. It is entertainment. We got 10 movies into China because they say: That is all you can get into our country.

What about the issue of automobiles? Do you know how many automobiles we bought from Korea last year? Americans bought 450,000 cars from companies building cars in Korea. Do you know how many United States-produced cars were sold in the country of Korea last year? Twelve hundred—four years later, we still have a 38.5 percent tariff. Can you imagine that?

What about the issue of automobiles? Do you want fast track, hold up a mirror and say this in the morning: You can't take American durum wheat into Canada. You can't take American durum wheat into Canada. So we got turned around with the little 12-year-old orange truck, despite the fact that all of these semis all day long came down from Canada—evidence, it seems to me, of just one more thorn that exists in this trade circumstance, one more burr under the saddle for all those farmers and ranchers out there who have been taken by unfair trade agreements negotiated by our trade negotiators who should have known better, by trade negotiators who did not seem to stand up for this country's interest in the final agreement. They were more interested in getting an agreement than they were in getting a fair agreement.

Again, I say to the Trade Ambassador and others, if you want fast track, hold up a mirror and say this in the morning: Fast track for me means solving trade problems, solving the Canadian durum problem, solving the Canadian stuffed molasses problem, solving the problem of our getting cars into Korea, potato flakes into Korea, movies into Canada, and beef into Canada.

I can stand here and cite a couple of dozen more, if you like. Show us you can solve problems rather than creating problems, then come back to us and talk. But don't suggest to me that we do something for you to negotiate a new agreement unless you have solved the problems of the old trade agreements—yes, GATT, NAFTA, you name it, right on down the road.

I have always, when I have spoken about trade, threatened to suggest that we require our trade negotiators to wear uniforms. In the Olympics, they wear a jersey. It says “U.S.A.” across the chest. So at least in some quiet moment in some negotiating meeting someplace, these trade negotiators who seem so quick to lose are willing to look down and see whom they really represent.

Will Rogers used to say, “The United States of America has never lost a war and never won a conference.” He surely must have been thinking about our
trade negotiations, because in agreement after agreement we seem to end up on the short end. That is especially true with a trade agreement that now puts us in a circumstance where we are told we are supposed to allow Mexican long-haul trucks to come into this country under the provisions of the trade agreement notwithstanding the safety issues. That is not fair. It is not right. To do so would not be standing up for the best interests of the American people.

We have a fight about this. We are going to have controversy about it. But as I said when I started, this ought not be rocket science. We cannot and should not decide that these trade agreements either force us or allow us to sacrifice the basic safety of the American people. It doesn’t matter whether it is safety on the roads, safety with respect to food inspection, you name it. We cannot and should not allow these trade agreements to force us to sacrifice safety.

We should insist just once and for all that our trade negotiators stand up for this country’s interest. There is nothing inappropriate and nothing that ought to persuade us to be ashamed of standing up for our best economic interests. Yes, we can do that in a way that enriches all of the world and in a way that helps pull others up and assist others in need.

We can do that, but we also ought to understand we have people in need in this country. American family farmers are going broke. We have all kinds of people losing their jobs in the manufacturing sector. Manufacturing is a sector in this country that is very important and has been diminishing rather than expanding.

So let’s decide to do the right thing with our expanded trade. I want expanded trade. I want robust trade. I do not believe we should construct walls. I do not believe that a protectionist—using the pejorative term—is someone who enhances this country’s interests. But using the term “protectionist,” let me just be quick to point out there is nothing wrong with protecting our country’s best interests with respect to trade agreements that will work for this country.

So we will have this discussion this week on the Transportation Appropriations bill, that will be under the able leadership of Senator MURRAY. My expectation is we will resolve this in a way that is thoughtful and in a way that expresses common sense dealing with Mexican long-haul truckers coming into this country.

I yield the floor.

EXHIBIT 1

From the San Francisco Chronicle, Mar. 4, 2001

MEXICO’S TRUCKS ON HORIZON—LONG-DISTANCE HAULERS ARE HEADER INTO U.S. ONCE BUSH-CERTIFY

By Robert Collier

ALTAR DESERT, MEXICO.—[Editor’s Note: This week, the Bush administration is required by NAFTA to announce that Mexican long-haul trucks will be allowed onto U.S. highways—whether they have or have not been banned over concerns about safety—rather than stopping at the border. The Chronicle sent a team to get the inside story before the trucks start to roll.]

It was sometime after midnight in the middle of nowhere, and a giddy Manuel Marquez was at that moment 120 miles behind the wheel of U.S.-bound merchandise. The lights of oncoming trucks flared into a blur as they whooshed past on the narrow, two-lane highway inches from the left mirror of his truck. Also gone in a blur were Marquez’s past two days, a nearly Olympic ordeal of driving with barely a few hours of sleep.

“Hey, Mexico!” Marquez exclaimed as he slammed on the brakes around a hilly curve, steering around another truck that had slowed in the middle of the lane, its hood up and its driver nonchalantly smoking a cigarette. “We have so much talent to share with the American public’s consciousness.”

Several hours ahead in the desert darkness was the border, the end of Marquez’s 1,800-mile run. At Tijuana, he would deliver his cargo, wait for another load, then head back south.

But soon, Marquez and other Mexican truckers will be able to cross the border instead of turning around. Their feats of long-distance stamina—and, critics fear, endangerment of public safety—are coming to a California freeway near you.

Later this week, the Bush administration is expected to announce that it will open America’s highways to Mexican long-haul trucks, thus ending a long fight by U.S. truckers and highway safety advocates to keep them out.

Under limitations imposed by the United States since 1982, Mexican vehicles are allowed passage only within a narrow border commercial zone, where they must transfer their cargo to U.S.-based long-haul trucks and drivers.

The lifting of the ban—ordered last month by an arbitration panel of the North American Free Trade Agreement—has been at the center of one of the most widespread issues in the U.S.-Mexico trade relationship.

Will the end of the ban endanger American motorists by bringing thousands of potentially unsafe Mexican trucks to U.S. roads? Or will it reduce the costs of cross-border trade and end U.S. protectionism with no increase in accidents?

Two weeks ago, as the controversy grew, Marquez’s employer, Transportes Castores, allowed a Chronicle reporter and photographer to join him on a typical run from Mexico City to the border.

It was sometime way after midnight in the desert darkness. We were full of coffee, sugar and pills that are commonly used by Mexican truckers. Marquez, however, needed only a bottle of Tres Agaves tequila and a program of random highway inspections that were inaugurated with much fanfare last fall.

Almost all Mexican long-haul drivers are forced to work dangerously long hours. Very few have the skills or right lighting reflexes honed by road conditions that would make U.S. highways seem like cruise-control paradise. But he was often steering through a thick fog of exhaustion.

In Mexico, no logbooks—required in the United States to keep track of hours and itinerary—are kept. We are just like American truckers, I’m sure,” Marquez said with a grin. “We’re neither saints nor devils. But we’re good drivers, that’s for sure, or we’d all be in the ditch.”

Although no reliable statistics exist for the Bay Area’s trade with Mexico, it is estimated that the region’s exports and imports with Mexico total $6 billion annually. About 90 percent of that amount moves by truck, in tens of thousands of round trips to and from the border.

Under the decades-old border restrictions, long-haul trucks from either side must transfer their loads to short-haul “drayage” truckers, who cross the border and then come back again to take the massive trucks. The complicated arrangement is costly and time-consuming, making imported goods more expensive for U.S. consumers.

Industry analysts say that when the ban is lifted, most of the two nations’ trade will be done by Mexican drivers, who come much cheaper than American truckers because they earn only about one-third the salary and typically drive about 20 hours per day.

Although Mexican truckers would have to obey the U.S. legal limit of 10 hours consecutively driving when in the United States, safety experts worry that northbound drivers will be so sleep-deprived by the time they cross the border that the American limit will be meaningless. Mexican drivers would not, however, be bound by U.S. labor laws, such as the minimum wage.

“Are you going to be able to stay awake?” Marcos Munoz, vice president of Transportes Castores jokingly asked a Chronicle reporter before the trip. “Do you have your coffee?”

The word is slang for upper stimulant pills that are commonly used by Mexican truckers. Marquez, however, needed only a few cups of coffee to stay awake through three straight 21-hour days at the wheel.

Talking with his passengers, chatting on the CB radio with friends, and listening to the radio he brought along with him—1950s and 1960s ranchera and bolero music, he showed few outward signs of fatigue.

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But the 46-year-old Marquez, who has been a trucker for 25 years, admitted that the burden occasionally is too much.

''Don't kid yourself,'' he said late the third night. ''Sometimes, you get so tired, so worn, your head just falls asleep.'' U.S. safety groups predict an increase in accidents after the border is opened.

''Every day, now, there aren't enough safety inspectors available for all crossing points,'' said David Golden, a top official of the National Association of Independent Insurers, the manufacturers' truckers' lobby.

''So we need to make sure that when you're going down Interstate 5 with an 80,000-pound Mexican truck in your view mirror and you have to jam on your brakes, that truck doesn't come through your window.''

Golden said the Bush administration should delay the opening to Mexican trucks until border facilities are upgraded.

California highway safety advocates are concerned, saying the California Highway Patrol—which is the state's truck-inspection--needs to be given more inspectors and larger facilities to check incoming trucks' brakes, lights and other safety functions.

Marquez's trip started at his company's freight yard in Tijuana, an industrial suburb of Mexico City. There, his truck was loaded with a typical variety of cargo—electronics components and handicrafts bound for Los Angeles, and chemicals, printing equipment and industrial parts for Tijuana.

At the compound's gateway was a shrine with statues of the Virgin Mary and Jesus. As he drove past, Marquez crossed himself, then crossed himself again before the small Virgin on his dashboard.

''Just case, I know,' he said. ''The devil is always on these roads.''

In fact, Mexican truckers have to brave a wide variety of dangers.

As he drove through the high plateaus of central Mexico, Marquez pointed out where he was hijacked a year ago—held up at gunpoint by robbers who pulled alongside him in another truck full of canned tuna—easy to fence, he said—was stolen, along with all his personal belongings.

What's worse, some thieves wear uniforms. On one trip, Marquez said he had to pass 14 roadblocks, at which police and army soldiers searched the cargo for narcotics. Each time, Marquez stood on tiptoes to watch over their shoulders. He said, ''You have to quick eyes, or they'll take things out of the packages.''

''Twice, police inspectors asked for bribes—''something for the coffee,'' they said. Each time, he refused and got away with it.

''You're good luck for me,'' he told a Chronicle reporter. ''They ask for money but then give an American and back off. Normally, I have to pay a lot.''

Although the Mexican government has pushed hard to end the border restrictions, the Mexican trucking industry is far from united behind that position. Large trucking companies such as Transportes Castores back the border opening, while small and medium companies oppose it.

''We're ready for the United States, and we'll be driving to Los Angeles and San Francisco,'' said Munoz, the company's vice president.

''Our trucks are modern and can pass the U.S. inspections. Only about 10 companies here could meet the U.S. standards.''

''The industry has been roundly opposed by CANACAR, the Mexican national trucking industry association, which says it will result in U.S. firms taking over Mexico's trucking industry.''

''The opening will allow giant U.S. truck firms to buy large Mexican firms and crush smaller ones,'' said Miguel Quintanilla, president of CANACAR, the Mexican truckers' lobby.

Quintanilla said U.S. firms will lower their current costs by replacing their American drivers with Mexicans, yet will use the huge American advantages—superior warehouse and inventory-tracking technology, superior truck-safety regulations, which will enable them to earn more than either critics or advocates expect, because of language difficulties, Mexico's inadequate insurance coverage and Mexico's time-consuming system of customs brokers.

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The ENERGY CRISIS

Mr. KYL. I suspect that most of my colleagues, as myself, talked to a lot of our constituents over the Fourth of July recess who reminded us of the fact that out in America there is still a problem with an energy shortage. I know I had to gas up my vehicle, as did a lot of other Americans, when I drove up to the mountains in Arizona. I had a wonderful time. I marched in a Fourth of July parade in Show Low, AZ, really the heart of America as far as I am concerned. Folks out there are still concerned because they recognize that Washington is dithering; that we are not doing anything to solve the problem of an energy shortage in this country.

Some people may call it a crisis; other people may not; but the fact is we have had a wake-up call. The question is, Will we answer the call or are we going to sit there and ignore it, and play partisan politics?

My own view is that there is no better opportunity for us to show bipartisanship, to work together toward a solution to a common problem that affects all Americans, than working together to solve this energy shortage problem. This is something on which the administration has weighed in. They have taken the issue very seriously. Very early in his term, the President asked Vice President CHEYENNE to convene a group of people to come up with some suggestions on what we could do—both short term and long term—to address this energy shortage problem.

The Vice President, along with a lot of others, came up with a series of recommendations which I would like to have us consider in the Senate. They are recommendations which deal with new production, with conservation—a majority of the recommendations, incidentally, deal with conservation, even though that has largely been ignored in the media—and recommendations dealing with new energy sources, something in which I am very interested—hydrogen fuel cells, and a whole lot of things.

The fact is, this is a serious effort. While the Republicans held the majority in the Senate, a bill was introduced which embodied many of these recommendations. Under the then-Republican leadership, it was going to be our program to take up that energy legislation in this Senate Chamber starting today or tomorrow. Sadly, that is not going to happen. The Democratic leadership announced some time ago that it had different priorities and that the Senate Chamber would not be the place for debate about the energy shortage this week following the Fourth of July recess.

It is my understanding that hearings have been scheduled and both the Finance Committee and the Energy Committee have tended to conference on different pieces of legislation. There will be hearings on the administration’s plan, as well as other ideas. And that is good. But we need to deal with this problem while we have had this wake-up call and not kick it to the back burner where we will forget about it and then, in another year or two, realize we wasted a couple of years that could have been spent in finding new energy sources, putting them into play, and providing an opportunity for Americans to enjoy the kind of prosperity we can enjoy with the proper mix of good energy sources.

There are basically two issues. One deals with the cost of producing electricity and how that electricity will be produced. The other has to do with the reality that Americans are going to use a great deal of energy—petroleum products primarily, and primarily for transportation. That is not going to change in the short term, despite the fact that the long run we will have to come up with some alternatives.

I mentioned hydrogen fuel cells as one of those possibilities. It is a little closer than I think most people would recognize. We put money into basic research at the Federal Government laboratories. The administration has placed a great deal of emphasis on that as part of their energy plan. I hope we can move down that path.

But in the meantime, we have to be realistic about the fact that Americans are going to continue to drive their automobiles. We are going to have to continue to have gasoline. We cannot wish that problem away. The question is, Do we strictly rely on the sources of oil from the Middle East, for example, or do we recognize that it really puts us behind the 8 ball if the OPEC countries want to constrain supplies and increase prices? Or if there is jeopardy to those sources from military conflict, will we have to once again send our troops and spend a great deal of energy and money to protect those energy sources as we did during the Persian Gulf war? That is one path we can take.

There are some in this country who would have us ignore the potential for energy development in this country. I think we ought to have a plan that both recognizes the potential within the United States for oil production as well as buying what we can on the market internationally.

The other aspect of that problem is refineries. We have not built new refineries in this country for 20 to 25 years. We have actually had some shut down. As one of my Democratic colleagues said during a hearing in the Finance Committee a couple weeks ago, she is a little disappointed about the fact that there is criticism of refineries making money. She said: What are my business folks in my State to do—be in the business to lose money? The fact is, they are in the business to make money. In the process of making money, they make petroleum products that we demand when we go to the service station.

When I filled my vehicle last week, I wanted gasoline to be in that pump so I could drive my family where we were going. We have a lot of demand in this country. It is we who have the demand, not the oil companies. They are the ones that provide the product and the refineries that refine that product so that we can meet our demand. Yet there is a great deal of criticism about anybody who would make money in producing one of these products. That is the only way we get the products.

The free market system has served us well. We ought to be very careful about denigrating the suppliers who have made it possible for us to enjoy our standard of living.

So my view, just to summarize, is that we should consider the President’s recommendations in a bipartisanship spirit. We should move along quickly with the hearings that I understand have been scheduled. And we should bring to
Vice President CHENEY's energy task force is on the 105 recommendations of the Energy recommendations offered by the administration. With oil consumption expected to grow by over six million barrels per day over the next 20 years, natural gas consumption to jump 50 percent and electricity demands to rise by 45 percent, we must act aggressively to increase production in each of these areas before the entire nation suffers from the shortfall. Just to meet expected electricity demands, for example, we must begin now to build between 3,200 and 1,900 new power plants over the next 20 years.

To address this reality, we should act now on the 105 recommendations of Vice President CHENEY's energy task force. This plan makes 45 recommendations to modernize and increase conservation through tax credits and the expansion of Energy Department conservation programs. It proposes 35 ways to diversify our energy supply and expand our infrastructure by encouraging new pipelines, generating plants and refineries, and streamlining our regulatory process. And this proposal strengthens America's national security by decreasing our dependence on foreign oil through increased energy production within our borders.

Some opponents to the President and Vice President rely on ad hominem attacks, misinformation, and demagoguery to cast aspersions on the administration's proposals. They claim that, because the President and Vice President were once connected to the oil business, they somehow are disqualified from energy discussions. On the contrary—these are people who actually know something firsthand about the problems in the energy industry. They do not benefit personally from efforts to increase energy production.

Opponents of this energy strategy applauded the recent imposition of price caps to the western states. However, price caps do nothing to increase energy supplies, and could very well discourage new generation power production by artificially limiting a producer's return on his or her investment. Indeed, California's two largest utilities are basically bankrupt as a result of artificial price caps on re-
tail electricity rates. I am particularly concerned about price caps because Arizona, unlike California, has moved aggressively to permit new power plants needed to satisfy the state's growing demand for electricity. FERC's recent imposition of price caps could result in delayed construction or cancellation of these new facilities.

Opponents also say that the President's proposal will not encourage conservation. As an Arizonan, I certainly support commonsense conservation efforts that help preserve our natural resources. But these opponents must not have read the President's plan, for he devotes the bulk of his recommendations to efforts to enhance conservation. Among many provisions, the administration credits to encourage use of more energy efficient products, such as hybrid or fuel-cell vehicles. It extends conservation programs in the Environmental Protection Agency and the Department of Energy, and increases funding for conservation technologies and orders federal agencies to reduce their energy usage by at least 10 percent. In total, the administration proposes $795 million for conservation programs as part of its overall budget allocation for the Department of Energy.

While these conservation efforts are important, we must also acknowledge that we cannot conserve our way out of an energy crisis. California has dramatically reduced its electricity use over the last two months, yet still faces the possibility of rolling blackouts. We must increase supply in the near-term or face even worse shortages than we have now.

Opponents also claim that we cannot meet our increased demand with renewable energy sources. We should support research into renewable energy technologies, such as hydrogen and fuel cells. Remember that, even so, non-hydro renewable energy produced only two percent of our energy supply last year and the Department of Energy reports that renewable energy will only produce, at most six percent of our energy supply by the year 2020. That isn't nearly enough to meet the growing demand for the next few decades and the costs are the lowest on record and continuing to fall. Nuclear energy use is neither a novel nor a risky concept; France receives 80 percent of all of its electricity from nuclear power.

There is a problem with disposal of nuclear waste, but it isn't so serious that the critics of nuclear power are concerned with finding an answer. They appear to be happy enough with current on-site storage. Obviously, other countries more 'green' than the U.S. have resolved the waste issue. The fact is that it's not a technology problem but a political problem.

Increased oil drilling has proven as controversial, yet it shouldn't be. Drilling in the Arctic National Wildlife Refuge, for example, is a commonsense and safe proposal to increase domestic oil production. It is also very limited in scope. Oil exploration would occur in only a small portion of ANWR, in an area one-fifth the size of Washington's Dulles Airport. Technological advances have reduced any supposed risks to the environment. Drilling pads are roughly 80 percent smaller than those a generation ago and advanced-bore drilling allows for access to supplies as far as six miles away from a single, compact drilling site.

Two concerns are raised: oil spills and harm to wildlife. The threat of spills is far greater from ocean-going tankers than from the Alaska pipeline. And the caribou have prospered since drilling began on Alaska's North Slope. This modest effort in ANWR would provide enormous benefits, producing as much as 600,000 barrels of oil a day for the next 40 years—exactly the amount we currently import from Iraq.

Moreover, oil drilling utilizes a smaller fraction of our environment than the alternative energy sources advocated by others. The Resource Development Council for Alaska reports that, to produce 50 megawatts of power, natural gas production uses two to five acres of land, solar energy consumes 1,000 acres, wind power uses 4,000 acres, and oil drilling—less than one-half of an acre. That is real conservation of our natural resources.
As it stands now, American consumers already depend on foreign and other domestic nations for more than half of our oil supply. In 20 years, that percentage will increase to 64 percent. Doesn't it make more sense to invest in domestic production so that we are not held hostage to the whims of OPEC and the need to militarily defend our interests in the major oil-producing regions?

In conclusion, I commend President Bush and Vice President Cheney for producing serious and honest proposals to enact a long-term energy strategy on behalf of American consumers. A worsening energy crisis requires all of us to act swiftly on these proposals before the situation becomes more widespread.

I urge our new Democratic leaders to take a proactive and serious role in finding a way to bring solutions to the floor of the Senate. As these leaders know from their days in the minority, it is much easier to find a way to accommodate the minority's requests than fight them. I hope the new leadership will act in a truly bipartisan way and consider the administration's ideas. We're all in this energy shortage together. Democrats should work with Republicans for the good of all Americans.

THE MIDDLE EAST

Mr. KYL. Madam President, I would like to change gears a little bit and talk about another subject that is very distressing. Throughout this break I would turn the television on to the evening news, and invariably there would be a story about yet more violence in the Middle East. It really got me thinking about the fundamental issue that I think a lot of Americans have ignored.

We wring our hands. We wish that there could be peace in the Middle East, and that they could put their differences behind them and live in harmony.

So we ask—and I see newspeople basically asking different versions of this question—why can't they just go back to the peace process? Of course, Secretary Powell urged both parties to agree to a cease-fire, which temporarily they did, yet every single day there has been a bombing or other terrorist attack or attempt in the State of Israel.

The Israeli people have said: Peace is a two-way street. If Yasser Arafat and the PLO are not willing to enforce the multiple cease-fire agreements and the peace process that we thought we had agreed to before, then we will have to enforce the law, and that includes going after those terrorists who threaten our people. No nation can do otherwise.

I rise to comment briefly on this notion of "returning to the peace process." The problem is that the 1993 Oslo accords, which were the genesis of this thing we call "the peace process," were perhaps less than flawed. That is now apparent to the Israeli people, despite significant differences. Talk about a robust democracy. It exists in Israel. You have very strongly held views by different citizens in Israel, and they fight it out. During their election process, they had a very robust election contest. Then they come together with a leader, and they hope to be unified as a people.

They had desperately wanted, to borrow someone else's familiar phrase, to give peace a chance. As a result, they tried to make the Oslo accords of 1993 work. What they found after Camp David, just about a year ago this month, was that the PLO was unwilling to make the kinds of commitments that would be necessary for a lasting peace in the region. The reason for that is a fundamental difference of approach.

For the Israelis, it has been a question of incremental concessions, primarily of land, of territory. But the PLO and other Arab or Muslim groups in the Middle East apparently never had any intention of providing the quid pro quo of peace. Instead, too much of their effort has been focused on the illegitimacy, in their view, of the Israeli State, of the fundamental disagreement with the action that the United Nations took after World War II to literally create a homeland for the Jewish people. Because that homeland was taken from territory which the Palestinians saw as their lands, they have never been willing to concede the legitimacy of the Israeli State.

At Camp David, after historic concessions were made by Prime Minister Barak, concessions which had to do with the most basic rights of the Israeli citizens—name their own capital and to have that capital an undivided city, Jerusalem; concessions with respect to over 90 percent of the West Bank land returned to the Palestinians; concessions made in removing its troops from Lebanon and a whole variety of other things—after all of those concessions had been made and there was an opportunity to seize the moment and make history, the PLO, said no, he wanted one more thing. He wanted the right of return of all of the Palestinians, maybe 2 to 4 million people, maybe more, who he claims were displaced in order to create the Jewish state. All of those people had to have the right to go back to their homes.

That, of course, was the ultimate deal breaker. No Israeli leader could ever agree to that concession. That meant the fuse was lit. The end of the Jewish state as it is. As a result, those accords of a year ago, that discussion at Camp David of a year ago, concluded with no agreement. It exposed the fundamental fallacy of the Oslo accords in the first instance.

Very briefly, there were the essential flaws of the Oslo accords. The first was that if the PLO was given this 30,000-man armed force, that could be used to suppress violence rather than to promote more agitation in the Middle East. The idea was that whereas a democratic society such as Israel had a hard time dealing with these terrorists, a firm dictatorial Yasser Arafat, with an armed 30,000-man armed force, could put down these terrorists and bring peace to the area. Of course, the force expanded significantly beyond that which had been agreed to and eventually it was used to promote violence, not to suppress it.

The second premise was that Israel could withdraw from the territory before it had been promised, without losing its bargaining power or military deterrence. It had worked the other way around with regard to Egypt. Egypt, in good faith with President Sadat, dealt with the Israeli leaders up front. Israel ceded land after the peace agreement was obtained. But peace was restored between Israel and Egypt as a result. That withdrawal of Israeli forces from Egyptian land prior to the peace ensuing was a true trade of land for peace. But under the Oslo accords, the situation was reversed. Israel was required to withdraw first and then negotiate. The result, of course, has been no credible peace.

The third premise is that peace could be made with the PLO. In Israel there had been a consensus all along among all of the parties, including Labor and Likud, that it was not possible to deal with the PLO because A, the Palestinian organization was philosophically committed to Israel's destruction. It is an enemy organization that has dealt with people in a peace process who are absolutely committed to your destruction.

Secondly, the PLO's previous negotiations had been based on terrorism as the means of achieving their objectives. No Israeli government had been willing to negotiate with an entity committed to its destruction through violence.

This peace process changed that. The Israeli leaders, in a leap of faith, said: Accept this PLO peace deal with the PLO, despite this historic background.

The process itself became the basis for this understanding. A new assumption was basically created. If you are in the process of negotiating, then the quality of the people on the other side really didn't matter. That is why the Israelis were willing to make this leap of faith. It almost became a secular religion. In this country people talked about the peace process almost as the goal itself rather than the means to an end.

It turns out that the nature of the leadership of the negotiating parties does matter. So do the actions on the
ground. The quality of the other people is fundamental to the success of the negotiations. The parties were never close to agreement. Rather, the question really is whether peace was ever achievable given the Palestinian objectives.

That is why I say the fundamental assumptions of the peace process, of the Oslo accords, were flawed. To the extent, none of the three premises turned out to be correct. They all turned out to be false. The Israeli people now understand that.

The question now is how to repair the damage that resulted from an adherence to this peace process where Israel gave up more and more and more and, in the end, got no peace. Ever since the Secretary of State and other officials before him went to the Middle East, there was been a bombing or an attempt every single day, an attempt of terrorism. There is no peace.

Hopefully, this helps to explain in brief form why it is not possible to simply return to the peace process as if there were some magic in that Oslo process. The Oslo process is dead. The reason it is dead is because it was premised on fundamental fallacies. That is why the Israeli people cannot go back to that flawed process.

We in the United States should not be critical of that decision on the part of the Israeli people. The Israeli people are not to blame for dealing now with a situation of violence and lawlessness and terror in as firm a way as they possibly can to protect their own citizens. No country could do otherwise. And for Americans to be so presumptuous as to lecture the Israelis about overreacting and urging them to return to a peace process which they now recognize was fundamentally flawed is the height of arrogance. We in the United States have to be much more understanding about the difficulties of achieving peace.

Fundamentally, Madam President, I think what we have to recognize is that as long as the leadership of the other side in this controversy—primarily the PLO—is not democratically based but is totalitarian, as long as there is not an involvement of all of the Palestinian people in the decisions on the other side, there will continue to be conflict.

The nature of the leadership on the other side matters, and it matters greatly. Until there is a democratically elected Palestinian Government, until the leaders are accountable to the people, whom I suspect want peace as much as anybody else in the region or in the world, then we are not likely to get the kind of peaceful resolution for which we all hope.

So what I hope right now is that the American people will be understanding of the position of the Israeli Government; that they will be supportive of this long-time ally, the nation of Israel; that they will recognize that there is no moral equivalence between acts of terror on the one hand and attempting to enforce the law on the other; that there will be support both in terms of military and economic support but also psychologically and not buy into this notion that there is repression on the part of the Israeli Government against the other Palestinians which is the cause of the problem.

This whole idea of moral equivalence is wrong. If we go back to the founding of the Jewish state by the United Nations and recognize what was attempted there and the moral legitimacy of the Israeli State, then I think Americans will more carefully calibrate their criticism of the Israeli Government and understand that it is going to take a long time; that hearts have to be broken in order to win peace; and probably the best opportunity is for democracy to take hold in the Arab States so that the leaders are accountable to the people because in the long run, most people really want peace. They want to live together; they want to engage in commerce together; and they do not want to continue to send their sons and daughters to die for causes that are whipped up by their leadership—to die unnecessarily.

That is why I urge my colleagues in the Senate today, the administration in Washington, and the American people generally, to learn to listen carefully and to recognize that the peace process was based upon flawed assumptions, and not to urge the Israelis to act in ways that would be inimical both to their own immediate self-interests in terms of safety and the long-term interests of peace. It is a difficult subject, one that we have to confront; and we have to stand by an ally and recognize the legitimacy of other Arab aspirations and Muslim aspirations in the Middle East, in which we have a great stake as well. As long as we fail to recognize the complexity of this situation and understand the processes that were urged for so long cannot be the basis for future peace negotiations, we are not going to be able to proceed in a constructive way.

I hope the American people, as a result of these comments and others, will have the administration re-examine the U.S. policy of supporting the appeasement of the PLO, which was the PLO that engaged in the intifada started in 1987 when the intifada started. The failure to stop it was a turning point for Rabin; it caused him to decide then to begin a peace process. He thought that if Israel couldn’t handle the intifada, maybe Arafat could. But soon the 30,000-man force became a 40,000-man force, and anti-tank weapons, shoulder-fired weapons and other prohibited arms found their way into the hands of the PLO. It was, in fact, the action of or-
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Israel was required to withdraw first and then negotiate. The result has been no credible peace.

This premise of Oslo had been based on the assumption that Israel was finally strong enough to be able to relinquish land while preserving its ability to deter violence. So Israel withdrew from the West Bank, except for a few military posts authorized in the Oslo agreement, and in May of 2000 also withdrew from southern Lebanon. Both actions appeared to the Arab terrorist organizations and the Palestinian Authority as a retreat from a successful campaign of violence. After the intifada, Israel withdrew from the West Bank. After the terrorism of Hezbollah, Israel withdrew from Lebanon. The PA understandably saw violence as a way to achieve its goals.

So the Bonn Process of Oslo—that Israel could withdraw first and achieve its peace objectives later—has also proven false. Arafat and the PA interpreted the withdrawals simply as a sign of weakness thus emboldening them to incite the violence that has continued unabated since Rosh Hashana.

The third, and central, premise of Oslo was that peace could be made with the PLO. In Israel, there was a consensus until 1993 among all parties, including Labor and Likud, that it was not possible to deal with the PLO. There were two reasons for this view: first, the PLO was philosophically committed to Israel's destruction; and, second, the PLO's negotiations had been historically based on terrorism. No previous Israeli government had been willing to negotiate with an entity committed to its destruction through violent means. But in 1993, Oslo created a new assumption: If you had a process—a process of negotiating—then the quality of people on the other side did not really matter. The process became almost like a secular religion. The process was the important thing, and so actions on the ground didn't matter. This notion had roots in Western dealings with leaders in countries like North Korea, Iraq, and the Soviet Union.

It turns out, though, that the nature of leadership does matter, and so do actions on the ground. The quality of people on the other side is fundamental to the success of negotiations. It is the people, not the process, that matters.

The fact is, the parties were never as close as many believed. The issue was never the desirability of peace, or what either the United States or Israel could do to bring it about. Rather, the question was whether peace was ever achievable given Palestinian objectives. Yet when Barak and Arafat were near negotiations, they both raised one more demand: that Israel must agree to the right of return, and admit more than a million Palestinians into Israel.

This notion is anathema to all Israelis. Even those on the left oppose the right of return because of its connection to the Jewish state. Israel could not survive the return of over a million Palestinians and continue to exist as a Jewish state. Barak made unprecedented concessions at Camp David. Even Leah Rabin wrote of the failure of the three Oslo concessions would cause her late husband to turn over in his grave. This move by Arafat was so shocking that virtually all Israelis lost confidence in the process. Barak lost all support. And a radical reassessment of realities set in.

Despite the disappointment at the failure of negotiations, the awakening of the Israeli people to the faulty premises and the reality of the failure of the Oslo Accords is a healthy development. The Oslo process had ended up doing severe damage to Israel's deterrent—its ability to match concessions with tangible peace.

The principal goal now should be to repair that damage. Amid all the Israeli concessions and gestures, it was assumed that there would be reciprocity on the part of the Palestinians. But the Arabs believed showing reciprocity would be a sign of weakness on their part. The evidence abounds. More Israelis were killed by terrorist acts after Oslo then in the decade before. The PLO did not fulfill the promises it made; for example, disarming the terrorists—in fact, releasing from prison some of the most dangerous Hamas terrorists—limiting its arms, and guaranteeing peace.

Moreover, and perhaps even more disturbing for the long run, the Palestinian authority created schools with a curriculum of brainwashing their children in hatred and violence. A shocked New York Times reporter last summer wrote of the creation of summer camps that even taught assassination. Former Prime Minister Benjamin Netanyahu paints the picture of posters throughout Palestinian communities showing a menacing Israeli soldier, armed to the teeth, towering over a pitiful looking Arab youngster who holds only one thing. Do you know what it is? A key. And every Arab child knows what it is. The Key to an Arab home in Jaffa, or Haifa, or any other Arab community of pre-1967 Palestine. So much for the view that the parties were "just this close." All of this has caused a reassessment of the realities, and, as I said, that is a healthy development at this point.

One must view the situation today clear eyed and in strategic terms. It is a situation of more than just military or economic power. For Israel it is quite simply a question of morale. It makes the problem right now a way of saying that it lacks either economic or military power, but rather that its people have been following a conceptual and intellectual approach to achieving peace which has turned out to be false. The result has been confusion, frustration, and a problem of morale that can only be dealt with by reevaluation of the conceptual and intellectual approach to achieving peace. The people were sold on a "process," and now find that the presumptions underlying that process were illusions. Their disillusionment has set them adrift because they see they have lost territory and credibility that would never have been lost by military force.

The Camp David concessions are especially galling now that there is a recognition that they were based upon false premises, a quid pro quo that was never to be reciprocated by the Palestinians. It makes the last several years seem very lost indeed. So the Israelis are revising their thinking.

Those of us who have cared about the security of Israel and have watched the process over the years, viewed it with great anxiety because we worried it might have resulted in irreversible losses. And yet, with the last election, we see the Israeli people rethinking the premises of Oslo and charting a course to achieve lasting peace. That Ariel Sharon, with all his political baggage, won so overwhelmingly suggests that the Israeli people are prepared to do what it takes to defend their state and to survive. Like England fighting back from its unpreparedness in the 30's and the United States after its military decline of the 1970's, Israel seems to have said, "This far and no more," and begun to rethink its approach to achieving peace and security. Countries seem to be doing better than their failed leaders, and we can hope that the Israelis are on their way back with a more realistic and sober view of what will be required for their long-term security—what kind of approach will provide real, lasting peace.

It is recognized that peace is not available now, but that it can become available in the future. The key to peace is a more democratic and much less corrupt leadership. The idea that moderate Palestinians, but they are not politically relevant right now. The Palestinians have been cursed with leaders who have always seemed to be wrong for the times. In World War I, Palestinian leaders sided with Turks against the British; in World War II, with the Nazis against the allies; in the Cold War, with the Soviets against the West; and in the Persian Gulf War, with Saddam against the coalition of allies.

Given his long record as an ideologue, a terrorist, a breaker of promises and fount of untruth, it should not
really surprise anyone that Arafat remains what he has always been. As Charles Krauthammer recently noted in The New York Times, "Arafat can be doing more to have their own opportunity. It has to manage numbers sometimes, for instance, if they become too large around Christmas vacation."

They can make changes, but they have not done that. They have an opportunity, and we have an opportunity to have much cleaner machines, which are less noisy and which are less polluting. The manufacturers have indicated they can and will do this. Of course, they need some assurance from EPA that having done it, they will be able to use these machines. But none of these things have happened. Instead, because of the difficulties that are, in fact, there and without management, agreement, and practiced moderation and compromise at home and abroad."

This would, of course, be a boon not only for the Israelis, but for the Palestinians—indeed especially for the Palestinians. For over fifty years, the United States and Israel have been bound together in a relationship that has weathered many efforts to drive a wedge between us. With the coincident election of a new leader in each country, our two great nations have an opportunity to reassess the lessons recent history has to teach us. For my part, I am optimistic that the new American administration will place a great value on our relationship with the Israeli people; and I am optimistic that the Israelis will maintain the strength and morale that they will need to await a change in Palestinian leadership. At that point there will be much more the Israelis can do to secure their future.

The United States should not push Israel into a process or into an agreement with which the government and people of Israel are not completely comfortable, with their security ensured. It is their existence that is at stake, and we must take no actions that jeopardize their security.

My colleague from Wyoming would like to use the remainder of our time. The PRESIDENT pro tempore of the Senate from Wyoming is recognized.

ENERGY

Mr. THOMAS. Madam President, I know it is now summer, but I will now talk about snow machines in the Yellowstone Park in the wintertime. It is a question that has become quite political, as a matter of fact. There have been letters sent to the Department of the Interior from the Senate on both sides.

For a number of years, in Grand Teton, in Yellowstone Park, and many of the other parks, the principal access people have had in the wintertime to enjoy their park was with snow machines. This has been a long time, really. Frankly, there hasn't been much management of that technique, unfortunately. The park officials have not had much to do with it. They have not sought to organize how and where it is done, separate the snow machines from the cross-country skiing, which can be done even more.

The real cause of the problem is still there. I am surprised, frankly, that the Senate leadership hasn't been willing to give us a chance to undertake this question of energy and energy supply. We have gone now 8, 10 years without a policy regarding energy, not having any real direction with regard to what we are going to do. We have become 60-percent dependent on OPEC and overseas oil. We haven't developed refineries, new transmission lines, or pipelines in order to move energy from where it is to where it is needed, and still our leadership here refuses to move forward.

I think we will again be facing the same kind of situation we just had if we don't move to find a long-term resolution, and we can.

We now have a policy from the administration, one that deals with domestic production. There is access to public lands, much of it standing in Alaska or in many places that could indeed have production without damage to the environment. We can do that.

We can talk about conservation. We can talk about renewables. We have to have a policy to cause us to do some of these things.

The transportation is vitally important. In Wyoming, we have great supplies of coal, for example. In order to mine and move that energy to where the market is, you have to have some transmission. There are a number of ways to do that, and we can if we decide to and commit ourselves to do it.

Research, clean coal: Our coal in Wyoming is clean, and it can be cleaner if we have research to do that.

Diversity: We can't expect to have only one source of supply for all the energy we use. We are heavy energy users, and we are willing to make many changes to that.

I am grateful for the comments of my friend, and I hope we can get the leadership here to set the agenda to move toward doing something there.

USING SNOW MACHINES IN YELLOWSTONE PARK

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They have not sought to organize how and where it is done, separate the snow machines from the cross-country skiing, which can be done even more.
They are now in the park as inholdings and therefore cannot be managed by the park but cannot be used for anything else. Therefore, we have two losers: One is the park which has these inholdings it cannot handle; second is the school sections are to finance education, and they are not bringing in revenue to the State of Wyoming.

To make a long story short, I have a bill I hope will be before the committee soon to allow the Secretary of the Interior and the State of Wyoming to come to some agreement in finding a value for those lands by using an appraiser upon which they agree and then work out an arrangement to either trade those lands for other Federal lands outside the park, trade them for mineral royalties, or sell but come to some financial arrangement.

I hope is getting some support for something that will be useful to Grand Teton National Park as well as the State of Wyoming.

I think our time has expired. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

SUPPLEMENTAL APPROPRIATIONS ACT, 2001

The PRESIDING OFFICER (Mr. KYL). Under the previous order, the Senate will now proceed to the consideration of S. 1077, which the clerk will report.

The senior assistant bill clerk read as follows:

A bill (S. 1077) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The assistant legislative clerk pro-

ceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, today, the Senate is debating S. 1077, the Supplemental Appropriations Act for Fiscal Year 2001.

On June 1, 2001, President Bush asked Congress to consider a supplemental request for $6.5 billion, primarily for the Department of Defense. The draft supplemental bill that is before us totals $6.5 billion, not one dime above the President’s request—not one thin dime above the President’s request. It contains no emergency funding. The President has said that he will not support such emergency spending, so the Committee has not included any emergency designations in this bill. Unrequested items in the bill are offset.

S. 1077 funds the President’s request for additional defense spending for health care, for military pay and benefits, for weapons production, for national gas and other utilities, for increased military flying hours, and for other purposes. The bill includes a net increase of $3.54 billion for the Department of Defense and $291 million for defense-related programs of the Department of Energy.

While the Appropriations Committee has approved most of the President’s request for the Department of Defense, I stress the importance of accountability for these and future funds. Financial accountability remains one of the weakest links in the Defense Department’s budget process. Just last month, the General Accounting Office reported that, of $1.1 billion earmarked for military avionics in the fiscal year 1999 supplemental, only about $88 million could be tracked to the purchase of spare parts. The remaining $1 billion, or 92 percent of the appropriation, was transferred to operations and maintenance accounts. Where is the tracking process broke down?

Perhaps a substantial portion of the money appropriated for spare parts was spent on spare parts; perhaps it was not. But, given the way the money was managed, nobody knows for sure and that, it seems to me, is an unacceptable circumstance, because one thing we do know for sure is that an adequate inventory of spare parts is a key component of readiness and the Defense Department apparently does not have an adequate inventory of spare parts. So we must do better in making sure these dollars for spare parts go for spare parts.

The supplemental funding bill before us today included $90 million for spare parts, this time specifically for the Army. As former President Reagan would have said, here we go again. To forestall a repeat of the problems that arose in accounting for spare parts expenditures provided in the fiscal year 1999 supplemental, the Committee, at my request, approved report language requiring the Secretary of Defense to follow the money and to provide Congress with a complete accounting of all supplemental funds appropriated for spare parts. The intent of this provision is to ensure that money appropriated by Congress for the purchase of spare parts does not get shifted into any other program.

The supplemental appropriations bill before us includes $90 million for defense-related programs as well. The intent of this provision is to ensure that those dollars for defense-related purposes are spent in the manner for which they were intended.

To be clear, the money for the purchase of spare parts is to be spent in the manner for which it was requested by the Defense Department. There is another reason to insist on offsets for any additional spending. As the Senate budgeted for any additional spending. The tax-cut bill reduced the surplus by $17 billion. The tax-cut bill reduced the surplus by $17 billion.

Any efforts to increase spending in this bill without offsets will only make this problem worse.

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indicated in its Statement of Administration Policy of June 19, 2001, that the President does not intend to designate the $473 million of emergency spending contained in the House-passed bill as emergency spending.

The administration further states that, "emergency supplemental appropriations should be limited to extremely rare events." The Senate supplemental bill contains no emergency designations. Nonetheless, I do believe that it is appropriate for Congress and the President to use the emergency authority from time to time in response to natural disasters and other truly unforeseen events in the nature of disasters.

As I mentioned earlier, this supplemental appropriations bill provides immediate relief through the Low-Income Home Energy Assistance, LIHEAP, for American families being hit hard by this energy crisis. Moreover, it includes funding to help educate our most needy students through the Education for the Disadvantaged Program. To help offset the cost of these two supplemenals, a rescission of unallocated dislocated worker funds under the Workforce Investment Act was also included in the committee bill.

The States have accumulated a large, unexpended balance of dislocated worker funds due to start-up delays with the Workforce Investment Act of 1998. These funds are estimated to exceed $600 million for the program year that ended on June 30, 2001. Although the rescission of dislocated worker funds will reduce the Fiscal Year 2001 appropriation from $1.59 billion to $1.37 billion, the Labor Department projects that the carryover funds from the previous program year will more than offset the rescinded funding, including carryover balances, will actually increase by $423 million in program year 2001, or 25 percent above the level for program year 2000.

Furthermore, report language was included in the supplemental appropriations bill expressing the Senate Appropriations Committee’s support for the Workforce Investment Act, the dislocated worker program, and the committee’s intent to carefully monitor the implementation and services. Should it be determined that additional funds are needed, the Appropriations Committee will do all it can to ensure that sufficient funds are included in the Fiscal Year 2002 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations bill.

Pursuant to the unanimous consent agreement, Senator STEVENS and I will be offering a managers’ amendment that contains a number of amendments that have been agreed to by both sides. One of the items in the managers’ amendment is an amendment of mine to provide $3 million to hire additional USDA inspectors to provide the proper treatment of livestock. Another item would provide $20 million to help farms that are located in the central valley of California. The cost of these and other provisions contained in the managers’ amendment is fully offset.

I have noted in the press recently some stories that greatly concern me. I believe the American people are concerned and are becoming increasingly sensitive to the treatment of animals. Reports of cruelty to animals through improper livestock production and slaughter practices have hit a nerve with the American people. The recent announcements by major food outlets, such as McDonalds, that they would only buy products from suppliers that could assure certain levels of humane animal treatment speak volumes to changing public opinion.

The managers’ amendment will provide an additional $3 million through the USDA Office of the Secretary for activities across three department mission areas to protect and promote humane treatment of animals. Of the $3 million provided, no less than $1 million is directed to enforcement of the Animal Welfare Act, under which standards for livestock production, laboratory animals, and so-called puppy mills are established. In addition, no less than $1 million is directed for activities under the Federal Meat Inspections Act, which will enhance humane treatment in the slaughter of animals in facilities under the jurisdiction of Federal inspection. Finally, an amount up to $500,000 is directed for the development and demonstration of technologies that can be used by producers, processors, and others to provide better care of animals at all stages of their lives.

Mr. President, I shall, in conclusion, ask unanimous consent—but not right at this point—that certain newspaper articles which have been written with respect to the slaughter of animals, and the inhumane slaughter of animals, be printed in the Record at the conclusion of my remarks.

This bill responds to the President’s supplemental request for necessary defense spending, and it also provides funding for important domestic priorities. It is consistent with the one thin-ly, much-worn dime—over the President’s request. It is within the statutory spending limits. It is a responsible bill, and I urge Members to support it.

Before yielding the floor, let me express my thanks to the distinguished senior Senator from Alaska, Mr. STEVENS, who is the ranking member on the Appropriations Committee in the Senate. He is the former chairman of the committee with whom I had the privilege of working for several years in that position. And I believe it is a blessing, indeed, for me, as I stand on this floor today to present this bill, to also be able to say that Senator STEVENS and I stood shoulder to shoulder, and we shall continue to work shoulder to shoulder, as we moved forward with this bill.

I cannot adequately express my appreciation to him and to his staff and to my own staff for the great work and the excellent cooperation that have been shown in connection with the preparation and presentation of this bill.

I yield the floor.

The PRESIDENT. Does the Senator make his unanimous consent request at this time?

MR. BYRD. I do make that unanimous consent request.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Apr. 10, 2001]

TWO PIECES OF PORK

IN OVERTAXED PLANTS, HUMANE TREATMENT OF CATTLE IS OFTEN A BATTLE LOST

(By Joby Warrick)

PASCO, WASH.—It takes 25 minutes to turn a live steer into steak at the modern slaughterhouse where Ramon Moreno works. For 20 years, his post was "second-legger," a job that entails cutting hocks off carcasses as they whirl past at a rate of 269 an hour. The cattle were supposed to be dead before they got to Moreno. But too often they weren’t.

"They blink. They make noises," he said softly. "The head moves, the eyes are wide and looking around."

Still Moreno would cut. On bad days, he says, dozens of animals reached his station alive and conscious. Some would survive as far as the tail cutter, the belly ripper, the hide puller. "They die," said Moreno, "piece by piece."

Under a 25-year-old federal law, slaughtered cattle and hogs first must be "stunned"—rendered insensible to pain—before being sold for human consumption. But at overtaxed plants, the law is sometimes broken, with cruel consequences for animals as well as workers. Enforcement reports, interviews, videos and worker affidavits describe repeated violations of the Humane Slaughter Act at dozens of slaughterhouses, ranging from the smallest, custom butchers to modern, automated establishments such as the sprawling IBP Inc. plant here where Moreno works.

"In plants all over the United States, this happens on a daily basis," said Lester Friedlander, a veterinarian and formerly chief government inspector at a Pennsylvania hamburger plant. "I’ve seen it happen. And I’ve talked to the veterinarians. They feel it’s out of control."

The U.S. Department of Agriculture oversees the treatment of animals in meat plants, but enforcement of the law varies dramatically. While a few plants have been forced to halt production for a few hours because of alleged animal cruelty, such sanctions are rare.

For example, the government took no action against a Texas beef company that was cited 22 times in 1998 for violations that included chopping hocks off alive cattle. In another case, agency supervisors failed to take action on multiple complaints of animal cruelty at a Florida beef plant and fired an animal health technician, who refused to let new animals inside to correct the problems to the Humane Society. The dismissal letter sent to the technician, Tim Walker,
said his disclosure had been "irreparably damaged" the agency's relations with the packing plants.

"I complained to everyone—I said, 'Look, they're skinning live cows in there.'" Walker said. "Always it was the same answer: 'We know it's true. But there's nothing we can do about it.'"

In the past three years, a new meat inspection system that shifted responsibility to industry has made it harder to catch and report cruelty problems, several federal inspectors say. Under the new system, implemented in 1998, the agency no longer tracks the number of humane-slaughter violations its inspectors find each year.

Some inspectors are so frustrated they're asking outsiders for help: The inspectors' union last spring urged Washington state authorities to crack down on alleged animal abuse at the IBP plant in Pasco. In a statement, IBP said problems described by workers in its Washington state plant "do not accurately represent the way we operate our plants. We take the issue of proper livestock handling very seriously."

But the union complained that new government policies and faster production speeds at the plant had "significantly hampered our ability to ensure compliance." Several animal welfare groups joined in the petition.

"Privatization of meat inspection has meant a real decline in the ability to catch and report violations of humane slaughter," said Gail Eisnitz of the Humane Farming Association, a group that advocates better treatment of animals. "USDA isn't simply relinquishing its humane-slaughter oversight to the meat industry, but is—without the knowledge and consent of Congress—abandoning it altogether."

The USDA's Food Safety Inspection Service, which is responsible for meat inspection, says it has not relaxed its oversight. In January, the agency ordered a review of 100 slaughterhouses. An FSIS memo reminded its 7,600 inspectors they had an "obligation to ensure compliance with humane-handling regulations." The review comes as pressure grows on both industry and regulators to improve conditions for the 155 million cattle, hogs, horses and sheep slaughtered each year in the U.S. McDonald's and Burger King have been subject to boycotts by animal rights groups protesting mistreatment of livestock.

As a result, two years ago McDonald's began requiring suppliers to abide by the American Meat Institute's Good Management Practices for Animal Handling and Stunna. The company also began conducting annual audits of meat plants. Last week, Burger King announced it would require suppliers to follow the meat institute's standards.

"Burger King Corp. takes the issues of food safety and animal welfare very seriously, and we expect our suppliers to comply," the company said in a statement.

Industry groups acknowledge that sloppy killing has tangible consequences for consumers as well as company profits. Fear and pain can cause animals to lose weight, damage meat and cost companies tens of millions of dollars a year in discarded product, according to industry estimates.

Industries also recognize an ethical imperative to treat animals with compassion. Science is blurring the distinction between the mental processes of humans and lower animals—animals, for example, that even the lowly rat may dream. Americans thus are becoming more sensitive to the suffering of food animals, even as they consume increasing amounts of meat. "Handling animals humanely," said American Meat Institute president J. Patrick Boyle, "is just the right thing to do."

Clearly, not all plants have gotten the message.

A Post computer analysis of government enforcement records found 527 violations of humane-handling regulations from 1996 to 1997, the last years for which complete records were available. The offenses range from overcrowded stockyards to incidents in which live animals were cut, skinned or scalced.

Through the Freedom of Information Act, The Post obtained enforcement documents from 28 plants that had high numbers of offenses or had drawn penalties for violating humane-handling laws. The Post also interviewed dozens of current and former federal meat inspectors and slaughterhouse workers. A reporter reviewed affidavits and secret video recordings made inside two plants.

Among the findings:

One Texas supreme Beef Packers in Ladonia, had 22 violations in six months. During one inspection, federal officials found nine live cattle dangling from an overhead rail with a stun gun jammed in its head, a violation which announced last fall it was ceasing operations, resisted USDA warnings, saying its practices were no different than others in the industry. The plant apparently followed the regulations.

A reporter reviewed affidavits and secret video recordings made inside two plants.

At an Excel Corp. beef plant in Fort Morgan, Colo., production was halted for a day in 1998 after workers allegedly cut off the leg of a live cow whose limbs had become wedged in a piece of machinery. In imposing the sanction, U.S. inspectors cited a string of violations in the previous two years, including the cutting and skinning of live cattle.

Hogs, unlike cattle, are dunked in tanks of hot water after they are stunned to soften the hides for skinning. As a result, a booted worker wearing a chemical spray to be skinning and scaling and drowns. Secret videotape from an Iowa pork plant shows hogs squealing and kicking as they are being lowered into the water.

At IBP's Pasco complex, the making of the American hamburger starts in a noisy, blood-splattered chamber shielded from view by a stainless steel wall. Here, live cattle emerge from a narrow chute to be dispatched in a process known as "knocking" or "stunning." On most days the chamber is manned by a pair of Mexican immigrants who speak little English and earn about $9 an hour for killing up to 2,000 head per shift.

The tool of choice is a captive-bolt gun, which uses a retractable metal rod into the steer's forehead. An effective stunning requires a precision shot, which workers must deliver hundreds of times daily to balky, fast-moving animals that weigh 1,000 pounds or more. Within 12 seconds of entering the chamber, the fallen steer is

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shackled to a moving chain to be bled and butchered. Other workers in a fast-moving production line.

The hitch, IBP workers say, is that some “stunned” cattle wake up.

“If you put a knife into the cow, it’s going to make a noise. It says, ‘Moo!’” said Moreno, the former second-legger, who began working in the stockyard last year. “They move the head and the eyes and the leg like the cow wants to walk.”

After a blow to the head, an unconscious animal may kick or twitch by reflex. But a video reviewed last spring by IBP workers and reviewed by veterinarians for The Post, depicts cattle that clearly are alive and conscious after being stunned.

Some cattle, dangling by a leg from the plant’s overhead chain, twist and arch their backs as though trying to right themselves. Close-ups show blinking reflexes, an unmistakable sign of a conscious brain, according to guidelines approved by the American Meat Institute.

The video, parts of which were aired by Seattle’s KING last spring, shows injured cattle being trampled. In one graphic scene, workers give a steer electric shocks by jamming a battery-powered prod into its mouth.

More than 20 workers signed affidavits alleging that the violations shown on tape are commonplace and that supervisors are aware of them. The sworn statements and videos were prepared with help from the Humane Society of the United States. Some workers had taken part in a 1999 strike over what they said were excessive plant production speeds.

“I’ve seen thousands and thousands of cows go through the slaughter process alive,” IBP veteran Fuentes, the worker who was injured while working on live cattle, said in an affidavit.

“The cows can get seven minutes down the line and still be alive. I’ve been in the side-puller where they’re still alive. All the hide is stripped out down the neck there.”

IBP, the nation’s top beef processor, denounced as an “appalling aberration” the problems caught on the tape. It suggested the events may have been staged by “activists trying to raise money and promote their agenda.”

“Like many other people, we were very upset over the hidden camera video,” the company said. “We do not in any way condone some of the livestock handling that was shown.”

After the video surfaced, IBP increased worker training and installed cameras in the slaughter area. The company also questioned workers and offered a reward for information leading to identification of those responsible for the video. One worker said IBP pressured him to sign a statement denying that he had seen live cattle on the line.

“I knew that what I wrote wasn’t true,” said the worker, who did not want to be identified for fear of losing his job. “Cows still go alive every day. When cows go alive, it’s because they don’t give me time to kill them.”

Independent assessments of the workers’ claims have been inconclusive. Washington State Agriculture Department personnel launched a probe in May that included an unannounced plant inspection. The investigators say they were detained outside the facility for an hour while their identification was checked.

Grandin reviewed parts of the workers’ affidavits and said there was no mistaking what she saw.

“There were fully alive beef on that tail,” Grandin scolded.

INCONSISTENT ENFORCEMENT

Preventing this kind of suffering is officially a top priority for the USDA’s Food Safety Inspection Service. By law, a humane-slaughter designation is among a handful of offenses that can result in an immediate halt in production—and cost a meatpacker hundreds or even thousands of dollars per idle minute.

In reality, many inspectors describe humane slaughter as a blind spot: Inspectors’ regular duties rarely take them to the chambers where stunning occurs. Inconsistencies in enforcement, training and record-keeping hamper the agency’s ability to identify problems.

The meat inspectors’ union, in its petition last spring to Washington state’s attorney general, contended that federal agents are “often prevented from carrying out” the law’s humane provisions. Mandated by federal rule, among the obstacles inspectors face are “dramatic increases in production speeds, lack of support from supervisors in plants and district offices . . . new plant configurations . . . which significantly reduce our enforcement authority, and little to no access to the areas of the plants where animals are killed,” stated the union’s petition to the National Joint Council of Food Inspection Locals.

Barbara Masters, the agency’s director of slaughter operations, told meat industry executives in February she didn’t know if the number of violations was up or down, thought she believed most plants were complying with the law. “We encourage the district offices to monitor trends,” she said.

“The fact that we haven’t heard anything suggests there are no trends.”

But some inspectors see little evidence the agency is interested in hearing about problems. Under the new inspection system, the USDA stopped tracking the number of violations and dropped all mention of humane slaughter from its list of rotating tasks for inspectors.

The agency says it expects its watchdogs to enforce the law anyway. Many inspectors still do, though some occasionally wonder if it’s worth the trouble.

“It always starts an argument: Instead of re-stunning the animal, you spend 20 minutes just talking about it,” said Colorado meat inspector Gary Dahl, sharing his private views. “Yes, the animal will be dead in a few minutes anyway. But why not let him die with dignity?”

(From the Washington Post, Apr. 10, 2001)

BIG MAC’S BIG VOICE IN MEAT PLANTS

By Joby Warrick

KANSAS CITY, Mo.—Never mind the bad old days, when slaughterhouses were dark places called by the world’s No. 1 hamburger vendor is concerned, Happy Meals start with happy cows.

That was the message delivered in February by a coterie of McDonald’s consultants to a group of 140 managers who oversee the slaughter of most of the cattle and pigs Americans will consume this year. From now on, according to the company, suppliers will be judged not only on how cleanly they slaughter animals, but also on how well they manage the small details in the final minutes.

“Cows like indirect lighting,” explained Temple Grandin, an animal science assistant professor at Colorado State University and McDonald’s lead counsel on animal welfare. “Bright lights are a distraction.”

And only indoor voices, please.

“We’ve got to get rid of the yelling and screaming coming out of people’s mouths,” Grandin scolded.

So much attention on atmosphere may seem misplaced, given that the beneficiaries are seconds away from death. But McDonald’s, like much of the meat industry, is serious when it comes to convincing the public of its compassion for the cows, chickens and pigs that account for the bulk of its menu.

Bleeding in past scrapes with animal rights groups, McDonald’s has been positioning itself in recent years as an ardent defender of farm animals. It announced last year it would no longer buy eggs from companies that permit the controversial practice of withholding food and water from hens to speed up egg production.

Now the company’s headfirst plunge into slaughter policing is revolutionizing the way sizeable segments of the country look to a wide range of industry experts and observers.

“In this business, you have a pre-McDonald’s era and a post-McDonald’s era,” said Grant, the worker who has studied animal-handling practices for more than 20 years. “The difference is measured in light-years.”

Others also have contributed to the improvement, including the American Meat Institute, which is drawing ever-larger crowds to its annual “humane-handling” seminars, such as one in Kansas City. The AMI, working with Grandin, issued industry-wide guidelines in 1997 that spell out proper treatment of cows and pigs, and a calm and orderly delivery to the stockyard to a quick and painless end on the killing floor.

But the driving force for change is McDonald’s, which decided in 1998 to conduct annual inspections at every plant that puts the beef into Big Macs. The chain’s observers observe how animals are treated at each stage of the process, keeping track of even minor problems such as excessive squealing or the overuse of cattle prods.

The members of McDonald’s audit team say their job is made easier by scientific evidence that shows tangible economic benefits when animals are treated well. Meat from abused or frightened animals is often discolored and soft, and it spoils more quickly due to bacterial growth, according to the final moments of life, industry experts say.

“Humane handling results in better finished products,” AMI President Patrick Boyle said. “It also creates a safer workplace, because there’s a potential for worker injuries when animals are mishandled.”

Not everyone is convinced that slaughter practices have improved as much as McDonald’s surveys suggest. Gail Eisman, investigator for the Humane Farming Association, notes that until just a few months ago, all McDonald’s inspections were announced in advance.

“The industry’s self-inspections are meaningless,” Eisman said. “They’re designed to lull Americans into a false sense of security about what goes on inside slaughterhouses.”

But Jeff Rau, an animal scientist who attended the Kansas City seminar on behalf of the Humane Society of the United States, saw the increased attention to animal welfare as a hopeful step.

“The industry has recognized it has some work to do,” Rau said. “The next step is to convince consumers to be aware of what is happening to their food before it gets to the tables.”

Starting this year, according to McDonald’s, their food dollars can carry some weight in persuading companies to improve.”
EULOGY OF THE DOG
(By George G. Vest)

WARRENSBURG, MO, Sept. 23, 1870—Gentlemen of the Senate: I stand here to say that a man has in the world may turn against him and become his enemy. His son or daughter whom he has reared with loving care may prove ungrateful. The man may lose all that has been nearest and dearest to him, perhaps when he needs it most. A man's reputation may be sacrificed in a moment of ill-considered action. The people who are prone to fall on their knees to do us honor when success is with us may be the first to throw the stone of malice when failure settles its cloud upon our heads. The one absolutely unselfish friend that a man can have in this selfish world, the one that never deserts him, the one that never proves ungrateful or treacherous is the dog.

Gentlemen of the jury, a man's dog stands by him in prosperity and in poverty, in health and in sickness. He will sleep on the cold ground when the wintry winds blow and the snow drives fiercely, if only he can be near his master's side. He will kiss the hand that has no food to offer, he will lick the wounds that come in encounter with the roughness of the world. He guards the sleep of his pauper master as if he were a prince.

When all other friends desert, he remains. When riches take wings and reputation falls to pieces, he is as constant in his love as the sun in its journey through the heavens. If fortune drives the master forth an outcast against danger, to fight against his enemies. His son or daughter whom he has reared with loving care may prove ungrateful; his enemy. His dog asks no higher privilege than the friendship of a man.

Mr. BYRD. Mr. President, after Senator STEVENS presents his statement, if necessary.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I join the chairman of the Appropriations Committee in presenting this bill, S. 1077, to the Senate today. It provides necessary supplemental funds for the remainder of fiscal year 2001.

Let me start off by thanking Senator BYRD for his comments. It is a pleasure, once more, to present a supplemental bill to the Senate together with my great friend from West Virginia. He is chairman now. I was chairman last year. I can tell the Senate, it makes us as far as I am concerned. We work together. We may have slight disagreements from time to time, but we work those out before coming to this Chamber. I commend him for the way he is now proceeding—as rapidly as possible—to catch up on the schedule of the appropriations bills so we can complete and report them all by the end of this fiscal year.

As stated by Senator BYRD, this bill, as reported by our committee, conforms to the budget resources available for this year in both budget authority and outlays. The bill also matches the total request submitted by President Bush of $6.5 billion.

The bill does not present any emergency appropriations. All spending is within the budget caps set by Congress and within the President's request.

I commend the chairman for reporting this bill out of the committee just 1 day after the House passed the companion measure, H.R. 2216. Our committee had only 2 weeks to consider the President's request, and House adjustments, and sent this bill forward with a unanimous vote in the committee. That is a great compliment to Senator BYRD as the chairman of the committee.

I am pleased to join him in recommending the bill to the Senate. I urge all Members to support the bill and to adhere to the tight spending limits that have been adhered to by the committee itself. Nearly 90 percent of the funding provided in this bill addresses the ongoing needs of the Department of Defense.

I join also in commending the senior Senator from Hawaii, Mr. INOUYE, the chairman of the Defense Subcommittee, for his determination to meet the readiness, quality of life, and health care needs of the men and women who serve in our Nation's Armed Forces.

In addition to the amounts requested by the President and provided in the bill for the direct care system for military medicine, additional funds are also proposed for Army real property maintenance and spare parts advocated by General Shinseki, the Army Chief of Staff. Funds are also provided for Navy ship depot maintenance and engagement initiatives for the commander in chief of the U.S. Pacific Command.

Based on extensive hearings by the Defense Subcommittee and numerous discussions with the Secretary of Defense, these amounts are adequate to meet the military's needs through the end of this fiscal year.

This bill is no substitute for the significant increase in defense funds that have been sought by the President in his budget amendment. He has sought an additional $18.4 billion over the original request for fiscal year 2002. We are looking here only at amounts needed through September 30 of this year, 2001. Just 33 days from now, we will see the end of this fiscal year.

Amendments may be offered that would provide additional funds for this year—for 2001. I urge my colleagues to withhold such amendments. We have adequately discussed the needs with the Department, and we believe there are no additional funds that could be spent within this fiscal year of 2001.

We will have an opportunity to assess the needs of the Department through the Defense authorization and appropriations bills for 2002 they real year that we will address starting on October 1 of this year. We cannot address all those needs here. We do not need to deal with the 2002 requests in a 2001 supplemental appropriations bill.

I join my colleagues in their belief that we need additional resources for our national defense. I shall do my best to support the request of the President, and all other funding that we might be able to achieve, to really deal with the Department of Defense needs.

The underfunding of the past cannot be corrected in one supplemental bill. The new Secretary and the President of the United States have asked for our support while they establish priorities and determine the most vital needs for our Armed Forces. We have had significant changes in our military strategy, and we should accord the President of the United States and the Secretary of Defense the courtesy they have requested and wait for their report.

We need to move this bill out of the Senate today. I join Senator BYRD in committing to hold this bill to the level set by the committee and by the President for this fiscal year.

We need to get the military the money they need by getting this bill to conference and out of conference this week so that they will have these funds available for the remainder of this year. I also commit to working with my colleagues to secure the funding later this month, and in September, for fiscal year 2002 and future years.

In addition to the military requirements, there are several pressing disaster relief challenges that face our National Government. Through several conversations with the Director of the Federal Emergency Management Agency, Joe Allbaugh, I am anxious about the level of FEMA disaster relief funding available for the rest of this calendar year.

So far, no further supplemental request has been received from the Office of Management and Budget for this fiscal year. It is my hope that additional information will be available to the conferees on this bill later this week.

Challenges from tropical storm Allison, ice storms in the Southeast, and other disasters continue to stress our National Government. Through several discussions with the Director of the Federal Emergency Management Agency, Joe Allbaugh, I am anxious about the level of FEMA disaster relief funding available for the rest of this calendar year.
With no budget constraints, I could support additional funding for the Department of Defense, for FEMA, for LIHRAp, and several other priorities sought by many of our colleagues.

We were asked by the President to limit funding in this bill to such amounts as could be spent during the remainder of this fiscal year. That is a reasonable request. We were also asked to live within the moneys available under the funding caps set by the Congress. We have already voted on that this year, and we feel constrained by those limits.

We were asked to break the cycle of ‘emergency’ appropriations as simply a tool to get around budget limits. We do not support those actions, and the executive branch in the past has required emergency appropriations each year. We hope we will not have to pursue that policy in the future.

This bill meets the demands of the Congress and the President of the United States for budget constraints. We hope we can go to conference this week with the House. If the Senate passes this bill, as we hope, early tomorrow morning, that will take place.

I implore all Senators to work with us today to complete this bill so the funds can get to the Armed Forces by the end of this week.

We have been in sort of a vicious cycle in recent years whereby the Chairman of the Joint Chiefs and the Chiefs themselves have had to determine how much they could spend in the early parts of the fiscal year because of constraints placed on them due to the deviation of funds for peacekeeping and other activities. That has led every year to a supplemental. This is one of those supplementals for funds necessary to carry out the basic needs of our military during the summertime. The steaming hours of our Navy, the flying hours of our Air Force and our Marines and Navy, the ground exercises by our Army, and the activities that take place throughout the world by our men and women in the armed services demand additional money.

This is the bill to fund those for the remainder of July and August and September. Those activities will depend upon the passage of this bill. If the Senate passes this bill, the better off we will be in terms of the training and the activities of our men and women in the armed services to assure their capabilities to defend this country.

I urgently support this bill. I urgently urge the Senate to pass it as soon as possible.

I request the cooperation of every Member of the Senate in trying to help us accomplish that objective no later than tomorrow afternoon.

Mr. CONRAD. Mr. President, I am pleased to rise today in support of S. 1077, the Supplemental Appropriations Act for Fiscal Year 2001.

The Senate bill provides $8.477 billion in new discretionary budget authority, offset by the rescission of $1.553 billion of budget authority provided in previous years, for a net increase of $6.924 billion. As a result of this additional budget authority, outlays will increase by $1.291 billion in 2001. The Senate bill meets its revised section 302(a) and 302(b) allocations for budget authority and is well under—by more than $1 billion—those allocations for outlays.

I commend Chairman BYRD and Senator STEVENS for their bipartisan effort under unusual circumstances in bringing this important measure to the floor within its allocation and without resorting to unnecessary emergency designs. This bill provides important resources to our uniformed personnel, including funding statutory increases in pay and health care. In addition, it provides assistance to low-income families for heating and education.

I urge adoption of the bill.

I ask for unanimous consent that a table displaying the Budget Committee scoring of this bill printed in the RECORD. There being no objection, the table was ordered to be printed in the RECORD, as follows:

| S. 1077, SUPPLEMENTAL APPROPRIATIONS ACT, 2001 |
|-----------------|-----------|-----------|
|                  | Discretionary | Mandatory |
| Senate-reported bill: | Budget Authority | 6,544 | 936 | 7,480 |
|                  | Outlays       | 1,291 | 936 | 2,227 |
| Amounts available within Senate 302(a) allocation: | Budget Authority | 6,545 | 936 | 7,481 |
|                  | Outlays       | 2,687 | 936 | 3,623 |
| House-passed bill: | Budget Authority | 6,545 | 936 | 7,481 |
|                  | Outlays       | 1,396 | 936 | 2,732 |
| President’s request: | Budget Authority | 6,543 | 936 | 7,479 |
|                  | Outlays       | 1,232 | 936 | 2,168 |
| Senate-reported bill compared to House-passed bill: | |
| Amounts available within Senate 302(a) allocation: | Budget Authority | (1) | 0 | (1) |
|                  | Outlays       | (1,196) | 0 | (1,196) |
| House-passed bill: | Budget Authority | (1) | 0 | (1) |
|                  | Outlays       | (50) | 0 | (50) |
| President’s request: | Budget Authority | 1 | 0 | 1 |
|                  | Outlays       | 59 | 0 | 59 |

Notes: Details may not add to totals due to rounding. Prepared by SBC Majority Staff, June 26, 2001.

Mr. CONRAD. I yield the floor and suggest the absence of a quorum.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the passage of this legislation be discharged.

Mr. CONRAD. I ask for unanimous consent that the order for the passage of this legislation be discharged.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the passage of this legislation be discharged.

The PRESIDING OFFICER. (Mr. COCHRAN). Without objection, it is so ordered.

AMENDMENT NO. 863

Mr. BYRD. Mr. President, I shall send to the desk a managers’ amendment supported by Senator STEVENS and myself. It consists of a package of amendments. These amendments have been cleared on both sides, and I know of no controversy concerning them.

Next is an amendment by Senators HUTCHISON and INHOFE for storm damage repair at military facilities in Texas and Oklahoma.

The next amendment is offered by Senators TORICELLI and CORZINE to convey surplus firefighting equipment in New Jersey.

The next is an amendment by myself to make technical corrections in the energy and water chapter in title I.

Next is an amendment for storm damage repair at military facilities in Texas and Oklahoma offered by Senators HUTCHISON and INHOFE.

Next is an amendment by Senator STEVENS to increase the authorization for the Bassett Army Hospital.

Next is an amendment to provide $3 million for the U.S. Department of Agriculture for humane treatment of animals. That is my amendment. It is fully offset by a later amendment.

Next is an amendment offered by Senators GRASSLEY, ROBERTS, and STEVENS to expedite rulemaking for crop insurance.

Next is an amendment by Senators FEINSTEIN and BOXER and SMITH of Oregon and WYDEN to provide $20 million for the Klamath Basin. Funding is offset in a later amendment.

This will be followed by an amendment by myself in the agriculture chapter to provide an offset for the $3 million for humane treatment of animals.

Next is an amendment to increase a rescission in the committee bill for the oil and gas guarantee program by $4.8 million.

Next is an amendment to strike section 2101 of the committee bill dealing with the Oceans Commission.

Next is an amendment to clarify the use of D.C. local funds to prevent the demolition by neglect of historic properties, followed by an amendment to redirect the expenditure of $250,000 within the Western Area Power Administration, followed by an amendment by Senator BURNS to provide a transfer of $3 million for the Bureau of Land Management energy permitting activities.

Next is an amendment by Senator HARKIN to clarify the timing of the dislocated worker rescission in the committee bill.

This will be followed by a technical change to a heading in the bill.

Next is an amendment offered by Senator DOMENICI to make a technical date correction in the Perkins Vocational Education Act.

Next is an amendment by myself and Senator STEVENS to authorize the expenditure of $20 million previously appropriated, subject to authorization, to the Corporation for Public Broadcasting for digital conversion by local stations.
Next is an amendment to allow the Architect of the Capitol to make payments to Treasury for water and sewer services provided by the District of Columbia.

These will be followed by amendments by Senators MURRAY and STEVENS to, one, appropriate $16,800,000 to repair damage caused in Seattle by the Nisqually earthquake; two, appropriate $2 million for a joint U.S.-Canada commission dealing with connection of the Alaska Railroad to the North American system; and, three, make certain technical corrections. The funding is offset by rescissions.

Next is an amendment by Senator INOUYE to transfer $1 million from the Morris K. Udall Foundation to the Native Nations Institute.

And finally an amendment to name a building in the State of Virginia for a late House colleague, Norm Sisisky, on behalf of Senator WARNER.

I ask unanimous consent that the amendments be considered en bloc and that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the managers' amendment be agreed to and that it be considered as original text for the purpose of further amendment.

Mr. STEVENS. Reserving the right to object, Mr. President, it is my understanding that the chairman of the committee will offer another unanimous consent request for a second managers' amendment.

Mr. BYRD. Yes. I make that request in conjunction with the request pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the amendment by number for the information of the Senate.

The bill clerk reads as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. STEVENS, proposes an amendment numbered 861.

The PRESIDING OFFICER. The amendment has been agreed to.

The amendment (No. 861) was agreed to.

The text of the amendment is printed in today's RECORD under "Amendments Submitted."

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. The Senator's unanimous consent request included the request for a second managers' amendment; am I correct?

The PRESIDING OFFICER. That request has been granted.
standing might be or might not be. No matter what happens, one's dog is still one's dog.

A long, frustrating day at work melts into insincerity—gone—with the healing salve of warm, excited greetings from one's ever faithful, eternally loyal dog.

President Truman was supposed to have remarked: If you want a friend in Washington, buy a dog. I often think about Mr. Truman's words. No wonder so many political leaders have chosen the dog as a faithful companion and canine confidante. Former Senate Republican leader, Robert Dole, was constantly bringing his dog, "Leader"—every day—to work with him. President Bush has "Barney" and "Spot." President Truman had an Irish setter named "Mike." President Ford had a golden retriever named "Lucky." The first President Bush had Millie.

Of course, there was President Franklin Roosevelt and his dog, "Fala." They had such a close relationship that his political opponents once attempted and failed to kill him by attacking his dog. Eleanor Roosevelt recalled that for months after the death of her husband, every time someone approached the door of her house, Fala would run to it in excitement, hoping that it was President Roosevelt coming home.

The only time I remember President Nixon becoming emotional, except when he was resigning the Presidency, perhaps more so in the first instance, was in reference to his dog "Checkers." At the turn of the century, George G. Vest delivered a deeply touching summation before the jury in the trial involving the killing of a dog, Old Drum. This occurred, I think, in 1869. There were two brothers-in-law, both of whom served in the Union Army. They lived in Johnson County, MO. One was named Leonidas Hornsby. The other was named Charles Burden.

Burden owned a dog, and he was named "Old Drum." He was a great hunter dog. Any time that his dog backed one could know for sure that it was on the scent of a raccoon or other animal.

Leonidas Hornsby was a farmer who raised livestock and some of his calves and lambs were being killed by animals. He, therefore, swore at any dog that appeared on his property.

One day there appeared on his property a hound. Someone said: "There's a dog out there in the yard." Hornsby said: "Shoot him..."

The dog was killed. Charles Burden, the owner of the dog, was not the kind of man to take something like this lightly. He went to court. He won his case and was awarded $25. Hornsby appealed, and, if I recall, on the appeal there was a reversal, whereupon the owner of the dog decided to employ the best lawyer that he could find in the area.

He employed a lawyer by the name of George Graham Vest. This lawyer gave a summation to the jury. Here is what he said:

The best friend that a man has in this world may turn against him and become his enemy. His son or daughter whom he has reared with loving care may prove ungrateful. Those who are nearest and dearest to us, those whom we trust with our happiness and our good name may become traitors to their faith. The money that a man has, he may lose. It flies away as if by magic when he needs it most. A man may sacrifice his reputation in a moment of ill-considered action.

The people who so proudly fall on their knees and do us honor when success is with us may be the first to throw the stone of malice when failure settles its cloud upon our heads. The one absolutely unfailingly friend that a man can have in this selfish world, the one that never deserts him, the one that never proves ungrateful or treacherous, is the dog.

Gentlemen of the jury, a man's dog stands by him in prosperity and in poverty, in health and in sickness. He will sleep on the cold ground when the wintry winds blow, and, if the snow drives fiercely, if only he can be near his master's side. He will kiss the hand that has no food to offer, he will lick the wounds and sores that come in encounter with the roughness of the world. He guards the sleep of his pauper master as if he were a prince.

When all other friends desert, he remains. When riches take wings and reputation fails to pieces, he is as constant in his love as the Sun in its journey through the heavens.

If fortune drives the master forth and outcast into the world, friendless and homeless, the faithful dog asks no higher privilege than that of accompanying him, to guard him against danger, to fight against his enemies.

And when the last scene of all comes, death takes the master in its embrace and his body is laid in the cold ground, no matter if all other friends desert him and pursue their way, there by his graveside will the noble dog be found, his head between his paws, his tail curled in alert watchfulness, faithful and true, even unto death.

Well, of course, George Vest won the case. It was 1869 or 1870. In 1879 he ran for the U.S. Senate and was elected and served in the Senate for 24 years. The citizens in Warrensburg, MO, decided to build a statue to Old Drum, and that statue stands today in the courtyard at Warrensburg. Harry Truman contributed $250 to the building of the statue. I recently asked new senators from Missouri have they heard about Old Drum. I asked that of Krt Bond one day and he remembered, so upon his first occasion to visit Warrensburg, MO, after that, he brought me a picture of the statue of Old Drum.

So, just a little pot, a little treat, a little attention for the dog is all that a pet asks. How many members of the human species can love so completely? How does man return that kind of affection?

I remember a recent news program that told of a man who was going around killing dogs and selling the meat from them. A couple of years ago, NBC News reported that American companies were importing and selling tests made in China, in which the poor beasts are unable to turn around or lie down in natural positions, and this way they live for months at a time. On profit-driven factory farms, veal calves are confined to dark wooden crates so small that they are prevented from lying down or scratching themselves. These creatures feel; they know pain. They suffer pain just as we humans suffer pain. Egg-laying hens are confined to battery cages. Unable to spread their wings, they are reduced to nothing more than an egg-laying machine.

Last April, the Washington Post detailed the inhumane treatment of live-stock in our Nation's slaughterhouses. A 23-year-old Federal law requires that cattle and hogs to be slaughtered must first be stunned, thereby rendered insensitive to pain, but mounting evidence indicates that this is not always being done. That these animals are sometimes cut, skinned, and scalded while still able to feel pain.

A Texas beef company, with 22 citations for cruelty to animals, was found to have violated this law. An inspection of an Iowa pork plant confirmed that carcasses were sometimes cut, skinned, and scalded while still able to feel pain.
CONGRESSIONAL RECORD—SENATE  

July 9, 2001

Mr. REID. Mr. President, this amendment has been sent to the desk on behalf of Senators SCHUMER, REID, DODD, LIEBERMAN, and CORZINE that would rescind $33.9 million in unnecessary spending from the supplemental appropriations bill.

This money would finance an unnecessary and inappropriate notice to taxpayers on the rebate they will receive as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

This amendment is offered to help uphold the standards of professionalism and integrity that the Internal Revenue Service has historically tried to maintain.

These standards are threatened by this partisan notification.

The letter reads:

We are pleased to inform you that the United States Congress passed and President George W. Bush signed into law the Economic Growth and Tax Relief Reconciliation Act of 2001, which provides long-term relief for all Americans who pay income taxes. The new tax law provides immediate tax relief in 2001 and long-term tax relief for the years to come.

In 1975, a similar rebate was made available to taxpayers and it was simply included in the refunds.

I look forward to working with my colleague on this amendment, as does Senator SCHUMER, as debate on the supplemental appropriations proceeds. I hope this amendment will be accepted.

Mr. President, I ask unanimous consent that the amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 863

Mr. REID. Mr. President, on behalf of Senator FEINGOLD, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senate from Nevada [Mr. Reid] for Mr. Feingold, proposes an amendment numbered 863.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the amount provided to combat HIV/AIDS, malaria, and tuberculosis, and to offset that increase by rescinding amounts appropriated to the Navy for the V-22 Osprey aircraft program)

On page 28, beginning on line 9, strike “$100,000,000” and all that follows through line 13, and insert the following: “$693,000,000, to remain available until expended: Provided, That this amount may be made available, notwithstanding any other provision of law, for a United States contribution to a global trust fund to combat HIV/AIDS, malaria, and tuberculosis: Provided, further, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section
CRAIG, Mr. MILLER, Mr. CRAPO, and Mr. STEVENS made the motion that the Senate stand in recess for a moment to have lunch, if necessary.

Mr. CRAIG. Mr. President, I send an amendment to the Senate floor and wishes to offer an amendment to the amendment that currently has a B-1B mission, and actually eliminates the B-1B entirely from Mountain Home Air Force Base in my State, from McConnell Air Force Base in Kansas, and from Robbins Air Force Base in Georgia.

Such a drawdown in the B-1B fleet has the same national impact as would B-2 eyeability. This magnitude should not be made without consultation with Congress. There was no opportunity for advice and consent on the part of the Air Force or the Office of the Secretary of Defense.

Therefore, I offer this amendment on behalf of myself and Senator ROBERTS to preempt any precipitous action by the Department of Defense that could circumvent the right of Congress to review such a significant change in our Air Force's defense strategy.

This amendment will prevent any 2001 funds from being used for the preparation of retiring, dismantling, or reassigning any portion of the B-1B fleet. This would allow Congress the necessary time to consider the significance of the Air Force's decision and its impact with regard to the fiscal year 2002 defense budget.

The B-1B satisfies a very specific warfighting requirement as our fastest long-range bomber capable of flying intercontinental missions without refueling. With its flexible weapons payloads and a high carrying capacity, it is extremely effective against time-sensitive and mobile targets.

While cutting the force structure is advocated as a means of cost savings and weapons upgrade, it comes at a significant national security cost. Removal of the B-1B from Mountain Home Air Force Base calls into question DOD's support of the composite wing which is the basis for the air expeditionary wing concept and raises other long-term strategic and mission questions.

The composite wing is our Nation's "911 call" in times of conflict that require rapid reaction and deployment over long distances. Do we want to eliminate our nation's 911 call, particularly in light of a future defense strategy that requires the increase capabilities that the B-1B offers as a long-range, low-altitude, fast-penetration bomber?

Mountain Home Air Force Base is unique.

At Mountain Home, we train our men and women in uniform as they are expected to fight by bringing together the composite wing mission with our premier training range with significant results that will ensure that we are the next generation air power leaders.

We have composite wing training twice a month, premier night low-altitude training, dissimilar air combat training, and the current composite wing configuration fulfills the air expeditionary wing requirement 100 percent. Without the B1-B in the composite wing, our target load capability is reduced by 60 percent.

Removal of the B1-B from the three bases will actually increase costs while reducing operational readiness: The B1 missions for the National Guard at McConnell and Robbins Air Force Bases have far greater capability than active duty units at Dyess Air Force Base in Texas and Ellsworth Air Force Base in South Dakota, with 25 percent less cost per flying hour, due to decreased wear and tear on the aircraft. Also, the National Guard repairs B-1 engines for the whole fleet at 60 percent of the depot cost. As a result of the high costs associated with traveling to others bases for training, other B1-B wings from Dyess Air Force Base and Ellsworth Air Force Base take part only once a year in composite wing training, whereas the B1-B wing at Mountain Home Air Force Base conducts this type of training twenty four times per year. The result is that aviators from Mountain Home are rated higher in operational inspections and training because of the enhanced training opportunities which they receive at reduced cost to the government.

The Department of Defense shouldn't make budget decisions which change major national security objectives without congressional review. Military budget decisions should be made for the right reasons and not be based on playing political favors, especially when it impacts our operational capability and readiness, and will cost the government more money in the long run. Therefore, I urge my colleagues to support this amendment which will provide Congress with time to review the Air Force's decision and its effects on our national defense structure.

I have another amendment for proposal that is to be drafted and that I believe the ranking member will offer before the 6 o'clock deadline. I will speak briefly to that amendment. It deals with grain and commodity sales to Israel.

Israel, as we all know, began to receive cash transfer assistance in 1979 which replaced, in part, commodity imports under the Food for Peace program. This aid transfers assistance specifically for commodity purchases. Israel agreed to continue to receive United States grain, of which it has purchased 1.6 million metric tons...
every year since, or until this year, 2001, and ship half of it in privately owned United States-flagged commercial vessels. That, in essence, was the agreement in 1979.

Despite a level of United States aid in every year since 1984 that has been higher than the 1979–1983 level, Israel never increased its grain imports. That was significant to a quid pro quo: As our rates increased, support would go up, and so would their purchases of commodities. Had proportionality been the test, Israel would have reached the 2.45 million tons at least at one point. It never has. However, Israel has consistently cited proportionality in reference to the 2001 Foreign Operations appropriation act in stating its intent to cut purchases of approximately 1.2 million metric tons in this fiscal year. This cut is disproportionately greater than the reduction of the U.S. aid from the 2000–2001 fiscal period and is not consistent with congressional intent.

My amendment, which will be proposed later this afternoon, reshapes this, ensuring that a side letter agreement, with the terms of at least as favorable treatment as those in the year 2001, would be more consistent with past congressional intent and previous bilateral relations. Proportionality is something that I don’t think can be or should be effectively argued whereas they did not respond when our aid increased.

We will be bringing a letter to the floor insisting that Israel stay consistent with what was agreed to following 1979 as it related to turning, if you will, commodity import programs into cash transfer assistance. We think we have honored our agreement with Israel. The amendment simply requires them to honor their agreement with us.

I yield the floor.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

USE OF MEDICARE AND SOCIAL SECURITY TRUST FUNDS

Mr. CONRAD. Mr. President, I enjoyed reading the Washington Post this morning and listening to the weekend talk shows. I noticed I was the subject of a number of the articles and a number of the shows. I must say, I didn’t recognize the policy that was being ascribed to me. I know people have taken what I have proposed and twisted it and distorted it in a way that is almost unrecognizable. I think after examination it is clear why they have done that, but we will get into that in a moment.

The article I would refer to is Robert Novak’s piece in this morning’s Washington Post that was headlined, “Kent Conrad’s Show Trial.”

Mr. Novak asserted that a hearing that I will be chairing later this week to talk about the fiscal condition of the country and where we are headed is some kind of a show trial. I want to assure Mr. Novak and anyone else who is listening, I have no interest in show trials. I do have a very serious interest in where we find ourselves after the fiscal policy that the President proposed has been adopted in the Congress because I think it has created serious problems.

Mr. Daniels, the head of the Office of Management and Budget, was on one of the talk shows this weekend and he said I was engaged in what he referred to as “medieval economics.” I kind of like better the way Mr. Novak referred to me. He accused me of “antique fiscal conservatism.” “Antique fiscal conservatism,” that is the characterization he applied to the policies I proposed. Mr. Daniels called it “medieval economics.”

What is it that I have talked about that has aroused such ire? All I have said is I don’t think we ought to be using the trust funds of Medicare and Social Security for other purposes.

That is what I have said. I think that is the right policy. I don’t think we should be using the trust funds of Social Security and Medicare for other purposes. After I made that statement, and after I noted that the latest numbers that come from this administration suggest that in fact we will be doing precisely that this year and next year, Mr. Daniels responded by suggesting that means Senator CONRAD favors a tax increase at a time of an economic slowdown.

That is not my proposal. That is not what I suggested. In fact, my record is precisely the opposite of that. They know that. They know that as the ranking Democrat on the Budget Committee this year, I didn’t propose a tax increase in the midst of an economic slowdown. It is precisely the opposite of that. I proposed a $60 billion tax reduction as part of the Democratic alternative to the budget the President proposed. In fact, I supported much more tax relief as fiscal stimulus in this year than the President had in his plan.

So please, let’s not be mischaracterizing my position and suggesting I was for a tax increase at a time of economic slowdown. That is not the truth. That isn’t my record. My record is absolutely clear. Through all of the records of the Budget Committee and the debate on the floor, both during the budget resolution and the tax bill, my record is as clear as it can be. I favored fiscal stimulus this year, more fiscal stimulus than the President proposed—not a tax increase, a tax cut.

Mr. Daniels, don’t mischaracterize my position. You know full well I have not been called for a tax increase in times of an economic slowdown. You know full well that my record was calling for a tax cut—in fact, more of a tax cut in this year of economic slowdown than the President was calling for.

It is true that over the 10 years of the budget resolution I called for a substantially smaller tax cut than the President proposed because I was concerned about exactly what happened. Let’s turn to that because this is what set off this discussion.

As we look at the year we are now in, fiscal year 2001, if we start with the total surplus of $275 billion and take out the Social Security surplus of $17 billion, we leave with a surplus of $156 billion and the Medicare trust fund of $28 billion, that leaves us with $92 billion. The cost of the President’s tax cut which actually passed the Congress wasn’t what he proposed. It was substantially different than he proposed because it was more front-end loaded. $74 billion this year. And $33 billion of that is a transfer out of this year into next year—a 2-week delay in corporate tax receipts in order to make 2002 look better because they knew they were going to have a problem of raiding the Medicare trust fund in 2002.

What did they do? They delayed certain corporate receipts by 2 weeks—$33 billion worth—and put them over into 2002. That added to the cost of the tax bill.

There is only $40 billion of real stimulus in this tax bill that is going to go into the hands of the American people during this year. But that cost is $74 billion because of this cynical device they use to delay corporate tax receipts to make 2002 look better.

As we go down and look at the cost of other budget resolution policies for this year—largely the bill that is on the floor right now, the supplemental appropriations bill for certain emergencies—and we look at possible economic revisions that their own administration has suggested will come—that is, we are not going to receive the amount of revenue anticipated—we then see that we are into the Medicare trust fund by $17 billion this year. That is what it shows for this year.

We had distinguished economists testify before the Budget Committee. Based on what they said, next year we are going to not only be using the entire Medicare trust fund surplus but we are actually going to be using some of the Social Security trust fund as well, $24 billion next year; that is, if we take into account a series of other policy choices that are going to have to be made.
That is the question I am raising. Mr. Daniels wants to change that into a discussion of having a tax increase this year. They are forecasting strong economic growth. That is their forecast. Yet with a forecast of strong economic growth starting next year, we see that we are into the Medicare trust fund and the Social Security trust fund next year. We have problems with the two funds in 2003 and 2004, and that is before a single appropriations bill has passed.

This is not a question of the Congress spending more money and putting us back in the deficit ditch. That is not this situation. We are in trouble just based on the budget resolution that was passed—the Republican budget resolution, I might add.

Their tax cut—the tax cut supported by the President and the reduction in revenue that they themselves are predicting—we have trouble going into the Medicare and Social Security trust funds just on the basis of those factors: The budget resolution that they endorsed, the tax cut that they proposed and the President signed, and the economic slowdown that they are predicting.

We are into the trust funds already. That is before the President’s request for additional funding for defense. He has already asked for $18 billion for next year. That has a 10-year effect of over $200 billion.

The question I am raising is, Where should that money come from? We are already into the trust fund before the President’s defense request. Should that come out of the trust funds of Medicare and Social Security? Should we raise taxes to fund it? Should we cut other spending to fund it? Where should the money come from? Or, does the administration believe we should just go further into the Social Security and Medicare trust funds? I hope that is not what they believe because I think that would be a mistake.

Again, this is all within the context of the forecast of a stronger economy, of a growing economy. Is that circumstance the right policy to fund the President’s additional spending requests for defense and the right policy to take it out of the Medicare trust fund or the Social Security trust fund? I don’t think so. I think that is a serious mistake. As I say, we are already in trouble. We are already into the trust funds before the President’s defense request, before any new spending for education.

Remember that the Senate just passed, almost unanimously, a bill that authorized more than $300 billion of new spending for education. It is not in the budget resolution. We can see that if we fund just a part of that—if we only fund $150 billion of it—that makes the 10-year situation with the trust funds more serious.

This is before any funding for natural disasters. There is no funding for natural disasters in the budget. Yet we know we spend $5 billion to $6 billion a year on natural disasters. Should that funding come out of the Medicare and Social Security trust funds? That is exactly where we are headed.

The question is, Is that the right policy? That is before the tax extenders are dealt with. Those are popular measures such as the research and development tax credit and the wind and solar energy credits. Some of them run out this year. We are going to extend them. Yet that is not in the budget. Is it the right policy to fund the tax extenders out of the Medicare and Social Security trust funds? Because that is what we are poised to do.

The alternative minimum tax—that now affects some 2 million taxpayers, but under the tax bill that has passed it is going to affect 35 million taxpayers—just to fix the part of the alternative minimum tax that is caused by the tax bill we just passed would cost over $200 billion to fix. That is not in the budget. Should that money come out of the Medicare and Social Security trust funds? Because that is what we are poised to do.

I have said I do not think that is a good policy. I do not think we should pay for a defense buildup out of the trust funds of Social Security and Medicare. I do not think we should pay for additional education funding out of the trust funds. I do not think we should pay for natural disasters or tax extenders or the alternative minimum tax fix out of the Medicare and Social Security trust funds. Because that is what we are poised to do.

I think, as I have said, at a time of strong economic growth—which is what is in the forecast—as a policy we should be using the Medicare and Social Security trust funds to fund other parts of governmental responsibility. I think that is a profoundly wrong policy. Any private-sector organization in America that tried to use the retirement funds of their employees to fund the operations of the organization would be headed for a Federal institution, but it would not be the Congress of the United States; they would be headed for a Federal prison because that is fraud, to take money that is intended for one purpose and to use it for another.

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We have stopped that practice. In the last year we stopped raiding the trust funds to use those moneys for other purposes. We have stopped it. We have used that money to pay down debt. That is the right policy.

We also do not go back to the bad old days of raiding every trust fund in sight in order to make the bottom line look as if it balances. I suggest to my colleagues, using the Medicare trust fund or the Social Security trust fund for the other costs of Government is not a responsible way to operate. That is the point I have made.

I do not advocate a tax increase at a time of economic slowdown. I want to repeat, my proposal that I gave my colleagues was for a substantial tax cut this year, fiscal stimulus, $60 billion of fiscal stimulus that I supported in this year. But we are not talking about an economic slowdown being projected by this administration for the next 10 years.

I just saw the Secretary of the Treasury, the top spokesman on economic policy for this administration, at a meeting overseas saying they anticipate a return to strong economic growth next year. That is their projection. That is their forecast.

What I am saying is, if we are in a period of strong economic growth, it is not right to raid the trust funds of Medicare and Social Security for other purposes. It is just wrong. It should not be done. But that is exactly where we are headed. The record is just as clear as it can be. We are going to be into the Medicare trust fund and even the Social Security trust fund next year just with the budget resolution that has passed, just with the tax cut that has passed, and just with the slowdown in the economy that we already see. That is where we are. That is before any additional money for defense. That is before any additional money for education. That is before any money for natural disasters or tax extenders or to fix the AMT problem. And that is before additional economic revisions we anticipate receiving in August from the Congressional Budget Office.

When we factor in those matters, what we see is a sea of red ink, what we see is a very heavy invasion of both the Medicare trust fund and the Social Security trust fund. That is where we are headed. They are projecting a strong return to economic growth.

The question I am posing to my colleagues, and to this administration, is, Does that make any sense as a policy? I do not think so. I do not think this is where we want to go, especially given the fact that we know in 11 years the baby boomers start to retire and then our fiscal circumstance changes dramatically.

We have to get ready for that eventuality. The first thing to get ready for is not to raid the Medicare trust fund and the Social Security trust fund at a time of surpluses. That is just wrong. They can call me an antique fiscal conservative. They can call me somebody...
Mr. DORGAN. Mr. President, I wonder if the Senator would answer some of my colleague's numbers. I don't think this is antique fiscal conservatism. I think this is good old-fashioned, Midwestern common sense. You do not take the retirement funds of your citizens to fund the operation of Government. You do not take the health care funds of your people for other operations of Government. I want no part of it. But that is not the case that this rosy scenario everybody talked about—especially conservatives coming to the floor of the Senate—was: "This economy is going to grow for ever, and the surplus will last year after year after year. And let's put in place tax and spending decisions that anticipate that!"

My colleague, Senator CONRAD, and I and others repeatedly said the conservative viewpoint would be a viewpoint that says let's be cautious. Yes, when we have surpluses, let's provide some tax cuts. Let's provide some investments we need. But let's be a little bit cautious in case those surpluses don't materialize.

Yet here we are, just a couple of months from those fiscal policy decisions, and we are going to have a midsession review by the Office of Management and Budget which is what the chairman of the Budget Committee about. That midsession review almost certainly will tell us this economy is much softer than anticipated and we will not have the surpluses we expected. Things might get better, but they might not. And if they don't, we might very well head back into very significant deficit problems.

I ask my colleague, when does the Office of Management and Budget give us their midsession review? Is that supposed to be in July?

Mr. CONRAD. Typically, we would get it in July or August. We are hearing already from the Congressional Budget Office that they anticipate that the forecast will be somewhat reduced because economic growth is not as strong as was anticipated. That means we will have less revenue than was in the forecast.

My colleague and I warned repeatedly that these 10-year forecasts are uncertain. Nobody should be counting on every penny to actually be realized. Some said to us in rejoinder: There is going to be more money. I remember some of my colleagues on the Budget Committee saying they think the forecast is too low.

I hope over time that will be the case. I hope the economy strongly recovers. I hope we have even more revenue. That would be terrific. But I don't think we can base Government policy on that. We certainly can't bet on every dime of the revenue that is in a 10-year forecast.

The reason it matters so much is because if we look ahead—these are the years of surpluses we are in now—but, according to the Social Security, what happens, starting in the year 2016, we start to run into deficits in both Medicare and Social Security. Medicare is the yellow part of the bars; Social Security is the red. These surpluses that we now enjoy turn to massive deficits.

Mr. DORGAN. I wonder if the Senator would yield for a question.

Mr. CONRAD. I am happy to yield.

Mr. DORGAN. Mr. President, I noticed some press coverage today by some folks who were raising some questions about my colleague's numbers. I wonder if the Senator would answer this question. Is it not the case that this question of tax cuts and fiscal policy was always based on surpluses we do not yet have? Is it not the case that this rosy scenario everybody talked about—especially conservatives coming to the floor of the Senate—was: "This economy is going to grow forever, and we surpluses year after year. And let's put in place tax and spending decisions that anticipate that?"

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My colleague and I warned repeatedly that these 10-year forecasts are uncertain. Nobody should be counting on every penny to actually be realized. Some said to us in rejoinder: There is going to be more money. I remember some of my colleagues on the Budget Committee saying they think the forecast is too low.

I hope over time that will be the case. I hope the economy strongly recovers. I hope we have even more revenue. That would be terrific. But I don't think we can base Government policy on that. We certainly can't bet on every dime of the revenue that is in a 10-year forecast.

The reason it matters so much is because if we look ahead—these are the years of surpluses we are in now—but, according to the Social Security, what happens, starting in the year 2016, we start to run into deficits in both Medicare and Social Security. Medicare is the yellow part of the bars; Social Security is the red. These surpluses that we now enjoy turn to massive deficits.
I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NEILSON of Nebraska). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 5 p.m. today.

Mr. STEVENS. Reserving the right to object, Mr. President, will the Senator indicate whether we can get some time limit to make sure people understand the time limit of submission of amendments today? Parliamentary inquiry, Mr. President, if the Senator will yield for a moment.

Mr. BYRD. Yes, I yield for that purpose.

Mr. STEVENS. Is it not the case that all amendments to this bill must be filed and presented by 6 p.m. today?

The PRESIDING OFFICER. The Senator is correct; all amendments must be offered.

Mr. STEVENS. Offered on the floor of the purpose or they will not be eligible for consideration.

The PRESIDING OFFICER. First-degree amendments must be offered by 6 p.m. today.

The Senator from West Virginia.

Mr. BYRD. I renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, the Senate, at 4:31 p.m., recessed until 5 p.m. and reassembled when called to order by the Presiding Officer (Mr. DAYTON).

SUPPLEMENTAL APPROPRIATIONS ACT, 2001—Continued

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 865

Mr. VOINOVICH. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is laid aside. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. VOINOVICH), for himself, Mr. HELMS, Mr. SESSIONS, and Mr. CRAPO, proposes an amendment numbered 865.

Mr. VOINOVICH. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows: pursuant to the social security surpluses by preventing on-budget deficits)

At the appropriate place, insert the following:

CONGRESSIONAL RECORD—SENATE 12661

SEC. 9. PROTECT SOCIAL SECURITY SURPLUSES

(a) SHORT TITLE.—This section may be cited as the “Protect Social Security Surpluses Act of 2001”.

(b) REVISION OF ENFORCING DEFICIT TARGETS.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 903) is amended by—

(1) by striking subsection (b) and inserting the following:

“(b) EXCESS DEFICIT; MARGIN.—The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus the margin for that year. In this subsection, the margin for each fiscal year is 0.5 percent of estimated total outlays for that fiscal year.”;

(2) by striking subsection (c) and inserting the following:

“(c) ELIMINATING EXCESS DEFICIT.—Each non-exempt account shall be reduced by a dollar amount calculated by multiplying the baseline level of sequesterable budgetary resources in the account at that time by the uniform percentage necessary to eliminate an excess deficit;”;

and

(3) by striking subsections (g) and (h).

(c) ECONOMIC AND TECHNICAL ASSUMPTIONS.—Notwithstanding section 254(j) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(k)), the Office of Management and Budget shall use the economic and technical assumptions underlying the report issued pursuant to section 1106 of title 31, United States Code, for purposes of determining the excess deficit under section 253(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by subsection (b).

(d) APPLICATION OF SEQUESTRATION TO BUDGET ACCOUNTS.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 906(k)) is amended by—

(1) striking paragraph (2); and

(2) redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

(e) STRENGTHENING SOCIAL SECURITY POINTS OF ORDER.—

(1) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by inserting at the end the following:

“(g) STRENGTHENING SOCIAL SECURITY POINTS OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend section 13301 of the Budget Enforcement Act of 1990.

(2) SUPER MAJORITY REQUIREMENT.—

(A) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting “312(g),” after “310(d)(2),”.

(B) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting “312(g),” after “310(d)(2),”.

(3) ENFORCEMENT OF EACH FISCAL YEAR.—

The Congressional Budget Act of 1974 is amended in—

(A) section 301(a)(7) (2 U.S.C. 632(a)(7)), by striking “for each fiscal year” through the period and inserting “for each fiscal year covered by the resolution”; and

(B) section 311(a)(3) (2 U.S.C. 632(a)(3)), by striking “beginning with the fiscal year” through the period and inserting the following: “for any of the fiscal years covered by the concurrent resolution.”.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to fiscal years 2002 through 2006.

Mr. VOINOVICH. Mr. President, one of the primary reasons I wanted to offer this amendment was an opportunity to bring fiscal responsibility to our Nation and help reduce our national debt. As many of my colleagues know, for decades successive Congresses and Presidents spent money on items that, while important, they were unwilling to pay for with an alternative, do without. In the process, Washington ran up a staggering debt and mortgaged our future. Today our national debt stands at about $7.5 trillion. That costs about $200 billion a year in interest payments.

From the time I arrived in the Senate, I have worked to rein in spending and lower the national debt. Over the past 2 1/2 years, I have cosponsored and sponsored a number of amendments designed to bring fiscal discipline to the Federal Government. In March of 1999, I offered an amendment to use whatever on-budget surplus as calculated in the fiscal year 2000 budget to pay down the debt. In March of 2000, I again offered my amendment to use the on-budget surplus calculated for fiscal year 2001 for debt reduction. In an effort to bring spending under control, Senator ALLARD and I offered an amendment in June of 2000 to direct $12 billion of fiscal year 2000 on-budget surplus toward debt reduction. The amendment passed by an overwhelming 95-3 and committed Congress to designate the on-budget surpluses to reduce the national debt, keeping these funds from being used for additional Government spending. Our amendment provided the mechanism to assure that Congress would begin the serious task of paying down the debt.

Further, this past April, Senator FEINGOLD, Senator GINGRICH, and I offered an amendment to the fiscal year 2002 budget designed to tighten enforcement of existing spending controls. Our amendment created an explicit point of order against directed scoring and abuses of emergency spending.

Even with all the amendments I proposed and cosponsored to bring Federal spending under control, I have never lost sight of the fact that we need to enact a Social Security lockbox. Make no mistake, adopting a Social Security lockbox is about protecting Social Security benefits. Social Security beneficiaries will not know the difference if we pass or do not pass a Social Security lockbox. What we are doing today will not have an impact at all on the beneficiaries. The amendment I am offering today will permanently lockbox the Social Security surplus and prevent it from being used for any other purpose.

For decades, the Social Security surplus was used by Congress after Congress and President after President to offset Federal spending. For many of those years, Members of both the House and Senate worked to put the Social Security surplus off limits from
being used for such Federal spending. We talked a lot about it. In 1999, after years of wrangling, in a landmark budget agreement passed in 1995, our Federal Government finally achieved a balanced budget. With this good news, it became apparent that Congress and the President would not need to use the Social Security surplus for spending. This was made possible by our economic prosperity which guaranteed and generated a huge increase in tax revenues, which we knew about, and in turn a massive on-budget surplus. Because the United States was running in the black for the first time in recent memory. Social Security surpluses were used to pay down the national debt instead of being used for spending. Indeed, since 1999, there has been a political consensus not to return to spending that surplus.

However, the economic prosperity this Nation enjoyed as recently as months ago is fading, although I hope this is only a temporary situation. Surplus projections are likely to be revised downward. Yet, Congressional yearning for more spending has not abated.

For fiscal year 2001, Congress, with the encouragement of the Clinton administration, increased nondefense discretionary spending 14.3 percent. That is something people have not taken into consideration. Nondefense discretionary spending in the last budget was 14.3 percent above the year before and increased overall spending by 8 percent, which was way above inflation. All of this was on top of large increases in the previous years' budgets.

If we fund the education bill that the Senate recently passed, which increases spending by 62 percent or $14 billion, and if we spend the $31.4 billion increase in defense spending that the administration is talking about, we could end up spending a portion of the on-budget surplus of fiscal year 2003 and beyond. Part of the reason for this is the fact that the tax reduction was more front-end loaded than the President had intended.

Frankly, if the economy really falters, we could bump up against the Social Security trust fund next year. Nearly everyone in this Chamber agrees we should not spend that surplus, and the public has grown to expect that Congress won't return to spending that it. This year's budget resolution was designed in part to avoid spending that surplus.

At the moment, we are de facto lockingbox Social Security. Therefore, it makes perfect sense to take the next step and lockbox these funds permanently. It is the best possible action we could take to bring fiscal discipline to the 107th Congress. One thing it guarantees we don't touch Social Security, and on the other it ensures we will continue to pay down debt, which fulfills the commitment we have all made and which will give us the interest savings. It is a two-for: We won't spend it; second, it will allow us to continue to pay down the national debt. That is part of what I refer to as the three-legged stool. That three-legged stool in terms of my support for the budget resolution was: Hold spending down, reduce debt, and reduce taxes. But all three of them have to be present. We have to preserve that one stool of reducing the national debt.

If my colleagues think back to the 1980s, they will remember the dramatic increase in the national debt, primarily because of the use of the Social Security surplus. I was here. I was president of the National League of Cities. I came to this Congress before the Finance Committee and supported the Republican proposal to limit spending in any point of any written during that period of time that taxes were reduced and spending went up. Republicans wanted to spend on defense, the Democrats wanted to spend on social programs, and the way they paid for it was to touch the Social Security surplus.

I don't want that to happen while I am a Member of the Senate. I don't think any of my other colleagues want that to happen again.

The 1995 budget was the first time in over three decades that Congress did not use Social Security to pay for Federal spending. Again, in 2000, Congress did not use Social Security spending, although I must say it was hand-to-hand combat to make sure it wasn't used. There was direct scoring, there was emergency spending, and all kinds of other gimmicks because CBO had said we were spending the Social Security surplus, and the only thing that saved us was we got back here in January and CBO came out with new projections, and the budget surplus was more than what we had originally anticipated it to be.

Although the economy is not as robust as it was a year ago, we must resist the temptation to fall off the wagon of fiscal responsibility and resist the urge to resume spending that Social Security trust fund. The amendment we are offering guarantees we will not fall off the wagon. It contains two enforcement mechanisms: A supermajority point of order written into law establishing a Social Security lockbox is the best way to verify that the Social Security surplus remains untouched by those who would spend it. It would also force Congress to fiscal discipline and to make the hard choices in prioritizing our spending with the funds that we have today at our disposal.

I urge my colleagues to join me in support of this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. VOINOVICH. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.
Mr. BYRD. Did the distinguished Senator from Ohio offer his amendment?

The PRESIDING OFFICER. Yes, he offered his amendment.

AMENDMENT NO. 866 TO AMENDMENT NO. 865

Mr. BYRD. Mr. President, on behalf of Senator CONRAD, I offer an amendment authored by Mr. CONRAD to be an amendment in the second degree to the amendment offered by Mr. VOINOVICH.

I ask unanimous consent that after the clerk states the title of this amendment, that it and the amendment in the first degree be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senate from West Virginia [Mr. BYRD] for Mr. CONRAD, proposes amendment numbered 866 to amendment No. 865.

The amendment is as follows:

(Purpose: To establish an off-budget lockbox to strengthen Social Security and Medicare) Strike all after the first word and insert the following:

TITLE—SOCIAL SECURITY AND MEDICARE OFF-BUDGET LOCKBOX ACT OF 2001

SEC. 1. SHORT TITLE.

This title may be cited as the “Social Security and Medicare Off-Budget Lockbox Act of 2001”.

SEC. 2. STRENGTHENING SOCIAL SECURITY POINTS OF ORDER.

(a) In General.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by inserting at the end the following:

“(g) Strengthening Social Security Point of Order.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, conference report that would violate or amend this section.”

(b) Super Majority Requirement.—

(1) Point of Order.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting “312(g),” after “310(b)(2),”.

(2) Waiver.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting “312(g),” after “310(d)(2),”.

(c) Enforcement in Each Fiscal Year.—

The Congressional Budget Act of 1974 is amended in—

(1) section 301(a)(7) (2 U.S.C. 622(a)(7)), by striking “for the fiscal year” through the period and inserting “for each fiscal year covered by the resolution”; and

(2) section 311(a)(3) (2 U.S.C. 622(a)(3)), by striking beginning with “for the first fiscal year” through the period and inserting the following: “for any of the fiscal years covered by the concurrent resolution.”

SEC. 3. EXCLUSION OF MEDICARE TRUST FUND FROM BUDGET.

“SEC. 316. (a) Exclusion of Medicare Trust Fund from All Budgets.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Hospital Insurance Trust Fund shall be not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

“(1) the budget of the United States Government as submitted by the President;

“(2) the congressional budget; or

“(3) the Balanced Budget and Emergency Deficit Control Act of 1985 amended by adding at the end the following:

“Medicare as funded through the Federal Hospital Insurance Trust Fund.”

(b) Budgetary Treatment of Hospital Insurance Trust Fund.—Section 710(a) of the Social Security Act (42 U.S.C. 911(a)) is amended—

(1) by striking “and” the second place it appears and inserting a comma; and

(2) by inserting after “Federal Disability Insurance Trust Fund” the following: “, Federal Hospital Insurance Trust Fund”.

SEC. 4. PREVENTING ON-BUDGET DEFICITS.

(a) Points of Order To Prevent On-Budget Deficits.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by adding at the end the following:

“(h) Points of Order To Prevent On-Budget Deficits.—

“(1) Concurrent Resolutions on the Budget.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, conference report that would violate or amend this section.”

(b) Super Majority Requirement.—

(1) Point of Order.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting “312(g),” after “312(g),”.

(2) Waiver.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting “312(g),” after “312(g),”.

The PRESIDING OFFICER. The amendments are laid aside. The Senator from North Dakota.

Mr. CONRAD. Mr. President, very briefly, I thank Senator BYRD for introducing my amendment in the second degree to the amendment of the Senator from Ohio, and indicate to my colleagues the nature of the amendment. I think the Senator from Ohio is going in basically the right direction, but I do not think he is protecting both of the trust funds. I have offered, in the second degree, my amendment that would protect both the Social Security trust fund and the Medicare trust fund but also provide protection. I think both are in danger.

Unfortunately, as I said several moments ago with respect to where we find ourselves, after the budget resolution is passed, after the tax cut is passed, and with the anticipated reduction in the revenue forecast because of the slowdown in the economy, we see we are headed for being into the Medicare trust fund this year, the Medicare...
and Social Security trust fund next year and for all the years that follow. That is before any appropriations have passed. That is before the President’s major request for additional defense spending.

We are already in trouble. We are already headed for raiding the trust funds of Medicare and Social Security. So I am glad the Senator from Ohio has sent up an amendment. I have provided an amendment in the second degree that I think is stronger and provides additional protection and acknowledges that we have a responsibility not just to the Social Security trust fund but to the Medicare trust fund as well.

AMENDMENT NO. 867

Mr. CONRAD. If I could at this moment, on a separate matter, I send an amendment to the desk to the underlying bill. This amendment is to provide in the appropriations for a situation we have just encountered on one of the Indian reservations in my State, the Turtle Mountain Indian Reservation. It is offset so it does not add to the overall cost of the supplemental. But we have found a situation that is extraordinarily serious on the Turtle Mountain Indian Reservation.

Very briefly, I will just describe that and then end so my colleague from Missouri, who is seeking recognition, can gain in floor.

Over 200 homes on the Turtle Mountain Reservation are infested with black mold; 40 percent of them that have been tested have the worst kind of black mold. This is throughout the structures. It is in the basements. It is running up the studs, in the ceilings, in the insulation. People in these homes are sick. We have had two infants die. People who are in the families and medical experts on the reservations believe their deaths are related to the conditions in these homes.

It is because of extraordinarily wet conditions in that part of our State. We have had 7 years of wet conditions. It is as though these houses are in a sponge and the sponge is full and the houses are wicking up the surface water. In fact, if you look in the crawl spaces of these homes, they are filled with water and that water has found its way up through the entire structure and has created the perfect environment for this black mold growth.

We have had the CDC there, the Corps of Engineers, and FEMA. It is a crisis situation that requires emergency housing for some 200 families.

The tribal chairman told me he is about to move people into a school gymnasium because the conditions in these homes are so bad.

I went there personally over the break. I can testify it is the worst situation they had and I have dealt with black mold in our own home here in Washington, DC, in just one small area, where seven times our home flooded because the city sewer system could not handle torrential downpours here. We are the low spot on the block. It cost me $4,000 and three contractors to fix just one small part of one corner of our house.

These are houses that have it throughout. The basements are loaded with black mold. It is in the studding. In fact, you can see it in the beams across the ceilings of these homes.

In every home we went into, people testified to the illnesses. In fact, the tribal chairman himself is ill from these circumstances.

This is an emergency situation that simply must be addressed. Obviously, the committee could not have known about it because nobody knew about it. But I offer that amendment for that purpose, and I thank my colleagues.

THE PRESIDING OFFICER. The clerk will report the amendment.

Mr. STEVENS addressed the Chair.

THE PRESIDING OFFICER. The Senator will suspend until the clerk reports the amendment.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 867.

Mr. STEVENS. Mr. President, I ask unanimous consent these amendments not be read. They are being offered for purposes of qualification under the time agreement, and I ask that apply to all amendments, unless Senators wish to make their statements.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funds for emergency housing on the Turtle Mountain Indian Reservation)

AMENDMENTS NO. 868 AND NO. 869, EN BLOC

Mr. STEVENS. Mr. President, on behalf of Senator MCCAIN, I send two amendments to the desk and ask they be qualified under the time agreement. The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. MCCAIN, proposes amendments numbered 868 and 869, en bloc.

The amendments are as follows:

(Purpose: To increase amounts appropriated to the Department of Defense)

On page 11, between lines 8 and 9, insert the following:

S 1207. In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 in other provisions of this Act or in the Department of Defense Appropriations Act, 2001 (Public Law 106–259), $2,736,100 is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

- "Military Personnel, Army", $30,000,000;
- "Military Personnel, Navy", $10,000,000;
- "Military Personnel, Air Force", $332,500,000;
- "Reserve Personnel, Army", $30,000,000;
- "Operation and Maintenance, Army", $916,400,000;
- "Operation and Maintenance, Navy", $354,300,000;
- "Operation and Maintenance, Marine Corps", $295,700,000;
- "Operation and Maintenance, Air Force", $59,600,000;
- "Operation and Maintenance, Defense-Wide", $9,000,000;
- "Operation and Maintenance, Army Reserve", $30,000,000;
- "Operation and Maintenance, Army National Guard", $106,000,000;
- "Aircraft Procurement, Army", $50,000,000, to remain available for obligation until September 30, 2003;
- "Procurement of Weapons and Tracked Combat Vehicles, Army", $10,000,000, to remain available for obligation until September 30, 2003;
- "Procurement of Ammunition, Army", $14,000,000, to remain available for obligation until September 30, 2003;
- "Other Procurement, Army", $40,000,000, to remain available for obligation until September 30, 2003;
- "Aircraft Procurement, Navy", $85,000,000, to remain available for obligation until September 30, 2003;
- "Aircraft Procurement, Air Force", $108,100,000, to remain available for obligation until September 30, 2003;
- "Other Procurement, Air Force", $33,300,000, to remain available for obligation until September 30, 2003;
- "Research, Development, Test and Evaluation, Air Force", $8,000,000, to remain available for obligation until September 30, 2002; and
- "USS Cole", $49,000,000.

Provided. That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided, further, That the entire amount under this section shall be available only to the extent that an official budget request for that specific dollar amount that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

12664
(Purpose: To provide additional funds for military programs, maintenance-critical maintenance, force protection, and other purposes by increasing amounts appropriated to the Department of Defense for fiscal year 2001 by other provisions of this Act or the Department of Defense Appropriations Act, 2001 (Public Law 106-259), funds are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

1. Under the heading “MILITARY PERSONNEL, NAVY”, $181,000,000, of which $1,000,000 shall be available for the supplemental subsistence allowance under section 402a of title 37, United States Code.
2. Under the heading “MILITARY PERSONNEL, MARINE CORPS”, $21,000,000.
3. Under the heading “RESERVE PERSONNEL, NAVY”, $1,800,000,000, which shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.
4. Under the heading “OPERATION AND MAINTENANCE, ARMY”, $103,000,000.
5. Under the heading “OPERATION AND MAINTENANCE, NAVY”, $72,000,000, of which $36,000,000 shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.
6. Under the heading “OPERATION AND MAINTENANCE, AIR FORCE”, $379,000,000.
7. Under the heading “OPERATION AND MAINTENANCE, AIR FORCE Reserve”, $6,000,000.
8. Under the heading “OTHER PROCUREMENT, NAVY”, $45,000,000, to remain available for obligation until September 30, 2003, which shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.
9. The amount appropriated by chapter 10 of title II to the Department of the Treasury for Departmental Offices under the heading “SALARIES AND EXPENSES” is hereby reduced by $30,000,000.
10. The matter in chapter 11 of title II under the heading “NATIONAL AERONAUTICS AND SPACE ADMINISTRATION HUMAN SPACE FLIGHT” shall not take effect.
11. Of the unobligated balance of the total amount in the Treasury that is to be disbursed from special accounts established pursuant to section 75(e) of the Tariff Act of 1930, $200,000,000 may not be disbursed under that section.
12. Of the funds appropriated to the National Aeronautics and Space Administration under the heading “HUMAN SPACE FLIGHT” in the Departments of Veterans Affairs and Housing and Urban Development, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-377), the following amounts:

(A) From the amounts for the life and microgravity research mission for the human space flight, $40,000,000.
(B) From the amount for the Electric Auxiliary Power Units for Space Shuttle Shuttle Upgrades, $23,800,000.
(C) Of the funds appropriated to the Department of Commerce for the National Institute of Standards and Technology under the heading “INDUSTRIAL TECHNOLOGY SERVICES” in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-353), $6,700,000 for the Advanced Technology Program.
(D) Of the funds appropriated to the Department of Commerce for the International “TRAINING AND EMPLOYMENT SERVICES” in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-354), $19,000,000 of the amount available for Trade Development.
(E) Of the funds appropriated by chapter 1 of the Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan Act of 1996 (Public Law 104-51), $22,800,000.
(F) Of the funds appropriated to the Department of Transportation for the Maritime Administration under the heading “MARITIME GUARANTEE PROGRAM ACCOUNT” in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-553), $21,000,000.
(G) Of the funds appropriated for the Export-Import Bank under the heading “SURVIVABILITY ACCOUNT” in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (as enacted into law by Public Law 106-429), $80,000,000.
(H) Of the funds appropriated to the Department of Labor for the Employment and Training Administration under the heading “TRAINING AND EMPLOYMENT SERVICES” in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-654), the following:

(A) From the amounts for Dislocated Worker Employment and Training Activities, $41,500,000.
(B) From the amounts Adult Employment and Training Activities, $10,000,000.
(C) Of the unobligated balance of funds previously appropriated by the Department of Transportation for the Federal Transit Administration that remain available for obligation in fiscal year 2001, the following:

(A) From the amounts for Transit Planning and Research, $34,000,000.
(B) From the amounts for Job Access and Reverse Commute Grants, $76,000,000.

FOREST SERVICE
STATE AND PRIVATE FORESTRY
For an additional amount for “State and Private Forestry” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

NATIONAL FOREST SYSTEM
For an additional amount for the “National Forest System” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

CAPITAL IMPROVEMENT AND MAINTENANCE
For an additional amount for “Capital Improvement and Maintenance” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $1,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).
We thank him and commend him for bringing it to the attention of this body.

I have two measures.

First, I don’t believe there is a Member of this body who has waterways in his or her State who doesn’t understand the importance of the work done by the U.S. Army Corps of Engineers. Within the beltway, however, items such as flood control and river transportation are viewed as some sort of luxury we can do without. We can’t do without them. I have been there. I have seen the devastation and the heartbreak. I have seen the families in great crisis. I have seen the farms and the homes and the communities destroyed. Unless you have been there, you cannot really believe.

Clearly, the view in some eastern editorial boardrooms is rather clouded, and elite drawing rooms can’t see that there are people who live and work along and depend upon the river. These are the people about whom we should be concerned.

I invite those who can tell us how to manage the rivers to come out and take a look at our rivers sometime. They might be very surprised at what they find.

In the State of Missouri, we have nearly 1,000 miles of land bordering the Missouri and Mississippi Rivers. Water transportation is low cost, safe, fuel efficient, and provides an insurance policy against runaway shipping costs charged by railroads that otherwise would face no competition. The environmental community assumes that monopolists don’t raise prices. They do. But on the environmental side, to put the price of water transportation in perspective. One medium-sized 15-barge tow carries the same amount of grain as 870 tractor trailer trucks. Clearly, this comparison demonstrates the fuel efficiency and clean air benefits to the environment. It also reduces congestion, reduces highway wear and tear, improves safety, and costs less.

In Missouri, one-third of our agricultural production comes from the 100-year-flood plain. The Washington Post, that still believes food comes from the grocery store and not the farm, believes that this land should not be in production and flood protection should be a low priority.

Those who criticize the projects administered by the Corps typically do it from a safe distance. One of the biggest critics of the Corps in the Midwest sits safely behind a 500-year urban flood wall.

Policymakers in Washington stress export and jobs but many fail to make the connection between exports and the transportation necessary to export. Unless we have purged the laws of physics and unless there are strange new business practices which don’t require buyers to take delivery of sold goods, then transportation ultimately remains necessary.

Policymakers in Washington stress the need for additional power production that is good for the environment but propose inadequate budgets and policies for hydropower generation.

In the last Administration, policy and budgets to undermine the Corps where almost an annual event. Regrettably, the most recent budget proposed for fiscal year 2002 shows no recognition of how important the mission of the Corps is. I have a flood control project in Kansas City that will protect industries employing 12,000 people. The budget request for 2002 asks for enough money to keep the contractors busy for a fraction of the year. Not only is the project delayed, and not only does delay subject the citizens to prolonged flood risk unnecessarily, but the delay increases the costs of the project which I would expect the number-crunchers at OMB to find if nothing else gets their attention.

Regrettably, the supplemental request does not include one red cent for operations and maintenance for the Corps of Engineers notwithstanding flood control, navigation, hydropower generation and environmental needs resulting from Midwestern flooding on the upper Mississippi, a Pacific earthquake which occurred in February, Tropical Storm Allison which occurred weeks ago as well as remaining problems associated with Hurricane Floyd and ice storms in the South.

Specifically, there are needs estimated to be: $50 million in response to the Midwest flooding; $72 million in the Southwest impacted by ice storms; $37 million for the Atlantic Seaboard in response to Hurricane Floyd and other weather events; $59 million for the Pacific Northwest impacted by earthquakes and debris, embankments are dangerously eroded, power outages are more frequent, and environmental preservation measures are short-changed. Unless the Corps receives supplemental funding, many navigation channels will not be able to accommodate normal commercial flow and flood control projects will be in serious jeopardy of failure. Recent damages and deterioration of hydroelectric facilities coupled with the national energy crisis have underscored the urgent need to undertake necessary repairs to hydropower projects in the Pacific Northwest.

While I will withhold offering an amendment at this time, I will do what I can do in conference to urge conferees to accept the House correction of the omission. I will seek unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, my second item deals with the defense budget.

While the administration’s request for a supplemental appropriations bill for the Department of Defense includes what the administration believes is the
minimum needed to get by for the remainder of this fiscal year (01), I respectfully disagree with their definition of "minimum."

Although we are hearing promises of an amended '02 budget with a huge defense plus-up, it is clear that the Defense Department appropriations bill for 2002 may indeed be the last of the 13 appropriations bills we will consider this year. That unfortunate timing may threaten the availability of all the extra funds many believe the Pentagon desperately needs. Simply put, there is no guarantee that the money the Pentagon needs will be there when the Senate takes up the amended Defense appropriation bill for 2002.

We must stop kicking the can down the road with promises to our forces—their need is urgent, they need help now. The cup will only continue to worsen, we need to act now.

Just last week, the Navy's top officer, Admiral Vern Clark, said he is trying to rid the United States Navy of the "psychology of deficiency"—the accepted culture of resource shortages as a normal condition.

Sadly, Mr. President, this "psychology of deficiency" has not only infected the culture of our Armed Forces, but I am afraid it has become the culture.

The vast majority of the enlisted troops and officers on active duty today know only a culture of getting by on the minimum funding possible. They call it "doing more with less," but the reality has been for almost a decade now, one of "doing too much with too little."

That is simply unacceptable. Every day, soldiers, sailors, airmen and marines risk their very lives for the values that have made this country the most valued nation of freedom the world has ever known.

And in exchange for their lives, what do we do? We give them barely enough money to accomplish their mission safely. The bare minimum and no more. That is how we repay our troops? No wonder our Armed Forces have suffered from a persistent morale problem that has manifested itself in a chronic inability to hold onto large numbers of our most talented troops.

The "bare minimum" of funding is no way for our society to uphold our end of the social contract with our troops. That is not how we keep faith with those who defend our Nation's interests at their own personal risk.

How badly have we fallen short on our end of the social contract?

At the current level of funding, it will take 160 years to replace the Navy's shore infrastructure. The backlog of maintenance and repair exceeds $3.5 billion.

Recently the Marine Corps Commandant spoke about the terrible funding choices we force him to make. In order to keep marines ready for combat in case war breaks out in the near-term, the Commandant has to steal money from accounts dedicated to modernizing the Marine Corps for tomorrow's wars. If this persists, the Marine Corps may find itself on a battle-field in the future without the proper, modern equipment to help guarantee a quick victory with few U.S. casualties. Even with the supplemental, the Army does not have the $145.1 million it needs to run its specialty training and schools. That means thousands of soldiers may not qualify in their combat specialties, which directly affects the combat readiness of Army units.

When we tell our soldiers "sorry, we don't have enough money to train you properly to do your job," what do you think the effect is on morale? The impact is devastating. That is what each of our noble loyal dead so much difficulty holding onto: Retaining its most skilled workers.

Our U.S. Air Force is currently operating and maintaining the oldest fleet in our history. On average, our aircraft are about 22 years old and are getting older. An aging fleet costs more, both in effort and dollars, to operate and maintain.

Last year, while we flew only 97 percent of our programmed flying hours, doing so cost us 103 percent of our budget. Over the past 5 years, our costs per flying hour have risen almost 50 percent. That is a terrible cycle:

older planes cost more to maintain, which robs money from accounts to buy new planes, and so on. It is a death spiral for our Air Force.

Time and again history has shown us the folly of funding our troops as if peace will persist forever, as if war will never come. I thought this country learned that lesson in the opening days of the Korean war when Americans were caught unprepared, under-prepared, and under-trained, and many paid with their lives.

I know the President of the United States knows this. I know Secretary of Defense Rumsfeld knows this. These are good men who know it is time to get the U.S. military on a more solid footing. I have worked closely with them in the past. I will continue to work with them. They will find me to be their most loyal supporter in this effort. But we can no longer afford to wait. We must act now.

That is why I am rising today to offer an amendment to add $1.45 billion to the fiscal year 2001 supplemental appropriations for the Defense Department. The amendment seeks to add the funds to the Defense Department that are needed, and can be spent, in what remains of the fourth quarter of the current fiscal year.

The amendment includes funds that will be directed exclusively to the operations and maintenance accounts of each of the four services. This is money the Pentagon needs right now to ensure that critical repairs and training are not delayed further.

There are emergency designations in this measure. All the money appropriated must be obligated by September 30 of this year. And the money shall be available only to the extent that an official budget request for that specific dollar amount includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and is transmitted by the President to the Congress. We must begin to tell our troops that indeed help is on the way, that this is the time to send the help.

AMENDMENT NO. 872

Mr. President, I send the amendment to the desk and ask unanimous consent that it be included in the qualified list of amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase amounts appropriated for the Department of Defense)

At the end of title III, add the following:

SEC. 1. In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 by other provisions of this Act or the Department of Defense Appropriations Act, 2001 (Public Law 106–259), funds are hereby appropriated to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

(1) Under the heading "OPERATION AND MAINTENANCE, NAVY", $577,250,000.

(2) Under the heading "OPERATION AND MAINTENANCE, MARINE CORPS", $21,000,000.

(3) Under the heading "OPERATION AND MAINTENANCE, ARMY", $600,000,000.

(4) Under the heading "OPERATION AND MAINTENANCE, NAVY", $590,000,000.

(5) Under the heading "OPERATION AND MAINTENANCE, ARMY", $6,000,000.

(6) Under the heading "OPERATION AND MAINTENANCE, AIR FORCE", $500,000,000.

(7) Under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE", $30,000,000.

(8) Under the heading "OPERATION AND MAINTENANCE, NAVY RESERVE", $19,100,000.

(9) Under the heading "OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD", $39,400,000.

(b) The total amount appropriated under subsection (a) shall be available only to the extent that an official budget request for that specific dollar amount includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and is transmitted by the President to the Congress.

(c) The total amount appropriated under subsection (a) is hereby designated by Congress as an emergency requirement pursuant
Section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(d) All of the funds appropriated and available under this section shall be obligated not later than September 30, 2001.

Mr. REID. Mr. President, I send an amendment to the desk for Senator HOLLINGS under my name under the authorized list.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. HOLLINGS, proposes an amendment numbered 974.

The amendment is as follows:

(Purpose: Ensuring funding for defense and education and the supplemental appropriation by repealing tax cuts for 2001)

At the appropriate place, insert the following:

... ENSURING FUNDING FOR DEFENSE AND EDUCATION AND THE SUPPLEMENTAL APPROPRIATION BY REPEALING TAX CUTS FOR 2001...

(a) REPEAL.—

(1) IN GENERAL.—Section 101 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(2) APPLICATION OF CODE.—The Internal Revenue Code of 1986 shall be applied and administered as if such section 101 (and the amendments made by such section) had never been enacted.

(3) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section I of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new subsection:

(i) Rate Reductions After 2001.—

(1) Initial Bracket Amount.—For purposes of this paragraph, the initial bracket amount is—

(ii) the amount for any taxable year beginning after December 31, 2008, shall be determined under subsection (b) by substituting ‘‘2007’’ for ‘‘1992’’ in subparagraph (B) thereof, and

(iii) such adjustment shall not apply to the amount referred to in subparagraph (B)(iii).

If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

(ii) Reductions in Rates After December 31, 2001.—In the case of taxable years beginning in a calendar year after 2001, the corresponding percentage specified for such calendar year in the table under section (C) shall be substituted for the otherwise applicable tax rate in the tables under subsections (a), (b), (c), (d), and (e).

In the case of taxable years beginning during calendar year:

The corresponding percentages shall be substituted for the following:

<table>
<thead>
<tr>
<th></th>
<th>2002 and 2003</th>
<th>2004 and 2005</th>
<th>2006 and thereafter</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>27.0%</td>
<td>28.0%</td>
<td>30.0%</td>
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<tr>
<td></td>
<td>39.6%</td>
<td>38.5%</td>
<td>36.0%</td>
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<td>26.0%</td>
<td>25.0%</td>
<td>23.0%</td>
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<td>32.0%</td>
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<td></td>
<td>38.0%</td>
<td>35.0%</td>
<td>33.0%</td>
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</table>

(3) Adjustment of Tables.—The Secretary shall prescribe the appropriate tax rate in the tables under subsection (f) to carry out this subsection.

(b) CONFORMING AMENDMENTS.—

(i) Paragraphs (B) of section 1(g)(7) of such Code is amended by striking ‘‘15 percent’’ in clause (ii)(II) and inserting ‘‘10 percent’’.

(ii) Section 1(b) of such Code is amended—

(I) by striking ‘‘28 percent’’ both places it appears in paragraphs (1)(A)(ii)(I) and (1)(B)(i) and inserting ‘‘25 percent’’; and

(II) by striking paragraph (131).

(iii) Section 531 of such Code is amended by striking ‘‘equal to’’ and all that follows and inserting ‘‘equal to the product of the highest rate of tax under section 1(c) and the accumulated taxable income’’.

(iv) Section 541 of such Code is amended by striking ‘‘equal to’’ and all that follows and inserting ‘‘equal to the product of the highest rate of tax under section 1(c) and the accumulated taxable income’’.

(v) Section 3402(p)(1)(B) of such Code is amended by striking ‘‘7, 15, 28, or 31 percent’’ and inserting ‘‘7 percent, any percentage applicable to any of the 3 lowest income brackets in the table under section 1(c)’’.

(vi) Section 3402(p)(2) of such Code is amended by striking ‘‘15 percent’’ and inserting ‘‘10 percent’’.

(vii) Section 3402(q)(1) of such Code is amended by striking ‘‘equal to 28 percent of such payment’’ and inserting ‘‘equal to the product of the third lowest rate of tax applicable under section 1(g)(7) and such payment’’.

(viii) Section 3402(q)(3) of such Code is amended by striking ‘‘31 percent’’ and inserting ‘‘the fourth lowest rate of tax applicable under section 1(c)’’.

(ix) Section 3406(a)(1) of such Code is amended by striking ‘‘equal to 31 percent of such payment’’ and inserting ‘‘equal to the product of the fourth lowest rate of tax applicable under section 1(c) and such payment’’.

(x) Section 1327 of the Revenue Reconciliation Act of 2001 is amended by striking ‘‘28 percent’’ and inserting ‘‘the third lowest rate of tax applicable under section 1(c) of the Internal Revenue Code of 1986’’.

(x) Effective Dates.—

(I) IN GENERAL.—Except as provided in clause (ii), the amendments made by this paragraph shall apply to taxable years beginning after December 31, 2001.

(ii) AMENDMENTS TO STITHOLDING PROVISIONS.—The amendments made by clauses (v), (vi), (vii), (viii), (ix), and (x) of subparagraph (B) shall apply to amounts paid after December 31, 2003.

(b) RESERVE FUND FOR DEFENSE AND EDUCATION.—Subtitle II of title II of H. Con. Res. 8 (107th Congress) is amended by inserting at the end the following:

... SEC. 219. STRATEGIC RESERVE FUND FOR DEFENSE AND EDUCATION.

If legislation is reported by the Committee on Appropriations of the Senate or the Committee on Appropriations of the House of Representatives, or an amendment thereto is offered or a conference report thereon is submitted, that would increase funding for defense or education, the chairman of the appropriate Committee on Appropriations shall revise the aggregates, functional totals, allocations, and other appropriate levels and limits in this resolution for that measure by nonenabling the amount from the...
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an amount equal to $150,000,000 is rescinded
through proportional reductions to the por-
tions of such accounts that contain such
funds.

On page 36, line 9, strike “$300,000,000” and
insert “$450,000,000.”

AMENDMENT NO. 875

Mr. REID. Mr. President, I ask unanimous
consent that the amendment be set aside, and I send an amendment to
the desk on behalf of Senator JOHNSON.

The PRESIDING OFFICER. Without
objection, it is so ordered. The clerk will
report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for
Mr. JOHNSON, proposes an amendment num-
bered 875.

The amendment is as follows:

(Purpose: To amend the Higher Education
Act of 1965 to make certain interest rate
classes permanent)

At the appropriate place, insert the fol-
lowing:

SEC. __. EXTENSION OF INTEREST RATE PROV-
ISIONS.

(a) TECHNICAL CORRECTION.—Paragraph (6)
of section 455(b) of the Higher Education Act
of 1965 (20 U.S.C. 1077e(b)), as redesignated by
section 8381(c)(1) of the Transportation E-
quity Act for the 21st Century (Public Law
105-178; 112 Stat. 498) is redesignated as para-
graph (7) of that section.

(b) EXTENSION.—

(1) AMENDMENTS.—Sections 427A(k),
428C(c)(1), 438(b)(2)(I), and 455(b)(6) of such
Act (20 U.S.C. 1077a(k), 1076-3(c)(1), 1087-
1(b)(2)(I), 1087b(b)(6)) are each amended by
striking “and before July 1, 2003,” each place
it appears.

(2) CONFORMING AMENDMENTS.—

(A) Section 427A(k) of such Act is amended
by striking the subsection heading and in-
serting in its place the following: “INTEREST RATES FOR
NEW LOANS ON OR AFTER OCTOBER 1, 1998.—”.

(B) Section 438(b)(2)(I) of such Act is amend-
ed—

(i) by striking the subparagraph heading
and inserting the following: “INTEREST RATE PRO-
VISION FOR NEW LOANS ON OR AFTER OCTOBER 1,
1998.—”;

(ii) in clause (i), by striking “2000,” and in-
serting “2000”;

(C) Section 455(b)(6) of such Act is amend-
ed—

(i) by striking the paragraph heading and
inserting the following: “INTEREST RATE PRO-
VISION FOR NEW LOANS ON OR AFTER OCTOBER 1,
1998.—”;

(ii) in subparagraph (D), by striking “1999,”
and inserting “1999.”

Mr. REID. Mr. President, this amend-
ment for Senator JOHNSON preserves a
bipartisan compromise achieved in the
1998 Higher Education Act that reduced and
stabilized higher education loan in-
terest rates. The amendment that has
been offered amends the Higher Edu-
cation Act to continue the current stu-
dent loan interest rate formulas, pre-
serving the successful system that
helps put millions of students through
school every year.

The House resolution includes a
Technical Reserve Fund that makes it
possible to fix the problem in 2001 be-
fore a crisis develops in 2003 when the
current formula for calculating inter-
est rates is due to expire. But the re-
serve fund in the resolution will expire
early next year. Therefore, action is
needed so that Congress and the fi-
nancial aid community can turn to im-
proving financial aid programs all over
this country.

Mr. President, I suggest the absence
of a quorum.

The PRESIDING OFFICER. The clerk
will call the roll.

The assistant legislative clerk pro-
ceded to call the roll.

Mr. REID. Mr. President, I ask unan-
imous consent the order for the quorum
call be rescinded.

The PRESIDING OFFICER. Without
objection, it is so ordered.

Mr. REID. Mr. President, in relation to
the amendment I offered on behalf of
Senator HOLLINGS, the Record should
reflect that I have spoken to the Sen-
ar from South Carolina on several
occasions today. He feels very strongly
about the subject matter of this amend-
ment. I am glad I had this slot
available for the Senator, and I am
happy to have offered this amendment
on his behalf. Senator HOLLINGS will be
available to speak more on the subject
at a later time.

Mr. President, I suggest the absence
of a quorum.

The PRESIDING OFFICER. The clerk
will call the roll.

The assistant legislative clerk pro-
ceded to call the roll.

Mr. BYRD. Mr. President, I ask unan-
imous consent that the order for the quorum
call be rescinded.

The PRESIDING OFFICER. Without
objection, it is so ordered.

Mr. REID. Mr. President, in relation to
the amendment I offered on behalf of
Senator HOLLINGS, the Record should
reflect that I have spoken to the Sen-
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The PRESIDING OFFICER. The clerk
will call the roll.

The assistant legislative clerk pro-
ceded to call the roll.

Mr. BYRD. Mr. President, I ask unan-
imous consent that the order for the quorum
call be rescinded.

The PRESIDING OFFICER. Without
objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, subject to
change by the leadership, I ask unanimous
consent that there now be a pe-
riod for the transaction of morning
business, not to extend beyond the
hour of 6:30 p.m., and that Senators
may be permitted to speak for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without
objection, it is so ordered.

The Senator from North Carolina.

Mr. HELMS. I ask it be in order for
me to deliver my remarks seated at my
desk.

The PRESIDING OFFICER. Without
objection, it is so ordered.

RES IPSA LOQUITUR

Mr. HELMS. Mr. President, the July
edition of the American Legion maga-
azine features a remarkable statement
of obvious truth by a much maligned
American who deserves far better than
the petty sniping he endures at the
hands of cunning politicians and the
media, neither of whom would ac-
knowledge the truth if they fell over it
in the middle of the street.

U.S. Supreme Court Justice Clarence
Thomas pulled no punches in this arti-
cle. His piece in the American Legion
magazine was headed, appropriately,
“Courage v. Civility.” Mr. Justice
Thomas knows a good bit about both.
He is, himself, a civil gentleman who
possesses great courage.

The subhead on his piece pinpoints a
great deal about how a good many
American freedoms are being lost. One
of the things he says is, those who cen-
ter themselves put fear ahead of free-
dom. I will quote briefly from two or
three statements made by the distin-
guished Justice of the Supreme Court.
He said:

I do not believe that one should fight over
things that don’t really matter. But what
about things that do matter? It is not com-
forting to think that the natural tendency
inside us is to settle for the bottom, or even
the middle of the stream.

This tendency, in large part, results from
an overemphasis on civility. None of us
should be uncivil in our manner as we debate
issues of consequence. No matter how dif-
cult it is, good manners should be routine.
However, in the effort to be civil in conduct,
many who know better actually dilute firm-
ly held views to avoid appearing
“judgmental.” They curb their tongues not
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COURAGE V. CIVILITY
THOSE WHO CENSOR THEMSELVES PUT FEAR AHEAD OF FREEDOM
(By Clarence Thomas)

My beliefs about personal fortitude and the importance of defending timeless principles of justice grew out of the wonderful years I spent with my grandparents, the years I have spent in Washington and my interest in world history—especially the history of countries in which the rule of law was surrendered to the rule of fear, such as during the rise of Nazism in what was then one of the most educated and cultured countries in Europe.

I have now been in Washington, D.C., for more than two decades. When I first arrived here in 1979, I thought there would be great debates about principles and policies in this city.

I expected citizens to feel passionately about what was happening in our country, to candidly and passionately debate the policies that had been implemented and suggest new ones.

I was disabused of this heretical notion in December 1980, when I was unwittingly candied with a young Washington Post reporter. He fairly and thoroughly displayed my naive openness in his op-ed about our discussion, in which I had raised what I thought were legitimate objections to a number of sacred policies, such as affirmative action, welfare, school busing—policies I felt were not well served their intended beneficiaries. In my innocence, I was shocked at the public reaction. I had never been called such names in my entire life.

Why were these policies beyond question? What or who placed them off limits? Would it not be useful for those who felt strongly about these matters, and who wanted to solve the same problems, to have a point of view and to be heard? Sadly, in most forums of public dialogue in this country, the answer is no.

It became clear in rather short order that on very difficult issues, such as race, there was not only no room for honest debate. Those who raised questions that suggested doubt about popular policies were subjected to intimidation. Debate was not permitted. Orthodoxy reigned.

Today, no one can honestly claim surprise at the venomous attacks against those who take positions that are contrary to the policies of the day. The shrill attacks on those who claim to shape opinions. Such attacks have been standard fare for some time.

If you trim your sails, you appease those who lack the courage to disagree or to disagree on the merits but prefer to engage in personal attacks. A good argument diluted by ad hominem attacks is not nearly as good as the undiluted argument, because we are afraid to arrive at truth through a process of honest and vigorous debate. Arguments should not sneak around in disguise, as if dissent were some evil in our midst. One should not be cowed by criticism.

In my humble opinion, those who come to engage in debates of consequence, and who are not afraid of the true and the real, are right. The reaction of our critics shows both the power of self-deception and intentioned self-deception at best. It is not worth it. In my office, a little sign reads: "To avoid criticism, say nothing, do nothing, be nothing." None of us really believes that the things we fear discussing honestly these days are really trivial—and the reaction of our critics shows that we are right. If our dissents are really trivial, why is it not worth the trouble?

But is it worth it? Just what is worth it, and what is not? If one wants to be popular, it is counterproductive to disagree with the majority. If one wants to be rewarded with safe water, one can afford to keep silent until the next vacation, it isn't worth the agony. If one just wants to muddle through, it is not worth it. In my office, a little sign reads: "To avoid criticism, say nothing, do nothing, be nothing."

None of us really believes that the things we fear discussing honestly these days are really trivial—and the reaction of our critics shows that we are right. If our dissents are really trivial, why are their reactions so intense? If our views are trivial, why the heart-healing? Like you, I do not want to waste my time on the trivial. I certainly have no desire to be browbeaten and intimidated for the trivial.

What makes it all worthwhile? What makes it worthwhile is something greater than all of us. There are those things that are one time more important than our comfort or discomfort—if not our very lives: Duty, honor, country! There was a time when all was to be set aside for these.

The plow was left idle, the hearth without fire, the homestead abandoned.

To enter public life is to step outside our more confined, comfortable sphere, and to face the tension of difference, competition and citizen-ship. What makes it all worthwhile is to devote ourselves to the common good.

It goes without saying that we must participate in the affairs of our country. If we think they are important and have an impact on our lives, but how are we to do that? In what manner should we participate?

I do not believe that one should fight over things that don't matter. We don't fight about what things that do matter? It is not comforting to think that the natural tendency is to settle for the bottom, or even the middle of the stream.

This tendency, in large part, results from an overemphasis on civility. None of us believes that truly vile attacks are going to be allowed here in our debates about issues of consequence. No matter how difficult it is, good manners should be routine. However, in the effort to be civil in conduct, many who know better actually dilute firmly held views to avoid appearing "judgmental." They curb their tongues not only in form but also in substance. The insistence on civility in the form of our debates has the perverse effect of canabilizing our principles, the very essence of a civil society. That is why civility cannot be the governance principle.

By yielding to a false form of civility, we sometimes allow our critics to intimidate us. As I have said, active citizens are often subjected to truly vile attacks; they are branded as mean-spirited, racist, Uncle Tom, homophobic, sexist, etc. To this we often respond (if not succumb), so as not to be constantly fighting, by trying to be tolerant and nonjudgmental—i.e., we censor ourselves. This is not civility. It is cowardice, or well-intentioned self-deception at best.

The little-known story of Dimitar Peshev shows both the power of self-deception and the explosive effect of telling the truth and the dangers inherent in allowing the rule of law and the truth to pass to political movements of the moment.

Peshev was the vice president of the Bulgarian Parliament during World War II. He was a man like many—simple and straightforward, not a great intellectual, not a military hero—just a civil servant doing his job as best he could, raising his family, struggling through a terrible moment in European history.

Bulgaria was pretty lucky because it managed to stay out of the fighting, even though the Bulgarians had placed their government—and the king—under enormous pressure to enter the war on the side of the Axis, or at a minimum to permit the destruction of the Bulgarian Jews. Bulgaria had no tradition of widespread anti-semitism, and the leaders of the country were generally unwilling to turn over their own citizens to certain death. But like all the other European countries, Bulgaria moved toward the Holocaust in small steps.

Peshev was one of many Bulgarian officials who heard rumors of the new policy and constantly queried his ministers. They lied to him, and for a time he believed their lies. Perhaps the ministers somehow believed the lies themselves. But in the final hours, a handful of citizens from Peshev's hometown raced to Sofia to tell him the truth: that Jews were being rounded up, that the trains were going there.

According to the law, such actions were illegal. So Peshev forced his way into the office of the interior minister, demanding to know what was going on. But instead of using the official line, but Peshev didn't believe him. He demanded that the minister place a telephone call to the local authorities and refuse to cooperate in the destruction of the Jews. This brave act saved the lives of the Bulgarian Jews. Peshev then circulated a letter to
THE ANNUAL MEETING OF THE CORPORATION FOR NATIONAL SERVICE

Mr. LOTT. Mr. President, I would like to take this opportunity to recognize the recent meeting of the board of directors of the Corporation for National Service which was hosted by my home State of Mississippi. Mississippians are known for their hospitality and liberalism, so playing host to this meeting in Jackson was a natural fit.

The board members used this forum to elect Stephen Goldsmith, chairman of the board of directors for the Corporation for National Service. As the former mayor of Indianapolis, Chairman Goldsmith earned a reputation for innovative thinking, reducing spending, and improving infrastructure. I wish him the best of luck in his new role as chairman.

I also understand that at this year’s meeting of the board, a coalition of religious and community leaders praised President Bush for his faith-based and community initiatives, and announced the creation of the Mississippi Faith-Based Coalition for Community Renewal. My constituents advise me that this coalition will work with the President to implement his faith-based plan and bring hope and opportunity to all Mississipians.

HONORING NOBEL LAUREATES

Mr. BIDEN. Mr. President, on July 18 here in Washington, the American College of Neuropsychopharmacology will be honoring its members who have won the Nobel Prize for Medicine or Physiology. The honorees include the three Nobel Prize winners from the year 2000: Dr. Arvid Carlsson from Goteborg University in Sweden, Dr. Paul Greengard from Rockefeller University in New York City, and Dr. Eric Kandel from Columbia University in New York City. Also being honored is the 1970 Nobel Prize winner, Dr. Julius Axelrod from the National Institutes of Health in Maryland. Together, these Nobel Prize winners have helped us begin to understand how the most mysterious and important human organ, the brain, actually works.

The brain is a huge collection of nerve cells, connected to each other in complicated networks. Nerve impulses, which are the means of communicating information from the brain to the various parts of the body, are conducted from one end of a nerve cell to another by a form of electrical action. Dr. Axelrod’s work set the stage for our modern knowledge of brain neurotransmission by establishing the important role of neurotransmitters, which are chemicals that serve to transmit these nerve impulses from one nerve cell to another through a connecting region called the synapse. A key first step in understanding the brain was this discovery that, as nerve impulses move from nerve cell to nerve cell, they switch from an electrical conduction to a chemical conduction and then back again to an electrical conduction.

Dr. Carlsson started to fill in this general outline by discovering that the chemical dopamine was one of these important chemicals that transmits nerve signals from one nerve cell to another. Moreover, dopamine seemed to be very important in controlling body motions. Dr. Carlson’s work with experimental animals who were deficient in dopamine led to the seminal discovery that Parkinson’s disease in humans, a disabling and progressive disease associated with tremors and impaired mobility, was directly related to a deficiency of a certain number of parts of the brain. This landmark finding led directly to the treatment of Parkinson’s disease with L-dopa, a drug that is converted to dopamine in the body. To this very day, the foundation for the treatment of this illness is the use of medications that increase dopamine in the brain or mimic its action there.

Dr. Carlson also discovered that the drugs used to treat schizophrenia, a severe mental illness affecting thought processes, also seemed to work by affecting the action of dopamine in the brain. In contrast to the situation with Parkinson’s disease, in which administration of L-dopa seemed to work by increasing dopamine levels, the antipsychotic drugs such as thorazine, which are used to treat schizophrenia, seemed to work by blocking the action of dopamine in the brain. To this very day, medications that block the effects of dopamine remain the mainstay of treatment for schizophrenia. Dr. Carlson’s work was instrumental in establishing the biological foundation of mental illness, which has led to our ability to target treatment of such disorders with medications based on their specific biochemical cause.

Dr. Greengard carried this line of work one step further, examining exactly how such neurotransmitters work as they transfer nerve impulses from one nerve cell to another through the connecting region called the synapse. He described in detail the cascade of chemical reactions that occurs as the neurotransmitter chemicals stimulate the next nerve cell in the nerve pathway, which results in conversion of the nerve impulse back into an electrical signal. Particularly important was the discovery of the different speeds at which these nerve signals are transmitted across the synapse. This
framework enabled him to establish, on a molecular and biochemical level, the mechanism of action of various drugs that act on the brain's nervous system. Finally, Dr. Kandel expanded the context of this research area by showing how such complex processes as memory and learning are directly related to the basic biochemical foundations outlined by Drs. Greengard, Carlson, and Axelrod. In detailed studies in animals, Dr. Kandel showed that the process of memory was associated with specific changes in the shape and functioning of the synapse region that connects pairs of nerve cells. This research revealed that these connections between nerve cells, rather than just passive junctions, are actually vitally important in the complicated processes of the nervous system.

The brain could be said to be the ultimate human frontier. As scientists pieced together the function of all the other organs in the body over the last few centuries, the brain remained an enigma. The work of Drs. Axelrod, Carlson, Greengard, and Kandel starts to clear away some of the mystery that surrounds the brain, and this research has already led to practical, clinical advances to help millions of people with neurological and mental disorders such as Parkinson's disease and schizophrenia. This basic understanding of how the brain works is clearly necessary for understanding of the numerous brain disorders that affect many more millions of people worldwide, some of which are just starting to be elucidated. Moreover, these pioneering studies have opened the door to the development of targeted medications to treat such illnesses. I am particularly excited about the possibility that this research will unlock the key to the medical treatment of substance abuse disorders, whose social impact in our country is enormous. On behalf of the many people who stand to live longer, more fulfilling lives as a result of their discoveries, I extend my deepest congratulations to these esteemed Nobel laureates.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred June 2, 1999 in Greenfield, MA. Jonathan Shapiro, 18, and Matthew Rogers, 20, used a pocketknife to cut an anti-gay slur into the back of a high school classmate. Government’s first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can be a source of reassurance that by passing this legislation, we can change hearts and minds as well.

UNITED NATIONS CONFERENCE ON THE ILLICIT TRADE IN SMALL ARMS AND LIGHT WEAPONS IN ALL ITS ASPECTS

Mrs. FEINSTEIN. Mr. President, today in New York the United Nations convened the conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, the first effort by the U.N. to address the pressing issue of small arms trafficking.

The mass proliferation of small arms—shoulder-mounted missiles, anti-tank weapons, grenade launchers, high-powered sniper rifles and other tools of death—is fueling civil wars, terrorism and the international drug trade throughout the world.

The grimmest figures come from developing countries where cheap and easy to use small arms and light weapons, such as AK-47s and similar military assault rifles, have become the weapons of choice of narco-traffickers, terrorists and insurgents.

The problem is staggering: An estimated 500 million illicit small arms and light weapons are in circulation around the globe, and in the past decade four million people have been killed by them in civil war and bloody fighting.

Nine out of 10 of these deaths are attributed to small arms and light weapons. According to the International Committee of the Red Cross, more than 50 percent of those killed are believed to be civilians.

Starting today, the United Nations will host a conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. At this conference, the U.N., for the first time, will seek to devise international standards and procedures for curtailting small arms trafficking. It is an issue of extreme importance to the United States. Not only because of the violence and devastation itself, but because of the threat these weapons pose to our political, economic and security interests.

The volume of weaponry has fueled cycles of violence and been a major factor in the devastation witnessed in recent conflicts in Africa, the Balkans, and South Asia, among other places. These conflicts undermine regional stability and endanger the spread of democracy and free-markets around the world. Here are a few examples.

In Mexico a lethal flow of guns south from the United States has fed the Arellano Felix drug cartel and are believed responsible for at least 21 deaths, including two infants, six children and a pregnant 17-year-old girl shot and killed during a murder at Rancho el Rodeo in September 1998.

In Albania more than 650,000 weapons and 20,000 tons of explosives disappeared from government depots in the three years leading up to the outbreak of violence in the Balkans, according to the U.N. The continued presence of the weapons poses a very real threat to NATO and U.S. peacekeepers in the region.

And in Colombia, the continued instability is in part due to the torrential flow of rifles and pistols to rebel groups and drug gangs who have used the imported weapons to murder judges, journalists, police officers, as well as innocent passers-by.

The increased access by terrorists, guerrilla groups, criminals, and others to small arms and light weapons puts in jeopardy U.S. law enforcement efforts, business people based or traveling overseas, and even U.S. tourists.

In approaching the United Nations Conference, it is critical that the U.S. government negotiate and support making the trafficking of small arms traceable and eliminate the secrecy that permits thousands of weapons to fuel crime and war without anyone’s knowledge of their source.

It is my hope the United Nations will move to create international procedures to control the proliferation of small arms and light weapons. The United States has some of the strongest arms export controls in the world, and it is in the U.S. interest to see that those standards are equaled by the world community.

In addition, the United States has a moral responsibility to push for the development of measures that stop weapons from winding up in the hands of abusive government forces, terrorists and drug-traffickers.

Specifically, the U.S. Government should champion a conference program of action that mandates countries’ early negotiations on legally binding procedures: a Framework Convention on International Arms Transfers that sets out export criteria based on countries’ current obligations under international law; and an International Agreement on Marking and Tracing that ends up in the hands of the manufacturer and import and record-keeping on arms production, possession and transfer.

The Program of Action must also include the establishment of regional and international transparency mechanisms and concrete steps to achieve improved implementation and enforcement of arms embargoes.
Mr. OLSON intimated when he was answering questions concerning the “Arkansas Project,” that Senator could have followed up at the hearing. No Senator did.

Second, some have argued that Mr. Olson improperly attempted to minimize his role in the so-called “Arkansas Project” during his confirmation hearing. The charges include allegations that only belatedly did Mr. Olson “admit” that he and his firm provided legal services to the American Spectator, that he had discussions in social settings with those working on Arkansas Project matters, and that he himself authored articles for the magazine paid for out of the special Richard Mellon Scaife fund.

Each of these allegations, however, is contradicted by the factual record. Mr. Olson testified that he and others at his law firm performed legal services for the American Spectator beginning in 1994, that they billed the magazine for those services at their normal market rates, and that those services actually performed. Indeed, that Mr. Olson’s firm provided legal services to the American Spectator has been widely known and a matter of public record for several years. It is not something that he “admitted” under close questioning. Those legal services—involving such things as book contracts and employee disputes—were not “in connection with” the “Arkansas Project,” and any suggestion to the contrary, based on the record as I know it, is wrong as a matter of fact.

As for Mr. Olson’s presence in social settings with individuals associated with the “Arkansas Project,” the questions were asked and Mr. Olson never made any attempt to minimize his attendance at those social events. He stated that he was unaware of any discussions at those events concerning the Scaife-funded efforts to investigate Clinton scandals, and no one has contradicted that testimony. Indeed, every knowledgeable individual—including one of Mr. Olson’s chief critics—has confirmed that testimony. I also understand that journalists employed by other magazines and newspapers—competitors of the American Spectator—and a wide range of other persons also attended those social events. Thus, they also had discussions “in social settings” with those working on Arkansas Project matters, but no responsible person would assert that their attendance at those events made them participants in the American Spectator’s “Arkansas Project.”

Mr. Olson also testified during his hearing about his authorship and co-authorship of several articles critical of the American Spectator and its editors. Indeed, he voluntarily provided copies of those American Spectator articles to the Judiciary Committee in his response to the committee’s standard questionnaire, well in advance of his confirmation hearing. It is simply not correct, as a matter of fact, to suggest that he has modified his understanding of the authorship of the articles after the committee hearing.

As to the American Spectator’s internal bookkeeping for its payments to Mr. Olson or his law firm, it seems plain that Mr. Olson had no way of knowing how the Spectator categorized those payments for its own purposes, any more than taxpayers will know from the face of the check to what internal account the Government will charge the rebate checks flowing from President Bush’s tax cut. Mr. Olson said that he never even saw the checks which were sent to his law firm’s headquarters in Los Angeles in payment of routine client billings. All of this is in the record.

There was no “expansion” or change in Mr. Olson’s testimony on the foregoing points over the last several weeks. It is similarly inaccurate to say, as some critics do, that Mr. Olson “modified” his understanding of his recollections, or “conceded” additional knowledge. To a remarkable degree, Mr. Olson has clearly and consistently answered the questions we asked him. His testimony, moreover, has been fully confirmed by the individuals most closely associated with the “Arkansas Project,” including the editor-in-chief, editor, and publisher of the American Spectator magazine during the relevant time period, as well as the three individuals who primarily performed the investigative journalism funded by the “Arkansas Project.”

Each of these individuals stepped forward voluntarily to confirm the accuracy of Mr. Olson’s testimony. Indeed, there is no one with peremptory knowledge of these events who has contradicted Mr. Olson.

Third, some mistakenly attempt to create a conflict in Mr. Olson’s testimony by confusing the amounts he was paid for writing articles for the American Spectator with the very different amounts that Mr. Olson’s law firm received for providing legal services to the American Spectator over a span of many years. Mr. Olson told the Senate that he was paid from $500 to $1,000 for his articles that appeared in the American Spectator magazine, whereas his firm received $94,405 for legal services. The attempt to create a conflict on this issue requires mixing apples with oranges. There were two different types of payments, for different types of services. In his April 19 answers, Mr. Olson explained that in addition to the $500 to $1,000 fees he received for the articles, his law firm “has received payments for legal services rendered to the American Spectator from time to time, by me and by others at the firm, at our normal market rates.” Given that those legal fees were for legal services provided to the magazine
over a period of more than 5 years, involving the work of several attorneys, the $94,405 figure is in no way surprising. More significantly, Mr. Olson at all times distinguished between the firm's legal fees, and the separate, comparatively modest amounts he received personally for writing articles for the magazine. It is, again, a factual mistake to suggest that he ever sought to confuse those two amounts.

Fourth, some have criticized Mr. Olson for allegedly refusing to respond to an allegation about American Spectator dinner parties. I question whether the Senate should even get into this issue of who attended what dinner parties, given the absence of any serious issue here, and the freedom of speech and press values inherent in a magazine's activities. But this particular allegation is without foundation; the source who publicly contradicted himself appeared only in the pages of the Washington Post. No Senator asked Mr. Olson about that particular allegation, which I believe is not even an issue in this debate. This is not an issue of the nominees of either party an obligation to respond to every far-fetched or baseless charge that might find its way into print. Moreover, one member of the committee did make an inquiry about Mr. Olson's social contacts with employees of the American Spectator and Mr. Olson fully answered that question in writing. So it is factually incorrect to state that he refused to respond to that question.

Fifth, Mr. Olson's statement that his legal services for the American Spectator magazine were not for the purpose of conducting investigations of the Clintons is allegedly contradicted by the fact that Mr. Olson's firm was conducted research and sent Mr. Olson's social contacts with employees of the American Spectator and Mr. Olson fully answered that question in writing. So it is factually incorrect to state that he refused to respond to that question.

The Washington Post editorial board also shares this view. On May 18, after all of the questions regarding the "Arkansas Project," Mr. Bennett is independent; he had no partisan axe to grind in favor of Mr. Olson in connection with this nomination; he, in fact, was a lead counsel for President Clinton for several years; he was not maneuvering for advantage in future nominations; he is a lawyer experienced in weighing evidence and cross-examining witnesses; he looked at the evidence; and his conclusion that these allegations are ill-founded is worthy of our respect.

I agree wholeheartedly with Mr. Bennett. I too have received Mr. Olson's statements before the committee regarding his role in the "Arkansas Project," and I find Mr. Olson's statements to be clear and accurate.

The Washington Post editorial board also shares this view. On May 18, after all of the questions regarding the "Arkansas Project," the Washington Post endorsed Mr. Olson's nomination to be Solicitor General, noting "Mr. Olson is one of Washington's most talented and successful appellate lawyers, a man who served with distinction in the Justice Department during the 1980s and whose work is widely admired across party lines." According to the Washington Post, "Mr. Olson's prior service at the Justice Department indicates that he understands the difference between the role of private citizen and public servant." As for Mr. Olson's testimony regarding his role in the "Arkansas Project," the Washington Post concluded that "there's no evidence that his testimony was inaccurate in any significant way," and that "the Democrats would be wrong to block Mr. Olson." (Emphasis added.)

The Senate thus far has not done a good job of reviewing President Bush's nominees, and in many cases has made upstanding individuals the victims of partisan attacks. The deeply partisan vote over the Solicitor Generalship was a low point. I strongly believe that every nominee deserves fairness in this process and a full chance to get his or her position into the record and considered. It is not right to leave the record incomplete. I hope that, by setting the record straight, the Senate can move on and treat future nominees more fairly.

It is particularly noteworthy that Robert Bennett, one of the most notable lawyers in this country and counsel to the Senate Judiciary Committee. More than almost any other person, he knows that facts of the Clinton matters. During an interview with Wolf Blitzer on CNN on May 22, Mr. Bennett stated: "I have recently read [Mr. Olson's] responses to the Senate, and I have looked at a lot of the material, and if I were voting, I would say that Ted Olson was more than candid with the Senate." Mr. Bennett is independent; he had no partisan axe to grind in favor of Mr. Olson in connection with this nomination; he, in fact, was a lead counsel for President Clinton for several years; he was not maneuvering for advantage in future nominations; he is a lawyer experienced in weighing evidence and cross-examining witnesses; he looked at the evidence; and his conclusion that these allegations are ill-founded is worthy of our respect.

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CONGRESSIONAL RECORD—SENATE

July 9, 2001

S. 258

The Miss America Organization is one of the Nation’s leading achievement programs and the world’s largest provider of scholarships for young women. The Miss America Organization provides young women with the opportunity to grow personally and professionally while instilling a spirit of community service through a variety of community-based programs.

As a former schoolteacher, I commend Angela for her selfless dedication to the education of the young people of Hawaii and our country. I wish her well as she continues her education and continues to enrich the lives of the children in Hawaii.

WESTMINSTER CHRISTIAN ACADEMY

Mr. BOND, Mr. President, I rise to recognize Westminster Christian Academy in St. Louis on winning the Region 3 award at the We the People... The Citizen and the Constitution national finals held on April 21-23, 2001.

This award is presented to the school in each of five geographic regions with the highest cumulative score during the national finals. The students of Westminster Christian Academy competed against 49 classes throughout the Nation. They demonstrated a remarkable understanding of the fundamental ideas and values of American constitutional Government.

I had the pleasure to meet with this group of outstanding students during their visit in April, and I am pleased to congratulate them and their teacher Mr. Ken Boesch on such a fine accomplishment. I also commend Westminster Christian Academy as well, for proving to be a model school that has surpassed the expectations for our country. Through hard work, dedication, and discipline they have surpassed the medium.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HUTCHINSON (for himself and Mr. DUBBIN)

S. Con. Res. 59. A concurrent resolution expressing the sense of Congress that there should be established a National Community Health Center Week to raise awareness of health care needs for our community, migrant, public housing, and homeless health centers; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

At the request of Ms. SOWE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a co-sponsor of S. 258, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of annual screening pap smear and screening pelvic exams.

At the request of Mr. HAGEL, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 261, a bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial.

At the request of Ms. COLLINS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 326, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services and to permanently increase payments for such services that are furnished in rural areas.

At the request of Mr. SARBANES, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from California (Mr. SESSIONS) were added as cosponsors of S. 392, a bill to grant a Federal Charter to Korean War Veterans Association, Incorporated, and for other purposes.

At the request of Mr. MIKULSKI, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 452, a bill to amend title XVIII of the Social Security Act to ensure that the Secretary of Health and Human Services provides appropriate guidance to physicians, providers of services, and ambulance providers that are attempting to properly submit claims under the medicare program to ensure that the Secretary does not target inadvertent billing errors.

At the request of Mr. DOMENICI, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 583, a bill to amend the Food Stamp Act of 1977 to improve nutrition assistance for working families and the elderly, and for other purposes.

At the request of Mr. SCHUMER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 586, a bill to reduce acid deposition under the Clean Air Act, and for other purposes.

At the request of Mr. LUGAR, the name of the Senator from Kentucky
CONGRESSIONAL RECORD—SENATE

July 9, 2001

S. 1079
At the request of Mr. Levin, the name of the Senator from Connecticut (Mr. Lieberman) was added as a cosponsor of S. 1079, a bill to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites.

S. 1096
At the request of Mr. Thompson, the names of the Senator from Nebraska (Mr. Hagel) and the Senator from Massachusetts (Mr. Kerry) were added as cosponsors of S. 1095, a bill to amend title 38, United States Code, to restore promised GI Bill educational benefits to Vietnam era veterans, and for other purposes.

S. 1153
At the request of Mr. Craig, the name of the Senator from Wyoming (Mr. Thomas) was added as a cosponsor of S. 1153, a bill to amend the Food Security Act of 1985 to establish a grassland reserve program to assist owners in restoring and protecting grassland.

S. 1155
At the request of Mr. Hutchison, the name of the Senator from Michigan (Ms. Stabenow) was added as a cosponsor of S. Res. 61, a resolution expressing the sense of the Senate that the Secretary of Veterans Affairs should recognize board certifications from the American Association of Physician Specialists, Inc., for purposes of the payment of special pay by the Veterans Health Administration.

S. Res. 61
At the request of Mr. Hagel, the name of the Senator from Delaware (Ms. Boxer) were added as cosponsors of S. Con. Res. 45, a concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

S. CON. RES. 59
Expressing the sense of Congress that there should be established a National Community Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers

S. Res. 53
At the request of Mr. Hagel, the names of the Senator from Delaware (Mr. Biden) and the Senator from California (Mrs. Boxer) were added as cosponsors of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

submitted resolutions

Whereas community, migrant, public housing, and homeless health centers are nonprofit and community owned and operated health providers that are vital to the Nation’s communities;

Whereas there are more than 1,029 of these health centers serving nearly 12,000,000 people at 3,200 health delivery sites, spanning urban and rural communities in the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands;

Whereas these health centers have provided cost-effective, quality health care to the Nation’s poor and medically underserved, including the working poor, the uninsured, and many high-risk and vulnerable populations;

Whereas these health centers act as a vital safety net in the Nation’s health delivery system, meeting escalating health needs and reducing health disparities;

Whereas these health centers provide care to 1 of every 9 uninsured Americans, 1 of every 8 low-income Americans, and 1 of every 3 rural Americans, who care otherwise lack access to health care;

Whereas these health centers, and other innovative programs in primary and preventive care, reach out to 600,000 homeless persons and more than 650,000 farm workers;

Whereas these health centers make health care responsive and cost-effective by integrating the delivery of primary care with aggressive outreach, patient education, translation, and enabling support services;

Whereas these health centers increase the use of preventive health services such as immunizations, Pap smears, mammograms, and glaucoma screenings;

Whereas there are more than 1,029 of these health centers serving nearly 12,000,000 people at 3,200 health delivery sites, spanning urban and rural communities in the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands;

Whereas these health centers have provided cost-effective, quality health care to the Nation’s poor and medically underserved, including the working poor, the uninsured, and many high-risk and vulnerable populations;

Whereas these health centers act as a vital safety net in the Nation’s health delivery system, meeting escalating health needs and reducing health disparities;

Whereas these health centers provide care to 1 of every 9 uninsured Americans, 1 of every 8 low-income Americans, and 1 of every 3 rural Americans, who care otherwise lack access to health care;

Whereas these health centers, and other innovative programs in primary and preventive care, reach out to 600,000 homeless persons and more than 650,000 farm workers;

Whereas these health centers make health care responsive and cost-effective by integrating the delivery of primary care with aggressive outreach, patient education, translation, and enabling support services;

Whereas these health centers increase the use of preventive health services such as immunizations, Pap smears, mammograms, and glaucoma screenings;
Whereas in communities served by these health centers, maternal mortality rates have been reduced between 10 and 40 percent;  
Whereas these health centers are built by community initiative;  
Whereas federal grants provide money empowering communities to find partners and resources and to recruit doctors and health professionals;  
Whereas Federal grants, on average, contribute 28 percent of these health centers' budgets, with the remainder provided by State and local governments, Medicare, Medicaid, private contributions, private insurance, and patient fees;  
Whereas these health centers are community oriented and patient focused;  
Whereas these health centers tailor their services to fit the special needs and priorities of communities, working together with schools, businesses, churches, community organizations, foundations, and State and local governments;  
Whereas these health centers contribute to the health and well-being of their communities, keeping children healthy and in school and helping adults remain productive and on the job;  
Whereas these health centers engage citizen participation and provide jobs for 50,000 community residents; and  
Whereas the establishment of a National Community Health Center Week for the week beginning August 31, 2001, would raise awareness of the health services provided by these health centers: Now, therefore, be it  
Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—  
(1) there should be established a National Community Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers; and  
(2) the President should issue a proclamation calling on the people of the United States and interested organizations to observe such a week with appropriate programs and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 861. Mr. BYRD (for himself and Mr. STEVENS) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.  
SA 862. Mr. REID (for Mr. SCHUMER (for himself, Mr. RIEH, Mr. DODD, Mr. LIEBERMAN, Mr. CORZINE, and Mr. REID)) proposed an amendment to the bill S. 1077, supra.  
SA 863. Mr. REID (for Mr. FRINGOLD) proposed an amendment to the bill S. 1077, supra.  
SA 864. Mr. CRAIG (for Mr. ROBERTS (for himself, Mr. CLELAND, Mr. CRAIG, Mr. MILLIK, Mr. CHAVRO, and Mr. RUNOWACK)) proposed an amendment to the bill S. 1077, supra.  
SA 865. Mr. VOINOVICH (for himself, Mr. HELMS, Mr. SESSIONS, and Mr. CRAPO) proposed an amendment to the bill S. 1077, supra.  
SA 866. Mr. BYRD (for Mr. CONRAD) proposed an amendment to an amendment SA 865 proposed by Mr. VOINOVICH to the bill (S. 1077, supra.  
SA 867. Mr. CONRAD proposed an amendment to the bill S. 1077, supra.  
SA 868. Mr. STEVENS (for Mr. MCCAIN (for himself, Mr. LIEBERMAN, and Mr. LANDRUM)) proposed an amendment to the bill S. 1077, supra.  
SA 870. Mr. STEVENS (for Mr. HUTCHINSON) proposed an amendment to the bill S. 1077, supra.  
SA 871. Mr. STEVENS (for Mr. CRAIG) proposed an amendment to the bill S. 1077, supra.  
SA 872. Mr. BOND (for himself and Mr. MCCAIN) proposed an amendment to the bill S. 1077, supra.  
SA 873. Mr. REID (for Mr. HOLLINGS) proposed an amendment to the bill S. 1077, supra.  
SA 874. Mr. REID (for Mr. WELLS) proposed an amendment to the bill S. 1077, supra.  
SA 875. Mr. REID (for Mr. JOHNSON) proposed an amendment to the bill S. 1077, supra.

TEXT OF AMENDMENTS

SA 861. Mr. BYRD (for himself and Mr. STEVENS) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.  
On page 11, after line 8, insert the following:  
"SEC. 1207. Of the amounts appropriated in this Act under the heading 'Operation and Maintenance, Army', $8,000,000 shall be available for the purpose of repairing storm damage at Fort Sill, Oklahoma, and Red River Army Depot, Texas."  
On page 11, after line 8, insert the following:  
"SEC. 1208. (a) Of the total amount appropriated under this Act to the Army for operation and maintenance, such amount as may be necessary shall be available for a conveyance by the Secretary of the Army, without consideration, of all right, title, and interest of the United States in and to the firefighting and rescue vehicles described in subsection (b) to the City of Bayonne, New Jersey.  
(b) The firefighting and rescue vehicles referred to in subsection (a) are a rescue hazardous materials truck, a 2,000 gallon per minute pump, and a 100-foot elevated platform truck, all of which are at Millitary Ocean Terminal, Bayonne, New Jersey."

On page 11, line 15, before the period, insert: "Provided: Provided, That funding is authorized for Project 01-D-107, Atlas Relocation and Operations, and Project 01-D-108, Microsystems and Engineering Science Application Complex".  
On page 13, after line 8, insert the following:  
"SEC. 1402. Notwithstanding any other provision of law, the Federal Crop Insurance Corporation shall promulgate final regulations to carry out section 522(b) of the Federal Crop Insurance Act of 1970 (7 U.S.C. 522(b)), without regard to:
  "(1) the notice and comment provisions of section 553 of title 5, United States Code;  
  "(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and  
  "(3) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act')."

On page 22, line 13, after "purposes of D.C."

SEC. 2105. Under the heading of 'Food and Drug Administration', $1,000,000, to remain available until September 30, 2002: Provided, That of these funds, no less than $1,000,000 shall be used for enforcement of the Animal Welfare Act: Provided further, That of these funds, no less than $1,000,000 shall be used to enhance human slaughter practices under the Federal Meat Inspections Act: Provided further, That of these funds, no less than $1,000,000 shall be used to enhance human slaughter practices under the Federal Meat Inspections Act: Provided further, That these funds may be transferred to and merged with appropriations for agencies performing this work.

On page 14, after line 25, insert the following:  
"SEC. 2103. (a) Not later than August 1, 2001, the Federal Crop Insurance Corporation shall promulgate final regulations to carry out section 522(b) of the Federal Crop Insurance Act of 1970 (7 U.S.C. 522(b)), without regard to:
  "(1) the notice and comment provisions of section 553 of title 5, United States Code;  
  "(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and  
  "(3) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act')."

On page 14, after line 25, insert the following:  
"SEC. 2104. In addition to amounts otherwise available, $20,000,000 from amounts pursuant to 15 U.S.C. 1344-4 for the Secretary of Agriculture to make available financial assistance related to water conservation to eligible producers in the Klamath Basin, as determined by the Secretary."  
On page 14, after line 25 insert the following new section:  
"SEC. 2105. Under the heading of 'Food Stamp Program' in Public Law 106-387, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000, in the sixth proviso, strike "$194,000,000" and insert in lieu thereof "$191,000,000".

On page 15, after line 22, strike "$100,000,000" and insert "$120,000,000".

On page 16, beginning with line 25, strike all through line 4 on page 17.

On page 17, line 5, strike "2202" and insert "2201".

On page 17, line 24, strike "2203" and insert "2211".
transferred all local funds resulting from the lapse of personnel vacancies, caused by the rescission of funds under section 396 of the Communications Act of 1934 (47 U.S.C. 396) is an eligible entity in accordance with principles and criteria established by the Corporation. Provided, That these funds shall be non-reimbursable: Provided further, That these funds shall be available until expended."

On page 42, after line 25, insert the following:

""ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS"

For an additional amount for 'Acquisition, Construction, and Improvements', $1,000,000, to remain available until expended."

On page 42, after line 24, insert the following:

"SEC. 2902. Notwithstanding section 47106(b)(2) of title 49, United States Code or any provision of an application for a project grant under chapter 471 of that title may propose projects at Abbeville Municipal Airport and Akutan Airport, and the Secretary may make project grants for such projects.

On page 43, after line 24, insert the following:

"FEDERAL PAYMENT TO MORRIS K. Udall Scholarship and Excellence in National Environmental Policy Foundation"

Of the funds available under this heading in H.R. 5658 of the 106th Congress, as incorporated by reference in Public Law 106-554, $1,000,000 shall be made available for necessary expenses incurred pursuant to section 6(7) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5604(7)), to remain available until expended.

On page 44, after line 20, insert the following:

"FEDERAL AVIATION ADMINISTRATION"

"GRANTS-IN-AID FOR AIRPORTS (AIRPORT AND AIRWAY TRUST FUND)"

"RESCISSION OF CONTRACT AUTHORIZATION"

"Of the unobligated balances authorized under 49 U.S.C. 48103, as amended, $30,000,000 are rescinded."

On page 45, after line 1, insert the following:

"EMERGENCY HIGHWAY RESTORATION"

For the costs associated with the long term restoration or replacement of seismically-vulnerable highways recently damaged during the Nisqually earthquake, $12,800,000, to remain available until expended: Provided, That of the amount made available under this head, $5,000,000 shall be for a fixed guideway modernization project at the Eisenhower Tunnel in Denver, Colorado, and $2,000,000 shall be for the Magnolia Bridge in Seattle, Washington."

On page 45, at the end of line 6, insert the following: "Provided, That this amount may be made available, notwithstanding any other provision of law, for a United States contribution to a global trust fund to combat HIV/AIDS, malaria, and tuberculosis: Provided, further, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section

"ALASKA RAILROAD COMMISSION"

To enable the Secretary of Transportation to make an additional grant to the Alaska Railroad, $2,000,000 for a joint United States and Canadian commission to study the feasibility of connecting the rail system in Alaska to the North American continental rail system."

On page 44, between lines 21 and 22, insert the following:

"FEDERAL ENVIRONMENTAL PROTECTION AGENCY"

"ENVIRONMENTAL MANAGEMENT BUILDING AT NORFOLK NAVAL SHIPYARD"

"For the costs associated with the long term restoration or replacement of seismically-vulnerable highways recently damaged during the Nisqually earthquake, $12,800,000, to remain available until expended: Provided, That of the amount made available under this head, $5,000,000 shall be for a fixed guideway modernization project at the Eisenhower Tunnel in Denver, Colorado, and $2,000,000 shall be for the Magnolia Bridge in Seattle, Washington."

On page 45, after line 1, insert the following:

"EMERGENCY HIGHWAY RESTORATION"

For the costs associated with the long term restoration or replacement of seismically-vulnerable highways recently damaged during the Nisqually earthquake, $12,800,000, to remain available until expended: Provided, That of the amount made available under this head, $5,000,000 shall be for the Magnolia Bridge in Seattle, Washington."

On page 45, after line 23, insert the following: "Provided, That this amount may be made available, notwithstanding any other provision of law, for a United States contribution to a global trust fund to combat HIV/AIDS, malaria, and tuberculosis: Provided, further, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section
SA 864. Mr. CRAIG (for Mr. ROBERTS (for himself, Mr. CLELAND, Mr. MILLER, Mr. CRAPO, and Mr. BROWNBACK)) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:


(a) SHORT TITLE.—This section may be cited as the “Protect Social Security Surpluses Act of 2001.”

(b) ENFORCING DEFICIT TARGETS.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 903) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) EXCESS DEFICIT; MARGIN.—The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus the margin for that year. In this subsection, the margin for each fiscal year is 0.5 percent of estimated total outlays for that fiscal year.”;

(2) by striking subsection (c) and inserting the following:

“(c) ELIMINATING EXCESS DEFICIT.—Each non-exempt account shall be reduced by a dollar amount calculated by multiplying the baseline level of sequesterable budgetary resources in that account at that time by the uniform percentage necessary to eliminate an excess deficit.”; and

(3) by striking subsections (g) and (h).

(c) ECONOMIC AND TECHNICAL ASSUMPTIONS.—Notwithstanding section 254(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(f)), the Office of Management and Budget shall use the economic and technical assumptions underlying the report issued pursuant to section 1106 of title 31, United States Code, for purposes of determining the excess deficit under section 255(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by subsection (b).

SA 865. Mr. VOINOVICH (for himself, Mr. HELMS, Mr. SESSIONS, and Mr. CRAPO) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:


(a) SHORT TITLE.—This section may be cited as the “Protect Social Security Surpluses Act of 2001.”

(b) ENFORCING DEFICIT TARGETS.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 903) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) EXCESS DEFICIT; MARGIN.—The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus the margin for that year. In this subsection, the margin for each fiscal year is 0.5 percent of estimated total outlays for that fiscal year.”;

(2) by striking subsection (c) and inserting the following:

“(c) ELIMINATING EXCESS DEFICIT.—Each non-exempt account shall be reduced by a dollar amount calculated by multiplying the baseline level of sequesterable budgetary resources in that account at that time by the uniform percentage necessary to eliminate an excess deficit.”; and

(3) by striking subsections (g) and (h).

(c) ECONOMIC AND TECHNICAL ASSUMPTIONS.—Notwithstanding section 254(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(f)), the Office of Management and Budget shall use the economic and technical assumptions underlying the report issued pursuant to section 1106 of title 31, United States Code, for purposes of determining the excess deficit under section 255(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by subsection (b).

SA 866. Mr. BYRD (for Mr. CONRAD) proposed an amendment to amendment SA 865 proposed by Mr. VOINOVICH to the bill (S. 1077) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE —SOCIAL SECURITY AND MEDICARE OFF-BUDGET LOCKBOX ACT OF 2001

SEC. 01. SHORT TITLE.

This title may be cited as the “Social Security and Medicare Off-Budget Lockbox Act of 2001.”

SEC. 02. STRENGTHENING SOCIAL SECURITY POINTS OF ORDER.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(7), by striking “for the fiscal year” through the period and inserting “for each fiscal year covered by the resolution”; and

(b) STRENGTHENING MEDICARE POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend section 1301 of the Budget Enforcement Act of 1990.

(c) E F F E C T I V E  D A T E.—This section and the amendments made by this section shall apply to fiscal years 2002 through 2006.
to consider any concurrent resolution on the budget (public, conference, or conference report on the resolution) that would cause a decrease in surpluses or an increase in deficits of the Federal Hospital Insurance Trust Fund in any year relative to the levels set forth in the applicable resolution.

(b) BASELINE TO EXCLUDE HOSPITAL INSURANCE TRUST FUND.—Section 257(b)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "shall be included in" and inserting "shall not be included in any.

(c) Medicare Firewalls.—Section 311(a) of the Congressional Budget Act of 1974 (2 U.S.C. 642(a)) is amended by adding after paragraph (3), the following:

"(4) Enforcement of Medicare Levels in the Senate.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a decrease in surpluses or an increase in deficits of the Federal Hospital Insurance Trust Fund in any year relative to the levels set forth in the applicable resolution.".

SEC. 04. PREVENTING ON-BUDGET DEFICITS.

(a) Points of Order to Prevent on-Budget Deficits.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by adding at the end the following:

"(b) Points of Order to Prevent on-Budget Deficits.—

"(1) Concurrent Resolutions on the Budget.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would cause or increase an on-budget deficit for any fiscal year.

"(2) Super Majority Requirement.—

"(1) Point of Order.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting "312(h)", after "312(g)", and

"(2) Waiver.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "312(h)", after "312(g)".

SA 867. Mr. CONRAD proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 47, between lines 20 and 21, insert the following:

"COMMUNITY DEVELOPMENT BLOCK GRANTS.—For emergency housing for Indians on the Turtle Mountain Indian Reservation, there shall be made available $10,000,000 through the Indian community development block grant program under the Housing and Community Development Act of 1974. Amounts made available for programs administered by the Department of Housing and Urban Development under the Act shall be reduced on a pro rata basis by $10,000,000. The Federal Emergency management Agency shall provide technical assistance to Indians with respect to the acquisition of emergency housing on the Turtle Mountain Indian Reservation.

"SA 868. Mr. STEVENS (for Mr. McCAIN (for himself, Mr. LIEBERMAN, and Ms. LANDRIEU)) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 11, between lines 8 and 9, insert the following:

"SEC. 1207. In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 in other provisions of this Act or in the Department of Defense Appropriations Act, 2001 (Public Law 106–259), $2,736,100 is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

- "Military Personnel, Army", $30,000,000;
- "Military Personnel, Navy", $10,000,000;
- "Military Personnel, Air Force", $332,500,000;
- "Reserve Personnel, Army", $30,000,000;
- "Operation and Maintenance, Army", $916,400,000;
- "Operation and Maintenance, Navy", $514,500,000;
- "Operation and Maintenance, Marine Corps", $226,700,000;
- "Operation and Maintenance, Air Force", $59,600,000;
- "Operation and Maintenance, Defense-Wide", $9,000,000;
- "Operation and Maintenance, Army Reserve", $30,000,000;
- "Operation and Maintenance, Army National Guard", $106,000,000;
- "Aircraft Procurement, Army", $50,000,000, to remain available for obligation until September 30, 2003;
- "Procurement of Weapons and Tracked Combat Vehicles, Army", $10,000,000, to remain available for obligation until September 30, 2003;
- "Procurement of Ammunition, Army", $14,000,000, to remain available for obligation until September 30, 2003;
- "Other Procurement, Army", $40,000,000, to remain available for obligation until September 30, 2003;
- "Aircraft Procurement, Navy", $65,000,000, to remain available for obligation until September 30, 2003;
- "Research, Development, Test and Evaluation, Air Force", $8,000,000, to remain available for obligation until September 30, 2002; and
- "USS Cole", $49,000,000.

Provided, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided, further, That the entire amount under this section shall be available only to the extent that an official budget request for a dollar amount that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

SA 869. Mr. STEVENS (for Mr. McCAIN (for himself, Mr. LIEBERMAN, and Ms. LANDRIEU)) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

After section 3002, insert the following:

"SEC. 3003. (a) In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 by other provisions of this Act or the Department of Defense Appropriations Act, 2001 (Public Law 106–259), funds are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

- "Military Personnel, Navy", $161,000,000, of which $1,000,000 shall be available for the supplemental subsistence allowance under section 402a of title 37, United States Code.
- "Operation and Maintenance, Army", $103,000,000.
- "Operation and Maintenance, Marine Corps", $181,000,000, of which $6,000,000 shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.
- "Operation and Maintenance, Marine Corps Reserve", $72,000,000, of which $36,000,000 shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.
- "Operation and Maintenance, Air Force", $397,000,000.
- "Operation and Maintenance, Air Force Reserve", $212,000,000.
- "Operation and Maintenance, Navy Reserve", $212,000,000.
- "Other Procurement, Navy", $45,000,000, to remain available for obligation until September 30, 2003, which shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.

Provided, That the amount appropriated by chapter 10 of title II to the Department of the Treasury for Departmental Offices under the heading "Salaries and Expenses" is hereby reduced by $30,000,000.

(e) The matter in chapter 11 of title II under the heading "National Aeronautics and Space Administration Human Space Flight" shall not take effect.
SA 870. Mr. STEVENS (for Mr. HUTCHINSON) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 13, between lines 23 and 24, insert the following:

FOREST SERVICE
STATE AND PRIVATE FORESTRY
For an additional amount for "State and Private Forestry" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

NATIONAL FOREST SYSTEM
For an additional amount for the "National Forest System" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

CAPITAL IMPROVEMENT AND MAINTENANCE
For an additional amount for "Capital Improvement and Maintenance" to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $4,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

SA 871. Mr. STEVENS (for Mr. CRAIG) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 29, between lines 2 and 3, insert the following:

Scc. 2506. In exercising the authority to provide cash transfer assistance for Israel for the fiscal year ending September 30, 2001, the President shall:

(1) ensure that the level of such assistance does not cause an adverse impact on the total level of non-military exports from the United States to Israel; and

(2) enter into a side letter agreement with Israel providing for the purchase of grain in the same amount and in accordance with terms at least as favorable as the side letter agreement in effect for the fiscal year ending September 30, 2000.

SA 872. Mr. BOND (for himself and Mr. MCCAIN) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the end of title III, add the following:

SEC. 301. ENSURING FUNDING FOR DEFENSE AND EDUCATION AND THE SUPPLEMENTAL APPROPRIATION BY REPEALING TAX CUTS FOR 2001.

(a) REPEAL.—

(1) IN GENERAL.—Section 101 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(2) APPLICATION OF CODE.—The Internal Revenue Code of 1986 shall be applied and administered as if such section 101 (and the amendments made by such section) had never been enacted.

(3) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 shall be applied and administered as if the definition of "personal" which was in effect before such section took effect is repealed.

(B) APPLICATION OF CODE.—The Internal Revenue Code of 1986 shall be applied and administered as if there were no limitations on the amount of the deduction for charitable contributions, charitable remainder interests, and the deduction for charitable donations of works of art.

(C) CONFORMING AMENDMENTS.—

Section 189 shall be applied as if any item of income, gain, loss, or deduction for the taxable year with respect to which the deduction referred to in section 189 is allowed were a loss or deduction.

(D) CONFORMING AMENDMENTS.—

The amendment made by the preceding subsection shall be applied as if the credit under section 28(b)(1) were not reduced by the amount of 0.3 percent (as reduced under section 28(b)(2)) for the fiscal year 2001.
(i) $13,000 ($12,000 in the case of taxable years beginning on January 1, 2008) in the case of subsection (a),
(ii) $10,000 in the case of subsection (b), and
(iii) 1 the amount applicable under clause (i) (after adjustment, if any, under subparagraph (C)) in the case of subsections (c) and (d).

(3) ADJUSTMENT.—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2001—one
(i) $13,000, any percentage applicable under subsection 11(b) shall make no adjustment to the initial bracket amount for any taxable year beginning before January 1, 2009,
(ii) the cost-of-living adjustment used in making adjustments to the initial bracket amount for any taxable year beginning after December 31, 2008, shall be determined under subsection (f)(3) by substituting '2007' for '1992' in subparagraph (B) thereof, and
(iii) such adjustment shall not apply to the amount referred to in subparagraph (B) (iii) (B) (i).

2 If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

(2) REDUCTIONS IN RATES AFTER DECEMBER 31, 2001.—In the case of taxable years beginning in a calendar year after 2001, the corresponding percentage specified for such calendar year in the following table shall be substituted for the otherwise applicable tax rate in the tables under subsections (a), (b), (c), (d), and (e).

In the case of taxable years beginning during calendar year:

The corresponding percentages shall be determined from the following:

<table>
<thead>
<tr>
<th>Year</th>
<th>28%</th>
<th>31%</th>
<th>36%</th>
<th>39.6%</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002 and 2003</td>
<td>27.0%</td>
<td>30.0%</td>
<td>35.0%</td>
<td>38.5%</td>
</tr>
<tr>
<td>2004 and 2005</td>
<td>25.0%</td>
<td>29.0%</td>
<td>34.0%</td>
<td>37.5%</td>
</tr>
<tr>
<td>2006 and thereafter</td>
<td>25.0%</td>
<td>28.0%</td>
<td>33.0%</td>
<td>35.0%</td>
</tr>
</tbody>
</table>

(3) ADJUSTMENT OF TABLES.—The Secretary shall adjust the tables prescribed under subsection (f) to carry out this subsection.

(B) CONFORMING AMENDMENTS.—
(1) Subparagraph (B) of section 1(g)(7) of such Code is amended by striking ‘‘15 percent’’ in clause (ii)(II) and inserting ‘‘10 percent’’.

(ii) Section 1(h) of such Code is amended—
(I) by striking ‘‘28 percent’’ both places it appears in paragraphs (1)(A)(i)(I) and (1)(B)(i) and inserting ‘‘25 percent’’, and
(II) by striking paragraph (19).

(iii) Section 531 of such Code is amended by striking ‘‘equal to’’ and all that follows and inserting ‘‘equal to the product of the highest rate of tax under section 1(c) and the accumulated taxable income’’.

(iv) Section 541 of such Code is amended by striking ‘‘equal to’’ and all that follows and inserting ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

(v) Section 3402(b)(1)(B) of such Code is amended by striking ‘‘$7, 15, 28, or 31 percent’’ and inserting ‘‘7 percent, any percentage applicable to any of the 3 lowest income brackets in section 1(c)’’.

(vi) Section 3402(b)(2)(B) of such Code is amended by striking ‘‘equal to’’ and all that follows and inserting ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

(vii) Section 3402(b)(2) of such Code is amended by striking ‘‘equal to’’ and all that follows and inserting ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

(viii) Section 3402(b)(2) of such Code is amended by striking ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

(ix) Section 3402(c)(1) of such Code is amended by striking ‘‘equal to’’ and all that follows and inserting ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

(x) Section 3402(c)(2) of such Code is amended by striking ‘‘equal to’’ and all that follows and inserting ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

(ix) Section 3402(d)(2)(c) of such Code is amended by striking ‘‘equal to’’ and all that follows and inserting ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

(x) Section 3402(d)(2)(c) of such Code is amended by striking ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

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(xiii) Section 3402(d)(2)(c) of such Code is amended by striking ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

(xiv) Section 3402(d)(2)(c) of such Code is amended by striking ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

(xv) Section 3402(d)(2)(c) of such Code is amended by striking ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

(xvi) Section 3402(d)(2)(c) of such Code is amended by striking ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

(xvii) Section 3402(d)(2)(c) of such Code is amended by striking ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

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(xx) Section 3402(d)(2)(c) of such Code is amended by striking ‘‘equal to the product of the highest rate of tax under section 1(c) and the undisbursed personal holding company income’’.

(2) Such amount shall be rescinded from such Federal appropriations accounts as the Secretary of Defense shall specify before July 31, 2001.

(b) Effective August 1, 2001, if the Secretary of Defense has not specified accounts for rescissions under subsection (a), of the funds described in subsection (a)(1) and remaining in Federal appropriations accounts, an amount equal to $150,000,000 is rescinded through proportional reductions to the por-
hearing will examine past and current U.S. efforts to convince offshore tax havens to cooperate with U.S. efforts to stop tax evasion, the role of the Organization of Economic Cooperation and Development, (OECD), tax haven project in light of U.S. objectives, and the current status of U.S. support for the project, in particular for the core elements requiring information exchange.

The hearing will take place on Wednesday, July 18, 2001, at 2 p.m. in room 628 of the Dirksen Senate Office Building. For further information, please contact Linda J. Gustitus of the subcommittee staff at (202) 224-3721.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 17, 2001, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 281, to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial; S. 386 and H.R. 146, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Great Falls Historic District in the city of Paterson, New Jersey, as a unit of the National Park System, and for other purposes; S. 513 and H.R. 182, to amend the Wild and Scenic Rivers Act to designate a segment of the Eightmile River in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; S. 921 and H.R. 1009, to adjust the boundary of the William Howard Taft National Historic Site in the State of Ohio, to authorize an exchange of land in connection with the historic site, and for other purposes; and S. 1087, to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of the Great Smoky Mountains National Park.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202) 224-9863.

BIPARTISAN PATIENT PROTECTION ACT

On June 29, 2001, the Senate passed S. 1052, as follows:

S. 1052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Patient Protection Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows: Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

Sec. 101. Utilization review activities.

Sec. 102. Procedures for initial claims for benefits and prior authorization determinations.

Sec. 103. Internal appeals of claims denials.

Sec. 104. Independent external appeals procedures.

Sec. 105. Health care consumer assistance fund.

Subtitle B—Access to Care

Sec. 111. Consumer choice option.

Sec. 112. Choice of health care professional.

Sec. 113. Access to emergency care.

Sec. 114. Timely access to specialists.

Sec. 115. Patient access to obstetrical and gynecological care.

Sec. 116. Access to pediatric care.

Sec. 117. Continuity of care.

Sec. 118. Access to needed prescription drugs.

Sec. 119. Coverage for individuals participating in approved clinical trials.

Sec. 120. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.

Subtitle C—Access to Information

Sec. 121. Patient access to information.

Sec. 122. Genetic information.

Subtitle D—Protecting the Doctor-Patient Relationship

Sec. 131. Prohibition of interference with certain medical communications.

Sec. 132. Prohibition of discrimination against providers based on licensure.

Sec. 133. Prohibition against improper incentive arrangements.

Sec. 134. Payment of claims.

Sec. 135. Protection for patient advocacy.

Subtitle E—Definitions

Sec. 151. Definitions.

Sec. 152. Preemption; State flexibility; construction.

Sec. 153. Exclusions.

Sec. 154. Coverage of limited scope plans.

Sec. 155. Regulations.

Sec. 156. Incorporation into plan or coverage documents.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.

Sec. 202. Application to individual health insurance coverage.

Sec. 203. Cooperation between Federal and State authorities.

Sec. 204. Elimination of option of non-Federal governmental plans to be exempted from requirements concerning genetic information.

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS

Sec. 301. Application of patient protection standards to Federal health care programs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974


July 9, 2001

CONGRESSIONAL RECORD—SENATE 12683
Sec. 607. Definition of born-alive infant.
Sec. 606. Annual review.
Sec. 605. Sense of Senate with respect to
Sec. 604. Sense of Senate with respect to
Sec. 603. Fiscal year 2002 medicare pay-
Sec. 602. Customs user fees.
Sec. 601. No impact on Social Security Trust
Sec. 503. Severability.
Sec. 502. Coordination in implementation.
Sec. 501. Effective dates.
Sec. 405. Cooperation between Federal and
Sec. 404. Limitations on actions.
Sec. 403. Limitation on certain class action
Sec. 402. Availability of civil remedies.
Sec. 401. Liability of certain class action
litigation.
Sec. 400. Limitations on actions.
Sec. 395. Cooperation between Federal and
State authorities.
Sec. 394. Written policies and procedures that govern
program shall be conducted consistent with
written policies and procedures that provide
and includes prospective review, concurrent
appropriateness, efficacy, or efficiency of
health insurance coverage, shall conduct utiliza-
tion review activities in connection with the
provision of benefits under such plan or
coverage only in accordance with a utiliza-
tion review program that meets the require-
ments of this section and section 102.
(2) Written policies and procedures that provide
and includes prospective review, concurrent
review, second opinions, case management,
discharge planning, or retrospective review.
(1) Written Policies.—A utilization review
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Sec. 606. Annual review.
Sec. 607. Definition of born-alive infant.
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jeopardize the life or health of the partici-

pant, beneficiary, or enrollee in order to maintain or regain maximum function. Such
determination shall be made in accordance
with the medical exigencies of the case and as soon as possible, but in no case later than 72
hours after the time the request is re-
cieved by the plan or issuer under this sub-
paragraph.

(C) ONGOING CARE.—

(i) Concurrent review.—

(I) In general.—Subject to clause (ii), in the case of a concurrent review of ongoing
care (including hospitalization), which re-
sults in a termination or reduction of such
care, the plan or issuer must provide by tele-
phone and in printed form notice of the con-
current review determination to the indi-
vidual or the individual’s designee and the
individual’s health care provider in accord-
ance with the medical exigencies of the case and as soon as possible, with sufficient time
prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be
concluded, prior to the termination or redu-
tion takes effect.

(II) CONTENTS OF NOTICE.—Such notice
shall include, with respect to ongoing health
services approved, the number of total of
approved services, the date of onset of services, and the next review date, if any, as well as a
statement in the individual’s rights to fur-
ther appeal.

(ii) Rule of construction.—Clause (i)
shall not be construed as requiring plans or
issuers to provide coverage of care that
would exceed the coverage limitations for
such care.

(2) RETROSPECTIVE DETERMINATION.—
A group health plan, or health insurance issuer
offering health insurance coverage, shall make a retrospective determination on a
claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the
date on which the plan or issuer receives in-
formation that is reasonably necessary to enable the plan or issuer to make a deter-
mination on the claim, or, if earlier, 60 days
after the date of receipt of the claim for ben-
efits.

(c) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial made
under an initial claim for benefits shall be issued to the participant, beneficiary, or en-
rollee (or authorized representative) and the

(1) Right to Initial Appeal.—

(A) In general.—A participant, bene-
ficiary, or enrollee (or authorized represent-
ative) may appeal any denial of a claim for
benefits under section 102 within the proce-
dures described in this section.

(B) Time for Appeal.—

(1) IN GENERAL.—(A) In the case of

such care, the plan or issuer must provide by tele-
phone and in printed form notice of the con-
current review determination to the indi-
vidual or the individual’s designee and the
individual’s health care provider in accord-
ance with the medical exigencies of the case and as soon as possible, with sufficient time
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services approved, the number of total of
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ther appeal.

(iii) Rule of construction.—Clause (i)
shall not be construed as requiring plans or
issuers to provide coverage of care that
would exceed the coverage limitations for
such care.

(2) Retrospective Determination.—A group health plan, or health insurance issuer
offering health insurance coverage, shall make a retrospective determination on a
claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the
date on which the plan or issuer receives in-
formation that is reasonably necessary to enable the plan or issuer to make a determination on the claim, or, if earlier, 60 days
after the date of receipt of the claim for ben-
efits.

(b) Notice of a Denial of a Claim for Benefits.—Written notice of a denial made
under an initial claim for benefits shall be issued to the participant, beneficiary, or en-
rollee (or authorized representative) and the

(1) Right to Initial Appeal.—

(A) In general.—A participant, bene-
ficiary, or enrollee (or authorized represent-
ative) may appeal any denial of a claim for
benefits under section 102 within the proce-
dures described in this section.

(B) Time for Appeal.—

(1) IN GENERAL.—(A) In the case of

such care, the plan or issuer must provide by tele-
phone and in printed form notice of the con-
current review determination to the indi-
vidual or the individual’s designee and the
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concluded, prior to the termination or redu-
tion takes effect.

(II) CONTENTS OF NOTICE.—Such notice
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services approved, the number of total of
approved services, the date of onset of services, and the next review date, if any, as well as a
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(iii) Rule of construction.—Clause (i)
shall not be construed as requiring plans or
issuers to provide coverage of care that
would exceed the coverage limitations for
such care.

(2) Retrospective Determination.—A group health plan, or health insurance issuer
offering health insurance coverage, shall make a retrospective determination on a
claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the
date on which the plan or issuer receives in-
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after the date of receipt of the claim for ben-
efits.

(c) Notice of a Denial of a Claim for Benefits.—Written notice of a denial made
under an initial claim for benefits shall be issued to the participant, beneficiary, or en-
rollee (or authorized representative) and the

(1) Right to Initial Appeal.—

(A) In general.—A participant, bene-
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benefits under section 102 within the proce-
dures described in this section.

(B) Time for Appeal.—

(1) IN GENERAL.—(A) In the case of

such care, the plan or issuer must provide by tele-
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(iii) Rule of construction.—Clause (i)
shall not be construed as requiring plans or
issuers to provide coverage of care that
would exceed the coverage limitations for
such care.

(2) Retrospective Determination.—A group health plan, or health insurance issuer
offering health insurance coverage, shall make a retrospective determination on a
claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the
date on which the plan or issuer receives in-
formation that is reasonably necessary to enable the plan or issuer to make a determination on the claim, or, if earlier, 60 days
after the date of receipt of the claim for ben-
efits.

(c) Notice of a Denial of a Claim for Benefits.—Written notice of a denial made
under an initial claim for benefits shall be issued to the participant, beneficiary, or en-
rollee (or authorized representative) and the

(1) Right to Initial Appeal.—

(A) In general.—A participant, bene-
ficiary, or enrollee (or authorized represent-
ative) may appeal any denial of a claim for
benefits under section 102 within the proce-
dures described in this section.

(B) Time for Appeal.—

(1) IN GENERAL.—(A) In the case of

such care, the plan or issuer must provide by tele-
phone and in printed form notice of the con-
current review determination to the indi-
vidual or the individual’s designee and the
individual’s health care provider in accord-
ance with the medical exigencies of the case and as soon as possible, with sufficient time
prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be
concluded, prior to the termination or redu-
tion takes effect.

(II) CONTENTS OF NOTICE.—Such notice
shall include, with respect to ongoing health
services approved, the number of total of
approved services, the date of onset of services, and the next review date, if any, as well as a
statement in the individual’s rights to fur-
ther appeal.

(iii) Rule of construction.—Clause (i)
shall not be construed as requiring plans or
issuers to provide coverage of care that
would exceed the coverage limitations for
such care.

(2) Retrospective Determination.—A group health plan, or health insurance issuer
offering health insurance coverage, shall make a retrospective determination on a
claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the
date on which the plan or issuer receives in-
formation that is reasonably necessary to enable the plan or issuer to make a determination on the claim, or, if earlier, 60 days
after the date of receipt of the claim for ben-
efits.
(C) ONGOING CARE DETERMINATIONS.—
(1) Subject to clauses (ii), in the case of a concurrent review determination described in section 102(b)(1)(C)(1)(i), which results in a termination or reduction of such care, the plan or issuer must provide notice of the determination on the appeal under this section by telephone and in printed form to the individual and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction of coverage for an external appeal under section 104 to be completed before the termination or reduction takes effect.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(4) RETROSPECTIVE DETERMINATION.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a retrospective determination on an appeal of a denial of benefits if more than 30 days after the date on which the plan or issuer receives necessary information that is reasonably necessary to enable the plan or issuer to make the determination of the appeal and in no case later than 60 days after the date the request for the appeal is received.

(c) CONDUCT OF REVIEW.—
(1) IN GENERAL.—A review of a denial of a claim for benefits under this section shall be conducted by an individual with appropriate expertise who was not involved in the initial determination.

(2) PEER REVIEW OF MEDICAL DECISIONS BY HEALTH CARE PROFESSIONALS.—A review of an appeal of a denial of a claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts—
(A) shall be made by a physician (allopathic or osteopathic); or
(B) in a claim for benefits provided by a non-physician health professional, shall be made by reviewers (including at least one practicing non-physician health professional of the same or similar specialty; with appropriate expertise (including, in the case of a child, appropriate pediatric expertise) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of completion of the review (or, in the case described in subparagraph (B) or (C) of subsection (b)(3), within the 72-hour or applicable period referred to in such section).

(d) NOTICE OF DETERMINATION.—
(1) IN GENERAL.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of completion of the review (or, in the case described in subparagraph (B) or (C) of subsection (b)(3), within the 72-hour or applicable period referred to in such section).

(2) FINAL DETERMINATION.—The decision by a plan or issuer under this section shall be treated as the final determination of the plan or issuer of a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this section within the 60-day period established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review (and (A) may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, shall not be construed as requiring plans or issuers to provide written confirmation of such request in a timely manner on a form prescribed by the plan or issuer upon written confirmation shall be treated as a consent for purposes of subparagraph (A)(i). In the case of such an oral request for such a review, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for such an external review without regard to the time that would otherwise have been required for the request.

(3) REQUIREMENTS OF NOTICE.—With respect to a determination made under this section, the notice described in paragraph (1) shall be provided in printed form and written in a language understandable by the participant, beneficiary, or enrollee and shall include—
(A) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);
(B) procedures for obtaining additional information concerning the determination; and
(C) notification of the right to an independent external review under section 104 and instructions on how to initiate such a review.

SEC. 104. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide written notice of a denial of a claim for benefits to the participant, beneficiary, and enrollee (or authorized representative) with access to an independent external review for any denial of a claim for benefits.

(b) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—
(1) TIME TO FILE.—A request for an independent external review conducted under this section shall be filed with the plan or issuer not later than 180 days after the date on which the participant, beneficiary, or enrollee receives notice of the denial of a claim for benefits under section 103(d)(4) or notice of waiver of internal review under section 103(a)(4) or the date on which the plan or issuer has failed to make a timely decision under (2) and notifies the participant or beneficiary that it has failed to make a timely decision and that the beneficiary must file an appeal with an external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

(2) FILING OF REQUEST.—
(A) IN GENERAL.—Upon the filing of a request for independent external review under this section, the plan or issuer shall—
(i) provide the participant, beneficiary, or enrollee with a copy of the notice described in paragraph (1); and
(ii) the denial of the claim for benefits does not exceed the coverage limitations for any of the conditions described in clause (i) or (ii) of subsection (b)(2)(A).

(B) REQUIREMENTS AND EXCEPTION RELATING TO GENERAL RULE.—
(1) ORAL REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, shall provide written confirmation of such request in a timely manner on a form prescribed by the plan or issuer upon written confirmation shall be treated as a consent for purposes of subparagraph (A)(i). In the case of such an oral request for such a review, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for such an external review without regard to the time that would otherwise have been required for the request.

(2) EXCEPTION TO FILING PER REQUIREMENT OF INDIGENCY.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the appropriate Secretary) that the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(c) REFERRAL TO QUALIFIED EXTERNAL REVIEW ENTITY UPON REQUEST.—
(1) IN GENERAL.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering health insurance coverage, the plan or issuer shall immediately refer such request, and forward the plan or issuer’s initial decision (including the information described in section 103(d)(3)(A)), to a qualified external review entity selected in accordance with this section.

(2) ACCESS TO PLAN OR ISSUER AND HEALTH PROFESSIONAL INFORMATION.—With respect to an independent external review conducted under this section, the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with information that is necessary to conduct a review under this section, as determined and requested by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in clause (i) or (ii) of subsection (e)(1)(A), by such earlier time as may be necessary to comply with the applicable timeline under such clause.

(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITIES.—
(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under subsection (b), if the request is for a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—
(i) any of the conditions described in clauses (i) or (ii) of subsection (b)(2)(A) have not been met;
(ii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);
the item or service for which the claim is independent medical review if the benefit for such determination.

(iii) Denials otherwise based on an evaluation of medical facts—A determination that the item or service or condition is not covered based on grounds that require an evaluation of the medical facts by a health care professional in the specific case involved to determine the coverage and extent of coverage of the item or service or condition.

(iv) The plan or coverage document.

(E) Independent determination.—In making determinations under this section, a qualified external review entity and an independent medical reviewer shall:

(i) Consider the claim under review without deference to the determinations made by the plan or issuer of the recommendation of the treating health care professional (if any); and

(ii) Consider, but not be bound by the definition used by the plan or issuer of ‘‘medically necessary and appropriate’’, or ‘‘experimental or investigational’’, or other substantially equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature or condition.

(f) Determination of independent medical reviewer.—An independent medical reviewer shall, in accordance with the deadline described in subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include:

(A) The determination of the reviewer;

(B) The specific reasons for the determination, including a summary of the clinical or scientific evidence used in making the determination;

(C) With respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer must comply with such determination.

(g) Nonbinding nature of additional recommendations.—In addition to the determination under subparagraph (F), the reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with a decision. Any such recommendations shall not affect (or be treated as part of) the determination and shall not be binding on the plan or issuer.

(2) Timelines and notifications.—

(A) Prior authorization determination.—In general.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in accordance with the following timelines, except that the timelines described in clause (i) would seriously jeopardize the life or health of the participant.
beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made as soon in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for external review is received by the qualified external review entity.

(ii) COMPLIANCE WITH DETERMINATION.—Notwithstanding clause (i), in the case of a review described in such subclause that involves a termination or reduction of care, the reviewing determination shall be completed not later than 24 hours after the time the request for external review is received by the qualified external review entity and before the end of the approved period of care.

(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retroactive determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in no case later than 60 days after the date the request for external review is received by the qualified external review entity.

(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3) not later than 60 days after the date the request for external review is received by the qualified external review entity.

(3) FORM OF NOTICES.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by a participant.

(f) COMPLIANCE.—

(1) APPLICATION OF DETERMINATIONS.—

(A) WRITTEN DETERMINATIONS BINDING ON PLAN.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

(B) COMPLIANCE WITH DETERMINATION.—If the determination of an independent medical reviewer is to reverse or modify the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer’s determination in accordance with the timeframe established by the medical reviewer.

(2) FAILURE TO COMPLY.—

(A) IN GENERAL.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B) with respect to a participant, beneficiary, or enrollee, where such failure to comply is caused by the plan or issuer, the participant, beneficiary, or enrollee may obtain the items or services (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether the provider is a participating provider under the plan or coverage.

(B) REIMBURSEMENT.—

(i) IN GENERAL.—Where a participant, beneficiary, or enrollee seeks reimbursement of the costs of such items or services, the plan or issuer involved shall authorize such reimbursement to the treating health care professional or to the participant, beneficiary, or enrollee (in the case of a participant, beneficiary, or enrollee who pays for the costs of such items or services).

(ii) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant, beneficiary, or enrollee under clause (i) for the reasonable cost of the items or services that were provided (regardless of any plan limitations that may apply to the coverage of such items or services) as long as the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

(C) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the professional, participant, beneficiary, or enrollee may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is owed by the plan or issuer and any necessary legal costs or expenses (including attorney’s fees) incurred in recovering such reimbursement.

(D) AVAILABLE REMEDIES.—The remedies provided under this paragraph are in addition to any other available remedies.

(g) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR DENIAL OF AN EXTERNAL REVIEW ENTITY.—

(A) MONETARY PENALTIES.—

(1) IN GENERAL.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing a benefit determined by an external medical reviewer under subsection (c), the participant, beneficiary, or enrollee involved.

(2) ADDITIONAL PENALTY FOR FAILING TO FOLLOW TIMELINE.—In any case in which a plan or issuer fails to provide reimbursement to a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the plan or issuer shall fully reimburse a professional, participant, beneficiary, or enrollee for the reasonable cost of the items or services that were provided (regardless of any plan limitations that may apply to the coverage of such items or services) as long as the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

(B) RETROSPECTIVE DETERMINATION.—The determining determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing a benefit determined by an external medical reviewer under subsection (c), the participant, beneficiary, or enrollee involved.

(C) INDEPENDENCE.—

(i) IN GENERAL.—Subject to paragraph (B), each independent medical reviewer in a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person responsible under the applicable State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—In referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3); and

(B) each independent medical reviewer is a physician (allopathic or osteopathic) or health care professional who—

(A) is appropriately credentialled or licensed in 1 or more States to deliver health care services; and

(B) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(3) INDEPENDENCE.—

(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

(i) not be a related party (as defined in paragraph (7)); and

(ii) not have a material familial, financial, or professional relationship with such a party; and

(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer,
(C) The health care professional that provides the items or services involved in the denial.

(D) The institution at which the items or services (or treatment) involved in the denial are provided.

(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—The appropriate Secretary shall implement procedures—

(i) to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that such decisions are made in a unbiased manner.

Such no selection process under the procedures implemented by the appropriate Secretary may give either the plan or issuer to an independent medical reviewer in connection with a re-

view, including the provision of items or services—

(A) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who, acting within the appropriate scope of practice within the State where the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

(B) by a non-physician health care professional, a reviewer (or reviewers) shall include at least one practicing non-physician health care professional of the same or similar specialty as the non-physician health care professional who, acting within the appropriate scope of practice within the State where the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

(C) not exceed a reasonable level; and

(D) not be contingent on the decision rendered by the reviewer.

(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

(A) be consistent with the standards and criteria established by the appropriate Secretary to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

(B) provide that the costs of the external review process shall be borne by the plan or issuer.

(7) RELATED PARTY DEFINED.—For purposes of this section, the term "related party" means, with respect to a related health care professional, that the individual provides health care services to individual patients on average at least 2 days per week.

(8) PEDIATRIC EXPERTISE.—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

From serving as an independent medical reviewer:

(1) a non-affiliated individual is not reasonably available;

(II) the affiliated individual is not involved in the provision of items or services in the case under review;

(III) the fact of such an affiliation is disclosed to the plan or issuer and the participating, beneficiary, or enrollee (or authorized representative) and neither party objects; and

(IV) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(ii) prohibit an individual who has staff privileges at the institution where the treatment in question is provided with respect to an individual who is not a related party (as defined in subparagraph (C)) as meeting the requirements of subparagraph (B) as meeting the requirements of subparagraph (C).

The terms and conditions of a contract under paragraph (2) shall—

(A) not exceed a reasonable level; and

(B) not be contingent on the decision rendered by the reviewer.

(7) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

(A) be consistent with the standards and criteria established by the appropriate Secretary to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(v) or costs incurred by the participant, beneficiary, or enrollee (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—In this section, the term "qualified external review entity" means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under paragraph (4)(A) as meeting the following requirements:

(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staff and organizational capacity to perform the functions of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

(ii) The entity is not a plan or issuer or an affiliate of a plan or issuer, and is not an affiliate or trade association of plans or issuers or of health care providers.

(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

(v) The entity meets such other requirements as the appropriate Secretary provides by regulation.

(B) INDEPENDENCE REQUIREMENTS.—

(i) IN GENERAL.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

(I) is not a related party (as defined in subsection (g)(7));

(II) does not have a material familial, financial, or professional relationship with such a party; and

(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for performing external review activities under this section if the compensation is provided consistent with clause (iii).

(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

(I) not exceed a reasonable level; and

(II) not be contingent on any decision rendered by the entity or by any independent medical reviewer.

(C) CERTIFICATION AND RECERTIFICATION PROCESS.—

(i) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

(I) under a process that is recognized or approved by the appropriate Secretary; or

(II) by a qualified private standard-setting organization that is approved by the appropriate Secretary under clause (iii).

In taking action under clause (i), the appropriate Secretary shall give deference to entities that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

(ii) PROCESS.—The appropriate Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines; and

(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;
(III) will maintain (and has maintained, in the case of a State) a plan or coverage described in subparagraphs (C) and (D); (vi) LIMITATION.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes services for such entity (including as an independent medical reviewer), shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(5) REPORT.—Not later than 12 months after the general effective date referred to in section 501, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are required to provide coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE FUND.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall provide a grant to a State under a grant under this subsection (as the "Secretary") shall establish a Health Care Consumer Assistance Fund, to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(A) the manner in which the State will ensure that consumers have direct access to consumer assistance personnel during regular business hours;

(B) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluation program (including any evaluation conducted by States prior to the enactment of this Act); and

(C) the extent to which independent medical reviewers are required to provide coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 106. HEALTH CARE CONSUMER ASSISTANCE FUND.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish a Health Care Consumer Assistance Fund, to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(A) the manner in which the State will ensure that consumers have direct access to consumer assistance personnel during regular business hours;

(B) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluation program (including any evaluation conducted by States prior to the enactment of this Act); and

(C) the extent to which independent medical reviewers are required to provide coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE FUND.

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(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish a Health Care Consumer Assistance Fund, to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(A) the manner in which the State will ensure that consumers have direct access to consumer assistance personnel during regular business hours;

(B) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluation program (including any evaluation conducted by States prior to the enactment of this Act); and

(C) the extent to which independent medical reviewers are required to provide coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE FUND.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish a Health Care Consumer Assistance Fund, to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

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(A) the manner in which the State will ensure that consumers have direct access to consumer assistance personnel during regular business hours;

(B) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluation program (including any evaluation conducted by States prior to the enactment of this Act); and

(C) the extent to which independent medical reviewers are required to provide coverage for benefits that are specifically excluded under the plan or coverage.
shall, directly or through a contract with an independent entity, have for at least one year demonstrated experience in serving the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(b) Eligibility or poverty.—To be eligible to enter into a contract under subparagraph (A), an entity shall demonstrate that it has the technical, organizational, and professional capacity to deliver the services described in subsection (b) to all public and private health insurance participants, beneficiaries, or enrollees.

(C) EXISTING STATE ENTITY.—Nothing in this section shall prevent the funding of an existing health care consumer assistance program that otherwise meets the requirements of this section.

(b) USE OF FUNDS.—

(1) BY STATE.—A State shall use amounts provided under this grant award to carry out the following activities:

(A) the operation of a toll-free telephone hotline to respond to consumer requests;

(B) the coordination of state educational materials on available health insurance products and on how best to access health care services; and

(C) the provision of education on effective ways to obtain health care services, or the refusal to pay for such services, to enrollees.

(2) BY PROVIDER.—An entity that directly establishes a health care consumer assistance program for enrollees, enrollees, or beneficiaries of the office and that the entity is independent of the State shall ensure that:

(A) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by a participant, beneficiary, or enrollee of a State health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a)(3), the amount of any additional premium charged by the health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer group health plan for the additional cost of the creation and maintenance of the option described in subsection (a)(3), the amount of any additional premium charged by the health insurance issuer in the group market.

(b) CONTRACT ENTITY.—In the case of an entity that enters into a contract with a State under subsection (a)(3), the entity shall provide assurances that the entity has no conflict of interest in carrying out the activities of the office and that the entity is independent of group health plans, health insurance issuers, providers, and enrollees of health care consumers.

(c) OPEN SEASON.—An enrollee, participant, or beneficiary, may change to the offering provided under this section any time during a time period determined by the health insurance issuer or group health plan.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) PRIMARY CARE.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, or enrollee to designate any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating specialist care provider, then the plan or issuer shall permit each participant, beneficiary, or enrollee to designate any participating specialist care provider who is available to accept such individual.

(b) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, enrollees and health plans of appropriate referral procedures from any qualified participating health care professional who is available to accept such individual.

(c) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care).
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SEC. 113. ACCESS TO EMERGENCY CARE.

(a) EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides or covers any benefit with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2)(B)) furnished under the plan or coverage under the same terms and conditions as apply with respect to other services (D) of subsection (a)(1) under which coverage is provided for emergency services.

(2) EMERGENCY AMBULANCE SERVICES.—For purposes of this section, the term ‘emergency ambulance services’ means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished or covered by a health insurance issuer on emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, see insubstantial impairment of bodily function, or serious dysfunction of any bodily organ or part.

(b) TIMELY ACCESS.—

(1) IN GENERAL.—A group health plan or health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive timely access to specialists who are appropriate to the condition of, and accessible to, the participant, beneficiary, or enrollee, when such specialty care is a covered benefit under the plan or coverage.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

(A) to require the coverage under a group health plan or health insurance coverage of benefits or services;

(B) to prohibit a plan or issuer from including providers in the network only to the extent necessary to meet the needs of the plan’s or issuer’s participants, beneficiaries, or enrollees; or

(C) to override any State licensure or scope-of-practice law.

(3) ACCESS TO CERTAIN PROVIDERS.—

(A) IN GENERAL.—With respect to specialty care under this section, if a participating specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan (if any) referred to in subsection (c) with respect to the condition.

(B) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term ‘ongoing special condition’ means a condition or disease that—

(i) is life-threatening, degenerative, potentially disabling, or congenital; and

(ii) requires specialized medical care over a prolonged period of time.

(c) TREATMENT PLANS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided when the plan or issuer determines that—

(A) pursuant to a treatment plan, but only if the treatment plan—

(i) is developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee, and

(ii) is approved by the plan or issuer in a timely manner, if the plan or issuer requires such approval; and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide high quality care in treating the condition.

(d) SPECIALIST DEFINED.—For purposes of this section, the term ‘specialist’ means, with respect to the condition of the participant, beneficiary, or enrollee, a health care provider, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

SEC. 115. PATIENT ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) GENERAL RIGHTS.—

(1) DIRECT ACCESS.—A group health plan, or health insurance issuer offering health insurance coverage, described in subsection (b), may not require authorization or referral by the plan, issuer, or any person (including a primary care provider described in subsection (b)(2)) in the case of a female participant, beneficiary, or enrollee who offers coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(2) OBSTETRICAL AND GYNECOLOGICAL CARE.—A group health plan or health insurance issuer described in subsection (b) shall not require the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described in paragraph (1), by participating health care professional who specializes in obstetrics or gynecology and who is authorized by the primary care provider to perform such services.

(b) APPLICATION OF SUBSECTION.—A group health plan, or health insurance issuer offering health insurance coverage, described in subsection (a), may not require authorization or referral by the plan, issuer, or any person (including a primary care provider described in subsection (b)(2)) in the case of a female participant, beneficiary, or enrollee who offers coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology and who is authorized by the primary care provider to perform such services.
work of the plan or issuer.

(2) prov
vider if such provider participates in the net-

tion of a participating primary care provider

for the child, the plan or issuer shall permit

cess or a health care provider is terminated (as de-

health insurance coverage, and a treating

sions of the plan or health insurance cov-

sions of coverage under the terms and condi-

s role of such notice; (C) is scheduled to undergo non-elective

s to the provider at the time of such notice;

(D) is pregnant and undergoing a course of

er with respect to coverage of pediatric care.

or the date of completion of reasonable follow-up

care patient described in subsection (a)(4)(D) shall

nences of treatment by such provider's consent during a

or coverage after the date of the termination

of the contract with the group health plan or

health insurance issuer) and not to impose

tinary care; and

(2) requires the designation by a partici-

ant, beneficiary, or enrollee of a partici-

ating primary care provider.

(c) CONSTRUCTION.—Nothing in subsection

shall be construed to—

(1) waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring the notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. CONTINUITY OF CARE.

(a) PEDIATRIC CARE.—In the case of a person

who has a child who is a participant, beneficiary, or enrollee under a group health plan, or a health insurance issuer, if the plan or issuer requires or provides for the designa-

tion of a participating primary care provider for the child, the plan or issuer shall permit such person to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider.

(b) EFFECT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage under a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) and the succeeding provisions of this section shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient in-

stance of any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(B) provide to such plan or issuer necessary medical information related to the care provided.

The treating health care provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(A) to require the continuation of coverage of benefits which would not have been covered if the provider remained a participating provider; or

(B) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care provider—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is a continuing care patient.

SEC. 117. CONTINUITY OF CARE.

(a) TERMINATION OF PROVIDER.—

(1) IN GENERAL.—(A) A contract between a group health plan, or a health insurance issuer offering health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (e)(4)), or

(B) benefits or coverage provided by a health care provider are terminated because of a determination of non-participation of such provider participation in such plan or coverage, the plan or issuer shall meet the require-

ments of paragraph (3) with respect to each continu-

ing care patient.

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage under a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) and the succeeding provisions of this section shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient in-

stance of any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(B) provide the patient with an opportu-

nity to notify the plan or issuer of the pa-

tient's need for transitional care; and

(C) subject to subsection (c), permit the pa-

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sect to the course of treatment by such pro-

contribute to the provider's consent during a

or coverage after the date of the termination

of the contract with the group health plan or

health insurance issuer) and not to impose

tinary care; and

(2) requires the designation by a partici-

ant, beneficiary, or enrollee of a partici-

ating primary care provider.

(c) CONSTRUCTION.—Nothing in subsection

shall be construed to—

(1) waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring the notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. CONTINUITY OF CARE.

(a) PEDIATRIC CARE.—In the case of a person

who has a child who is a participant, beneficiary, or enrollee under a group health plan, or a health insurance issuer, if the plan or issuer requires or provides for the designa-

tion of a participating primary care provider for the child, the plan or issuer shall permit such person to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider.

(b) EFFECT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage under a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) and the succeeding provisions of this section shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient in-

stance of any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(B) provide the patient with an opportu-

nity to notify the plan or issuer of the pa-

tient's need for transitional care; and

(C) subject to subsection (c), permit the pa-

ent to elect to continue to be covered with

or coverage after the date of the termination

of the contract with the group health plan or

health insurance issuer) and not to impose

tinary care; and

(2) requires the designation by a partici-

ant, beneficiary, or enrollee of a partici-

ating primary care provider.

(c) CONSTRUCTION.—Nothing in subsection

shall be construed to—

(1) waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring the notify the primary care health care professional or the plan or issuer of treatment decisions.

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(a) PEDIATRIC CARE.—In the case of a person

who has a child who is a participant, beneficiary, or enrollee under a group health plan, or a health insurance issuer, if the plan or issuer requires or provides for the designa-

tion of a participating primary care provider for the child, the plan or issuer shall permit such person to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider.

(b) EFFECT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage under a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) and the succeeding provisions of this section shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient in-

stance of any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(B) provide the patient with an opportu-

nity to notify the plan or issuer of the pa-

tient's need for transitional care; and

(C) subject to subsection (c), permit the pa-

ent to elect to continue to be covered with

or coverage after the date of the termination

of the contract with the group health plan or

health insurance issuer) and not to impose

tinary care; and

(2) requires the designation by a partici-

ant, beneficiary, or enrollee of a partici-

ating primary care provider.
SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer shall—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary; and

(2) provide for disclosure of the formulary to providers; and

(3) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate and, in the case of such an exception, apply the same cost-sharing requirements that would have applied in the case of a drug covered under the formulary.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall—

(A) in the case of a prescription drug—

(i) be included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) the application in effect for the drug pursuant to section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act;

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the rate the plan or issuer shall—

(i) the National Institutes of Health; or

(ii) the Department of Defense; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(c) PROHIBITION ON PENALTIES OR INCENTIVES.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage, that provides coverage with respect to drugs or medical devices, may not—

(1) impose any penalties or incentives on providers; and

(2) discriminate against the individual on the basis of the enrollee’s participation in such trial.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual as described in subsection (b), the plan or issuer shall—

(A) not deny the individual participation in the clinical trial referred to in subsection (b); or

(B) if the plan or issuer is not a participating provider, the plan or issuer shall—

(i) the National Institutes of Health; or

(ii) the Department of Veteran Affairs; or

(iii) the Department of Defense; or

(b) REQUIREMENT TO PROVIDE MEDICAL ATTENTION.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides coverage with respect to drugs or medical devices, may not—

(1) to be comparable to the system of peer review and investigations used by the National Institutes of Health; and

(2) assure unbiased review of the highest ethical standards by qualified individuals having no interest in the outcome of the review.

(d) PROHIBITION ON PENALTIES OR INCENTIVES.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that in any case in which the attending physician for such purpose is determined by the attending physician to be comparable to the system of peer review and investigations used by the National Institutes of Health; and

(2) assure unbiased review of the highest ethical standards by qualified individuals having no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan’s or issuer’s coverage with respect to clinical trials.

SEC. 120. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that in any case in which the attending physician determines—

(A) a mastectomy; or

(B) a lymph node dissection for the treatment of breast cancer; and

(2) CONSTRUCTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that full coverage is provided for secondary consultations whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan or coverage with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that such coverage is provided with respect to the specialties necessary for secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual, for which the plan or issuer shall have paid if the specialist was participating in the network of the plan or issuer.

(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the secondary provision of secondary consultations where the patient determines not to seek such a consultation.

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SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(1) DISCLOSURE.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure of the following information and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage; and

(ii) of such information on an annual basis—

(I) in connection with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year; and

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (c), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect.

(B) PARTICIPATING PROVIDERS, BENEFICIARIES, AND ENROLLEES.—The disclosure required under paragraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) PROVISION OF INFORMATION.—Information shall be provided to participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) BENEFITS.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits; and

(B) specific preventive services covered under the plan or coverage if such services are covered.

(2) CANCELLATION AND TERMINATION OF COVERAGE.—A description of any circumstances under which such treatments are authorized, a description of the process of the authorization, and the circumstances under which such treatments are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification, and appeal procedures for such determinations.

(3) TREATMENTS.—A description of the process for determining whether such treatments are authorized, a description of the process for determining whether such treatments are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification, and appeal procedures for such determinations.

(4) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether such treatments are authorized, a description of the process for determining whether such treatments are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification, and appeal procedures for such determinations.

(5) PRESCRIPTION DRUGS.—To the extent a plan or issuer provides coverage for prescription drugs, a statement of whether such prescription drugs are covered by the plan, issuer, or claims administrator.

(6) OTHER BENEFITS.—A description of any other benefits limitations, including—

(A) any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(B) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) COST-SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee may be liable; and

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable.

(3) COVERAGE EXCLUSIONS.—A description of any other benefit limitations, including—

(A) any in- and out-of-network benefits; and

(B) specific preventive services covered under the plan or coverage if such services are covered.

(c) MANNER OF DISCLOSURE.—Each plan and issuer shall—

(1) DISCLOSURE TO PARTICIPANTS.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) jointly to each participant, beneficiary, and enrollee, of the information described in such subsection or subsection (b).
combination does not result in any reduction in the premium that would otherwise be provided to the recipient.

(19) **AVAILABILITY OF ADDITIONAL INFORMATION.**—A statement that the information described in subsection (g), and instructions on obtaining additional information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

(20) **DESIGNATED DECISIONMAKERS.**—A description of the participants and beneficiaries with respect to whom each designated decisionmaker (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(c) **ADDITIONAL INFORMATION.**—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee shall include for each option available under a group health plan or health insurance coverage the following:

(1) **STATUS OF PROVIDERS.**—The State license or issuer's confidentiality practices, including primary care providers and specialists and facilities in connection with the provision of health care under the plan or coverage.

(2) **Compensation Methods.**—A summary description by category of the applicable methods (such as copayment, fee-for-service, salary, bundled payments, per diem, or a physical exam of the individual, in order to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information so disclosed on the recipient's electronic media—

ii) the recipient has affirmatively consented to the disclosure of such information in such form.

(2) **MANNER OF DISCLOSURE.**—The information so disclosed and provides the information in printed form if the information is not received.

SEC. 122. GENETIC INFORMATION.

(a) **Definitions.**—In this section:

(1) **Family member.** The term "family member" means, with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

(C) all other individuals related to the individual by blood or by legal adoption (including information concerning an individual or a family member of such individual).

(2) **Genetic information.**—The term "genetic information" means information about genetic predisposition or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(3) **Genetic services.**—The term "genetic services" means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

(B) **NOTICE OF CONFIDENTIALITY PRACTICES**—A notification of the recipient of predictive genetic information concerning an individual or a family member of the individual (including information about a request for or the receipt of genetic services by such individual or a family member of such individual).
issuer offering health insurance coverage, shall not be construed as to supersede any provision of State law, solely on the basis of such license or certification.

(b) Construction.—Subsection (a) shall not be construed as to—

(1) as requiring the coverage under a group health plan or health insurance coverage of a particular benefit or service or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan’s or issuer’s participants, beneficiaries, or enrollees or from establishing any terms or conditions of health care quality and cost controls consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or restriction, if any, to a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 131. PROHIBITION AGAINST IMPROPER IN-CENTIVE ARRANGEMENTS.

(a) In General.—A health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (1), (ii)(I), and (iii) of subsection (a) of such section are met with respect to such a plan.

(b) Application.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer with respect to such a contract or agreement, or the operation of such a contract or agreement, or the operation of such a contract or agreement, or the operation of any partnership, association, or other organization that enters into or administers such a contract or agreement.

(c) Scope.—For purposes of this section, the term ‘physician incentive plan’ has the meaning given such term in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) In General.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, or enrollee with respect to the participant’s, beneficiary’s, enrollee’s or provider’s use of, or participation in, a utilization review process or a grievance process of the plan or issuer.

(b) Initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions affecting one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) Good faith action.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed, that professional reasonably believes the information to be true.

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) Exception and special rule.—

(1) General exception.—Paragraph (1) does not apply if—

A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for prompt payment of claims, subject to limitations of subparagraphs (A) and (B) of paragraph (2) and the information disclosed is limited to—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body to determine whether the entity is in compliance with the scope of the investigation or proceeding.

(3) Internal procedure exception.—Subparagraph (D) of paragraph (2) shall not apply if—

A group health plan, and a health insurance issuer offering group health insurance coverage, shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual’s condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) Nullification.—Any contract provision or agreement between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual’s condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) Nullification.—Any contract provision or agreement between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual’s condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) Nullification.—Any contract provision or agreement between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual’s condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) Nullification.—Any contract provision or agreement between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual’s condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) Nullification.—Any contract provision or agreement between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual’s condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) Nullification.—Any contract provision or agreement between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual’s condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) Nullification.—Any contract provision or agreement between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual’s condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.
demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

Notice.—A group health plan, health insurance issuer, and institutional health care provider shall give notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

SEC. 151. DEFINITIONS.

(a) The terms defined in this section shall have the meaning given such terms in section 1852(h)(2) of the Employee Retirement Income Security Act of 1974, paragraph 1974, subparagraph (1) shall be construed to apply only with respect to the health insurance issuer offering health insurance coverage (if any) offered in connection with the plan.

(b) The term “prohibited health care professional” means an individual who is licensed, accredited, or certified under State law to provide health care services and who is operating within the scope of such licensure, accreditation, or certification.

(c) The term “health care provider” includes a physician or other health care professional, as well as an institutional or other facility or agency that provides such services that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(d) The term “network” means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(e) The term “nonparticipating” means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(f) The term “participating” means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(g) The term “prior authorization” means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(h) The term “requirements imposed under this title” means a requirement under this title, and in applying the requirements of this title, “requirement” shall be construed to apply only with respect to the health insurance issuer and with respect to a group health plan that is not a Federal governmental plan, a requirement that substantially complies (within the meaning of subsection (c) with a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this title (other than substantially compliant requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable of the Public Health Service Act (as added by title II), subject to subsection (a)(2).

(h) In general.—The State law shall apply instead of the patient protection requirement otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.

SEC. 152. PREEMPTION, STATE FLEXIBILITY, CONSTRUCTION.

(a) Continued Applicability of State Law With Respect to Health Insurance Issues With State Law Requirements Imposed Under Title XX.

(b) Continued Preemption With Respect to Other Self-Insured Health Plans.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to self-insured health plans.

(c) Construction.—In applying this section, a State law that provides for equal access to, and availability of, all categories of licensed health care providers and services shall not be treated as preventing the application of any requirement of this title.

(b) Application of Substantially Compliant State Laws.

(1) In general.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan, a requirement that substantially complies (within the meaning of subsection (c) with a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this title (other than substantially compliant requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable of the Public Health Service Act (as added by title II), subject to subsection (a)(2).

(2) In general.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan, a requirement that substantially complies (within the meaning of subsection (c)) with a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this title (other than substantially compliant requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable of the Public Health Service Act (as added by title II), subject to subsection (a)(2).

(3) Limitation.—In the case of a group health plan covered under title I of the Employee Retirement Income Security Act of 1974, paragraph (1) shall be construed to apply only with respect to the health insurance coverage (if any) offered in connection with the plan.

(4) Construction.—In this section:

(A) Patient Protection Requirement.—The term “patient protection requirement” means a requirement under this title, and includes (as a single requirement) a group or related set of requirements under a section or similar unit under this title.

(B) Substantially Compliant.—The terms “substantially compliant”, or “substantial compliance” with respect to a State law, mean that the State law substantially complies with a patient protection requirement and has a similar effect.

(C) Determinations of Substantial Compliance.—

(1) Certification by States.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially compliant with one or more patient protection requirements. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) Review.—

(A) In general.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine if the State law substantially complies with a patient protection requirement (or requirements) to which the law relates.

(B) Approval Deadlines.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the
such petition is submitted.

because it provides for greater protections
of a State law under this subsection solely
certification (and approval of certification)
section shall be construed as preventing the
respect to the State; and
shall—

law of the United States.

shall be treated as a State law rather than a
applicable only to the District of Columbia
includes all laws, decisions, rules, regulations,
tion:

disapproval in the appropriate United States

requirements) to which the law relates.

patient protection requirement.

State's interpretation of the State law in-

a certification submitted under paragraph

(A) reimburses hospitals, health profes-

fee-for-service coverage means coverage
under a group health plan or health insur-
ance coverage that—

financial risk;

(B) does not vary reimbursement for such
provider based on an agreement to contract
terms and conditions or the utilization of
health care items or services relating to such
provider;

(C) allows access to an provider that is
lawfully authorized to provide the covered
services and that agrees to accept the terms
and conditions of payment established under
the plan or by the issuer; and

(D) for which the issuer does not require prior authorization before providing
for any health care services.

SEC. 154. COVERAGE OF LIMITED SCOPE PLANS.

Only for purposes of applying the require-
moments of this title under sections 2707 and
2733 of the Public Health Service Act and
section 174 of the Employee Retirement In-
come Security Act of 1974, sections
2791(c)(2)(A), and section 733(c)(2)(A) of the
Employee Retirement Income Security Act
of 1974 shall be deemed not to apply.

SEC. 155. REGULATIONS CONCERNING GENETIC INFORMATION.

The Secretaries of Health and Human
Services and Labor shall issue such regula-
tions as may be necessary or appropriate to
carry out this title. Such regulations shall be
issued consistent with section 104 of
Health Insurance Portability and Account-
ability Act of 1996. Such Secretaries may
promulgate any interim final rules as the
Secretaries determine are appropriate to
carry out this title.

SEC. 156. INCORPORATION INTO PLAN OR CO-
VERAGE DOCUMENTS.

The requirements of this title with respect
to a group health plan or health insurance
coverage are deemed to be incorporated into,
and made a part of, such plan or the policy,
certificate, or contract providing such cov-

ence are enforceable under law as if di-
rectly included in the documentation of such
plan or the certificate, or contract.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSUR-
ANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

(a) IN GENERAL.—Subpart 2 of part A of
title XXVII of the Public Health Service Act
is amended by adding at the end the fol-
lowing new section:

SEC. 2707. PATIENT PROTECTION STANDARDS.

“Each group health plan shall comply with
patient protection requirements under title I
of the Bipartisan Patient Protection Act,
and each health insurance issuer shall com-
ply with patient protection requirements
under such title with respect to group health
insurance coverage it offers, and such re-
quirements shall be deemed to be incor-
porated into this subsection.”

(b) CONFORMING AMENDMENT.—Section
2721(b)(2)(A) of such Act (42 U.S.C.
330gg–21(b)(2)(A)) is amended by inserting “(other
than section 2707)” after “requirements of
such subparts.”

SEC. 250. COOPERATION BETWEEN FEDERAL AND
STATE AUTHORITIES.

Part C of title XXVII of the Public Health
Service Act (42 U.S.C. 300gg–81 et seq.)
is amended by adding at the end the follow-

SEC. 2753. PATIENT PROTECTION STANDARDS.

“Each health insurance issuer shall com-
ply with patient protection requirements
under title I of the Bipartisan Patient
Protection Act with respect to individual
health insurance coverage it offers, and such
requirements shall be deemed to be incor-
porated into this subsection.”

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH
INSURANCE COVERAGE.

Part B of title XXVII of the Public Health
Service Act is amended by inserting after
section 2702 the following new section:

SEC. 2753. PATIENT PROTECTION STANDARDS.

“Each health insurance issuer shall com-
ply with patient protection requirements
under title I of the Bipartisan Patient
Protection Act with respect to individual
health insurance coverage it offers, and such
requirements shall be deemed to be incor-
porated into this subsection.”

SEC. 203. COOPERATION BETWEEN FEDERAL
AND STATE AUTHORITIES.

(a) Agreement with States.—A State may
enter into an agreement with the Secre-
tary for the delegation to the State of some
or all of the Secretary’s authority
under this title to enforce the requirements
applicable under title I of the Bipartisan
Patient Protection Act with respect to health
insurance coverage offered by a health insur-
ance issuer offering health insurance
coverage under a group health plan that is
a non-Federal governmental plan.
(b) Delegations.—Any department, agen-
cy, or instrumentality of a State to which
authority is delegated under an agree-
ment entered into under this section may,
if authorized under State law and to the extent
consistent with such agreement, exercise the
powers of the Secretary under this title
which relate to such authority.”

SEC. 204. ELIMINATION OF OPTION OF NON-FED-
ERAL GOVERNMENTAL PLANS TO BE
EXCEPTED FROM REQUIREMENTS
CONCERNING GENETIC INFORMATION.

Section 2721(b)(2) of the Public Health
Service Act (42 U.S.C. 330gg–21(b)(2)) is
amended—

(1) in subparagraph (A), by striking “If the
plan sponsor” and inserting “Except as pro-
vided in subparagraph (D), if the plan spon-
or”;

(2) by adding at the end the following:

(D) ELECTION NOT APPLICABLE TO REQUIRE-
MENTS CONCERNING GENETIC INFORMATION.—
The election described in subparagraph (A)
shall not be available with respect to the
provisions of subsections (b), (c), and (d) of
subpart 2 of part A of the Bipartisan Patient
Protection Act and the provisions of section
2702(b) to the extent that the subsections
and section apply to genetic information (or
information about a receipt of genetic services
by an individual or a family member of such individual).”
TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS

(a) APPLICATION OF STANDARDS.—

(1) IN GENERAL.—Each Federal health care program shall comply with the patient protection requirements under title I, and such requirements shall be deemed to be incorporated into this section.

(2) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—Any individual who receives a benefit item or service under a Federal health care program shall have a cause of action against the Federal Government under sections 562(n) and 514(d) of the Employee Retirement Income Security Act of 1974, and the provisions of such sections shall be deemed to be incorporated into this section.

(b) RULES OF CONSTRUCTION.—For purposes of this subsection:

(A) each Federal health care program shall be deemed to be a group health plan;

(B) the Federal Government shall be deemed to be the plan sponsor of each Federal health care program; and

(C) each group health plan eligible for benefits under a Federal health care program shall be deemed to be a participant, beneficiary, or enrollee under that program.

(c) DEFINITION OF FEDERAL HEALTH CARE PROGRAM DEFINED.—In this section, the term ‘Federal health care program’ has the meaning given that term under section 1128B(f) of the Social Security Act (42 U.S.C. 1395w-7b) except that, for purposes of this section, such term includes the Federal employees health benefits program established under chapter 89 of title 5, United States Code.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 401. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 714. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

"(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

"(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage in connection with such a plan shall comply with the requirements of section 111 of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act), and those requirements shall be deemed to be incorporated into this subsection.

"(2) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH PROVIDER AGREEMENTS.—Insofar as a group health plan provides benefits in the form of health insurance coverage in connection with such a plan shall comply with the requirements of section 111 of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act), and those requirements shall be deemed to be incorporated into this subsection.

"(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

"(1) COMPLAINTS.—Any protected health care professional who believes that a patient professional has been retaliated or discriminated against in violation of section 111(b)(1) of the Bipartisan Patient Protection Act, or with respect to a complaint filed within 180 days of the date of the alleged retaliation or discrimination.

"(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of pay, benefits in relation to the plan, or provider involvement, as a result of the violation found by the Secretary.

"(3) CONFORMING AMENDMENTS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title. In order to reduce duplication and clarify the rights of participants and beneficiaries with respect to information that is required to be provided, such regulations shall coordinate the information disclosure requirements under section 111 of the Bipartisan Patient Protection Act with the requirements imposed under part 1, so long as such coordination does not result in any reduction in the information that would otherwise be provided to participants and beneficiaries.

"(d) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH PROVIDER AGREEMENTS.—Insofar as a group health plan provides benefits in the form of health insurance coverage in connection with such a plan shall comply with the requirements of section 111 of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act), and those requirements shall be deemed to be incorporated into this subsection.

"(e) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1135(a)) is amended by inserting ‘‘(a)’’ after ‘‘Sec. 502.’’ and by adding at the end the following new subsection:

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part B.

"(g) TREATMENT OF SUBSTANTIALLY COMPLIANT STATE LAWS.—For purposes of applying this subsection, any reference in this subsection to a requirement of section another provision in the Bipartisan Patient Protection Act with respect to a health insurance issuer is deemed to include a reference to a requirement of the law that substantially complies (as determined under section 152(c) of such Act) with the requirement in such section or other provision.

"(h) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 152(b) of the Bipartisan Patient Protection Act, for purposes of this subtitle the term ‘‘group health plan’’ is deemed to include a reference to an institutional health care provider.

"(i) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

"(1) COMPLAINTS.—Any protected health care professional who believes that a patient professional has been retaliated or discriminated against in violation of section 152(b)(1) of the Bipartisan Patient Protection Act, or with respect to a complaint filed within 180 days of the date of the alleged retaliation or discrimination.

"(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of pay, benefits in relation to the plan, or provider involvement, as a result of the violation found by the Secretary.

"(3) CONFORMING AMENDMENTS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title. In order to reduce duplication and clarify the rights of participants and beneficiaries with respect to information that is required to be provided, such regulations shall coordinate the information disclosure requirements under section 121 of the Bipartisan Patient Protection Act with the requirements imposed under section 121 of the Bipartisan Patient Protection Act (as defined in section 1132(b)(3)) is amended by inserting ‘‘(a)’’ after ‘‘Sec. 503.’’ and by adding at the end the following new subsection:

"(b) IN THE CASE OF A GROUP HEALTH PLAN (AS DEFINED IN SECTION 733) COMPLIANCE WITH THE REQUIREMENTS OF SUBTITLE A OF TITLE I OF THE BIPARTISAN PATIENT PROTECTION ACT, AND COMPLIANCE WITH REGULATIONS PROMULGATED BY THE SECRETARY, IN THE CASE OF A CLAIMS DENIAL SHALL BE DEEMED COMPLIANCE WITH SUBSECTION (A) WITH RESPECT TO SUCH CLAIMS DENIAL.

"(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1135(a)) is amended by striking ‘‘section 711’’ and inserting ‘‘sections 711 and 714.’’

The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

"(d) PATIENT PROTECTION STANDARDS.

"(2) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of applying this subsection, any reference in this subsection to a requirement of section another provision in the Bipartisan Patient Protection Act with respect to a health insurance issuer is deemed to include a reference to a requirement of the law that substantially complies (as determined under section 152(c) of such Act) with the requirement in such section or other provision.

"(3) CONFORMING AMENDMENTS.—(1) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting ‘‘(other than section 152(b)(3))’’ after ‘‘part 7.’’
(a) Finality of claim. A claim for benefits under a group health plan shall be final if—

(1) in general.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n) DIRECT PARTICIPATION.—

"(i) IN GENERAL.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits for denial thereof in the case of any particular participant or beneficiary solely by reason of—

"(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

"(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries)."

"(ii) RULES OF CONSTRUCTION.—For purposes of subsection (n)(1), paragraph (A) does not authorize a cause of action against an employer or other plan sponsor for the performance of, or the failure to perform, any non-medically reviewable duty under the plan.

"(iii) NON-MEDICALLY REVIEWABLE DUTY.—

"The term ‘non-medically reviewable duty’ means a duty the discharge of which does not include the making of a medically reviewable decision.

"(1) Health care professional.—The term ‘health care professional’ means an individual who is licensed, accredited, or certified by a State or other laws to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

"(2) Health care professional.—The term ‘health care professional’ means an individual who—

"(A) Acted as a health care professional; or

"(B) Is responsible for the performance of, or the failure to perform, any non-medically reviewable duty under the plan.

"(3) Exclusion of hospitals.—No treating hospital of the participant or beneficiary shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

"(4) Rule of construction.—Nothing in paragraph (3) shall be construed to limit the liability (whether direct or vicarious) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

"(5) Requirement of exhaustion.—

"For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits for denial thereof in the case of any particular participant or beneficiary solely by reason of—

"(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

"(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries)."
(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively from a Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required by paragraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (1)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits may suspend the deadlines for administrative processes referred to in subparagraph (A) or of any action commenced under this subsection.

(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

(ii) shall not preclude any liability under subsection (o) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative process in determining the amount of the damages awarded.

(D) ADMISSIBILITY.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Bipartisan Patient Protection Act of 2001 shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

(E) OPENING OF PROCEEDINGS.—

(A) IN GENERAL.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this section.

(B) ASSESSMENT OF CIVIL PENALTIES.—In addition to the remedies provided for in paragraph (1) (relating to the failure to provide contract benefits in accordance with the plan), a civil assessment, in an amount not to exceed $5,000,000, payable to the claimant may be awarded in any action under such paragraph if the claimant establishes by clear and convincing evidence that the alleged conduct carried out by the defendant demonstrated bad faith and flagrant disregard for the rights of the participant or beneficiary under the plan and was a proximate cause of the personal injury or death that is the subject of the claim.

(ii) LIMITATION ON ATTORNEYS' FEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fees, in any action brought in connection with a denial of a claim for benefits of any individual the attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed 1⁄3 of the total amount of the plaintiff's recoverable under the reimbursement of actual out-of-pocket expenses of the attorney.

(B) DETERMINATION BY DISTRICT COURT.—The United States district court in which the action was pending shall determine the final disposition, including all appeals, of the action within the scope of employment under this section in accordance with the decisions of the participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or plan sponsor (or employee) in the action and may not raise any defense that the employer or plan sponsor (employee) could not assert if such a decisionmaker were not so deemed.

(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

(19) PREVIOUSLY PRO下的ED SERVICES.—

(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to a cause of action that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

(ii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

(20) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS OF TRUSTEES, ETC.—Any individual who—

(A) a member of a board of directors of an employer or plan sponsor; or

(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor or plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

(21) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH INSURANCE ISSUERS.—In general, the designated decisionmaker shall—

(A) in general.—Notwithstanding the direct participation (as defined in paragraph (5)(c)(i)) of an employer or plan sponsor, in any proceeding in which there is deemed to be a designated decisionmaker under subparagraph (B) that meets the requirements of subparagraph (o)(1)(A) for an employer or other plan sponsor, (i) all liability of such employer or plan sponsor (and any employee thereof acting within the scope of employment) under this section in connection with the decision of the participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or plan sponsor (or employee) in the action and may not raise any defense that the employer or plan sponsor (employee) could not assert if such a decisionmaker were not so deemed.

(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

(18) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKERS.—

(A) IN GENERAL.—Notwithstanding the direct participation (as defined in paragraph (5)(c)(i)) of an employer or plan sponsor, in any proceeding in which there is deemed to be a designated decisionmaker under subparagraph (B) that meets the requirements of subparagraph (o)(1)(A) for an employer or other plan sponsor, (i) all liability of such employer or plan sponsor (and any employee thereof acting within the scope of employment) under this section in connection with the decision of the participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or plan sponsor (or employee) in the action and may not raise any defense that the employer or plan sponsor (employee) could not assert if such a decisionmaker were not so deemed.

(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

(17) NO EFFECT ON STATE LAW.—No provision of this section shall be construed to—

(A) be applicable in connection with any denial of a claim for benefits of any individual under the plan and was a proximate cause of the personal injury or death that is the subject of the claim.

(B) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act of 2001 and whose duties do not include making decisions on claims for benefits.

(C) LIMITATION.—Subparagraph (A) shall not be construed to—

(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;
(ii) assumes unconditionally all liability of the plan sponsor (or employee) to cover any losses as a result of liability arising under a decision declared as a designated decisionmaker under this part.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect. The provisions of this paragraph in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.

(4) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who directly delivered the care, treatment, or provided the patient services that subject the cause of action by a participant or beneficiary under subparagraph (a) or section 514(d)(9) may not be designated as a designated decisionmaker unless with respect to such participant or beneficiary.

(2) CONFORMING AMENDMENT.—Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

(A) by striking "or" at the end of subparagraph (A);

(B) in subparagraph (B), by striking "plan," and inserting "plan;", and

(C) by adding at the end the following new subparagraph:

(2) FOR THE relief provided for in subsection (b) of this section (n) and 402(a) and as required under section 121(b)(9) of the Bipartisan Patient Protection Act.

Any liability assumed by a designated decisionmaker pursuant to this subsection shall be in addition to any liability that it may otherwise have under applicable law.

(2) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

(A) IN GENERAL.—Subject to subparagraph (B), an entity is qualified under this paragraph to serve as a designated decisionmaker with respect to a participant or beneficiary under a group health plan if the entity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor and the Secretary certification of such ability. Such certification shall be provided to the plan sponsor and the Secretary certification of such ability. Such certification shall be provided to the plan sponsor and the Secretary certification of such ability.

(B) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issuer, such issuer is the only entity that may be qualified under this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

(3) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of paragraph (2)(A), the requirements relating to the financial obligation of an entity for liability shall include—

(A) coverage of such entity under an insurance policy or other arrangement, secured by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this paragraph (B) evidence of minimum capital and surplus levels that are maintained by such entity.

(1) Section 102 relating to procedures for internal appeals of claims and prior authorization determinations.

(II) Section 103 of such Act (relating to internal appeals of claims denials).

(III) Section 104 of such Act (relating to independent external review procedures).

(II) EXCEPTION FOR CERTAIN ACTIONS FOR WRONGFUL DEATH.—Clause (i) shall not apply with respect to an action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such an action which are only punitive or exemplary in nature.

(III) EXCEPTION FOR WILLFUL OR WANTON DISREGARD FOR THE RIGHTS OR SAFETY OF OTHERS.—Clause (i) shall not apply with respect to any cause of action described in subparagraph (A) if, in such action, the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with willful or wanton disregard for the rights or safety of others was a proximate cause of the personal injury or wrongful death that is the subject of the action.

(IV) DEFINITIONS.—

(A) GROUP HEALTH PLAN AND OTHER RELATED TERMS.—The provisions of sections 701 and 773 apply for purposes of this subsection in the same manner as they apply for purposes of part 7, except that the term "group health plan" includes a group health plan as defined in section 701(b).

(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment of a personal injury to treat a mental illness or disease.

(C) CLAIM FOR BENEFIT; DENIAL.—The terms "claim for benefit" and 'denial of a benefit' include actions brought under section 1144 and 1144(c) is amended—

(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

(A) IN GENERAL.—Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supersede or otherwise alter, amend, modify, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any person if such cause of action arises by reason of a medically reviewable decision.

(B) MEDICALLY REVIEWABLE DECISION.—For purposes of subparagraph (A), the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2)(B) of the Bipartisan Patient Protection Act of 2001 (relating to medically reviewable decisions).

(2) LIMITATION ON PUNITIVE DAMAGES.—

(A) IN GENERAL.—Except as provided in clauses (ii) and (iii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary under a group health plan, the Bipartisan Patient Protection Act of 2001 were satisfied with respect to the participant or beneficiary:

(1) Section 102 relating to procedures for internal appeals of claims and prior authorization determinations.

(II) Section 103 of such Act (relating to internal appeals of claims denials).

(III) Section 104 of such Act (relating to independent external review procedures).

(II) EXCEPTION FOR CERTAIN ACTIONS FOR WRONGFUL DEATH.—Clause (i) shall not apply with respect to an action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such an action which are only punitive or exemplary in nature.

(III) EXCEPTION FOR WILLFUL OR WANTON DISREGARD FOR THE RIGHTS OR SAFETY OF OTHERS.—Clause (i) shall not apply with respect to any cause of action described in subparagraph (A) if, in such action, the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with willful or wanton disregard for the rights or safety of others was a proximate cause of the personal injury or wrongful death that is the subject of the action.

(IV) DEFINITIONS.—

(A) GROUP HEALTH PLAN AND OTHER RELATED TERMS.—The provisions of sections 701 and 773 apply for purposes of this subsection in the same manner as they apply for purposes of part 7, except that the term 'group health plan' includes a group health plan as defined in section 701(b).

(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment of a personal injury to treat a mental illness or disease.

(C) CLAIM FOR BENEFIT; DENIAL.—The terms 'claim for benefit' and 'denial of a benefit' include actions brought under section 1144 and 1144(c) is amended—

(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

(A) IN GENERAL.—Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supersede or otherwise alter, amend, modify, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any person if such cause of action arises by reason of a medically reviewable decision.

(B) MEDICALLY REVIEWABLE DECISION.—For purposes of subparagraph (A), the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2)(B) of the Bipartisan Patient Protection Act of 2001 (relating to medically reviewable decisions).

(2) LIMITATION ON PUNITIVE DAMAGES.—

(A) IN GENERAL.—Except as provided in clauses (ii) and (iii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary under a group health plan, the Bipartisan Patient Protection Act of 2001 were satisfied with respect to the participant or beneficiary:
(B), the actual making of such decision or the exercise of control in making such decision or in the conduct constituting the failure.

(ii) RULES OF CONSTRUCTION.—For purposes of the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in subparagraph (B) on a particular claim for benefits of a particular participant or beneficiary, including (but not limited to) any participation by the employer or plan sponsor (or employee) in the processing of creating, continuing, modifying, or terminating the plan or any benefit under the plan or in the process not intentionally focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

(iii) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit;

(iv) irrelevance of certain collateral efforts made by employer or plan sponsor.—For purposes of this subparagraph, an employer or plan sponsor (or employee) shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any participant or beneficiary solely by reason of—

(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

(ii) that any efforts that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

(v) PREEMPTION OF EXHAUSTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a review under section 502(e)(1)(A)(i) may not be brought under paragraph (1)(A) after 10 additional days after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 502(e)(1)(A)(i).

(B) EXCEPTIONS FOR NEEDED CARE.—A participant or beneficiary may bring an action under section 502(d) after 10 additional days after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(i).

(C) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may bring an action under section 502(d) after 10 additional days after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 502(e)(1)(A)(i).
Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 402(a), is amended further by adding at the end the following new subsection:

'‘(q) LIMITATIONS ON ACTIONS RELATING TO GROUP HEALTH PLANS.—

‘‘(1) IN GENERAL.—Except as provided in paragraph (2), no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 118(a)(3), 119, or 120 of the Bipartisan Patient Protection Act (as incorporated under section 714). This subsection shall apply to all civil actions that are filed on or after January 1, 2002.‘‘

SEC. 404. LIMITATIONS ON ACTIONS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by section 402(a)) is amended further by adding at the end the following new subsection:

'‘(q) LIMITATIONS ON ACTIONS RELATING TO GROUP HEALTH PLANS.—

‘‘(1) IN GENERAL.—Except as provided in paragraph (2), no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 118(a)(3), 119, or 120 of the Bipartisan Patient Protection Act (as incorporated under section 714). This subsection shall apply to all civil actions that are filed on or after January 1, 2002.‘‘

SEC. 405. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

It is the sense of the Senate that the court should consider the loss of a nonwaive earning spouse or parent as an economic loss for the purposes of the Bipartisan Patient Protection Act. Furthermore, the court should define the compensation for the loss not as minimum services, but rather in terms of full and whole replacement cost for the family.
c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers; or

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term ‘religious nonmedical provider’ means a provider who provides no medical care but who provides only religious nonmedical treatment or nursing care.

(d) TRANSITION FOR NOTICE REQUIREMENT.—

The disclosure of information required under section 121 of this Act shall first be provided pursuant to—

(1) subsection (a) with respect to a group health plan that is maintained as of the general effective date, not later than 30 days before the beginning of the first plan year to which title I applies in connection with the plan under such subsection; or

(2) subsection (b) with respect to a individual health insurance coverage that is in effect as of the general effective date, not later than 30 days before the first date as of which title I applies to the coverage under such subsection.

SEC. 502. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

SEC. 503. SEVERABILITY.

If any provision of this Act, an amendment made by that provision, or any part thereof, is held to be unconstitutional, the remainder of this Act, the amendments made by that provision, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLe VI—MISCELLANEOUS PROVISIONS

SEC. 601. NO IMPACT ON SOCIAL SECURITY Trust Funds.

(a) IN GENERAL.—Nothing in this Act (or any amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) EXISTING OR SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

SEC. 602. CUSTOMERS USER FEES.

Section 1300j(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 85j((3)) is amended by striking ‘‘2003’’ and inserting ‘‘2011, except that fees may not be charged under paragraphs (9) and (10) of such subsection after March 31, 2006’’.

SEC. 603. FISCAL YEAR 2002 MEDICARE PAYMENTS.

Notwithstanding any other provision of law, any letter of credit under part B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) that would otherwise be sent to the Treasury shall be inserted in the Medicare Reserve Account on September 30, 2002, by a carrier with a contract under section 1824 of that Act (42 U.S.C. 1395u) shall be sent on October 1, 2002.

SEC. 604. SENSE OF SENATE WITH RESPECT TO PARTICIPATION IN CLINICAL TRIALS AND ACCESS TO SPECIALTY CARE.

(a) FINDINGS.—

(1) Breast cancer is the most common form of cancer among women, excluding skin cancer.

(2) During 2001, 182,800 new cases of female invasive breast cancer will be diagnosed, and 40,800 women will die from the disease.

(3) In addition, 1,400 male breast cancer cases are projected to be diagnosed, and 400 men will die from the disease.

(4) Breast cancer is the second leading cause of cancer death among all women and the leading cause of cancer death among women between ages 40 and 55.

(5) This year 8,600 children are expected to be diagnosed with cancer.

(6) 1,500 children are expected to die from cancer this year.

(7) There are approximately 333,000 people diagnosed with multiple sclerosis in the United States and 200 more cases are diagnosed each week.

(8) Parkinson’s disease is a progressive disorder of the central nervous system affecting 1,000,000 in the United States, and 6,500 new cases are diagnosed each year.

(9) An estimated 186,100 men will be diagnosed with prostate cancer this year.

10. 31,500 men will die from prostate cancer this year.

11. While information obtained from clinical trials is essential to finding cures for diseases and therapies that improve the quality of life, trial participation bears the risk of fatal results. Future efforts should be taken to protect the health and safety of adults and children who enroll in clinical trials.

(12) While employers and health plans should be responsible for covering the routine costs associated with federally approved clinical trials and health plans should not be held legally responsible for the design, implementation, or outcome of such clinical trials, consistent with any applicable State or Federal liability statutes.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) women battling life-threatening, deadly diseases, including advanced breast or ovarian cancer, should have the opportunity to participate in a federally approved or funded clinical trial recommended by their physician;

(2) an individual should have the opportunity to participate in a federally approved or funded clinical trial recommended by their physician if—

(A) that individual—

(i) has a life-threatening or serious illness for which no standard treatment is effective; and

(ii) is eligible to participate in a federally approved or funded clinical trial according to the trial protocol with respect to treatment of the illness;

(B) that individual’s participation in the trial offers meaningful potential for significant clinical benefit for the individual; and

(C) either—

(i) the referring physician is a participating health care professional and has concluded that the individual’s participation in the trial would be appropriate, based upon the individual meeting the conditions described in subparagraph (A); or

(ii) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual’s participation in the trial would be appropriate, based upon the individual meeting the conditions described in subparagraph (A).

(3) a child with a life-threatening illness, including cancer, should be allowed to participate in a federally approved or funded clinical trial if that participation meets the requirements of paragraph (2);

(4) that a child with a rare disease should be allowed to go to a cancer center capable of providing high quality care for that disease; and

(5) a health maintenance organization’s decision that an in-network physician without the necessary expertise can provide care for a seriously ill patient, including a woman battling cancer, should be appealable to an independent, impartial body, and that this same right should be available to all Americans in need of access to high quality specialty care.

SEC. 605. SENSE OF THE SENATE REGARDING FAIR REVIEW PROCESS.

(a) FINDINGS.—

(1) A fair, timely, impartial independent external appeals process is essential to any meaningful program of patient protection.

(2) The independence and objectivity of the review organization and review process must be ensured.

(3) It is incompatible with a fair and independent appeals process to allow a health maintenance organization to select the review organization that is entrusted with providing a neutral and unbiased medical review.

(4) The American Arbitration Association and arbitration standards adopted under chapter 44 of title 28, United States Code (28 U.S.C. 1738 et seq.) are inherently unfair, the right of one party to a dispute to choose the judge in that dispute.
PLANS.—If the Secretary, in any report submitted to the Secretary of Health and Human Services shall make, within 2 years after the general effective date referred to in section 606(a)(1), and annually thereafter for each of the succeeding 4 calendar years (or until a repeal is effective under subsection (b)), a report concerning the impact of this Act, and the views organizations. (b) ANNUAL REVIEW.—If the Secretary, in any report submitted under subsection (a), determines that the recoupment of costs in the 2 years after the enactment of this Act, and the views organizations. (c) FUNDING.—From funds appropriated to the Department of Health and Human Services shall be available to the Secretary of Health and Human Services for the purpose of conducting audits of health insurance companies and plans that have failed to file reports under subsection (a), to the extent that any member of the species Homo sapiens at any point prior to being born alive as defined in this section.

(b) DEFINITION.—In this section, the term "person", "human being", "child", and "individual" as including born-alive infant.

(b) LIMITATION WITH RESPECT TO CERTAIN PLANS.—If the Secretary, in any report submitted under subsection (a), determines that more than 30% of individuals in the United States have lost their health insurance coverage as a result of the enactment of this Act, as compared to the number of individuals with health insurance coverage in the 12-month period preceding the date of enactment of this Act, section 402 of this Act shall be repealed effective on the date that is 12 months after the date on which the report is submitted, and the submission of any further reports under subsection (a) shall not be required.

(c) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 2003 and 2004, the Secretary of Health and Human Services shall provide funding as necessary to study and develop the appropriate process for selection of the independent external review entity.

SEC. 606. ANNUAL REVIEW.

SEC. 607. DEFINITION OF BORN-ALIVE INFANT.

(a) In general.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"*8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant.*"

(b) As used in this section, the term "born alive", with respect to a member of the species Homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, other than professional medical treatment performed in a medical environment.

(c) Nothing in this section shall be construed to affirm, deny, extend, or contract any legal status or legal rights applicable to any member of the species Homo sapiens at any point prior to being born alive as defined in this section.

(b) MEDICAL AMENDMENT.—The table of sections at the beginning of title 1, United States Code, is amended by adding at the end the following new item:

"1. 'Person', 'human being', 'child', and 'individual' as including born-alive infant."

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should be empowered to maintain and develop the appropriate process for selection of the independent external review entity.

(b) LIMITATION WITH RESPECT TO CERTAIN PLANS.—If the Secretary, in any report submitted to the appropriate committees of Congress a report concerning the impact of this Act, and the views organizations. (b) ANNUAL REVIEW.—If the Secretary, in any report submitted under subsection (a), determines that the recoupment of costs in the 2 years after the enactment of this Act, and the views organizations.

SEC. 606. ANNUAL REVIEW.

SEC. 607. DEFINITION OF BORN-ALIVE INFANT.

(a) In general.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"*8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant.*"

(b) As used in this section, the term "born alive", with respect to a member of the species Homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, other than professional medical treatment performed in a medical environment.

(c) Nothing in this section shall be construed to affirm, deny, extend, or contract any legal status or legal rights applicable to any member of the species Homo sapiens at any point prior to being born alive as defined in this section.

(b) MEDICAL AMENDMENT.—The table of sections at the beginning of title 1, United States Code, is amended by adding at the end the following new item:

"1. 'Person', 'human being', 'child', and 'individual' as including born-alive infant."

The PRESIDING OFFICER. Is there objection?

Mr. WELSTON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, therefore, I move to proceed to the consideration of H.R. 333, and I will send a cloture motion to the desk. I also ask unanimous consent that on Thursday, July 12, beginning at 9 a.m., there be a period for debate of 3 hours prior to the cloture vote to be divided as follows: 2 hours under Senator WELLSTONE's control, and 1 hour equally divided between the chairman and ranking member of the Judiciary Committee, or their designees; that if cloture is invoked, the Senate proceed to the bill by consent and Senator LEAHY, or his designee, be recognized to offer the text of S. 420, the Senate-passed bankruptcy bill, as a substitute amendment; that if a cloture motion is filed on that amendment, the cloture motion on the substitute amendment mature on Tuesday, July 17; that prior to that vote, there be a period for debate beginning at 9 a.m., divided as follows: 2 hours under the control of the senior Senator from Minnesota, Mr. WELLSTONE, and 1 hour equally divided between the chairman and ranking member of the Judiciary Committee, or their designees; that once the substitute amendment has been offered and cloture filed, the bill be laid aside until Tuesday, July 17; and that both mandatory quorum calls be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, JULY 10, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the supplemental appropriations bill tomorrow, Tuesday, at 10 a.m., there be 2 hours of concurrent debate equally divided between Senator LEAHY, and Senator CONRAD, or their designees, in relation to the amendment Nos. 866 and No. 865. Further, that following the use or yielding back of time, the amendments be laid aside.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

Mr. REID. Mr. President, I also announce to the Senate that there will be every attempt made to have a vote at 2:15 p.m. on this or in relation to these two amendments. We are working on that now. We were very close to having agreement on that but were unable to do it.

The PRESIDING OFFICER. I order that the Sergeant-at-Arms do cause the vote to be taken and the result of it to be entered on the record.

Mr. REID. Mr. President, I ask unanimous consent that on Tuesday, July 10, immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the supplemental appropriations bill; further, that the Senate recess from 12:30 to 2:15 for our weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, on Tuesday, the Senate will convene at 10 a.m. and resume consideration of the supplemental appropriations bill. The Senate is going to recess from 12:30 to 2:15 for the weekly party conferences. Rollcall votes are expected as the Senate works
to complete action on the supplemental appropriations bill tomorrow. It could be a late evening. We have a number of amendments we are trying to resolve. Senator BYRD and Senator STEVENS want to finish that, as does the majority leader, Senator DASCHLE.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:20 p.m., adjourned until Tuesday, July 10, 2001, at 10 a.m.
EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 10, 2001 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

JULY 11

9 a.m.

Governmental Affairs

Business meeting to consider the nomination of Othoneh Armendariz, of Texas, to be a Member of the Federal Labor Relations Authority; and the nomination of Kay Coles James, of Virginia, to be Director of the Office of Personnel Management.

SD–342

9:30 a.m.

Governmental Affairs

To hold hearings on S. 803, to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services.

SD–342

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine genomic research issues.

SH–216

Commerce, Science, and Transportation

To hold hearings to examine existing laws protecting Internet privacy both in the United States and abroad, and the impact privacy legislation may have on the market.

SR–253

Armed Services

Readiness and Management Support Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on the readiness of United States military forces and the fiscal year 2002 budget amendment.

SR–222

10 a.m.

Finance

To continue hearings to examine the role of tax incentives in energy policy.

SD–215

Health, Education, Labor, and Pensions

To hold hearings to examine the achievement of parity for mental health services.

SD–430

2 p.m.

Appropriations

District of Columbia Subcommittee

To continue hearings on proposed legislation making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002.

SD–192

Armed Services

Strategic Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on the budget request for national security space programs, policies, operations, and strategic systems and programs.

SR–222

2:30 p.m.

Intelligence

To hold closed hearings on intelligence matters.

SH–219

3 p.m.

Foreign Relations

To hold hearings on the nomination of Aubrey Hooks, of Virginia, to be Ambassador to the Democratic Republic of the Congo; the nomination of Donald J. McConnell, of Ohio, to be Ambassador to the State of Eritrea; the nomination of Peter R. Chaves, of Pennsylvania, to be Ambassador to the Republic of Sierra Leone; the nomination of Nancy J. Powell, of Iowa, to be Ambassador to the Republic of Ghana; and the nomination of George McCade Staples, of Kentucky, to be Ambassador to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador to the Republic of Equatorial Guinea.

SD–419

5:45 p.m.

Armed Services

Closed business meeting with British Secretary of State for Foreign and Commonwealth Affairs.

SR–236

JULY 12

8:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the nomination of James R. Moseley, of Indiana, to be Deputy Secretary of Agriculture; and the nomination of Joseph J. Jen, of California, to be Under Secretary of Agriculture for Research, Education, and Economics, to be followed by hearings to examine the context, framework, and content of the comprehensive federal Farm Bill authorization and new agriculture policy that can provide a more sustainable and predictable long-term economic safety net.

SR–332

9 a.m.

Appropriations

Energy and Water Development Subcommittee

Business meeting to consider the nomination of Patricia Lynn Scarlett, of California, to be Assistant Secretary for Policy, Management, and Budget; the nomination of William Gerry Myers III, of Idaho, to be Solicitor, the nomination of Bennett William Raley, of Colorado, to be Assistant Secretary for Water and Science, the nomination of Frances P. Mainella, of Florida, to be Director of the National Park Service, the nomination of John W. Keys III, of Utah, to be Commissioner of Reclamation, all of the Department of the Interior; the nomination of Vicky A. Bailey, of Indiana, to be Assistant Secretary of Energy for International Affairs and Domestic Policy; a proposed revision of the statement for completion by presidential nominees; and the appointment of subcommittee membership.

SD–366

9:30 a.m.

Armed Services

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on ballistic missile defense policies and programs.

SH–216

Energy and Natural Resources

To hold hearings on provisions to protect energy supply and security (Title I of S. 388, The National Energy Security Act of 2001); oil and gas production (Title III and Title V of S. 388; Title X of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001); drilling moratoriums on the Outer Continental Shelf (S. 901, the Coastal States Protection Act; S. 1086, the COAST Anti-Drilling Act; S. 771, to permanently prohibit the conduct of offshore drilling on the Outer Continental Shelf of the State of Florida); energy regulatory reviews and studies (Title III of S. 597); S. 900, the Consumer Energy Commission Act of 2001; and provisions to promote nuclear power sections 126 and 128 130 of Title I, and Title II and

This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
EXTENSIONS OF REMARKS

JULY 13
9:30 a.m.

III of S. 472, the Nuclear Energy Electricity Supply Assurance Act of 2001; S. 919, to require the Secretary of Energy to study the feasibility of developing commercial nuclear energy production facilities at existing Department of Energy sites; and S. 1147, to amend Title X and 'Title XI of the Energy Policy Act of 1992.'

SD–366

10 a.m.

Appropriations

Transportation Subcommittee

Business meeting to markup H.R. 2299, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002.

SD–116

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Mark B. McClellan, of California, to be a Member of the Council of Economic Advisers; and the nomination of Sheila C. Bair, of Kansas, to be Assistant Secretary of the Treasury for Financial Institutions; and to hold a business meeting to consider the nomination of Roger Walton Ferguson, Jr., of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System; the nomination of Donald E. Pomeranz, of Texas, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation; the nomination of Angela Antonelli, of Virginia, to be Chief Financial Officer, and the nomination of Ronald Rosenfeld, of Maryland, to be President, Government National Mortgage Association, both of the Department of Housing and Urban Development; and the nomination of Jennifer L. Dorn, of Nebraska, to be Federal Transit Administrator, Department of Transportation.

SD–538

Budget

To hold hearings to examine the current economic and budget situation.

SD–608

2 p.m.

Appropriations

Business meeting to markup H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002; H.R. 2299, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002; and proposed legislation making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002.

S–128, Capitol

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on Cooperative Threat Reduction, chemical weapons demilitarization, Defense Threat Reduction Agency, non-proliferation research and engineering, and related programs.

SR–222

4 p.m.

Foreign Relations

Business meeting to consider pending calendar business.

S–116, Capitol

JULY 17
9:30 a.m.

Energy and Natural Resources

To hold hearings on proposals related to energy and natural resources.

SD–366

JULY 18
9:30 a.m.

Governmental Affairs

To hold hearings on proposals related to energy and natural resources.

SD–342

JULY 19
9:30 a.m.

Energy and Natural Resources

To hold hearings on proposals related to energy and natural resources.

SD–366
JULY 25

9:30 a.m.
Energy and Natural Resources
   Business meeting to consider pending
   calendar business.

SD-366
The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. Simpson).

DESIGNATION OF THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore laid before the House the following communication from the Speaker:

I hereby appoint the Honorable Michael K. Simpson to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER
The Reverend Larry D. Ferguson, Senior Pastor, Christ Church, Plymouth, Indiana, offered the following prayer:

Dear Heavenly Father, Creator of the Universe, we come to You on behalf of this Nation and more particularly on behalf of the United States House of Representatives. Lord, we come here for several reasons. You said in Jeremiah 33:3, "Call unto Me and I will answer you." We are calling unto You now, Lord. You said in Your great book of wisdom, Proverbs, Chapter 3, Verses 5 and 6, "Lean not on your own understanding, acknowledge Me in all of your ways, and I will direct your paths." Lord, we are acknowledging You right now.

Father, You said in Matthew, 7:7, "Ask and it shall be given to you, seek and you shall find, knock and it shall be opened unto you." Lord, we are asking, seeking and knocking right now.

Father, You are our Jehovah Jireh, our Provider, and we are looking unto You. We recognize that You have all wisdom, all power, and all understanding.

So, Father, as this House argues and debates important issues, when the vote is taken and the dust settles, we pray that the consensus will be Your will. We seek for Your will to be done on Earth, as it is in Heaven.

We pray, Lord, that when decisions have been made, that there will be a mutual respect and camaraderie between those that have taken different positions on each issue. And, Lord, after this day is completed, that somehow, You will be glorified and we and this Nation will be blessed.

In the name of our Lord and Saviour Jesus Christ, the One that died on the Cross and rose again that we might have victory over sin and death. Amen.

THE JOURNAL
The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof. Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE
The SPEAKER pro tempore. Will the gentleman from Indiana (Mr. Buyer) come forward and lead the House in the Pledge of Allegiance.

Mr. BUYER led the Pledge of Allegiance.

WELCOMING THE REVEREND LARRY D. FERGUSON, SENIOR PASTOR, CHRIST CHURCH, PLYMOUTH, INDIANA
(Mr. BUYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUYER, Mr. Speaker, the opening prayer for today's House session has been given to us by Pastor Larry Ferguson. Pastor Ferguson ministers at Christ Church in Plymouth, of Marshall County, Indiana, where he has been a Senior Pastor for 6 years with his wife Kathy, and his Pastor's son Darin, and his wife Kathy, who is also in the United States Air Force and is present in the gallery today.

Pastor Ferguson preached his first sermon as a freshman in high school and later completed 4 years of training for the ministry at Cincinnati Bible Seminary in Cincinnati, Ohio. Since that time, he has been involved in providing spiritual nourishment to many. Whether it is in providing leadership as a principal to a Christian school, giving guidance to Christian churches who are struggling, or nurturing the health of marriages and families, Pastor Ferguson has been following the Biblical admonition to "heal the broken-hearted."

Pastor Ferguson has also used his talents to proclaim the Gospel through song and over the airwaves in Christian radio ministry.

For 35 years, Pastor Ferguson has been ministering, and he has touched more lives than he may ever know. I am thankful for his prayer today, and in his prayer I agree that in this House, we do quest for the greater understanding.

ALLOW HOUSE TO VOTE OPPOSING HOLDING OLYMPICS IN CHINA
(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS, Mr. Speaker, as probably one of the most bipartisan Members of this body, I call on the Republican leadership to allow this House to vote on whether the Olympics should be held in the Communist dictatorship of China.

Three months ago, with an overwhelming bipartisan vote, the House Committee on International Relations expressed itself against China holding the Olympics by approving H. Con. Res. 73. I am asking the Speaker and the majority leader no longer to bottle up our legislation and to allow the representatives of the American people to speak their minds on this issue.

Religion is persecuted, political freedom does not exist, media freedom does not exist, our airplane is forced down, our servicemen and women are held in captivity for 11 days; yet this body is not allowed to vote on whether the Olympics should be held in Beijing.

Mr. Speaker, allow us a vote.

TIME FOR GOVERNOR DAVIS TO TAKE A STAND
(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER, Mr. Speaker, I rise today to discuss the real cause of the rolling blackouts and out-of-control energy prices in California. Governor Davis and his big government cronies caused California's energy crisis through their backward and politically motivated approach to energy. Bowing to pressure from radical environmentalists and advice from his pollsters, Governor Davis increased regulation of the energy industry, thus prohibiting increased energy production and limiting modernization of infrastructure. The Davis approach is the wrong approach.

Now, in order to save his political future, Governor Davis has put political
advisors on the government payroll. Not only do Californians have to pay outrageous prices to cool their homes, but they also have to pay for consultants to tell Governor Davis how to minimize the political damage caused by his mishandling of California’s energy needs. Even California’s Democrat state comptroller has said that she will not pay for Davis’s political expenses with the taxpayers’ dime.

Throughout this crisis, Gray Davis has been seeking political remedies instead of looking for positive solutions to solve the real-life problems of his citizens. All the while, California families are suffering. It is time for the Governor to take a stand and do what is right for California, instead of what is right for his career.

CORRUPTION AT THE JUSTICE DEPARTMENT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, FBI Agent Hanssen pleaded guilty to spying for Russia. Now, think about it: First he said, the devil made me do it; now he says he just wants to make amends. Spare me.

The truth is Janet Reno sold the farm to China. FBI agents are spying for Russia, nuclear military secrets are disappearing faster than Viagra at Niagara, and nobody is doing anything about it. Nothing. Beam me up.

Wake up, Congress, and smell the espionage. I yield back the massive corruption at the Justice Department that goes without meaningful oversight.

AMERICANS DESERVE ENERGY SOLUTIONS, NOT BLACKOUTS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, the United States of America has the strongest economy in this world, and to maintain America’s prosperity, America must have energy.

Over the past few months, California, an undisputed driving force in our Nation’s economy, has had to endure rolling blackouts during the past several months. And now, the fastest growing city in the United States, Las Vegas, Nevada, has also witnessed rolling blackouts due to energy shortages.

Blackouts cannot and should not be tolerated.

It is time to implement real solutions to reverse the energy shortage. Through conservation methods and through expansion and development of our natural energy resource base, we can provide abundant and less costly energy. But to do this we need to implement a national energy policy that includes greater production of diverse energy supplies and an equal reliance on bold conservation measures.

This balanced energy policy will ensure that when Americans flick on that light switch, that their lights always go on, and blackouts will be a thing of the past.

SIGN DISCHARGE PETITION NO. 2

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, here we are, a year after the electricity crisis hit California and the West. The crisis and suffering continues. And where is the President? Not one item in his energy plan addresses the crisis in the West. And where is FERC, the Federal Energy Regulatory Commission? They seem more intent on protecting the industry than the consumers who pay their bills.

A year after the crisis, we have not yet had a debate on this House floor on resolving the issues in California and the West.

The bill that is coming up through the Committee on Commerce does nothing to address this crisis in California. The only way to get a fair discussion on the House floor is to sign Discharge Petition No. 2. That allows and puts in order any bill that really addresses the issues in the West and electricity.

It is time to put cost-based rates on the price of electricity and refund the criminal overcharges since last year.

Mr. Speaker, let us have a debate on this House floor. Sign Discharge Petition No. 2.

PRESIDENT SHOWS STRONG COMMITMENT TO NASA

(Mr. BRADY of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADY of Texas. Mr. Speaker, as a former member of the House Committee on Science, I am a strong supporter of NASA and the International Space Station. So is President Bush, but you would not know so if you listened to some of the rumors going around Houston and our Johnson Space Center.

But here are the facts. Only last year NASA told us on the Committee on Science that they would need $14.4 billion for the coming year. Even after they raised the request recently, the President’s budget meets that request at $14.5 billion; meets NASA’s request. The President also increases funding for the space station, for the launch initiative, and keeps a sustained level of six space shuttle flights.

Understandably, at budget time you are going to have some partisan spin, but, seriously, how can you criticize the President when he gives NASA what it asked for, at a level nearly $1 billion higher than where it has languished for 4 of the last 5 years?

The fact is, for space supporters in Congress, we have never started a budget year so strongly, and our congressional appropriators are trying to do more. Unfortunately, only in Washington are budget increases spun as budget cuts.

SUPPORT BIPARTISAN PATIENT PROTECTION ACT OF 2001

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CHRISTENSEN. Mr. Speaker, now that we are back from the Independence Day recess and the celebration of the passage of the Patients’ Bill of Rights, the one introduced by the gentleman from Michigan (Mr. GINGELL), the gentleman from Iowa (Mr. GANSKE) and the gentleman from Georgia (Mr. NORWOOD), must be at the top of our agenda.

This bill, the Bipartisan Patient Protection Act of 2001, is the only one which comprehensively reforms the current managed care system to better meet the needs of those who elected us. During the break misinformation and scare tactics continued. It is important that the American public know the truth.

Many of the ads say that the bill would raise the cost of insurance. Not true. What they fail to say is that in the past 3 years or so, the cost of managed care has already increased at an average of 7.1 percent, and the increase is projected to be in double digits for this year. The ads also fail to tell us that while the costs have gone up, less services are covered.

Where the same provisions have been enacted in States, there have not been any extraordinary increases in premiums or significant increases in lawsuits. What has happened is that the people in those States have been able to access medically necessary health care, and we need to extend that to the rest of the Nation.

Mr. Speaker, let us pass the bill and let us move on to reduce disparities and provide universal coverage.

DENY OLYMPICS TO CHINA

(Mr. SPENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SPENCE. Mr. Speaker, what fellowship does light have with darkness? The President, what he gives NASA, what it asked for, at a level nearly $1 billion higher than where it has languished for 4 of the last 5 years?

What fellowship does the symbol of the human spirit, the Olympic Games, have with Chinese tyranny?

Sixty-four years ago the Nazi propaganda machine proudly flaunted the
1936 Olympic Games as an example of the leadership of Adolph Hitler. That horrible miscalculation by the International Olympic Committee gave credibility to a man and a regime that killed 6 million Jews.

Amazingly, 44 years later, the IOC granted the games, the 1980 games to the Soviet Union on the very eve of their launch of the war against Afghanistan. Today, the IOC is ignoring history and considering awarding the international games of peace to the People’s Republic of China in 2008.

I say again, Mr. Speaker, what fellowship does light have with darkness? What fellowship does the symbol of the human spirit have with Chinese tyranny? Let it be the voice from this citadel of liberty that the International Olympic Committee should say “no” to Beijing for the 2008 Olympic games.

PATIENTS’ BILL OF RIGHTS

(Mr. BERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERRY. Mr. Speaker, here we go again. Once again, we are taking up the Patients’ Bill of Rights in this House. We have already passed a good, a true, an honest Patients’ Bill of Rights in the House of Representatives. We passed it in the 105th Congress; we passed it in the 106th. It was a bipartisan effort. Now we are going to be presented with a new Patients’ Bill of Rights that they say is 80 percent like the real Patients’ Bill of Rights, the Ganske-Dingell-Norwood-Berry bill.

Mr. Speaker, it is amazing that we are going to try once again to fool the American people and trick them into believing that the insurance companies are not going to control their destiny when it comes to health care. The fact is, if we do not pass the Ganske-Dingell-Norwood-Berry bill, Mr. Speaker, the energy production in the United States is equally important as that produced outside of the United States. In fact, more so. It enhances environmental standards. It promotes energy efficiency. It promotes research and development, and it provides reliable and affordable supplies.

Mr. Speaker, it matches a very important truism: we cannot produce food and fiber in the United States without oil and gas, and we cannot produce oil and gas without food and fiber. We need to be a partnership in all aspects of producing the energy needs of this country.

We encourage our colleagues to take a good look at our suggestion. We look forward to working with both sides of the aisle in developing this national energy policy, as well as with the administration.

COMMUNICATION FROM THE HONORABLE MARK E. SOUDER, MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from the Honorable Mark E. Souder, Member of Congress:

H. CON. RES. 170

July 10, 2001

WASHINGTON, DC

HOUSE OF REPRESENTATIVES

Dear Mr. Speaker: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that my office has been served with a civil subpoena for documents issued by the Superior Court for Allen County, Indiana in a civil case pending there.

After consultation with the Office of General Counsel, I have determined that it is consistent with the precedents and privileges of the House to advise the party who issued the subpoena that I have no documents that are responsive to the subpoena.

Sincerely,

Mark E. Souder,

Member of Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which a vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules, but not before 6 p.m. today.

ENCOURAGING CORPORATIONS TO CONTRIBUTE TO FAITH-BASED ORGANIZATIONS

Mr. WHITFIELD. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 170) encouraging corporations to contribute to faith-based organizations.
may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. WHITFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of House Concurrent Resolution 170, which calls on America’s corporations to increase their support of faith-based charities.

In 1999, the last year in which facts were available, a total of $190.16 billion were contributed to charities throughout America. Of that amount, corporations contributed $43.9 billion or 23 percent of the total amount given to charities in America came from corporations. Unfortunately, some of America’s largest corporations as a matter of policy explicitly discriminate against faith-based organizations.

Now, there are many effective charitable groups throughout our country. These organizations have developed effective programs to assist people to recover from drug and alcohol addiction, provide food and shelter for the homeless, rehabilitate prison inmates, and to teach job skills that will allow individuals to move from poverty to productivity, from dependence to independence.

Now, in this resolution, we are not encouraging faith-based groups to do any proselytizing. As a matter of fact, they do not proselytize and recommend their particular religion. They are there to help, serve one purpose only, and that is to provide assistance to people who need assistance.

For example, charities like the Alpha Alternative Pregnancy Care Center in my hometown of Hopkinsville, Kentucky. There are places where women in an unwanted pregnancy situation can turn for Christian compassion and help in a time of great personal crisis. They minister to their clients with parenting skills, classes, material assistance, and counseling. If this faith-based charity were to receive corporate support, perhaps Alpha Alternative could also expand its services to include other medical diagnostic services and job training programs. But with corporate policies banning support for worthwhile faith-based charities, community groups like Alpha Alternative will never reach their true potential.

I ask my colleagues today to join with me in voting for this resolution calling on the conscience of America’s largest companies not to discriminate against an organization that is successfully advancing philanthropic and human causes, and not to discriminate merely because they happen to be faith based. As I said earlier, these groups are not out proselytizing. They are not out trying to impose their religion on anyone, and this legislation is not trying to impose religion on anyone. This legislation simply asks corporate America to help effective organizations, whether they be faith based or secular.

Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am not sure exactly what role Congress should have in trying to dictate to American families or American corporations how they should contribute their charitable contributions and to whom they should contribute those dollars, but I would say of the faith-based initiative resolution has, in effect, no real legal teeth to it. Much of it is a sense of Congress, and to the extent that the goal of this resolution is to say to individuals and corporate leaders to take a look at faith-based charities in America, they are doing a lot of good work addressing social problems, then I endorse that approach.

Were this resolution more than in effect, a sense of Congress and was actually going to dictate policy corporate trusts, I certainly would have thought it would have made sense for the House committees to have met either the Committee on the Judiciary, or the Committee on Commerce, to at least have a hearing on this to try and direct $1.9 billion in charitable giving. It is my understanding that there was no House committee hearing of either the Committee on the Judiciary or the Committee on Commerce on this measure. However, because this resolution is basically a voluntary message to corporations to consider the good work of many faith-based charities, I would not adamantly object to the principal goal of this.

Mr. Speaker, I would like to comment on today is why this voluntary approach toward giving to faith-based charities is much more acceptable to me and other Members of Congress and religious leaders than the President’s faith-based initiative. The President’s faith-based initiative in contrast to this has several fundamental flaws, and if this bill had any of these flaws built into it in the essence of law, I would oppose this resolution.

First of all, the President’s faith-based initiative as exemplified in H.R. 7 would lead to religious strife, as thousands of different faith-based groups would be competing for tens of billions of Federal tax dollars. If one wants to write a prescription for religious strife in America, Mr. Speaker, I could think of no better way to do it than to have thousands of churches and houses of worship coming to our Nation’s capital and competing before Cabinet Members for tens of billions of dollars of Federal money.

The fourth problem I have with the faith-based initiative and the President’s program in contrast to this resolution is that the President’s faith-based initiative would actually subsidize, subsidize religious discrimination. It would actually take Federal tax dollars and allow a faith-based group to put up a sign, paid for by our tax dollars, that would say, no Jew, no Catholic, no Mormon, no Baptist need apply here for a federally funded job. I think that type of approach to helping charities is really a great retreat in our 40-year march toward greater civil rights in America.

The fifth objection I have to the President’s proposal on faith-based initiatives versus this sense of Congress resolution is that the President’s proposal really puts Congress and faith-based groups into a Catch-22. If we say that they cannot use Federal dollars to proselytize, to push their religion and their faith upon others, then, in effect, what we are doing is giving Federal dollars to faith-based groups and saying that they can proselytize in faith-based organizations.

In effect, the President’s program, if implemented, would actually take the faith out of faith-based organizations, the very thing I would believe the gentleman from Kentucky (Mr. WHITFIELD) and I would agree makes many faith-based organizations so special, the fact that they can inject their faith into their process of turning around people’s lives and solving their problems.

So my point, Mr. Speaker, is this: I am not sure exactly whether this should be a top priority today for Congress, and in fact a sense of Congress resolution, to be telling corporate foundations how to spend billions of dollars, but I do applaud the gentleman from Kentucky (Mr. WHITFIELD) in what I interpret is his basic approach, to send a message to America to say, let’s support the good work of faith-based organizations.

As a person of faith, I believe these organizations are doing excellent work in many cases. Not in all cases, but in
Mr. Speaker, unlike my friend and colleague, the gentleman from Kentucky, for yielding time to me, and for his kind words.

Mr. Speaker, the seeds for this resolution come from a speech that our President gave at the University of Notre Dame commencement ceremony a few months ago. In that speech, President Bush laid out for America a challenge "was to revive the spirit of citizenship, to marshal the compassion of our people to meet the continuing needs of our Nation."

He went on to remind us that, in his words, "It is not sufficient to praise charities and community groups. We must support them." This is both a public obligation and a personal responsibility.

Mr. Speaker, unlike my friend and colleague the gentleman from Texas, I hope this body will take up H.R. 7, the Community Solutions Act, and take it up soon. It will create enhanced incentives for charitable giving, it will expand charitable choice, it will break down the barriers that prevent charitable sectors from being greater partners in the war on poverty.

I believe the debate on the faith-based initiative will be a great and historic one, one that may help us turn the corner in the war on poverty, so I am a strong and passionate supporter.

But in the meantime, this resolution that is before us today is designed to nudge corporate America into providing even more immediate reinforcements to faith-based organizations that are already taking up the mission that the President has called for, organizations that have heeded the President’s call, and that of so many, many American leaders that have gone before him.

This resolution seeks to draw attention to charitable efforts that are already under way, that are already working so beautifully; more importantly, to draw attention to the sad lack of support that these groups have received, not from individuals but from America’s wealthiest foundations.

This resolution celebrates good news, and it points out tragic news.

First, the good news. As both of the previous speakers have noted, each Member of this House can point with pride and with great satisfaction to organizations in his or her community that are lifting lives and healing neighborhoods and making a wonderful difference. These groups are the conscience of our people. They are helping people recover from drug and alcohol addiction. They are providing shelter, comfort, and food for the homeless. They are rehabilitating prison inmates and breaking the cycle of recidivism.

Hundreds of these organizations were represented recently at the faith-based summit here in Washington. As a participant in that summit, I can say there was more positive energy for poverty relief gathered here in the Capital than at any time in decades.

There were wonderful organizations like Rawhide Boys Ranch from northeastern Wisconsin. Established nearly four decades ago as a faith-based alternative to juvenile detention, Rawhide accepts 100 troubled boys each year without regard to race or religious belief or economic background. These boys are counseled, given personal academic and vocational training, and they are taught discipline and given love. This program changes lives because it changes hearts.

There were organizations like Urban Hope, a faith-based ministry in Green Bay, Wisconsin, committed to empowering and revitalizing people and communities through entrepreneurship; yes, entrepreneurship. It teaches credit and budgeting, entrepreneurial ideas, and has a microloan program. In its brief time of existence, it has launched over 121 new businesses in the Green Bay area.

Of course, nearly every community in America has a Bureau of Catholic Charities. There are over 1,600 agencies, institutions, and organizations that make up Catholic Charities. Over 9½ million people each year, people who are in need, turn to them for services ranging from adoption to soup kitchens, child care to prison ministry, disaster relief to refugee and immigration assistance.

In summary, these armies of compassion are fighting brush fires all across this great land.

Now the sad news, the tragic news. According to the Capital Research Center, my colleague, the gentleman from Kentucky (Mr. WHITFIELD) has just mentioned, the 10 largest U.S. corporate foundations have given away roughly $2 billion each year to charities, but a mere fraction of that has gone to these organizations that each of us have referred to.

It has given little to them regardless of their effectiveness. In fact, of the 10 largest corporations in America, six have specific restrictions that either ban outright giving to faith-based organizations, or greatly restrict it.

Whatever the cause—whatever the reason, it is time for these restrictions to fall. It is time for the reticence of corporate America to end. It is time for corporate America, it is time for foundations and American citizens everywhere, to take up the cause of these organizations to contribute, to give them what they can, whether it be financial resources, tools, expertise, whatever they can give to help us fight poverty and the consequences of poverty.

I urge my colleagues to support this resolution. It is a sense of the Congress resolution, but it shines a spotlight on the wonderful work that is being done, and it shines a spotlight on the sad tragedy that too many corporations, too many foundations have not been there to help. I think shining this spotlight is important, and I hope it will make a difference.

Mr. Speaker, I would like to point out, not knowing the facts, since there was not a committee hearing on this, that some of the corporations whose charitable contributions are in effect being criticized today might not want to give to some faith-based groups because they do proselytize.

I know the gentleman from Kentucky talked about groups that do not proselytize. There are many faith-based groups that provide soup kitchens, alcohol and drug rehabilitation programs, and they do not proselytize. But there are many other faith-based groups that part of their very mission
as a religious, pervasively sectarian entity is to proselytize, to sell their faith to others to try to change their lives.

So not knowing what the policy is, these corporations, that might be one valid reason why many of these corporations choose not to give their philanthropy to faith-based organizations. Agreed and the gentleman from Kentucky today for pointing out the good work done by faith-based groups of many different religious faiths across the country. But Mr. Speaker, as we begin this opening chapter in the debate this summer on the role of government and faith-based organizations, I think it is important that we keep in historical perspective the reason why our Founding Fathers felt so strongly about the separation of government and its ability to regulate religion.

Mr. Speaker, many Americans would be surprised that God is not mentioned in America’s governing document, our Constitution. Was this an unintended omission? Did our Founding Fathers intend to show disrespect toward God and faith? Did they not understand the importance of religion in our country? One could imagine modern-day politicians railing against this “discrimination” against religion shown by our Founding Fathers. Worse yet, they could be attacked for beginning the Bill of Rights with these words: “Congress shall make no law respecting an establishment of religion.”

Were Madison, Jefferson, and others guilty of anti-religious, anti-faith discrimination? The truth is, our Founding Fathers did not mention God in our Constitution not out of disrespect to God or religion, but out of total reverence for religious liberty. They believed that liberty proved that government involvement harmed rather than helped religion.

Jefferson wrote reverently of the wall of separation between church and State. Mr. Speaker, that wall of separation is not designed to keep people of faith out of government, but rather, to keep government and its regulations out of religion and our faith.

Were our Founding Fathers right or wrong in separating politics from religion? Let us fast-forward to today’s world. In Denmark, churches are subsidized by taxes, and church attendance is extremely low. In China, citizens are put in prison for their religious beliefs. In Afghanistan, the government is taking religious minorities and forcing them to wear identification symbols that evoke Nazi tactics. In the Middle East and Sudan, religious differences have been the basis for conflict and hatred and terrorism.

In contrast to those countries where government and religion are so entwined, in the United States religious faith and freedom, tolerance, and generosity are flourishing. The difference is that in the other countries, government and religion are intertwined. But in the United States, our Bill of Rights prohibits government from direct involvement in our religion and our own personal faith.

Madison and Jefferson were not so anti-religion after all when they created the wall of separation between church and State. As I said, that wall is not intended to keep people of faith out of being involved in government or having a voice in government, but rather, it was clearly intended to keep government from being able to control religion.

How wise they were in establishing that wall. Maybe our Founding Fathers expressed true reverence in recognizing that faith should be a matter only between an individual and God, with no need for government interference.

Despite what our Founding Fathers and all the lessons of human history, I believe it should alarm Americans of all faiths that the administration and some Members of Congress propose other legislation, in contravention of the First Amendment, that would allow the Federal government to send billions of dollars directly to churches, synagogues and houses of worship. This proposal, soon to be voted on in the House, is known as charitable choice. Unlike this resolution, it would have the teeth of law.

So-called charitable choice legislation is a bad choice. Direct government funding of our houses of worship would inevitably lead to government regulation of religion. Government simply cannot spend billions of tax dollars without audits and regulations. Do we really want Federal auditors and investigators digging through the financial records of our churches, synagogues, and houses of worship? Do we really want government officials deciding which religions and which houses of worship should receive billions of Federal tax dollars? I could not think of a better cause or a better way to destroy the separation of church and state.

Charitable choice legislation is not designed to keep people of faith out of government, but rather, to keep government and its ability to regulate religion out of religion and our faith.

Our Founding Fathers understood that government involvement harmed rather than helped religion. Mr. Speaker, that wall is not designed to keep government and its regulations out of religion and our faith.

Mr. Speaker, I yield back the balance of my time.
I also want to thank my friend, the gentleman from Texas (Mr. Edwards). I appreciate his support of this resolution and his unwavering support with me and others on tax alternatives. He has been consistent. We have a disagreement on charitable choice and government funding, but we do not oppose private funding. It is wrong for us to cast aspersions on others who disagree with certain parts because we have an honest disagreement about what this country should do and how we should proceed. And we have had several good debates on that. This resolution is not part of that debate.

This resolution should be unanimous because those who oppose public funds also speak in favor of private funds, and this encourages more private-sector funding. But if corporate private-sector funding does not go to faith-based and is biased against faith-based organizations as well, where do these resource-poor organizations go?

Many of our most effective poverty-fighting organizations are in the country's toughest areas, in the poorest areas of my hometown of Fort Wayne, of Milwaukee, of Chicago, of New York, of Boston, wherever you go, they are people rich but resource poor. They are often struggling to get through that day or that week. They often have volunteers who work many, many hours and into the night. When government employees often leave at 5 o'clock, we see these people volunteering, because many of the problems in our toughest neighborhoods occur between 10 at night and 4 in the morning; not often when government employees are there. Often they work without health benefits or any other kind of benefits. Also, the churches from which they arise often have no financial resources.

We are talking about the church itself or the ministry. Because I agree, if the money goes straight to the churches and gets incorporated and they become dependent on that, we will wreck the churches of America, like has happened to some degree, as the gentleman from Texas (Mr. Edwards) pointed out, around the world. But this is in their outreach ministries. Can they, if they do not proselytize with government funds, can they be included in faith-based organizations?

Now, the problem, as President Bush has pointed out and the Capital Research Center and as previous speakers have previously pointed out, many of our top organizations ban funding for faith-based organizations. Number one, General Motors, says that contributions generally are not provided to religious organizations. Number three, the Ford Motor Company, says as a general policy they do not support religious or sectarian programs. Number four, ExxonMobile, says we do not provide funds for political or religious causes. Number six, IBM, does not make corporate donations or grants from corporate philanthropic funds to religious groups.

Where are they to turn? If the biggest funders deny them, if the government denies them, if their churches are poor, and yet they are the most effective, where do they turn?

In President Bush's Notre Dame commencement speech, and I am proud I graduated from Notre Dame and I am thrilled he gave this speech at Notre Dame, he quoted Knute Rockne, certainly the most famous football coach in American history, next to our fellow congressman, the gentleman from Nebraska (Mr. Osborne), Knute Rockne said, "I have found prayers work best when you have big players." Big players in this case are the volunteers and the dollars.

There has been a lot of misunderstanding about President Bush's faith-based initiative. He has always said from the beginning that private giving is first and foremost. The amount of private giving in America far exceeds anything that the government will do in these areas.

Number one are individual contributions, which are in this bill, which would allow nonitemizers to tax deduct, as well as some other incentives for individual giving and corporate giving; and, number two, is to urge corporate foundations and corporate entities themselves to give private donations. That is where the real dollars will come, and that is where there is the least strings. At a minimum, this Congress should not only pass this resolution today but the tax part of the President's initiative.

His second most important part was the so-called compassion fund, because even now faith-based organizations are eligible but I do not know where the grants are. They have no idea, a lot of times, what the laws are on proselytizing, how to set up 501(c)(3)'s, how to get sued and so they do not get intermingled. That compassion fund is a critical part of the President's agenda. All the focus has been on number three, which we have already passed through the House, which is already law in welfare reform, and which is law in other areas, and that is the so-called charitable choice provision. It is important. I strongly support it.

The bill that passed out of the committee just before we left for the July 4th break made the differentiations that I believe are needed to follow constitutional law, and I strongly support that. But it is most important for us to remember that the key thing is to get the dollars to where the resources, the people resources are. And that starts first and foremost with individual giving and corporate giving.

Once again, I commend the gentleman from Wisconsin (Mr. Green) for his resolution today, for our House leadership, for the gentleman from Kentucky (Mr. Whitfield), and the gentleman from Texas (Mr. Edwards), and others, for doing this. We are a diverse country that needs to protect our diversity. But our multiple faiths in this country will always be the anchor of our diversity.

Mr. Speaker, I include for the Record the commencement speech the President gave at Notre Dame, which I referred to earlier.

REMARKS BY THE PRESIDENT IN COMMENCEMENT ADDRESS

THE PRESIDENT: Thank you, Father Malloy. Thank you all for that warm welcome. Chairman McCartan, Father Scully, Dr. Hatch, Notre Dame trustees, members of the class of 2001. (Applause.) It is a high privilege to receive this degree. I'm particularly pleased that it bears the great name of Notre Dame. My brother, Jeb, may be the Catholic in the family—(laughter)—but being from Florida, I'm the only Domer. (Laughter and applause.)

I have spoken in this campus once before. It was in 1980, the year my Dad ran for Vice President with Ronald Reagan. I think I really won over the crowd that day. (Laughter.) In fact, I'm sure of it, because all six of them walked me to my car. (Laughter.)

That was back when what was then the Catholic university and is now the top Catholic university in the world was president of this university, during a tenure that in many ways defined the reputation and values of Notre Dame. It's a real honor to be with Father Hesburgh, and with Father Joyce. Between these, two good priests have given nearly a century of service to Notre Dame. I'm told that Father Hesburgh, now holds 146 honorary degrees. (Applause.) That's pretty darn impressive. Father, but I'm gaining on you. (Laughter.) As of today, I'm only 146 behind. (Laughter.)

Let me congratulate all the members of the class of 2001. (Applause.) You made it, and we're all proud of you on this big day. I also congratulate the parents, who, after these years, are happy, proud—and broke. (Laughter and applause.)

I commend this fine faculty, for the years of work and instruction that produced this outstanding class. And I'm pleased to join my fellow honorees, as well. I'm in incredibly distinguished company: athletes, church officials and an eminent scientist. We're sharing a memorable day and a great honor, and I congratulate you all. (Applause.)

Notre Dame, as a Catholic university, carries forward a great tradition of social teaching. It calls on all of us, Catholic and non-Catholic, to honor family, to protect life in all its stages, to serve and uplift the poor. This university is more than a community of scholars. It is a community of conscience—and an ideal place to report on our nation's commitment to the poor, and how we're keeping it.

In 1964, the year I started college, another President from Texas delivered a commencement address talking about this national commitment. In that speech, President Lyndon Johnson issued a challenge. He said, "This is the time for decision. You are the generation which must decide. Will you decide to leave the future a society where a man is condemned to hopelessness because he was born poor? Or will you join to wipe out poverty in this land?"

In that speech, Lyndon Johnson advocated a War on Poverty. He has noble intentions and enduring success. Poor families got basic health care; disadvantaged children were
Given a head start in life, yet, there were also times that no one wanted or intended. The welfare entitlement became an enemy of personal effort and responsibility, turning many recipients into dependents. The War on Poverty also turned too many young people, for the wrong reasons, into a generation that compassion had become the work of government alone.

In 1996, welfare reform confronted the first of these problems, with a five-year time limit on benefits, and a work requirement to receive them. Instead of a way of life, welfare became of temporary use, a program, not an entitlement, but a transition. Thanks in large part of this change, welfare rolls have been cut in half. Work and self-respect have been returned to many lives. This is a tribute to the Republicans and democrats we agreed on reform, and to the President who signed it: President Bill Clinton. (Applause.)

Our nation has confronted welfare dependency. But our work is only half done. Now we must confront the second problem: to revive the spirit of citizenship—to marshal the compassion of people to meet the continuing needs of our nation. This is a challenge to my administration, and to each one of you. We must meet that challenge—because, if we don’t, it is personal support on the hard road to recovery.

Welfare as we knew it has ended, but poverty has not. When over 12 million children live below the poverty line, we are not a post-poverty America. Most states were among the first wave of welfare recipients who have reached the law’s five-year time limit. The easy cases have already left the welfare rolls. The hardest problems remain—people with far fewer skills and greater barriers to work. People with complex human problems, like illiteracy and addiction, abuse and mental illness. Often they don’t know what will happen to them, to their families, to their children. But we cannot sit and watch, leaving them to their own struggles and their own fate.

There is a great deal at stake. In our attitudes and actions, we are determining the character of our country. When poverty is considered normal, the War on Poverty is consigned to permanent social division, becoming a nation of caste and class, divided by fences and gates and guards. Our nation should be clear, and it’s difficult: we must build our country’s unity by extending our country’s blessings. We make that commitment because we are Americans. Aspiration is the essence of our country. We believe in social mobility, not social Darwinism. We are the country of the second chance, where failure is never final. And that dream has sometimes been deferred. It must never be abandoned.

We are committed to compassion for practical reasons. When men and women are lost to themselves, they are also lost to our nation. When millions are hopeless, all of us are diminished by the loss of their gifts. And we’re committed to compassion for moral reasons. Jewish prophets and Catholic teaching both speak of God’s special concern for the poor. This is the most radical teaching of faith—that the value of life is not dependent, or contingent upon skill. That value is a reflection of God’s image.

Much of today’s poverty has more to do with a failed society than a troubled economy. And often when a life is broken, it can only be restored by another caring, concerned human being. The answer for an abandoned child, the answer for an abused child—it requires the presence of a mentor. The answer to addiction is not a demand for self-sufficiency—it is personal support on the hard road to recovery.

The hope we seek is found in safe havens for battered women and children, in homeless shelters, in crisis pregnancy centers, in programs that tutor and conduct job training and social work when they happen to be on parole. All these efforts prove not just a benefit, but attention and kindness, a touch of courtesy, a dose of grace.

Mother Teresa said that what the poor often need, even more than shelter and food— though these are desperately needed, as we ought to know—is the sense of belonging is within the power of each of us to provide. Many in this community have shown what compassion can accomplish.

Notre Dame’s own Lou Nanni is the former director of South Bend’s Center for the Homeless—an institution founded by two Notre Dame professors. It provides guests with everything from drug treatment to mental health service, to classes in the Great Books, to preschool for young children. Discipline is tough. Faith is encouraged. The men and women who come are committed and consistent and central to its mission. Lou Nanni describes this mission as “repairing the fabric” of society by letting people know they are no rejects, they are a gift from God and God-given potential of every human being.

Compassion often works best on a small and human scale. It is generally better when a call for help is local, not long distance. Here at this university, you’ve heard that call and responded. It is part of what makes Notre Dame great and its president, the late Rev. Theodore Hesburgh, a saint.

This is my message today: there is no national society which is not a caring society. And any effective war on poverty must deploy what Dorothy Day called “the weapons of spirit.”

There is only one problem with groups like South Bend’s Center for the Homeless—there are not enough of them. It’s not sufficient to praise charities and community groups, we must support them. And this is both a public obligation and a personal responsibility.

For example, the War on Poverty made a federal commitment to the poor. The welfare reform legislation of 1996 made that commitment more effective. For the task ahead, we must follow the lead of our首页 the War on Poverty in America. Our society must enlist, equip and empower idealistic Americans in the works of compassion that only they can provide.

Government has an important role. It will never be replaced by charities. My administration increases funding for major social welfare and poverty programs by 8 percent. Yet, government must also do more to take the side of charities and community healers, and support their work. We’ve had enough of the stale debate between big government and a shallow, indifferent government. Government must be active enough to fund services for the poor— and humble enough to let good people in local communities provide those services.

So I have created a White House Office of Faith-based and Community Initiatives. (Applause.) Through that office we are working to encourage churches, help faith based and non-itemizers. (Applause.) This could encourage almost $15 billion a year in new charitable giving. My attitude is, everyone in America—whether they are well-off or not—should have the same incentive and reward for giving.

And we’re in the process of implementing and expanding “charitable choice”—the idea that already exists in the tax law, that faith-based organizations should not suffer discrimination when they compete for contracts to provide social services. (Applause.) Government should applaud the teaching of faith, but it should support the good works of the faithful. (Applause.)

Some critics of this approach object to the idea of government funding going to any group motivated by faith. But they should take a look around them. Public money already goes to groups like the Center for the Homeless and, on a larger scale, to Catholic Charities. Do the critics really want to cut them off? Medicaid and Medicare money currently goes to religious hospitals. Should that be banned? Of course not. (Applause.)

America has a long tradition of accommodating and encouraging religious institutions when they pursue public goals. My administration did not create that tradition—but we will expand it to confront some urgent problems.

Today, I am adding two initiatives to our agenda, in the areas of housing and drug treatment. Owning a home is a source of dignity for families and stability for communities—and organizations like Habitat for Humanity make that dream possible for many low income Americans. Groups of this type currently receive some funding from the Department of Housing and Urban Development. The budget I submit to Congress next year will propose a three-fold increase in this funding—which will expand homeownership, and the hope and pride that come with it. (Applause.)

And nothing is more likely to perpetuate poverty than a life enslaved to drugs. So we’ve proposed $1.6 billion in new funds to combat this disease. I call this the plan to close the gap between 5 million Americans who need drug treatment, and the 2 million who currently receive it. We will also propose that all federal support for drug treatment go to faith-based and community groups.

The federal government should do all these things; but others have responsibilities, as well—including corporate America.

Many corporations in America do good work, in good causes. But if we hope to substantially reduce poverty and suffering in our country, corporate America needs to give more—and to give better. (Applause.)

Faith-based organizations do not receive only a tiny percentage of overall corporate giving. Currently, six of the 10 largest corporate givers in America explicitly rule out or restrict donations to faith-based groups, regardless of their effectiveness. The federal government will not discriminate against faith-based organizations, and neither should corporate America.

In the same spirit, I hope America’s foundations consider ways they may devote more of their money to our nation’s neighborhood organizations that help the homeless. Let’s work together to convene a summit this fall, asking corporate and philanthropic leaders throughout America to join me at the White House to discuss how to remove barriers to giving to community organizations—both secular and religious.
Ultimately, your country is counting on each of you. Krute Knolke once said, "I have found that you work best when you have big players." (Laughter.) We can pray for the justice of our country, but you're the big players we need to achieve it.

Government can promote compassion, corporations and foundations can fund it, but the citizens—it's the citizens who provide it. A determined assault on poverty will require both an active government, and active citizens.

There is more to citizenship than voting—though I'd strongly advise you to pay them. (Laughter.) Citizenship is empty without concern for our fellow citizens, without the ties that bind us to one another and build a common good.

If you already realize this and you're acting on it, I thank you. If you haven't thought about it, I leave you with this challenge: serve a neighbor in need. Because a life of service is a life of significance. Because if a life is to be truly meaningful, ultimately, it is borne of service and consumerism can build a prison of wants. Because a person who is not responsible for others is a person who is truly alone. Because there are few better ways to express our love for America than to care for other Americans. And because the same God who endows us with individual rights also calls us to social obligations.

So let me return to Lyndon Johnson's charge. You're the generation that must decide. Will you ratify poverty and division with your apathy—or will you build a common good with your idealism? Will you be the spectator in the renewal of your country—our citizen?

The methods of the past may have been flawed, but the idealism of the past was not an illusion. Your calling is not easy, because you must do the acting and the caring. But there is fulfillment in that sacrifice, which creates hope for the rest of us. Every life you help proves that every life might be helped. The act itself proves the possible. And hope is always the beginning of change.

Thank you for having me, and God bless. (Applause.)

Mr. WHITFIELD. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Kentucky has 2 minutes remaining.

Mr. WHITFIELD. Mr. Speaker, I yield myself the balance of my time.

I want to thank the gentleman from Wisconsin (Mr. GREEN) for bringing this important issue to the forefront. We have a lot of people in America reaching out asking for a helping hand.

We have a lot of organizations who have programs in place that can assist those people. This resolution today simply calls on corporate America to not discriminate against a group simply because they are faith-based.

I would also like to thank the gentleman from Texas for his remarks today.

Mr. TAUZIN. Mr. Speaker, I too rise in support of H. Con. Res. 170, which calls for increased support of faith-based charities by U.S. corporations.

The United States is blessed with an industrious people and great wealth; we are the envy of the world. But a great and prosperous nation can and must do better—each of us has a duty to alleviate the suffering of the poor and oppressed in our own communities. Some of the most effective organizations for meeting the needs of poor Americans are faith-based, yet these are the very groups that face discrimination by corporate America.

According to Leslie Lenkowsky in last month's edition of Commentary, in 1998 only some 2 percent of the money donated by the nation's largest foundations went to religiously affiliated institutions, and much of that was earmarked for institutions like hospitals and universities. The Capital Research Center found that six of the ten largest companies in America explicitly "ban or restrict" donations to faith-based charities.

Why would some of the greatest corporations in the country institute policies that prevent funding of some of America's most effective charities at a time when Congress has taken a leading role in knocking down discriminatory barriers that prevent faith-based charities from competing for government grants and contracts?

On a bipartisan basis, Congress started the work of expanding charitable choice in 1996 with welfare reform, and followed up with the welfare-to-work grant program in 1997. In 1998, Congress added charitable choice to the Community Services Block Grant Program and in 2000 we added charitable choice to substance abuse treatment and prevention services under the Public Health Services Act.

We know that these programs work, and the States are also finding great success. A study of Indiana's "Faith Works" program, which allows welfare recipients to get assistance from faith-based charities instead of secular providers, found that those opting for such charities came from more distressed family situations and had deeper personal crises than those opting for the secular alternative. The study concluded that what these people found at faith-based charities was more emotional and spiritual support than what could ever be offered by a secular institution. In some personal situations additional support might be the difference between life and death.

I predict that Congress will knock down more barriers against faith-based charities in programs like the Community Health Centers program this year, and many more next year. As Congress has already moved to provide more access to faith-based charities by Americans in the greatest need, I believe that Congress should call on American corporations to give more even-handedly and generously to faith-based charities.

Mr. STARK. Mr. Speaker, I rise today in opposition of H. Con. Res. 170, a Resolution Encouraging Corporations to Contribute to Faith-Based Organizations.

I am a strong supporter of corporations increasing donations to philanthropic organizations to help the most needy in our society. Even with the strong economy over the past few years, many Americans have not shared in this nation's prosperity. Thus, more corporate donations are needed to help the many Americans living in poverty.

However, it is important for the government advocating corporate support of one charitable organization over another. Our Founding Fathers included the establishment clause in the United States Constitution to ensure that the government did not play the role of endorsing religion. This policy has given Americans the freedom to carry out their religious worship in whichever manner they choose without fear of government oppression. Today, this resolution takes the first step toward the government playing the role of supporting religious charitable organization over others and challenging the founding Father's willingness to promote the establishment clause in our constitution.

Even more disturbing, it appears that this resolution is the first step in the Bush Administration attempting to promote their faith-based initiative that supports the misguided action of promoting government sponsored discrimination. It has been reported that the Bush administration has agreed to create a regulation that would allow religious charitable organizations to legally avoid hiring gay employees because of their sexual orientation in exchange for these groups' support for their faith-based initiative.

In the mid-20th century, many racial minorities, women and gays began the long fight for equal rights in this nation. It is a fight that still has a long way to go. The struggle of these groups has inspired not a country to make America a better place where all men and women are truly created equal.

If the reported allegation about the administration creating a regulation to promote discrimination is true, then the Bush Administration has signaled to the nation that it wants to return to the dark days in this nation's history when our government sponsored discrimination against certain groups. If today, the Bush Administration is willing to support government sponsored discrimination against homosexuals, then which group is next? Will it be women? Will it be African Americans or Hispanics? Will it be religious worshippers of Catholicism, Judaism or the Nation of Islam? I urge the Bush Administration to return to the dark days in this nation's history when our government sponsored discrimination against certain groups.

I urge my colleagues to oppose H. Con. Res. 170 and say no to discrimination.
CONGRESSIONAL RECORD—HOUSE 12721

Whereas June 26th of each year is the United Nations Day in Support of Victims of Torture: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That, on the occasion of the United Nations International Day in Support of Victims of Torture, Congress pays tribute to all victims of torture in the United States and around the world who are struggling to overcome the physical scars and psychological effects of torture.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LAN- TOS) each will control 20 minutes. The Chair recognizes the gentle- woman from Florida (Ms. ROS- LEHTINEN).

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General Leave

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentle- woman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may con- sume.

The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment underscores that freedom, justice, and peace rests on the recognition of the inalienable rights of all members of the human family.

It further states that these basic rights derive from the inherent dignity of the human person. Thus, when one individual suffers, all of humanity suffers. When one individual is tortured, the scars inflicted by such horrific treatment are not only on the victim but in the global system, as the use of torture undermines, debilitates, and erodes the very essence of that system.

Torture not only terrorizes individuals but entire societies, the impact of which is felt in future generations as well. It is used as a weapon against de- mocracy by eliminating the leadership of the opposition and by frightening the general population into submis- sion.

As a Member of Congress who rep-resents men, women, and children who have fled repressive regimes, I have witnessed firsthand the mental and physical damage that torture inflicts on the individual and on society as a whole. I have constituents who are Cuban refugees, for example, who have been subjected to electroshock treat- ment by Castro’s authorities because of their pro-democracy activities.

I represent one of the largest Holo- caust survivor communities in North America. My district includes victims of right-wing authoritative regimes as well as oppressive leftist totalitarian dictators. I have seen the anguish in their eyes as well as the strength of their spirit, their courage, and their determination.

There are more than 500,000 survivors of torture in the United States; and this resolution, Mr. Speaker, seeks to honor them.

House Concurrent Resolution 168 uses the occasion of the United Nations Day in Support of Victims of Torture as an opportunity to remember and pay hom- age to the victims of torture and to under- score the commitment that the United States Congress has outlined in the last few years through passage of the Torture Victims Relief Act of 1998 and the Torture Victims Relief Reau- thorization Act of 1999.

It is a message to the survivors in the U.S., and indeed throughout the world, that the U.S. has not forgotten their suffering nor its obligation as a global leader to help prevent such vio- lations of the inherent dignity of human beings. I ask my colleagues to support this bipartisan resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume; and I rise in strong support of H. Res. 168. I want to commend my dear friend and colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN), for intro- ducing this important resolution.

Mr. Speaker, I have the dubious dis- tinction of being the only Member of Congress ever to have lived under and fought against both a Nazi and a com- munist dictatorship. So torture is something with which I am personally and intimately familiar with.

The resolution before this House today pays tribute to the millions of courageous men and women who have suffered the terrible mental and physical damage perpetrated by other human beings. It is an unfortunate re- ality, Mr. Speaker, that around the globe on every continent men, women, and even children are abused by those who are in positions of authority and who abuse their power by inflicting harm on others.

Mr. Speaker, every year our Depart- ment of State in its country reports on human rights practices, catalogs for us the numerous countries involved in this heinous practice. Torture and other cruel, inhuman and degrading treatment or punishment is a violation of international law, Mr. Speaker, as reflected in the Convention Against Torture to which I am proud to say the United States is a party. But more than that, it is an attack on the de- cency of every human being who lives in a world where such heinous prac- tices exist.

Mr. Speaker, this House has been at the forefront of trying to ease the suf- fering of the many who have survived
these awful practices. We have initiated and passed legislation creating U.S. programs that address the psychological and physical needs of those who have survived brutal torture. These programs have helped thousands of such victims. It is only fitting that the House pay tribute to all of the victims of torture around the globe who are struggling to overcome the effects of torture.

Mr. Speaker, I urge all of my colleagues to support H. Res. 168.

Ms. ROS-LEHTINEN. Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although the gentlewoman from Minnesota (Ms. McCOLLUM) has been with us only a short time, she has made an excellent name for herself in her commitment to the finest causes that we deal with.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Speaker, I thank the gentlewoman from California for his kind words.

Mr. Speaker, I am proud to be part of a special organization located in Minnesota. It is The Center for Victims of Torture. The Center was established in 1985 to heal the emotional and physical scars of government-inflicted torture on individuals, their families, and our communities. Torture victims face debilitating and unimaginable social, physical, emotional and spiritual scarring.

Many survivors are challenged with daily constant anxiety, depression, and suffer from fear. Torture is a crime against humanity. It is a crime against all of us.

Today I stand here with my colleagues to ensure that the United States works in collaboration with all nations to end government-sponsored torture, to end policies and practices that violate human rights. Although the memories cannot be erased, the wounds can be healed.

Mr. LANTOS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Speaker, I rise in support of H. Con. Res. 168, to express support for victims of torture, and I thank Congresswoman ROS-LEHTINEN for bringing this issue to the floor.

Although torture and other cruel, inhuman or degrading treatment is prohibited under international human rights law, state-officials in countries all over the world are responsible for the ill-treatment of individuals. Today, hundreds of thousands of victims of torture live in the United States. They are typically well-educated, well-trained people who were subjected to politically motivated torture by repressive regimes. They were tortured because of what they believe, what they said or did, or for what they represented. Many torture survivors suffer in silence, enduring incessant physical and emotional anguish. These courageous individuals, who often suffered for speaking out for freedom and justice, deserve, our full and uncompromising support.

When Congress passed the Torture Victims Relief Act of 1998, we agreed that victims should have access to rehabilitation services, enabling them to become productive members of our communities. I also encourage my colleagues to support the Torture Victim's Relief Re-authorization Act—H.R. 1405, to fund domestic torture treatment centers and the Human Rights Information Act—H.R. 1152, to facilitate the prosecution of torturers.

As a member of the Congressional Caucus on Human Rights, I join Congresswoman ROS-LEHTINEN and Congressman SMITH in this recognition of all victims of torture in the United States and around the world who are struggling to overcome their physical and psychological scars. I urge support of H. Con. Res. 168.

Mr. GILMAN. Mr. Speaker, at this time I wish to thank the Chairwoman of the Subcommittee on International Operation and Human Rights, the gentlelady from Florida (Ms. ROS-LEHTINEN), for reminding us of the role that the United States must take in combating the use of torture and other forms of degrading treatment or punishment throughout the world.

However, it is not enough to merely denounce torture without assiting the victims in their recovery from the physical and psychological effects that they suffer. People suffering from the effects of torture suffer from severe impairments, often requiring lengthy medical and psychological treatments. Torture victims are often ashamed or too traumatized to speak out against the practice, both in their countries of origin and abroad.

Because torture victims sometimes cannot speak for or help themselves, Americans want their government to speak for those victims, to provide assistance to stop human rights abuses, to investigate allegations of torture, and also to provide rehabilitation services for the victims of torture through the Torture Victims Protection Act. They also want us to press for universal protection against torture through the enforcement of the rights set out in the Universal Declaration of Human Rights, the Convention Against Torture, and the UN Charter. These are the themes of the worthy resolution before us, and we should start expressing our solidarity with the victims of torture in the United States and throughout the world.

Accordingly, I am pleased to join my colleagues in supporting H. Con. Res. 168.

Mr. LANTOS. Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 168.

The question was taken. The SPEAKER pro tempore, in the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. ROS-LEHTINEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair’s prior announcement, further proceedings on this motion will be postponed.

TROPICAL FOREST CONSERVATION ACT REAUTHORIZATION

Mr. CHABOT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 231) to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004, as amended.

The Clerk read as follows:

H.R. 231
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY FOR BENEFITS.

Section 905(a)(2) of the Tropical Forest Conservation Act of 1998 (22 U.S.C. 2431c(a)(2)) is amended by striking “major”.

CONGRESSIONAL RECORD—HOUSE July 10, 2001
Mr. Speaker, I rise in strong support of H.R. 2131 which reauthorizes the Tropical Forest Conservation Act of 1998, and commend the gentleman from Ohio (Mr. PORTMAN) for introducing this reauthorization bill, and the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations, for moving it so expeditiously through the legislative process.

Mr. Speaker, 3 years ago Congress overwhelmingly approved the landmark Tropical Forest Conservation Act. This legislation provided funding for the administration to pursue actively debt swaps, buybacks and other devices with developing nations in return for concrete efforts to protect tropical forests. Since Congress enacted this important legislation, the Clinton administration successfully concluded an agreement to reduce debt owed by the Government of Bangladesh to the United States in exchange for a new plan to protect 4 million acres of mangrove forests in that country. These forests protect the world’s only genetically secure population of Bengal tigers.

At the moment, Mr. Speaker, there are 11 nations on 3 continents interested in negotiating new tropical forest conservation debt reduction agreements with the United States. It is critical that the Bush administration continue the active implementation of the Tropical Forest Conservation Act. Tropical forests around the globe are rapidly disappearing. The latest figures indicate that 30 million acres of tropical forests are being lost every single year. This is an area larger than the State of Pennsylvania. Tropical forests harbor much of the world’s biodiversity. They act as carbon sinks, helping to reduce greenhouse gases as they absorb large amounts of carbon dioxide from the atmosphere, and provide habitat for many plant species that are used to develop life-saving medicines and pharmaceutical products.

It has been estimated that up to 30 million acres of tropical forests are lost each year, an area roughly the size of Pennsylvania. This alarming rate of destruction emphasizes the need to act, and act quickly, to preserve these valuable assets and biodiversity.

The Tropical Forest Conservation Act reauthorization is a sound, free-market approach to a very serious global environmental problem. It will encourage the preservation of tropical forests without creating a burden on the American taxpayer. It is a good, sensible piece of legislation. It is worthy of our support, and I urge its adoption.

Mr. Speaker, I commend my colleague, the gentleman from Ohio (Mr. PORTMAN) for proposing this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2131 which reauthorizes the Tropical Forest Conservation Act of 1998, and commend the gentleman from Ohio (Mr. PORTMAN) for introducing this reauthorization bill, and the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations, for moving it so expeditiously through the legislative process.

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Mr. Speaker, I commend my colleague, the gentleman from Ohio (Mr. PORTMAN) for proposing this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CHABOT. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. PORTMAN), the principal sponsor of the legislation.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman from Ohio (Mr. CHABOT) for yielding me this time, and I thank the distinguished gentleman from California (Mr. LANTOS) for his statement and for his strong support of this legislation.

Mr. Speaker, I rise today in strong support of this legislation. It is bipartisan, it is bicameral, and it reauthorizes a program which can work well to address serious problems.

Four years ago, Mr. Speaker, we introduced this bill with 33 other colleagues in order to continue what is a very innovative conservation program which helps protect the world’s most valuable tropical forests through these debt-for-nature mechanisms.

Mr. Speaker, I also thank the gentleman from Illinois (Mr. HYDE) and the ranking member (Mr. LANTOS) gentleman from Nebraska (Mr. BEREURER) and other members of the Committee on International Relations, including the gentleman from Ohio (Mr. CHABOT), for their expedited consideration of the legislation and unanimous approval of it on June 20.

I also want to thank them for the improvements they made to the legislation. The three amendments that were accepted in committee, I think, perfect the legislation and make it work better, given the evolving nature of some of the debt-for-nature relationships we might have.

Four years ago I introduced this original bill with our former colleagues Lee Hamilton and John Kasich. It was approved by the House and passed by the Senate under unanimous consent, and was signed into law by President Clinton.

The legislation was developed with the support and input of a lot of people, including some of the major respected international environmental organizations such as the Nature Conservancy, the World Wildlife Fund and Conservation International. Their support and ongoing commitment to this program and their involvement in this program as a potential third party has been and will continue to be very valuable to its success.

Mr. Speaker, I also note that our freshman colleague, the gentleman from Illinois (Mr. KIRK), was instrumental in developing the original Tropical Forest Conservation Act when he
was a senior member of the Committee on International Relations staff. I am delighted that he is an original cosponsor of the legislation.

The United States has a significant national interest in protecting these forests around the world. As has been said by the gentleman from California (Mr. LANTOS), these forests provide a wide range of benefits. We know they harbor between 50 and 90 percent of the terrestrial biodiversity on Earth. We know that they act as carbon sinks, absorbing massive quantities of carbon dioxide from the environment, and we know that carbon dioxide taken out of the atmosphere helps reduce the effect of greenhouse gases. They also help regulate rainfall on which agriculture and coastal resources depend, and they are important to regional and global climate.

Furthermore, these tropical forests are the breeding ground for new medicines. We are told that fully a quarter of the prescription drugs currently used in the United States come from tropical forests. We are also told that of the more than 3,000 plants the National Cancer Institute has identified as being active against cancer, 70 percent are found in these tropical forests.

Regrettably, these forests are rapidly disappearing. The gentleman from California (Mr. LANTOS) talked about that, and stated an area the size of Pennsylvania is being destroyed every year. We believe that half the tropical forests are already gone.

The heavy debt burden of these countries that have these forests is a contributing factor to the disappearance of these forests. Why? Because these countries must resort to exploitation of their natural resources, timber, minerals, and precious metals, to generate revenue to service burdensome external debt.

At the same time, poor governments tend to have very few resources to set aside and protect their tropical forests. This act addresses these economic pressures by authorizing the President to allow eligible countries to engage in debt swaps, buybacks or restructuring in exchange for protecting threatened tropical forests on a sustained basis over time.

The legislation is based on the previous Bush administration's Enterprise for the Americas Initiative that allowed the President to structure certain debt in exchange for conservation efforts, but only in Latin America. This legislation and its predecessor expands on the countries eligible, the requirements, and the legislation expands it beyond Latin America to protect tropical forests that are threatened worldwide. The bill provides for very different ways to leverage scarce resources available for international conservation.

Under two of the three options made available under this bill, third-party debt swaps where third parties can come in, such as the Nature Conservancy or Conservation International, and also debt buybacks, in those two cases, there is no cost at all to the United States Government.

Under the third option provided for under this legislation, the United States and an eligible country can agree to restructure the debt. Our Government in this case does provide a subsidy to cover the difference between the so-called net present value of the debt and the net present value of whatever the new debt is. Now, net present value is a fancy term, but it refers to what an investment bank, say, on Wall Street might use as they look at the debt to determine what it is really worth, what its actual value is.

Our Government provides this subsidy because we get something in return for it. We get something in return in the sense that the amount of debt forgiven is less than the amount that is placed in these tropical forest funds. Therefore, we get leverage. In fact, taxpayers will usually get at least $2 in conservation funds back into the fund in local currency for every $1 of Federal funds that would be spent.

Part of this leverage comes from the fact that the host country is required to use local currency in a tropical forest fund. Second, these tropical forest funds have integrity, are broadly supported within the host country; and, therefore, conservation organizations are interested in placing their own private money in these funds. We believe this is producing additional private sector leverage of government conservation dollars, and we believe the potential for that is great.

The final point I would just like to make about the restructuring option is that I believe if we are going to reduce or eliminate debts that are owed by poorer countries to the United States, it only makes sense that we get something in return for it. In this case we do, in fact, get something in return through this initiative. It is a win-win, for us, for the poorer country, and for the environment.

Last year, as mentioned earlier, the United States did conclude a tropical forest debt reduction agreement with Bangladesh, which is a less developed country that is heavily burdened by foreign debt. The gentleman from Nebraska (Mr. BEREUTER), who is with us this afternoon, has been quite focused on Bangladesh. In fact, I can remember at the first hearing we had on this subject 3 or 4 years ago, he raised the fact that Bangladesh was a country that was not included within the requirements because they could use this initiative in order to reduce some of their debt and save some of their endangered tropical forests. In fact, that has happened. It allows in Bangladesh the protection of over 4 million acres of endangered mangrove forests, and it prevents the world's only genetically secure population of Bengal tigers.

At present, we believe there are at least 11 nations on three continents interested in negotiating these kinds of Tropical Forest Act debt reduction agreements. In fact, we have reason to believe that Belize, El Salvador, and Thailand are ready to move on such agreements this year. Furthermore, as many Members know, President Bush has expressed his strong support for this program.

I would also like to briefly address the authorization for funds included in this legislation. First, I want to make the point this authorization is actually less than the authorization over the last 3 years. In fact, looking out over the 3-year period, it is roughly $100 million less than was provided in the previous and original authorization.

Second, I would say that authorization is consistent with what the Bush administration has said is their commitment to providing adequate funding for this initiative. In other words, it fits within the budget so long as we are making progress toward restructuring agreements around the world, and, again, I think there is adequate evidence that we have lots of countries lined up and interested, and we will be able to move forward aggressively from this point on.

Before I close, Mr. Speaker, I would like to offer my thanks and appreciation, also, to some key staff members who got us here today: Adolfo Franco, Frank Record, Peter Yeo, David Abramowitz, Keith O'Neil, and Carol Doherty of the Committee on International Relations majority and minority staffs for their expertise and all their diligent work on this legislation. Also, like Frank Tim Miller and Maile Gradison of Maile's office for their dedication to this initiative, and Jeff Burnam with Senator LUGAR and Jim Green with Senator BIDEN for helping to develop the companion bill on the Senate side, which is identical to the legislation introduced in the House and almost identical to the legislation that we have on the floor this afternoon.

Again, this is a good program, worthy of reauthorization. It holds great promise. I urge my colleagues on both sides of the aisle to enthusiastically support the passage today of H.R. 2131.

Mr. LANTOS. Mr. Speaker, I want to commend my friend for his eloquent statement, and I want to identify myself with it.

Mr. Speaker, it gives me a great deal of pleasure to yield such time as he may consume to the gentleman from American Samoa (Mr. FALEOMAVAEGA), one of the nationally recognized leaders in this field.

Mr. FALEOMAVAEGA. Mr. Speaker, I am honored to be a cosponsor of H.R.
Ms. KYLIE MORALES, for the tremendous work of the National Institutes of Health, a certain drug that has come out of this research conducted by Dr. Cox is a substance that has very positive effects in curing HIV. I am talking about AIDS. That is all because of the preservation of these plants.

Mr. Speaker, we must preserve these tropical resources that may hold the key to curing cancer, even AIDS and other deadly diseases afflicting humanity. If rare tropical plants are not protected, their genetic codes and potential benefits will be lost forever to mankind.

Mr. Speaker, I urge my colleagues to support this piece of legislation. I thank my good friend from Ohio for his management of this legislation and especially the ranking member, the gentleman from California (Mr. LANTOS), for his leadership in bringing this legislation to the floor. Again, I urge my colleagues to support this bill.

Mr. CHABOT. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska (Mr. BEREUTER), one of the distinguished members of the Committee on International Relations. Mr. BEREUTER. Mr. Speaker, I rise in very strong support of this legislation. It has been very well explained by many of my colleagues, including the distinguished primary sponsor of this legislation and the original act, the gentleman from Ohio (Mr. PORTMAN). So I will not have to go over the details, that is for sure; but I do want to mention and reemphasize one thing the gentleman from Ohio said and, that is, that the program builds upon former President George Bush's innovative Enterprise for the Americas Initiative and is another creative example of how our country can address developing-country debt while helping to protect the environment.

The act gives the President the authority to reduce certain forms of development assistance and food aid debt owed to the United States in exchange for the deposit by eligible developing countries of local currencies in a tropical forest fund to preserve, restore and maintain tropical forests. These funds are used by qualified nongovernmental organizations working to preserve the world's most endangered tropical forests.

A board of directors in the United States comprised of U.S. public and private officials oversees this program and annually reports to Congress on progress made to implement the program.

The gentleman from Ohio was gracious in mentioning at the time the House International Relations Committee proceeded to mark up the original act that he was interested in Bangladesh because when it has come to debt forgiveness or debt reduction in the past, by a strange set of circumstances, Bangladesh has fallen through the cracks and they needed some assistance. I wanted to make sure that they were not neglected. It turns out that Bangladesh is the first beneficiary of the Tropical Forest Conservation Act.

Before I offered my amendment to assure eligibility for Bangladesh I had to look to see if it had a tropical forest to be saved in that country of such huge population density with all of its drought and flooding problems. They do. As mentioned in terms of square miles, I will put it in square kilometers. 14,000 square kilometers of tropical forest areas in the Chittagong Hill Tracts and in the Sunderbans. As mentioned by the gentleman from Ohio, this is one of the few remaining refuges for the Bengal tiger. Currently, the Bangladeshi board of directors, which will disburse the trust funds, is reviewing how some of the funds operate in establishing its procedures for implementing the agreement.

There are only 11 countries considering it right now on three different continents, but I have no doubt the number will expand dramatically when interested people and their governments understand the benefits.

Mr. Speaker, this Member would like to very specifically commend the distinguished gentleman from Ohio (Mr. PORTMAN), the sponsor of this legislation and the original act; and the ranking member of the Committee on International Relations, the distinguished gentleman from California (Mr. LANTOS), for their leadership and support for conservation efforts in the developing world and for their work to reauthorize this program. Of course, the expedited treatment of this legislation by our chairman, the distinguished gentleman from Illinois (Mr. HYDE), is also to be commended; and I am pleased to be an original cosponsor.

Mr. Speaker, this Member urges all of our colleagues to support the reauthorization of the Tropical Forest Conservation Act, as it provides direct benefits to both developing and developed countries.

Mr. CHABOT. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. ROHRABACHER), also a distinguished member of the Committee on International Relations.

Mr. ROHRABACHER. Mr. Speaker, I rise in support of H.R. 2131.

Mr. Speaker, let me just note that the argument that we must try to preserve our tropical rain forests because the tropical rain forests have a possible treasure house of biodiversity for this generation and future generations I think is a very valid argument.

I have lived in jungles in my life. I understand the concept of jungle life, if not tens of thousands, of variety of not only animal and insect and plant life but all kinds of life that is surrounding one in the jungle. And, yes, in future
generations we may find tremendous assets that are right in front of our face but we do not recognize it nor do we use it.

The issue of trading debt with some of these countries and getting for that debt a commitment to try to preserve these rain forests, I think, is a very good idea. Let us just remember that in many cases these countries would not be repaying that debt anyway. So this is a win-win proposal.

Let me just say, however, that believing in this bill and believing in the biodiversity of the jungles does not mean that one has to believe that the jungles in some way contribute to helping the global warming situation. I have heard that several times in the arguments here on the floor.

Let me just say that global warming, if one takes it by the people who advocate it, one would not advocate bulldozing the bunch of global baloney myself, but even if one does believe in global warming as precisely presented by those people who are trying to convince the rest of us that it is true, one would not advocate bulldozing the rain forests. In fact, consistent with the global warming theory what one would want to do is to clear-cut all of the rain forests and bulldoze them because the rain forests are one of the major contributors on this planet of carbon dioxide and methane, which are the global-warming gases.

Termites eating in the jungles produce more of what they call greenhouse gases than does the internal combustion engine. By the way, I do not believe in global warming so I would never advocate bulldozing the jungles, but if one believes in it that is what they want to do and they, of course, want to also get rid of old growth trees. The older the growth of the trees the more one wants to cut it down and replant young trees. The essence of global warming is saying that one wants young, vibrant trees and plants to take in carbon dioxide and give out oxygen.

Let me just say, our jungles and our old growth trees do just the opposite. They give out more CO₂ than they are taking in oxygen. So let us support this effort to try to save the jungles and save those forests and rain forests around the world and let us take advantage of this very commonsensical approach of debt restructuring. Let us not get trapped into using arguments that just do not hold water and are not scientifically viable. There has been enough nonsense on global warming and other areas.

Let us just say that the rain forests are valuable and let us save them.

Mr. GILCHREST. Mr. Speaker, will the gentleman yield?

Mr. LANTOS. Mr. Speaker, I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Speaker, I would just like to say that the number of facts that are out there dealing with carbon dioxide, methane, and a number of other greenhouse gases show that in the last 50 years the dramatic increase in these gases is clear evidence that human activity is causing the climate to warm.

Mr. ROHRABACHER. Mr. Speaker, reclaiming my time, let me say that means one would clear-cut all of the jungles to get rid of the CO₂ buildup if that was true.

Mr. LANTOS. Mr. Speaker, I yield back the balance of my time.

Mr. CHABOT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I thank the gentleman from Ohio (Mr. CHABOT) for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 231. I would like to particularly thank the gentleman from Ohio (Mr. PORTMAN) for his strong leadership on this issue. He is one of our environmental leaders here in the Congress, and I salute him.

I also want to thank the gentleman from Illinois (Mr. HYDE), the gentleman from California (Mr. LANTOS), and the gentleman from Nebraska (Mr. BEREUTER) for bringing this legislation to the floor and thank Tim Miller from the staff of the gentleman from Ohio (Mr. PORTMAN) for his work.

Under President Bush’s 1990 Enterprise for the Americas Initiative Act, the United States sponsored many debt-for-nature swap programs. The Tropical Forest Conservation Act, based on this idea, was first introduced by the gentleman from Ohio in 1997 with bipartisan support and was signed into law in 1998.

As a congressional staffer, I had the honor to work on that legislation and help him achieve that goal. I am pleased to support this bill which continues in that tradition.

Bangladesh is the first country which benefited from this program. Because Bangladesh has been able to restructure its debt, it was able to create a national forest fund of almost $9 million, which went to protecting the Mangrove Swap area, home to over 500 wild tigers. Currently, there are 11 nations on three continents interested in considering debt forgiveness under this program, including places like Belize and El Salvador.

I think the United States has an important national interest in supporting the protection of the world’s natural resources, including tropical forests. Tropical forests are home to half of all known plants and animals. We are losing an area equal to a football field a minute, and this must stop.

The gentleman from Ohio (Mr. PORTMAN) is our leader on this issue and built on the work of the previous Bush and Clinton administrations. Later this year, the Congress will consider legislation building on this model to protect coral reefs. Coral reefs are home to most aquatic plants and animals. Many reefs are disappearing, and most of them are in developing countries.

I salute the leaders on this issue, commend the gentleman for this legislation, and urge the House adoption of this bill.

Mr. BLUMENAUER. Mr. Speaker, I rise today in support of the Tropical Forest Conservation Act Reauthorization. This bill extends the Tropical Forest Conservation Act of 1998, which passed in this body and was signed into law by President Clinton. Today’s bill allows the U.S. Agency for International Development to relieve some of the foreign debt owed to the United States. In return, participating nations agree to establish trust funds to protect local tropical rainforests and other environmentally sensitive areas. This bill authorizes $225 million to be spent over the next three fiscal years to pay for this important conservation program and for the cost of debt forgiveness.

This innovative tool, the so-called “debt for nature swap”, helps countries with undeveloped natural resources reduce their foreign debts by buying it back and agreeing to spend a portion of the proceeds on conservation projects. This is especially vital because tropical forests contain half of the world’s known species of plants and animals. They contain a diversity of organic materials that could lead to the development of life-saving new medicines and tropical forests help slow global climate change by absorbing carbon dioxide. Increasingly, however, these fragile forests are succumbing to logging, road-building, and overdevelopment. Since 1950, half of the world’s tropical forests have disappeared and they are disappearing at a rate of 30 million acres each year. The countries that carry the heaviest debt constitute significantly to this loss because they extract valuable natural resources in order to generate needed revenue.

A recent report in the Journal of Science highlights the problems affecting Brazil’s tropical forests. The report states that the rapid growth of Brazil’s population has led to the equally rapid expansion of railroads, pipelines, and highways into the delicate Amazon forest areas. The devastation of the Brazilian rainforest will take place in only 20 years because of a $40 billion project to encourage development.

In tropical countries throughout the world, the deterioration of the rainforest will have dramatic and devastating effects on wildlife habitat, genetic diversity, the quality of watersheds and the global climate. The United States, being one of our role as an economic leader, should promote creative solutions such as the one contained in this bill.

Mr. GILMAN. Mr. Speaker, at this time I want to thank the gentleman from Ohio (Mr. PORTMAN) for reminding us of tragedy of the rapidly disappearing tropical forests, and the importance of protecting the world’s most diverse ecosystems.

Tropical forests contain approximately half of the world’s species of plants and animals. Unfortunately, over half of the tropical forests on Earth have disappeared, and, with more than 30 million acres which are lost each year, the destruction of these valuable ecosystems continues.
The majority of those forests are located in developing nations that are plagued by poverty and massive debt burdens. The Tropical Forest Conservation Act offers up to $325 million in debt relief to developing nations in exchange for the sustained protection of threatened tropical forests. These conditions also include the creation of a favorable climate for private sector investment, cooperation on narcotics measures, on state-sponsored terrorism, and a democratically elected government. This bill enjoys wide bipartisan support, support from the administration, and from various environmental groups. I urge support for this bill, and, once again, commend the gentleman from Ohio (Mr. PORTMAN) for introducing legislation to extend this important environmental program.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Ohio (Mr. CHARBON) that the House suspend the rules and pass the bill, H.R. 2131, as amended.

The question was taken; and (twethirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: “A bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004, and for other purposes.”

A motion to reconsider was laid on the table.


Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. DREIER. Mr. Speaker, the Committee on Rules is planning to meet this week to grant a rule which may limit the amendment process on campaign finance reform legislation. Let me say that I and Members of the Committee on Rules and our staff have been working very closely with the key authors of this very important legislation, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN), and we have the distinguished chairman of the House Committee on House Administration, the gentleman from Ohio (Mr.NEY), here, and we have been working with him on that.

I would like to say that the Committee on House Administration, as we all know, reported H.R. 2360, the Campaign Finance Reform Citizen Participation Act of 2001, as well as H.R. 2356, the Bipartisan Campaign Reform Act of 2001 on June 28; and the reports are expected to be filed later this afternoon.

While we have made no final decision on which version will actually end up being the base text for further amendment, I would like to ask Members to draft their amendments to both bills, both the Committee on Rules in the Ney legislation as they were introduced in the House.

Members must submit 55 copies of each amendment and one copy of a very brief explanation of each amendment on the Committee on Rules in room H-313 no later than 8 p.m. today. So they have until this evening, Tuesday, June 10.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain that their amendments comply with the Rules of the House.

Mr. Speaker, I am going to run upstairs to see if there are any amendments that have been filed.

AUTHORIZING ROTUNDA OF CAPITOL TO BE USED FOR A CEREMONY TO PRESENT CONGRESSIONAL GOLD MEDALS TO THE ORIGINAL 29 NAVAJO CODE TALKERS

Mr. NEY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 174) authorizing the Rotunda of the Capitol to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers.

The Clerk read as follows:

H. CON. RES. 174
Resolved by the House of Representatives (the Senate concurring), That the Rotunda of the Capitol is authorized to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during the Second World War, the United States Government called upon 29 Navajo men from the Navajo Nation to support the military effort by serving as Marine Corps radio operators. The actual number of enlistees later increased to over 350.

The Japanese had deciphered the military code developed by the United States for transmitting messages and the Navajo Marine Corps radio operators, who became known as the Navajo Code Talkers, developed a new code using their language to communicate military messages in the Pacific.

Throughout its extensive use, the code developed by these Native Americans proved unbreakable. The Navajos were people who had been discouraged from using their own language. Ultimately the same language would be credited with saving the lives of many American soldiers and several successful United States military engagements during World War II. It is an extreme honor to bring this legislation to the floor today authorizing a ceremony to be held in the Capitol Rotunda presenting Congressional Gold Medals to the original 29 Navajo Code Talkers.

Their contribution to this Nation proved immeasurable.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. NEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend, the gentleman from Ohio (Mr. NEY) for yielding.

Mr. Speaker, I would simply like to congratulate the gentleman on his statement and say that we anxiously towards that program which will be held later this month.

I, last week, had the opportunity to meet with some people at MGM, and the motion picture which is going to be coming out on the work of the Navajo Code Talkers should be fascinating. I have the trailer upstairs. I have not seen it yet, but I know from the early reports we have seen that it will be a wonderful presentation of the work of these courageous people and the role that they played during the Second World War.

I would like to strongly support the effort that is being led by the gentleman from Ohio (Mr. NEY), and it looks to me as if the gentleman from New Mexico (Mr. UDALL) is also working on this. I believe that it should be picked to the motion picture and a wonderful ceremony here, and I thank my friend for the leadership role he has played on this.

Mr. NEY. Mr. Speaker, I want to thank the chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), for his support on this important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during the Second World War, the United States Government called upon 29 Navajo men from the Navajo Nation to support the military effort by serving as Marine Corps radio operators. The actual number of enlistees later increased to over 350.

The Japanese had deciphered the military code developed by the United States for transmitting messages and the Navajo Marine Corps radio operators, who became known as the Navajo Code Talkers, developed a new code using their language to communicate military messages in the Pacific.

Throughout its extensive use, the code developed by these Native Americans proved unbreakable. The Navajos were people who had been discouraged from using their own language. Ultimately the same language would be credited with saving the lives of many American soldiers and several successful United States military engagements during World War II. It is an extreme honor to bring this legislation to the floor today authorizing a ceremony to be held in the Capitol Rotunda presenting Congressional Gold Medals to the original 29 Navajo Code Talkers. Their contribution to this Nation proved immeasurable.
I would also like to thank the 14 Members on both sides of the aisle who joined as original cosponsors to this measure.

During the 106th Congress, Senator Jeff Bingaman introduced legislation to honor the Navajo Code Talkers who played a pivotal role in World War II. I introduced the companion measure so that both Chambers could support these original 29 heroic men with the Congressional Gold Medal. In addition, a Silver Medal will be presented to the other Navajo Code Talkers who later followed the original 29.

Thanks to Senator Bingaman’s efforts, language was included in the last year omnibus bill to honor these men. This was an effort that I and many of my colleagues supported in the House. These Code Talkers will soon receive their long overdue recognition for their service and the honor they brought to our country and to their people. This is a historic moment for the Navajo Nation and one that all World War II veterans will remember.

The medals that the President will present to these 29 men on behalf of Congress will express our appreciation for their dedication and service as Navajo Code Talkers. Of the 29 original Navajo Code Talkers, 5 are still alive today. They are John Brown, Jr., of Navajo, New Mexico; Chester Nez of Albuquerque, New Mexico; Allen Dale June of West Valley City, Utah; Lloyd Oliver of Phoenix, Arizona; and Joe Palmer of Yuma, Arizona.

Mr. Speaker, during World War II, the Navajo Code Talkers took part in many assaults conducted by the U.S. Marines in the Pacific. In May 1942, the original 29 Navajo recruits attended Marine Boot Camp and worked to create the Navajo Code. The Navajo Code Talkers created messages by first translating Navajo words into English and then using the first letter of each English word to decipher their meaning. Because different Navajo words might be translated into different English words for the same letter, the code was especially difficult to decipher.

The use of Native American languages in coded military communications was not new to World War II. Choctaw Indians, for example, served as Code Talkers in World War I. The idea of using Navajo as code in World War II came from a veteran of World War I, Phillip Johnston. Johnston knew of the military’s search for a code that would withstand all attempts to decipher it. He was also the son of a missionary, raised on the Navajo Indian Reservation, spoke fluent Navajo, and believed that the Navajo language was the answer to the military requirement for an indecipherable code, given that it was an unwritten language of extreme complexity.

The Navajo Code Talkers served in all six Marine divisions, Marine Raider battalions and Marine parachute units. They transmitted messages by telephone and radio in a code derived from their Native language, a code, I may add, that was never broken by the Japanese. The Navajo code remained so valuable that the Department of Defense kept the code secret for 23 years after World War II. Therefore, the Code Talkers never received the recognition they deserved.

The ceremony on July 26 will at long last pay full tribute to the brave Americans who used their Native language to help bring an end to World War II in the Pacific. I would also like to mention that a separate ceremony is being planned for later this fall in Arizona or New Mexico to present a silver medal to each man who later qualified as a Navajo Code Talker.

In closing, I must say that the Navajo language imparts a sense of feeling, history and tradition to all the Code Talkers who served valiantly in World War II. To the five Code Talkers who are with us today, to their families, and to those who are with us in spirit, I say a few words in Navajo, which I will translate. Dine bizaad chooz’ fdgso siilatsooi niha nidaazba Aadoo ak’ah dadesdili. Nitsaago ba ahee dakanilzin.

Aheee. Which in English translates to, “Let me express my deep gratitude to the Navajo Code Talkers who provided and helped to develop an ingenious code based on your language, and become the communications link to and from the front lines of the Allies in the Pacific War.” Through the Navajo Code Talkers’ bravery, their sacrifice, and the unbreakability of the code, the United States was able to communicate with one another.

Mr. Speaker, it is with great pride that I urge my colleagues to come together and support this resolution, support our Navajo veterans and every veteran who sacrificed their very lives for the liberties and freedoms we enjoy today.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. Kildee), the cochair of the Native American Caucus, who has also been a staunch leader on Native American issues in this body for many years.

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in strong support of House Concurrent Resolution 174, the resolution sponsored by the gentleman from New Mexico (Mr. Udall), that authorizes the use of the Capitol Rotunda on July 26, 2001, for a ceremony to present the Congressional Gold Medal to the original Navajo Code Talkers.

I am honored to have been an original cosponsor of H.R. 4527, the legislation sponsored by my good friend the gentleman from New Mexico (Mr. Udall) that authorizes the President of the United States to award the gold medal on behalf of the Congress to each of the original Navajo Code Talkers.

I also want to acknowledge the work of Senator Jeff Bingaman for his efforts in getting the Senate version of the bill included in the Consolidated Appropriations Act of Fiscal Year 2001.

Mr. Speaker, awarding these medals to the brave Navajo men that served this country at a time when using the Navajo language to develop a unique and unbreakable code to communicate military messages in the Pacific is long overdue.

The United States Marine Corps recruited and enlisted 29 Navajo men to serve as Marine Corps radio operators. These men are referred to today as the Navajo Code Talkers. The number of Code Talkers would later increase to over 350. So successful was the code that the Code Talkers were sworn to secrecy, and oath they honored until 1968, when the Department of Defense declassified the code.

Mr. Speaker, the heroic efforts of these men saved the lives of many, including probably my own brother Kenneth Robert Kildee, and hastened the end of World War II in the Pacific theater.

I ask my colleagues for their support of this resolution so that Congress, through the presentation of the Congressional Gold Medal, can finally express the gratitude of an entire Nation to these brave men for the contributions they made during a time of war and the valor with which they served their country.

Mr. UDALL of New Mexico. Mr. Speaker, I yield 6 minutes to the gentleman from American Samoa (Mr. Faleomavaega).

Mr. FALFOMAVAEGA. Mr. Speaker, I fully would want to acknowledge the original sponsor of this legislation, the gentleman from New Mexico (Mr. Udall), for his leadership and for bringing this legislation to the floor. I would also be remiss if I did not express my gratitude to the gentleman from Ohio (Mr. Ney), the chairman of the Committee on House Administration, for his support, and also the gentleman from Maryland (Mr. Hoyle), the ranking member of the Committee on House Administration, for his support in bringing this legislation.

Mr. Speaker, as a former student of Brigham Young University, it was my privilege to know many students who are Americans of Navajo descent. If I could, I would like to say a fond hello in Navajo, Yateeh.

Mr. Speaker, I am honored as an original cosponsor to stand today in support of House Concurrent Resolution 174 to authorize the use of the Rotunda of the Capitol to be used later this month for a ceremony to present...
Congressional Gold Medals to the original 29 Navajo Code Talkers, a ceremony that is certainly long, long overdue.

Mr. Speaker, the idea of using an Indian language as a code was first tried during World War I by the Canadians. The Canadians used Chocotaw Indians in their effort, but the experiment was not successful. The failure of this effort is attributed to the Indians knowing very little English and there being no equivalent terminology for the military terms.

The next effort to use an Indian language for a code during wartime was made by the Americans in World War II. The origin of this effort is credited to Phillip Johnston, who was the son of missionaries who did a lot of work among the Navajo Indians, Mr. Johnston and two others came up with the Navajo language as a code. Its syntax and tonal qualities make it unmistakable; 2. Each code word must have some logical connection to the actual word; 3. Each code word should be unusual and creative; and, 4. No code word should be easily confused with another.

While developing the code, the Navajo were placed in battle simulations, and transmissions were monitored by military code breakers and Navajos who did not know the code. No one broke the code during these tests.

Mr. Speaker, the first 30 Code Talkers were sent into battle, and the pilot program was a success. Eventually 350 Code Talkers were employed in battle, including the battles of Guadalcanal, Tarawa, Saipan, Iwo Jima and Okinawa. At Iwo Jima alone, the Navajo Code Talkers passed over 800 error-free messages in a 48-hour period.

The bottom line, Mr. Speaker, is that thousands of lives of our soldiers, sailors and Marines were saved due to the outstanding job our Navajo Code Talkers made as part of our war effort during World War II, especially in places I had previously mentioned.

About 4 years ago, Mr. Speaker, I was privileged to meet with the late Senator John Chafee from Rhode Island to represent the Congress at a special ceremony whereby our government had authorized construction of a parliamentary building for the Solomon Islands Government as a gift from the people of the United States to commemorate one of the most fierce battles that took place in the South Pacific, the battle of Guadalcanal, where thousands of Marines lost their lives, and the late Senator John Chafee was among the few 19-year-old Marines who fought in that terrible battle. It was a moving experience for both Senator Chafee and I to visit the remnants of that terrible conflict. The Navajo Code Talkers were a critical part of our success in the war in the Pacific.

Mr. Speaker, I am pleased that 29 of the original Code Talkers will be recognized later this month for their work. Because of the secrecy placed on the program, the valor the Navajo displayed during World War II was not recognized for decades. Their code was finally declassified in 1968, and it was only declassified then because electronic equipment had been developed that would be sufficient to meet military needs. The Navajo Code Talkers were also used in Korea in the 1950s, and even in Vietnam in the 1960s.

Mr. Speaker, again, I thank the gentleman from Maryland (Mr. HOYER), for his dedication to this issue, and also the gentleman from New Mexico (Mr. UDALL) for his tremendous support of a very important issue.

Mr. Speaker, I also want to thank the ranking member, the gentleman from Maryland (Mr. HOYER), for his dedication to this issue, and also the gentleman from New Mexico (Mr. UDALL) for his tremendous support of a very important issue.

Mrs. WILSON. Mr. Speaker, I rise today in support of H. Con. Res. 174, authorizing a ceremony in the Rotunda of the Capitol to present Congressional Gold Medals to the original 29 Navajo Code Talkers.

At the start of World War II, operations in the Pacific were compromised because the Japanese were breaking U.S. radio codes. Philip Johnson, the son of a missionary to the Navajos and one of the few non-Navajos, who spoke their language fluently, suggested using Navajo for secure communications.

In the 1940s, Navajo was an unwritten language and is extremely complex. It answered the military requirement for an indecipherable code. Its syntax and tonal qualities make it unintelligible to anyone without extensive exposure and training. It has no alphabet or symbols, and is spoken only on the Navajo lands of the American Southwest.

In 1942, Navajo men were recruited by the Marines to be radio operators, called Navajo Code Talkers. Most of them were barely out of high school and from the reservation just north of Gallup, New Mexico. The Navajo Reservation is about the size of the state of West Virginia and is located in my state of New Mexico and extends into Arizona.
The Navajo radiomen served from 1942 to 1945, and often the code talkers were in the forefront of battles of the Pacific. The Japanese never broke the Navajo code or captured a Navajo Code Talker. The code talkers are credited with saving thousands of American lives.

The Navajo Code Talker’s work remained classified until 1968 because the Pentagon was unsure whether the Navajo Language might be needed again.

The Navajo Code talkers played an important role in winning the war in the Pacific. They deserve our thanks and support.

Mr. MCCOLLUM. Mr. Speaker, I am pleased to support H. Con. Res. 174 today to authorize the use of the rotunda to honor and celebrate the heroic work of the Navajo Code Talkers. I thank my colleague from New Mexico, Mr. TOM UDALL, for sponsoring this resolution.

During World War II, about 400 Navajo tribe members served as code talkers for the United States Marines. They transmitted messages by telephone and radio in their native language—a code that the Japanese never broke. Navajo is an unwritten language of extreme complexity and one estimate indicated that fewer than 30 non-Navajos could understand the language at the outbreak of World War II. Navajos demonstrated that they could encode, transmit and decode a three-line message in English in just 20 seconds. Machines of the time required 30 minutes to do the same job.

This resolution does great justice by recognizing the contributions of these great people to our nation’s collective security and history.

Mr. PALLONE. Mr. Speaker, in May 1942 twenty-nine Navajos entered boot camp and later went to Camp Pendleton to develop a code that used the Navajo language as its basis. They worked at finding new words or meanings for military terms, which had no actual Navajo translation as well as an alphabetical way of spelling out other words. So began the career of the Navajo Code Talkers who were the secret weapon of the Marine Corps against Japan. Their unbreakable code would play a vital part in the United States ability to win World War II.

The man credited for the idea of a code based on Navajo language goes to Philip Johnston, an engineer in Los Angeles. His father had been a Protestant missionary; therefore, as a child he moved to a Navajo reservation where he grew up and learned the culture and the language. Knowing that the Navajo language had been orally handed down from the time required 30 minutes to do the same job.

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Mr. PALLONE. Mr. Speaker, in May 1942 twenty-nine Navajos entered boot camp and later went to Camp Pendleton to develop a code that used the Navajo language as its basis. They worked at finding new words or meanings for military terms, which had no actual Navajo translation as well as an alphabetical way of spelling out other words. So began the career of the Navajo Code Talkers who were the secret weapon of the Marine Corps against Japan. Their unbreakable code would play a vital part in the United States ability to win World War II.

The man credited for the idea of a code based on Navajo language goes to Philip Johnston, an engineer in Los Angeles. His father had been a Protestant missionary; therefore, as a child he moved to a Navajo reservation where he grew up and learned the culture and the language. Knowing that the Navajo language had been orally handed down through the centuries was Johnston’s main argument for this code. He argued that it was a system that would not have to be changed on the regular basis. And because it had never been written down it could not result in falling into the hands of the enemy.

Ironically, Navajos were subjected to alienation in their own homeland and discouraged from speaking their language yet they still came willingly forward and used their language to defend their country and help develop the most successful military code of the time.

The code was such a success that the Department of Defense kept the Code secret for 23 years after World War II. It was finally de-classified in 1968. The Code Talkers had been sworn to secrecy, an oath they kept and honored. Imagine these unsung heroes returned home with no special recognition for what they had accomplished and sadly over the years some have died never receiving the honor and accolades that they so deserved.

The time has come for us to recognize the Navajo Code Talkers with a Congressional Gold Medal—the most distinguished honor a civilian can receive. It is for that reason I support House Concurrent Resolution 174, authorizing use of the rotunda to present Congressional Gold Medals to the original 29 Navajo Code Talkers. This honor has been a long time in coming.

Mr. NEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 174.

The question was taken.

Mr. NEY. Mr. Speaker, on that I decline extraneous material on H. Con. Res. 174.
ANSWERED "PRESENT"—3

Allen
Snyder
Tie

NOT VOTING—22

Cannon
Kennedy (MO)
Capuano
Larson (CT)
Carson (IN)
Lewis (CA)
Coyne
Millender
Evangelista
McDonald
Hulshof
Leach (TX)

I 2826

Merrills, Dingell, Jackson of Illinois, and Conyers changed their vote from "yea" to "nay.

Mr. GIBBONS changed his vote from "nay" to "yea."

Mr. TIERNEY changed his vote from "yea" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WYDEN). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

EXPRESSING SENSE OF CONGRESS IN SUPPORT OF VICTIMS OF TORTURE

The SPEAKER pro tempore. The pending question is the suspension of the rules and agreement to the concurrent resolution. H. Con. Res. 168. The Chair requests the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspended the rules and agreed to the concurrent resolution. H. Con. Res. 168, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 24, as follows: [Roll No. 212]
So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded on the table. For a motion to reconsider was laid on the table.

AUTHORIZING ROTUNDA OF CAPITOL TO BE USED FOR A CEREMONY TO PRESENT CONGRESSIONAL GOLD MEDALS TO THE CEREBRAL PALSY ACT LEADERS

The SPEAKER pro tempore (Mr. Isakson). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 174.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. Ney) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 174, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 24, as follows:

<table>
<thead>
<tr>
<th>Yea</th>
<th>Nay</th>
<th>Not Voting</th>
</tr>
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<tr>
<td>409</td>
<td>0</td>
<td>24</td>
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So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded on the table. For a motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. Isakson). Under the Speaker’s announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

AGRICULTURAL APPROPRIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Smith) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, tomorrow we are going to be taking up the agricultural appropriation bill;
and I would like to for a couple of minutes discuss, number one, the seriousness of the agricultural problem; but, secondly, how we should distribute some of this Federal money to farmers. There are a lot of us that would hope that these extra funds go to help support the traditional family farmers in this country. However, our farm programs since we started them back in 1994 have tended to favor the large farmer. And so what has happened over the years is the small farmer has been forced out because of the advantages of Federal farm policy to the middle-sized and larger farmer; and the middle-sized farmer, figuring that they might survive, have bought out the small farmer and become bigger.

Specifically, we have legislation that says the price support for farmers in this country through the Federal Government should be limited to $75,000. If a farmer wants to include their spouse or usually their wife for a separate producer entity, then they have to jump through all kinds of hoops to borrow money in the spouse's name and then document that it was invested in the farm operation, then the farm operation can pay it back. It is a disadvantage.

My amendment tomorrow does essentially three things: it says automatically the wife is included as a producer without jumping through these bureaucratic hoops, eligible for an additional $75,000 payment limitation. The average size of a farm in this country now, Mr. Speaker, is about 448 acres. But some farms, some huge, giant corporation-type farms are up to 80,000 acres and 100,000 acres; and there is no payment limitation on those farms. So as you go from millions of dollars go out to those huge farming operations.

My amendment tomorrow says, let us stick to our guns of the historic $75,000 limitation but automatically include spouses. That would move it up to $150,000. And let us make sure that there is no loophole such as forfeiting a nonrecourse loan or such as certificates that can be issued by the Federal Government in lieu of forfeiture of that particular loan, because those certificates, the alternative of those forfeitures of that loan, has resulted in approximately $400 million extra payment going to those giant farmers.

Mr. Speaker, I request that my colleagues look at this amendment, that they consider the policy of how we want to spend this extra money, that they face the decision of what should farm programs try to do in this country; and I would suggest humbly that part of what we should be trying to do is help the small family farmers. The large farmer already has a competitive advantage, simply because of the size of their operation. We expand that advantage as we pay them on the bushels produced on each acre or the tons produced. Whether it is rice or corn or soybeans or cotton, we help that large farmer.

I feel it is important that we look at this policy, and I would request that my colleagues look at my amendment that will reaffirm the historical provision of limiting those payments to $75,000 rather than the $150,000 per producer that was passed out on a suspension vote late in June when the House went through that particular legislation without the opportunity for any amendments.

ELECTRICITY CRISIS IN CALIFORNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, the electricity crisis continues 1 year later in San Diego, in California and the West. Scores of businesses in my hometown of San Diego have bought out the small farmer. People on fixed incomes are suffering because they have to make choices between buying food and prescription drugs and air conditioning. This should not be happening in America.

Now, we have called for price controls, we have called for a refund of the overcharges, and people from my State on the other side of the aisle have said, Let the free market work. Price controls don't work. I say to my colleagues, there is no free market. The system is completely out of whack. There is an energy cartel which dominates our lives in California.

I want to give you a specific example, Mr. Speaker, of how the market in California is being manipulated by this energy cartel and what we in San Diego hope to do about it.

There is a 700 megawatt power plant in my district. We call it the South Bay Power Plant. It is operated by the Duke Energy Corporation. It looks like in the last year, Mr. Speaker, Duke Energy has made close to $800 million off that plant while 65 percent of the businesses in our area face bankruptcy. They paid for the operation of that plant in 3 months for what they thought would take 5 years or more to pay off.

Now recently, five former employees of Duke Energy, five former employees of the South Bay Energy Plant, testified under oath, testified with 100 years of experience in that plant, Mr. Speaker, and what they said should be taken very seriously by anybody studying this crisis. They said that the generators were turned up and down not because of the need of the people of San Diego or of California but because of the price at a given moment that the market was bringing. In fact, a 250 megawatt generator was turned off at a time when we had blackouts in San Diego, at a time when people were sent home from their jobs and not getting paychecks, at a time when there were near-fatalities at a traffic intersection because the lights were off, at a time when elevators had people stuck in them. Yet the biggest generator in our county was turned off.

Mr. Speaker, further said that they were told to throw away spare parts so maintenance would take a lot longer, supply could be withheld and the prices increased. They talked about how the trading floor where the prices were set for electricity was in direct contact with the generating floor; and so the generators were ramped up and down, as I said, not by the need of California or of San Diego, but by the price that could be gotten. So Duke Energy has stolen $800 million from the citizens of San Diego and of California. They have charged up to $4,000 a megawatt hour for something that cost $30 only a year ago. That, Mr. Speaker, is not the free enterprise system at work; that is stealing from people who could not afford the cost.

Now, to add insult to injury, Mr. Speaker, that theft took place from a power plant which the citizens of San Diego own. Yes, Mr. Speaker, we own that plant through the San Diego Unified Port District, a public agency; and that public agency, at very, very good terms for the lessee, leased the plant to this Duke Energy Corporation to operate, as the lease says, in the public interest. Well, that lease has not been operated in the public interest. That lease has allowed Duke Energy Corporation to steal hundreds of millions of dollars from the people of San Diego.

Mr. Speaker, since the public owns the South Bay Power Plant, I call upon the San Diego Unified Port District to take back that plant and to operate the lease in the public interest.

IN MEMORY OF SANDY POLICE CHIEF SAM DAWSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MATHESON) is recognized for 5 minutes.

Mr. MATHESON. Mr. Speaker, it is with great sadness that I come before the House today to memorialize the death of Police Chief Sam Dawson of Sandy, Utah. Chief Dawson, who served faithfully for 7 years as the head of the police department of Utah’s fourth largest city, passed away July 2, 2001, doing what he loved best, riding his Harley-Davidson motorcycle.

Chief Dawson lived up to the sign he had on his desk that said, "Lead, follow, or get out of the way." Chief Dawson was a leader for 30 years in Utah law enforcement. He started as a Salt Lake County sheriff’s deputy in 1971. He became the chief police investigator for the Salt Lake county attorney’s office after that and became the head of Sandy City’s police department in 1994.
Chief Dawson was an outspoken leader in his field. In the year 2000 he spearheaded a project to produce and distribute a video called “Your Kid May Have a Secret,” which describes the growing problem of methamphetamine use in Utah communities. Keeping true to his style, Chief Dawson sent a copy to every county sheriff and every city police chief, asking them to freely distribute the video throughout the State.

Chief Dawson was also a leader among his peers. He led an effort to increase the size of the Sandy Police Department while at the same time increasing officer pay. He succeeded at both, increasing his department by 30 officers during his tenure and significantly increasing the wages of those who worked for him.

In closing, Mr. Speaker, I end with the words of Lieutenant Kevin Thacker of the Sandy Police Department. He said, “Sam Dawson will be greatly missed by all who knew him. He will always be remembered for his leadership abilities and dedication to the community. His death leaves a void in the police department.”

Mr. Speaker, I would encourage the Members of the House of Representatives to join me in heartfelt appreciation for the service this great man provided my community. I would also like to ask the House to join in extending our deepest condolences to the wife of Chief Dawson, Bridgett Dawson, and her three children, Sam Jr., Chris, and Angela.

POSTAL BOARD OF GOVERNORS DECISION REGARDING 6-DAY MAIL DELIVERY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, earlier today Mr. Robert Rider, chairman of the Postal Board of Governors, released a statement indicating that 6-day mail delivery would continue without any further study. The Postal Board of Governors had commissioned a study on April 3 to study cost savings associated with reducing delivery service to 5 days.

In response to the idea of cutting mail delivery to 5 days, I, along with the gentleman from New York (Mr. MCHugh), the gentleman from California (Mr. Waxman), and the gentleman from Indiana (Mr. Burton), introduced H. Res. 154, a bill to preserve 6-day mail delivery.

The bill we introduced enjoys wide bipartisan support and has more than 55 cosponsors. This bill is the companion to Senate Resolution 71 introduced by Senator HARKIN. I applaud the Postal Board of Governors’ decision today to continue 6-day mail delivery.

This decision means that businesses, advertisers, and others who want to reach citizens on Saturday will be able to do so.

In addition, citizens who receive paychecks, Social Security, food coupons, and other important mail will not see an interruption in their basic service. Also, it means that postal workers and letter carriers, it will win because cutting mail delivery to 5 days could have led to mail piling up, delivery delays, and other problems.

I commend the leadership and efforts of Moe Biller, and the American Postal Workers Union; Vincent Sombrutto; George Gould and the Letter Carriers; Kevin Richardson and the Printers; Jerry Cerasale and the Direct Marketing Association; and all of those who worked to preserve 6-day mail delivery.

Truly, Mr. Speaker, the Postal Service is an important entity in all of our communities. As chair of the Postal Caucus, I look forward to the continued focus on the U.S. Postal Service and assuring its viability not only today but into the future.

Mr. Speaker, knowing that the agriculture appropriations bill is going to be on the floor tomorrow, let me just take a moment and remind us that the sugar subsidy program is keeping prices extraordinarily high and is driving candy makers and food processors out of my community and out of many other communities throughout the country because they end up paying an enormously high price for sugar, which is the main ingredient used in their product. As a matter of fact, Brach's Candy Company, located in the heart of the community where I live, just announced that they are going to move their plant to Argentina. Fifteen hundred people will be out of work. So as we look at agriculture appropriations and rewrite our agricultural policy, let us be reminded that the sugar subsidies are bad for my community, bad for the City of Chicago, bad for the food processors and candy makers and bad for America.

PEOPLE WITH DISABILITIES CAN SERVE IN HOUSE OF REPRESENTATIVES OR ANY FIELD OF ENDEAVOR WITH JUST MINOR CHANGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. Langevin) is recognized for 5 minutes.

Mr. Langevin. Mr. Speaker, just a few weeks ago, I was up here speaking as the proud sponsor of a resolution honoring Erik Weihenmayer, a young man who inspires not only people with disabilities but all of us struggling to overcome our own obstacles and challenges. As the first blind person to summit Mount Everest, he illustrates the immense power of the human spirit.

However, while it is important to pay homage to such remarkable people, I believe it is equally important that we honor those who make such special achievements possible.

Tonight I would like to pay tribute to the gentleman from Illinois (Speaker Hastert); the gentleman from Missouri (Mr. Gephardt), the minority leader; the gentleman from Ohio (Mr. Ney); and the gentleman from Maryland (Mr. Hooyer), the ranking member of the Committee on House Administration; the gentleman from Rhode Island (Mr. Kennedy); the Committee on Armed Services and the Committee on Small Business and all their dedicated staff, as well as those who manage the floor activity on a daily basis. They have all provided tremendous support to me as a freshman Member of the United States Congress.

My experience illustrates the compassionate understanding one can receive from his colleagues and employers once they are aware of his or her needs. I have been overwhelmed by just how considerate and flexible my colleagues have been in ensuring that I can work effectively in Congress.

When I dreamed of running for this office, I was not sure how accessible the congressional buildings would be, but from the moment I was elected in November of last year, the hardworking engineers, architects, design managers, and my fellow Members of Congress made it clear that they would do whatever was necessary to make my office, the committee on which I serve, and the House floor accessible.

One of the products of this generous response to my needs, in fact, is the lectern and microphone that I am using right now. It took months to design and build this remarkable podium and ensure it can be easily raised and lowered and is truly a work of art.

I gratefully recognize all the time and resources that were dedicated to making this lectern, to installing additional voting machines on the floor, and placing ramps in my committee rooms and providing accessible office space. What everyone involved in this process may not realize, however, is that beyond enabling me to better serve my constituents, they have also opened the doors for people with disabilities to serve in this Chamber in the future.

As I have said many times before, I may be the first quadriplegic elected to the United States Congress but most certainly I will not be the last. The invaluable message that has been delivered in making this Chamber accessible is that any one of the nearly 53 million people with disabilities in this country can become a Member of the United States Congress or can serve in any other field of endeavor with just minor changes.

Mr. Speaker, people with disabilities are an integral but underutilized part...
of our workforce. With minor accommodations they can become an even more important part of our society and be involved in strengthening America’s communities, businesses, and government. That is why I am so thankful to President Bush, who has highlighted the need to make workplaces, housing, education, technology, and our society in general, more accessible to all Americans. The President’s new Freedom Initiative is an important proposal which calls for funding of a broad range of programs that together can help create countless new opportunities for many Americans who continually face unnecessary obstacles because of their disabilities.

Mr. Speaker, I am eager to work with President Bush to make this new Freedom Initiative a reality. To this end, I recently sent a letter co-signed by 23 of my colleagues to the House appropriators seeking their support in providing funds for the President’s proposals. This is an issue on which we can all agree, regardless of our political background and help open doors for millions of people who are eager to conquer new challenges.

Mr. Speaker, once again, I extend my heartfelt thanks to the dozens of people who have made my tenure in Congress possible. Ensuring that some day every workplace in America will be able to respond to the special needs of employees in the same way is one of my top priorities. Congress. What that happens, we will all benefit from the remarkable talents and contributions of the millions of Americans with disabilities who are eager to pursue their dreams just as I have.

TRIBUTE TO BIRDIE KYLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. RAHALL) is recognized for 5 minutes. Mr. RAHALL. Mr. Speaker, in the rush to greatness upon which many of us embark in this city, in the heat of the TV camera lights, in the chaos of clashing interests, it is important that we pause and take stock of those who brought us here, keep us here, and help make us. So this evening I thank and I pay respect to my long-time legislative director Birdie Kyle who passed away over my recent work period.

Birdie once wrote, ‘I am a native West Virginian born in Fayette County at MacDunn but raised up on Cabin Creek in the coalfields. I was born in a one-room abandoned boxcar. When I was little, my older sister tormented me when she felt like it by calling me ‘Old Boxcar Bill.’ I do not remember which made me the madder, being reprimanded that I was born in a boxcar or being called Bill when I was a girl. Probably both.

That was Birdie Kyle writing for West Virginia’s Goldenseal Magazine in 1980.

Well, Boxcar Bill traveled far from her humble beginnings, but she never lost sight of the hills of home or the people there.

Birdie Kyle, a true coal miner’s daughter, a native West Virginian in every sense, served West Virginia and our Nation in the Congress for more than 3 decades. Birdie served with me since 1989, and I appreciate deeply her loyalty and dedication. Before that, she spent most of her career with the late Senator Jennings Randolph.

Her mainstay of work for the Senator and for me was education. For Birdie, education was not a part of one’s life. It was life itself. Teachers captivated her. Students compelled her. Books were with her always, from her earliest moments to her latest nights. If books were her backbone, words were her blood.

Birdie’s letters, more often than not, prompted replies, and I got more kudos from her letters than anything.

Her list of responsibilities in my office over the years reads like a record of the republic itself: Education to health care, the Postal Service to the Middle East. As one person who called to express their sympathy said, ‘She knew everything and everybody.’

How true. She could converse on every subject, but that was not her most unique attribute. She did not care if one was king or commoner. She was going to sway you to her belief before you left the building, and most of the time she did.

Will there ever be another Birdie Kyle? No. Can one person fill her shoes? No.

Birdie was, in addition, the poet laureate of the White House at Christmas and on my birthday she composed wonderful verses that not only made me feel special but it was so wonderful I started believing it.

She gave me my voice on many issues, issues of life and death, on wealth and poverty, on education and ignorance, health care and child care.

Her deep compassion infected us all. In a city where a lot of people can make a buck off an issue, Birdie poured her heart and soul into those issues and sought nothing in return.

Her family, her mother, her sisters, her children, and grandson all meant everything to Birdie. In fact, I think she would have liked to adopt me because sometimes she thought I needed a mom in town, and she was probably right.

Each time that she came in to see me in my office to offer her advice and wisdom, she would tap lightly on my door. No one ever else did that. I knew that I was in trouble for a vote I had cast on the floor that day contrary to her suggestions, or I was in store for a witty argument on an upcoming vote in this body.

There will be many days and many nights ahead when I will miss that tapping at my door, but I will have many, many years of good counsel and many years of friendship upon which to reflect and rely.

Washington is a city of monuments hewn of stone and sewn with mortar. We can admire these great people and we should, but Washington is also the city that spreads forth the ray of hope for our Nation and our world. Birdie Kyle spent her life igniting that hope.

I was honored to know and work with Birdie. Without her, I would not have been as good a representative as good a person as I am. Many of us in this body can say that about our staff.

About right now, somebody up there in heaven is getting a morning briefing from Birdie, and I am sure it is not a pretty sight with all that needs to be righted in the world. We all know that heaven is in good hands with Birdie Kyle up there at the helm.

Ms. NORTON. Mr. Speaker, I come to the floor this evening because of a shocking story that appeared on the front page of the Washington Post this morning about a secret deal between, of all people, of all organizations, the Salvation Army, to support charitable choice in exchange for the issuance of a White House regulation, OMB Circular No. A–102, that would deny assistance to Somalian or local charities that do not relate to their religious charities to adhere to their nondiscrimination laws as they apply to gay men and women. Now, of course, these nondiscrimination laws have to do with the activities of these religious charities that do not relate to their religions.

A political deal should be beneath the dignity of the Salvation Army, given its long Christian heritage, not to mention the President of the United States. It is a deal to discriminate under the table.

According to the lead document, this cannot be done in the legislative process very easily, so they had to do it by regulation. Charitable choice already contains a fatal flaw, because, as put forward by the administration, it would allow a religious organization to discriminate using government money by requiring people it hires to do a government task to be of their religion.

That is a clear violation of Title VI and of the Constitution of the United States.

I am a former Chair of the Equal Employment Opportunity Commission. I
strongly support an exemption in the law that I administered, Title VII, which allows a religious denomination an exemption to the antidiscrimination law in hiring people of their own religion with their own money. But we cannot give the Baptists and the Lutherans and the Catholics and the Jews our money and say you can discriminate when you perform services in our name. That is already a problem with the bill.

But in order to make it perfectly clear, in case that does not survive, that at least people who are gay and lesbian should not be discriminated against, this would be done by regulation.

Mr. Speaker, why the Salvation Army would engage in this deal is really perplexing. The Salvation Army already pays taxes for different folks. Some of the government to do their wonderful work. They get it because they abide by government regulations that say when you use government money, you cannot proselytize, you cannot engage in religion, because this is America, and this is what we have stood for, for everybody. So they already get money, just like Catholic charities and just like Lutheran charities and just like Jewish charities all get money, and they have accepted it, and I hope they will continue to get it on the basis that everybody else who does the government’s work accepts it, and that is as long as we are doing the government’s work, then your money is the public money, and we cannot discriminate against anybody when giving those services.

This body has already a long history of discriminating against gays and lesbians in the District of Columbia, because here is any religious freedom under our law that allows equal protection for people of a different sexual orientation, then somebody hops up here and tries, and often succeeds, in overturning the law. Now we are trying to do to do what you do to the District of Columbia to hundreds of localities and States in the United States.

I hope everybody understands what it feels like to intrude in the affairs of local jurisdictions in a federalist society, a society where we say, look, different folks. Some of us behave one way with respect to our laws, others another way. Some people have chosen to protect gay men and lesbians against discrimination, and I say God bless them. In the 21st century we should not be discriminating against any Americans based on a characteristic that has nothing to do with performance. Sexual orientation has nothing to do with performance, and the last people, the last organizations that should be engaged in such discrimination are organizations that go by the name “Christian,” and the Salvation Army should be ashamed of itself that it has been caught red-handed.

ed on the front page of the Washington Post in the column where you put war and peace. Thank God that they were exposed.

NATURAL RESOURCES

The SPEAKER pro tempore. Under the Speaker’s ruling of January 3, 2001, the gentleman from Colorado (Mr. McInnis) is recognized for 60 minutes as the designee of the majority leader.

Mr. McInnis. Mr. Speaker, I am a little surprised by the previous speaker and her unrelenting attack against the Salvation Army. She apparently got the merits for this attack from one newspaper article. I have heard the gentlewoman previously speak from here. I think she is well-educated. She is certainly away with numerous sources when she speaks. That is why I am very surprised that she takes one newspaper article and launches an attack against the Salvation Army, which I would like to say to the gentlewoman, that ownership of newspapers has changed since she came.

I do not think a speaker, I do not think one should stand up here and make California look like some poor innocent victim in the Western United States who somehow is picked out of 50 States and is the only State in the kind of crisis they are in, and then have one stand up here and accuse the power companies of theft. I do not know whether there has been theft or not, but let me tell you, the problem is much broader than a power company like Duke Energy.

The problem that you have got out there is you have got to face a couple realities. Number one, conservation is absolutely critical, and it is going to be a component anywhere — 50 States, California, and, frankly, the rest of the Nation, can avoid getting into the same spot that California got into by adopting some pretty simple methods of conservation.

Conservation does not mean you have to suffer in your life-style. There are a lot of very simple things that you can do in your life-style that do not give you a negative impact, that do not serve as an inconvenience for you. Just think of them: Shut the lights off when you leave the room; make sure your oil every 3,000 miles by the quick-lubes. There are a lot of things we can consider. Conservation is very critical for California.

The second thing that is very critical for California is you have got to get over that habit of excess you would say, or almost an idealism that you have locked into, and that is “not in my backyard.” In other words, let the other 49 States build the power plants,
let the other 49 States worry about electrical transmission lines, let the other 49 States worry about natural gas exploration and oil exploration, et cetera, et cetera. You cannot do that, California. California, you are going to have to help yourself. You are going to have to help pull yourself up by the bootstraps.

Now, let me say, I am a fan of California. I like the State of California, and California is a State. We have 50 States. We are unified like brothers and sisters. We should not abandon California. I do not think we should stand up here and bash California. But we need to be frank with each other. California, quit pointing the finger at everybody else. California, quit saying it is everybody else’s fault. You know what you need to do is help pull yourself out of that hole. And we should help, too. I do not think California should be left to die on the vine out there, so to speak.

California, after all, if it were a country, it would be the seventh most powerful in the world. It is huge in economics for this country, and every State of the Union is dependent upon good economic health in the State of California. But I think it is grossly unfair for any of my colleagues to stand up here and make it sound like it is everybody’s fault but California’s, and that everybody ought to pitch in but California, and that California has been abused here and California has been abused there.

There are a lot of good minds in California, and a lot of those people will say, you know, we have to have conservation, number one; and, number two, we have got to have power plants. The fact is we need electricity in our everyday lives. We need oil. We need gas. We need it in a balanced fashion. And, to California’s credit, although in many cases they may have gone overboard, in many cases California has been the leading State in demanding that the energy production be clean production, in demanding that we have higher efficiencies, and, to California’s credit, just here in the last month or 2 months, California is responding to conservation. My understanding is their conservation has resulted in about 10 percent reduction in the demand for energy that that State is having.

So, the only reason I am making my comments, which are a little off the subject of which I wanted to talk about this evening, water, although when we talk about water, we are going to talk about energy and the renewable energy of water and its resource, my purpose in commenting is I just think somebody has to stand up here when some of my colleagues take this microphone and talk about “poor old California” and how it is everybody else’s fault.

You know, California, what you try to do, I will tell you what got California in this mess. They had a new theory of deregulation, and they went out to the customers in California and said, “We will offer the same, no matter what happens out here in the market. We will buy on the spot market, and, regardless of what happens, the average will always allow us, even though it goes up and down, the average will allow you to be sold power at the same price. Something for nothing. That is exactly what they promised, something for nothing.

For a little while it worked. Forty-nine other States did not adopt that policy. Forty-nine other States did not think they could get something for nothing. Forty-nine other States allowed power production to be built in their State. Forty-nine other States allowed electrical transmission lines. Forty-nine other States allowed natural gas transmission lines. But California thought they discovered something new, and that is by denial, by guaranteeing flat rates, and by shoving the obligations on the other 49 States, they thought they could sail through this, and they have not been able to.

Now, what is happening out there, I think that the Governor finally, I notice a couple of weeks ago he went over and cut the ribbon for a new power generation facility. Finally they are going to allow some generation to be built in that State. Finally this “not in my backyard” is going to be adjusted, not eliminated, because I do not think it should be put in every backyard, but it is going to be adjusted, and California is going to get back on its feet.

I do not think California is in for the kind of crisis that some people on this floor think it is going to be in for. It has been a good lesson not just for the States of California, but for all 50 States, that, look, we need to plan for our future. We have an obligation to have some kind of vision into the future, to talk about what the energy needs are not only of today’s generation, but what we can do for energy for tomorrow’s generation, and that means serious discussions on alternative energy, although, as you know right now, do not be led down the path that alternative energy today is the answer.

If you took all the alternative energy in the world, all of the alternative energy in the world, and devoted every bit of it to the United States, it only supplies 3 percent of our needs.

So, do not exaggerate what alternative energy can do for us today. But we should focus on what alternative energy can do for us tomorrow. All 50 Statemen have got to get on board. What happened in California was a warning shot to the entire Nation, and that is, we need to have an energy policy. That is exactly what has been missing here in the last few years. During the Clinton administration we had zero energy policy.

I am very interested, by the way, to read the newspapers. I cannot find a newspaper, and maybe there is one out there, maybe the Wall Street Journal, but I cannot find much coverage or any kind of criticism of the Clinton administration for not having an energy policy for the last 8 years. But I can pick up any newspaper on a daily basis and see criticism against the current administration because they are trying to develop an energy policy.

We need to put all of these things on the table. We need to discuss and debate and analyze exactly what it is that we have put on that table. We need to add things or take things off. But in the end we need a product that is called an energy policy that will solve California’s problems belong to the future of this country, that will allow us to avoid the very kind of crisis that California got into, that will allow us less dependency on foreign oil.

But we will not get that without some type of policy, and we will not come to that policy without some kind of debate. But instead, they are criticizing the debate; instead they are criticizing the administration in trying to put an energy policy together to put some ideas on the table and let us have discussions on this floor. Do not continuously, colleagues, come to this floor and criticize. Everybody is to blame for California. Do not come to this floor, colleagues, and try and let all of us believe that the answer to this, the sole answer to this, is alternative energy or more conservation. All of those factors have to come together for the answer that we need.

As much as you want to deny it, the fact is where we have got to have more electrical generation, I think we are going to be responsive to that. In fact, in the rest of the Nation, in the other 49 States we are going to have a number of States that will have an electrical glut in about a year. Part of the problem is we do not have the electrical transmission lines to move that electricity. But my point is this, and that is that it is unfair for my good colleague from the State of California to speak at this microphone and act as if it is somebody else’s fault to the energy companies in the other 49 States. This was a problem that was brought upon themselves. It is a problem that all of us should help them get out of, but they have got to lead. They have got to have a little self-help. They have got to pull themselves up by their own bootstraps. And for the rest of us, colleagues, we have to sit down and work with the administration and come up with an energy policy that gives us some hope for the future.

Let me move from that subject to another subject. A subject that is near and dear to my heart. It is going to be a boring subject to my colleagues.
know that many of you will probably find yourself snoring or not find this of particular interest, because it is about water.

Water is one of the most wonderful things of our life. It is one of the more wonderful creations of God, if one believes in God, which I do. It is something that obviously we all know sustains life. It sustains a number of different factors in life.

Water is pretty boring. Why? Because we have been blessed in most cases with plenty of water. As long as water runs out of the faucet, as long as the toilet flushes, as long as there is drinking water out of the sink it is not such a big issue. It is when it stops that all of the sudden it becomes a big issue.

Just the same as energy, I think we need to have a vision for water in the future. Water is the lifeblood of every generation and generations of people that have preceded us, we have seen vision for water. We have seen different types of utilizations of water and different planning for water for future generations. But in order for us to continue that kind of vision, we need to understand what water is about and what it has that is so valuable to our everyday lives.

So I thought I would start out and visit just a little about the importance of our water.

Let me say, first of all, in the State capital, my district is obviously in Colorado, my district is the highest district in the Nation, so I am at the highest elevation in the Nation. Up in my district, it snows year-round up top of those mountain peaks. It is cold up there. It gets high. That is where a lot of this Nation's water comes from, are off the mountain peaks in my congressional district. So I think I know a little about water.

In our State capital of the State of Colorado, if any of my colleagues ever have an opportunity to go visit, go take a look at it. It is a beautiful building to start off with, but it has a number of different murals throughout the capitol building. Do you know what you see in every mural in the State capitol building in Colorado? Somewhere in that mural, you will see water, because water is the lifeblood of the West. Water is the lifeblood everywhere; but in the West, we are in a unique part of this Nation. There is a distinct difference between the eastern United States and the western United States.

Mr. Speaker, one-half of the Nation is blessed with a lot of water. In fact, in the eastern United States, you see lawsuits or disagreements about: hey, put that water on my neighbor's land. I do not want that water. In the West, the suits are just the opposite. In the West, there are range wars fought, not only over sheep and cattle, but over water. They say water out there in the West does run like blood, and it is fought over with blood, and that it is as valuable as blood. That is the importance of water in the West; and there is a distinct vision for water.

But in the State capital there in Colorado, there is this language: “Here is a land where life is written in Water. The West is where the Water was and is Father and Son of old Mother and Daughter following Rivers up immensities of Range and Desert, thirsting the Sundown ever crossing a hill to climb a hill still Drier, naming tonight a City by some River a different Name from last night’s camping Fire. Look to the Green within the Mountain cup; Look to the Prairie parched for Water lack; Look to the Sun that pulls the Oceans up; Look to the Cloud that gives the oceans back. Look to your Heart and may your Wisdom grow to know the power of Lightning and to peace of Snow.” That is Thomas Hornsby Ferry. That is a saying in our capitol. That is why water is so critical.

Let us look over a few statistics that are important. First of all, the interest rate for water, as long as we do not use the water, is about one percent. If we look at all of the water in the world, all of the water in the world, 97 percent of the water is the salt water; 97 percent. So only 3 percent of the water we have in the world is drinking-type of water, is nonsalt water, is clear water. And of the remaining 3 percent, if we took 75 percent of that 3 percent, that is all tied up in the ice caps up in the polar ice caps. So when we take a look at the amount of water worldwide, without the technological advances that perhaps the future will bring us for salinity and desalinization, we find that there is not really a large amount of water that we can use out of that big pot of water out there.

When we look at our country, we can see that stream flow in the United States; and as I said earlier, there is a difference between the eastern United States and the western United States, but 73 percent of the stream flow in the United States is in the eastern United States. It is not in the western United States. So we have 73 percent in the East, and then in the Pacific Northwest we have another 12 percent, and then the rest of the West, which makes up over half of the Nation, has a vast in quantity of land. If we take the West, minus the Pacific Northwest, which consists of more than half of the Nation, we have 14 percent of the Nation's water. So in other words, more than half of the Nation has 14 percent of the water to provide life. That is pretty amazing.

So we should understand that it is important that our water does not come on a consistent basis and it does not come in the same amount of quantity every year, year after year. In fact, day after day, the quantity of water that we have varies in the West, and it is not at all consistent. Some years we have great snowfall; but it gets too warm in the spring too early, and it runs off before we can use it. Our farmers were great snowfall, so we have drought. In much of the West right now we are facing drought conditions.

The critical issue to remember about the West when we talk about water is that in the West, we have to store our water. We are going to talk about the mighty Colorado River. The State of Colorado is called the “Mother State of Rivers,” and we will go into that. It has four major rivers that come out of Colorado. In fact, the Colorado River out of the State of Colorado provides drinking water for 25 million people, 25 million people. So my good friends in Phoenix or Las Vegas or Tucson, you are totally dependent upon the Colorado River. As a matter of fact, in the State of Colorado, we get about 16 inches a year, 16 inches a year. In some of the communities here, they get 2, 3, 4, 5, 6, 18 inches in a heavy rain storm in a day, and that is pretty remarkable. So in the West, we have to be able to store our water, because when we do have a lot of water, we do have a lot of water during one period of time generally, and that is called spring runoff. When the high snows come into the mountains in the wintertime and it accumulates and accumulates and accumulates, and then in the springtime, when the flowers start to pop up, everything starts to green, the snow starts to melt, and very rapidly, and for about 30 to 90 days, for about 30 to 90 days, really probably 30 to 60 days, all the water we need in the West. It is called the spring runoff. We have all the water we need. But the problem is, for the balance of the year, we do not.

That is in part one of the reasons we need to store our water in the West, why we need to have dams in the West.

Now, in the East there are some radical environmental organizations, Earth First and some of the groups like that. Frankly, the national Sierra Club, which has never supported a water storage project in the history of that organization, they would like to make people in the East believe that in the West, a dam is an abuse of the environment, that these dams are nothing but atrocious toys for construction companies. We are totally dependent in the West.

Mr. Speaker, any family or friends that we have in the West, they are totally dependent on our capability to continue that vision for water. By know when the first dam was that we could find on the Colorado River? One thousand years ago. One thousand years ago the Anasazi Indians down at Mesa
This is about water for agriculture. I watched with some interest the fact that out in the West the Federal Government has shut down farmers because they need to protect the sucker fish. I do not know enough about the dispute to argue on either side of that, but it has been on the national news the last few days. Watch and see how critical that issue becomes. It is critical for life out there in the West.

Look at this chart. See if the Members are as interested in this as I am. Direct use of the water. This is water we would use every day. The average person uses two gallons to drink and cook in, two gallons of water.

Imagine, at the grocery store, we all have an idea what a gallon of milk jug looks like. Two of those are necessary just for the drinking and cooking. For flushing the toilet for one’s own personal use, we need about five to seven of those gallons of water.

We have the grocery cart. We have two gallons for drinking and cooking. Now we have to put six, between five and seven, so say six more gallons for the use of the toilet. If we do wash that day we will have to put 20 more gallons into the shopping cart.

Now it is time for a second shopping cart. If we use the dishwasher that day, we will need 25 more gallons into that shopping cart. Then, if we take a shower because we sweated so much from putting all of that water into the shopping carts, it is another nine gallons. Now take a look at what growing food takes, because growing food is what uses the most water. But what is the most beautiful aspect of water? What is the key ingredient of water? It is a renewable resource. One person’s waste is another person’s water.

I remember 1,000 years ago in Colorado when they came out and said that what we need to do, they demand that we go and lay concrete in all the ditches; line the ditches, because that water seeping into the ground is a huge waste of water.

Do Members know what happens when we line a ditch and stop the seepage of the water within that ditch? We may be drying up a spring of somebody 3 miles away. Unfortunately, Mr. Speaker, it is not hard to make technology today to look underneath the Earth and see where every little vein of water goes and how it connects.

The generations that will follow us will find it fascinating, because they will have the technological apparatus to take a look and say, gosh, this ditch provides for this spring, which is 10 miles away, and this aquifer, which has been under the ground for thousands of years, it probably to this aquifer which connects over here and pops up in a spring somewhere. Those are the kinds of things that this future generation will be able to see that we cannot see today.

But what we do know today is that water is, number one, renewable. It is not like gasoline, where we use a gallon of gasoline and it is gone forever. It is not like natural gas, where we turn on the heater and bring the natural gas through. It is gone forever. It is not like nuclear with uranium, it is gone. Water is renewable, and that is why it is so important.

Take a look. Most of the use of water is in agriculture. Now, it is interesting to me. In fact, I had the privilege, really the privilege, of being up in Jackson Hole, Wyoming. I happen to think I have the prettiest district in the Nation. I have resorts, Aspen, Durango, I have all the mountains in Colorado, but Jackson Hole comes pretty close.

I was up in Jackson Hole. It was just beautiful, gorgeous. Of course, there is the national park, Yellowstone, the Tetons National Park. I would love to discuss, and I intend to one of these nights soon, talk about the national parks and how important the national parks are for our Nation, and how many millions of people enjoy our national parks every year.

But what was interesting is that we were looking out at Jackson Lake, which is north of Jackson Hole. As we were looking out there, they have a dam out there. What is what created the lake was the dam. I was listening. Somebody said, “Well, the unfortunate thing about this dam is that the Idaho farmers, the Idaho farmers get the top 36 feet. They get the first 36 feet of storage. It is let out into the Snake River, and then it goes to the farmers in Idaho. That is really bad.”

I thought, bad? This person is probably going to eat a potato for lunch. This person was probably going to eat lots of agricultural products during her day that were provided by water. Agriculture is a bad thing, but we have to make the connection. We could not have a lot of agriculture in the West if we did not have the water storage to provide for it.

In fact, what we would do is have very, very little agriculture in the West, very little way to sustain life in the West. The same thing with the Anasazi 1,000 years ago. When they ran out of the capability to have water for storage, the storage would not hold enough for them, they became extinct. That is why water is so important. That is why, when we look at a dam, we should look at what all it provides.

Take a look at agriculture. This is amazing. One loaf of bread, I will bet Members and visitors would eat one loaf of bread, from the time we cultivate the soil to raise the wheat and to be able to process the wheat, to be able to turn it into a loaf of bread, we will have gone through 150 gallons of water, 150 gallons of water. That is what is necessary to have the final product of one loaf of bread.

One egg, this is almost unbelievable, 120 gallons for one egg. We have to raise the chicken, give the chicken water, the chicken has to have the water on a regular basis, the egg has to be cleaned and processed, there is water within the egg, et cetera, et cetera. It is 120 gallons.

To produce one quart of milk, we have to have 223 gallons of water; for one quart of milk, one quart, 223 gallons; for a pound of tomatoes, 125 gallons; a pound of oranges, 47 gallons; a pound of potatoes, 23 gallons.

So here is what happens, just so we have a comparison. Out of 50 glasses of water, 50 of those glasses of water out of these, how were they used? Forty-four glasses of that would be used for agriculture, for our food products, 44 of those 50 glasses. Three glasses would be used by industry, two glasses would be used by cities, and half a glass would be used in the country for rural areas. Water is critical.

Mr. Speaker, this gives us somewhat of an idea of just how important it is for all of us in our everyday life. Let me focus us back. Mr. Speaker, to the State of Colorado, because Colorado is a very unique State. As I said, it is the highest point in the Nation. It is also the only State in the Nation out of 50 States whereupon all of its water runs out. It has no incoming water for its use that comes into the State of Colorado. It all goes out. This gives an idea of the quantity of water that goes out of Colorado, the average annual outflow of major rivers through 1985.

Now, this chart has it, but we numbers are off a little, but they are not off by a lot. They are still pretty close. These are acre feet. An acre foot is how much water it would take to put one
foot of water on an acre of land for 1 year, 4,540,000 acre feet right out of the Colorado River.

Up here off the Yampa River in the green, 1,576,000. Every point that we see here, here is the South Platte that goes into Nebraska, almost 400,000 acre feet of water. Down here on the Arkansas River, 133,000 feet, Over here, we have the Animas River, 700,000 acre feet. Here, of course, is the mighty Colorado.

This chart right here, Mr. Speaker, gives us an idea of the State of Colorado, which is a critical State for the West. Of all of the States in the West, I cannot think of any State that is more important for the water supply of the West. Remember, this is not just water for agriculture but it is water for hydroelectric power, it is water for recreation, et cetera. Here Colorado is the key State because of its high elevation, because of its snowfall, which provides the flow of water.

Colorado is really divided here into four major water basins: the Missouri; here we have the South Platte River; the Arkansas, we have the Arkansas River that goes through here. We also have down in here the Rio Grande, the Rio Grande River, which goes down near Alamosa, Colorado. Here on the Western side of the State we have the mighty Colorado River.

Remember that regarding the rivers in the West, as well as in the East, in the old days we used to have to live close to the rivers, but as man has evolved with technology, we can live further and further away from the rivers. So while the Colorado River, of which 70 percent of the water within that river basin is provided by the State of Colorado, and by the way, the Colorado River is one of the longest rivers in the Nation, but because of the technology, that water is moved.

For example, in Colorado it is moved from the western part of the State, my district, which has 80 percent of the water resources. There is a good quantity of water that is moved from our part of the State to the eastern part of the State, which has 80 percent of the population.

It is the same thing in Arizona. We have the Central Arizona Water Project, where we move water away from the basin into the cities, like Phoenix and Tucson or Los Angeles. We have the water project down in Los Angeles. So we move water from these basins. We have to have the capability to do that.

This real quickly just gives us an idea. I mentioned that the Colorado River is one of the longest rivers in the Nation. This gives us an idea. Now, out here we have the Gulf of California, but in actuality most of the water that is left, when it enters Mexico near Baja, it is used by the country of Mexico.

It is interesting that when the Colorado River was first divided up, they first divided up 4,540,000 acre feet of water a year that came down the Colorado River, 15 million acre feet. So they divided it, and in about 1922 they had what they called the Colorado River Compact. That is a 1,750,000 acre feet from the West, and probably of all the water compacted in the West, that is the most critical. It divided what we called the Upper Basin States and the Lower Basin States. The Upper Basin got 7 1/2 million acre feet, and the Lower Basin got 7 1/2 million acre feet of water every year.

But unfortunately, when those calculations were made, they were made when we had a very unusual year. We had the highest flow in any number of years, that is the highest record of flow. So in fact, we really do not produce 15 million acre feet of water on an average year out of the Colorado, which means that a lot of the Colorado River water is overapportioned.

Now, on top of the 15 million acre feet, here is an interesting story for us. In World War II, the United States was concerned, as was the country of Mexico, that the Japanese would try and invade the United States through the country of Mexico. So the Mexican authorities and the United States, the American authorities, got together. Mexico wanted the defense of their country. The Americans did not want the Japanese in Mexico, so the Americans agreed to supply reinforcements or troops to the country of Mexico to defend Mexico if the Japanese invaded.

The Mexican government, being the better negotiator of the two, said that we should want to keep the Japanese out of their country, and it is nice of us to protect them, but we ought to give them something for it, like 1 1/2 million acre feet of the Colorado River. So that is exactly what happened. In 1944, the United States government agreed to give the country of Mexico 1.5 million acre feet, 750,000 from the Lower Basin States, 750,000 from the Upper Basin States, of the surplus waters. Of course, there is a dispute over “surplus,” which is going on between the Upper Basin States and Lower Basin States.

They are getting too technical right now, my comments, but suffice it to say that the Colorado River Compact is really the point I want to make here. That is what has taken one of the longest rivers of the Nation and has divided it between the States that benefit from it. The Compromise drinking water for about 25 million people.

One of the first people to explore, and we have all heard this name before, was John Wesley Powell. He explored. This, of course, had been discovered before by the Spanish, by the Anasazis, et cetera, et cetera, but John Wesley Powell and his party mapped and explored the Colorado River.

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They used wooden boats, and Mr. Speaker, I am sure some of my colleagues have rafted in Colorado. We think we have some of the best rafting, if not the best rafting, in the Nation. It is pretty scary. Imagine before those rivers were controlled by dams, before we had flood control, imagine the kind of rafts back then. They were big woodlogs, he said, and he would see them today. That is what he went down on.

Think of the disease and unknown territory. In fact, some of them probably still believed the Earth was flat. It was a pretty challenging thing. You died at a young age if you wanted to go out and explore the West. But John Powell and his parties did exactly that. In 1869 he described the roll and boil of the rivers that pass through the treacherous passages, like the Grand Canyon, and the hard labor of the boat crews just to keep it going.

But John Wesley Powell mapped the Colorado River, and talked in his journal, in his diaries, and explained much of what he saw in the Colorado River. The result of the Colorado River, by the way, is what has provided absolute beauty, the Grand Canyon and the canyons in Utah.

Mr. Speaker, if Members have never been out to the West, go to Colorado first, and of course spend money in the Third District, but go further West and go into Utah and see those gorgeous canyons. Go into Arizona and see exactly what this mighty river has carved over all of these hundreds and thousands of years.

Here is a good example. The Colorado River carved many of the gorges and canyons in the Colorado plateau. Dead Horse Point State Park in eastern Utah preserves the natural state of Mecander Canyon, aptly named for the fantastic twists and turns the river etched into the soft sedimentary rock of the plateau.

When Members stand from this position, where my pointer is, and they look out, these are huge canyon walls. We can see where the river is from the green that goes through, that cuts through all of this. This was all cut by the Colorado River.

It is a fabulous study, our history of this Nation and what it has provided for us. But it is also critical for the life-style of the people out there.

Now, my colleagues will find that there is focused attention on the West. Remember that almost all of the Nation’s public lands are in the Western United States. They are not in the Eastern United States. Let me very quickly kind of give a brief history on how that occurred.

When we first settled our country, most of our population was on the eastern seaboard, and this country, this United States of America, wanted to grow. But back then, to grow, you had
to buy land. And if you bought the land, the title did not mean much. If you had a deed, you had a deed that said, you owned the State of Colorado or you own out there in the West this chunk of land, these millions of acres, but it did not mean much. The only way that you could obtain your land after you bought it was to get out there with a six-shooter on your side and possess the land. That is where the saying came from, the old saying that “possession is nine-tenth’s of the law.”

That is exactly what happened that created public lands in the West and almost no public lands in the East. Why? Because our leaders in Washington, D.C. knew we needed to settle the frontier. We had gotten the Louisiana Purchase, we had gotten a number of other lands, and we needed to somehow give incent for our people to settle in the West, to go west. “Go west, young man, go west,” as the saying went. So they decided to have land grants. They decided to have the Homestead Act, where if a person went out to Kentucky, and that was west to them, Kentucky was west, or go out to Missouri and Kansas and even to eastern Colorado, 160 acres back then could provide for a family. So they gave this land to the citizens of the United States who would go out and occupy the land, or possess the land on behalf of the United States of America. And after so many years, 5 or 6 years of working that land, you would own the land.

Well, the problem was when they got to the Colorado Rockies, guess what happened? One hundred sixty acres did not even feed a cow. So they came back to Washington and said people are going west but when they hit the mountains they are going around trying to figure a way to get to the ocean side, Kentucky and the Atlantic Ocean, but they are not staying in the mountains. How do we get them there? Somebody said maybe we should give them an equivalent amount of land. We give 160 acres in Kansas or even in eastern Colorado, let us give them what it would take, the equivalent amount of land, let us say 3,000 acres in the mountains. Somebody said, no, no, we cannot politically do that. There is no way we could give out 3,000 acres to a particular individual on the Pacific Ocean, but they are not staying in the mountains. How do we get them there? Somebody said maybe we should give them an equivalent amount of land. We give 160 acres in Kansas or even in eastern Colorado, let us give them what it would take, the equivalent amount of land, let us say 3,000 acres in the mountains. Somebody else said, no, no, we cannot politically do that. There is no way we could give out 3,000 acres to a particular individual out west.

So somebody came up with the idea, well, let us just go ahead in the west and and let us get the land, or to get the title. It is a lot like the Louisiana Purchase, the public lands, and the public land title is multiple use, “a land of many uses.” Let us have the West be a land of many uses. That is how we can get around that. We can get people to settle there. We will say, look, you do not get to put the land in your name, but you get to use it for yourself. Now, in recent times, that has been misinterpreted in many cases by some of the most extreme environmental radicals in the country. They say, look, the land in the West was intended to be held as public lands, aside for all future generations. While we are comfortable here in the East, they should set that land, those public lands in the West, aside. And they are doing the same kind of thing for the water.

Clearly, we have to have a balance. And to ask goodness we had somebody like Theodore Roosevelt, who took a look at Yellowstone and with awe and a great deal of thought and, frankly, a great deal of brilliance put that into a national park. We have wonderful national parks on those public lands. We are pretty proud of those public lands. My district has huge amounts of public lands. But we have to be able to utilize those public lands, and it is the same thing with our rivers.

We have huge Damns in the West. My point in speaking tonight is not to just have my colleagues walk out of here with some book knowledge on the topic of water, but to understand the difference between the Western United States and the Eastern United States when it comes to water and the necessity of water resources and the necessity to store water and the necessity to use hydropower.

By the way, in all of our discussions, especially of the last few months, when we have had debates and so on about the energy crisis, remember the cleanest energy producer out there is water. We do not need fuel to put water into a hydroelectric facility. All we do is take the energy of the water as it drops, turn a turbine, and we create electricity and then we can move the electricity.

My real focus here this evening is in front of my colleagues, especially those from the Eastern United States, to remember that life is different in the West. Sure, we are all American citizens and we are not saying we are being picked upon but we are saying there is a difference. There is a difference between night and day. A part of it is caused by the fact that most of the public lands in the West, they are not here in the East. It is very easy, colleagues, to put regulations on us in the West, on public lands, because those in the East feel no pain. The East does not have the Appalachians, and a chunk down there in the Everglades, but, in essence, when we talk about public lands in the East, we are talking about the local courthouse or the property around the courthouse.

When we talk about lands in the West, we are talking about 98 percent of some of our States, like Alaska. In my State alone, in my district alone, now get ahold of this, in my district I have 14 million acres of public lands. And there is water on there. And that water is absolutely essential, one, for diversion, and, two, for the protection of the environment that we have. But my focus here this evening is that I hope, as my colleagues leave and that as I conclude my remarks, that everyone understands how important water is in the West; that we are arid out there in the West.

We have over half of the Nation’s land in the Western United States, over half of it, and we have 14 percent of the water. That means that I think my colleagues have to approach us with a little more open mind. When we talk about water storage projects in the West, when we are trying to stop a bill, for example, backed by the national Sierra Club, that we understand their number one goal is to take down Lake Powell. Now, Lake Powell and Lake Meade, those dams provide 80 percent of the water storage for the West, yet the national Sierra Club wants to take it down. My colleagues, when the national Sierra Club comes and talks to you and wants you to sign on to taking down Lake Powell, please, please understand that life in the West, when it comes to water, when it comes to public lands is different than back here. Listen to our side of the story before you sign on to any of these bills that take fairly dramatic steps not in your area of the Nation but in our area of the Nation.

Before you sign on as a sponsor or co-sponsor, take a look at the impact it creates on us. Take a look at what it does to your colleagues; take a look at the history of the Nation. I have 25 charts here that I can walk through depicting life in the West since the Anasazi Indians and since the Spanish explorers. We can walk through the time of John Wesley Powell and about how the West has managed those resources. And with all due respect, I would venture to say that many of us in this room, many of my colleagues in this room, especially those from the East, have no idea of the kind of lifestyle that is required in the West, and the natural resources and our use of the natural resources and our conservation of the natural resources.

So, please, colleagues, do not let some of these organizations convince you that all of a sudden you are an expert in western water law. Do not let these experts or groups like the national Sierra Club convince you that your opinion is null and void on public lands, because those from the West feel no pain. We have 14 million acres of public lands. And there is water on there. And that water is absolutely essential, one, for diversion, and, two, for the protection of the environment that we have.
water project, which was promised to the Native Americans 30 or 40 years ago. They have very critical flow out there. This is a Nation where the Eastern United States should understand the problems of the West and understand that the water situation here is different than our water situation back there in the West.

My whole point here tonight is to tell my colleagues that in the West, as they say, our life is written in water and water is so, so critical. It has all come together. It all comes together when we begin to understand the geographical conditions, the historical conditions, the political conditions. Then we begin to say, you know, there is another side to this story that is important for all of us to understand.

Mr. Speaker, let me wrap up this portion of the quickest way to drive water out and use water just simply reiterating one point, and that is that there is a difference between the Eastern United States and the Western United States when it comes to natural resources. There is a difference between the Eastern United States and the Western United States when it comes to public lands. There are very few public lands in the Eastern United States. There are vast quantities of public lands in the West.

The concept of multiple use, a land of many uses, is how I grew up. When you would enter the government lands, which we are completely surrounded in my district, I have over 100 communities, I have a district larger than the State of Florida, and every community except one is completely surrounded by public lands, and when we enter the national forest and so on, if any of my colleagues have ever been out to the national parks or public lands, it says something like, “you are now entering the White River National Forest, and there used to be a sign under that that said, “a land of many uses.” A land of many uses.

Now we are seeing groups like the national Sierra Club or Earth First or more radical environmental groups coming out and saying they want to take that sign, “the land of many uses,” they want to take it off and put on a sign that says “no trespassing.” And it is the same thing with our water projects. The quickest way to drive water out of the West is to cut off their water. And it is not complicated. In the Eastern United States it would be very complicated to shut off the water. You have a lot of it. It rains all the time. In the West, all we have to do is take down a couple of dams.

Go ahead, let the national Sierra Club take down Lake Powell. You take down Lake Powell, and you will shut off a large portion of the west. You would take down the human population, and, by the way, a great deal of vegetation and animal population out there because we have been able to utilize that water and store that water so we can use it beyond the spring runoff. So keep in mind in the west life is written in water.

Let me use my final concluding remarks on a topic that is obviously totally unrelated, but I want to go back to my remarks at the beginning of this and that is on this energy issue. By the way, I heard some comments earlier today that we have no free market in the energy, that we need to have the government run the energy business in this country. Nothing would be worse than inviting the government into our front doors to begin running our energy companies for us. Nothing would be worse than allowing the government to intercede in the private marketplace.

Now, I am not speaking about stopping antitrust, where intercession is necessary, straightforward. I think that is on the book that is by Adam Smith, and he is right, a monopoly is a dangerous tool to management. But to intercede and to actually become almost socialistic like, where we would have the government supply the power and the transmission, and we would have the government guarantee it will all come at a reasonable price, we should not buy into this concept that the government is going to be able to give us something for nothing.

Take a look, for example, at the government’s intercession in lots of other different programs. In almost every case, when the government takes over or begins to think that it can do better than the private marketplace, we end up with lots of regulation, we end up with subsidies, and we never get something for nothing. This energy is a problem that we all have to work through.

The way we work through it is we put several components together. One of those critical components is conservation. Now, not every citizen can go out and find natural gas, not every citizen is going to be able to build a transmission line out there, and not every citizen can build a generation plant, but one thing that every citizen in our Nation can do is to help conserve. And if we want to keep the government out of our lives, we only need to help conserve energy. Because the more energy that we waste, the more energy the government will have to take over, the more temptation there is to have the government come in as a quick fix, as some kind of waving of the magic wand that the government is going to be able to deliver to us any kind of product at a cheaper price. The private marketplace does pretty good if we can all help.

So to conclude this portion of my remarks, let me say that I think it is incumbent upon every citizen in this country, and I speak to my colleagues, that we have to go out into our districts and encourage our constituents. Because if there is one thing that every citizen in this country can do to help alleviate the energy crisis, that exists primarily in California but is a warning shot to the rest of the Nation, it is to conserve.

And we can all do it by simply shutting off our lights, changing our car oil when the owner’s manual says it instead of when the lube market tells you to do it. I am optimistic about future energy of this country. Slowly but surely we are building an energy policy, and conservation is going to be an important part of it. You cannot conserve your way out of the situation that we are in.

Alternative energy is an important part, but do not overplay it. As I said earlier, if you took all of the alternative energy in the world and delivered it all to the United States, it would only supply 3 percent. Certainly this young generation behind us, their brilliant minds will be able to make that much, much larger because they will find ways to take energy out of water.

The first and most immediate thing we can do is come up with an energy policy as a government. We can urge our constituents to conserve. But the worst thing we can do is propose that the government put on price controls, that they take over industries, that they seize power plants and the government becomes your local utility. It would be the most inefficient operation in the history of our government. Do not let them do it. You cannot get something for nothing out of this government. If it is the government running it, you usually pay a higher price than if you as a community can have the private sector with checks and balances. I have spoken primarily about energy, about water.

Mr. Speaker, one last shot on water. And then I am done. That is keep in mind the East and West of this Nation, there are differences in water and differences in public lands. I would urge all of my colleagues in the East and all of their constituents in the East to please take the time before signing on a petition to take on Lake Powell or kick people off public lands, take a look at both sides of the story. If you take a look historically, politically, environmentally at both sides of the story, I think you would get a better understanding of what I have said to you tonight and a much deeper appreciation for our message from the West.

HIV/AIDS

The SPEAKER pro tempore (Mr. REBERG). Under the Speaker’s announcement of January 3, 2001, the gentlemanwoman from North Carolina (Mrs. CLAYTON) is recognized for 60 minutes as the designee of the minority leader.

Mrs. CLAYTON. Mr. Speaker, often times we act on perceptions rather
than reality, and when we discuss HIV and AIDS, indeed that has been one based on perception. Often times, when we have felt, who live in the rural South, have felt that AIDS was an issue of the North. Those of us who lived in small towns felt it was an issue of the big cities. Heterosexual persons thought this was only an issue for gays or that it was indeed white male gays. What we are finding is that those perceptions were ill-founded, and that the disease has affected all phases of the United States, particularly the South.

HIV/AIDS is becoming more prevalent in rural areas and in the South. AIDS cases in rural areas represent only about 5 percent of all reported HIV cases in 1995. Only 5 percent. However, the pattern of HIV infection suggests that the epidemic is spreading in rural areas throughout the United States. HIV in the rural South is growing at one of the fastest rates in the Nation. The Southeast as a whole has the highest number of those infected. The Southern region of the United States accounts for the largest proportion: that is, 34 percent, 34 percent of 641,886 AIDS cases. The latest figures we have is for 1997, and 54 percent of the 56,689 cases are among persons residing in rural areas.

However, according to a Boston Globe article, which I include for the Record, according to this article it references that in six Southern States, including my State, North Carolina, and South Carolina, Georgia, Alabama, and Mississippi as well as Louisiana, 70 percent of those with HIV are African American, and 25 percent are women, according to a Duke University study.

But more importantly, here is what it says. Both of these figures are higher than the national average, but few are saying anything about it, keeping the disease nearly invisible as it spreads. It is this silence that worries many AIDS activists, who are fearful that as the US government grapples with the out-of-control pandemic in parts of sub-Saharan Africa, it will neglect the increasingly costly programs to treat infected citizens. In these Southern states, there are waiting lists of people infected with HIV who want to get the drugs. At home, the nation’s initial position has been to put a lid on treatment funds. It has proposed no increase next year for the $1.8 billion Ryan White Care Act, which pays for AIDS cocktails for Americans not covered by Medicaid or other insurance programs. Abroad, the administration has put $200 million in additional HIV money into a newly created Global AIDS and Health Fund, a sum belittled by many advocates as a trivial response to a problem that Secretary of State Colin L. Powell calls a war without end. "It’s a modern-day leprosy here," said Dr. Mario G. Fiorilli, the only AIDS doctor in Halifax County in northeastern North Carolina. "Here, many fervently believe that God is punishing those with AIDS for their sins."

Women in rural North Carolina who would be identified only as Sylvia said she travels 180 miles to see an AIDS doctor three times a month, even though there is an AIDS specialist 40 miles away to the local doctor, "Everyone knows you have HIV," said Sylvia, a local PTA president and a Cub Scout den mother.

"It’s a modern-day leprosy here," said Dr. Maria G. Fiorilli, the only AIDS doctor in Halifax County in northeastern North Carolina. The great differences between the United States and Africa are the antiretroviral AIDS drugs are widely available here. But availability of drugs does not always guarantee access, and flat-funding of the Ryan White Act means that many newly infected Americans will be denied drugs, advocates say.

In interviews with several dozen AIDS caseworkers and patients in rural areas of North Carolina, many said that potentially thousands of people refuse to get tested for HIV, while others fail to adhere to the daily regimen of pills for a variety of reasons, including painful side effects. "I have friends and I don’t agree with them—who are sleeping around with it," said a man who asked to be identified only as J-Ray, a now-celibate drag queen who adheres to the strict drug regimen. "They’re just spreading it. That’s what’s going on here. You have people who are either too scared to get tested, or find they have it and basically don’t care at all. They’re just..."

Like many interviewed, J-Ray did tell friends. "We only have 150 members here in this town. My mother hugged me," he said. His father looked at me, and said, "Do you have life insurance?"

"I have," said Whittem-Goldstein, "and I’m happy."

When you think about the epidemics occurring through heterosexual transmission..."
Mr. Speaker, from 1981 to 1999, 26,522 people living with HIV and AIDS, including 8,189 adult adolescent males, 2,013 adult adolescent females, and 127 children, were reported in this year alone, the new AIDS cases. Most North Carolina HIV diagnoses report highly the male population, African Americans 72 percent, falling within the age group between 30 and 39. Thirty and thirty-nine are our most active, productive citizens. This is the time when people are forming families and building careers. This is the time when people ought to be the most productive in their community; but at this time we are finding within the age group 30 to 39, 72 percent are African Americans.

Mr. Speaker, this chart shows that persons living with HIV and AIDS, and this was as of the end of last year, the percentage by gender, 68.4 percent are male; 31.6 percent are females. And then when you begin to look at the ethnicity of it, 74.2 percent are African American or black; 19.3 percent are white non-Hispanic; 1.9 percent are Hispanic, and the Hispanic population is growing in our State, so that increase is in some way related to the growth. In fact, we are finding within the age group between 30 and 39, 72 percent are African Americans.

In the First Congressional District as well as in eastern North Carolina, including the third district, African Americans accounted for as much as 87 percent of HIV/AIDS cases that were reported in this year alone, the new cases that were reported.

The House of Representatives and the General Assembly of North Carolina recently passed under the leadership of Representative Wright a resolution declaring HIV/AIDS as a public health crisis, that we need to acknowledge that and get our community involved, that our faith-based community involved and our education system involved, because without the public recognition, we are not going to deal with that.
While only 1 percent of AIDS cases are found among teenagers aged 13 through 19, an additional 18 percent are found among those who are in their early 20s, who may have acquired the infection while they were teens because many of them had the infection, but we are now just discovering it while they are in their early 20s. Likewise, we are finding infection of teenagers is increasing. Additionally, some 26 percent are found among those who are now in their 20s, assuming they might have been infected some years earlier.

As of December 31, 1998, percent or 13,943 of all HIV disease reports in North Carolina were among those that were from 20 to 39, regardless of race. From 20 to 39. That is an astounding, large number of people. Let me repeat that: 13,943 were reported last year. Of those reported, 68 percent of those reported were between the ages of 20 and 39.

Now, earlier I had said that there was a correlation between STD, sexually transmitted disease, as a predictor of HIV.

I want to show you another chart as well. This is alarming because syphilis and gonorrhea and other transmitted disease, we thought those had been eliminated. In fact, I have a map that I do not have with me; but if you look at this map, it is almost completely eliminated, other than in the South and in one or two places in the Midwest. Completely eliminated. In fact, there is no reason why sexually transmitted disease should be growing. There indeed is a bacterium treatment for it; but it is growing in the South; and it is growing in my State in alarming numbers.

Although it cannot be said that the STDs cause AIDS, it must be said there is a correlation between them. Indeed, you can begin to see the large number of them growing in North Carolina. But also you see a high percentage of them being related to African Americans. Gonorrhea percentage, almost a relationship between what you see in gonorrhea and syphilis as the HIV chart. There is no reason for this. This is unexplainable why this is happening. One is a disease by a behavior pattern that we can correct, but also there is no public outcry in understanding this. One, we assign to the fact, well, this is their own doing and, therefore, we shouldn't be concerned.

There is a glaring racial disparity in North Carolina cases. Seventy-one percent of them are among African Americans. The infectious syphilis rate is almost 12 times greater for African Americans, 11 times greater for Native Americans, and eight times greater for Hispanics than the rate for non-Hispanic whites.

In 1998, half of all syphilis cases were confined to 1 percent, 1 percent now, of all the counties in the United States. These cases of syphilis were found in 28 counties, primarily located in the South, and three independent cities: Baltimore, District of Columbia, North Carolina had five nationally significant high syphilis morbidity counties: Guilford, not in my district, but certainly a large county in my State; Forsyth, again not in my district, but a large county in my State; Mecklenburg, which is our largest city; Wake County, which is our capital; and Robeson County, growing at significant rates higher than all of the other southern States.

The National Alliance of State and Territorial AIDS Directors, something called NASTAD, did a report. I have that report. This report is entitled “HIV Services in Rural Areas.” They studied New Mexico and South Carolina experiences.

Mr. Speaker, I include this study for the RECORD.

The HIV/AIDS Bureau (HAB) has set, as part of its policy agenda, an objective to document the experience of vulnerable populations with HIV/AIDS cases in rural areas. The HAB reported that it is difficult to monitor the quality of care that persons living with HIV/AIDS receive from local health care providers. In addition, the HAB reported that it is difficult to monitor the quality of care that persons living with HIV/AIDS receive from local health care providers. In addition, the HAB has identified barriers to overcome in the provision of services for persons living with HIV/AIDS in rural areas.

Providers acknowledged that travel options such as (1) commercial transportation services; (2) volunteer drivers; (3) staff home visits, or (4) mileage reimbursement for the use of a personal vehicle. However, in cases of acute illness, the lack of an adequate transportation plan may make a critical difference.

Inadequate Supply of Health Care Providers with HIV/AIDS Expertise—Providers express frustration about the lack of physicians with expertise in HIV treatment, despite the wide availability of training and certification opportunities. Providers also reported that it is difficult to monitor the quality of care that persons living with HIV/AIDS receive from local health care providers. In addition, the HAB has identified barriers to overcome in the provision of services for persons living with HIV/AIDS in rural areas.

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Providers acknowledged that travel options such as (1) commercial transportation services; (2) volunteer drivers; (3) staff home visits, or (4) mileage reimbursement for the use of a personal vehicle.
The Stigma Attached to HIV/AIDS—The stigma attached to HIV/AIDS may stem from community-wide denial that HIV is a problem that needs to be addressed. Medical providers may resist treating persons living with HIV/AIDS. In contrast, clients may be reluctant to seek services in rural areas “where being socially ostracized.

In addition, there may be a sense of mistrust toward and related health care providers by individuals within the community, especially if such service providers are unknown to the client or from outside the community.

Client Adherence to Treatment—With improved HIV/AIDS care and treatment, treatment adherence may become a more important concern. Promoting adherence to antiretroviral treatment regimens can be difficult when clients are isolated and face-to-face contact between case managers, physicians, treatment educators and persons living with HIV/AIDS is limited. It also is difficult to assure client adherence to treatment on a regular schedule if the ability to refill problematic, or if the client has issues of stigma to overcome.

Substance Abuse—Several providers noted that the provision of long-term substance abuse treatment is a significant service barrier in rural areas. Distance and limited client contact compound the challenge. Substance abuse treatment services may not be readily available outside of urban areas. There may be a sense of denial, both in the community and on the part of the clients, who are unfamiliar with and alcohol, because substance abuse is not identified openly as a problem in rural areas, resulting in little effort to secure treatment services.

Additional Needs of Communities of Color in Rural Areas—Communities of color, including African, Hispanic, Native, and Asian Americans, are at high risk for HIV infection. Rural communities of color, like other rural residents, experience the same barriers—stigma, poverty, and the absence of accessible care vulnerabilities of these communities to HIV is further compromised by additional factors: discrimination, distrust of the medical establishment and the health care system, and rural area’s limited resources, severe poverty and unemployment, and socioeconomic disadvantages and isolation.

State Components that Link HIV Services in Rural Areas

The providers interviewed for this monograph have developed and described various strategies for providing HIV services to clients living in rural areas based on client needs and available resources. State strategies include:

Addressing Clients’ Needs Beyond HIV—Service providers who address the entire range of client needs are more likely to maintain clients in care. Poverty, substance abuse, mental illness and other problems that are often associated with urban life also affect persons living in rural areas. For example, the Palmetto AIDS Life Support Services (PALS), in Columbia, SC, operates the Women’s Resource Center. Approximately 25 percent of the clients live in rural areas.

The center provides a range of services that address the needs, both HIV-related and those not related to HIV, of their female clients. PALS offers parenting classes, breast and cervical cancer screening, nutrition classes, exercise classes, social activities such as crafts and sewing classes, and a library that contains resources specific to women and HIV, creating a link between service provider and client.

Client-Centered Approach—It is not always practical to attempt to create a specific population in a rural area. The caseload is often small and resources are extremely limited. These circumstances necessitate that staff be culturally sensitive and focus on the individual, since the client or population, though small, may be very diverse. For example, one of New Mexico AIDS Service Providers Association in Native American and works with the organization’s Native American clients in Albuquerque. The case manager also understands the cultural importance of using Native American healing methods and administers NMAS’s complementary medicine program.

Flexibility—Service providers stressed the importance of designing and administering programs that are flexible enough to accommodate the unique needs of individuals living with HIV/AIDS. Many agencies allow clients to designate where they will meet with their case managers, whether at their home, a local health department or library, or even for lunch at a local restaurant. Such arrangements allow clients to identify a “safe site” in his or her community where individual confidentiality can be maintained and clients can present another challenge for providers. If a person living with HIV/AIDS cannot schedule an appointment during regular clinic hours and needs to see a physician in between weekly clinics, several service providers reported that the physicians will frequently allow offices to visit, even though they are contracted to do so.

Working with Available Resources—It is important to identify and link collaborative partners in rural networks, even with limited resources. For example, the Edisto Health Department in central South Carolina works with the Cooperative Church Ministries of Orangeburg (CCMO), a coalition of churches in the area that have combined their resources to offer some services such as a small food and clothing bank to persons living with HIV/AIDS. CCMO also administers the Housing Opportunities for People With AIDS (HOPWA) funds for the health department.

Creating Informal Relationships—Service providers in rural areas stressed the importance of informal relationships that repeatedly prove to be invaluable in identifying resources and service networks. These relationships may develop unexpectedly. The ACCESS Network in Hilton Head, SC works closely with “Volunteers in Medicine,” a medical staffed by retired health care professionals, who moved next door to ACCESS several years ago. Some ACCESS clients now receive services at the clinic more easily with the clinic’s staff to coordinate clients’ care. They also provide clinic staff with information on HIV/AIDS treatment developments. Peer providers represent informal relationships between their own physicians and infectious disease (ID) specialists outside their service area who are available for phone consultation. Peer counselors also cited the importance of working with local media to raise awareness about HIV/AIDS and the agency’s services by running public service announcements (PSAs) or providing coverage of agency activities and events.

Conclusion

Both New Mexico and South Carolina have implemented strategies that seem to be working well for their respective residents who are living with HIV/AIDS. Both states also have found it necessary to remain flexible in implementing these strategies to meet the needs of specific groups. Residents who have unique challenges from one geographic area to another within each state. The selection of these two states in no way suggests that other states are not exemplary in their efforts to ensure positive outcomes for their respective residents. The selection of these states simply presents an opportunity to inform other states that address HIV/AIDS in rural areas with other jurisdictions and stimulate national discussion among states on how best to meet the needs of persons living with HIV/AIDS.

HIV SERVICES IN RURAL AREAS: THE NEW MEXICO AND SOUTH CAROLINA EXPERIENCES

INTRODUCTION

AIDS cases in rural areas represent approximately five percent of the all AIDS cases in the United States. Long distances between residents and accessible health care services, social isolation as a result of stigma related to HIV/AIDS, lack of adequate, if any, health insurance coverage, insufficient medical facilities, few medical specialists, and limited support services like transportation and child care are one of the efforts of rural communities (see Appendix A) to serve residents living with HIV/AIDS.

State health departments, in collaboration with their health agency and organizations, are focusing on preventing new infections in rural areas, getting persons living with HIV into care (see Appendix B), and improving access to HIV healthcare services in rural areas. State health departments offer experienced insight, methodological research and analysis, and documented evidence of the success and failure of their strategies that collectively are designed to improve the quality of life for persons living with HIV/AIDS. State health departments also have the expertise to provide technical assistance and support for capacity building to local health care agencies and organizations that serve persons living with HIV/AIDS and to develop linkages between HIV/AIDS health care and related services in urban as well as rural areas.

Rural Areas is a monograph developed by the National Alliance of State and Territorial AIDS Directors (NASTAD), under a cooperative agreement with the HIV/AIDS and Health Services’ (NMAS) Office of Minority Health and AIDS Education and Services Administration (HRSA), U.S. Department of Health and Human Services. NASTAD conducted interviews with state AIDS directors and local service providers receiving Ryan White CARE Act funds in fall 1999. This monograph highlights activities in New Mexico and South Carolina, two states that have developed strategies to address the primary care and support service needs of people living with HIV/AIDS in rural areas. These two states were selected because they are located in regions of the United States that are sparsely populated and are characterized as rural with remote populations. Additionally, these two states have unique characteristics in their populations include a disproportionately high number of rural communities of color—African, Hispanic, and Native Americans—who are at high risk for new HIV infections.
AIDS cases reported in 1999: 125 (annual rate per 100,000 population).  
Cases of AIDS reported (Cumulative through June 2000): 1,828.
Ryan White CARE Act Title II Base Grant Award, FY 1999: $1,125,079.
FY 1999: $1,055,076.
Total Title II Funds, FY 1999: $2,476,155.
Over 75 percent of the cases of HIV/AIDS reported in New Mexico are attributed to male-male contact (MSM). Currently, there are only eight percent of reported cases of HIV/AIDS. Fifty-six percent of persons reported with HIV/AIDS are white, 35 percent are Hispanic, five percent are Native American, and four percent are African American. Over two-thirds of HIV/AIDS cases are reported in Bernalillo and Santa Fe Counties, where the cities of Albuquerque and Santa Fe are located. The number of cases reported in New Mexico’s other 31 counties range from zero to 129.
In July 1997 the HIV/AIDS/STD Bureau of the New Mexico Department of Health (DOH) created the HIV/AIDS Medical Alliance of New Mexico (HMA). The HMA is a capitated system that provides medical, case management, home care, support services including counseling, housing and nutritional assistance, and work re-entry programs through local medical groups among regionally-based organizations.
Under the HMA system, the state is divided into four districts: Albuquerque, Santa Fe, Las Cruces, and Roswell. Each of the four HMAs is a self-contained, multidisciplinary provider or an association of providers, designed to provide cost-effective continuum of care including a prevention focus. Racial/ethnic distributions for HIV/AIDS caseloads in each of the four HMA districts is reported in Appendix D.
The HMA model resulted from a field review conducted by DOH in November 1996. The review was conducted to identify and clarify shifts in the case and treatment of persons living with HIV/AIDS, such as the introduction of antiretroviral combination therapy and the impact of deeper penetration of the medical care system, and the need for a more effective continuum of care including a prevention focus. Access to adequate services diminishes the well-being of individual organizations. The HMA system allows HIV case management to be specialized within an agency and specific to the needs of persons living with HIV/AIDS. Before the HMAs, the state subcontracted with approximately 100 providers. Most of the providers did not specialize in HIV services and there was great variation in the case management and support services provided. The formation of the HMAs resulted in statewide availability of comprehensive case management and support services for persons living with HIV/AIDS.
Consolidation has been an important part of the HMAs. With the establishment of the HMAs, person living with HIV/AIDS enroll in and receive services from only one organization. Referral to services is facilitated because there is only one access point in each district and HMAs have publicized their services throughout their service area. Clients receive all necessary services from one provider, not various providers scattered throughout the state, as was the case before. Services from several providers greatly increased the possibility of breaches in confidentiality, a major concern for persons living with HIV/AIDS.
Service providers for each district were selected through a state request for proposal (RFP) process. The state review process identified services considered necessary for an integrated continuum of care for persons living with HIV/AIDS and their families. Findings from the state review process were used to develop the HMA model. Applicants are required to provide the identified services either directly or through contracts with other organizations. Providers have contracts for three years.
Key Factors in the Development of HMAs
According to Donald Torres, Section Head of the New Mexico’s DOH, HIV/AIDS Bureau, the HMA model works well for low incidence, rural states where the number of service providers is relatively small. Under these conditions, the service delivery network is compact enough that adjustments can be easily made across the program.
At the time of model was being considered there were only a few HIV-specific providers in the state. DOH contracted with various hospital systems to provide case management services but the contracts were not large enough to jeopardize the agencies’ viability if funding was discontinued. Therefore, more than 200 health systems did not resist the formation of the HMAs because it would not negatively impact the well-being of individual organizations.
Clients also were generally in favor of some change to the existing system. The development of the HMAs paralleled the move toward Medicaid managed care in the state which created an environment where people expected change in the health care delivery system. As with any major change, the move toward HMAs created some concerns. The development of the HMAs served as a focal point in the political debate on managed care. Additionally, there were concerns that the HMAs would not be sensitive to the needs of people of color and that they might divert funds from HIV prevention programs.
Two Years Later **

Since their establishment, HMAs have become identified as the source of HIV care in New Mexico. Of the approximately 1,300 persons living with HIV/AIDS, 1,100 persons living with HIV/AIDS access case management services throughout the HMAs. In New Mexico, anyone who tests positive for HIV/AIDS is eligible for HMA services. To be eligible for services through the HMA a person must: 1) have a documented diagnosis of HIV disease from a qualified licensed medical provider; 2) be a resident of the service area (district); and 3) have a documented income at or below 300% of the federal poverty level (FPL). Members may elect to enroll in a HMA other than the one providing service where they reside but HMAs do not recruit members from outside their service area.
Since their initiation, the HMAs have been integrated with other HIV services in the state. The DOH operates a health insurance continuation program. The program pays up to $600 per month for the premiums of a participating client’s existing health insurance. The program also reimburses the patient’s share (co-pays) for HIV medications under the New Mexico Medication Assistance Program (ADAP). The state will purchase health insurance for eligible clients through the state’s insurance risk pool. This reduces the amount of money spent by the HMAs for health care services.
The University of New Mexico’s Health Sciences Center’s University Hospital, a Ryan White CARE Act (RWCA) Title III grantee, administers the “Partners in Care Program.” Medical services are provided at the hospital in Albuquerque and the grantee also recruits physicians across the state to provide services to persons living with HIV/AIDS. To be eligible for the program, physicians must treat a certain number of persons living with HIV/AIDS. University Hospital physicians are available for consultation and the hospital also operates a hotline that may call willed question-related questions. HMA clients, especially in three of the four districts, often access medical services through the Title III program.
Successful Cost Containment
The New Mexico DOH reports significant cost savings as a result of implementing the HMA model. The cost of providing HIV-related care and support services, including medications, to New Mexico’s caseload of HIV/AIDS patients living with HIV/AIDS decreased from $5.2 million in 1995 to $8.2 million in 1996, a 37 percent increase. The increase was primarily due to the expense of antiretroviral medications. The cost of HIV care jumped significantly between 1995 and 1996, rose slightly in 1997, then in 1998 fell to the

** University Hospital has separate contract to provide primary care in District 1

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* University Hospital has separate contract to provide primary care in District 1.
Lack of Medical Providers with HIV Experience—According to the HIV service providers interviewed, local doctors do not take advantage of the availability of training opportunities to increase their knowledge of HIV treatment. In District 4, two practitioners interviewed, approximately 12 other physicians see one or two clients. With a large number of physicians, more training services and the informal nature of the relationship between the HMA and these physicians, it is difficult to monitor the quality of care clients receive.

Additionally, HMAs that do not have on-site medical services will be able to move toward a care team model with physicians, case managers and persons living with HIV/AIDS working together to develop a treatment strategy. Consolidation will improve the monitoring of clients' medical care. For more information about the activities of the four districts in the NM HMA system, please refer to Appendix D.

SOUTH CAROLINA

Total Population: 3,836,000
Area: 31,133 sq. miles
Population Density: 123 persons per sq. mile

HIV/AIDS Cases (cumulative reported through June 1999) (HIV reporting was initiated in February 1985)
people per 100,000 population: 25.7)

HIV cases reported in 1999: 961 (annual rate: 25.7).
HIV cases reported in 1998: 877.
Cases of AIDS reported (Cumulative): 8,352.
FY 1999: $4,968,208.

The HIV epidemic in South Carolina—In rural areas of the southeastern United States, the HIV epidemic is increasingly concentrated in the heterosexual population and, when associated with sexually transmitted diseases (STDs), especially syphilis, alcohol abuse and crack cocaine use. In South Carolina, 71 percent of HIV/AIDS cases reported in 1998 were women, 29 percent among women. African Americans made up 75 percent of reported HIV/AIDS cases. Twenty-seven percent of HIV/AIDS cases are attributed to male sexual contact (MSM), including MSM and injection drug use, 27 percent are attributed to heterosexual contact and nine percent to injection drug use (38 percent have no reported risk). One third (33 percent) of the people reported with HIV/AIDS in 1998 reside in rural areas.

Characteristics of Newly-Diagnosed People with HIV/AIDS: Urban vs. Rural—In January 1991—December 1998, the Department of Health and Environmental Control (DHEC) conducted the Supplement to HIV/AIDS Surveillance (SHAS) Project (supported by CDC). The project initially included Charleston County and the Edisto Health District (a three county area). A third county, Richland, was added in July 1995. Field staff conducted interviews with newly reported/diagnosed people with HIV/AIDS, 18 years of age or older, who were residents in the study area. This population of the project included 1,146 eligible persons were interviewed. Of these, 78 percent were from urban communities and 22 percent were from rural communities. Each of the four districts in the NM HMA system, please refer to Appendix D.

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Level. It is estimated that if the HMA system had not been implemented, the cost of HIV care in New Mexico would have increased between five percent and 20 percent in 1998. HMA implementation saved the state between $400,000 and $1.7 million. These savings are saving the lives of people being served increased. The net number of clients served increased by an average of six percent each year.

In the coming year, DOH plans to more thoroughly integrate the Title III grant with the HMA program. Even though training is available for physicians in outpatient areas, the HMAs report that care is still problematic and that some physicians lack the required expertise to provide quality HIV care. By integrating the Title III funds into the HMA system, HMAs will be able to select physicians in their districts who are motivated to treat persons living with HIV/AIDS and to develop their HIV-related expertise.

Additionally, these physicians are more likely to work with case managers and persons living with HIV/AIDS in the development of care plans. The state’s early intervention nurses also play a key role in linking persons living with HIV/AIDS with services. Five nurses are employed as post-test counselors. Persons living with HIV/AIDS are linked with early intervention nurses who conduct an initial assessment, refer clients to the appropriate resources for up-front clients who do not access care. The nurses also conduct partner notification services.

As of the end of 1999, DOH plans to expand the HMA system. The new fifth state-wide HMA will be added that will serve Native American people living with HIV/AIDS. It will be based in Albuquerque. The state also plans to contract with an agency to provide benefits advocacy services. The new contractor will help persons living with HIV/AIDS obtain benefits and also address emerging needs such as education and re-employment. Additionally, the contractor will provide advocacy services, including mediating grievances with HMAs. The contract will be awarded through a Request for Proposal (RFP) process.

Addressing Needs in Rural Areas

Each of the HMAs has developed a unique service delivery system based on available resources in the rural areas. All four districts serve clients who reside in rural areas. Albuquerque (District 1), Las Cruces (District 3) and Santa Fe (District 2) contain urban areas, where most clients reside, surrounded by rural areas. Roswell (District 4) is predominantly rural.

The New Mexico DOH has established different capitation rates for the HMAs based on the greater per client expense of serving clients in rural areas. The larger HMAs, Albuquerque and Santa Fe, are able to achieve some economies of scale because they serve a larger number of clients. Additionally, they have access to more resources, including more fundraising opportunities. In rural areas, it is not feasible to travel to each clinic and staff are required to travel as well. Due to the potential costs of mileage reimbursement and staff driving time. To facilitate access for clients in rural areas, the HMAs reimbursed clients for travel expenses (mileage) and all the HMAs have toll-free telephone numbers.

Quality Assurance Activities

DOH has adopted a variety of measures to assure the quality of services delivered by the HMA. The HMAs with the HMA system must maintain records on member enrollment status, provision of coverage, accountability, and individual treatment records on members. DOH also is monitoring a client satisfaction survey to assess whether the HMAs are meeting clients' needs and to develop a uniform protocol with the HMA service delivery system.

The New Mexico DOH initiated a process to identify statewide HIV/AIDS “best practices” that could be used to develop a cost-effective design and delivery of HIV/AIDS services throughout the state. The guidelines include five areas (1) to support the management and, where appropriate, the elevation of the quality of HIV/AIDS care throughout the state, (2) to improve access to quality care in both urban and rural areas, (3) to provide a measuring device against which HIV/AIDS care system services might be objectively evaluated, and (4) to provide a product with which they might competitively position their services.

The state guidelines present an integrated “care team” process based on collaboration between primary care physicians, case managers, and the client in the development of an individualized care strategy to delay or reverse the progression of HIV. The guidelines identify core services (clinical, prevention, practical support, educational support and mental health) and procedures for enrollment, assessment, chronic management, acute events and palliative care. To develop the guidelines, DOH held a retreat attended by the early intervention nurses, two HMAs (one urban and one rural), two physicians, three case managers, three persons living with HIV, four early intervention nurses, and representatives of the DOH. Guidelines also have been developed to address care management in rural areas.

Challenges

Accessing Services Based at the Main Office—The HMA has developed alternative approaches for clients living in rural areas because it is not possible to provide all the services that are available at the main office. In the field office in Farmington. For example, clients in rural areas requested that the food bank services be made more accessible. Instead of the three HMAs (five different sites throughout the service area) being open, the food bank services are open Monday-Friday 9 a.m. and 5 p.m. and the client in the development of an individualized care strategy to delay or reverse disease progression. The guidelines are to (1) to support the management and, where appropriate, the elevation of the quality of HIV/AIDS care throughout the state, (2) to improve access to quality care in both urban and rural areas, (3) to provide a measuring device against which HIV/AIDS care system services might be objectively evaluated, and (4) to provide a product with which they might competitively position their services.

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Obtaining Client Feedback—Providing opportunities for clients to give feedback on their needs and the services they receive can be difficult. In order to facilitate this process, the District 4 HMA holds their Community Advisory Committee meetings at six different sites throughout the service area. The meetings are open to all clients. Local physicians who treat clients also are invited. At the meetings, clients can raise concerns about services and other personal issues. To encourage attendance, dinner is served and incentives, such as gift cards or vouchers, are provided. Twice a year, the HMA surveys clients about their needs. Of the findings of the survey, the HMA will tailor information provided at the meetings to client needs and depending on the topics, the agency will secure appropriate staff will attend. Treatment issues are always a popular topic at the meetings.
were completed as part of this study. The majority (62 percent) were male (minority 38 percent) and African American (77 percent). Approximately 47 percent of the Rural SHAS participants had never lived outside of the county in which the study was conducted. At the time of diagnosis, 29 percent of rural participants had AIDS, as compared to 34 percent in the urban counties.

Sixty-nine percent of rural participants were unemployed at the time of diagnosis, as compared to 57 percent in the urban counties; and sixty-nine percent of rural participants had household incomes of $10,000 a year or less, as compared to 30 percent in the urban counties.

The study also revealed that participants in rural areas were more likely to have used crack cocaine than those in urban areas (33 percent rural, 28 percent urban) but were less likely to have had a steady sexual partner (18 percent rural, 16 percent urban). Rural participants were more likely to have not used condoms with their steady sexual partner (46 percent rural, 38 percent urban) and were more likely to have received money or drugs for sex (12 percent rural, 18 percent urban).

The structure that evolved depended greatly on the resources available in the communities. For example, the Midlands AIDS Consortium, based in Columbia, SC serves both urban and rural areas. The consortium focused on establishing linkages through a system of subcontracts because there already were agencies providing HIV-related services. In other consortium regions, a single agency was identified and funded to provide HIV-related services that may or may not already have been region.

Quality Assurance—The Ryan White CARE Act Peer Review Committee oversees the activities of Title II consortia in the state. It is made up of eleven members, one for each consortium, and DHEC representatives. When the committee was formed in 1996, each consortium completed a self-assessment. The committee established a mission statement based on the findings of this process. For the last two years the committee has developed standards and guidelines that consortia can use as tools to assess services.

The committee has developed guidelines for case management services and is also developing outcome measures for primary care. To develop the guidelines for case management services, the committee surveyed all consortia and DHEC representatives. The committee then convened a series of meetings for additional input. Based on the committee's input, a draft of guidelines has been developed standards for intake, assessment, and discharge.

State Efforts to Link HIV Services in Rural Areas—Initially most of the services provided by the CARETEAM, the lead agency of the Waccamaw Care Consortium and based in Myrtle Beach, were concentrated in Horry County, near Myrtle Beach, and all staff members resided in this area. To meet with clients in the two southern counties required staff to make a round trip from the agency's office in the northern part of the service area. To alleviate some of the travel expenses, in the two southern counties hired. On days when case managers see clients in the southern part of the service area, these case managers could take clients into the area while serving them. Staff also may see clients at either the beginning or the end of the day, before or after they have been to the office.

Within a large service area, outlying areas may have access to fewer services and feel less connected to a service provider. In addition to improving services for clients, hiring staff from that area help to facilitate linkages with the community. CARETEAM found that as they increased their presence in the two southern counties, it was much easier for clients to access services in terms of raising awareness of HIV and of CARETEAM services.

Jeff Kimbro, Executive Director of CARETEAM, ‘‘We have worked hard to make sure that Georgetown and Williamsburg Counties feel they have a stake in the care and treatment of HIV.

Knowledge Level of Primary Care Providers—Because it does not have physicians on staff or have contracts with medical providers, the ACCESS Network has had to...
work hard to assure that physicians in the service area are knowledgeable about the treatment of HIV. Located in Hilton Head and Hampton, ACCESS Network is the lead agency for the Low Country CARE Consortium. Jerry Binns, President of ACCESS Network, physicians have become much more knowledgeable about HIV in the past few years but it is still necessary to provide educational opportunities.

ACCESS Network has used a variety of approaches. They regularly provide written materials on treatment developments to local practitioners, host informational meetings between ACCESS Network staff and local practitioners, organize educational presentations by experts (sometimes done with a grant), and foster relationships between local practitioners and HIV experts in the state who are available for phone consultation. While knowledge level is important in terms of the quality of care, ACCESS Network acknowledged that the stigma attached to HIV is still a barrier in terms of physicians’ willingness to engage in discussions about living with HIV/AIDS. Other deterrents include a fear of being perceived as an “AIDS doctor,” the perception that HIV/AIDS needs to be treated by the potential financial costs of treating people with HIV (low reimbursement rates), scheduling time to attend training activities, and the distance providers must travel for training. For more information about each of South Carolina’s consortium, please refer to Appendix E.

CONCLUSION

State Efforts that Support HIV Services in Rural Areas

Local providers in both states identified several ways that the state HIV/AIDS Program (Title II grantees) can support the delivery of HIV services in rural areas in program components that are often difficult to resolve.

Assistance in Diversifying Funding Sources—Although sources of financial support can be limited in rural areas, service providers expressed concern about being overly dependent on the state and the Ryan White CARE Act funding. Rarely do rural areas have access to a fundraising base or grant opportunities from foundations and corporate donors as do service providers in urban areas. States also acknowledged that many do not possess the organizational capacity to conduct fundraising activities or prepare grant proposals and/or contracts. Providers suggested that states provide technical assistance on fundraising, grant writing, and financial and organizational capacity building. States may have the resources to hire a fundraiser who can focus on identifying new sources of funding for HIV services in rural areas. States can assist in identifying funding sources in the private sector, and pass information about such sources to providers at the local level.

Identification of Outcome Measures—States can play a role in initiating and maintaining a process to develop outcome measures for rural medical and support services. While conducting this type of program evaluation, additional funding or support from other providers, it helps them to focus on the effectiveness of their services, account for funds, and demonstrate that they are improving the health status of persons living with HIV/AIDS in rural areas in which they provide services.

Posing Ryan White CARE Act Cross-
Title Collaboration—Especially in rural areas, service providers can be separated by significant distances making the establishment of linkages more difficult. The absence of established linkages in areas in which other CARE Act providers (Title III, IV, and SPNS) are present, but are not participating in the state’s Title II-funded activities, can lead to duplication of and/or significant gaps in care. States can play a role in facilitating cross-title collaboration within service areas to assure more coordinated service delivery.

Strengthening Prevention Efforts—Rural areas can be more conservative than urban areas and more resistant to HIV prevention efforts. State administration efforts can result in less public awareness which, in turn, may reinforce the perception that HIV is not a problem in rural areas. This lack of awareness on the part of the public, especially in rural areas, may lead to increased spread of HIV and delays in accessing services. Since states administer HIV prevention funds as well, they can provide leadership in recommending or mandating HIV prevention programs at the local level and providing technical assistance in implementing such programs. States can work to strengthen linkages between HIV counseling and testing services and HIV-related primary care and support services to facilitate access to care.

State Responses to the Challenges of Servicing Persons Living with HIV/AIDS—Both New Mexico and South Carolina have implemented strategies to meet the needs of specific groups of residents who have unique challenges from one geographic area to another within each state. The selection of these two states in no way suggests that other states are not conducting exemplary work to assure positive outcomes for their respective residents. The selection of these states simply presents an opportunity to share information with other jurisdictions and stimulate national discussion among states on how best to meet the needs of persons living with HIV/AIDS in rural areas.

INTERVIEWS

NEW MEXICO

David Barrett, HMA Director, District 2, Southwest C.A.R.E. Center, Santa Fe, 505/986-1084.
Kathleen Kelly, HMA Director, District 1, New Mexico AIDS Services, Albuquerque, 505/266-0911.
Kari Maier, HMA Director, District 3, Camino De Vida Center for HIV Services, Las Cruces, 505/532-0202.
Jane Peranteau, HMA Director, District 4, Pecos Valley HIV/AIDS Resource Center, Roswell, 800/957-1995.
Donald Torres, Section Head, HIV/AIDS Program, Infectious Disease Bureau, Public Health Division, New Mexico Department of Health, 505/476-3629.

SOUTH CAROLINA

Lynda Kettinger, Director, STD/HIV Branch, Division of Preventive and Personal Health, 803/898-6749.
JoAnn Lafontaine, RCWA Coordinator, STD/HIV Branch, Division of Preventive and Personal Health, 803/898-0752.

Low Country Care Consortium

Jersey Binns, President, ACCESS Network, 843/681-2437.
Ann Driessen, Case Manager, Beaufort-Jasper Comprehensive Health Services, Ridgeland, 843/497-7438.

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 Midlands CARE Consortium

Pat Derajtys, Nurse Practitioner, Department of Nursing, University of South Carolina School of Medicine, 803/540-1000.
Dianne Herring, Project Director, LIVE Life Support Services (LALSS), 803/779-7257.
Nancy Raley, Executive Director, Midlands CARE Consortium, 803/540-1000.
Michelle Rojas, Title III Project Coordinator, Richland Community Health Care Association, 803/799-8407.

Tri-County Interagency AIDS Coalition

Karen Beckford, Executive Director, Help for the Pee Dee, 843/667-9414.

APPENDIX A: FEDERAL DEFINITION OF A RURAL AREA

The Bureau of the Census defines an urbanized area (UA) by population density. Each UA includes a central city and the surrounding densely settled territory that together have a population of 50,000 or more and a population density exceeding 1,000 people per square mile. A UA may cover parts of several counties. Additionally, places (cities, towns, villages, etc) with a population of 250 or more outside of a UA are considered to be urban.

OMB designates Metropolitan Statistical Areas (MSAs) as one city with 50,000 or more inhabitants or an urbanized area defined by the Bureau of Census) with at least 50,000 inhabitants and a total MSA population of at least 100,000 (75,000 in New England). Each MSA includes the county in which the central city is located and additional contiguous counties that are economically and socially integrated with the central county. A county that is included in an MSA is considered to be non-metropolitan. Periodically, OMB reclassifies counties on the
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basis of Census data and population esti-
mat es, it is generally agreed that in rural areas, 
less additional encouragement or support is 
vided, easy geographical access to health and social services is lacking. How-
however, the definitions start to get blurry when 
considering some metropolitan counties that are so large they contain small towns and rural areas. By one estimate, based on 1980 
decennial census data, of the slightly over 32 
million people who live in large metropoli-
tan counties, approximately two million lived in urban areas while rural areas with an easy geographical access to central areas (Goldsmith, 1993).

APPENDIX B: CHARACTERISTICS OF U.S. RURAL POPULATION

In 1997, over 54 million Americans lived in rural areas, making up 20 percent of the U.S. population. During much of the 1990s, the rural population grew faster than urban popu-
lations.

Race/Ethnicity—Eighty-three (83) percent of rural residents are white, as compared to 69 percent of urban residents. African Americans make up nine percent of the rural popu-
lation, but account for 18 percent of all AIDS cases and comprise at least 557 federally recog-
nized tribes with each tribe having its own territory and speak more than one hundred 
languages and dialects. Generally Asian Americans live in more urban areas, as 
opposed to remote rural locations. As HIV/ 
AIDS infections increase throughout South and Southeast Asia, the likelihood of a rise in new infections among Asian Americans in the United States accelerates as families traverse back and forth between their home countries and the United States.

APENDIX D: NEW YORK AIDS SERVICES:

DESCRIPTIONS OF FOUR HMA DISTRICTS

District 1, Albuquerque (Counties served: 
Bernalillo, Cibola, McKinley, Sandoval, 
San Juan, Socorro, Torrance and Valencia).

Case load—80 clients.

Client Characteristics:
Male: 60%, Female: 40%.
African American: 6%, Hispanic: 37%, Na-

tive American: 7%, White: 50%.

Clients with a third party payer: 36%.
Rural clients: 14% (any client residing out-
side of Bernalillo County).

CAPITATION RATE:

Case Management: $221 per client/month.
Primary Care: $109 per client/month.

The state contracts with two agencies, 
both based in Albuquerque, to provide serv-
ices in the District 1 HMA. Since initiation 
of the HMA, New Mexico AIDS Services 
(NMAS) and the University of New Mexico, 
Health Sciences Center, Infectious Disease 
Clinic have worked closely to coordinate 
case management services and primary care, 
even though services are provided at sepa-
rate sites. In 2000, both case managers/ 
support services and clinical care will be 
available at one location in Albuquerque. 
The HMA also has a field office in Farm-
ington. One case manager is employed 
based in Farmington and clients in outlying 
areas can either access primary care in 
Albuquerque or from local physicians funded 
through the Title III program. If a client 
does choose to travel to Albuquerque, mileage 
are reimbursed.

The case manager in Farmington will 
handle the clients' visits or meet clients at a desig-
nated location. The Farmington case 
manager carries a caseload of approximately 40 
clients, in comparison to the 48–55 clients 
served by case managers funded be-
cause of the additional travel time required.

Regional community task force meetings 
are held four times a year for clients, fami-
ilies, and case managers to meet and share 
information about the meet-

ings are held in Farmington and two are held 
in other regions of the HMA. The meetings 
allow an opportunity for clients to provide 
feedback on services. Dinner is provided 
at the meeting to encourage attendance.

District 2, Santa Fe—(Counties served: 
Colfax, Harding, Los Alamos, Mora, Rio Arriba, 
San Miguel, Santa Fe, Taos, and Union).

Case load—285 are enrolled in the HMA—the 
maximum stipulated in the contract with 
the state (of a total of 317 clients).

Client Characteristics:
Male: 90%, Female: 10%.
African American: 4%, Hispanic: 37%, Na-
tive American: 2%, White: 5%.

Clients with a third party payer: 94% (43% 
are on CHIP).
Rural clients: 43% (any client residing out-
side of the City of Santa Fe).

CAPITATION RATE:

Capitation Rate: 
Under 300% FPL: $305/mo.
Over 300% FPL: $314/mo.

The District 2 HMA is administered by 
the Southwest C.A.R.E. Center (SCC), an 
AIDS service organization (ASO) based in Santa 
Fe. SCC’s clinic is staffed with physicians, 
nurses, and case managers and provides one-

stop shopping for clients. Centralized serv-
ices have allowed SCC to adopt a care team 
model, in which the case manager, physician 
and client work closely to determine an 
appropriate course of treatment and support 
for the client.

Many clients in outlying counties prefer to 
go to Santa Fe, if at all possible, because of 
the quality of primary care services provided 
and the Santa Fe clinic is reimbursed to 
all primary care and case management ap-
pointments. For those who prefer not to or 
cannot go to Santa Fe, case managers are 
available. Two case managers in Taos have 
about half the case-

load of those in Santa Fe due to the travel 
required to meet with clients.

District 3, Las Cruces—(Counties served: 
Grant, Hidalgo, Luna, Otero, and Sierra)

Case load—90 clients.

Client Characteristics:
Male: 63%, Female: 16% (1% other).
African American: 2%, White: 43%.

Rural clients: 50% (any client residing out-
side of the City of Las Cruces).

CAPITATION RATE:

Capitation Rate: 
$387 per client/month.

The agency’s medical director sees clients 
at the Las Cruces clinic. Private physicians 
participating in the state’s Title III program 
provide services outside of Las Cruces. Some 
clients see a physician in District 4 because 


District 4, Roswell—(Counties served: 
Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, 
Lincoln, Quay, and Roosevelt)

Case load—82 clients.

Client Characteristics: 
Male: 81%, Female: 19%.
African American: 10%, Hispanic: 36%, 
White: 54%.

Rural clients: 100%.

CAPITATION RATE:

Capitation Rate: 
$314 per client/month.

The agency’s medical director sees clients 
at the Las Cruces clinic. Private physicians 
participating in the state’s Title III program 
provide services outside of Las Cruces. Some 
clients see a physician in District 4 because 


Pecos Valley HIV/AIDS Resource Center is 

an ASO that provides case management and 
health services and HIV prevention activities, 
including syringe exchange. The agency provides 
HIV counseling and testing, which serves as a direct link to 


This HMA does not provide on-site medical 

services. The staff nurse handles most of the
assessment and referral of clients. For example, the nurse at a mental health facility may become concerned if a pregnant woman does not come to counseling sessions for more than a few weeks in a row and feels that she or she cannot take medications without having his or her HIV status discovered. The case managers also will meet with clients at other times that the clients may decline and will drive clients to appointments if they prefer to meet at the agency’s office. The disease intervention specialist, who works for the same department that administers the HIV/AIDS program, will visit clients if they are in the area doing partner notification.

The health department provides both primary and specialty care. It contracts on an hourly basis (the most cost-effective way for the health department to provide care) with four general practitioners and an Infectious Disease (ID) Physician (there is only a small number of IDs in the state and most are in Charleston and Columbia). The ID physician consults with the four other physicians. The health department’s clinic for clients is open every Thursday from 5-9 p.m. Each week it is staffed by three physicians, including the ID physician. The presence of the physicians involved is a critical component. For example, some clients are resistant to attending the clinic, whether they fear loss of confidentiality or are just not emotionally prepared in their acceptance of their HIV status. The ID physician will see these clients in his office on a routine or emergent basis. For example, concerns about limited clinic hours is that clients may not have access to care when they need it. For example, if a client calls on Monday with a sore throat, the ID will have his clinic open until Thursday to see a physician. If the situation requires, the client is referred to the emergency room.

Once again, transportation can serve as a major barrier for clients attending the weekly clinic. The health department contracts with a transportation service. When they were considering the contract, it was discovered that if they paid by the mile they could only pay a contractor the health department’s standard reimbursement rate. This was far too low for a professional provider. Instead, the health department pays the provider a flat fee per week (about $10,000 per week) to bring his van by on any clinic day. The health department carefully monitors the contract to make sure it is cost effective.

Transportation is provided to medical visits by either volunteers or through contracts with individual drivers who are paid by the hour. CARETEAM has used taxis in the past but these proved to be too expensive. While some providers in rural areas have been reluctant to use volunteers to provide transportation, fearing clients will be resistant to riding with volunteers due to confidentiality concerns, this has not been the experience of CARETEAM. In the future, CARETEAM would like to acquire a van and transport clients on a part-time basis to provide transportation to clients.

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APPENDIX E: SOUTH CAROLINA’S LEAD PRIMARY CARE AND SUPPORT SERVICE AGENCIES

1. Tri-County Interagency AIDS Coalition—(Counties served: Bamberg, Calhoun, and Orangeburg)

   Caseload—355 clients.

   Client Characteristics:
   Male: 61%, Female: 39%.
   African American: 93%, White: 7%.
   Uninsured: 70%.
   Rural: 100%.

   The Edisto Health Department, based in Orangeburg, is the lead agency of the Tri-County Interagency AIDS Coalition. The health department estimates that there are between 500–700 persons living with HIV/AIDS in the service area and it plans to increase outreach efforts to bring more people into care.

   The lead agency administers all the Title II funds for the consortium, which is composed of ten agencies. There are few service providers in the area and many support services, such as the local food bank and clothing banks, are on a very limited basis. There are four general practitioners and two part-time nurse practitioners at four general practitioner sites that have been recruited (either paid per case or for a set number of hours). The health department has a memorandum of agreement (MOAs) to contract with another agency to provide case management services. This agency provides case management services before the HMA was formed and some of these clients have been transferred to the HMA. The HMA also contracts with another agency to provide case management services. This agency is dependent on client need. Approximately 30–40 percent of clients meet with their case manager at least once every two months. About ten percent of clients come to their appointment for an appointment but the case manager travels to the remaining 90 percent of clients. Travel time can be as long as 3.5 hours one way.

   2. Waccamaw Care Consortium, Myrtle Beach—(Counties served: Georgetown, Horry, and Williamsburg)

   Caseload—350 active clients (will serve nearly 450 over the course of the year)

   Client Characteristics:
   Male: 60%, Female: 40%.
   African American: 57%, Hispanic: 1%, White: 40%, Other: 1%.
   Uninsured and underinsured: 80%.
   Rural: 50%.

   CARETEAM, based in Myrtle Beach, is the lead agency of the Waccamaw Care Consortium, which is composed of ten agencies. Horry County is primarily middle class and the other two counties are more rural and have fewer resources. The lead agency provides the needed services.

   One of the challenges identified in service delivery in the region is that the service area is long and narrow, and the lead agency is located in the center of the region. It may take more than 1.5 hours, one way, to travel to the outlying areas because of the geographic configuration of the service area. CARETEAM allocates services in the near future who will be available for consultation.

   The clinic employs three full-time case managers, each with a caseload of approximately one hundred twenty clients. Most of the clients (about 80 percent) come into the clinic at least once a month and meet with their case manager at the same time. Case managers contact clients by phone at least once a month and meet with clients on a face-to-face basis at least once every three months (when applicable). Case managers will meet with clients at the office, clients’ homes, or at a designated location.

   The agency contracts with five physicians that have been recruited (either paid per month or per patient). Two of the doctors reside in the region. The other three are ID physicians that commute. The clinics are operated all day Monday and half day on Tuesday and Wednesday. Limited clinic hours have not been a problem since clients can see a physician during off-hours if necessary. All clinic are held off-site at three physicians’ offices located throughout the service area. A key component in the provision of primary care is the medical case manager, who is a medical technician. The medical case manager does all the administrative work, including scheduling appointments, filling out paperwork, and obtaining prescriptions assistance (i.e. state, ADAP, pharmaceutical companies) for the physician to cut down on their workload. The medical case manager is present at all clinics.

   Transportation is provided to medical visits by either volunteers or through contracts with individual drivers who are paid by the hour. CARETEAM has used taxis in the past but these proved to be too expensive. While some providers in rural areas have been reluctant to use volunteers to provide transportation, fearing clients will be resistant to riding with volunteers due to confidentiality concerns, this has not been the experience of CARETEAM. In the future, CARETEAM would like to acquire a van and transport clients on a part-time basis to provide transportation to clients.

   Pee Dee Care Consortium—(Counties served: Chesterfield, Darlington, Dillon, Florence, Marion and Marlboro)

   Caseload—410 clients.

   Client Characteristics:
   Male: 65%, Female: 35%.
   African American: 96%.
   Uninsured: 96%.
   Rural: 70%.

   The Pee Dee, an ASO based in Florence, is the consortium’s lead agency and the sole recipient of Title II funds. The agency provides case management services and on-site primary medical care. The agency’s medical clinic is open three days a week and staffed by a general practitioner. The agency will contract with an ID physician in the near future who will be available for consultation.

   The clinic employs three full-time case managers, each with a caseload of approximately one hundred twenty clients. Most of the clients (about 80 percent) come into the medical clinic at least once a month and meet with their case manager at the same time. Case managers contact clients by phone every six weeks. For the majority of clients, medical services are not the top priority. Instead, they are much more concerned with issues of daily living such as access to benefits, housing, food, and job training.

   In the consortium region, access to other community-based services is limited. Lack of transportation can impact access but there are other challenges. For example, the local food bank recently experimented with home-delivered, problem-centered, jeop-
the region, if it had to close, even tempo-
rarily it would have been difficult to ar-

range an alternative source of food for the

agency's clients.

Most clients can find some way to get to

the clinic, via the Rural Transit System, but

this travel can be time consuming and incon-

venient. The agency will help arrange local

transportation and will pay when neces-

sary. The agency would like to either es-

tablish a mobile clinic or find physicians in

the region who would donate office space in

which the agency could hold off-site clinics.

Low Country Care Consortium, Hilton Head—

(By Nancy J. Beaufort, Colleton, Hampton,

and Jasper)

Caseload—190 clients.

Client Characteristics:

Male: 68%, Female: 32%.

African American: 65%, Asian/Pacific Is-

lander: 1%, Hispanic: 5%, White: 29%.

Uninsured: 85%.

Rural: 100%.

ACCESS Network, located in Hilton Head

and Hampton, is the lead agency for the Low

Country Care Consortium, which serves a

county area in the southeastern section of

the state. The service area is about the

size of Delaware and Rhode Island combined

and has a population of about 200,000. The

consortium coordinates the entire service area

to be rural in nature.

ACCESS Network is an ASO providing a

full range of support services. In the service

area, primary care is provided by various

clinics, including Beaufort/Jasper Com-

prehensive Health Services, a Title III-fund-

ed provider, and private physicians. The

Title III provider was first funded in 1998 and

operates five local clinics serving Beaufort,

Hampton and Jasper Counties. This addi-

tional primary care facility allowed the con-

sortium to expand support services with Title

II funds that had been previously used for primary care.

ACCESS Network employs two case man-

agers, each serving a specific geographic area.

One serves approximately 110 clients, the other 65-85. The case managers focus on the

assessment of client needs through face-

to-face interaction. Most meetings with cli-

ents take place off-site, requiring significant

travel on the part of case managers. The

agency utilizes support personnel to carry

out the benefits management process and

complete paper work in order to provide suf-

ficient time for the case managers to meet

with clients. Contact with case managers de-

pends on the severity of the client's needs.

Approximately 20 percent of the caseload re-

quires intensive contact either daily or once

a week. Other clients see their case manager

every 6-9 months.

Case managers link clients with primary

care providers in the service region. There

are no formal linkages between ACCESS

Network and these providers. Primary care

is available from clinics operated by rural

health services, private physicians and non-

profit organizations. Since ACCESS is not formally linked to primary health care

providers, case managers play an important

role in assuring that clients access care. At

times the agency has needed if they already have

a physician that they would like to continue to

see and whether they have a source of

payment. If the client does not have a physi-

cian, the agency-based on geography and

ability to pay. Low-income clients are

treated in various local clinics that provide

services on a free or sliding-scale basis to eli-

gible clients.

Because the physicians in these clinics see

more HIV-infected clients, they often have
greater expertise in the treatment of HIV

than other physicians in the community. Cli-
sents who are not eligible for these clinics

(because of income level or they have private

insurance) may end up seeing local physi-
cians. The experience in treating HIV

patients is not formally linked to primary health care providers and there has been greater co-

ordination between physicians and case man-
ger. Physicians and case managers consult

about the clients' course of treatment and

other factors impacting the client's overall

wellbeing. Case managers also serve as a

treatment advocate for the client.

As in many rural areas, informal linkages

can be very beneficial in obtaining a full

range of medical and support services for cli-

ents. For example, situated next to ACCESS

Network's Hilton Head office is “Volunteers

in Medicine,” a clinic staffed by retired health professionals who provide free health

care. While it was a coincidence that the

clinic opened next door to ACCESS Network,

it has resulted in a close collaboration be-

tween the two agencies and allows case man-
gers to be more much involved in the care

of clients receiving treatment at the “Volun-
tees in Medicine” clinic.

Mr. Speaker, what this report talks about,
it kind of looks in depth at two rural States.

They chose New Mexico because it had a high incidence of mi-

norities and had a lot of rural cities with small towns in those areas

and Hispanics and Indians were in New

Mexico. They chose South Carolina again because of the smallness and the

rural nature of the State and the high

incidence of African Americans. What

they found in both of those cases is that

there are cultural and social challenges in both of those States.

In addition to all the things I talked

about earlier, there is a lack of Federal

dollars; there is a lack of public aware-

ness, inadequate housing and unstable

home environment. There is just a lack of

community understanding, of family

support, that they could not, in fact,

have the kind of support that would en-

able people in the South to get it. Also

there is a lack of transportation serv-

ces, in these areas, a lack of case man-

agement and services and a comprehen-
sive program to respond to AIDS pro-

grams, a lack of services to assist peo-

ple in understanding they need to stay

on their drug treatment and have a man-

agement system in these areas, a lack of

mental counseling or religious counseling in these areas, and a lack of

actually just an appreciation of the disease.

There are issues that indeed affect us

in more ways than we would think. But

my reason in bringing this, Mr. Speak-
er, is to have my colleagues to recog-
nize that AIDS is an issue that is affec-
ting the South and is going unno-
ticed. It is a silent disease killing peo-

ple and we can't ignore the perception that we have had. We need to un-
derstand the fact. We really need to

look and to see what we can do to curb and certainly the whole issue of sexu-

ally transmitted disease and it being a

predictor for the likelihood of getting

HIV, that ought to be addressed. Only

28 counties in more than 3,000 counties

in the country really have any signifi-
cant cases of sexually transmitted dis-
ease, and in North Carolina we cer-
tainly have it. There is a relationship.

We can fight that. We can fight that

only by education and awareness.

The final article I wanted to ref-

cence is indeed the impact it is having

on women. Again, one of the major

issues is the disease among white gay

men. That could not be further from the

truth. As I have said, although men constitute more than fe-

male, but the rate at which the growth

is going is happening much faster, as I

said earlier, again this is North Caro-

olina. And in North Carolina although 68

percent are male, roughly 32 percent

are female, that rate is growing faster

now for females than for males. And

the rate is growing faster for African

American females than it is for non-Af-

rican American females. This article is

from the New York Times. Again, Mr.

Speaker, I include the article for the

RECORD.

[From the New York Times, July 3, 2001]

AIDS EPIDEMIC TAKES TOLL ON BLACK WOMEN

By Kevin Sack

GREENWOOD, Miss.—Here is the rural

South, the image of AIDS today looks very

much like Tyeste W. Roney.

Not a gay white man. Not a crack-addicted

patient. But a 20-year-old black woman

with a gold stud in her nose, an orange ban-
danna covering her braids, and her nick-

name, Easha, tattooed on one leg.

Ms. Roney had known for years that she could contract

H.I.V. by having unprotected sex. Her moth-

er had been telling her so since Ms. Roney

was 13, when she lost her virginity. But ei-

ther the lesson did not stick, or Ms. Roney

did not have the power to negotiate safer sex

with older lovers. She says that many of the

men she can count as partners did not use

condoms.

In February, after enduring 10 days of

bleeding, Ms. Roney went to a health clinic.

First a nurse surprised her by telling her

that she had been pregnant and had miscarried. Then the nurse asked Ms. Roney

if she knew she was carrying the virus that

causes AIDS.

““I said, ‘Get out of here, that can’t be so,’” she

recalled. “I just broke down and cried. I

thought I wasn’t going to be here any-

more. Maybe a month.”

It is a scene that has become all too famil-

iar for poor black women here in the Mis-

sissippi Delta and across the rural south.

Even as the AIDS epidemic has subsided else-

where in the United States, it has taken firm

root among women in places like Greenwood.

And in North Carolina although 68

percent are male, roughly 32 percent

are female, that rate is growing faster

now for females than for males. And

the rate is growing faster for African

American females than it is for non-Af-

rican American females. This article is

from the New York Times. Again, Mr.

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RECORD.

[By Kevin Sack]
Northeast, but now centers on women with paper published in March in The Journal of Ters for Disease Conrol and Prevention in a pegs for Disease Conrol and Prevention in a

calcula, which is seeing only a cancer visit.

women are told to tell even their families, and they find their only cent in the monthly meetings of a support group. One woman here, who lives with her son, in the South and black her grandmother if he knew of her ill-ness. Ms. Roney, who has informed only her family and friends, said she lost several neigh-borhood friends after they saw a health de-partment van pull into her driveway to pickLeflore Hospital. Dr. Brimah is the only her up for a clinic visit.

women, who make up 7 percent of the nation’s population, accounted for 16 per-cent of all new AIDS diagnoses in 1999, a per-centage that has grown steadily since the syndrome was first identified 20 years ago. By comparison, black men made up 35 per-cent, white men 27 percent, Latino men 14 percent, and white and Latino women were each 4 percent.

While the number of new AIDS cases in the United States began to decline in the mid-1990’s, from 1998 to 1999, 29,522 black women de-voted fatalism, faith and powerlessness. As everywhere, some poor women here make ends meet through prostitution, But the more common practice is a less formal-ing, they do not think it could happen to them.

by AIDS care in London and New York, opened the Magnolia Medical clinic in a strip mall

in paying the rent, perhaps in buying gro-cers, trying to get insurance, the lack of mestic policy at Duke who has been studying

in the South, according to C.D.C. figures.

financially and politically, and they see it as how they have to frame their lives; especially if they have children, trying to get insurance, the lack of a father in the home, alcohol, drugs. They have so much going on.

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Sex is also sometimes exchanged for drugs, particularly crack cocaine, though this seems less common in larger towns in the southern part of the state.

Sharyn Janes, a professor of nursing at the University of Southern Mississippi, said she heard stories while conducting interviews with people at high risk of infection. One man, she said, told her that she once drove a woman out of town when she refused his demand for sex after he gave her crack. He told her that "nobody gets a free ride" and left her to walk home, Ms. Janes said.

TRACING SEXUAL NETWORKS

Because of the breadth and casualness of sexual networks here, an infection can be virtually impossible to track and control.

In the first half of 1999, for instance, health officials found that a biological cousin to 30 positive men in Greenwood who had had sex with 18 women over a three-year period. Two of the women had sex with both men. Five were infected with the virus, and they in turn had had sex with 24 other men.

A study of the cluster by the C.D.C. found that half of those interviewed had a history of other sexually transmitted diseases, that some of the H.I.V.-infected women were as young as 15, and that the median age of the infected women was 15, compared with 25 for the infected men.

"The teenager's concept is that this guy is older so he's going to know what he's doing and he'll take care of me," said Dr. Shannon L. Hader, a Centers for Disease Control researcher who studied the Greenwood cluster. "The reality is that older men have had more partners and are therefore more likely to have S.T.D.'s."

Clearly, Dr. Hader said, messages about prevention are not getting through. The rural South is politically conservative, and prevention programs in the schools tend to be episodic and focused on abstinence. Parents in the rural Greenwood community must grant written permission before their children can be taught about condoms. Many local pastors are also reluctant to encourage explicit discussions about sex.

Dr. Hader also found a lack of knowledge about H.I.V. treatment. Five of the seven infected members of the Greenwood cluster had no idea that those with H.I.V. could now live for long periods with the help of antiretroviral drugs. That misconception has made it difficult to get patients into care, where they could also receive information about not spreading the virus.

Those who do seek care have few options. Before Dr. Brimah opened his clinic here, AIDS patients had to travel more than two hours to Jackson or Memphis, a trip that many could not make. Sandra Moore, a 32-year-old Greenwood woman who first learned that she was infected with H.I.V. in 1996, would sometimes drive as far as New Orleans for treatment. Ms. Moore had withered to 60 pounds when she first visited Dr. Brimah, and was seemingly on the verge of death. Now, with medication, she has increased her weight to 105 pounds and talks of living to see her four young children graduate from high school.

The problem is also prohibitive for many here. The pills typically prescribed by Dr. Brimah can cost up to $1,200 a month.
OUTRAGEOUSLY HIGH DRUG PRICES

The SPEAKER pro tempore (Mr. REHBERG). Under the Speaker’s announced policy of January 3, 2001, the gentleman from Minnesota (Mr. GUTENNECHT) is recognized for 60 minutes.

Mr. GUTENNECHT. Mr. Speaker, I will later be adding some items to the RECORD.

Mr. Speaker, I rise tonight to talk about an issue that in some respects is a dirty little secret. Yet more and more of us in Washington and more and more seniors around the country know about this dirty little secret. It is about the outrageously high prices that Americans pay for prescription drugs.

Now, I think most Americans are appreciative to the pharmaceutical industry for the miracles they have created over the last number of years. We are all delighted that we have drugs today to treat conditions which just a few years ago were untreatable. We are not unappreciative to what the pharmaceutical industry has done. But the dirty little secret is that the Americans are paying the lion’s share, in fact, I might even argue that the Americans are paying the entire share of the research and development costs for these miracle drugs for all the other consumers around the rest of the world.

Several years ago, I talked to some seniors back in Minnesota and they talked to me about going to Canada to buy prescription drugs. But they told me that when they came back after they had their little vials of whatever drug it was, whether it was Claritin or Coumadin or Glucophage or whatever the drug would be, when they would try to reorder that drug from the pharmacy up in Winnipeg or wherever they had bought the drugs in from Canada, when they tried to reorder the drugs and when the drug came into the United States, they were stopped by the FDA. The FDA then sent a very threatening letter to those seniors saying that if they tried to do this again that, in effect, they could be prosecuted.

Now, if one was a 78-year-old grandmother getting a letter from the Food and Drug Administration in effect saying that she could be prosecuted, that what she is doing is illegal and if she tries to do this again, there are serious consequences, that is a very threatening thing to happen to a senior.

Now, they told me this story. They told me what was happening in their trips, their bus trips to Canada. I have to be very honest. It really did not register with me. In fact, it was not until almost 2 years later when a seemingly unrelated event occurred.

What happened was hog prices to our hog producers, to our farmers in Minnesota, the prices collapsed. In fact, they reached Depression-era prices. Hogs dropped to $6 per hundred weight. Now, to put this in perspective, the hog producers are selling for about $69 to $70 per hundred weight. So now hogs are profitable again. But we had a tremendous collapse in the price of hogs.

Now, to make matters worse there was a packing plant up in Canada that was supposed to come on line. There was some construction delays. For whatever reason the plant was delayed in being brought online. The net result was there were thousands of Canadian hogs, at perhaps the worst time in the history of hog production in the United States, thousands of hogs were coming across and making a disaster even worse.

Not surprisingly many of our hog producers complained about all of these Canadian hogs coming into our markets. Those of us who represent those districts we brought those complaints and concerns to some of the Federal officials in Washington. The answer we got was relatively short and simple. “Well, that is NAFTA, the North American Free Trade Agreement. That is what free trade is all about. You support free trade, do you not, Congressman GUTENNECHT?” I had to say, “Yes, I do.”

It was then that the light bulb really went on. Because I said if we are going to have free trade in terms of pork bellies, we ought to have free trade in terms of Prilosec.

I began to do some research. I feel sometimes like that little boy who came in and asked his mother a question. His mother was busy, and she said, “Why do you not go ask your father?” And the little boy said, “Well, I do not want to know that much about it.”

I began to do some research. I feel sometimes like that little boy who sometimes become the more I have learned about this prescription drug issue, the more angry I become.

There is really something wrong with a system that says that American consumers on average pay $69.99 for a month’s supply of Allegra 120 while our friends in Europe can buy the same drug for $20.88.

If you look at this list, this is not a complete list, in fact, this is not even my list. These numbers were compiled by a group who have been studying this issue for more years certainly than I have, a group called the Life Extension Foundation, Mr. (recently) Mr. (recently) they sent us a listing. They had done a study between the United States and Europe, and here are some of the numbers.

I hope people will look at this. Let us look at commonly prescribed drugs for senior seniors. I know it is commonly prescribed because my 82-year-old father takes Coumadin. He is fortunate. He worked for a union employer all of his life. He has a pretty generous prescription drug benefit in his insurance package; and as a result, he does not pay the full price. But if he did, and millions of American seniors do pay full price for Coumadin, the average price in the United States for a month’s supply of Coumadin is $377.47. That exact same drug in Europe sells for an average of $8.22.

Let us look at Glucophage. That is a drug that is taken principally by diabetics. If you are a diabetic in the United States and you are on Glucophage, you are probably going to be on it for the rest of your life. A 30-day supply here in the United States sells for an average of $30.12. That exact same drug made in the same Pfizer facility in Europe sells for only $4.11.

Let me say that again. The price in the United States, $30.12. The exact same drug in Europe sells for $4.11.

Mr. Speaker, this is indefensible. This is unsustainable. There is no one here in this body, there is no public policy maker in America, that can defend this chart. What is worse, the pharmaceutical industry cannot defend this chart. We have had representatives of what we call PHRMA into our office. We have showed them this chart and said please explain this chart.

These are multinational companies. Many of them are based in Europe. Many of the big pharmaceutical companies now are based in Geneva or London or Paris. How is it that you are willing to sell these drugs so much cheaper in European Union countries than you are here in the United States? Now the interesting thing is they do most of the research here in the United States and we are paying half of this. We want the research to remain here in the United States. But the dirty little secret is, we subsidize the starving Swiss.

CONGRESSIONAL RECORD—HOUSE July 10, 2001
July 10, 2001

CONGRESSIONAL RECORD—HOUSE

I am saying with the simple amendment that I intend to offer tomorrow. There is only time to notice the playing field. I do not believe in price controls. I do not believe in more government regulations. I think in the long run both price controls and government regulations are the wrong way to go at that. Just do a brief study of the former Soviet Union, because for over 70 years there is an experiment that failed. They tried to set prices. They tried to control markets. Mr. Speaker, markets are more powerful than armies. What the Soviet Union proved more than anything else is that you cannot hold back markets. We are in the Information Age, Mr. Speaker, and these kinds of numbers, these huge differences between what Americans pay and what Europeans pay for exactly the same drugs, that system could only survive before the Information Age. Now people can get on their computer, they can go online and find this information, and they can find out that in Switzerland they are able to buy Baxin for half the price that we pay in the United States. Once Americans realize this, because information is power, once Americans realize the huge differences that they pay for the same drugs, they are not going to stand for it. They are going to start marching on this Congress and they are going to demand that we do something.

In fact, how many times do we hear at some of our town hall meetings, Congress needs to do something? Well, I am going to go back to the point I made earlier. I do not support price controls, and the truth is some of the countries in the European Union have price controls. I think it is a bad idea, and I do not want to join them. But some of the countries in the European Union do not have price controls. Switzerland does not have price controls. Germany does not have price controls. A German can go in and buy drugs in Switzerland or a German can go in and buy drugs in France or in any other country. The European Union allows free markets within that area.

It is interesting, because just a few years ago we passed the North American Free Trade Agreement and some pork bellies can go across the borders, and fruits and vegetables can go across the borders and lumber can go across the border. There is nothing to stop one of my constituents from going to Winnipeg, Manitoba and buying a Chevrolet. As a matter of fact, I do not think there is anything that will stop that consumer from going online and on the Web and ordering almost any product they want from Winnipeg, Manitoba; or Paris, France; or Rome; or Frankfurt, Germany; or anywhere else. There is only one product which we for some reason have singled out and said American consumers do not have access to world market prices, and those are pharmaceuticals.

Now I am not here tonight to beat up on the pharmaceutical industry. As I said earlier in the discussion, I am appreciative that the pharmaceutical industry has done. Almost every one of us has a relative, a neighbor, a parent, a child, that has benefited from the research that the pharmaceutical industry has done.

Before I yield to my friend, the good doctor, the gentleman from Des Moines, Iowa (Mr. GANSKE), I want to talk about the three ways that we as Americans subsidize the pharmaceutical industry, because this is not largely understood. The truth of the matter is, we subsidize the pharmaceutical industry in three different ways. First of all, we subsidize them through the Tax Code. What the pharmaceutical industry is saying today is we take your investment tax credit for research and most of it is done here in the United States. I said earlier in my discussion I am delighted that they do the research here in the United States. The numbers that we have, the latest numbers that the pharmaceutical industry in the last year that we have numbers for spent about $12 billion here in the United States on research, and that is good.

What they do not say is that on the tax forms, most of these corporations are so profitable that they are at the 50 percent tax bracket, that at least half of that gets written off on their Federal income tax form. More of that gets written off on their State income tax form. Now what they are also eligible in some circumstances for is an investment tax credit. So we subsidize the pharmaceutical industry and the research that they do through the Tax Code.

Secondly, this year we will spend close to $14 billion through the NIH and other various government agencies, including the Defense Department, on basic research, most of which is available to the pharmaceutical industry free of charge. In other words, we are putting all this money into NIH and through NIST and other science agencies, also through the Department of Defense, and most of that information, once a discovery is found, is made available to the public and to the pharmaceutical industry for free. So there is about $14 billion worth of public research that is paid for by the American taxpayers. That is the second way we subsidize the research that they do.

The final way that we subsidize them is in the prices that we pay. These are outrageous. These are indefensible. Again, I am not here to really beat up on the pharmaceutical industry, because they are only doing what any industry does, which is work in terms of exploiting a market opportunity that we have given them. We give them a 17-year patent in which they can sell these drugs in the United States and really no one can compete against them. In other words, we give them a monopoly and on balance I think this system to avoid where we are exploiting this market opportunity. No, it is not "shame on the pharmaceutical industry for creating this kind of an environment." It is shame on us. It is shame on our own FDA for allowing this system to avoid where we are free to choose. Americans are paying for all of the research and most of the profits of the large pharmaceutical companies, many of which are not even based here in the United States.

I am delighted to have joining us today one of the physicians who serves here in the House, the gentleman from Des Moines, Iowa (Mr. GANSKE), a former wrestler and Iowa Hawkeye, a good friend, and one who is not afraid to take on giants. I have to tell the gentleman, I reread the story from the Book of Samuel to my son David and it was a powerful story. And sometimes when I think about the huge pharmaceutical industry and the simple little amendment, I feel like David, who went out on to that field, and he took from his sack a small stone, and he slung it at Goliath, and that is sort of where we are with this small amendment.

But I want to welcome the gentleman from Iowa (Mr. GANSKE), who is one, as I say, who we do not always agree, but, I will tell you, I have always admired and respected, and we are delighted to have the gentleman here tonight to talk a little bit about pharmaceuticals.

I will yield to the gentleman.

Mr. GANSKE. I thank the gentleman from Minnesota and would like to enter into a colloquy with him.

I think the gentleman is pointing out an important difference in the price in the United States for some of those drugs and the price in Europe. Now, correct me if I am wrong, but most of those European countries do not have price controls; is that correct? Some do, some do not.

Mr. GUTKNECHT. Some do, some do not. We do not want to get into a debate, because, in truth, I do not support price controls. I think the best way to break the backs of price controls is to have open markets, because once the pharmaceutical industry and European countries realize that American consumers are going to be buying from them at their prices, I think it is going to force the European Union and the pharmaceutical industry to come to a better agreement so we level the playing field. That is really what I am trying to say.

Yes, some have price controls, some do not. Every country has a slightly different regimen in how they deal with monopolies.

Mr. GANSKE. But it is a fair statement that the prices are significantly
lower for the very same prescription drugs that are made in the United States that are sent overseas, that they are significantly lower, some times half as much or even a quarter as much, in some countries, as they are in the United States. Is that not a fair statement?

Mr. GUTKNECHT. That is absolutely correct. As I say, these are not my numbers. This was an Independent Life Extension Foundation study done just recently between the United States and countries in the European Union.

Let me put out, and the gentleman is more familiar with some of these drugs than I am, that Glucophage, which is a drug that I understand that once many diabetes patients take, they take it daily, in fact I guess they have given them a new patent now. Instead of a twice-a-day tablet, there is a once-a-day tablet, which gives them an extra 17 years on their patent.

We are talking about seven times more, so if a patient who is going to have to take that perhaps for the next 30 years, you start multiplying that difference, we are talking about thousands and thousands and thousands of dollars, multiplied by, I do not remember the exact number, but something like 35 percent of all Medicare expenditures are in one way or another related to diabetes-related illnesses.

I believe the amendment we are talking about ultimately, when fully implemented, when consumers have access and understand how it works, could save American consumers $30 billion a year.

Mr. GANSKE. I want to just pin this down. The gentleman would say it is fair to say that there are many countries in the world where the prices are significantly less than they are in the United States; even though the drugs are exactly the same, they are made in the United States, they are shipped overseas, where they do not have price controls in those countries, but that the price is set by what the market will bear. Would the gentleman say that is a correct statement?

Mr. GUTKNECHT. That is a correct statement based on all of the evidence and research that I have received from independent agencies. That is correct. In fact, we even have an independent study of Canada, where they do have price controls, but they are not as firm as some people think. But a study done by the Canadian Government suggests that they are saving Canadian consumers hundreds of millions of dollars.

Mr. GANSKE. Now, the difference, the reason that we have these very high prices in United States, as versus, say, Switzerland, is because we cannot reimport those drugs from Switzerland into the United States because we have a Federal law that prevents that from happening. Is that the correct story?

Mr. GUTKNECHT. There again, the FDA holds that, yes, we have that law. Now, last year in Congress we passed legislation by overwhelming votes, it was something like 376 to 25 here in the House, 88 to 1 in the Senate, essentially going on record that we want to make it clear that law-abiding citizens should not be prevented from bringing legal drugs back into the United States, especially for personal use, like the law, in my opinion, today is not clear.

What we want to do with the amendment that I intend to offer tomorrow is clarify the legislative intent so there is no misunderstanding between the pharmaceutical industry, the FDA and American consumers that law-abiding citizens who have a legal prescription from a physician do have the right, using mail order, using the Web, using other methods, the telephone, they can order a medication made in England or Ireland and be able to order that drug and have it brought back in the United States, so long, again, as it is a legal, non-narcotic drug. That is the amendment I intend to offer. That, I believe, will ultimately level the playing field between the prices that Americans pay and what consumers in other countries pay, regardless of whether or not they have price controls.

Mr. GANSKE. That would mean, for instance, that a citizen in Minnesota could cross the border into Canada with a prescription and get it filled there, or a citizen in Texas or Arizona or New Mexico could cross the border and get a prescription filled there, and that would not be illegal. They could bring that back into the United States. That is the gist of the gentleman’s amendment; is that correct?

Mr. GUTKNECHT. That is correct.

Mr. GANSKE. Okay. Now, then, we had hearings in my committee, the Committee on Commerce, talking about how there are some counterfeit drugs that get into the market. These hearings primarily focused on some very expensive drugs, like growth hormones, that are used for body building and other types of uses and sometimes can cost as much as $2,000 a vial. It has been reported in the press that some of that medicine is not real, that there has been adulteration or false packaging.

Now, my understanding is that this has happened within the United States. Is that the gentleman’s understanding?

Mr. GUTKNECHT. Absolutely. The counterfeit drugs that some of these people are talking, or adulterated drugs, first of all, I want to make it clear, my amendment does not make them legal. We are only talking about drugs that are otherwise legal in the United States, where people have a legitimate prescription from a doctor. But in my opinion, it is that, you are quite right, sir. Where this really happens, is when people travel.

For example, let me give you a story from one of the ladies at one of my town hall meetings. She has a skin condition, I think called eczema or psoriasis, but, anyway, she has a skin condition and had a dermatologist in Rochester, Minnesota, has prescribed a particular ointment only available with a prescription, and in Minnesota it sells for about $310 for one tube. She was traveling in Ireland a couple of years ago and began to run out of this cream. She went to a pharmacy in Ireland, she had her prescription with her, she went into the local pharmacy, took her prescription, they had exactly the same drug, in exactly the same tube, made by exactly the same company, and it was $30.

Now, when she got back to the United States, she said to herself, because she needs about a tube of this every month, at $310 in the United States, as versus, $30 in Ireland, a savings of $280 a year to this one individual.

She looked at the tube, and on the tube or on the box that it came in, it had the name of the pharmacy, and it had the telephone number. So what she did was a lot of American consumers would do to save $1,200 a year. She picked up the phone, made a $2 phone call to Ireland and said, could I get that prescription refilled? The pharmacist over there said, absolutely. So she ordered it from a retailer in the United States and had it shipped to her home, is there?

Mr. GUTKNECHT. No. In fact, if the FDA wants to test it, and frankly, I want the FDA to enforce laws against illegal drugs. But can I just show the gentleman another chart, because I think it talks to this very point.

The problem with the FDA is not that they do not have the power to inspect; it is that they spend all of their time chasing legal drugs and law-abiding citizens. They are focusing on the wrong end.

Last year, for example, instead of stopping illegal drugs imported by illegals, they detained 18 times more packages coming in from Canada than from Mexico.

We do not have a problem with Canada. We know a lot about the pharmacies in Canada. They have strong and stringent regulations in Canada. Does the FDA detain 90 times more packages from Canada? This was last year. Last year the FDA detained 90 times more packages from Canada than from Mexico.
They are chasing law-abiding citizens bringing legal drugs in. What they need to do is focus on the traffic that the gentleman is talking about. We know you have adulterated drugs, where you have got illegal drugs, where you have got all kinds of mischief going on, which, incidentally, the gentleman and I both know that as long as we try to play by the rules that the FDA has set in place now, you are going to get more of. Because more and more consumers who cannot afford some of these very expensive drugs, as we talked about before the gentleman arrived, Zithromax 500, $486 in the United States, $76 in Europe, what you are going to do is get more and more law-abiding citizens trying to figure out, how can I get those drugs, either legally or illegally, in the United States? Because the truth of the matter is that a drug somebody cannot afford is neither safe nor effective.

Mr. GANSKE. So let me get this straight. What the gentleman would like is he would like the FDA to have enhanced to the point that not only drugs coming into the United States from other countries are checked to make sure they are valid, but also to make sure that shipments that originate within the United States are not adulterated and are real drugs, too. And I believe at the bottom of the gentleman’s other thought, the gentleman points out that we appropriated additional millions of dollars for border enforcement last year.

Mr. GUTKNECHT. And the FDA refused to use it, and that is why we need this amendment this year, is to clarify what we said last year, stop chasing law-abiding citizens with legal drugs and legal prescriptions. Let me suggest this: I do not know how many of our colleagues have gotten a package recently from UPS or Federal Express, I believe even the Post Office does it now, but they put a bar code on those packages. The truth of the matter is I believe that within a matter of months, if the FDA was serious about this and did not want to pursue law-abiding American citizens who are trying to save a few bucks on their prescription drugs, they could create a bar coding technology to know where that package came from, when it was shipped, and, frankly, they could even put what is in it.

In fact, we now have the technology, and it is used in most hospitals, the software was developed in Minneapolis, Minnesota, I can put them in touch with the people that developed it, in virtually every hospital now, when you go in the hospital, they put a bar-coded bracelet around your arm, and when they dispense prescription drugs in the hospital they bring them in, they take the wand across your brace-let and a wand across the bar code on the package so that they know, they can literally go back to their computer and know that at 3:10 p.m. this afternoon, you were given two tablets of Tylenol, or whatever the drug happened to be.

That kind of technology is not science fiction. This is available today. And if the FDA is serious about this, we can help them solve the problem.

The real issue is do I not think the FDA wants to solve the problem. They continue to commingle illegal drugs with legal drugs, and they continue to pursue the law-abiding citizens bringing in legal drugs, and yet there are literally millions of dollars of illegal drugs not only coming in from outside the United States, but, as the gentleman suggested, they are originating in the United States, and little or nothing is being done about that.

Mr. GANSKE. Mr. Speaker, I think this is a very, very important point; and I hope that some of our colleagues are in their offices working tonight, and this is a presentation, because for sure, when the gentleman’s amendment comes up, we are going to hear tomorrow all kinds of horror stories about how an adulterated drug or a fake substance could be imported from the United States so the patient would not be getting the medication that they need, or even worse. But the real point is that that can happen within the United States just as easily, and that what we really want is what we want the FDA to do its job, both on drugs that would come back into this country, but also on drugs that would be moving within this country, from one State to another State.

It is easy to think, if we have a drug that could cost $2,000 a vial, that we could create some labels in New York, put some substance into that vial, and ship it over to California and have a big scam operation going on. I mean, that is happening within the United States.

But what the gentleman is talking about for the vast majority of our senior citizens or others who need medications are not that that vial of growth hormone that costs $2,000, but the difference in, if the gentleman would put the other chart up with some of the examples of the prices, let us take, for example, Coumadin. That is a blood thinner. In the United States, it is going to cost $37 for a 30-day supply; in Europe it will cost $8.22. It does not make sense for organized crime to get involved with changing labels for a drug of that price range when it is going to an individual.

Now, if we are talking about wholesale, larger shipments, then I think it is a legitimate concern; but it is also one that I would answer just like we did last year, by appropriating more money for the FDA to step up its surveillance and make sure that it does not happen. But I will tell the gentleman something. If we take that drug that costs $500, the Zithromax, $486 for a 30-day supply, we can have just as big a concern within the United States as from anything coming from overseas.

So I believe that these issues are being mixed up in an effort to basically defeat what I see as a free market approach to helping bring drug prices down in the United States. We have very high prices here because there is protection for the high prices here when we cannot introduce competition with lower-priced drugs, the same drugs from overseas. If we would allow our constituents to be able to order that drug from Pharmaworld in Geneva, Switzerland, at half the price, we know what would happen here. We know that the competition would drive the prices down at our pharmacies in this country too.

Mr. GUTKNECHT. Mr. Speaker, as I said earlier, markets work.

Mr. GANSKE. Or, for example, some-one’s local pharmacist would be able to order that drug from the overseas supplier at the lower price and would be able to pass those savings on to the consumer. That is why this idea passed the House of Representatives with 350-plus votes just a year or so ago. But I believe, then, that the opponents to that legislation brought forward this issue of the fact that there are fake drugs that are occasionally found and then used that to try to knock down the whole idea of increased competition from overseas.

Really, the solution is simply, both within the United States and from drugs that could come in from abroad, making sure that the FDA does its job. This is part of a bill that I introduced on prescription drugs. The other main concern, the main concern of that bill is that for low-income seniors, we would allow them to utilize the State Medicaid drug programs up to 175 percent of poverty and get a Medicaid card and be able to go to their local pharmacist; and I believe that there is a way to work with the pharmaceutical houses on that issue and avoid a national drug pricing mechanism. That is a little different issue, but the idea that the gentleman from Minnesota (Mr. GUTKNECHT) has, I think, is a legitimate one, and it basically is a free market approach that just makes the market a little bigger. It makes it more global than a protectionist policy that stops at our borders that prevents the very same drugs made in the United States, made in New Jersey and shipped overseas as versus consumed here, the very same drugs, from coming back in at a somewhat less price.

So tomorrow, when we debate this, we will probably not have that much time. It will probably be a time-limited amendment. There have been a lot of opponents that have been putting newspaper ads into newspapers around the country or even running television
and radio ads on this issue; but I will tell the gentleman, I have a lot of constituents back home in Des Moines, Iowa, who, when they go down to Texas for the winter, they take their prescriptions, they go across, they look at the labels, they see it is made in the United States, the same drug, they bring it back for half price. The gentleman’s amendment tomorrow would allow them to continue to do that. I think that it would be somewhat difficult for many Members of this House to switch their vote from supporting that idea last year to voting against it this year.

I yield back to the gentleman from Minnesota.

Mr. GUTKNECHT. Mr. Speaker, I agree with the gentleman. I think Members understand this issue, and it really is a choice between are you going to stand with your seniors who are having a difficult time affording their prescription drugs, or are you going to defend the FDA bureau and the pharmaceutical industry. I think that really is the vote. At some point, if they vote, particularly if they change their vote this year, they are going to have to explain this chart to their constituents. They are going to have to explain why they should have to pay $30.12 for Glucophage in the United States when their European friends can buy it for $4.11.

Let me talk briefly, if I can, about the whole issue of safety because frankly, that is an area where our opponents have really focused in and there have been a lot of scare tactics, as the gentleman mentioned, running newspaper ads and radio ads and television. But the interesting thing is at least in my area, my seniors are a whole lot smarter than those ads, because most of the calls that are coming in are saying absolutely, this is the right thing to go. They understand that price difference. They understand safety. They understand that they are willing to take a slight risk. The most important thing is when they go down to the local pharmacy, they might get the wrong medication. It might get in the wrong bottle. There is always some element of risk.

Out there in New York Harbor, it is called the Statue of Liberty, but it is not called the Statue of Security. We always take some risk. I cannot say that my amendment is risk-free, but as the gentleman indicated, the system today is not risk-free. But here is the interesting thing. In all of the advertising, they do not mention any people who have been injured by bringing legal drugs into the United States with a prescription. Not one. There is no known study that demonstrates that public health has been injured by patients importing legal medications with a prescription under the order of their doctor.

What is more, millions of Americans have no prescription drug coverage. And as I said earlier, a drug that one cannot afford is neither safe nor effective. That is when people start cutting up the tablets to start, and they start looking back to street vendors or people who may be selling adulterated drugs. Let us just talk about safety, because when we mention the FDA, we talk about drugs and medical devices and so forth, but we forget that part of the reason this amendment is in order to the agriculture appropriations bill is because it is the Food and Drug Administration. They get their money through the agriculture appropriation bill.

I asked my staff a few weeks ago, I said, now, wait a second. We import literally hundreds of thousands of pounds of raw meat every day. We import millions of pounds of fruits and vegetables. There must be some that people get sick, because I remember a couple of years ago, there were some kids who had gotten sick, about 200 kids who got sick from eating strawberries imported from Mexico. Maybe the gentleman remembers the story; but somehow, that some pathogen had gotten on the strawberries and they got sick. Well, what did the FDA do about that? The truth is, almost nothing.

Mr. GANSKE. Mr. Speaker, if the gentleman would yield, in that situation, what Congress responsibly does is it provides the resources to the USDA to do those inspections at the border. That is why, for instance, we have increased our funding for making sure that Foot and Mouth Disease does not get into the United States. That is why last year we appropriated $23 million extra dollars for the FDA to do its appropriate job with monitoring to make sure that drug shipments that will come back in are the real thing.

But still, let us get back to this point, and that is that one can go down to the local pharmacy, they have their medicine from somewhere in California or New Jersey or Florida. What is their level of confidence? Their level of confidence is that we have an FDA that monitors that every so often. But every so often, once in a while, very rarely, especially with this particularly very, very high-priced drugs, they have found that there have been some fraudulent drug. They are doing their job when they find that. And they will do their job if Congress appropriates the appropriate amount of money to monitor any medicines coming back into the country from Switzerland or Germany or Ireland or Canada. I mean, it is not a problem that cannot be solved.

Mr. Speaker, I would tell the gentleman, the savings to the individual that we are talking about is the difference between, as the gentleman has already said, is the difference between many times their having the drug at all for their heart failure or for their high blood pressure or for other serious conditions. There is no question. We would not be dealing with the issue of high cost of prescription drugs in this country. It would not be a major issue of such a big issue in the last presidential campaign if this were not a real problem.

So I commend my colleague from Minnesota for talking about this. I look forward to the debate tomorrow on this amendment. I do think that the gentleman’s amendment is well thought out because, correct me on this, but there is nothing in the gentleman’s amendment that would prevent any funding for the FDA to do its job; is that correct?

Mr. GUTKNECHT. No, it just simply says you cannot use the money to pursue law-abiding citizens who have a legal prescription.

Mr. GANSKE. But there is no de-coupling the funding overall for the FDA’s surveillance.

Mr. GUTKNECHT. No. We have made it clear to the FDA, as we did last year, you tell us what you need to do this job, and we will see that you get the funding. They asked for $23 million. We appropriated $23 million. Then after we had appropriated the $23 million and literally let them write the language, they reneged on the deal. So this year, in effect we are saying, and we really mean it.

Now, in conference committee I am willing to work with them to get this done.

Mr. Speaker, I do want to come back briefly, and I know the gentleman has to go; but I want to come back to the safety issue. There is another secret that the FDA does not want to talk about, and I started to mention how many tons of raw meat and fruits and vegetables come into the United States. There has been concern about pathogens and what they can cause. The gentleman is right. We import many, many tons of raw meat and fruits and vegetables every day. We import 322,000 pounds of pork. We import 1.6 million metric tons of beef into the United States. We import 320,000 pounds of pork. We imported from Mexico a grand total of 3.1 million metric tons of fruits and...
vegetables from Mexico. We imported from South America over $72 million worth of fruits and vegetables from South America.

Now, we import a lot of food into this country every single day. Here are the numbers. According to their study, the total percentage of food that was contaminated with either salmonella, shigella, and I am probably not saying that right, or E. Coli, the total percentage of that sample that they took was 4.4 percent.

Now, we know people get sick every single day in the United States. I have had food poisoning twice in my life. We know there are thousands of people who get sick from food poisoning, from salmonella. We know that is serious. What is the FDA doing to inspect every single piece of produce, every pork belly, every piece of beef that comes into the United States?

Do Members know what they are doing? It would not be fair to say nothing, but it would be almost fair. Almost nothing is done.

I just want to make one last point, and it is this. What the FDA is doing in terms of prescription drugs is they are going to build a wall about a mile high. Yet, when it comes to food that we eat every day, of which, by their own study, 4.4 percent is contaminated with salmonella and other dangerous pathogens, there is almost no inspection, almost none. It comes right across the border.

If we are going to say we have to be absolutely certain of every single package of pharmaceuticals, then by golly, should we not say the same for fruits, for vegetables, for pork bellies? That is all I am saying. I am willing to work with them, and with new technology I think we can have a system that will be far safer than it is today, but they do not want to work with us.

Mr. GANSKE. Continuing the gentleman's analogy, Mr. Speaker, what the gentleman is saying is that there is not anyone in this House who is going to propose that we cut off all imports of beef or vegetables or fruits that come into the United States. Nobody is proposing that. If there is a problem related to pathogens in meat or in some of those vegetables, that is why we have the USDA. That is why we have an inspection process. That is why we appropriate a certain amount of money.

If there is a problem, then we will appropriate more funds for the inspection to make sure that our food and vegetables coming into the United States are safe. But as the gentleman has pointed out on prescription drugs, there is no known scientific study demonstrating a threat of injury to patients importing medications with a prescription from Americanized countries.

When we went to the Food and Drug Administration last year, we said, "If there is an increase in the flow of reimported drugs, what do you think you need to do to adequately inspect those to make sure there is not a problem?" They told us, and we appropriated that. We can continue under this amendment. The real question is, do we allow some competition to help lower the cost of prescription drugs. I think it will be a very interesting vote here on the floor tomorrow on this amendment, because I think that the opponents to last year's legislation have seized upon a red herring. They have seized upon the fact that even within the United States there have been a few examples of exceptionally high-priced drugs where there has been fraud. Then they say, "Well, see, if there have been a few cases here in the United States, that could happen from drugs imported from abroad."

I think my response and the gentleman's is that that would be that is even more reason why we adequately fund the FDA, but it can happen in the United States just the same as it could happen on a reimported drug. That is not a reason per se to argue against reimportation.

Mr. GUTKNECHT. Mr. Speaker, here is another chart that basically says we have to do something to bring our prices into line. Last year the average senior in the United States, well, seniors in the United States get a cost of living adjustment in Social Security of 3-1/2 percent. Total expenditures on pharmaceuticals went up 19 percent. We cannot continue this. This will eat us out of house and home. This kind of thing, this is what is causing consumers to look at ways that they can save some money.

This chart, as I say, when our colleagues vote tomorrow, and I have prepared this and I will make this available to any Member who wants to mail it to those in their district explaining. A, the problem, the chart, the differentials, and it also answers the four most commonly asked questions or arguments against this simple little amendment. Anybody who wants a copy can get a copy of the amendment. It is a very simple amendment.

Mr. GANSKE. Mr. Speaker, I wonder if the gentleman would mind reading that amendment.

Mr. GUTKNECHT. I would be happy to. It is now in the CONGRESSIONAL RECORD, "Amendment to H.R. 2330 as reported offered by Mr. GUTKNECHT of Minnesota."

"At the end of Title VII, insert after the last section preceding any short title the following section, section 7: None of the amounts made available in this act to the Food and Drug Administration may be used under Section 801 of the Food and Drug and Cosmetic Act to prevent an individual who is not in the possession of an FDA-approved prescription drug within the meaning of Section 801(g), and I am not a lawyer, but we had three very smart ones help write this, "of such act from importing a prescription drug that, 1, appears to be FDA approved; 2, does not appear to be a controlled substance; and we do not refer to the title under this amendment, we are not talking about any controlled substances or narcotics, "or, number 3, and appears to be manufactured, prepared, propagated, compounded, or processed in an establishment registered pursuant to section 503 of such act."

In other words, it has to be made in an FDA-approved plant. It has to be sold through FDA-approved channels. It has to be sold with a legal prescription.

Again, simply put, this says the FDA cannot spend its resources chasing law-abiding citizens who are bringing in legal drugs with a legal prescription. That is all we are saying in this amendment. We are not talking about bulk reimportation.

Mr. GANSKE. If the gentleman will yield further, Mr. Speaker, there is nothing in the gentleman's amendment that reduces the amount of funding to the FDA.

Mr. GUTKNECHT. No. It just says they cannot spend the money chasing law-abiding citizens. Go after the people who really are the problem.

More importantly, I would love to see the FDA do a better job of policing the fruits and vegetables, and the pork bellies and all the beef and raw meat that come into this country every day. I do not want to scare people, but that was a scary number to me. Does it not bother the gentleman that 4.4 percent of the samples that they tested had either salmonella, shigella, or other dangerous pathogens present on the product? That bothers me.

The gentleman has a pretty good solution to some of this. It is electronic pasteurization. That is the term I like to use. Frankly, I think we need to move down that path. But this is the scary thing. If the gentleman has ever had food poisoning, in some respects I think it is far more dangerous than people trying to save a few bucks on coumadin by buying it through a pharmacy in Winnipeg, Manitoba.

Mr. GANSKE. If the gentleman will yield further, Mr. Speaker, speaking from personal experience, I have had a life-threatening experience with food poisoning, which became a case of encephalitis. It is a scary thing. I believe that the USDA is doing a pretty good job on its inspection of meat and vegetables, fruit. I would certainly be in favor of additional funding for that, and I am in favor of additional funding to help the FDA monitor the validity of drugs in this country, as well as that that would be imported or reimported.

I just want to commend my colleagues, the gentleman from Minnesota, for bringing this important issue to the attention of our colleagues.

Mr. GUTKNECHT. I thank the gentleman from Iowa (Mr. GANSKE) for
coming down to visit with us tonight. This is a very important issue.

Ultimately, one has to open up the markets and allow American consumers to have access to prescription drugs at world market prices. I believe that this simple little amendment, once fully implemented, could save American consumers $30 billion. I may be wrong; it may be $28 billion, it may be $31 billion, but even here in Washington, that is a lot of money. If one is a consumer that needs a drug, like that lady with that ointment, and one can save $1,200 a year buying the same drug that comes from the same manufacturer from the same FDA-approved facility simply by picking up a phone and making a $2 phone call to Ireland, I do not think we as public policymakers should stand idly by and allow that taxpayer to pay for and ultimately American consumers, and particularly American senior consumers, we should not and cannot stand idly by and allow our own FDA to stand between those people and lower prescription drug prices.

I just want to close with a few other points. Some say a Medicare drug benefit will eliminate the need for importation and open markets. Mr. Speaker, if we think about that argument for even a moment, we will realize that simply shifting high drug prices to the government only transfers these huge pharmaceutical bills to the American taxpayers.

Moreover, Medicare coverage will not help the millions of Americans who currently have no prescription drug benefit. So simply shifting the burden of $300 billion, or whatever the number we ultimately come up with, and I support expanding the Medicare program. In fact, I think the gentleman from Iowa (Mr. GANSKE) has the best program in doing it through the Medicaid systems that every State already has in place.

But it is not an answer to just create a new entitlement funded by the Federal Government. If we do not get control of prices of prescription drugs, if we continue to allow what really amounts to unregulated monopolies, where American consumers, through the Tax Code, through the research dollars, paid for the drug, ultimately through the prices that they pay for, if we stand idly by and say, well, I guess American consumers have to pay for all of the research of all the governments and all the other people of the rest of the world, then shame on us. Shame on us. We have an opportunity tomorrow to set the record straight.

We do not necessarily want price controls in the United States. We do not want a huge bureaucracy and more regulations. But we do want to have access to markets.

In a couple of weeks, we are going to have another great debate about free trade. The President of the United States, I have supported giving the President what they call a fast track trading authority. Now I think we have a somewhat different name, advanced trade authority or trade promotion authority. There is some other term for it.

Basically, I support giving the President more latitude to negotiate trade agreements. I support that idea. I support free markets.

However, Mr. Speaker, I support free markets when it comes to American consumers, too. We cannot just have free markets when it benefits large corporations, we have to have free markets when they benefit consumers, too. This idea that we are going to stand idly by and allow American consumers to pay three, four, five, six, seven times more for the same prescription drugs in the Information Age, as they say back home, that dog will not hunt.

I do not know if we are going to win this debate tomorrow on the amendment or not. I do not know what is going to happen. We have given every good argument. We have talked about free trade, about safety, about prices, about how we can help American consumers.

I do not know whether we are going to win this amendment tomorrow, but we are going to fight a good fight. We are saying to the administration, it is time for them to decide, are they going to stand on the side of the big pharmaceutical industries? Are they going to defend an FDA bureaucracy which cannot even protect American consumers all that well from food-borne pathogens? Or are they going to stand with American consumers, stand with seniors?

I will say this, if the FDA decides that they want to take Grandma to court for trying to save an extra $35 on a three-month supply of coumadin, some of the people in this room are going to be there on the courthouse steps to meet them.

This is an important issue. It amounts to billions of dollars. It is the right thing to do. It is good policy, and ultimately, it means good things for American consumers.

Frankly, I think in the long light of history it will be good for the pharmaceutical industry, because it will force the Europeans to rethink their pricing structures. It will level the playing field. That is what we want to do, and we hope tomorrow, with the support of the Members of this Congress, we are going to get that done and send a clear message to the world that we stand with American consumers, we stand with free markets.

It is time for us to say the subsidization of the starving Swiss must end.
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OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES
The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

Honorable J. RANDY FORBES, 4th Virginia.

EXECUTIVE COMMUNICATIONS, ETC.
Under clause 8 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:

2743. A letter from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the report of the agency’s final rule—Cranberry Marketing Order [Docket Nos. FV01–929–2 FR and FV00–929–7 FR] received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2744. A communication from the President of the United States, transmitting the District of Columbia Fiscal Year 2002 Budget Request Act and Fiscal Year 2001 Supplemental Budget Request, pursuant to Public Law 105–33 section 11701(a)(1) (111 Stat. 780; H. Doc. No. 107–94); to the Committee on Appropriations.

2745. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General James C. King, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

2746. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Donald L. Peterson, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

2747. A letter from the Secretary, Department of Defense, transmitting the Department’s revisions to both the Fiscal Year (FY) 2001 and FY 02 Annual Materials Plan (AMP); to the Committee on Armed Services.

2748. A letter from the Secretary, Department of Defense, transmitting the Department’s review of policy on payment of claims; to the Committee on Armed Services.

2749. A letter from the Assistant General Counsel, Department of the Treasury, transmitting the Department’s final rule—Resolution Funding Corporation Operations (RIN: 1505–AA79) received June 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2750. A letter from the Assistant General Counsel, for Regulations, Department of Housing and Urban Development, transmitting the Department’s final rule—Mortgage Insurance Premiums in Multifamily Housing Programs [Docket No. FR–4679–1–01] (RIN: 2502–AH84) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2751. A letter from the Acting Deputy Assistant Secretary for Congressional and Intergovernmental Relations, Department of Housing and Urban Development, transmitting the Federal Housing Administration’s (FHA) Annual Management Report for Fiscal Year 2001, pursuant to 5 U.S.C. 1505–AH64; to the Committee on Financial Services.

2752. A letter from the Chairwoman, Federal Deposit Insurance Corporation, transmitting a copy of the Corporation’s Annual Report for calendar year 2000, pursuant to 12 U.S.C. 1827(d); to the Committee on Financial Services.


2757. A letter from the Director, Office of Management and Budget, transmitting a report on the Cost Estimate For Pay-As-You-Go Federal Reform Proposals; to the Committee on the Budget.

2758. A letter from the Deputy Assistant Secretary for Policy, Planning and Innovation, Department of Education, transmitting Final Regulations—Federal Family Education Loan Program and William D. Ford Federal Direct Loan Program, pursuant to 5 U.S.C. 1232(f); to the Committee on Education and the Workforce.

2759. A letter from the Deputy Director, National Institute on Disability and Rehabilitation Research, Department of Education, transmitting Final Priorities—Improving Vocational Rehabilitation Services for Individuals who are Blind or have Severe Visual Impairments and on Improving Vocational Rehabilitation Services for Individuals Who Are Deaf or Hard of Hearing, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

2760. A letter from the Deputy Director National Institute on Disability and Rehabilitation Research, Department of Education, transmitting Final Priorities—Strategies for Promoting Information Technology (IT)-based Educational Opportunities for Individuals with Disabilities, Stategies for Promoting Information Technology (IT)-based Employment and Training Opportunities for Individuals with Disabilities, and Strategies for Individuals Who Are Blind, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

2761. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department’s final rule—American Indian and Alaska Native Education Research Grant Program—received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2762. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department’s final rule—School Finance Accountability and Uniformity Program—received June 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.


2764. A letter from the Secretary, Department of Commerce, transmitting the third annual report mandated by the International Anti-Bribery and Fair Competition Act of 1998; to the Committee on Energy and Commerce.

2765. A letter from the Secretary, Department of Commerce, transmitting the Department’s report on the effectiveness of delivery of electronic mail as compared with the delivery of written records via the U.S Postal Service and private express mail services, pursuant to section 105(a) of the Electronic Signatures in Global and National Commerce Act of 2000; to the Committee on Energy and Commerce.

2766. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department’s
transmitting the Department's final rule—Delegations, Grants, Cooperative Agreements, and Related Fund Management (RIN: 1512–AC19) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.


2009. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Notional Principal Contracts—received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2010. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Notional Principal Contracts—received June 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.


2012. A letter from the Assistant Secretary, Department of Defense, transmitting notification that the proposed plan for the U.S. Army Communications—Electronics Command, and related National Security Agency Engineering Community (RDEC), have been approved under authority of the National Defense Authorization Acts for Fiscal Years 1995 and 2000; jointly to the Committee on Armed Services and Government Reform.

2013. A letter from the Board Members, Railroad Retirement Board, transmitting the 2001 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly to the Committees on Ways and Means and Transportation and Infrastructure.

2014. A letter from the Secretary, Department of Health and Human Services, transmitting a draft bill entitled, “Medicare Contraction Reform Amendments of 2001”; jointly to the Committees on Ways and Means and Energy and Commerce.


2016. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, to prescribe military pay and allowances for fiscal year 2001, and for other purposes; jointly to the Committees on Armed Services, International Relations, Energy and Commerce, Education and the Workforce, Veterans' Affairs, the Judiciary, Transportation and Infrastructure, Resources, Government Reform, the Budget, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 271. A bill to direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center (Rept. 107–122). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 698. A bill to establish the Oil Region Authority Acts for Fiscal Years 1995 and 1996 approved under authority of the National Defense Authorization Act for Fiscal Year 1995 and 2000; jointly to the Committee on Armed Services and Government Reform.

Mr. RABON: Committee on Transportation and Infrastructure. H.R. 2356. Referral to the Committees on Energy and Commerce and the Judiciary discharged from further consideration. H.R. 2356 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII, the following action was taken by the Speaker:


PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

[Omitted from the Record of June 28, 2001]
<table>
<thead>
<tr>
<th>Number</th>
<th>Bill Number</th>
<th>Bill Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>12766</td>
<td>H.R. 2404</td>
<td>A bill to authorize Federal agency participation in financial assistance for programs for and for infrastructure improvements for the purposes of increasing deliverable water supplies, conserving water and energy, restoring ecosystems, and enhancing environmental quality in the State of California, and for other purposes; to the Committee on Resources.</td>
</tr>
</tbody>
</table>

[Submitted July 10, 2001]

By Mr. TOM DAVIS of Virginia (for himself, Mr. MORAN of Virginia, Mr. DUKAS, and Mr. SESSIONS): H.R. 2435. A bill to encourage the secure disclosure and protected exchange of information about cyber security problems, solutions, test practices and test results, and related matters in connection with critical infrastructure protection; referred to the Committee on Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HANSEN (for himself, Mr. YOUNG, Mr. TAYLOR of Texas, Ms. CUBIN, Mr. THORNBERRY, Mr. OTTER, and Mr. CALVETT): H.R. 2436. A bill to provide secure energy supplies for the United States, and for other purposes; referred to the Committee on Resources, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Ohio: H.R. 2437. A bill to deem hospitals in Hillsdale County, Michigan, as being located in the Kalamazo-Battle Creek, Michigan, Metropolitan Statistical Area for purposes of reimbursement under the Medicare Program; to the Committee on Ways and Means.

By Mr. BOEHLERT: H.R. 2438. A bill to elevate the Environmental Protection Agency to Cabinet-level status and redesignate such agency as the Department of Environmental Protection; to the Committee on Government Reform.

By Mr. ROSS (for himself, Mr. BERRY, Mr. PICKERING, Mr. THOMPSON of Mississippi, Mr. SHOWS, Mr. FORD, Mr. SMITH of Arkansas, Mr. SMITH of Mississippi, Mr. THOMPSON of California, Mr. TURNER, and Ms. HARMAN): H.R. 2439. A bill to amend the Agricultural Marketing Act of 1946 to require retailers of farm-raised fish inform consumers, at the final point of sale to consumers, of the country of origin of the commodities; to the Committee on Agriculture.

By Mr. TOM DAVIS of Virginia: H.R. 2440. A bill to rename Wolf Trap Farm Park as ‘‘Wolf Trap National Park for the Performing Arts’’, and for other purposes; to the Committee on Resources.

By Mr. BAKER: H.R. 2441. A bill to amend the Public Health Service Act to redesignate a facility as the National Hansen’s Disease Programs Center, and for other purposes; to the Committee on Science.

By Mr. GRUCCI: H.R. 2442. A bill to provide veterans benefits to certain individuals who serve in the United States Armed Forces during a period of war; to the Committee on Veterans’ Affairs.

By Mr. LAMPSON: H.R. 2443. A bill to promote the development of the United States space tourism industry, and for other purposes; referred to the Committee on Science, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MYRICK: H.R. 2444. A bill to suspend temporarily the duty on 9,19-Anthrachinone,1,8-di-hydroxy-4-[4-(2-hydroxyethyl)phenoxy]lamo]-5-nitro-; to the Committee on Ways and Means.


By Mr. MYRICK: H.R. 2446. A bill to suspend temporarily the duty on Benzene-sulfonic acid, 2,2,2-tris(1-ethyl-1,2-ethanediyl)bis(4-fluoro-1,3,5-triazine-4,2-diyl)iminato[2-(aminocarbonylamino)-1-phenoxy]azo]bis[5-(4-sulfophenyl)azo]-, sodium salt; to the Committee on Ways and Means.

By Mr. MYRICK: H.R. 2447. A bill to suspend temporarily the duty on a mixture of 2-Naphthalenesulfonic acid, dimethylaminoethyl chloride, dimethylaminoethyl sulfonate, and dimethylaminoethyl sulfonamide; to the Committee on Ways and Means.

By Mr. MYRICK: H.R. 2448. A bill to suspend temporarily the duty on 6-amino-4-hydroxy-5-[2-(hydroxy-kappa.O)-4-nitrophenyl]azo-o-kappa.N1]-N-methyl-2-naphthalenesulfonamidato(2-)[6-(aminokappa.N1)-5-naphthalenesulfonato(3-)-], disodium; to the Committee on Ways and Means.

By Mr. MYRICK: H.R. 2449. A bill to suspend temporarily the duty on 4-

By Mr. GRUCCI: H.R. 2450. A bill to elevate the Environmental Protection Agency to Cabinet-level status and redesignate such agency as the Department of Environmental Protection; to the Committee on Government Reform.

By Mr. TOM DAVIS of Virginia (for himself, Mr. MORAN of Virginia, Mr. DUKAS, and Mr. SESSIONS): H.R. 2451. A bill to require recreational facilities to report information concerning deaths and certain injuries and illnesses to the Secretary of Health and Human Services, for the purposes of increasing delivery of public safety officers; to the Committee on Resources.

By Mr. SHAWS (for himself, Mrs. LOWEY, Mr. ROTHMAN, Mr. LIPINSKI, and Mr. PASCRELL): H.R. 2451. A bill to authorize grants for the construction of memorials to honor men and women of the United States who were killed or disabled while serving as law enforcement or public safety officers; to the Committee on Resources.

By Mr. SHAYS (for himself, Mrs. LOWEY, Mr. ROTHMAN, Mr. LIPINSKI, and Mr. PASCRELL): H.R. 2451. A bill to authorize grants for the construction of memorials to honor men and women of the United States who were killed or disabled while serving as law enforcement or public safety officers; to the Committee on Resources.

By Mr. SIMMONS (for himself and Mr. NEAL of Massachusetts): H.R. 2452. A bill to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to provide for implementation of the management plan for the Quinebaug and Shetucket Rivers Valley National Heritage Corridor to the Committee on Resources.

By Mr. UPTON (for himself, Mr. MORAN of Virginia, Mr. GREENWOOD, Mr. ROEMER, Mr. PICKERING, Mrs. ROUKEMA, and Mr. ROHABECH): H.R. 2453. A bill to amend the Foreign Assistance Act of 1961 to improve injection safety in intravenous or other disease control programs administered under that Act; to the Committee on International Relations.

By Ms. WATSON: H.R. 2454. A bill to redesignate the facility of the United States Post Service located at 5472 Crenshaw Boulevard in Los Angeles, California, as the ‘‘Congressman Julian C. Dixon Post Office Building’’; to the Committee on Government Reform.

By Mr. TOM DAVIS of Virginia (for himself, Mr. GRUCCI, Mr. MORELLA, Mr. SCHAPPER, Mr. McCOVY, Mr. PETERSON of Minnesota, and Mr. MORAN of Virginia): H. Con. Res. 181. A concurrent resolution expressing the sense of Congress regarding the United States Congressional Philharmonic Society and its mission of promoting musical excellence throughout the educational system and encouraging people of all ages to commit to the love and expression of musical performance; to the Committee on Education and the Workforce.

By Mr. DELAY (for himself, Mr. HALL of Ohio, Mr. LEWIS of Georgia, Mr. WOLF, Mr. BIGGERT, Mr. SOUDER, Mr. TURNER, Mr. SHOWS, Mr. PITTS, Mr. PETERSON of Minnesota, Mr. HOSTETTLER, Mr. TANCREDO, Mr. McINTYRE, and Mr. PICKERING): H. Con. Res. 184. A concurrent resolution providing for a National Day of Reconciliation; to the Committee on House Administration.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

123. The SPEAKER presented a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 466 memorializing the United States Congress to pass legislation reforming the Federal Freedom to Farm law and the sugar support program to correct the inequities; to the Committee on Agriculture.

124. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 11 memorializing the United States Congress to call for a repudiation of the agreement reached last year to allow the Navy to resume firing training on the island of Vieques; to the Committee on Armed Services.

125. Also, a memorial of the Legislature of the State of Louisiana, relative to House Resolution No. 140 memorializing the United States Congress to study the feasibility of insurance coverage for loss, damage, or diminution in value to property caused by drought; to the Committee on Financial Services.

126. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 214 memorializing the United States Congress to fully fund its obligations under the
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Individuals with Disabilities Education Act; to the Committee on Education and the Workforce.

127. Also, a memorial of the House of Represent-atives of the State of Illinois, relative to House Resolution No. 366 memorializing the United States Congress to support ethanol and biodiesel as included as part of any lasting energy policy; to the Committee on Energy and Commerce.

128. Also, a memorial of the House of Rep-representatives of the State of Illinois, relative to House Resolution No. 468 memorializing the United States Congress and the Environmental Protection Agency to increase Illinois' nitrogen oxide emission allowances budget; to the Committee on Energy and Commerce.

129. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 92 memorializing the United States Congress to offer condolences to the people of the State of Israel and especially to the families of those victims who suffered losses in the terrorist attack on June 30, in Tel Aviv; Strongly condemn that attack and any use of terrorism in order to achieve political gains or for any other reason; and, Reaffirm the desire of the people of the United States to assist the parties in their efforts to achieve a full and lasting peace; to the Committee on International Relations.

130. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 76 memorializing the United States Congress to direct the Minerals Management Service of the United States Department of the Interior to develop a plan for impact mitigation relative to the Outer Continental Shelf oil and gas lease sales in the Gulf of Mexico; to the Committee on Resources.

131. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 50 memorializing the United States Congress to express its desire to the National Marine Fisheries Service that the pending charter boat moratorium in the Gulf of Mexico not be implemented; to the Committee on Resources.

132. Also, a memorial of the House of Represent-atives of the Commonwealth of Penn-sylvania, relative to House Resolution No. 230 memorializing the United States Congress to make the $1.5 billion of Federal moneys already earmarked for abandoned mine land reclamation available to states to clean up and make safe abandoned mine lands; to the Committee on Resources.

133. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 95 memorializing the United States Congress to ratify the Southern Dairy Compact; to the Committee on the Judiciary.

134. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 75 memorializing the United States Congress to repeal mandatory minimum sentences; to the Committee on the Judiciary.

135. Also, a memorial of the House of Rep-representatives of the State of Illinois, relative to House Resolution No. 370 memorializing the United States Congress to support re-form of our Federal immigration laws to allow working immigrants in the Illinois to work towards becoming citizens through a legalization program; to the Committee on the Judiciary.

136. Also, a memorial of the House of Rep-representatives of the State of Illinois, relative to House Resolution No. 340 memorializing the United States Congress to initiate an in-vestigation of possible collusion among petroleum companies resulting in rapid unex-plained price increases in motor fuel throughout the Midwest; to the Committee on the Judiciary.

137. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 86 memorializing the United States Congress to support, with additional funding, the expeditious implementation of the proposed Maurepas Swamp diversion from the Mississippi River; to the Committee on Transportation and Infrastructure.

138. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 24 memorializing the United States Congress to urge the United States Army Corps of Engineers to replace the proposed St. Claude Avenue Bridge and the Claiborne Avenue Bridge in Orleans Parish with tunnels or fixed high-rise bridges in conjunction with a project to replace the Inner Harbor Navigation Canal lock; to the Committee on Transportation and Infrastructure.

139. Also, a memorial of the House of Rep-representatives of the State of Michigan, relative to House Resolution No. 36 memorializing the United States Congress to enact legislation to provide for government-fur-nished markers for the graves of all veterans to the Committee on Veterans’ Affairs.

140. Also, a memorial of the House of Represent-atives of the State of Michigan, relative to House Concurrent Resolution No. 23 memorializing the United States Congress to take certain actions to increase efforts to halt the illegal dumping of foreign steel in this country; to the Committee on Ways and Means.

141. Also, a memorial of the House of Represent-atives of the Commonwealth of Penn-sylvania, relative to House Resolution No. 228 memorializing the United States Con-gress to fully fund and deploy as soon as technologically possible an effective, afford-able global missile defense system, including a sea-based system except theater and long-range missiles, space-based sensors and ground-based interceptors and radar; to pro-tect all Americans, United States troops sta-tioned overseas, and our nation’s allies from ballistic missile attack; jointly to the Com-mittees on Armed Services and International Relations.

142. Also, a memorial of the Legislature of the State of Maine, relative to Joint Resolu-tion No. 651 memorializing the United States Congress to support significant reforms to our nation’s voting system; jointly to the Committees on House Administration and the Judiciary.

143. Also, a memorial of the Legislature of the State of Maine, relative to House Concurrent Resolution No. 167 memorializing the United States Congress to fully fund the Estuary Restoration Act of 2000; jointly to the Committees on Transportation and Infrastructure and Resources.

144. Also, a memorial of the House of Rep-representatives of the State of Missouri, relative to House Concurrent Resolution No. 14 memorializing the United States Congress to support the Railroad Retirement and Survivors Improvement Act introduced in the 107th Congress; jointly to the Committees on Transportation and Infrastructure and Ways and Means.

145. Also, a memorial of the Senate of the State of Missouri, relative to Senate Concur-rent Resolution No. 10 memorializing the United States Congress to support the Rail-way Retirement and Survivors Improvement Act introduced in the 107th Congress; jointly to the Committees on Transportation and Infrastructure and Ways and Means.

146. Also, a memorial of the House of Rep-representatives of the State of Michigan, relative to House Resolution No. 197 memorializing the United States Congress to enact the Steel Revitalization Act of 2001; jointly to the Committees on Financial Services, Education and the Workforce, and Ways and Means.

147. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 129 memorializing the United States Congress to fully imple-ment the Gulf Hypoxia Action Plan in co-operation with the Gulf of Mexico/Mis-issippi River Watershed Nutrient Task Force; jointly to the Committees on Science, Resources, and Transportation and Infra-structure.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, Mr. QUINN introduced a bill (H.R. 2455) to authorize the Secretary of Transportation to convey the vessel U.S.S. SPHINX to the Dunkirk Historical Lighthouse and Veterans Park Museum for use as a military museum; referred to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mr. CULBERSON.
H.R. 35: Mr. GREEN of Wisconsin.
H.R. 64: Mr. FATTAH and Mr. SHUSTER.
H.R. 65: Mr. BERRY.
H.R. 91: Ms. ROYBAL-ALLARD, Mr. HORN, Mr. CUNNINGHAM, Mr. PILNES, Ms. MCKINNEY, and Mr. MURTHA.
H.R. 147: Mr. BRADY of Pennsylvania, Ms. MCKINNEY, Mr. CUMMINGS, Mrs. MEEK of Florida, and Mr. RAHALL.
H.R. 162: Mr. KIRK.
H.R. 175: Mr. LARGENT.
H.R. 183: Mr. WATT of North Carolina and Mr. ABRECHONMI.
H.R. 236: Mr. NUSSELS.
H.R. 239: Mr. PASCHELL, Mr. MARKAY, and Ms. JACKSON-LEE of Texas.
H.R. 257: Mr. LATHAM and Mr. BURTON of Indiana.
H.R. 267: Ms. HARMAN, Mr. TIAHRT, Mr. NUSSELS, and Ms. WATSON.
H.R. 269: Mr. BAIRD.
H.R. 281: Mr. TOM DAVIS of Virginia.
H.R. 303: Mr. SMITH of Michigan.
H.R. 335: Mr. NUSSELS.
H.R. 389: Ms. LEE.
H.R. 415: Mr. BACA.
H.R. 425: Mr. RANGEL.
H.R. 439: Ms. MCKINNEY, Ms. ROYBAL AL- LARD, and Mr. WU.
H.R. 440: Mr. INSLEE and Mr. GEORGE MIL-LER of California.
H.R. 443: Mr. BARR.
H.R. 448: Ms. CHAP.
H.R. 471: Ms. JONES of Ohio, Mr. FROST, Ms. MCKINNEY, and Mr. WALSH.
H.R. 500: Mr. ANDREWS.
H.R. 593: Mr. BOSSWELL, Mr. BACHUS.
H.R. 536: Mr. BOSWELL, Mr. ISRAEL, Ms. TAUSCHER, and Mr. BAKER.
H.R. 1162: Mr. GUTIERREZ.
H.R. 1112: Mr. GUTIERREZ.
H.R. 1110: Mr. GREEN of Wisconsin.
H.R. 1109: Mr. GREEN of Wisconsin.
H.R. 1108: Mr. GREEN of Wisconsin.
H.R. 1107: Mr. GREEN of Wisconsin.
H.R. 1106: Mr. GREEN of Wisconsin.
H.R. 1105: Mr. GREEN of Wisconsin.
H.R. 1104: Mr. GREEN of Wisconsin.
H.R. 1103: Mr. GREEN of Wisconsin.
H.R. 1102: Mr. GREEN of Wisconsin.
H.R. 1101: Mr. GREEN of Wisconsin.
H.R. 1100: Mr. GREEN of Wisconsin.
H.R. 1109: Mr. GREEN of Wisconsin.
H.R. 1108: Mr. GREEN of Wisconsin.
H.R. 1107: Mr. GREEN of Wisconsin.
H.R. 1106: Mr. GREEN of Wisconsin.
H.R. 1105: Mr. GREEN of Wisconsin.
H.R. 1104: Mr. GREEN of Wisconsin.
H.R. 1103: Mr. GREEN of Wisconsin.
H.R. 1102: Mr. GREEN of Wisconsin.
H.R. 1101: Mr. GREEN of Wisconsin.
H.R. 1100: Mr. GREEN of Wisconsin.
H.R. 1109: Mr. GREEN of Wisconsin.
H.R. 1108: Mr. GREEN of Wisconsin.
H.R. 1107: Mr. GREEN of Wisconsin.
H.R. 1106: Mr. GREEN of Wisconsin.
H.R. 1105: Mr. GREEN of Wisconsin.
H.R. 1104: Mr. GREEN of Wisconsin.
H.R. 1103: Mr. GREEN of Wisconsin.
H.R. 1102: Mr. GREEN of Wisconsin.
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H.R. 1104: Mr. GREEN of Wisconsin.
H.R. 1103: Mr. GREEN of Wisconsin.
H.R. 1102: Mr. GREEN of Wisconsin.
H.R. 1101: Mr. GREEN of Wisconsin.
H.R. 1100: Mr. GREEN of Wisconsin.
AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2330

OFFERED BY: MR. SMITH OF MICHIGAN

Amendment No. 30: Add before the short title at the end the following new section: Sinc... None of the funds appropriated or otherwise made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who permit the payment limitation specified in section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(e)(2)) to be exceeded in any manner.

H.R. 2360

OFFERED BY: MR. ROEMER

Amendment No. 1: Insert after title III the following:

H.R. 2360

OFFERED BY: MR. ROEMER
of subparagraph (A) during a period in which the candidate may accept such a contribution; and

(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

(D) OPPOSITION PERSONAL FUNDS AMOUNT.—The opposition personal funds amount is an amount equal to the excess (if any) of—

(i) the greatest aggregate amount of expenditures from personal funds (as defined in section 304(a)(6)(B)) that an opposing candidate in the same election makes; over

(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

(2) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT.—

(A) IN GENERAL.—Subject to subparagraph (B), a candidate and the candidate’s authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1)—

(i) until the candidate has received notification of the opposition personal funds amount under section 304(a)(6)(B); and

(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

(B) EFFECT OF WITHDRAWAL OF AN OPPONING CANDIDATE.—A candidate and a candidate’s authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

(3) DISPOSAL OF EXCESS CONTRIBUTIONS.—

(A) IN GENERAL.—The aggregate amount of contributions accepted by a candidate or a candidate’s authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

(B) CONTRACTS.—A candidate or a candidate’s authorized committee shall return the excess contribution to the person who made the contribution.

(I) LIMITATION ON REPAYMENT OF PERSONAL LOANS.—Any candidate who incurs personal loans made after the date of enactment of the Bipartisan Campaign Reform Act of 2001 in connection with the candidate’s campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $10,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.

(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS.—Section 304(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended—

(1) by redesignating subparagraph (B) as subparagraph (E); and

(2) by inserting after subparagraph (A) the following:

(20) ELECTION CYCLE.—The term election cycle means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.

(21) PERSONAL FUNDS.—The term personal funds means an amount that is derived from—

(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—

(i) legal and rightful title; or

(ii) an equitable interest;

(B) income received during the current election cycle of the candidate, including—

(i) a salary and other earned income from bona fide employment;

(ii) dividends and proceeds from the sale of the candidate’s stocks or other investments;

(iii) requests to the candidate;

(iv) income from trusts established before the beginning of the election cycle;

(v) income from trusts established by or under the control of the election cycle of which the candidate is the beneficiary;

(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

(vii) proceeds from lotteries and similar legal games of chance; and

(C) a portion of assets that are jointly owned by the candidate and the candidate’s spouse equal to the candidate’s share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of ½ of the property.

OBSERVED BY: Mr. ROEMER

AMENDMENT No. 2: Insert after title III the following:

TITLE IV.—REQUIRING CANDIDATES USING CORPORATE AIRCRAFT TO REIMBURSE CORPORATION AT CHARTER RATE

SEC. 401. REQUIRING CANDIDATES USING CORPORATE AIRCRAFT TO REIMBURSE CORPORATION OR UNION AT CHARTER RATE.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

(1) No candidate, agent of a candidate, or person traveling on behalf of a candidate may use an airplane which is owned or leased by a corporation for travel in connection with a Federal election unless the candidate, agent, or person in advance reimburses the corporation an amount equal to the usual charter rate for such use.

(2) Paragraph (1) shall not apply with respect to the use of an airplane which is owned or leased by a corporation which is licensed to offer commercial services for travel.
The Senate met at 10 a.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, almighty Sovereign of our beloved Nation, and loving Lord of our lives, our hearts overflow with gratitude. Thank You for the privilege of living in this land You have blessed so bountifully. You have called this Nation to be a demonstration of the freedom and opportunity, righteousness and justice You desire for all nations. Help us to be faithful to our destiny. May our response be spelled out in dedicated service.

Dear God, empower the women and men of this Senate as they seek Your vision and wisdom for the problems we face as a nation. Proverbs reminds us that “When the righteous are in power, the people rejoice.” We rejoice in the Senators in both parties who seek to be right with You so they will know what is right for our Nation. You have told us, “Righteousness exalts a nation.”—Proverbs 14:34.

Lord, we live in times that challenge faith in You. As a nation, secularity often replaces spirituality and humanistic materialism substitutes for humble mindedness. Bless the Senators as they give dynamic leadership. Grant them wisdom, grant them courage, for they give dynamic leadership. Grant them wisdom, grant them courage, for they give dynamic leadership. Grant them wisdom, grant them courage, for they give dynamic leadership. Grant them wisdom, grant them courage, for they give dynamic leadership. Grant them wisdom, grant them courage, for they give dynamic leadership. Grant them wisdom, grant them courage, for they give dynamic leadership. Grant them wisdom, grant them courage, for they give dynamic leadership. Grant them wisdom, grant them courage, for they give dynamic leadership. Grant them wisdom, grant them courage, for they give dynamic leadership. Grant them wisdom, grant them courage, for they give dynamic leadership.

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows: I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PLEDGE OF ALLEGIANCE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE
PRESIDENT PRO TEMPORE
Washington, DC, July 10, 2001
To the Senate:
Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.
ROBERT C. BYRD, President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

SUPPLEMENTAL APPROPRIATIONS ACT, 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1077, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1077) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

Pending:

Reid (for Schumacher) amendment No. 862, to rescind $250,000 for the printing and postage costs of the notices to be sent by the Internal Revenue Service before and after the tax rebate, such amount to remain available for debt reduction.

Reid (for Feingold) amendment No. 863, to increase the amount provided to combat HIV/AIDS, malaria, and tuberculosis, and to offset that increase by rescinding amounts appropriated to the Navy for the V-22 Osprey aircraft program.

Craig (for Roberts) amendment No. 864, to prohibit the use of funds for reorganizing certain B-1 bomber forces.

Voinovich amendment No. 865, to protect the social security surpluses by preventing on-budget deficits.

Byrd (for Conrad) amendment No. 866 (to amendment No. 865), to establish an off-budget lockbox to strengthen Social Security and Medicare.

Conrad amendment No. 867, to provide funds for emergency housing on the Turtle Mountain Indian Reservation.

Stevens (for McCain) amendment No. 868, to increase amounts appropriated to the Department of Defense.

Stevens (for Hatch) amendment No. 869, to provide additional funds for military personnel, working-capital funds, mission-critical maintenance, force protection, and other purposes by increasing amounts appropriated to the Department of Defense, and to offset the increases by reducing and rescinding certain appropriations.

Stevens (for Craig) amendment No. 870, to provide additional amounts to repair damage caused by ice storms in the States of Arkansas and Oklahoma.

Stevens (for Craig) amendment No. 871, regarding the proportionality of the level of non-military exports purchased by Israel to the amount of United States cash transfer assistance for Israel.

Bond amendment No. 872, to increase amounts appropriated for the Department of Defense.

Reid (for Hollings) amendment No. 873, to increase funding for the Low-Income Home Energy Assistance Program, with an offset.

Reid (for Johnson) amendment No. 875, to amend the Higher Education Act of 1965 to make certain interest rate changes permanent.

AMENDMENTS Nos. 866 AND 865

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 2 hours of concurrent debate, equally divided, in relation to the lockbox amendments, Nos. 866 and 865. The Senator from Nevada.

Mr. REID. Mr. President, I ask the time I consume not be charged against either Senator CONRAD or Senator VONNOCH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. REID. First of all, as has been announced, we have now resumed consideration of the supplemental appropriations bill. The majority leader indicated that both Senator STEVENS and Senator BYRD have every intention of finishing this bill today so we can go on to the Interior appropriations bill tomorrow. The majority leader has authorized me to state it is his wish we could complete that legislation sometime on Thursday—Interior appropriations. If we did that, the majority leader said there would be no votes on Friday. So it would be really good if we could do that. It will take a lot of cooperation from everyone.

The majority leader has also asked me to express his appreciation to everyone for the cooperation on the Patients’ Bill of Rights. It was a very contentious issue. Both sides worked, offered very difficult amendments for everyone to consider. It was done. It was done in an expedient way, and we arrived at a conclusion at an earlier time than people expected.

There are 14 amendments today. We have every expectation that some of them will be accepted by the managers of the legislation. Others, perhaps, can be worked out. The two managers of the bill have asked that we work to try to get time agreements on each of the amendments, and we will do that. We hope we can arrive at a situation today where there can be votes at 2:15, as has been announced earlier. We expect, with the cooperation of Senator VONNOCH and Senator CONRAD, that can be done, and we will work toward the end.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BYRD. Mr. President, I suggest the absence of a quorum. I ask the time be equally charged against both sides.
The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, how much time remains on the Conrad amendment as a result of the quorum call?

Mr. VOINOVICH. Mr. President, one of the primary reasons I wanted to serve as a U.S. Senator was to have an opportunity to bring fiscal responsibility to our Nation and help eliminate the terrible debt with which we will surely burden our children and grandchildren. As my colleagues know, for decades successive Congresses and Presidents spent money on things that, while important, they were unwilling to pay for or do without. In the process, we ran up a staggering debt and mortgaged our future.

Today, our national debt is at $5.6 trillion, which costs us over $200 billion every year in interest payments. From the time I arrived in the Senate, I have been working to rein in spending and lower our national debt. Over the past 2½ years, I have sponsored and cosponsored a number of amendments designed to bring fiscal discipline to the Federal Government.

For instance, in 1999 and 2000, we offered an amendment to use the entire on-budget surplus to pay down the debt. Also, in an effort to bring spending under control, Senator ALLARD and I offered an amendment in June of 2000 to direct $12 billion of the fiscal year 2001 on-budget surplus toward debt reduction. The amendment passed by an overwhelming margin of 95–3 and committed Congress to designate the on-budget surpluses to reduce the national debt, keeping those funds from being used for additional Government spending.

Our amendment provided the mechanism to assure that Congress will begin the serious task of paying down the debt. Further, this past April, Senators Frist, Enzi, and I offered an amendment to the fiscal year 2001 budget resolution designed to tighten the enforcement of existing spending controls. Our amendment created an explicit point of order against directed emergency spending. Given this commitment to fiscal responsibility, the huge spending increases we have seen in the past 2 years have been troubling for me and for a lot of other Members of this body. I am worried that they will lead us back to our deficit spending and debt accumulation.

I was encouraged, however, with the budget that the President sent to us this year. The President’s budget relies equally on the three primary principles. I refer to them as the “three-legged stool.” They are tax cuts, restrained spending, and debt reduction; all three of them fit together. This isn’t just what the President said. It’s what Federal Reserve Chairman Alan Greenspan called for in his groundbreaking testimony before the Senate Budget Committee earlier this year. Chairman Greenspan said that he hoped the recent increases in Federal spending was only an aberration. He went on to say that we needed a tax reduction because surpluses were accumulating so fast that they were overwhelming our ability to repay the national debt without having to pay a premium. This is precisely what the President’s tax cut did.

The President’s proposal to cut taxes was responsible precisely because it was coupled with two other legs of this budgetary stool. Without limits on spending and maximum efforts to pay down the debt, I could not have supported in good conscience the proposed tax cuts.

Ultimately, Congress passed the budget that achieves all three objectives of the three-legged stool. It cuts taxes, restrains spending to a responsible level, and pays down the available publicly held debt over a 10-year period. Little did we know how the tax cut would be needed to jump start the economy and restore consumer confidence. I don’t think we knew that until recently when we saw what has been happening to our economy.

Hopefully, with the tax reduction, lower interest rates, and action by Congress to curb energy costs, we will see an improvement in the economy and a restoration of the public’s confidence in the economy.

We have taken the first step to implement the budget agreement by enacting the President’s proposed tax cuts with a large bipartisan majority. Tax cuts are now law and are a done deal. I know some Members of this body believe that those tax cuts were too much. But the fact is that a majority of us felt they were reasonable and less than what the President asked for.

But our work is not yet finished. We still need to enact legislation to lock in the other two legs of the budgetary stool. I am concerned that we need a restraint on spending and pay down the debt. That is precisely what our amendment does. It is the teeth that ensures that we will pay down the debt and limit spending.

Lockboxing the Social Security surplus is the key to protecting our accomplishments thus far and enforcing our budget agreement.

I want to call your attention to this chart, which basically shows that all during the 1990s we had the deficit, but that deficit would have been much larger than was reported because we used the Social Security surplus to pay for things that Congress was unwilling to pay for or to do without. So as you can see, all the way up until the year 2000, there was no surplus whatsoever. It was only until 2000 that we saw a real on-budget surplus, and it wasn’t until 1998 that we weren’t using the Social Security surplus. The point is that we do not want to return to what we were doing in the past, and that is using the Social Security surplus.

I think that my colleagues can see on this chart, and so can the American taxpayers, that the Social Security surplus, if you can see this, is significant all the way during this next decade. What my amendment would basically do is to make sure that all of this money is used to pay down the debt and to restrain spending by the Members of this Senate.

I have every reason to believe if we don’t pass this amendment, there is a good chance this money will be used to pay for spending.

Mr. President, as you can see, Congress has not been able to resist spending Social Security surplus. An earlier supporter of the Abraham-Domenici Social Security lockbox that was first offered in 1999.

I voted in favor of the lockbox on several occasions. Laying out a thoughtful and well-reasoned budget plan is not enough to guarantee we do not stray back to spending the Social Security surplus. Good intentions are not enough.

Our lockbox strengthens the existing point of order against spending the Social Security surplus. Our lockbox makes it out of order to use the Social Security surplus in any one of the next 10 years, contrasted with the current budget resolution. This is an important improvement.

The existing point of order is written so it is possible to use the Social Security surplus in the future and is not possible to call a point of order. My amendment would prevent that.

My amendment contains an automatic enforcement mechanism. If OMB reports that the Federal Government will spend the Social Security surplus, an automatic across-
the-board sequester will be put in place by OMB, and the size of the sequester will offset the use of the surplus. Is this the ultimate enforcement mechanism? If the Social Security surplus looks as if it will get spent, OMB stops it from happening. This mechanism is our safety valve which will ensure we stay on course to limit spending and pay down our debt.

Spending cuts under my amendment would cut into both discretionary and mandatory spending. Mandatory spending for the most needy in society would not be affected by these cuts. My amendment would exclude Social Security, food stamps, and other programs that are excluded from sequesters under the Deficit Control Act of 1985, and to prevent an inadvertent sequester, my amendment builds in a margin of error. By the time we reach half of 1 percent of outlays. Because it is so hard to calculate the aggregate level of spending from year to year, I think this is a reasonable measure and OMB supports it. It would prevent inadvertent sequesters.

My amendment is straightforward and relies on existing law. I primarily build on existing budget process and mechanisms. We all know Social Security is off budget, and my amendment reinforces that position.

My amendment does not modify any budgetary conventions or pretend Social Security is something that it is not. Everyone knows the Budget Act points of order have their limitations. Someone has to call them, and too often no one does call them.

Take the use of Budget Act points of order against appropriations bills. The appropriations bills that pass early in the session can contain outrageous spending increases and they are immune from the Social Security point of order because they do not threaten the Social Security surplus. It is only when we take up the last appropriations bills that it is obvious that the cumulative effect of our actions might cause a problem.

Until we take up the last appropriations bill, it is pure conjecture as to whether we might spend the Social Security surplus. The use of omnibus appropriations bills makes this all the more problematic. By the time we reach that last appropriations bill around here, it is too late. Large spending increases could have already been done, and we all know how bad Congress wants to get out of town when that last bill rolls around. For this reason, no one is willing to call a point of order that threatens to derail the train or a carefully worked out compromise needed to pass the last appropriations bills.

This is the shortcoming of points of order, and that is why we need an automatic enforcement mechanism to protect the Social Security surplus. The existence of an automatic Social Security sequestration will force Congress to act. I am no fool, however. I know that if Congress want to spend money, it will. With 60 votes, we can do just about anything here, and just as we raise the discretionary spending caps and the debt ceiling, we can vote to undo this mechanism, but it will force Congress to act and put Congress on record as violating the Social Security surplus. People of America should know that is what we are doing. It should not be hidden.

My colleague across the aisle, on the other hand, relies exclusively on points of order to enforce his lockbox which we will be hearing more about and, in my opinion, this is a serious weakness. We in Congress spend and spend. For fiscal year 2001, with strong encouragement of the Clinton administration, my colleagues in Congress increased nondefense discretionary spending by a staggering 14.3 percent. I want everybody to hear that—14.3 percent. If we add 14 percent growth in non-defense discretionary spending, and we increased overall spending by 8 percent. We grew the size of the Federal Government by 8 percent. We spend, and we spend.

As we begin to consider spending for fiscal year 2002, the President presented a modest, responsible budget that called for a 4-percent growth rate. Congress tackled on more spending and passed a bipartisan budget that called for a 4.7-percent increase in Federal spending. We spend.

We then took up an education bill intended to reform schools in an effort to ensure we were properly preparing our children for the 21st century, a goal I wholeheartedly support. Unfortunately, reform in Congress means more spending. We passed an education bill that authorized an incredible 62-percent increase in Federal spending on education—and, we spend.

If I can refer to this chart, my colleagues can see just what has happened to spending in Congress in the last couple of years. The budget caps that were put in place in 1997 in the budget agreement were supposed to cap spending in 1998 at 52.7, in 1999 at 53.3, in 2000 at 53.7, and in 2001 at 54.2. The red line is what we actually spent. Look at this increase. Starting in 1997, we increased spending.

From looking at that, one can see that walling off the Social Security trust fund from spending is something that has to be done. We have proven time and again that we are very good at one thing: spending other people’s money. I remind the President and others that prior to 1999 we were spending that Social Security surplus regularly. This amendment ensures we will not spend that money. It ensures it will go where it belongs: paying down the national debt and providing a firewall against irresponsible spending. We must make sure history does not repeat itself.

If, however, the economic prosperity this Nation has enjoyed recently continues to fade—and I hope it is just a temporary lull—and the President’s pro-
jections are likely to be revised downward and that Social Security surplus will, again, be in the crosshairs. It will be in the crosshairs because Congress’s yearning for spending has not abated, for example, as I mentioned, the 62-per-
cent increase in education. The President now is asking for more money in defense spending.

Given the spending trajectory and the possibility of continued economic softness and that the surplus will not be as large as projected, we could be bumping against the Social Security trust fund. We cannot let that happen. There is a real risk of it happening. We need to rein in the spending and pro-
tect Social Security sequestration will force Congress from happening. We need to lockbox it. Once locked, the Social Security surplus will go to our debt reduction as our budget and the President’s original plan intends and Federal Reserve Chairman Alan Greenspan has recommended.

It is Congress’s irresponsible record of spending that has accumulated the $5.6 trillion in debt that now hangs over our children and our children’s children. Paying off the debt will free up the 11 percent of the Federal budget which currently goes to debt service so we can focus on other needs such as Social Security reform.

There is what at first appears to be an alternative to my amendment, and that is the amendment offered by my colleague from North Dakota, the chairman of the Budget Committee. Unfortunately, I do not think it measures up to the amendment I have offered. I would like to take a moment to explain the second amendment of my colleague from North Dakota.

Its enforcement measure, in my opinion, is not as tough as mine. Therefore, my colleague’s measure can easily be dodged by a Congress under pressure to spend more or which simply lacks the same commitment to debt reduction and spending restraint we have shown in our budget resolution.

The Senate’s amendment purports to lockbox the Medicare surplus, but there is no Medicare surplus. It is money that does not exist. The Part B deficit exceeds the so-called Part A surplus. For fiscal year 2002, the net position of the Medicare Program, when we combine Part A and Part B, we have a negative $52 billion that is coming from the general fund. Medicare is an on-budget account, unlike Social Security, which is currently in a huge deficit and which relies upon direct infusions from the general fund.

I note that some tried harsh words to differentiate between Parts A and B, but the fact is we are still talking about the same program. Considering
them separately and pretending they are off budget are simply not intellectually honest deceptions and are a fault that needs to be based on legislation. If you want the appearance of action, coupled with the security of inaction, don’t vote for my amendment, vote for the amendment of the Senator from North Dakota.

I want to be frank with the President and my colleagues in the Senate. Many gave thought to the idea of “lockboxing” Part A of Medicare. I think our colleagues know there is a Part A and Part B. Part A is funded by deducting money from people’s Social Security check and by everyone paying into the Medicare trust fund. We take in more money than is spent out for Part A.

However, Part B, which is the non-hospital portion of Medicare, does not take in enough money. The Medicare Part A surplus projected for the year 2002 is $36 billion; Medicare Part B deficit is $88 billion. In effect, we are taking $52 billion out of the general fund of the United States to support Medicare. I am sure a lot of people getting Medicare today think the money coming out of their Social Security, the money sons and daughters are paying into the Medicare fund, is taking care of it. That is not the case. That is not the case. When you combine Part A and Part B, the taxpayers of the United States subsidize Medicare. There is not enough money in the Medicare fund from the money coming in every year and the money being taken out of people’s Social Security and the money they pay in for Part B. We are subsidizing it. To talk of a Medicare surplus when you see these numbers, is not fair. The surplus projected for the next 10 years shows the Medicare surplus for Part A is $393 billion. Whoopee. Part B, the deficit is $1.36 trillion. The overall subsidy coming from the general fund of the United States is $643 billion. For us to talk about lockboxing this, to me, really does not make sense. I know some talked about doing this last year, but the only reason it was brought up was the concept it would help restrain spending. When you see the total budget picture, the Medicare surplus is part of the on-budget surplus. It is in deficit. We ought not talk about locking off something that is not there.

I urge my colleagues to reject the Conrad second-degree amendment because I don’t think it will be enacted. In my opinion, it is a poison pill. It pretends there is a sacrosanct Medicare surplus which does not exist and which was never walled off. I predict today if the second-degree amendment is passed by the Senate, the entire provision will be removed from the conference report of this bill. That money is going to be needed to pay for spending in the budget we now have, particularly if we increase education 62 percent, as some colleagues would like to do, and we entertain the President’s request for more money for defense.

On the other hand, if you want to make sure the money is there to follow through on what we promised the American people, if we want to pay down the debt as we promised—we want to pay down the debt and we want to restrain spending—if we want to do that without gimmicks, the pure Social Security lockbox that will do that, I request my colleagues support this amendment.

I am not proposing this today for political reasons. It is popular. I want to lockbox Social Security. I want to lockbox Medicare. The fact is, this is a very serious business. I testified before Congress in 1985 as president of the National Association of Medicare Trust Funds that at this time, spending was out of control. What happened was during the Reagan years—some of my colleagues might not like to hear it—we reduced taxes, but at the same time we reduced taxes which was supposed to stimulate the economy, at the same time we increased spending astronomically. What President Reagan received was money for the defense initiative, and what the other colleagues received was money for domestic spending. It was during that period of the 1980s where we saw the national debt skyrocket, and we gobbled up Social Security.

We need to be fiscally responsible. The way to do that is lockbox Social Security so it can be used for deficit reduction; lockbox it so it can not be used for spending. I think we can leave here with our head high and it will be something we may very well need by the end of this year if things do not work out as we hoped.

The PROTECTOR, the Senator from North Dakota.

Mr. CONRAD. Mr. President, the Senator from Ohio and I see the same problem, but we have a different approach to solving the problem.

The Senator from Ohio says the Social Security is endangered. I agree. I say not only is the Social Security trust fund endangered but so, too, is the Medicare trust fund. Despite the words from the Senator from Ohio, there really is a Medicare trust fund. It really is in surplus. We know that. That is from the reports from this administration. Those are what the reports from the Congressional Budget Office make very clear.

Here is the “Medicare Budget Outlook,” from chapter 1, from the CBO, table 1-7 “Trust Fund Surpluses.”

Under “Medicare, Hospital Insurance (Part A),” the trust fund is in surplus each and every year of the years under consideration.

Part B, referenced by the Senator from Ohio, is in rough balance. What the Senator from Ohio has confounded with his charts, is that Part A has always been funded in one way, under one formula, and Part B has been funded under a different formula. Part B is funded by premiums paid by Medicare beneficiaries and by general fund contributions. That is not in deficit as asserted by the Senator from Ohio. That is incorrect. Long ago, Congress determined Part B would be funded in part by contributions from the general fund, in part by premiums. We decide that level of contribution from the general fund as a matter of law. We make that determination. It has nothing to do with the Part B trust fund being in surplus or deficit. In fact, the reports of the Office of Management and Budget and the reports of the Congressional Budget Office make very clear. Those are what the reports of the Office of Management and Budget make very clear.

I vote for the amendment of the Senator from Ohio protects the Social Security surpluses in each and every year, takes the Medicare Part A trust fund surplus off budget, just as we have done with Social Security, and gives Medicare, the same protections as Social Security and contains strong enforcement for both. This is an amendment that received 60 votes on the floor of the Senate last year. Sixty Members voted for protecting both Social Security and Medicare. I hope we will do that again.

To go to the specific comparison of the two amendments I think would be useful to our Members.

First, on the question of taking Medicare off budget, my amendment does so, to provide the same protection we have provided to Social Security. The basic idea is a simple one. Should we be using Medicare trust fund money or Social Security trust fund money for other purposes? Should we be using that money to fund the other operations of Government? My answer would be that at a time of economic growth we simply should not. We should not be raiding trust funds, retirement funds, health care funds, to pay for other functions of Government. We should not be using Medicare trust fund money to pay for national defense. We should not be using Medicare trust fund money or Social Security
trust fund money to pay for education. We should not be using trust fund money to pay for tax cuts. We did not put the money in there to pay for the park system. The fundamental reason not to is we need that money to make the funds solvent.

We have the baby boom generation coming along. If we use that money for other purposes, it is not available to pay down debt or to address the long-term liability in those programs. The fundamental effect is we dig the hole deeper before we start refilling it.

My amendment would take the Part A trust fund off budget and protect it just as we do Social Security. The Voinovich amendment does not. He does not protect Medicare like Social Security.

The second question is, Does it protect Medicare surpluses? My amendment, the Conrad amendment, does. It creates supermajority points of order against any legislation that would decrease the Medicare trust fund or increase trust fund deficits in any fiscal year. The Voinovich amendment has no such provision.

On the third question of protecting Medicare against cuts, yes, on the Conrad amendment. We exempt Medicare trust funds from mandatory sequestrations. We do not think those funds that are dedicated to Medicare should be used to cover up the deficit in other places in the budget. We do not think Social Security funds should be used for that purpose. We do not believe Medicare funds should be used for that purpose. We have already separately taxed people for Medicare and Social Security. They are in surplus. To take their funds to pay for other functions of the Federal Government is just wrong.

There is a private sector entity in America that could raid the retirement funds of their employees and use them to fund the other operations of the company. That is illegal. It would be illegal under Federal law if any private sector organization tried to do it.

Why don’t we apply the same principle to ourselves? Why don’t we say: Look, trust fund money? That is a different category. It is a different category from other spending. If we are going to do that, we have to treat the Social Security trust fund and Medicare trust fund in the same way. My amendment does. The amendment of the Senator from Ohio simply does not.

In fact, the amendment of the Senator from Ohio would require Medicare to be cut further. If there could be cut, defense could be cut, any other part of Federal spending could be cut; it is undifferentiated. It doesn’t matter whether it is a trust fund or other operations of Government; under the amendment of the Senator from Ohio, today, tomorrow, the next year. I do not think that is right. I do not think it is right to treat the Medicare trust fund the same way as other Federal programs when there is a shortfall in Social Security—to cut Medicare to make up for this shortfall. I do not think that is the right principle at all.

The fourth question: Do we protect on-budget surpluses? Yes, under the Conrad amendment we create a supermajority point of order against the budget resolution or other legislation that would cause or increase an on-budget deficit for any fiscal year; in other words, taking out Social Security and Medicare, treating them as trust funds. That is what they are supposed to be, that is what they are designed to be, and we ought to treat them as such. The amendment of the Senator from Ohio is the same as my amendment in that regard.

Protecting Social Security? The two are the same.

On the final question, providing for cuts in Medicare, education, defense, and other programs, no, my amendment does not provide new sequestrations beyond existing mandatory and discretionary sequestrations under the Budget Enforcement Act. The amendment of the Senator from Ohio amends the Budget Enforcement Act to sequester spending in any year the estimated on-budget spending exceeds one-half of 1 percent of total estimated outlays, regardless of what caused the deficit—regardless of what caused it.

Under his proposal, even if it was a tax cut that caused the shortfall, you have to go out and cut Medicare; you have to go out and cut defense; you have to go out and cut education, even though it was not a spending increase that caused the problem. If it was, instead, a shortfall in revenue or if, instead, it was a provision that created the problem—a tax cut, for example, that caused the shortfall—his answer is the same in every case: You cut spending. It doesn’t matter what the cause of the problem is; you treat them all the same. I do not think that makes sense or stacks up.

Under the amendment my colleague from Ohio is offering—I call it the Republican broken safe because there is not a penny reserved for Medicare—you are protecting Social Security, which my amendment does as well, but he does nothing for Medicare. I do not think that is the way we want to go.

I will go back to my colleague from New Mexico, who I see is on the floor now. This was his statement back in 1998:

For every dollar you divert to some other program you are hastening the day when Medicare falls into bankruptcy, and you are making it medically impossible to solve the Medicare problem in a permanent manner into the next millennium.

He was exactly right when he made that statement. That is why I offer this amendment today, to protect Social Security and Medicare, because that is the way they were designed, that is the way they were set up, and that is the way we ought to treat them.

This chart shows we are already in trouble. Under the budget that was passed, with the tax cut that was passed, with the economic slowdown that is occurring, in the fiscal year 2001, the year we are in right now, you can see we started with a $275 billion forecasted surplus, but $156 billion of that is Social Security money and $28 billion is Medicare trust fund money. When you take those out, you have $92 billion left. Then you take out the tax bill. That is $74 billion. If you take out what we arefun ding the President’s request for billions based on the economic downturn. That puts us in the hole this year by $17 billion. That puts us into the Medicare trust fund by $17 billion.

That is before any appropriations bill has passed. No appropriations bill has passed. There is no spending beyond what is in the budget. There have already be in trouble. And for next year you can see the same pattern, but it is more serious in that we are using all of the Medicare trust fund next year, plus we are using some of the Social Security trust fund—only $4 billion but, nonetheless, that number shows that with the economic slowdown this year, we can anticipate lower receipts next year. If you look at all of the numbers and you look at how much of the money is in the trust funds, you find that we have a problem this year and next year.

If we go even further and look at the next 10 years, what we see is that we have problems in the Medicare trust fund in the first 4 years. Every year we are into the Medicare trust trust fund just based on the budget that has passed, based on the tax cut that has passed, based on the economic downturn we see so far. And that is before we consider the President’s request for billions based on the economic downturn. We are into the trust funds already before we consider the President’s defense requests, before we consider any new money for education.
Remember, we just passed an authorization bill with over $300 billion of new money for education. This is before the Voinovich money for natural disasters. And we typically have $5 to $6 billion for natural disasters every year. This is before the tax extenders are passed. Those are popular provisions. They are research and development tax credits—does anybody believe we are not going to extend the research and develop tax credit? Does anybody believe we are not going to extend the wind and solar tax credits? If we do, it is not in the budget. And it just makes the problem more severe.

I say to my colleagues, we are into the trust funds before any of these additional measures, before the President’s defense requests, before any new money for education, before money for natural disasters, before the tax extenders are provided for, before the alternative minimum tax problem is fixed. And I am not talking about a total fix to the alternative minimum tax; I am talking about a tax on the problem created by this tax bill that has been passed. Just fixing that matter is a $200 billion cost. This is before any further economic revisions. And we have been alerted by the Congressional Budget Office to expect a further downward revision to the long-term forecast because of the weakening economy.

Colleagues, what could be more clear? We have a responsibility to deal not just with the short term but with the long term as well.

Mr. REID. Will the Senator yield for a unanimous consent agreement?

Mr. CONRAD. I would be happy to yield.

Mr. REID. Mr. President, these unanimous consent requests have been cleared by both leaders and both managers of the bill that is now before us. And we are passed. Those are popular provisions. They are research and development tax credits—does anybody believe we are not going to extend the research and develop tax credit? Does anybody believe we are not going to extend the wind and solar tax credits? If we do, it is not in the budget. And it just makes the problem more severe.

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Mr. CONRAD. I would be happy to yield.

Mr. REID. Mr. President, these unanimous consent requests have been cleared by both leaders and both managers of the bill that is now before us.

Mr. REID. Further, Mr. President, I ask unanimous consent that with respect to the Hollings amendment No. 973, there be 45 minutes for debate equally divided between Senators VOINOVICH and CONRAD—and this would go back to the time when they started their debate earlier today, which there is probably—

Mr. DOMENICI. Reserving the right to object.

Mr. REID. Pardon me.

Mr. DOMENICI. I am reserving the right to object.

Mr. REID. If I could complete the request—on the subject of both the Voinovich amendment No. 865 and the Conrad amendment No. 866, that at 2:15 p.m. there be 2 minutes for debate equally divided between Senators VOINOVICH and CONRAD prior to a vote in relation to the Conrad amendment; that following the disposition of his amendment—that is, the Conrad amendment—there be 6 minutes equally divided between Senators VOINOVICH and CONRAD followed by a vote in relation to the Voinovich amendment, as amended, if amended. I want to make sure it is clear, all time already consumed by Senator VOINOVICH and Senator CONRAD be charged against the 90 minutes. I also say, to alleviate any questions anyone might have, there will be points of order raised against both amendments.

The PRESIDING OFFICER (Mr. CARPER). Is there objection?

Mr. DOMENICI. Reserving the right to object, and I will not object—maybe I didn’t hear it—did you reserve some time for the Senator from New Mexico to speak?

Mr. REID. Senator VOINOVICH has some time. I assume that is where your time will come from, because we are already working under a time agreement that was entered into yesterday.

How much time remains for Senator VOINOVICH?

The PRESIDING OFFICER. Twenty-four minutes.

Under the unanimous consent request, there would be 21 minutes remaining.

Mr. REID. Twenty-one minutes.

I ask Senator VOINOVICH, would you yield some of that time to the ranking member of the Budget Committee?

Mr. VOINOVICH. I would be more than happy to.

Mr. DOMENICI. You said you would?

Mr. VOINOVICH. Yes. Absolutely.

Mr. DOMENICI. I will not use over 10 minutes, I say to the Senator. It would be 7 to 10 minutes.

Mr. VOINOVICH. Fine.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Thank you.

Mr. President, I ask unanimous consent that with respect to the Feingold amendment No. 863, there be 30 minutes for debate divided as follows prior to a vote in relation to the amendment: 20 minutes under the control of Senator FEINGOLD; 10 minutes equally divided between the chairman and ranking member, with no second-degree amendments in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. REID. Mr. President, let me just pick up where I left off and point out that what we are in the process of—surpluses now with respect to Medicare and Social Security, we all know what is to come. The Congressional Budget Office has alerted us. The Comptroller General of the United States has alerted us. The Social Security Administration has alerted us. Medicare has alerted us. And they all have told us the same thing: That when we get past this decade—in the next decade when the baby boomers start to retire—these surpluses turn to massive deficits. That is what happens. The cash deficits begin in the year 2016, and then they grow geometrically as more and more baby boomers retire.

What should worry us, that should alert us that we should not be using the trust funds for other purposes. We should not be using the Medicare and Social Security trust funds to fund other operations of Government. Yet we are poised to do that this year. We are poised to do it to an even greater degree next year. And we are poised to do it for the next decade even in a time of strong economic growth.

That is what happens. The administration is not forecasting an economic slowdown next year or the years thereafter; they are forecasting strong economic growth. In that context, the numbers reveal we will be using trust fund monies to fund the other operations of the Federal Government. I do not think that is right.

Mr. Novak said, in a column yesterday, that I am—what did he say?—an antique fiscal conservative.

Whatever name one applies to it doesn’t make much difference to me. It doesn’t have anything to do with antiquity. It has to do with common sense. You don’t take trust fund money to fund other programs when you know what is to come, and there is no one in this Chamber who doesn’t know what is to come. We know we are facing a demographic tidal wave unlike anything we have ever seen in our Nation’s history. We are going to go from a time of surpluses in these trust funds to deficits.

One of the ways to deal with it is not to use the money in the trust funds for

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other purposes. That is the heart and soul of my amendment. We ought to pass it.

Does that mean you are forced to have a tax cut in a time of economic slowdown? No, absolutely not. We have an economic slowdown now. I proposed $60 billion of tax cuts, of fiscal stimulus this year. That was part of the proposal I put before my colleagues—far more fiscal stimulus than the President proposed. That isn’t the correct suggestion, that somehow we would force tax increases or spending cuts at a time of an economic slowdown.

They are not forecasting an economic slowdown for this year or next year or the year thereafter. They are forecasting strong economic growth. We see from the numbers that their plan has put us into the trust funds of Medicare. There has not been a tax cut this year in terms of economic growth. That doesn’t make sense to this Senator. I don’t think it makes any sense at all.

My colleague on the other side put up a chart suggesting that spending is out of control, that that is the problem. I have to give the other side of the story. That may be the popular view, but it doesn’t match the facts.

This chart shows Federal spending as a share of the economy has gone down each and every year for the last 9 years. There hasn’t been some big spending splurge. He talks about one part of Federal spending. That is the chart he had. The chart he had was not all Federal spending. No, the chart he had was one part of Federal spending that has shown significant increases. He didn’t tell Members that he was showing a chart that has just one-third of Federal spending. He didn’t say that. He made people believe that was all of Federal spending on that chart. He knew and I know that that is not the case. He knows and I know that the proper way to compare Federal spending is as a share of our gross domestic product because that takes out the effects of inflation. That is the way to make the best comparison.

What do we see when we do that? We see that Federal spending in 1992 was 22 percent of gross domestic product. Federal spending in this year, 2001, is going to be 18 percent of gross domestic product. There has not been a tax cut or spending increase. That is an accurate characterization to the American people.

The fact is, the share of money out of national income going to the Federal Government has gone down dramatically, from 22 percent of gross domestic product to 18 percent of gross domestic product today. That is about a 20-percent reduction, not some big spending binge. That has been a reduction in the share of national income going to the Federal Government for spending. That is a fact.

Under the budget we passed, spending is not going up as a share of gross domestic product or as a share of our national income; Federal spending is going to continue to decline. It is going to go down as a share of gross domestic product. That will be the lowest level since 1951.

Facts are stubborn things. The fact is, we do not have runaway Federal spending. We have Federal spending going down and gone down sharply as a share of our national income, which every economist asserts is the appropriate way to measure so that we take out the effects of inflation and show real trends, what is really happening.

This is what has happened to Federal spending. Right now it is at the lowest level since 1966 on a fair comparison basis, measured as a share of gross domestic product. We can see we did have sharp increases back in the 1980s. That is true, but it is not true since then. We can see Federal spending as a share of GDP has gone down and gone down sharply, gone down to the lowest level since 1966. We are poised, with the budget under which we are operating, to go down to the level last seen in 1951.

This is an important subject. We do have a growing problem of dipping into the trust funds to finance the other operations of Government, even in a time of economic growth. It is economic growth that is forecasted next year.

Those are the numbers that are being used to make these analyses. The problem is significant and growing. I urge my colleagues to take a stand and vote to protect not only the Social Security trust fund but the Medicare trust fund as well. That is common sense.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico. Mr. Voinovich. Mr. Voinovich. I yield 10 minutes to the Senator from New Mexico.

The PRESIDENT. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not here in the Chamber to discuss the economics of the next 4, 5, 6, 10 years, nor am I here to conduct an argument with the Budget chairman with reference to the economy, and what we are getting versus what we projected. In due course, we will get some projections that are authentic and we will be down here to talk about the shortfall, which perhaps is a shortfall in revenue, but we have nothing official. We have a statement out of the White House. There is a formula that could be applied if the economy comes down by $x amount or the tax take could be reduced by a certain amount.

My colleague Senator Conrad is building a proposed set of hearings around that. I look forward to them.

For now, let me say the biggest thing that has happened with reference to the surplus is, No. 1, the Congress, led by the Senate, decided to increase the stimulus this year in this remaining part of the year. They decided in conference and then voted, with very large votes, that $72 billion would be given back to the American people during the remainder of this year. That is a very large sum. It is the most prudent thing we could have done.

Looking back, I am very glad we did it. The only thing we have going governmentally that might help this economy is to get some of these tax dollars back into the hands of taxpayers to see if it will build on their confidence as consumers or if they will use it to purchase items that are currently under the rubric of heavy inventories that are driving the economy down.

No. 1, the only big thing we have done and causing this downturn to be around $72 billion in the first year, this year, and about $30 billion plus next year. To the extent that that reduced the surplus, I guess one would have to ask: Should we now undo that tax measure?

I understand perfectly it is going to propose as an amendment that we reduce the tax cuts. I don’t know if it is in the first year or what, but the Senate followed our good friend, Senator Hollings, here in the Chamber while we were doing the budget resolution and said we should do more in the first and second years, and essentially the conference on the tax bill gave in to the proposals coming forth from this body.

The second thing that has happened is even though the Congressional Budget Office had dramatically reduced the expectation of growth, they went from about a 5.1 growth to an estimate for the relevant year of 2.5 percent, so we were operating on a rather conservative set of economics, but what has happened is a shortfall in the American economy, or the downturn, which has gone on pretty long—much longer than many expected—is apparently going to cause some diminution, some lessening of the taxes coming into the coffers than was expected. We don’t have the exact information from how or from whence.

So we have a tax cut that is our best hope of bringing this economy back and causing this downturn to be around $70 billion this year and the $30 billion-plus next year are probably as close to what the economic doctor...
would have prescribed to us if he were looking at the veins of our economy and saying we better make some of them bigger. So that happened. The economic estimate went from 5.5 plus to 2.5 by the CBO. Apparently, it is coming down beyond that, but for how long and how much, I don’t know. We will be getting our numbers together and we can have a very interesting debate. What do we do if, in fact, this recession, this downward trend, lasts a little longer than expected? What do we do with reference to the shortfall in revenues? Do we increase taxes? Of course not. Do we just cut everything in the Federal programs 10 percent or 8 percent? Of course not. We won’t do that.

Today, we have an amendment by the new chairman of the Budget Committee in this Chamber to shift $300 billion in 2002 and nearly a trillion dollars over 10. For what does that cry out? It cries out for reform of the Medicare system, and it cries out loudly for a different delivery system and prescription drugs.

Incidentally, there is $300 billion sitting in this budget to be used for prescription drugs and when we get a bill. But we have said all of the moneys that are part of Medicare should be used to reform this, and certainly, Medicare money should be used as part of a reform measure, including prescription drugs.

The second point is that it was voted down in the Senate on a point of order. This splits Medicare in half. For the first time, we had half of Medicare off-budget, half of Medicare on budget. That doesn’t mean anything to anyone out there. But it is just totally the wrong way to help solve the long-term problems in our economy, and certainly, in this Chamber hope that as part of prescription drugs we actually reform Medicare so that it can deliver more for less? It is a 25- or 30-year-old regime, in terms of what is paid for and deducted and all of those things. Those should be made modern in the reform package.

This amendment won’t permit that because it says the portion of the trust fund that is for Medicare Part A is totally off-budget, but Part B is on budget.

From my standpoint, we are going to just encourage more gimmicks when we do this kind of thing. We are all aware that the surpluses were generated because we shifted home health services from Part A to Part B in 1997—part of I believe was a way of saying Medicare looks better—but at the same time we took one of the biggest components of their responsibility away from them. Anybody can do better on money if they have five or six components, somebody says: Well, don’t count three of them; we will put them somewhere else and you can run around and say all you owe are two mortgages and the other three are sitting over there somewhere and you are not going to do anything about them.

I believe the most important thing we can do—and everybody has priorities—the most important thing we can do this year—and I think the President is taking the first step tomorrow—is to get started on Medicare reform. My concept would be that the money in Medicare, Part A and Part B—and the $300 billion in this budget for additional prescription drugs—we package all that and pass a Medicare bill this year. I think that is the right thing to do.

I could talk a lot longer about trust funds and how they relate to the budget of the United States. But, for today, I believe the chairman of the Appropriations Committee, or the ranking member, whose bill is on the floor, will make a point of order. The distinguished majority whip has said a point of order will be made. I think it will be made in each case by a different Senator, one from each side of the aisle. This violates the Budget Act and therefore a point of order lies against it. I don’t think anybody who votes for that is going to make it stick that they are against Medicare.

As a matter of fact, one might make the argument that if the Conrad amendment is adopted and made law, which is a long way from now, you might make it harder to get reform in prescription drugs because you will be working off some arbitrary lines that are set now and left part on budget. So we need reform, not just shuffling money around.

I look forward to many days of discussions with my friend, the new chairman. I look forward with enthusiasm to discussing what is happening to the American economy. What should we do since the lull is a little longer? I think we ought to start talking about that.

I yield the floor and thank the Senator from Ohio for yielding time to me. The PRESIDING OFFICER. The Senator from Ohio has 10 minutes remaining. The Senator from North Dakota has just over 17 minutes. The Senator from North Dakota is recognized.

Mr. COYHAD. Mr. President, we always welcome the sage observations of the former chairman of the Budget Committee and, probably not surprisingly, we disagree. There is nothing in my amendment that precludes reform of Medicare. I not only serve on the Budget Committee, I serve on the Finance Committee, I have been part of every reform effort on Medicare that has occurred. So I am in favor of Medicare reform, and there is nothing in my amendment that prevents further Medicare reform.

In fact, I believe this amendment is part of Medicare reform because it recognizes that the trust funds of Social Security and Medicare both deserve protection. That is the reality. That is what is at the heart of this discussion and debate today.

Make no mistake, this talk about Medicare being in deficit is just erroneous. Let’s review the Congressional Budget Office report.

Here is Medicare. Under the table that is headlined “Trust Fund Surpluses,” Medicare Part A, which is financed out of payroll deductions, is in surplus each and every year of the 10 years of the forecast period.

Medicare Part B is in rough balance over the 10 years. In some years, it is down $1 billion and then it is in surplus by $3 billion, $2 billion, $2 billion. The fact is Part B is in rough balance over the 10 years.

The Senator says it is a deficit. It is not a deficit. It is a funding mechanism that we decided on in Congress for Medicare Part B. Part of the money comes from premiums. Part of the money comes from the general fund. It is not in deficit.

The report of the Congressional Budget Office shows very clearly it is in rough balance. Part A is in clear surplus.

If you allow the money that is in surplus in the trust funds of Medicare to be used for other purposes, which we are now poised to do because of an unwise fiscal policy that has been put in place, guess what happens.

What does that mean? I do not think we want to force the Medicare trust fund to go broke faster. It does not make sense to me.

The Senator from Michigan is seeking time. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Ms. STABENOW. I thank the Chair. Mr. President, I thank our Budget Committee chairman for his leadership on this issue. I am proud to be cosponsoring the amendment he has offered to protect Medicare and Social Security.

I ask unanimous consent to add my name as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, this is a very simple, straightforward debate: Are we going to protect Social Security and Medicare trust funds for their intended purpose, or are we going
to allow them to be used for other purposes?

This is Mr. Voight from Ohio speaks about Social Security trust funds, and I share his concern about protecting them, but that is not enough without including Medicare. I find it so interesting that in the Budget Committee we have heard testimony from the Secretary of the Treasury about protecting Social Security, and we have heard from the OMB Director about protecting Social Security, but nowhere do they talk about protecting Medicare.

Then we turn around and review over 30 years of reports regarding the Medicare trust fund, the solvency of the Medicare Part A trust fund. For over 30 years, we have acted as if there is a Medicare trust fund.

Now we are being told magically this year with the new administration, there is no trust fund. I find that quite amazing. In fact, there is a Medicare Part A trust fund. It is in surplus. It goes for important health care purposes. Just ask our hospitals. It is important we protect those dollars for those who receive healthcare through Medicare.

I also find quite interesting the logic that if, in fact, there is not a Medicare trust fund, there is no surplus; then rather than putting money into Medicare in order to strengthen it, we should spend it for other items. That is basically what we are hearing; that it is all right to spend Medicare for something other than health care for seniors and the disabled because somehow, through accounting mechanisms, we decided there is no trust fund.

The Conrad amendment, which is so fundamental and so important to the people of our country, simply says we will not spend Social Security and Medicare trust funds for something other than the intended purpose. This is absolutely critical. Those of us who stood in this Chamber and expressed concern about the budget resolution, expressed concern that, in fact, Medicare and Social Security would be used to pay for the tax cut that passed, to pay for other spending, the reason Senator EVAN BAYH, Senator OLYMPIA SNOWE, I, and others offered something called a budget trigger during that debate was simply to say we did not want to be in this situation and that phase-in of the tax cuts would be suspended if we were dipping into Medicare and Social Security.

That received 49 votes, not quite enough for adoption. We now move on throughout the year, and we find ourselves, as our Budget chairman has indicated, poised to spend Medicare health care dollars for other purposes, not in the future but this year and every year until 2016.

The Conrad amendment simply says we will not do that; we will protect the sacred promise of Social Security and Medicare; we will not spend Social Security or Medicare for other than the intended purpose.

This is Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Nine minutes forty seconds.

Mr. VOINOVICH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Nine minutes forty seconds, and the Senator from North Dakota controls 9 minutes exactly.

Mr. VOINOVICH. Mr. President, I will make a couple of remarks and let the Senator from North Dakota finish up on his time, and then I want to give Senator GRAMM of Texas the last part of my time, if that is acceptable to the Chair.

The PRESIDING OFFICER. The Senator from Ohio may proceed.

Mr. VOINOVICH. Mr. President, we have a saying in Ohio, especially north of Route 40, that you cannot make a silk purse out of a sow’s ear. We are talking about a Medicare Part A surplus, and to not also recognize that we have a Part B Medicare responsibility and argue that we have a surplus when the facts show that when we put A and B together they are in deficit some $52 billion—there is no such thing as a Medicare surplus, if you are looking at Medicare as it really is, and that is Part A and Part B. In this budget, we are going to have about $36 billion more than what we expected in Part A, but on Part B—that is the out of hospital—we are going to be in deficit some $38 billion. When we put the two of them together, we are in deficit $52 billion.

How can one talk about a Medicare surplus when we are in debt $52 billion? If we take the next 10 years, we are going to take in $393 billion more in Part A, but in Part B we are going to have to subsidize $1.36 trillion, and it all works out to be a deficit of $643 billion.

The point I am making is this: There is no Medicare surplus; it is a fiction. If we are to go along with the amendment of the Senator from North Dakota, in fact, what is going to happen is it will be used to pay down debt, and we will not have it to reform Medicare, which we need to do. We will not have it to pay for the prescription drug benefits that the American people are demanding we provide, and honestly they are going to do something about it this year. I urge my colleagues to vote against that amendment and to support the real pure lockbox of Social Security that I suggest today.

I point out to the Senator from North Dakota that the sequester does not take Medicare or Social Security. It exempts those under the Budget Act of 1985 so you don't have to worry, if the sequester goes into force, taking anything—Social Security and some of the other things to which the Senator made reference. It is written in my amendment and references the 1985 budget agreement.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, my staff says the Senator is incorrect when he says his amendment protects Medicare from the sequester, protects Social Security. They assert after examining the amendment that it does not protect Medicare from a sequester.

More importantly is the question of whether there is a trust fund surplus. I ask the Senator from Ohio, does he dispute the report of the Congressional Budget Office? The report of the Congressional Budget Office is as clear as it can be on page 19. I refer the Senator to "Trust Fund Surpluses." There is Social Security. We all know it is in surplus. Medicare, hospital insurance, Part A, is in surplus every single year. Part B is in rough balance over the 10 years.

The Senator from Ohio has confused the funding mechanism for Part B. The funding mechanism is part of the cost, for Part B is premiums paid by those who are Medicare eligible and the other part is a general fund contribution. It is not in deficit. It is a choice made by Congress as to how to fund Part A, which are payroll deductions. That is how it is funded. It is in surplus. Part B is funded by premiums for part of the costs and by general fund contributions for the other part. It is not in deficit. It is a decision made by the Congress. Part A is in surplus; Part B is in rough balance.

To suggest there is no surplus, I ask the Senator, what is his conclusion, this money doesn't exist? There is no surplus in Part A and I don’t think so. It is as clear as it can be.

If one says there is no surplus and make it a jump ball, make this money
available for other purposes, that is what will happen around here. That is the implication of the Senator's position. It is not a fund that is a wise position. I don't think it is a prudent position. It is a position that says we can use this money for any purpose; it doesn't matter. It doesn't matter that we have a trust fund. It doesn't matter that these moneys are supposed to be protected. We will use them any place.

That is exactly what got us back into trouble in the 1980s. We raided every trust fund in sight and put this in the deficit ditch and exploded the deficits and exploded the debt. I don't want any part of repeating that process.

I yield the floor.

Mr. VOINOVICH. I yield time to the Senator from Texas.

Mr. GRAMM. I thank the Senator from Ohio. There is only one person in this Congress who has done anything to control spending thus far, and his name is GEORGE VOINOVICH of Ohio. He got 35 Members of the Senate to sign a letter urging the President to veto spending bills that were over budget, that threatened the viability of Social Security and Medicare, and threatened the surplus. I congratulate him on that. He has proposed a mechanism to be sure we do not spend the Social Security surplus.

First of all, let me make it clear there is not a Medicare surplus. If ever there has been a fraud, this is it. It is true that one part of Medicare has a surplus of $29 billion. But it is also true that the other part of Medicare has a deficit of $73 billion, so Medicare in terms of taking general revenue, losing money, is running a deficit of $44 billion.

Even the surplus in Part A is the product of a gimmick from the Clinton administration where we took the fastest growing part of Part A, home health care, and "saved" $74 billion by paying for it out of Part B rather than Part A.

I am tempted to vote for the Senator from North Dakota's amendment because it makes it harder to spend money. I would have to say that the distinguished chairman of the Budget Committee has a power that no other Member of the Senate has because under the budget resolution he unilaterally controls $423.8 billion worth of reserve funds, and simply by saying no, he cannot be spent. No one is in a better position than the distinguished chairman of the Budget Committee to deal with the crisis that he has talked about.

When Senator DOMENICI was chairman, we had a surplus. We were not spending any of the so-called surplus in Medicare. We were not spending a penny of the Social Security surplus. We had general surplus in the rest of the budget. Now that the Senator from North Dakota has taken control and apparently things have almost spontaneously gone to hell, it seems to me he has a lot of explaining to do. I look forward to hearing it.

But the bottom line is, we have a proposal before us that sets up a process to make it much harder to spend the Social Security surplus. Then, if we spend it, it has an enforcement mechanism through a sequester. Every Member of the Senate that means it when they say no, anything about Social Security ought to support the amendment of the distinguished Senator from Ohio.

In my opinion, the case for the amendment of the Senator from North Dakota is a much weaker case. There is not a Medicare surplus. There is a surplus in one part of it, there is a deficit in the other. The surplus is a surplus by taking the fastest growing part out of it during the Clinton administration and putting it into Part B. So the whole thing is kind of a fabrication. On the other hand, if we actually did not allow the surplus to be—quote—spent, it would be harder to spend money. But there is another paradox, and that is you could not even spend it for Medicare.

So whatever you do on the amendment of the Senator from North Dakota, I urge you to support the amendment of the Senator from Ohio.

The PRESIDING OFFICER. Time controlled by the Senator from Ohio has expired. The Senator from North Dakota has 5½ minutes remaining.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, the Senator from Texas is wrong about the amendment of the Senator from Ohio. I just say this. Some of what the Senator from Texas says I agree with. I really do think we have a circumstance that requires us to think very carefully about how we are going to deal with requests for additional spending, requests for additional tax reductions, because, as I calculate it, the cupboard is bare. We are already into the trust funds or are poised to be if the items in the budget resolution enacted. We are into the trust funds, just based on the tax cut that has passed, based on the budget resolution that has passed, and based on reductions in revenue because of the economic slowdown.

Tongue in cheek, the Senator from Texas suggests it is my ascension to chairman of the Budget Committee that somehow led to these events. I can assure the Senator from Texas that it was not my becoming chairman of the Budget Committee that led to the economic slowdown, and it was not my ascension to the Budget Committee chairmanship that led to the passage of the budget resolution. I opposed it. It wasn't my position as Budget Committee chairman that led to the passage of the tax bill. I opposed it because I predicted then we would face the circumstance I believe we face now. That is, we have just done too much and the result is we have a problem. I am not for raising taxes at a time of economic slowdown. I am not for cutting spending at a time of economic slowdown because that would counter fiscal stimulus, and we need fiscal stimulus.

But look at things. But look at things when the administration projects strong economic growth, it does not seem wise to me that we use the trust funds of Social Security and Medicare for other purposes. That just does not seem to be a wise thing to do. My amendment would prevent us from doing it.

It would not absolutely prevent us because you could get around it with 60
voters. That is always true here. The Senator from Texas talks about the power that he has. The power I have is actually rather limited. The power I have is to release reserve funds that are in the budget, but any action I take can be overcome by 60 votes in the Senate.

I have sent the very clear signal to the Secretary of Defense and the administration with respect to their request for additional spending for defense. By the way, I believe we need more money for defense. But, given our fiscal situation, the question becomes, will it be taken out of the trust funds of Medicare and Social Security, or will it be paid for by spending cuts elsewhere, or will it be paid for by additional revenue? I do not believe it should come out of the trust funds of Medicare and Social Security. I think that is wrong. I think that is a mistake.

I think the amendment of the Senator from Ohio is deficient. No matter what the cause of the shortfall is, he has one answer. His answer is spending everywhere else, other than Social Security. I do not think that is the right answer. I think everything has to be on the table, revenue and spending cuts, especially if the problem is caused by tax cuts that were too big. No matter what the cause, whether it is economic downturn, whether it is a tax cut that was too big, he has only one answer: Cut all spending other than Social Security. I do not think that is a balanced response. Let me go again to the question of spending. I ask the Chair how much time is remaining on my side?

The PRESIDING OFFICER (Mrs. CARNahan). The Senator has 55 seconds.

Mr. CONRAD. Again, the Senator from Texas talked about spending being out of control. I just beg to differ. I do not think that is what the record shows. As a share of GDP, Federal spending has gone down each and every year for the last 9 years, from 22 percent of GDP to 18 percent this year. Under the budget resolution that passed, Federal spending as a share of gross domestic product is going to be at the lowest level of the last 9 years, from 22 percent of GDP down to 16.3 percent, the lowest level of GDP since 1951. Discretionary spending, domestic discretionary spending is going to be at the lowest level in our history.

So, please, let's not be telling the American people there is some big spending binge that has been going on here and put up a chart such as the one the Senator from Ohio has put up there that has just one part of Federal spending.

AMENDMENT NO. 873

The PRESIDING OFFICER. The time of the Senator has expired. Under the previous order, the Senate will now debate the amendment of the Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Chair. Madam President, I want to yield to the distinguished ranking member of our Finance Committee because he has a conflict. We want to try to accommodate that.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I yield myself such time as I might consume. I will not consume all the time that has been allocated to our side. I will not be here to allocate other time, so anybody who wants to speak in opposition to the Hollings amendment is free to yield themselves what time I might have remaining.

Even though Senator HOLLINGS has not discussed his amendment—he is very strongly opposed—I have strong opposition to his amendment because his amendment would repeal the retroactive marginal rate cuts enacted on July 6, this year, barely 1 month ago. My opposition to the amendment is that we do not have a slowing economy. The bill before the Senate is an appropriations bill, not a finance bill. As the senior Finance Committee Republican, I must oppose this tax amendment on an appropriations bill.

Furthermore, if Senator HOLLINGS were to prevail, this appropriations bill would become a Senate-originated revenue bill and, as such, it would be blue-slipped when sent to the other body. In other words, this amendment, if added to the underwriter supplemental appropriations bill, would kill the appropriations bill we are now considering, a bill that is so badly needed.

As bad as this amendment is procedurally, it is even worse substantively. This amendment would repeal all the retroactive marginal rate reductions in a recently passed tax bill. Those tax rate cuts are based principally on the new 10-percent bracket for the first $6,000 of income for single taxpayers and $12,000 of income for married taxpayers. The new tax per cent bracket is the basis, then, for the advanced refund checks of $300 for single people and $600 for married couples that will soon by mailed out by the Treasury Department starting July 23. So the Hollings amendment, then, would stop these checks dead in their tracks. A vote for the Hollings amendment is a way to say no to American taxpayers who now expect to receive the refund checks.

These checks and the other retroactive rate cuts are, of course, a stimulus in the tax legislation that we just enacted. Just when the economy is slowing down and when the economy, then, is in need of a stimulus, the Hollings amendment would pull the rug out from under any attempt to stimulate it. Frankly, I cannot think of a proposal more damaging to the potential return to economic growth than the amendment on which we will soon vote.

Soon, in a separate speech, I am going to discuss in some depth the tax legislation just enacted. Let me point out one important fact for one to chew on in the meantime. According to the Congressional Budget Office, Federal taxes are at an all-time high of 20.6 percent of the economy. That is higher than taxes were even in World War II. Individual income taxes are at record levels as a percentage of the GDP. The tax legislation returns this overpayment—which is dragging down American workers, investors, businesses, and collectively the American economy—to the people.

What the Hollings amendment really says is, return taxes to their record levels. The Hollings amendment says high taxes are no problem and should be ignored in a slowing economy. Think about this, my fellow Senators. This amendment, in effect, raises taxes at a time we have a slowing economy. Madam President, I yield the floor and thank Senator HOLLINGS for yielding to me to make these remarks at this point ahead of him.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, the distinguished then-chairman of the Finance Committee, when they reported out the tax cut, did not include a rebate, did not include a tax cut for this present fiscal year, 2001. But to not have it in all of a sudden has become, in his words, dangerous: Oh, this is a dangerous thing, I am just doing what he, as the chairman of the Finance Committee, reported out.

I have said: Look, let's not have a tax cut for the year 2001. That is exactly what President Bush said when he submitted his tax cut: Let's not have a tax cut for 2001. We will begin in 2002. That is what is the House of Representatives said when they passed the tax cut. They said: Don't have it for 2001. Let's begin in 2002.

Now, all of a sudden, to do that has become dangerous? a constitutional question? I originated this particular rebate, which I ask now to be repealed, in the Senate. The Senate did not raise a constitutional point of order that it was a revenue measure that should be disallowed. The House of Representatives voted for it, without question, without point of order, without constitutional question. They did not blue-slip it when it got over to the House of Representatives. Now where are we? We now talk about campaign finance in the morning paper and say the House is debating it and they are only going to have 1 day of debate. But we are only going to have 15
minutes of debate here this morning on campaign finance because that is all this is. Nobody thinks now the minimal rate, the little rebate going to work. I have not found anybody who really thinks mailing somebody $300 or $600 is all of a sudden going to trigger a recovery in a $10 trillion economy—let me emphasize this. When it got to be about February and March, and I really began to worry about the economy, wondering if there was anything that could be done, yes, there was a rebate being discussed. So I went to the financial minds on Wall Street and the economists—because I am a former chairman of the Budget Committee, and I know whom to call and whom to talk to—and I said: Look, do you think a rebate will work? They said: It’s 50–50, a flip of the coin. It might, but probably will not. To make sure it worked they told me the rebate ought to be at least 1 percent of the gross domestic product of $10 trillion, which is $100 billion. And it certainly ought to cover as many taxpayers as possible.

So we set out with $100 billion, and we included the 95 million income-tax payers and the 25 million payroll-tax payers, and do you know what those rascals did? Listen to this. They gimmickled: The corporate taxes due in September—namely, fiscal year 2001—we are going to move that over to October so we will have enough money for the campaign next year.

Talk about campaign financing. Where are we going to take it away? We are going to take it away from, of all people, Dicky Flatt.

The Senator from Texas is always talking about little Dicky Flatt who pulls the wagon and pays the taxes and builds the country and sits around the kitchen table. Poor Dicky Flatt gets nothing. Does this government say? Let’s put everybody in Dicky Flatt’s shoes. If he and the 25 million payroll-tax payers, and do you know what those rascals did? Listen to this. They gimmickled: The corporate taxes due in September—namely, fiscal year 2001—we are going to move that over to October so we will have enough money for the campaign next year.

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Talk about campaign financing. Where are we going to take it away? We are going to take it away from, of all people, Dicky Flatt.
is up to us to take care of the fiscal policy, the long-range interest rates and everything else.

A headline from the Financial Times reads, “Hard Landing Alert Sounded for U.S. Economy.” And again, Mort Zuckerman, editor in chief of U.S. News and World Report, says that consumer spending, capital spending, and exports are declining rapidly, that the economy is in worse shape than it looks.

With that confronting us, why are we running around borrowing some $40 billion to mail around knowing it is not going to do any good, confronting fund Social Security, funding Medicare, funding the education increase of $30 billion a year, funding that requires that Secretary Rumsfeld wants of $18 billion? I retain the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll. Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. REID. I have spoken to Senator Hollings. He has no more time he wishes to use. The opposition has used some of his time. I don’t think we have any more time. The hour of 12:30 is quickly approaching. I ask unanimous consent that we recess for our Tuesday morning conferences of the parties at this time.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:28 p.m., recessed until 2:16 p.m., when called to order by the Presiding Officer (Mr. Cleland).

SUPPLEMENTAL APPROPRIATIONS ACT, 2001—Continued

AMENDMENT NO. 865

The PRESIDING OFFICER. There will be 2 minutes equally divided before the vote on the Conrad amendment.

The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, the amendment I am offering today is an amendment I offered last year that got 60 votes on the floor of the Senate. Earlier this year, it got 53 votes on the floor of the Senate. It says we should protect both the Social Security and the Medicare trust funds. We already provide some protection of the Social Security trust fund. It would strengthen those protections. We would also provide those same protections to the Medicare trust fund. Both of these trust funds deserve protection. If we don’t provide it, the money will be used for other purposes.

I hope my colleagues will support this amendment.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. May I ask, how much time do we have?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. VOINOVICH. Thank you.

Mr. President, I urge my colleagues to vote against the Conrad amendment. In fiscal year 2002, the overall Medicare Program would require over $50 billion in general tax revenues. Over the next 10 years, the Medicare Program would require over $600 billion in general tax revenues. We can’t lockbox something that simply does not exist. It is a fiction.

This amendment, in my opinion, will harm our ability to reform Medicare and also harm our ability to provide a prescription drug benefit that is so long due for the American people.

Furthermore, the Conrad amendment does not contain any real teeth in terms of a Social Security lockbox. It lacks any automatic enforcement mechanism to protect Social Security. I urge my colleagues to vote no on the amendment and against the waiver of the point of order.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, on behalf of myself and the chairman of the Appropriations Committee, Senator Byrd, I raise a point of order that this amendment violates section 306 of the Budget Act.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable section of that act for the purpose of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New York (Mrs. CLINTON), the Senator from New York (Mr. SCHUMER), and the Senator from North Carolina (Mr. EDWARDS) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SANTORUM), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 42, nays 54, as follows:
surplus in any single year of the next decade. More important, our amendment contains an automatic enforcement mechanism. If OMB reports that the Federal Government will spend the Social Security surplus, an automatic across-the-board cut in spending, a sequester will be put in place. The size of this sequester will offset the use of the surplus. This is the ultimate enforcement mechanism. If the Social Security surplus looks like it will get spent, the OMB stops it from happening. This will ensure we stay the course on limiting spending and pay down the national debt as we promised when we passed the budget resolution.

Spending cuts under this amendment would impact both discretionary and mandatory spending. Mandatory spending for the most needy in society would not affect.Beside sequesters. My amendment would exclude Social Security, food stamps, and other programs that are excluded from sequesters under the Deficit Control Act of 1985. In reality, about $33 billion of mandatory spending is subject to sequester. Hopefully, we would never have to use the sequester.

This amendment is straightforward. It relies largely on existing law. It primarily builds upon the existing budget process. We all know Social Security is off budget and any amendment reinforces that position. Our amendment does not modify any budgetary conventions, nor does it pretend Social Security is something it is not. We must make sure history does not repeat itself. For years the Social Security surplus has been an all too readily available source of cash for Congress to spend. However, since 1999, there has been a political consensus not to return to spending the Social Security surplus as a part because we had an on-budget surplus that supplied the extra money.

If, however, the economic prosperity that this Nation enjoyed recently continues to fade, although I hope this is a temporary situation, surpluses are likely to be revised downward. Then the Social Security surplus will again be in the crosshairs. It will be in the crosshairs because of Congressional yearning for more spending.

If you ask me, we are not there to follow through on what we promised the American people, if you want to pay down the debt, if you want to control spending, and if you want to do it in an accountable, enforceable way, without gimmicks, vote for this amendment. I think everyone in this room knows this is the right thing to do. I urge my colleagues to vote for this amendment and urge them to vote for waiving the point of order that will be raised against it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, the Voinovich amendment does nothing to protect Medicare. Just a few short months ago, every member of the Republican caucus voted for protection for both Medicare and Social Security. What has occurred that would lead them now to forget Medicare?

This is not a wise course. In the name of protecting Social Security, this amendment would cut Medicare. The sequester that is provided for in this amendment says, if we are on the edge of going into Social Security, cut Medicare, cut defense. It is one-trick pony. It does not matter whether the deficiency was caused by a tax cut, by an economic downturn, or by excessive spending, the answer to each and every one of them is the same: cut spending. It does not matter if the problem was caused by a big tax cut; it does not matter if the problem was caused by an economic downturn, the answer is cut spending. It is not a balanced approach.

The assertion that there is no Medicare surplus simply does not fit the facts. This is the report of the Congressional Budget Office. On page 19, under the table “Trust Fund Surpluses,” it shows Social Security in surplus, it shows Medicare Part A in surplus, it shows Medicare Part B in rough balance.

The argument that the Senator from Ohio is making is that because we have chosen, as a Congress, to fund Part B, in part by general fund transfers, that means Medicare is in deficit. That is not the case. That is not the definition of the Congressional Budget Office; that is not the definition of the Office of Management and Budget. All of them assert there is a surplus in Part A and rough balance in Part B.

We, as an Congress, have made the determination to finance Part B, by premiums in part, by general fund transfer in part.

This is not an amendment we should adopt.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, we already have a Social Security lockbox. The pending amendment contains matter within the jurisdiction of the Senate Committee; therefore, I raise a point of order against the amendment pursuant to section 306 of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I move to waive the applicable provisions of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the motion.

The clerk will call the roll.

Mr. REID. I announce that the Senator from New York (Mrs. CLINTON) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SANTORUM) is necessarily absent.

The PRESIDING OFFICER (Mr. JOHNSON). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 54, as follows:

(Roll Call Vote No. 222 Leg.)

YEAS—43

Allard 
Allen 
Brownback 
Bunning 
Campbell 
Collins 
Craig 
Crandall 
Collins (DE) 
Clyburn 
Cochrane 
Conrad 
Cotter 
Culberson 
Cupps 
Frist 
Graham

NAYS—54

Akaka 
Baucus 
Bayh 
Bennett 
Biden 
Bingaman 
Bond 
Boxer 
Braun 
Byrd 
Canwell 
Carnahan 
Carper 
Chafee 
Cleland 
Cochran 
Conrad

Clinten 
Santorum 
Schermer

The PRESIDING OFFICER. On this vote, the yeas are 43 and the nays are 54. This three-fifths of the Senate duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. STEVENS, Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 873

The PRESIDING OFFICER. There will now be 4 minutes of debate equally divided before a vote in relation to the Hollings amendment. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, in the first part of April when we passed my amendment authorizing a rebate, we had a $102 billion surplus. Now, as of 3 o'clock this afternoon, according to the Secretary of the Treasury, the public debt is $417 billion—a anybody can read it on the Internet—the debt now, instead of being a surplus, has increased since the beginning of the fiscal year to $36 billion in the red. In
other words, we don’t have the $41 billion for a rebate. We have to go out and borrow it.

Common sense says that rather than going out and borrowing money and throwing it to the winds, increasing the debt, the public would prefer that we pay down the debt. At least that is what we are doing. If you look on the screen on channel 2, the Republican channel says “abolishes a tax rebate.” “President Bush and Congress promise to the American people...”

They didn’t promise it. It was my amendment. I promised, as the financial world advised me, that it should apply to all taxpayers. What they have done is broken my promise. Nothing is in this bill for the 25 million payroll-tax payers. In other words, you and I, Mr. President, will get a rebate, unless you vote for my amendment. But the payroll-tax payers, such as Dicky Flatt—I don’t know where the Senator from Texas is, but Dicky Flatt, the fellow who hikes and pays the taxes, and builds the country, and sits around the kitchen table” gets nothing.

Now, come on. If there is a conscience around here, let’s talk sense. Save that $41 billion. We need it for defense. We need it for education. We have increased education spending to $25 billion a year, $250 billion over 10 years. We need it for prescription drugs. Let’s don’t throw the money around and then cry the rest of the year here that we don’t have the money.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY. Mr. President, I rise in strong opposition to the Hollings amendment. The Hollings amendment would repeal the retroactive marginal rate cuts enacted on June 7th of this year. That is barely over 1 month ago.

My opposition to the amendment is based on both procedural and substantive grounds.

On the first problem the amendment’s procedural problems, it is clear that, if adopted, this amendment will cause the underlying supplemental appropriations bill to violate the origination clause of the U.S. Constitution. If sent to the House, the bill would certainly be “blue-slipped.” So, this amendment, if adopted, kills the supplemental.

The second problem is the substance of the amendment. This amendment would repeal all of the retroactive marginal rate reductions in the recently passed tax bill. Those rate cuts are based principally on the new ten percent bracket for the first $6,000 of income for taxpayers and $12,000 of income for married couples.

The retroactive new ten percent bracket is the basis for the advance refund checks of $300 for a single person and $600 for a married couple. The Hollings amendment stops these checks dead. The Hollings amendment is a way to say no to American taxpayers who now expect to receive refund checks. A vote for the Hollings amendment is a vote against the stimulus in the tax bill we just passed.

Mr. LIEBERMAN. Mr. President, I will vote for the Hollings amendment and wish to explain my reasoning. The amendment focuses on the consequences of the massive tax cut, namely that we are facing a Hobson’s choice—either raid the Social Security and Medicare HI trust funds or forgo needed spending on defense, education and other priorities. This is a choice that will bedevil us for years to come until we come to our senses regarding a tax cut that is not acceptable.

The Hollings amendment seeks to avoid this Hobson’s choice by rescinding a portion of the excessive tax cut. I would prefer that he rescinded aspects of the tax cut other than the rebates. I was an early advocate of rebates to help us with the current economic slowdown. I was disappointed in the rebate that was finally adopted in the tax bill because it is not being paid to tens of millions who filed tax returns, but I still support rebates.

If we don’t face reality regarding the tax cut, however, we will be faced again and again with the Hobson’s choice regarding the trust funds. We have urgent priorities to modernize our defense establishment and to fund the education reform initiative, both issues where I have expended considerable effort over the years. The problem we will face is that so much of the government’s revenue base has now been spent that any national priority that requires more defense or education, will have to be shelved or funded at the expense of the trust fund surpluses.

As Chairman CONRAD has explained, the President’s budget plan means we may well raid these trust funds this year even if we do not go forward with these urgent priorities. We won’t know for sure until the new budget estimates are provided in August and at the end of the fiscal year, but we may spend down these trust funds even if we do not exceed the budget resolution limits.

I applaud Senator HOLLINGS for raising this issue, and for seeking to avoid this Hobson’s choice. While this amendment affects rebates that I support, it brings needed attention to the overall box the Administration has placed us in and the difficult choices we will have to make. This amendment attempts to avoid our dipping into the trust funds. It is only as if we want to take the money back from the people before we ever give it to them.

They are saying: Congress did something right. And those who look at the American economy say: Hey, they did something right. It is about the right time to have a big tax cut.

I do not believe you will find one economist of renown and repute in the United States who will say in the middle of this downturn we should increase taxes. Ask somebody. I asked a bunch of them. They said this might not be the greatest tax plan, but cut the taxes and leave it alone.

I say to my friend, Senator HOLLINGS, he did a good thing when we had the budget resolution before us. He was ahead of us. He said put more of it in the early years. We went off to conference and followed his admonition. Now he thinks that is too much.

The checks that are in the mail, if they could get at them, knowing the power of Congress, could be stopped in a week if we adopted this amendment.

It is the wrong thing to do to the people; it is the wrong thing to do for the American economy, and certainly for
the Congress it is absolutely the epit
ome of moving in the wrong direction
when the country has problems.
I yield the floor.

The PRESIDING OFFICER. The ques
tion is on agreeing to amendment No.
873. The ayes and nays have been or
dered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Sen
ator from New York (Mrs. CLINTON) and
the Senator from New York (Mr. SCHU
MER) are necessarily absent.

Mr. NICKLES. I announce that the Sen
ator from Pennsylvania (Mr. SANTOR
UM) is necessarily absent.

The PRESIDING OFFICER. Are there
any other Senators in the Chamber des
iring to vote?

The result was announced—yeas 3,
nays 94, as follows:

[Roll Call Vote No. 223 Leg.]

YEAS—3

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Bingaman
Brownback
Burns
Byrd
Campbell
Cantwell
Carnahan
Capito
Chafee
Clinton
Conrad
Cooper
Coons
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici

Cliftton
Santherum
Schumer

NOTVOTING—3

The amendment (No. 873) was re
jected.

Mr. REID. Mr. President, I move to re
consider the vote and I move to lay that
motion on the table.

The motion to lay on the table was
agreed to.

Mr. REID. Mr. President, I ask unan
imous consent that when the Senate con
siders the following amendments, they
be considered with the following limita
tions, with no second-degree amend
ments in order prior to the vote in rela
tion to the amendment: Wellstone amend
ment No. 874, there will be 60 minutes
equally divided and controlled in the usual
form; on the Schumer amendment, No. 862,
there will be 30 minutes equally divided and
controlled in the usual form.

The PRESIDING OFFICER. Is there
objection?

Mr. STEVENS. Reserving the right to
object.

The PRESIDING OFFICER. The Sen
ator from Alaska.

Mr. STEVENS. I suggest the absence
of a quorum so we may examine this
amendment for just a minute.

The PRESIDING OFFICER. The clerk
will call the roll.

The assistant legislative clerk pro
ceeded to call the roll.

Mr. STEVENS. Mr. President, I ask
unanimous consent the order for the
quorum call be dispensed with.

The PRESIDING OFFICER. Without
objection, it is so ordered.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without
objection, it is so ordered.

The PRESIDING OFFICER. The Sen
ator from Nevada.

Mr. REID. Mr. President, I suggest
the absence of a quorum.

The PRESIDING OFFICER. The clerk
will call the roll.

The assistant legislative clerk pro
ceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask
unanimous consent the order for the
quorum call be rescinded.

The PRESIDING OFFICER. Without
objection, it is so ordered.

Mr. REID. I say to my friend from
Minnesota, we almost have this worked
out so that everyone will know what is
happening until the end of the day. I
know my friend from Minnesota is anx
ious to offer his amendment. We have
imposed upon him to offer his amend
ment out of order. If we wait another 2
or 3 minutes, everything could be done.
I ask if my friend objects if we go into
a quorum call for a couple more min
utes.

Mr. WELLSTONE. Mr. President, I was
trying to accommodate Senators.

I suggest the absence of a quorum.

Mr. BYRD. Will the Senator yield be
fore he puts in the quorum call?

Mr. WELLSTONE. I yield.

Mr. BYRD. I merely want to say, in
explanation, that the Senator from
Minnesota was about to proceed at my
request. I did not know the state of the
situation. I apologize for that. But I
thank the Senator for yielding.

Mr. REID. I say to my friend, before
we go into a quorum call, that very ef
ficient staff have typed up a couple dif
ferent versions of a unanimous consent
request, the final one of which should
be here momentarily. I have been con
ferring with the minority manager, and
we should have it just about wrapped
up. I say to my friend from West Vir
ginia.

Mr. BYRD. Mr. President, if the Sen
ator would yield, in the words of Alex
ander Pope: 'Thou art my guide, phi
losopher, and friend.'

Mr. WELLSTONE. Mr. President, has
my colleague suggested the absence of
a quorum?

The PRESIDING OFFICER. No.

Mr. WELLSTONE. I suggest the ab
sence of a quorum.

The PRESIDING OFFICER. The clerk
will call the roll.

The legislative clerk proceeded to
call the roll.

Mr. REID. Madam President, I ask
unanimous consent that the following be
the only first-degree amendments re
maining in order to S. 1077, that any
votes ordered with respect to these
amendments occur in the order in which
the amendment is debated, and that no
second-degree amendment be in
order prior to a vote in relation to the
amendments in order prior to the vote
in the usual form; McCain amendment
No. 874; Bond amendment No. 872, with
30 minutes equally divided and con
trolled in the usual form; McCain amend
ment No. 869; Feingold amendment No.
868; Schummer amendment No. 862; a
man
agers' amendment, with 5 minutes
equally divided; provided further that
there be 30 minutes of general debate
on the bill, with Senators McCAIN and
GRAMM of Texas controlling 5 minutes
each, and the remainder equally con
trolled by the two managers, Senators
BYRD and STEVENS; that upon the use or
yielding back of all time, the Senate pro
ceed to vote in a stacked sequence,
with 5 minutes equally divided and con
trolled between each vote, and that
the votes, after the first vote, be 10
minute votes, and that the first vote in
the sequence not occur prior to 7:45
this evening.

Madam President, we are hopeful and
confident we can make the 7:45 time.
We have spent a little time trying to
come up with this agreement. This has
been gone over with Senator BYRD.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk
will call the roll.

The legislative clerk proceeded to
call the roll.

Mr. STEVENS. Madam President, I ask
unanimous consent that the order for the
quorum call be rescinded.

The PRESIDING OFFICER. Without
objection, it is so ordered.

Mr. STEVENS. Wellstone amendment
No. 873, Bond amendment No. 872, with
30 minutes equally divided and con
trolled between each vote, and that
the votes, after the first vote, be 10
minute votes, and that the first vote in
the sequence not occur prior to 7:45
this evening.

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confident we can make the 7:45 time.
We have spent a little time trying to
come up with this agreement. This has
been gone over with Senator BYRD.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk
will call the roll.

The legislative clerk proceeded to
call the roll.

Mr. STEVENS. Madam President, I ask
unanimous consent that the order for the
quorum call be rescinded.

The PRESIDING OFFICER. Without
objection, it is so ordered.

Mr. STEVENS. Madam President, I ex
press my appreciation to my friend from
Minnesota who is his usual cour
teous self. He has been very patient. I
yield the floor for the Senator from Minnesota.

Mr. WELSTONE. Madam President, I call upon amendment No. 874. The PRESIDING OFFICER. The amendment is pending. Mr. WELSTONE. I thank the Chair. Madam President, this amendment would increase funding for what is called the LIHEAP, the Low Income Energy Assistance Program. It would provide $150 million in emergency funding for this fiscal year for the LIHEAP program.

The amendment would be offset directing the Secretary of Defense to rescind $150 million in fiscal year 2001 funds out of administrative costs.

There have been many General Accounting Office Inspector General studies of the Pentagon budget that have talked about administrative waste going far beyond $150 million. Out of the whole budget, we are just saying take $150 million from all of the administrative waste—talking about tens of billions of dollars—and transfer that to the Low Income Energy Assistance Program.

This is a safety net program which provides essential heating and cooling assistance to almost 5 million low-income people, many of them senior citizens, many of them disabled, many of them working poor, many of them working poor families with children.

Let me explain why I bring this amendment to the floor. Right now, national estimates show—and this is shameful—that only 13 percent of the households eligible for the Low Income Energy Assistance Program actually receive any assistance at all. That is because since 1985, accounting for inflation, the truth is, the funding has declined. For many low-income families, the energy costs are as much as 20 percent of the monthly budget.

The Low Income Energy Assistance Program is a lifeline program that provides additional grants of money to people when they are in dire need of such assistance. When they don't get this help, if they are elderly, they don't buy the prescription drugs they need. They don't eat what they should be eating.

They don't have enough money for food. I am not exaggerating.

I am also talking about cooling assistance. While I come from a cold-weather state, the LIHEAP emergency cooling assistance, and for many States that is not unimportant. There are poor people, many of them elderly, who run into a lot of difficulty. We have had some summers when they died from exposure to the heat, struggling with whatnot and without any cooling assistance whatsoever.

I recognize the hard work that has been done by the Senate Appropriations Committee. In his supplemental request to the Congress, President Bush requested only $150 million of additional emergency funding. I am sorry. I have to say it: This does not represent “compassionate conservatism.” It was inadequate. The President's request would not even have been enough to assist low-income families who are currently in arrears from this past year's devastating winter.

Chairman BYRD and Chairman STEVENS, recognizing the inadequacy of the administration's request, doubled it. They deserve the credit for doing so. However, while the $150 million requested by the President was inadequate, the $300 million certainly does a better job, but it is far from adequate. It doesn't meet the needs of millions of people, and seniors who are facing unbelievable energy costs no matter where one goes in the United States.

In addition, all of the LIHEAP funds appropriated for this year have been released, and nearly half the States have already exhausted or nearly exhausted their funding.

It is clear that we are currently nearing a crisis situation. A study was just completed by the National Energy Assistance Directors Association, and they found that 28 States and the District of Columbia were either out of funding or had very low balances; States reporting that they were out of funds: The District of Columbia, Iowa, Kansas, Maine, Minnesota, Montana, New Hampshire, New Mexico, Rhode Island, Washington, and Wisconsin; States reporting very low balances: Alabama, Colorado, Delaware, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Missouri, Nebraska, Nevada, New York, North Carolina, Texas, Vermont, Virginia, and Utah.

This survey also found that arrearages and threats of shutoffs increased to 4.3 million households. This past winter was a living hell for a lot of low-income people. Energy costs in the State of Minnesota went up 40 percent. We have this deadly combination of our increased demand for assistance this winter season, and summer programs have greatly benefitted low-income households, providing them with more fuel for their money.

The amendment could be offset again by directing the Secretary of Defense to transfer $150 million from the whole Pentagon budget in administrative expenses for fiscal year 2001. I want to remind colleagues that the President has requested $343 billion for the defense budget in the next fiscal year, at a time when the Department can't even complete an internal audit. I am just saying transfer $150 million in administrative expenses.

This amendment is clear. It is a lifeline program. It is a lifeline program. It is for the most vulnerable citizens in our country. We have not provided the funding and the assistance that is necessary, and it is the reason I bring this amendment to the floor—recognizing the good work of the Appropriations Committee. As a Senator from Minnesota, I listed all sorts of other States that are in trouble right now either for cooling assistance or in trouble as they look to this next year.

We ought to be providing the funding. This is just one vote that calls on us to try to get our priorities straight.
The President’s $150 million was hardly compassionate conservatism; doubling it was good work, but it doesn’t come close to the needs. The next 3-month period doesn’t come close for what is needed for cooling assistance, doesn’t come close for what use States can make to provide assistance to people so they don’t get cut off by utilities. It doesn’t provide advance funding for States such as Minnesota that are going to wind up in a real financial crunch next year because the home heating costs are going to be high and we are not going to provide the necessary funding.

At the very minimum, can’t we take $150 million in administrative costs from the whole Department of Defense budget, which is well over $300 billion, and put it into emergency low-income energy-assistance tax cuts. It is really working poor people, for children, for the elderly, and for the disabled?

I say to my colleagues that we know right now this has been a successful program. We also know that the program has to be under-funded, and we know firsthand that over half the States in the United States of America are out of money. I gave you a report on which States are almost out of money. We have a hot summer month coming up, I do not believe that we should pass this opportunity to utilize the supplementary emergency vehicle, which is for emergency purposes, to bring additional relief to vulnerable citizens in this country. This amendment is a modest step in this direction, and I urge my colleagues to support it.

Also, because I know that the chairman and the ranking minority member want to continue to move things forward, I believe I have made my case, but I also want to kind of put this into a broader context. It is really working poor people, for children, for the elderly, and for the disabled.

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So we have amendments proposed that will add to the Pentagon budget and take away from workforce development, take away from displaced worker funds. On the Iron Range in Minnesota, LTV just shut down; 1,400 workers are out of work.

I say to my colleague from West Virginia, take away from the steel loan fund. What kind of tradeoffs are we getting into? This is becoming a zero-sum game. We have a strong defense, but we don’t help people who are out of work. We don’t help rebuild industries that are so critical, as a matter of fact, to our communities. We don’t put more money into education, and we don’t have money for prescription drugs or for job training.

We passed the Patients’ Bill of Rights. I am proud of this piece of legislation. The whole question of health security for all is still out there. Affordable child care: We all say we are for the children. Where is the funding for Head Start, and for affordable child care, and for affordable higher education?

What about veterans? Who is going to make the commitment to a decent health care budget for veterans? Who is going to do anything about homeless veterans?

I am just telling you that this is a small amendment, but this small amendment tells a larger story. I am not raiding Medicare or Social Security. I am not doing any of that. This is just a transfer. I am just saying, out of the huge, over $300 billion budget—the huge, over $300 billion budget—$150 million in administrative costs can be transferred to this program so that we can do a little bit better by way of helping vulnerable citizens in our country.

That is the amendment. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from West Virginia.

Mr. BYRD. Madam President, I yield time in opposition to the distinguished Senator from Hawaii. Mr. INOUYE.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, the Wellstone amendment, dealing with the Low Income Home Energy Assistance Program, is a very noble goal. I have no quarrel with this goal but, most respectfully, this matter has been addressed in this bill.

The amendment that is proposed would cut funding for the Department of the National Guard. It has a time when we are trying our best to increase funding. The amendment would allow the Secretary of Defense to choose which programs under his jurisdiction would be curtailed.

I think it is not a bad idea to curtail funding, but this blank check to administrative programs would force the Secretary to identify those that he considers of lower priority. I always ask myself: In a Senate of 100 Members, can we ever agree upon what is of more priority?

Most respectfully, I inform my colleagues that the Secretary could take funding from several items that this body has supported over DOD’s reluctance, and we have done this for many years.

For example, we have a fund for the Youth Challenge Program which takes high school dropouts and turns their lives around. It is a most successful program that is under the auspices of the National Guard. It has saved our Nation countless millions of dollars. We have kept these young students out of prison. We have kept them out of crime. I do not think any one of us would want to cut off that program. This amendment could very well force the Secretary to stop programs to clean up the environment. One may ask: In what environmental program is the Defense Department involved? Over the years, we have been closing bases, and all of our military bases, because the production of the National Guard. We have unexploded ordinance in the target ranges. There is oil pollution all over the place because we have had oil dumps. If the communities want to use these bases, how can they go about it under our laws? They have to be clean before people of the United States can utilize the bases that have been closed by the action of Congress. Do we want to stop that program?

Then we speak of our cultural heritage. The Department of Defense now has a Legacy Program which protects cultural heritage.

There is a program I am certain the author of this measure wants to see
continued, and that is the program which supports Native American tribes. For example, at this moment, we are closing clinics and hospitals, not only here but in Europe. We constantly find that our Native Americans do not have proper hospital facilities, and so we get these old, secondhand beds, old secondhand operating tables, and we end up using x-ray machines to help the first citizens of this land. Is that high priority or low priority?

Then we come to the National Guard. This has been a battle from day one. Is the National Guard of low priority or is it of high priority?

These are the types of programs the Secretary is likely to curtail or cut out to carry out the intent of this amendment. I argue that we are already underfunded in the Department of Defense. That is why we are hopeful this Senate will approve this measure which will add $5.5 billion to the Department. This amendment is a noble one, but I believe the wrong amendment. Others can speak more knowledgeably about the adequacy of funding. I know it is a worthwhile program, but understand, it is already fully funded for this fiscal year.

I have had people ask me: Why is the Department of Defense spending money for defense when we do not use an aircraft, when we do not use the carriers, when we do not use the submarines? Thank God, Madam President, we do not use the submarines. Thank God we do not have to use the bombers. Thank God we do not have to use the carriers because if we were using them, we would be at war. But since we are prepared, potential adversaries think twice before they decide to get into action with us.

Much as I admire the purpose, much as I admire the noble goal, I urge my colleagues to vote against the amendment. I yield back any time remaining.

The PRESIDING OFFICER. Who yields time? The Senator from Minnesota.

Mr. WELLSTONE. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Minnesota has 12 minutes 20 seconds.

Mr. WELLSTONE. I will take 3 minutes. I say to my colleague, I want to respond to my good friend from Hawaii by saying three things. First, there is not a better person in the Senate. I hate disagreeing with him. I listened carefully, and I want him to know in the language of this amendment, I make it clear:

In determining the accounts to specify, the Secretary of Defense shall take into consideration the need to promote efficiency, cost-effectiveness, it aims productively within the Department of Defense, as well as to maintain readiness and troop quality of life.

We do not talk about taking money out of any of the programs. We are not talking about cutting programs that are especially important for youth or especially important for Native Americans. We do not talk about anything that goes away from readiness and troop quality of life.

The only thing we are talking about is administrative expenses. The Pentagon has not even been able to complete its internal audit. We all know there is way more than $150 million in administrative waste in an over $300 billion budget. I am saying do not take it out of programs, and I am certainly saying do not take it out of anything that deals with troop quality of life or readiness. I am simply saying take it out of the administrative waste and put it into the Low Income Home Energy Assistance Program.

Mr. BYRD. Would the distinguished Senator from Hawaii yield me 3 minutes?

Mr. INOUYE. I yield 3 minutes.

Mr. BYRD. Madam President, this amendment would add another $150 million to the Low-Income Home Energy Assistance Program, in addition to the $300 million already included in the bill. The additional LIHEAP funds are offset by an administrative cut in the Department of Defense to which Mr. INOUYE has very ably addressed his remarks in opposition thereto.

I am a strong supporter of LIHEAP; it helps many low-income households facing rising fuel costs, pay to heat their homes. However, both the House and the Senate committee-reported version of this supplemental already recommend an additional $300 million for LIHEAP, which is double the amount recommended in the President's budget request. The committee-reported bill brings the fiscal year 2001 LIHEAP appropriation to $2 billion, and with the carryover funds from the prior year, funds available for LIHEAP would total $2.155 billion in fiscal year 2001. This compares to $1.844 billion in fiscal year 2000—an increase of $311 billion.

I commend the distinguished Senator from Minnesota. He makes a very compelling argument. Ordinarily I would want to support him in the position he has taken. However, the committee-reported supplemental, as I have already indicated, is a balanced bill; it is a fair bill. While I would like to provide additional resources for energy assistance to low-income people in the country, I believe the best way to quickly get supplemental LIHEAP funding to members of Congress is to approve the committee bill without this amendment so that the bill can be more immediately sent to conference and on to the President for his signature.

If I have any time remaining, I yield it back.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. On behalf of the committee, I move to table the amendment.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays are ordered.

The PRESIDING OFFICER. The vote will occur in a stacked sequence later this evening.

The Senator from Missouri.

AMENDMENT NO. 872

Mr. BOND. I call up amendment numbered 872, The PRESIDING OFFICER. The amendment is pending.

Mr. BOND. Madam President, in recent years we have witnessed some very serious and troubling discussions in the Appropriations Defense Subcommittee. We have noticed how American fighting men and women are being committed to engagements of all kinds all around the world. We know that the budget for the Defense Department has come down dramatically. When the Berlin Wall fell we could probably save 30 percent or more of our military budget because we could cut back and still maintain the force we needed. We were in a position where we were supposedly able to pursue two major regional contingencies at once. That was the theory.

Unfortunately, as we went farther and farther into more assigned missions, it became very questionable whether we could even do that. We asked questions from both sides of the aisle in our Appropriations Defense Subcommittee hearings about the resources we were providing for the Department of Defense. I believe it was
about 2 years ago about this time of year we had then-Secretary of Defense Bill Cohen before our committee, a former member of this body. We all respect him greatly.

I asked point blank: Mr. Secretary, do we have the money that is necessary to support our fighting men and women?

I believe his answer was something like: We do not have the resources available for the missions we have been assigned.

That was the beginning of the realization we had grossly underspent the Department of Defense.

I am very pleased we have a defense supplemental before the Senate. I know these are tight times. There has been an effort to work with the administration, with the bipartisan leadership of both houses, to find how we can provide vitally needed resources for the Department of Defense. My personal view is we may not have provided enough.

That is why I have offered this amendment.

On May 24 of this year, the Associated Press ran a story on cannibalization, the lack of military spare parts. According to a GAO report, the Pentagon system for dispensing spare parts for airplanes, tanks, and other equipment is broken and officials are not sure how to fix it. At least 154,000 times a year a military mechanic takes a part from one airplane and puts it on another because a new spare part is not on hand, according to the GAO.

This cannibalization is a very questionable process. It is a waste of time and money. It costs 1 million extra work hours a year and risks damaging the aircraft, as well as the morale of the mechanics doing the work, several testified. Cannibalized, a multi-million-dollar aircraft can sit idle for months or years, said Neal Curtin, GAO Director of Defense Issues. In one case, about 400 parts were removed from a plane that eventually had to be shipped by truck to the maintenance depot to be rebuilt. Witnesses said the cannibalization is widespread because the services are trying to maintain readiness on an aging fleet in a time of increased deployments.

LTG Michael Zettler, Deputy Chief of Staff, Air Force Installation, said cannibalization is only used when it is absolutely mission critical, and acknowledged in a prepared statement that it is done more than is desirable but blames some of it on design problems showing up years after abuse, resulting in a widespread need for more parts than specified, and fewer companies are making fewer parts—having left the market during the Pentagon 1990 downsizing.

Pentagon spokesman RADM Craig Quigley said: You do what you need to do given the availability of parts. It is largely an issue of funding. I use the family car as a good example. The older it gets, the more repairs you will do, but it is expensive to buy a new car.

This follows an earlier report that said the Department inventory management is ineffective and results in excessive stocks of some parts more than others. Though the problem has been under scrutiny since 1990 and the services have formed committees, study groups, and programs to fix it, no one has the statistics on how big the problem is, according to the GAO Director. Because they view cannibalization as a symptom of spare part shortages, they have not closely analyzed other possible causes or made concerted efforts to measure the full extent of the practice.

The Pentagon has been unable to document how many times it is done, the reasons, or how much time and money is spent and determine which cannibalizations are necessary, what alternatives are available, what improvements or changes need to be implemented, to what extent morale would be increased by reducing the workload.

My point in going through that article is simply to note that we are in a sorry situation where we are preparing to send our air men and women into combat without the spare parts we need. We grab a part from a Hangar Queen, another aircraft that is increasingly disabled, and take that one part to keep the planes flying. That means the planes we are cannibalizing are less and less able to carry out their assigned mission.

My amendment is, I believe and I hope, a responsible amendment which adds $1.430 billion for the fiscal year to the Defense Department. I believe the money is desperately needed by forces assigned. Because they view cannibalization as the best way to solve the problem, the problem is increasing.

I applaud and thank the President for his initiative in submitting this supplemental, but I do differ with the administration’s view that the funding currently provided is sufficient. Saying we will solve the problem in fiscal year 2002 is not going to help the problems we currently face as a result of the circumstances we have created. Our troops are tired of hearing us say help is on the way, only to be disappointed when it never comes.

It is time for us to show them that we, indeed, want to provide them the resources they need efficiently and safely to do the missions we give them. There are far too many examples of services being forced into situations where they must borrow from operations and maintenance accounts just to keep operations going and to purchase much-needed spare parts and equipment. Meanwhile, infrastructure continues to deteriorate at an alarming rate.

I will have printed in the Record excerpts from testimony of our most senior military personnel before the House Armed Services Committee in September of last year. For the benefit of my colleagues, allow me to read just a few.

From Admiral Vern Clark, Chief of Naval Operations, Department of the Navy:

I currently have a backlog of . . . $5.5 billion in infrastructure . . . We are currently not funding this account sufficiently so that we arrest the growth in critical backlog and we have to do better.

General Shelton had this to say:

We can ill afford to take from the current readiness accounts today. In fact, in some cases I think you’ve heard the Chiefs say they’ve still got shortfalls . . . We have
I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Madam President, I yield myself just a couple of minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I have great respect for the Senator from Missouri. I am constrained to advise him, Senator Byrd and I gave our word to the Director of the Office of Management and Budget that we would not include any emergency funds in this supplemental appropriations bill this year. We did so because we were informed that there was, in fact, a substantial increase request to be presented by the President for the year 2002. We have, as all Members of the Senate know, received that request. It is substantial—over $18 billion. The amendment of the Senator from Missouri could not be spent before that would be available anyway.

So I hope the Senator might consider relying upon us to work with him in this measure and help us honor our commitment to the Director of the Office of Management and Budget.

I see my good friend from Hawaii seeks some time. Would he like to comment also?

Mr. INOUYE. Yes, if I may.

Mr. STEVENS. I yield to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. I wish to advise my colleagues that in crafting this supplemental bill we considered two criteria, and both of them were requested by the Republican administration, requested by the Department of Defense.

First, any program receiving supplemental funding must be able to execute this funding during the current fiscal year. The current fiscal year ends in 2 1/2 months, just a few days away. Second, that the funding could not wait until fiscal year 2002. It is the view of President Bush that the supplemental request has satisfied this objective.

I believe the modest changes made by the committee have improved this measure, increasing readiness and health care funding by $229 million.

I will remind the Senate that from fiscal year 2001, the Congress added $49 billion to the DOD budget, much of it for various programs that concern the distinguished Senator from Missouri, in some cases operation and maintenance funds appropriated for the same activities identified in the supplemental request, such as spare parts, base operations, and depot maintenance.

My point is, the Defense Subcommittee has a demonstrated record of considering both the funded and the unfunded requirements of the Department before marking up a piece of legislation.

The funding provided in this bill, most respectfully, I believe meets the urgent needs of the military within the funding constraints set by the budget resolution for fiscal year 2001 approved by this body.

This act avoids emergency spending to demonstrate fiscal restraint. Much of the funding proposed by this amendment could not be spent responsibly in 2 1/2 months. The Department would struggle to obligate the funds before the end of the fiscal year. Some would even be obligated to cover workload at the maintenance depots that would carry over to next year in violation of the Department's own restrictions.

I point out to the Senator from Missouri that the Appropriations Committee has addressed programs that he seeks to fund with his amendment. Specifically, runway repairs for the Masirah Airfield in Oman are addressed in the amendment. The committee has addressed the Army's second destination transport costs. Those funds were reduced in the bill passed by the House. It seems that the unfunded requirement list submitted to the Senator is currently outdated.

So for all the above reasons, Madam President, I therefore must oppose this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Madam President, I wonder if the Senator from Missouri would yield 2 or 3 minutes to the Senator from Arkansas.

Mr. BOND. Madam President, I would be happy to yield.

The PRESIDING OFFICER. The Senator from Missouri controls 36 seconds.

Mr. BOND. How much?

The PRESIDING OFFICER. The Senator from Alaska controls 10 minutes in opposition.

Mr. BOND. How much in support?

The PRESIDING OFFICER. The Senator from Missouri controls 36 seconds.

Mr. BOND. Thirty-six seconds. I would like to reserve the 36 seconds.

Mr. STEVENS. I yield the Senator from Arkansas 4 or 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Madam President, I thank the Senator from Alaska for yielding a brief period of time out of the military construction question.

I express my gratitude and my appreciation to Senator Stevens for his willingness to accept into the managers' amendment an amendment I had proposed that provides $24 million in emergency funding that is offset in the amendment but is essential for cleanup from devastating ice storms in the States of Arkansas and Oklahoma.

I also express my appreciation to the chairman, Chairman Byrd, for his cooperation in this very vital funding.

I will make my comments brief. I know there are many desiring to speak and many amendments we are considering. But while December of 2000 has
come and gone, and many have forgotten those many months ago, it will not be a thing it is quickly forgotten in the State of Arkansas. It is certainly a time I will never forget.

For many, it was anything but a merry holiday season. On December 12, and again on December 26, Arkansas was hit by major winter storms. The Arkansas Department of Emergency Services said: “These two storms combined created the most widespread and financially devastating disasters in our state’s history.”

Life in most parts of Arkansas came to a halt as snow, sleet, and 2 to 4 inches of ice covered much of my State for weeks. To the Senator from Alaska, that may not sound like much, but I will tell you, the damage, the devastation that was done was unparalleled and unprecedented in Arkansas history.

As a result of the December 12 storm, more than 250,000 Arkansans lost power, that was considered the worst storm in 70 years.

By the time the first storm passed, more than 40 counties in Arkansas had been declared disaster areas. FEMA officials came in and said they would be in the State to do preliminary damage assessments on December 26, but they could not do it on December 26 because on Christmas morning Arkansans awoke to sleet, which turned to freezing rain by late afternoon and continued for 3 days. Western Arkansas was covered with more than 3 inches of ice. Power lines were down, homes and vehicles were damaged by falling limbs, and over half a million electrical customers lost their power just at the time I will never forget.

Arkansas received a Federal disaster declaration on December 29. Eventually, 65 out of 75 Arkansas counties were declared disaster areas.

Despite the recovery efforts, many scars are going to remain in Arkansas for years and years to come. It is July and the Forest Service personnel are still working to remove damaged timber, reopen roads and trails, and repair facilities.

The Ouachita National Forest in western and central Arkansas took the brunt of the damage. The weight of the ice brought down an estimated 500 million board feet of timber. Now that Forest Service personnel have fought their way into many of the most remote areas of the forest, that estimate may increase to as much as 800 million board feet.

I personally visited the forest this spring. I was shocked at the extent of the damage. All 1.8 million acres of the Ouachita National Forest were damaged to some extent. Twenty-six hundred miles of roads and six hundred and twenty-five miles of trails were closed or blocked. Roads, trails, and recreation areas in the heaviest damaged areas remain closed even to this day.

Now fire experts have evaluated the fuel loading in the forest and found that it is, to some 10 times normal levels. Normally, there is about 5 tons of timber lying on the forest floor per acre. After the storms, that number jumped from 40 to 60 tons per acre. And in the hardest hit areas you get a little idea of what’s happening: in some of the worst hit areas have 90 tons of fuel per acre.

Wildfires on a 1.8 million-acre forest are difficult to respond to under normal conditions, but roads and trails into the most remote parts of the Ouachita are still impassable. So as the threat of fire grows with each passing summer month, my main concern is for the 843,000 Arkansans living along and around the Ouachita National Forest. And that doesn’t include the three Ranger districts in Oklahoma that are of interest to Senator NICKLES and Senator INHOFE as well.

The Forest Service is doing everything it can, but if the situation does not change, in the next two summers we will see uncontrollable wildfires in the Ouachita National Forest.

So I appreciate this $24 million being included in the managers’ amendment. I repeat the words of the Arkansas Department of Emergency Services: “These two storms combined created the most widespread and financially devastating disasters in our state’s history.” It is now impacting tourism. It is impacting our entire economy.

I have been working with the Forest Service, and I believe this $24 million will provide the kind of relief to ensure the proper cleanup of that fuel in the Ouachita National Forest.

The Senator’s time has expired.

Mr. Hutchison. I thank Senators Stevens and Byrd and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri.

Mr. Bond. Madam President, I claim the remaining time I have.

I appreciate very much the very strong statements made by the chairman and the ranking member of the Defense Appropriations Subcommittee. These are men of great experience, dedication, and understanding. I look forward to working with them to achieve what we think is vitally important in filling the readiness gap.

Madam President, I would like to have been able to pass the amendment that I have introduced, but having learned to count in third grade and not to count any more, I will not object to my amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. Feingold. Madam President, I ask unanimous consent that the Senator now turn to my amendment, No. 863.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Feingold. Madam President, I ask unanimous consent that Senator McCain be permitted to offer his amendment upon completion of debate on the Feingold amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Feingold. Madam President, I ask unanimous consent that the Senator from Illinois, Mr. Durbin, and the Senator from Massachusetts, Mr. Kerry, be added as original cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Feingold. Madam President, this amendment strengthens America’s contribution to the Global Fund for HIV/AIDS, Tuberculosis, and Malaria, the plagues of the 21st century, and some of the foremost threats to security in the world. To pay for this funding increase, my amendment would make additional rescissions in procurement funds for the troubled V-22 Osprey program.

The global HIV/AIDS pandemic threatens security and stability around the world in a chillingly comprehensive way.

As Dr. Donald Berwick movingly wrote last month in the Washington Post:

The earth has AIDS; 36.1 million people at the end of the year 2000. In Botswana, 36 percent of adults are infected with HIV; in South Africa 20 percent. Three million humans died of AIDS in the year 2000, 2.4 million of them in sub-Saharan Africa. That is a Holocaust every two years; the entire population of Oregon, Iowa, Connecticut or Ireland dead last year, and next year, and next. More deaths since the AIDS epidemic began than in the Black Death of the Middle Ages. It is the most lethal epidemic in recorded history.

The International Crisis Group, or ICG, is a well-respected private, multinational organization founded to build international capacity to prevent and contain conflict. Many of my colleagues are familiar with their reports on international hot spots from Macedonia to Burundi.

The ICG recently released a report entitled “HIV/AIDS as a security issue.” This report states:

Where it reaches epidemic proportions, HIV/AIDS can be so pervasive that it destroys the very fibre of what constitutes a nation: individuals, families and communities; economic and political institutions; military and police forces. It is likely then to have broader security consequences, both for the nations under assault and for their neighbors, trading partners, and allies.

The report goes on to note that the crisis also affects personal security. As was noted on this floor recently, some reports indicate that if current trends continue, 15-year-olds in some of the most severely-affected countries will actually be more likely than not to die of AIDS.
The crisis affects economic security. Analysts predict that in Botswana, the pandemic will reduce government revenues, while the threat of fighting the disease increase by 15 percent.

The crisis affects communal security. In Lusaka, Zambia, I visited an orphanage, of sorts, where committed volunteers worked by day with nearly 500 children orphaned by AIDS. But by night, there was space for only fifty of these children. The rest were on the streets.

By 2002, some 40 million African children will have lost one or both parents to the disease. In Zimbabwe, even the healthy find it increasingly difficult simply to attend the many funerals of their families and friends and still fulfill their job responsibilities.

The crisis affects national security. According to UNAIDS, in sub-Saharan Africa, some military forces have infection rates five times higher than those of their civilian populations.

The crisis affects international security. Sub-Saharan Africa is in the midst of an urgent crisis. Infection rates are on the rise in Eastern Europe, Central Asia, South Asia, and the Caribbean. The consequences of this pandemic at all societal levels poses a serious threat to international peace and stability. Our country's prosperity and progress cannot be divorced from the global context in which we live.

That HIV/AIDS is a security issue is no longer revolutionary thinking. In January of last year, the National Intelligence Council produced an intelligence estimate entitled “The Global Infectious Disease Threat and Its Implications for the United States,” a report which framed the issue in much the same fashion.

Secretary of State Colin Powell said recently that he “know[s] of no enemy in war more insidious or vicious than AIDS, an enemy that poses a clear and present danger to the world.”

But while many have absorbed the astounding—in many ways terrifying—statistics about this crisis, and many, including our Secretary of State, appear to have grasped its terrible implications, the U.S. policy response remains woefully inadequate.

We have a real need for the need to do more. Today we have an opportunity to act.

Of course, addressing AIDS takes leadership, and as the chairman of the Committee on Foreign Relations, I am aware of the difference that energized leadership, such as that exhibited in Uganda and Senegal, makes and that it makes a critical difference when countries take on in a meaningful manner the fight against AIDS.

But America’s leadership is required as well. UN Secretary General Kofi Annan has called for a global fund to fight AIDS, tuberculosis, and malaria. This is a true emergency affecting national security. The United States must answer the call.

My amendment would increase funding for this vital effort by $593 million. And the funding in this amendment is completely paid for. According to the Congressional Budget Office, this amendment is budget neutral. The amendment offsets the increased funding, dollar for dollar, with reductions in procurement of the troubled V-22 Osprey program.

Over the last 2 decades, HIV/AIDS has infected 60 million people, killed more than 20 million people, slashed life expectancies, and has left millions of orphans in its wake. We now know to a certainty the national security reality of the AIDS pandemic. But even after 20 years of research, development, and testing, in my view, we still don’t know if the V-22 Osprey will work.

This amendment would not endanger the integrity of the Osprey production line, nor would it affect money that has been obligated as of April 2001. But serious questions and concerns continue to cloud the Osprey program. Thirty Marines have died in Osprey crashes since 1991. Unanswered questions remain regarding the validity of maintenance records and the safety and viability of this aircraft.

The final report of the blue ribbon panel appointed by former Secretary of Defense William Cohen to review the program recommended a “phased approach” to proceeding with the Osprey program. The blue ribbon panel concluded that the Osprey “is not ready for operational use.”

I agree with that conclusion. I also concur with the panel’s recommendation that procurement should be reduced to the minimum necessary to maintain the production line until the myriad design and safety problems are addressed and further testing is done to ensure that this aircraft is safe. My amendment does just that.

The underlying bill rescinds $513 million in Osprey procurement funds—$150 million from the Navy and $363 million from the Air Force. While I am pleased that the underlying bill zeros out the Air Force procurement budget for the Osprey, it still leaves about $944 million in the Navy’s aircraft procurement account for a program that has been grounded indefinitely and that is headed back into the research, development, testing, and evaluation stage for the foreseeable future.

The committee report accompanying this bill says that this funding will be used to procure eleven of the Marine Corps version of the aircraft, the deeply flawed MV-22. This is five fewer Ospreys than were authorized for fiscal year 2002, but in my view, it is still eleven more than we should build this year.

My amendment would rescind an additional $594 million intended for the Osprey from the Navy’s aircraft procurement account. It leaves enough funding in place to maintain the integrity of the production line and it does not affect the funding that the Navy has obligated for this program as of April 2001.

Based on the formula that was used when the Navy suspended production on two other troubled aircraft programs, the T-45A and the SH-60F, the minimum required to sustain the production line for the MV-22 is about $350 million. In the case of the T-45A, the Navy maintained the production line with 28 percent of its original funding; and 34 percent of the funding was maintained for the SH-60F. The $350 million that my amendment would leave in place is the average of what the Navy left in place to maintain the production lines for these two programs.

We know the Osprey is broken. The Navy and Marine Corps are working on ways to fix it. And we should allow that process to move forward. But, we should not spend scarce taxpayer resources on building new Ospreys that will require costly and extensive retrofitting later.

So I think this is a great example of where we have to make a choice, and I think the choice is clear.

My amendment would scale back funding on a troubled program that plainly needs a thorough review. And it would increase our response to the world’s greatest urgent threat to human life, the AIDS pandemic.

AIDS is a security issue, but it is also unquestionably a moral one. Our response is a measure of our humanity. We are not civilized, we are not just, and we cannot lay claim to common decency, if we simply accept millions of deaths and dismiss them as simply the problem of another continent.

Sadly, we are living in a time of plague. We have an obligation to fight it. History will judge us all.

Last month, the UN General Assembly conducted a special session on the pandemic. Let us begin today to match our response to our rhetoric. This amendment is fiscally responsible, it is the right thing to do, it is in the U.S. interest, and it reflects our national values. I urge my colleagues to support it.

I reserve the remainder of my time and I yield the floor.

The PRESIDING OFFICER. Who yields time to the Senator from Arkansas?

Mr. BYRD. How much time do we have, I ask the Chair?

The PRESIDING OFFICER. The Senator from Arkansas?

Mr. BYRD. How much time does the Senator from Arkansas want?

Mrs. LINCOLN. If either the Senator from Alaska or the Senator from West
Virginia will yield it. I will need about 3 or 4 minutes.

Mr. BYRD. I yield 4 minutes to the Senator.

Mrs. LINCOLN. Madam President, I am simply here to extend my heartfelt thanks to the chairman of the Appropriations Committee and to Senator STEVENS from Alaska for the people of Alaska.

Right before we broke for the Fourth of July recess, I joined with my colleague, JIM INHOFE from Oklahoma, in writing to both the chairman and the ranking member to express to them our concern on behalf of our constituents. During the winter of 2001, our home States of Arkansas and Oklahoma suffered through some of the most devastating storms in recorded history. On December 29, 2000, President Clinton declared a major disaster for our States, triggering the release of Federal funds to help people and communities recover from the severe ice storms that had blanketed our home States.

Unfortunately, the assistance provided to date has not been sufficient in getting our communities back on their feet. Farmers, ranchers, and timberland owners have been hardest hit. These ice storms added more than 10 times the normal amount of downed timber on the ground in Arkansas' Ouachita National Forest.

This year, Arkansas and Oklahoma have the potential to have one of the worst fire seasons in our history. With the massive amount of fuel on the ground, wildfires will burn extremely hot and fast, which will make it difficult to control or to contain. With the funding outlined in the emergency supplemental bill, our residents can complete the cleanup effort while also working to prevent massive forest fires this fall.

It would not be possible without the wonderful bipartisan working relationship of these two gentlemen who have worked steadfastly with both of our delegations to make sure we can provide our residents with what they need in order to keep our families, our forests, and certainly our communities safe. I thank both of these Senators on behalf of my constituents in Arkansas for the work they have been willing to put into this effort.

I yield back my time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the distinguished Senator from Alaska for her exceedingly kind remarks concerning my efforts and the efforts of my distinguished colleague, Senator STEVENS from Alaska. There need not be any doubt in anybody's mind that the Senator stands up for her constituents and ably represents them. This is just another example of that. Madam President, how much time remains?

The PRESIDING OFFICER. The Senator from West Virginia has 2½ minutes. The Senator from Alaska has 5 minutes. The Senator from Wisconsin has 8½ minutes. The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Senator from West Virginia for allowing me to proceed on this amendment. I do oppose the amendment Senator FENGOLD has offered. I do so because of my great interest in this system.

The V-22 represents the best new technology that has been developed for the Department of Defense. It is a system that is being developed by the military air system that I have seen in my time in the Senate. Unfortunately, it has had some bad circumstances, and we all regret deeply the difficulty it has had.

I have spent a considerable amount of time with the Marines, in particular, on this system and have discussed them personally with the Commandant of the Marine Corps. I will be very brief in saying that I believe this amendment is untimely and it is not in the best interests of our Marine Corps system.

I do believe, as the Commandant has written to me today, that the V-22 Osprey is the Marine Corps' No. 1 aviation priority. I think we should be very slow to terminate or disturb such a system which is being developed in the best interests of our men and women in the Marine Corps.

In particular, if it proves successful, as I pray it will, it will take our men and women across the beach. We will not see visions again in any war of our people hitting the beach and being slaughtered at the edge of the water. They will be able to fly from smaller ships and all over the place and enter into any battle zone by air, and they will have a better opportunity of survival and success in defending our Nation's interests in a time of war. It is a military asset of great value to our Department of Defense. I intend to oppose the amendment.

I ask unanimous consent that the letter sent to me today by General James L. Jones, Commandant of the Marine Corps, be printed in the Record.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HON. TED STEVENS, U.S. SENATE, WASHINGTON, DC.

DEAR SENATOR STEVENS, the restructuring of the V-22 program as recommended by the Panel to Review the V-22 results in proposed changes to the FY01 funding profile. Those changes were presented in the Administration's FY2001 Supplemental request.

Your committee subsequently marked the program, making adjustments to the Navy funding and zeroing the Air Force procurement funding. While the Marine Corps would prefer that the amendment remain a part of the bill, the Air Force continues to support the V-22 program as recommended by the Committee.

Mr. STEVENS. I yield the remainder of my time to the Senator from Hawai'i.

The PRESIDING OFFICER. The Senator from Hawai'i is recognized.
Mr. INOUYE. Madam President, I realize that time is limited. If I may, I will quote from the letter dated July 10, 2001, from the Commandant of the U.S. Marine Corps, GEN James L. Jones. I believe this one paragraph, the third paragraph, says it all:

As you know, Senator Stevens, the V–22 Osprey is the Marine Corps' number one aviation priority. It will revolutionize combat assault in a manner not seen since the introduction of the helicopter more than 50 years ago. The V–22 Osprey is the only vertical lift assault weapon aircraft that provides the combination of range, speed, and payload, which fulfills the Marine Corps' medium lift requirement. The Osprey met or exceeded all Marine Corps' key performance requirements. It carries three times as much, five times as far, twice as fast as the Vietnam era CH–46 Sea Knight it is replacing. The V–22 Osprey is a key enabler, allowing Marine expeditionary forces to rapidly respond to unpredictable, unstable situations throughout the world.

Mr. INOUYE. Madam President, this amendment will wipe out the V–22 program, and if at a later time we find it necessary to revive that program, it will cost billions.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, of course, I have enormous regard for both speakers in opposition, the Senator from Alaska and the Senator from Hawaii, but I want them to know how carefully we crafted this amendment to avoid the consequence they both mentioned.

This amendment does not kill the Osprey program. It is not inconsistent with the statement of the Senator from Alaska that this may well turn out to be the best new technology. It is not inconsistent with the Commandant's letter where he says this is the No. 1 priority of the Marines. We do not contradict that at all.

In fact, I respect the fact there is a real effort out there to try to fix the problems with the Osprey. This does not kill the Osprey program. I understand some of our people sadly have died in these helicopters, but I also know yesterday there was an unfortunate accident involving the helicopters that they want to replace.

I want to be candid about this. There may well be a need for an improved helicopter. This amendment does not kill the Osprey program, and that is the only argument that has been made against it.

The amendment is carefully crafted. What this amendment allows is to have the research and the consideration that needs to be done on the Osprey actually completed, to have the tests done, to make sure people are going to be safe in this helicopter, and at the same time allow Senators to vote to do what they must do: To enhance the international effort against the AIDS pandemic. It is truly a win-win proposition that does not threaten the Osprey.

Specified by, in response to the Commandant's letter that was just printed in the RECORD, it simply is incorrect in terms of the budget implications. This amendment does not shut down the production line. That is what is being suggested, but it does not. There are still Ospreys in various stages of construction that are being built with both fiscal year 1999 and fiscal year 2000 resources. We do not impact those Ospreys. They will continue to be produced on the production line.

More important, the experts at the GAO have specifically stated a very different conclusion. According to the GAO, the Osprey production line is currently being maintained with the completion of between four and seven planes per calendar year. Four planes were delivered to the Marines in 1999; five were delivered in 2000; six planes have been completed since December 2000 but have not yet been delivered because the fleet remains grounded and no flight testing of those planes can take place.

Each Osprey costs about $83 million to produce. This amendment carefully leaves in place—it does not wipe out the program—$350 million in fiscal year 2001 money, plus the $102 million the Navy has already obligated, for a total of $452 million remaining in the program.

At $83 million per aircraft, this $452 million would purchase five Ospreys, and given the current production rate, as I just pointed out, no more than seven Ospreys have been delivered in any one calendar year anyway.

In my view and in the view of the blue ribbon panel, this program should be reduced from maintaining the production line until the aircraft undergoes redesign and further testing. It is still unclear how much retrofitting will need to be done on the existing Ospreys and how much it will cost or if it will be cost-effective or even possible to retrofit the existing Ospreys. The Department of Defense has said it will take about 1 year to do the additional research and testing needed to determine the status of the Osprey program.

Clearly, if we are talking about budget prudence and caution and making sure we do not waste millions of dollars, this amendment is the way to go. It is prudent to wait and see what the results of the tests are, obviously, before we increase the rate of production above the current five to seven per year.

I reiterate, we do not kill the Osprey program. We do not stop it. We simply make sure we only use it at the minimum level that it is currently and could be used and maintain the production line so it can be studied and so the additional resources that would have gone to it make a serious contribution to the fight against HIV/AIDS around the world.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. FEINGOLD. Madam President, I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I think the Senator, I hope my colleagues who are following this debate in their offices will pause for a moment to consider what we are about. How many times have we come to this Senate Chamber and voted for resolutions, voted for ideas that say we are pledged to fighting the AIDS epidemic in Africa? Sadly, it has almost become commonplace.

We voted for amendments and budget reductions because, frankly, they are messages we send out for the world to read. But this amendment from the Senator from Wisconsin is real. It is an amendment which comes up with millions of dollars to deal with a crisis that faces the world; not just a crisis facing the United States, it faces the world.

This crisis is the AIDS epidemic in Africa. The Senator from Wisconsin visited Africa a week or two before I did last year. We both talked about it. It was a profound, transforming experience to visit a continent that is consumed with disease and to realize that people with whom you are having casual conversations are likely to be the casualty of those diseases. Whether it is AIDS, tuberculosis, or malaria, Africa is dying.

The question for all of us who live in this prosperity and wealth in the rest of the world is whether we care, and if we care, it is not enough to pass a resolution saying we care. The important test is whether we will put our money on the table. That is the test not only for this President but this administration, it is the test for all of us.

I support this amendment. I believe the Senator from Wisconsin is showing real leadership, and if all of the Senators who have voted for the resolutions expressing their heartfelt concern about this epidemic in Africa will come forward and vote for this amendment, I think we will have shown that we are prepared to put our money where our mouths have been.

I still think back to those moments in Africa when I was visiting. I just read on the way over here some of the things I had written and about which I had written. I thought about going to a clinic in Mbale, Uganda, and listening to a beautiful choir of Ugandans who were all dying from AIDS, who set up in front of us and sang a song entitled "Why Her, Why Me?" It was a profound, transformative experience.

As I looked into their eyes, I thought: I will never forget this, ever, the courage I saw in that clinic.
Their courage should be matched by our commitment. This disease, this epidemic is not just destroying Africa; it is for the rest of the world. Will we respond to this holocaust of the 21st century or will we turn away and say the most prosperous nation in the world cannot come up with a singular symbolic contribution to end this scourge? 

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Wisconsin.

Mr. BYRD. Madam President, I thank the Senator from Illinois not only for his tremendous eloquence but for his genuine compassion and commitment on this issue. It is moving to me to see a Senator stick to this effort and be willing to race down to the Chamber and speak in such a moving way. I thank him and hope we get the kind of vote this clear choice deserves. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, in 1983, at my request, we started the Army's infectious disease section to determine whether there could be a cure for AIDS or prevention of its transmission. Since that time, we have spent more money than all the world put together in trying to defeat AIDS. The way to help our great friends in Africa is to find a way to cure AIDS but not to take money from a system that needs protection under the Department of Defense.

Mr. BYRD. Does the Senator have anything further?

Mr. FEINGOLD. If the other Senators yield their time, I will yield mine.

Mr. BYRD. I have a brief statement. Mr. FEINGOLD. I reserve my time. Mr. BYRD. I intend to move to table if the Senator would like to speak prior to that motion.

Mr. FEINGOLD. If the Senator wants to proceed, I have no objection.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I oppose the amendment proposed by the Senator from Wisconsin, Mr. FEINGOLD. This amendment provides funding to address the AIDS epidemic, which is a problem of astounding proportions affecting millions in the world today. There is a very laudable purpose behind the amendment. Unfortunately, in my opinion, the committee-reported bill which contains $100 million for the Global AIDS Program is a fair and commendable approach under the present circumstances and at the present time. The $100 million for the Global AIDS Program was included in the committee bill at my own request. I made the request at the urging of the distinguished majority leader, Mr. DASCHLE. The President's request supplemental funds for this purpose, but we worked in committee to identify non-controversial offsets for this important program.

I believe the committee has produced a fair bill, a responsible bill, a balanced bill. I believe the most effective way to get this aid to the people who need it is to approve the committee bill, without this amendment, so the bill can be taken to conference and sent to the President for his signature. I shall move to table and I do so with apologies to the distinguished Senator from Wisconsin who is, as I have already indicated, offering an amendment that is laudable. I think we have responded in the committee, and under the circumstances I think the committee bill should be approved as is with respect to this amendment.

I move to table the amendment, and I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays are ordered. The vote will be delayed until later this evening under the previous order. Under the previous order, the Senator from Arizona is recognized to debate his amendment numbered 869, with 2 hours equally divided. The Senator from Arizona.

Mr. MCCAIN. Madam President, I am not quite ready with the amendment so I suggest the absence of a quorum. I understand the time will be taken from my allotted time.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

AMENDMENT NO. 869, AS MODIFIED

Mr. MCCAIN. Madam President, I ask unanimous consent to send a modification to my amendment to the desk.

The PRESIDING OFFICER. Is there objection to the Senator's modification of his amendment?

Mr. BYRD. Madam President, reserving the right to object—I have no intention of objecting—if we may just study the modification momentarily?

Mr. MCCAIN. Yes. Madam President, I suggest the absence of a quorum, the time to be taken from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I remove my reservation.

The PRESIDING OFFICER. Without objection, the amendment is so modified.
Mr. McCain. I want to explain the modifying amendment removes the offsets of title XI of the maritime sub-
sidies and also the cut in the Export-
Import Bank subsidy. So the remaining
offsets will remain. I will go through
those in a few minutes, but I want to
emphasize that both the Export-Import
Bank and the Maritime
Guaranteed Loan Program have also
been removed. There have been in-
creases in the amounts of offsets for
transit planning and research to $90
million and job access to $116 million.
So I will now be glad to discuss that
with the managers of the bill, if they
have any additional questions.
I am pleased to have the support and
cosponsorship of Senators Lieberman,
Landrieu, Kyl, and Carnahan as co-
sponsors to this amendment.
Basically what it does is it adds a
total of $847.8 million in additional
spending, all of it for personnel, opera-
tions and maintenance, and a very
small amount, $45 million, for procure-
ment. So virtually all of this—$800 mil-
lion—should go toward—should go toward
the men and women in the military, the
Reserve personnel, including funds to re-
move sailors and Marines from food
stamps, and operations and mainte-
nance, which, as we all know, is very
badly understaffed—$800 million.
This amendment funds the bare min-
imum that the military services have
said they need. We must prioritize our
spending and, in my judgment, fully
funding the readiness of our forces
must be our first obligation. This
amendment will add $847.8 million to the
deficit of President’s supplemental
appropriations bill for fiscal year 2001,
yet it will not exceed the budget reso-
lution caps because it is fully offset by 12
separate rescissions from non-de-
fense programs. This amendment will
increase the President’s supplemental
budget request from $5.5 billion to $6.34
billion. Most of the funding offsets in
the amendment were added last year
by Congress in the fiscal year 2001 ap-
propriations bills and will not be obli-
gated by this October, according to
various agency heads. In other words,
much of the money I propose to rescind
will not be spent this year—no matter
how seemingly worthy the cause.
Later this month, the President will
send to Congress his Omnibus Onni-
bus Reprogramming Request for Fiscal
Year 2001. I am told that the re-
programming request is about $850
million. The services will have to repro-
togram or transfer critical money from
other key readiness and modernization
accounts to adequately pay and train
our service men and women. Our mili-
tary services, stretched thin and over-
worked, are raiding Real Property
Maintenance readiness funding—al-
ready $16 billion underfunded—and other key accounts, just to ensure that
they can pay much-needed bonuses to
retain servicemembers.
We have sailors, soldiers, airmen, and
marines—some still on food stamps—
living in very old, dilapidated homes
because the military services keep re-
programming critical funds to shore up
other equally urgent needs. In Arizona,
for example, there are marines at
Yuma Marine Corps Air Station living
in World War II-era barracks. Base
officials have warned that they have de-
ferred maintenance for the past 10
years because they need to fund higher
priorities—and who can blame them.
We should fund the services ade-
quately, instead of forcing them to
make a Hobson’s choice.
Recent terrorist threats have clearly
demonstrated the dangerous impact of
the military funding shortfalls. In late
June, U.S. Navy 5th Fleet warships in
ports of the Persian Gulf, the Red Sea,
and the Gulf of Oman were ordered to
sea, after several reports that Osama
Bin Laden, the world’s most notorious
terrorist, was said to be planning a
comprehensive attack on U.S. and
 Israeli targets in the Mideast.
The U.S. ships had to leave port,
since the U.S. Coast Guard—which had
primary responsibility for protecting
U.S. Naval ships after the USS Cole at-
tack—had to pull out its port security
due to lack of adequate funding for
the U.S. Navy, whose budget already is underfunded. The U.S. Navy then had to implement
an emergency Presidential recall of
Navy Reservists, resulting in a nearly
$2 million unfunded liability not ad-
dressed in this supplemental. This
amendment pays for these critical
increases in military readiness and reforming our mili-
tary is as strong today as it was then.
It is my firm belief that as elected offi-
cials, providing for a strong national
defense is our most serious obligation.
Anyone who dismisses our readiness
problems, our concerns with morale
and personnel retention, and our defi-
cienies in everything from spare parts
to training is blatantly ignoring the
dire reality of this situation.
Too often in the last century, we
ignored warnings from the military that
our armed forces were too weak to
meet the many grave challenges they
face. Today, we must listen to our com-
manders, so as not to repeat the mis-
takes of the past.
There are also some who believe that
they need at least $30 billion more
per year for modernization and readi-
ness accounts. Listen to detailed testi-
mony before the House and Senate
Armed Services Committees on Sep-
ter 27, 2000. We examined, eight months ago—by our current Joint Chiefs on the
underfunded needs of our military ser-
vice, and the dramatic, harmful con-
sequences likely to occur if we fail to
adequately fund these requirements.
General Henry H. Shelton, Chairman of the Joint Chiefs of Staff:
[Continuing to improve our current readi-
ness posture to desired levels while preparing
for tomorrow’s challenges will require addi-
tional sources. The $60 billion pro-
jected by the QDR [for procurement] will not
be enough to get the job done.
General Shelton concludes:
[Our long-term ability to sustain our military equipment posture is in direct cause is due to the negative effects of a higher
than planned tempo of operations on our aging equipment. This high tempo and the
associated wear-and-tear require more fre-
frequent maintenance and repair, further high-
lighting the need for recapitalization and
modernization of our forces. Moreover, we
have not been able to procure enough new
equipment to reduce the average age of our
force structure. It is also important to note
that we believe this higher maintenance
tempo also has an impact on the
hardworking troops attempting to main-
tain this aging equipment, which directly
impact retention of our quality force. At
posts, camps and stations, such items as
housing, fuel lines and water lines, as well as
facilities where people work and live, have
outstripped their useful life. . . . and this
dire reality impacts our ability to make a de-
cent quality of life for our troops. . . . How
much more funding is needed? . . . Well in
excess of $60 billion is needed to maintain our
readiness.
Gen. Eric Shinseki, U.S. Army Chief of Staff, testified that $30 billion more
per year is a move in the right direc-
tion, but even that does not take into
account Army transformation costs or shortages in critical ammunition needs.

We have training shortfalls in institutional training, training support, training range modernization, and combat training center modernization. Real Property Maintenance is currently funded at 75 percent of requirement, a funding level that will not slow or prevent the ongoing deterioration of existing Army facilities. At this rate, it will take the Army about 157 years to fully revitalize our infrastructure.

Any of my colleagues who read the recent study conducted by the U.S. Army about the personnel situation in the U.S. Army today should be appalled and deeply disturbed by the findings of the U.S. Army about the lack of confidence amongst the young men and women about their leadership, about their future, about their lack of desire in retention. We are losing captains in the U.S. Army at a greater rate than at any time in the history of the U.S. Army.

Adm. Vern Clark, Chief of Naval Operations, concurred in testimony that $30 billion more in total each year is required.

I am concerned about the inventory levels of Precision Guided Munitions. We are still below the current warfighting requirement. The shortfall of precision munitions is a major driver for our forces. As our current inventory, execution of a second MTW will rely more on the use of non-precision munitions, thereby increasing the risk to our pilots and the potential for collateral damage.

Madam President, I have a lot of quotes.

Admiral Clark continues:

It is critical that we begin to fund 100 percent of modernization, maintenance, recapitalization and training requirements. We have not been doing that. Improving the quality of our work is critical to both Real Property Maintenance and MILCON, both of which are seriously underfunded.

Admiral Clark continues:

[Manpower is our most urgent challenge. In retention we remain below our goal.] Today—

He is talking about last September—

I am 14,000 people short: almost 8,000 at sea, and 6,000 ashore. That has to be reversed soon. We are at war for people. It has to be rectified in our budget.

Gen. Michael E. Ryan, Air Force Chief of Staff, testified that the Air Force needs at least $1.5 billion more per year for modernization alone, including $220 million for basic ammunition:

We are at a point where failure to rectify modernization and readiness shortfalls can be directly proportional to how much time an aircraft is not available because of not having parts in stock or because maintenance is delayed on the aircraft to make it ready. Some of our units are not getting as much flying as they should get, because of lack of aircraft. The mission capable rates of our aircraft have declined by over 10 percent since 1991. Mission capable rates are directly proportional to how much time an aircraft is not available because of not having parts in stock or because maintenance is delayed on the aircraft to make it ready. Some of our units are not getting as much flying as they should get, because of lack of aircraft. The mission capable rates of our aircraft have declined by over 10 percent since 1991. 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Mission capable rates are directly proportional to how much time an aircraft is not available because of not having parts in stock or because maintenance is delayed on the aircraft to make it ready.

The Commandant of the Marine Corps, Gen. James L. Jones, testified that the Marine Corps needs at least $4.3 billion Real Property Maintenance backlog.

The amendment will help our service men and women recognize their Government’s firm commitment to: Adequately provide for modernization; ensuring equipment maintenance—including reversing the deficiency in spare parts availability—is adequately funded; sufficiently funding critical training needs, including flying hours; beginning to resolve the broad pay and benefits disparity that affects our service men and women; starting to reverse the high rates of attrition across the services; continuing to take service members off the food stamp rolls; and ensuring at least minimum force protection efforts to help prevent further U.S.S. Cole-type terrorist attack.

I urge your support for this critical amendment.

Madam President, I outlined shortfalls and deficiencies within the Department of Defense that far exceed—far, far exceed—this $847 million amendment.

But I would point out that this administration, with my wholehearted support, and this Secretary of Defense are doing everything they can to restructure and reorganize the military and impose necessary savings. I believe we have a good faith effort on the other side of the river at the Pentagon. I am proud of the efforts Secretary Rumsfeld is making. I look forward eagerly to supporting him in whatever conclusions and recommendations they make because he has gathered together some of the best military minds in America to come up with these proposals.

But they have not been forthcoming yet. We have some very deep and severe short-term needs. I was fully expecting—fully expecting—when this administration came in that there would be significant increases, including in this supplemental appropriations bill. I appreciate the efforts of the managers. But I say to the managers, it is not enough, nor is this amendment enough. But I cannot imagine why these urgent needs, which are being addressed on a personnel and operations and maintenance basis, would be rejected.

There may be some questions about the offsets.

There is a $30 million offset from the Department of the Treasury “Salaries & Expenses” for the 2002 Winter Olympics security. In this rescission we only
cut half of the money added for the Olympics by the Senate Appropriations Committee during markup of the supple-
mental bill that still leave $30 million for this program, adding to the $220 million in total Federal funding in the fiscal year 2002. It is difficult to un-
derstand why the need for Federal funding for safety and security pur-
poses determined that the games have more than quadrupled since the 1984 Summer Games in Los Angeles and more than doubled since the 1996 Summer Olymp-
ics in Atlanta.

Compared to the 23 venues spread over a 500-square-mile area used for the Los Angeles Olympic Games and the 31 venues located in 8 cities that spread from Miami, FL, to Washington, DC, for the Atlanta Games, the Salt Lake Games will utilize only 14 venues located in the significantly smaller geographical perimeter. Yet the cur-
total amount of Federal funding for safety and security purposes, which includes this $80 million in supplemental fund-
ing, is $220 million. The total funding for safety and security for Los Angeles, $65 million, and Atlanta, $96 million, combined was far less than what will be spent on the Salt Lake Winter Games. Last year’s GAO report demon-
strated that taxpayers have shelled out $1.3 billion in subsidies for Salt Lake City alone.

As to the NASA shuttle electric aux-
iliary power units, $19 million: This amendment would rescind the remain-
ing $19 million of FY 2001 funds for this program, whose implementation NASA has chosen to terminate. According to NASA, the anticipated remaining fund-
ing for FY 2001 is $19 million. Follow-
ing the results of the EAPU review process that found technical flaws and cost overruns in the program, NASA has determined that the prudent course of action at this time is to terminate EAPU im-
plementation while NASA formulates a plan on how to proceed with this up-
grade project. The electric auxiliary power unit, EAPU is one of the several upgrade programs that NASA is de-
veloping for the Space Shuttle program.

As to the NASA life and micro-
gravity research, $40 million: The FY 2000 VA/HUD appropriations bill earmarked $40 million for a space shuttle mission, R-2 for life and micro-gravity research. Due to delays in overhauling the Shut-
tle Columbia the shuttle mission has been delayed and will not be launched in 2001. The supplemental appropri-
ations bill would broaden the use of the $40 million for life and micro-gravity research that was earmarked for a spe-
cial shuttle mission and other Space Station research in FY 2001. This amend-
ment would rescind this ear-
mrk.

As to the Commerce Department’s “Advance Technology Program,” known as ATP, $67 million: This amendment would rescind the funds that the Commerce Department carried over from last fiscal year and again and again expects to be left over again at the end of this fiscal year. The President’s FY 2001 request for the program was $67 million; this amendment funds rescission of no funds for the program. Historically, I have fought this program as cor-
porate welfare, because it has given awards to Fortune 500 companies such as General Electric, Dow Chemical, the 3M Company, and Xerox. As to the Labor Department unspent balances in worker employment train-
ing activities, $141.5 million: This is the same amount rescinded by the other body for this program. The House supplemental appropriations bill rescinded $359 million from the $1.8 bil-
lion in advanced funding provided in the FY 2001 Labor/HHS Appropriations Act for adult and dislocated worker employment and training activities. The Transportation Department $237.5 mil-
lion from these employment and training activities. We increase the amount rescinded by $141.5 million from these same activities so that we merely do the same thing as the House did and rescinded $359 million in total. Even with the rescission, States will still have $5.1 billion available to sup-
port these activities in 2001—$455 mil-
lion over amounts available in 2000. The reason for this rescission is that when the advance appropriations were provided, it was not anticipated that there would be such high levels of unspent balances in these programs.

As to the Transportation Department Job Access Reverse Commute Grants Program, $76 million: This offset in the amount of $76 million represents sur-
plus funds from the Job Access Reverse Commute Program account that re-
mained unused at the end of FY 2000. The enacted FY 2001 budget authority for this account was approximately $100 million and allocated to the surplus funds from FY 2000, this account con-
tained nearly $176 million. I have been infor-
mated by the budget office of the Department of Transportation that this account has a current unobligated balance of $146 million, which means that in the past 9 months of the cur-
rent fiscal year, only about $30 million has been spent. We are thus rescinding only $76 million out of the total amount, leaving nearly $30 million for the Transportation Department to use over the next 82 days for this purpose.

The Transportation Department transit planning and research, $34 mil-
lion: The offset of $34 million is surplus funds which remained in the transit planning and research account at the end of fiscal year 2000.

As to the Commerce Department International Trade Administration, Export Promotion Program, $19 mil-
lion: The International Trade Adminis-
tration Export Promotion Program helps U.S. industries export their prod-
ucts. This program amounts to a cor-
porate subsidy. There is no need to bur-
den the American taxpayers with this program. U.S. industries wishing to ex-
port goods and services should pay for this type of counseling themselves. The fiscal year 2001 supplemental appropriations bill appropriated $64.7 million to this program. According to the Department of Commerce, $21 million remains un-
expended in this account.

As to the Emergency Steel Guarant-
ee Program, $128.6 million: These are loan guarantees to qualified steel companies. There remains $128.6 million in unspent balances in the ac-
count for fiscal year 2001 out of a total appropriation of more than $129 mil-
lion. I am told that none of this money will be spent in the 82 days left in this fiscal year.

As to the Treasury Department U.S. Customs Service Byrd antidumping amendment funds rescission, $200 mil-
lion: The ‘‘corporate subsidy offset’’ was added in the fiscal year 2001 Agriculture appropriations conference report—the wrong way to do business, I say to the managers of the bill, the wrong way to do business. However, the important point is that the entire sum of money collected dur-
ing the current fiscal year under this law is not being spent. CBO scores the Byrd amendment at $200 to $300 million annually, and the chief financial offi-
cer of the Customs Service confirms this figure for fiscal year 2001. None of the money that is being collected throughout fiscal year 2001 will be dis-
bursed to companies this year. In fact, it will not be disbursed until the sec-
ond quarter of fiscal year 2002. The money that has been collected since the law was signed in October 2000 but which will not be disbursed in fiscal year 2001 is currently sitting unused in the general treasury.

I am philosophically opposed to this program. Loophole trade policy by taking antidumping duties levied to protect U.S. companies and actually redistributing duties collected to those very companies, providing them a dou-
bble reward: punitive tariff rates for im-
ports from overseas competitors, as well as a slush fund of public money.

Again, the point here is that none of the $200 million collected annually for this program will be spent this year and sufficient funds will be collected next. I fear this was the way the law’s fiscal year 2002 obligations.

I have described the offsets because every one of those programs which this money is being reduced from, most of it unused at this time, pales in signifi-
cance to the importance of taking care of the men and women in the military. Which is more important, decent hous-
ings for the men and women in the military or Commerce Department inter-
national trade administration export promotion programs?

We have to always set priorities. I argue that the priority that exists today and that those of us on this side of the aisle promised the American
people as a result of the election last year was that we would do a much better job of taking care of the men and women in the military than had been happening in the previous 8 years.

I strongly urge adoption of this amendment.

I yield such time as the Senator from Texas may consume.

The PRESIDING OFFICER (Mr. Corzine). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I rise in support of this amendment. I support the amendment for a lot of reasons.

The most important reason I support it is that this is an amendment where a Member of the Senate has actually gone through a $2 trillion budget, a budget that spends $7,000 per man, woman, and child in America, and found a way to be below either the lower priority or the things for which he would increase funding in the military.

It never ceases to amaze me that in a government where we spend $2 trillion—no, $7 trillion—year after year, Members of the Senate stand up and offer amendments to increase spending on some favored program, and almost never, ever do they suggest that there is something in the Federal Government that is a lower priority than the thing they believe is a high enough priority to increase spending to fund.

I think you can quarrel, though I do not quarrel, but you can quarrel with almost any one of the choices the Senator from Arizona has made. But you can’t quarrel with the logic of the Senator from Arizona, which is that our job is setting priorities. He argues that operation and maintenance, housing, and improved capacity in the military exceed in value the list of the $800 million of expenditures he would reduce or terminate in order to fund his amendment.

I believe these kinds of amendments need to be encouraged. I am in support of the amendment and I intend to vote for it. Let me also say that it is hard for me to judge the statements being made about defense. I can’t forget that many of the same people who are now saying that there is virtually no limit to what we could use in defense, either they or their predecessors, 2 or 3 years ago, were saying that everything was great in an administration that was dramatically reducing the real level of defense spending.

I believe we do need a top-to-bottom review at the Pentagon. I agree with the Senator from Arizona that a good-faith effort—perhaps the best effort in 10 or 20 years—is being undertaken by the Secretary of Defense. That effort is not going to produce results that will be uniformly happy, and I would have to say that all of the proposals that have been looked at—and I agree with all the people who, with unhappiness and bluster, say it was done the wrong way, we weren’t notified, and there are 101 explanations for being opposed to something or to another—but the bottom line is, we had an effort underway to undo the one proposal to reprogram that had been made by the Pentagon. I think, quite frankly, that sets a very bad precedent. So I believe we do need a comprehensive review.

My dad was a sergeant in the Army. That is the extent of my knowledge about the military. I believe in a strong defense. I am proud of my record in supporting defense. I think I have a base of support for people who wear the uniform that is virtually second to none. But whether or not we need to be in a position to fight two major conflicts at once is something subject to question. I am a lot more concerned about modernization and recruitment and retention than I am about continuing to keep production lines alive. I think Eisenhower clearly was right when he warned us so long ago that even with our best intentions about defense, defense spending would be driven by political interests—something he called the "industrial military complex."

Let me sum up what I came over to say today. First of all, I commend the Senator from Arizona for being the first person in this Congress and the first person in a long time who really not only thought we ought to spend money on something we weren’t spending it on, but who was willing to actually name things he was willing to take it away from. It is interesting that all over America every day families make these kinds of choices. The washing machine breaks down and so they have to make choices. Maybe they don’t go on vacation. Or Johnny falls and breaks his arm and so they have to make choices and it costs money. They have to make choices, and they are hard choices. We never seem to make any of those choices. I am attracted to this amendment because it does make those choices, whether you agree with them or not.

Secondly, I believe we need more money for defense, but I think it has to come in the context of a dramatic reform of defense spending. I think one of the worst things we can do is to simply have a dramatic increase in defense spending without going back and making fundamental decisions about where the money needs to be spent. So I am not unhappy with where we are in terms of a comprehensive review. Once we have a new plan, once we set new priorities, then I am willing to do what the Senator’s amendment has done, which is to take money away from lower priority uses. But I do think it is important that we know what we want to do.

So I commend our colleague for the amendment. I support it. I did want to go on record as saying that I am concerned that many of our colleagues are ready to stop the one effort the administration has made in terms of changing our priorities. I think that sends a very bad signal. I think whether it affects individual States—and this is one that happens to negatively affect my State—I don’t think we can take the position that every program change ought to be opposed if it affects our particular State. I think in the end you have to look at the big picture. I think we are all expected to work for the interests of our States, but, in the end, it is the interest of the common defense of the country that defense spending is about.

I thank the Senator for yielding me time and for his amendment. I don’t have any doubt that, looked at in the aggregate, the $800 million of programs he believes would be the better $800 million or any one individual might be, the merits of those programs pale by comparison to the merits of the programs he has proposed to take the money from and use for the purposes of defense funding. That is what our appropriations committees are supposed to do, and unfortunately, it is not, and I think our Government is diminished as a result.

I yield the floor.

The PRESIDING OFFICER. Who yields time to the Senator from Minnesota?

Mr. WELLSTONE. I wonder if I might yield myself 10 minutes to speak in opposition to the McCain amendment.

The PRESIDING OFFICER. Of whose time does the Senator wish to consume?

Mr. WELLSTONE. In opposition to the McCain amendment.

Mr. STEVENS. There is an hour in opposition to the McCain amendment. On behalf of the chairman, I yield the Senator 10 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 10 minutes.

Mr. WELLSTONE. Mr. President, first of all, I think we would be making a mistake to gut some important domestic programs that I think are critical to our being competitive in the global economy. I think it is critical that we make sure we also live up to the national security of our own country, which is the security of local communities where people really have the opportunity for dislocated workers to rebuild their lives, where we are able to make investments in industries that are critical to the economic life of our communities and our country.

I don’t doubt the judgment of the Senator from Arizona on some of the new spending that he believes is critical for defense. I argue that I believe we should be able to find this money within DOD’s budget.

I want to go over inspector general reports, which point to a very bloated, wasteful Pentagon budget, where there
is more than enough money to meet my colleague's challenge. I think the American worker, with the help of the administration, could do that. Much more could be done with the $800 billion in pork, like the $294 million for high-speed rail in California that is never going to be used. I think the American worker could contribute a great deal more than the $141.5 million that the Senator is suggesting, and I think it is a mistake. The Senator's amendment would rescind $141.5 million, and that is on top of the $217 million that we have already rescinded for job training programs under the Workforce Investment Act. My colleague from Arizona said the workforce investment decision was designed to bring the Senate rescission to what the House did but, in fact, the House did not rescind any funds. So I think my colleague is in error on that point.

More important, I think it is a mistake in these times. I am speaking as a Senator from Minnesota, but as I said earlier, on the Iron Range—which is a second home for me and my wife Sheila in terms of where we feel about the people up there—we saw LTV Company pull the plug, and 1,300 steelworkers are out of work. These are tac­onite workers. These were $60,000-a­year jobs, including health care. These families are trying to recover. These workers are now dislocated. They are looking for other work. In farm country and in rural parts of the State, many people have been left behind.

I think it is simply the wrong pri­ority to make additional cuts to ad­ditional rescissions in assistance for dis­located workers. It is just not right. It is not right. Moreover, in the Work­force Investment Act, which I wrote with Senator DeWINE in a bipartisan effort, we did things to make sense by way of streamlining and having a good public-private partnership, and by way of being consistent in terms of what our national priorities are, which I think is all about, again, the importance of human capital, the importance of education, the importance of people having the skills training and the peo­ple finding employment so they can support themselves and their families. I do not think it makes sense to make additional cuts in this priority pro­gram.

My colleague also would rescind nearly $127 million from the Steel Loan Guarantee Program. I do not know, but there are a lot of Senators, and I know there are Republicans as well, who come from a part of the country that is interested in the industrial sector is really im­portant, where we have had an import surge, where many workers, hard­working people—you cannot find any more hard-working people—are now losing their jobs, and we are talking about how to make an investment in this industry.

By the way, the steel industry is one of those industries that is critical to our national security, in the critical role the steel industry has played by way of contributing to de­fense, much less the infrastructure of highways and bridges within our own country.

Again, I find myself in major dis­agreement with this amendment.

Finally, I am going to look for resources for the new needs identified by Senator MCCAIN, I think we can find it right out of this bloated Pentagon budget. I have no doubt there is at least $1 billion of waste that the Sec­retary of Defense can identify. Let me talk about what the Pentagon inspec­tor general found by way of book­keeping entries that could not be tracked or justified:

- We identified deficiencies in internal con­trols and account systems related to General Property, Plant and Equipment; Inventory; Environmental Liabilities; Military Retire­ment Health Benefits Liability; and material lines within the Statement of Budgetary Re­sources. We identified $1.1 trillion in depart­ment-level accounting entries to financial data used to prepare DOD component financial statements. This was only supported by inadequate audit trials or by sufficient ev­i­dence to determine their validity.

This is not a new problem. In fiscal year 1999, the inspector general re­ported there was $3 trillion in en­tries that could not be corroborated.

Six years ago, the General Account­ing Office put the Pentagon’s financial manage­ment on its list of agencies that are at high risk for waste, fraud, and abuse.

The inspector general also has un­covered many other examples of gross overcharges in the Pentagon’s accounting system. A March 13, 2001, report listed the following gross abuses:

- The Pentagon paid $409.15 for a wash­room sink that cost the vendor $39.17, a 699-percent markup.
- The Pentagon paid $2.10 for a body protection plug that cost the vendor 48 cents, a 335-percent markup.
- The Pentagon paid $2.10 for a screw that cost the vendor 48 cents, a 335-percent markup.
- The Pentagon paid $409.15 for a wash­room sink that cost the vendor $39.17, a 945-percent markup.

The source: Office of Inspector General, Department of Defense report. This was March 13, 2001.

If we want to find the money, let’s look at some of the administrative waste within the Pentagon. We can surely find that money. We can surely make that transfer instead of going after priority programs that are also all about our national defense.

I argue, again, part of the definition of national defense is the security of local communities where dislocated workers return to rebuild their lives, to develop their skills, to find gainful employment where we have industries that have the capital that can generate the jobs on which people can support their fam­i­lies.

Why in the world would we want to make cuts in these programs? I believe this amendment reflects the wrong pri­orities, and I hope my colleagues will vote no.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. The Senator from Wyoming wishes to have time. I yield him 7 minutes from the time in opposi­tion to Senator MCCAIN.

Mr. MCCAIN. Mr. President, I thank the Chair.

Mr. President, I congratulate the Appropriations Committee for the fact they covered all of the expenditures. Senator MCCAIN be­lieved the expenditures, but before we vote for Sen­ator MCCAIN’s amendment, I ask that we give some serious concern to from where some of this money is coming.

I serve on the Small Business Com­mittee, and we have worked on a num­ber of ways to be sure people who lost jobs could have additional training. So I rise today to express some serious concern over the use of workforce in­vestment funds to offset 2001 supple­mental appropriations. While I do sup­port the transition from the Job Training purposes outlined in the underlying bill, dramatically reducing funding for State and local workforce development programs to pay for it does not seem prudent.

The problem, I recognize the pressures placed on the appropriators, but I would have expected that the Members responsible for oversight of such pro­grams would have been consulted as to the impact of such cuts on the pro­gram’s ability to fulfill its purpose.

The programs authorized by the Workforce Investment Act were agreed to through a strong bipartisan process, led by Senators DeWINE, KENNE­DY, Jeffords, Wellstone, and myself. I fear, given the apparent willingness to cut funding for the act, that we did too good of a job in 1998 when Workforce Investment Act was enacted. What I mean by that is that we successfully streamlined the often duplicative and dis­organized college and work pro­grams in existence prior to 1998. So now, if these rescissions are adopted, there will not be any alternative work­force investment programs for people to access. The point is, this money is the program. None of us can support this rescission and walk away thinking another workforce initiative will simply absorb our constituents.

Moreover, a retroactive cut of this size will compound the challenges that many States are already facing during the transitional period, under the Workforce Partnership Act, which my colleagues know as JTPA, to the Workforce In­vestment Act. Also—and no one is re­ally talking about this part—since States were due a portion of their an­nual allotment on July 1, they are now going to have to turn around and send a large portion of that back to Wash­ington in the form of a rebate check. This just does not seem right to me.

I do not have any formulas at hand to demonstrate the value of workforce de­velopment programs in the face of a slowed economy. It is simply too early too soon, but what I can offer my col­leagues is common sense. Now is not
the time for us to scale back basic skills training, re-training of displaced workers, or innovative initiatives designed to revitalize economic development in struggling communities. It is these communities that need our help, and that is help that we promised last year in the "regular" FY 2001 appropriations bill.

Again, my hope is that the dilemma facing our appropriators is not easy. There is consensus that we need to provide immediate additional resources to our military, our farmers and others whose distress is our responsibility. I also recognize that identifying unobligated current year appropriations in July is like finding a needle in a haystack, but rescinding funds from people who are trying to make themselves employable, to make themselves contributing members of society, and to stop only skimming fat off the top. This cuts to the bone in Wyoming and in countless other States. My State, for instance, was due to receive $555,420 on July 1 for displaced workers. I know this does not sound like a lot to those of you from larger States, and it is not a lot even in Wyoming, but it is crucial in Wyoming in the effort to address the counties that have been hard hit by unemployment. Now so instead of $555,420, we will receive 62 percent of that, or $345,000. That is a 38 percent cut of already appropriated money. We are not talking about cutting a request; it is already appropriated and should have been sent.

I can assure Members it will have an adverse impact on the progress we have made in the implementation of the Workforce Investment Act and will impact getting people retrained for currently useful jobs. My concern over this rescission is clear, and I will not belabor my opposition. I ask that the able managers of the bill reconsider using workforce investment funds to offset supplemental spending. I am happy to work with them and their House counterparts as they reconcile the two bills in conference.

I yield the floor.

Mr. INOUYE. Mr. President, I thank my friend from Alaska for yielding time. I wish to remind you of a comment I made in crafting this supplemental bill the Department of Defense considered two criteria. These requirements were that any program receiving supplemental funding must be able to execute this funding during the current fiscal year, and the current fiscal year has just about 2½ months remaining, and that the funding cannot wait until fiscal year 2002.

I also wish to remind the Senate that from fiscal year 1994 to fiscal year 2001 the Congress of the United States added $49 billion to the Department of Defense budget, much of it to the very programs that concern Senators from Arizona. Some of the unfunded requirements addressed by the Senator in this amendment were identified by the Secretary of Defense and February before the Bush administration began its own defense review. And some of these items are funded in the fiscal year 2002 request.

We are committed to working with the Defense Department to avoid a supplemental next year and fund all legitimate requirements. Many of the items identified by the distinguished Senator will be funded in fiscal year 2002 or through the omnibus reprogramming request.

We understand the Senator's amendment seeks to fund anticipated costs that DOD expects to materialize later this year. I wish to underline "anticipated costs" because the intent of the Senator's amendment to cover this cost is its merit. However, the committees of jurisdiction, the Armed Services Committee and the Appropriations Committee, have yet to receive this request. We have not received a request from the Department of Defense. The increases in question have not been scrutinized by either of those committees. Therefore, we cannot validate to our colleagues this day that the amounts identified by the distinguished Senator from Arizona are the ones that the Department of Defense truly needs. We understand and support the concept that the Senator offers in the amendment, but we do not believe we can support the amendment until the committees have had a chance to study, to scrutinize the specific details of the request.

Until such time, we cannot advise our colleagues that this is what DOD really needs. Therefore, I must stand in opposition to the McCain amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I will read from an article in the Washington Post dated May 31, 2001, titled "Bush Eyes Additional $5.6 Billion For Military: Increase Is Far Less Than Services Expected," by Robert Suro and Thomas Ricks, Washington Post staff writers.

In part it states:

The supplemental budget request . . . does not include any new money for ballistic missile defense which [Rumsfeld] has depicted as a top priority, or for the weapons systems and operating costs that he said the Clinton administration had grossly underfunded. Some senior military officers and defense experts said yesterday the president's request is so small that it will not fully cover the Pentagon's current expenses.

"This request is the barebones, just the items that are absolutely to get by, and no one has any illusions that it is anything more than that," said a senior military officer speaking on the condition of anonymity.

The article goes on to say:

In the early days of the new administration, top military officials said they hope to get much more, at least $3 billion to $10 billion, in a supplemental that would, in effect, be the first installment of a Bush buildup. But the White House and Defense Secretary Donald H. Rumsfeld decided they would take care of only immediate needs in modifying this year's defense budget. New priorities will not be fully felt until the 2003 budget.

Although relatively small sums are at play, compared to that of the Bush defense budget, some senior military officers have complained: "On the campaign trail he said over and over, 'Help is on the way,'" said a military officer. "Well, we are going to need help when the fourth quarter of this budget year rolls around, and it is not going to be there."

In principle, supplemental spending requests are meant to provide relatively small amounts for contingencies that arise after the Federal budget is enacted. But the Pentagon, unlike other Federal agencies, has regularly used supplemental funds to fill out identity funds for basic operations, maintenance, and supplies. Rumsfeld has warned that in the event of a war or a large-scale attack, the outcome will be determined by the Pentagon's ability to mobilize its forces, and that the United States needs to be able to weather a potential crisis.

I certainly hope that will be the case. I challenge a Member of this body to find any member of the U.S. military leadership, any chief petty officer or corporal, who would tell them this is enough, that what is in the supplemental is enough.

I reserve the remainder of my time.

Mr. STEVENS. I yield 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I don't intend to be an expert in military matters, and I yield to those who do understand those matters. But I have to rise to oppose Senator McCain's amendment with respect to one of the offsets he has created that would cut the provisions in the supplemental in half for those funds that would be appropriated in support of the Olympic Games.

I understand concern about the Olympics. I understand the sense that this is a sporting event. What is the Federal Government doing with respect to a sporting event? But I have to point out a few things with respect to the Olympics that take it out of the realm of the pure sporting event.

The Senator from Arizona has talked about the Olympics in Atlanta as well as the Olympics in Los Angeles. I attended the Olympics in Los Angeles because I was living there, and I recognize that we live in a very different world than we did in 1984. The Olympics in Atlanta was the first Olympics at which we had a bomb in the United States, and as a result of the bomb at the Centennial Olympic Park, the whole structure that came following that, President Clinton issued Presidential Decision Directive No. 62, PDD 62, designating this as a Presidential event, changing the security arrangements of the Olympics forever. The whole circumstance surrounding the Olympics now, as a result of PDD 62 are focused on international terrorism in a way that they were not in the more simple...
days of the Los Angeles Olympics in 1984 or certainly even in Atlanta.

Now that PDD 62 was created as a Presidential event, we as a government are now faced with these circumstances. And $52 million of the $62 million called for in the supplemental go to the Treasury Department and to the Secret Service for a variety of functions surrounding PDD 62 and its requirements. The first deals with the core mission of the Secret Service which has to do with protecting the President, protecting foreign dignitaries, and dealing with counterterrorism. We are going to have an unprecedented number of foreign dignitaries attending these Olympics. That goes with every new Olympics. Every time there is a new Olympics, more foreign dignitaries show up than 4 years before.

We must understand that the venues for these games, they being winter Olympics, are not focused around a stadium or a park. We are talking about a 900 square mile area, including some of the most mountainous territory in the United States. To protect all of that area requires a tremendous amount of effort on the part of the Secret Service. That is what the money is going for.

There is a question of customs. We are getting people from all over the world to come to the Olympics—people who want to run this event. We are talking about 900 square miles, they are going to protect athletes and turn out to be terrorists, as well as athletes, their coaches, families, and, of course, spectators.

Dealing with customs in the Treasury Department is where part of this money will go. The ATF, the Bureau of Alcohol, Tobacco and Firearms, energized obviously by the experience in Atlanta where there was a bomb that went off, is now making sure that a great deal more activity is done to prevent that from happening in Atlanta. It is only prudent to do this. That is $52 million of the $60 million we are talking about in this supplemental going to the Treasury Department for those kinds of functions.

The other $8 million goes to the Justice Department, the Agriculture Department, and the Interior Department. You would ask: What does Agriculture and Interior have to do with the Olympics? The fact is that a very large portion of the Olympics will take place on Forest Service land, which is policed by the Department of Agriculture, and BLM land, which is policed by the Department of the Interior. It is important that the adequate facilities to deal with this, but, in the heightened activity surrounding the Olympics, they will have to pay their people overtime. They will get their people there. They have the trained people to do it, but they will have to pay airfare. There will have to be lodging. They will have to pay overtime. These agencies have been putting together this information.

We can complain maybe this should have been done in the previous bill, it should have been taken care of in the 2001 appropriations bill and we should have to use it before us as a supplemental, but the fact is, if we do not get it prior to the end of this fiscal year, the proper preparations will not be able to be made.

This money is in the 2002 bill. The full $60 million is in the 2002 bill, which, in the normal course of governmental activity, that would be the proper way to do it. The fact is, however, we cannot change the time of the Olympic games. That is set in concrete, and if we do not do the money in a more readily available upfront manner, we will find we are facing the challenge of trying to have the money in the pipeline while the games are taking place.

It seems in this situation, in the middle of the summer when the Sun is shining and it is hot outside, that this may not be a matter of that much pressing urgency. But if we have an international incident at the Olympics in Utah in 2002—if a foreign dignitary is attacked; if a terrorist attack goes on to try to embarrass any country—ours or any other—if there is a lapse in security and the fingers start to be pointed, as to where were the Americans, why weren't they prepared—it will be a difficult thing to say we wanted to put it off, we wanted to take it out of the supplemental and have it take place in the 2002 budget; we were only saving 4 or 5 months, but we wanted to use the money for something else for that 4- or 5-month period. I do not want to run that risk. I do not want to have the opportunity handed to an international terrorist that says the American Secret Service is underfunded and others involved with policing the public lands have not been able to get their overtime in the right appropriations bill; we waited too late; the preparations were not made; therefore, we had this event.

I respectfully suggest we reject the amendment of the Senator from Arizona, and, instead of having this money come in the 2002 bill, have it stay where it is now, in the supplemental bill. It will be easier to get a delay on some of these other things for 4 months, things that do not have a firm time scale connected to them, than it will be to have this money delayed for the Olympics.

I yield the floor.

Mr. HATCH. Mr. President, today I rise to speak against Senator McCain's amendment to the fiscal year 2001 supplemental appropriations legislation. I fully appreciate the sentiment underlying this amendment, and I assure everyone that the men and women of our Armed Forces deserve nothing but the best in living conditions, pay, and working environment. I understand that this amendment would enhance the operations and maintenance of the services. I have always supported legislation that provides for our airmen, and marines. However, I find that one of the offsets to Senator McCain's amendment is totally without merit.

I am vehemently against section 3003, paragraph (c) in Senator McCain's amendment which reduces the salaries and expenses in the Department of Treasury by $30 million. The amendment does not address what the $30 million is for, but I will tell you this funding is for security for the 2002 Winter Olympics. It pays the salaries and expenses of law enforcement personnel.

Senator McCain's amendment seeks to add funding to the military that would not dramatically improve our national security but the $30 million that he takes away from the Treasury Department's budget can have a dramatic impact on safety at this international event.

For several years now we have worked very hard to ensure the public safety of this major international event. The law enforcement budget has been carefully planned, fully justified, and endorsed by this body. Any reduction to this budget would have a severe impact on the security of the Olympics and impose unacceptable risks. I am sure my colleagues agree that the safety of the Olympic athletes and spectators is of paramount importance, and a national responsibility when this Nation agreed to host the 2002 Olympic Games.

Mr. SARBANES. Mr. President, I rise to express my serious concern about a provision in Senator McCain's amendment which I believe significantly undermines the commitment we made in the Transportation Equity Act for the 21st Century. (TEA-21), to address our citizens' mobility needs. This provision would have severely undermined the two crucial programs that the Federal Transit Administration: the Job Access and Reverse Commute Program, and the Transit Planning and Research Program.

TEA-21 created the Job Access and Reverse Commute Program to provide transit grants to assist states and localities in developing flexible transportation services to connect welfare recipients and other low-income people to jobs and other employment-related services. In addition, the program provides support for transportation services to suburban employment centers from urban, suburban, and rural locations. These programs enhance our communities' ability to meet the needs of our most vulnerable citizens.

Even in a time of low unemployment, a person who cannot get to the workplace cannot hold a job. Not everyone can afford access to an automobile, especially those who are looking for employment. Public transportation can be a vital component in helping these individuals leave the welfare rolls and enter the workforce.
In fact, investment in public transportation benefits all Americans. As the numbers emerging from the 2000 Census show, the face of America has changed in recent years. The fact is that two-thirds of all new jobs are now located in the suburbs, while much of the workforce lives in the city. For millions of Americans, transit is the answer to this spatial mismatch. And as cities and towns across America are discovering, public transit can stimulate the economic life of any community. Studies have shown that a nearby transit station increases the value of local businesses and real estate. Increased property values mean more tax revenues to states and local jurisdictions; new business development around a transit station means more jobs.

I am therefore quite concerned to see that the McCain amendment would take over $200 million away from transit programs. This amendment would be a significant setback in our efforts to make transit services more accessible and improve the quality of life for all Americans. I urge my colleagues to vote against it.

Mr. BAUCUS. Mr. President, I rise today to further explain my opposition to the pending amendment offered by my good friend from Arizona, Senator MCCAIN. The Senator’s amendment seeks to address worthwhile objectives such as providing for the operation and maintenance of our armed forces and increasing funding for personnel needs. I support these goals and believe they should be addressed.

However, the offset for this amendment troubles me for two reasons and it is because of these reservations that I cannot support the amendment offered by Senator MCCAIN. The first issue is the specific funding rescissions in the designated offset. For example, the amendment rescinds $141,500,000 in Department of Labor funding earmarked for Dislocated Worker Employment and Training Activities and Adult Employment and Training Activities.

This funding is critical for my home State of Montana because we are in the midst of an energy crisis that has to date been responsible for over 1000 lost jobs. Retraining dollars are essential for helping these newly laid-off workers develop new skills and learn new trades so they can more quickly rejoin the workforce in a state that is already struggling economically.

The second issue is the lack of separation between non-defense and defense funding that this amendment proposes. The separation of defense and non-defense spending has served us well in meeting our nation’s budget priorities and has been the subject of past and future discussions. Utilizing non-defense funding to offset the additional spending of this amendment sets a precedent that I do not believe we should set. We should fund the priorities, laid forth by Senator MCCAIN, in a timely manner, but we should not use existing funding in non-defense programs to accomplish our goal.

Mrs. CLINTON. Mr. President, I rise today in opposition to provisions in the McCain amendment, and in underlying bill S. 1677, which funds discretionary spending programs supported under the Workforce Investment Act, including the Dislocated Worker Employment and Training Program and the Adult Employment and Training Activities. The underlying bill also provides $141,500,000 in Department of Labor funding earmarked for Dislocated Worker Employment and Training Activities in order to pay for important increases in funding for title I education services and Low Income Home Energy Assistance Program. I support the need to increase essential funds for students in the highest-poverty schools and for low-income individuals who are being hardest hit by increasing energy costs. Indeed, I signed on in support of the increases for title I and LIHEAP. I do not think, however, we should increase funding in any or any other programs by taking money away from New York workers at a time when these employment and training programs are most in need and are beginning to meet their potential.

At this time when upstate New York is facing more notice of layoffs, we should not be cutting back our support for dislocated workers. Last year, over 25,000 New York workers received notices within the designated offset. An increase of over 7,000 workers from 1998. Over the past several months, we have learned that hundreds of workers at the Xerox facility in Webster, N.Y., will soon find themselves out of work; several hundred New Yorkers who have spent years working for Nabisco in Niagara Falls also recently received notice that they would no longer have a job. Corning announced just yesterday that it will have to close three factories, resulting in a loss of nearly 1,000 jobs.

At a time when we see signs of our economic weakening, this bill would reduce funds specifically designated to assist workers who are victims of mass layoffs and plant closures. With the rescission in the base bill alone, New York can expect to lose approximately 29 percent of its dislocated worker funds. I have received hundreds of letters from New Yorkers—not only from concerned workers, but also from businesses that need trained workers.

Why are my colleagues suggesting that we should rescind WIA funds at a time when our economy is weakening and many workers will need these critical funds to be retrained and relocated in new jobs?

They are claiming that States are not spending and obligating funds quickly enough. I agree. But, I also agree that States and local communities have made tremendous progress in implementing the Workforce Investment Act.

Let’s get the facts straight. States were not required to implement the Workforce Investment Act until July 1, 2000. Beginning July 1, 2000, States had 2 years to spend funds and were required to obligate 80 percent of their funds. Many counties in New York are doing a tremendous job—Chautauqua County, for example, has obligated 95 percent of its dislocated worker funds, as well as 95 percent of adult funds; the Town of Hempstead has allocated 90 percent of both its dislocated and adult worker funds; as has Erie County—all of which can expect to lose funds under this rescission.

I do know that there are at least eight counties in New York that have struggled in their implementation—working to get up to 19 Federal partners at the local level to offer services in One Stop training centers—and, as a result have obligated 70 percent or less of their funds. These counties need to do better and the State needs to do better in supporting their efforts. But, the way to do this is not by taking money away from a fledgling program that is aimed to assist our workers most in need of training and assistance.

I oppose these efforts to undermine the new Workforce Investment Act. I agree with accountability of Federal dollars, but I do not agree that we should unnecessarily punish workers before allowing the program to get up and running.

Mr. MCCAIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. MCCAIN. Mr. President, I think the Senator from Minnesota, Mr. WELLSTONE, may be mistaken. In fact, $359 million was rescinded in the House supplemental from the programs. I think he was inaccurate in his statement that none was rescinded.

Let me assure the Senator from Utah may have to leave the floor. The Senator from Utah fails to mention that we have already shelled out $1.3 billion—"b," billion—in subsidies for the Salt Lake Olympics, far more than any other Olympics in history, far more, for all kinds of pet projects.

I asked 3 years ago, a simple request of the Senator from Utah, if he would give us an assessment of how much in Federal dollars would be needed. Of course, I never got an answer. In fact, we had a little dialog on the floor of the Senate.

Never once, never on any occasion has the Commerce Committee, of which I am a ranking member, had a request for authorization for funds for the Salt Lake City Olympics—never once. Not on any single occasion, even though I have requested time after time, the committee of oversight that authorizes the funds and what may be required has never, ever been approached.

Why not? Perhaps one of the reasons might be because we found out in a
GAO report that the taxpayers have shelled out $1.3 billion already for the Salt Lake City Olympics for every kind of imaginable kind of project, none of which—or very little of which had to do with security. It had to do with land acquisitions; it had to do with all kinds of things. Of course, we have never yet had a request for an authorization.

What do we find? We find a supplemental appropriations bill for $30 million for security. It sounds good. Why was the request not made a long time ago? Perhaps, if the Senator from Utah had complied with the simple request that I made as chairman of the oversight committee, that we could get some kind of estimate as to how much it would cost the taxpayers, we would not be in this whole drilling drill which we are going through now.

I, again, urge the Senator from Utah to tell us how many of the taxpayers' dollars are going to be needed to fund the Olympics, No. 1; and, No. 2, seek authorizations through the authorizing committee for those funds—which happens to be the Committee on Commerce, Science, and Transportation.

I point out on this amendment that the Office of Management and Budget and the Department of Defense have not voiced objections. In the interests of straight talk, they have not expressed support for this amendment either. But there has not been any objection raised by the Office of Management and Budget or by the Department of Defense to this amendment. I hope Senators will take that into consideration.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska. Mr. STEVENS. Mr. President, how much time remains in opposition?

The PRESIDING OFFICER. There remains 34 minutes.

Mr. STEVENS. Mr. President, I share many of the concerns that have been expressed by my colleague from Arizona. I am sure he understands I join him in the desire that we assure the adequate protection and support for our men and women in the armed services. I do think the amendment of the Senator is well intentioned. It is consistent with the priorities identified by Secretary Rumsfeld in his budget request for the fiscal year 2002. That request provides for a substantial increase, which I shall discuss further. In defense spending, commencing with October 1 of this year—82 days away.

By the time this bill gets to the President, probably it will be 75 days; by the time he signs it, it will be about 70 days; by the time the money could be released by the Comptroller of the Department of Defense, that is about 60 days later. So we are talking about the same time because their machinery over there is designed to follow through on the amendment that has already been submitted by the Senator. It is my duty to join the Senator from Arizona, and others, in stating that we think this matter is better addressed in the fiscal year 2002 Defense authorization and appropriations bills.

The Senator from Arizona talks about authorization. This matter is before the Armed Services Committee now. The Secretary has testified before that committee. They may come up with different priorities. I believe the Senator is right; we have a role in helping to determine the priorities for defense spending.

We share that with the House of Representatives. Congress has the power of the purse. I do believe we should use it. In the hope that Senator McCain, just prior to the Fourth of July recess, would join me in vigorously opposing the amendment to the budget the Secretary of Defense to this amendment. I hope the Senator is right; we have a role in helping to determine the priorities for defense spending.

Several items in this amendment are likely to be accommodated in the Department's annual omnibus reprogramming. Every year, as we get down to this last quarter, the Department comes to us with reprogramming requests which are approved, under existing law, by the Appropriations Committees of both the House and the Senate. That is statutory. We gave the Department of Defense, this year, through the Defense Appropriations Act, the authority to shift $2 billion from one fund to a fund of higher priority. We have to approve that, of course, but that lifted the ceiling considerably. Annually, the Department presents to Congress reprogramming requests which shift from one purpose to another alternative higher priority. That is what we should do. We should let the Department shift these funds and tell us where they want them shifted to, if they wish to do so.

But I am constrained to point out that the budget resolution for this fiscal year contains what we call a wall. It is a wall between defense and nondefense spending. The Department of Defense to this amendment because of the attempt to shift money from nondefense accounts to defense accounts for this fiscal year.

Later this month we are going to review the $350 billion spending proposal for the Department of Defense for 2002. I am sure that as a member of the Armed Services Committee, Senator McCain will work very hard on these matters. I am certain he will assist in determining whether the priorities are correct as submitted by the Secretary, with the approval of President Bush.

I do not believe we should shift funds from the nondefense priorities until we are certain that the funds are in excess of those programs' needs. As a matter of fact, I do not think we should do it at all because that was our commitment, that we would keep a wall between defense and nondefense spending. The budget resolutions for the last 4 years believe 5 billion for that wall. And we have adhered to it.

We, in the Appropriations Committee, have been quite clear about that. I have to confess, I did suggest that some of the defense moneys go to the Coast Guard, but I made that request because I believe they are a semimilitary agency. They carry out some military functions, and they have to have military equipment, military training, and military assets on board their ships. But we have vigorously defended the concept of the wall. Those people who vote for the McCain amendment are, for the first time, going to set the Senate on record as abandoning the concept of the wall.

I have asked the Parliamentarian if this is subject to a point of order because of this fact, and I have to ascertain that later. But I, for one, believe in the wall because we put it up to protect defense spending, not the other way around.

I don’t want to get political here, but in the last few years the President was not as much in favor of defense spending as the Congress, and therefore we protected the defense spending with the wall. I do not see any reason now for us to turn around and renge on the commitment we have made to protect defense spending, not the other way around.
of Defense in his request for 2002. I think we understand that.

We are concerned that envelope as far as we can. But clearly the mon-
ey that has been requested now put this administration on record of re-
questing more monies—I think almost $80 billion more—than the level of 2001 that will be spent in 2002 for defense. And that is—what?—less than 3 months

I really have objection to the McCain amendment because of where the money comes from. It cuts $41.5 million from the dislocated workers assistance program. It rescinds $100 million from the job training program. The com-
mittee bill already took some money from this dislocated workers program, but ours is from unexplained balances of the program. This rescission takes it from the program, actually cuts job training programs for dislocated work-
ners. And I will vote against that as a separate amendment.

Senator McCain's amendment also makes substantial reductions, signifi-
cant reductions, in the international space station account. This is at a time of extreme need. I have been spending some time looking into the space pro-
gram because of my extreme con-

And that is—what?—less than 3 months

I hope other Members will take a look at it to see where these moneys are coming from. They start on page 3 of the amendment. Not only are the funds reduced from the space account I just mentioned, there are funds from the National Institute of Standards and Technology, under the heading "Industrial Technology Services," that are reduced by $67 million for the Advanced Technology Program. There is another $19 million from the Depart-
ment of Commerce for the Interna-
tional Trade Administration. There are moneys that were provided under the Emergency Steel Loan Guarantee and Emergency Oil and Gas Guarantee Loan Act.

I do appreciate the fact that the Sen-
ator has deleted the suggested reduc-
tions in the Maritime Guarantee Loan Program Account.

We also have a suggestion to take from the Department of Labor for the Employment and Training Administration under the heading "Training and Employment Services" and for the dis-
located worker account, as I men-
tioned, $41.5 million; adult employment and training activities, $100 million. Then from the Department of Trans-
portation—here again, I think this would be subject to a point of order—as I understand TEA–21, there is a wall in that, too. That money cannot be used for other purposes, but the amendment of the Senator from Arizona would take $90 million from the transit planning and research and $16 million from job access and reverse commute grants under the Federal Transit Administra-
tion.

All of this, to me, means that I ap-
preciate the amendment that disturb me. I hope other Members will take a look

I cannot support it. I hope the Senate will not support the Senator's amend-
ment. At the appropriate time, I will make a motion to table the Senator's amendment. I do not wish to do so at this time because he still has time re-

I ask how much time do I have re-

The PRESIDING OFFICER. The Sen-
ator has 20 minutes 30 seconds. The Senator from Arizona has 12 minutes.

Mr. STEVENS. I reserve the remain-
der of my time.

The PRESIDING OFFICER. The Sen-
ator from Arizona.

Mr. McCa

There being no objection, the ma-

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| Food and Drug Administra-
tion | Safety- and security-related services | $1,586 | 194 | 1,586 |
| Centers for Disease Control | Public health safety- and security-related services | 9,494 | 45 | 9,494 |
| Office of Emergency Preparedness | Safety- and security-related services | 1,913 | 45 | 1,913 |
| Department of Housing and Urban Development | Office of Emergency Preparedness | 6,973 | 45 | 6,973 |
| Department of the Interior | $1,272 | 45 | 1,272 |
| National Park Service     | Housing for media | 1,272 | 45 | 1,272 |
| Bureau of Land Management | Housing for personnel | 1,272 | 45 | 1,272 |
| Department of Justice     | Increased park services | 1,272 | 45 | 1,272 |
| Bureau of Investigation | Increased Bureau services | 1,272 | 45 | 1,272 |
| Immigration and Naturalization Service | Safety- and security-related services | 47,060 | 16,950 | 47,060 |
| Office of Community Oriented Policing | Safety- and security-related services | 21,446 | 16,950 | 21,446 |
| Office of Justice Programs | Safety- and security-related services | 2,431 | 16,950 | 2,431 |
| Executive Office of U.S. Attorneys | Safety- and security-related services | 10,417 | 16,950 | 10,417 |
| Community Relations Service | Grants to local law enforcement | 8,864 | 16,950 | 8,864 |
| Counter terrorism fund | Safety- and security-related services | 1,033 | 16,950 | 1,033 |
| Department of Transportation | Assess racial tensions | 56 | 16,950 | 56 |
| | Safety- and security-related services | 2,841 | 16,950 | 2,841 |
| | Increased agency services | 663 | 16,950 | 663 |
| | Increased agency services | 83,854 | 26,838 | 83,854 |
| | Preparing the host city of Salt Lake City | 36,896 | 998,275 | 357,118 |

APPENDIX III.—FEDERAL FUNDING AND SUPPORT PLANNED AND PROVIDED TO THE 2002 WINTER OLYMPIC GAMES IN SALT LAKE CITY
Mr. McCAIN. It includes things such as land acquisition, Olympic infrastructure, Olympic park-and-ride lots, light rail downtown to the University of Utah, Olympic intelligent transportation system, commuter rail, intermodal centers, the list goes on and on of the $1.3 billion that has already been spent before we tack some more onto this supplemental appropriations bill. I hope the Senator from Alaska will also work very hard to remove the non-defense appropriations from the defense appropriations bills.

I yield 7 minutes to the Senator from Connecticut and reserve the remaining 4½ or 5 minutes for me before all time expires.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment offered by my friend from Arizona. I do so because I think this amendment makes two very important points. Those are points that have strength and with which I want to identify whether or not this amendment has any possibility of passing.

The two points are these: First, that we are not spending enough on our national security; second, Congress has recently adopted and the President has signed a tax cut package that will make it increasingly difficult for us in the months and years ahead to find the resources to meet the needs of our defense systems and structures and forces. Those are the two critical points.

We have in recent years tried in Congress, and succeeded on a bipartisan basis, to significantly increase the recommended budget levels to sustain real growth in our defense spending. Beginning in the mid-1980s and going through about 2 or 3 years ago, every year spending on defense got chopped in real dollars. That was a peace dividend, people said. In fact, when you look at the construction of spending in the Federal Government over the last decade or so, most of it comes at the expense of defense; some of it obviously justified by the end of the cold war.

At the end of the cold war, America emerged in a very different world as the one superpower with extraordinary responsibilities for maintaining the peace in our own interest and the world’s interest around the world.

As I say, we began to turn that around. In real dollars we began to increase defense spending 2 or 3 years ago.

Continuing this support must be a priority. We have to provide for immediate needs in the fiscal year 2001 supplemental and to begin to fund levels to maintain current readiness, as well as to modernize and transform our forces in the coming defense budget. I am deeply concerned that if we do not, we may jeopardize our capacity to defend our interests here and abroad.

I have heard what my friend from Arizona has said, I couldn’t agree with him more about the statements made last year that “help is on the way.” In some sense, it appears that the check may have been lost in the mail because although there are increases in defense this supplemental appropriations and in the budget President Bush has recommended, they are inadequate to the needs of our defense. That is where I hope we in this body and Members of Congress, the other body, will join together on a bipartisan basis to give the Department of Defense the funds it needs to protect us.

The defense supplemental for fiscal year 2001, as has been said, is $5.6 billion, which, as I understand it, is about half of the amount that the service chiefs asked for. Although the fiscal year 2002 budget request from the administration is an increase, again, I don’t think it is enough to meet our national security needs.

For instance, by any calculation, both procurement and research and development for the Army are less than that appropriated last year.

Navy procurement is lower by almost $2 billion than last year. As Admiral Clark, the Chief of Naval Operations, testified at the Armed Services Committee today, we are now a 314-ship Navy and on a course to head to 240
Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 20 minutes under the Senator’s control.

Mr. BYRD. I thank the Chair.

Mr. President, I yield myself such time as I may consume.

The amendment the President has requested, is not assumed in the budget resolution and is not authorized. Many of the items that would be funded in the McCain amendment will be considered as part of the annual DoD omnibus reprogramming request. DoD will cover many of these costs with their own offsets rather than through cutting non-defense programs. Many of the non-defense offsets contained in the amendment are objectionable:

Job training: The McCain amendment rescinds an additional $141.5 million from the FY01 job training funds, $41.5 million from dislocated workers and $100 million from adult job training. This is in addition to the $217.5 million rescission already included in the bill. Increasing the rescission above the $217.5 million risks actual cuts on job training services.

Security at Winter Olympics: The McCain amendment would cut $30 million from the Committee bill. The committee approved the funds to provide security for participants and visitors to the 2002 Salt Lake City Winter Olympics. The federal government is mandated under Presidential Decision Directive 62 to provide security for officially designated National Security Special Events. These funds were requested and fully paid for.

Advanced Technology Program: The amendment would rescind $77 million from the National Institutes for Standards and Technology Advanced Technology Program. ATP is a valuable and well-managed innovation program. From the telegraph to the Internet to biomedical research, government investment has spurred the development of new technologies and new fields, which have had great impact on and held enormous benefit for the American people. According to the National Academy of Sciences’ National Research Council, ATP’s approach is funding new technologies that contribute to important societal goals.

International Trade Administration, Trade Development: The amendment would rescind $19 million. TD is responsible for negotiating and enforcing industry sector trade agreements such as those on autos, textiles and aircraft. TD’s mission is extremely important in the era of trade agreements such as NAFTA and the African Free Trade Agreement.

Oil/gas: $114.8 million has already been rescinded from the Emergency Oil and Gas Loan Guaranteed Loan Program to help pay for the Radiation Exposure Compensation Act, RECA, and Global AIDS. This funding is no longer available for rescission.

Steel: The amendment would rescind $126.8 million from the oil and gas and steel loan guarantee programs. The committee bill already rescinds $114.8 million from the oil and gas program. If the entire $126.8 million rescission came from the steel loan guarantee program, then the ability of the steel loan guarantee board to help the steel industry receive needed capital would be eliminated. This reduction would come at a time when a record number of steel companies have filed for bankruptcy (eighteen companies) and steel prices have fallen below levels that prevailed during the depths of the 1998 steel crisis.

Access to Work: The McCain amendment would rescind over 80 percent of Access to Work funding. This program has been very successful at starting new programs at transit agencies to get welfare recipients who want to hire them. Many studies have shown that one of the biggest problems in getting welfare recipients off the welfare roles and on to payrolls is transportation—getting them to work.

Antidumping: In the last 4 years, continued dumping or subsidization has been found in roughly 80 percent of all administrative reviews conducted by the Department of Commerce. Industries affected include many parts of agriculture, chemicals, consumer goods, industrial goods and components, and metals. The amendment would rescind $230 million from the Treasury program established last year to assist companies impacted by unfair foreign trade practices. This rescission would eliminate the program just when it is anticipated that the first offset disbursements will be made by Customs toward the end of November 2001.

NASA: The amendment would rescind $40 million from Life and Micro-Gravity research. In FY 2000, Congress funded $10 million for a life and microgravity mission aboard the space shuttle. However, due to delays in overhauling the Space Shuttle Columbia, and the need to accelerate the Hubble space telescope servicing mission, NASA was forced to rescind the launch date May 2002. As a result of the delay, the committee included language that lifted a restriction on the use of the funds to give NASA the flexibility to reprogram the funds for a Shuttle mission that will include a life and microgravity research experiment.

If the amendment had been included in the Omnibus Energy Bill and the conference report, NASA would have been able to profit from the steel crisis by rescinding $126.8 million from the oil and gas and steel loan guarantee programs. The conference report rescinded $114.8 million from the oil and gas program. If the entire $126.8 million rescission came from the steel loan guarantee program, then the ability of the steel loan guarantee board to help the steel industry receive needed capital would be eliminated. This reduction would come at a time when a record number of steel companies have filed for bankruptcy (eighteen companies) and steel prices have fallen below levels that prevailed during the depths of the 1998 steel crisis.

The PRESIDING OFFICER. There are 20 minutes under the Senator’s control.

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.
July 10, 2001

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units. As part of the space shuttle safety upgrades program, NASA initiated an effort to develop an electric auxiliary power unit (EAPU) in FY 2000 to upgrade the existing power units to make them safer and more reliable. However after the initial development phase, it became clear that there were significant technical hurdles that could not be overcome without a significant increase in the budget.

While this particular program was canceled by NASA, the overall Space Shuttle Safety Program remains a top priority. NASA will redirect the remaining funds to address other key safety and reliability upgrades for the space shuttle. There is no higher priority than protecting our astronauts.

Transit research and planning: The McCain amendment would virtually eliminate funding for transit planning and research — $90 million, provided in the FY 2001 Transportation Appropriations Act.

Mr. President, I hope the Senate will oppose and defeat the amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Will the Senator from West Virginia yield me 5 minutes?

Mr. BYRD. Mr. President, I gladly yield 5 minutes to the distinguished majority whip.

Mr. REID. Mr. President, will someone get Senator McCain? He wanted to close. He has about 4 minutes remaining.

I want to spend a little time speaking tonight before we have these series of votes. Floor staff has been kind enough to gather for me some information. Since the leadership has changed in the Senate, we indicated we were going to try to do things faster than we have in the past. One area we are addressing is the time we waste waiting for Senators to arrive. One reason for this is the Senate has 9 or 10 months, so it is 45 or 50 hours a year wasted waiting for Senators to arrive.

I hope people will not be upset about this—they hate to turn in a vote when there are people not here because people yell at them, but we need to move along and do this. It is going to be bipartisan. We are going to do our best to make sure it is fair to everybody. Remember, we are talking about 50 hours a year wasted just in not having our votes, not in 10 minutes, but in 20 minutes; not in 10 minutes—sometimes we have 10-minute votes—not having those votes in 10 minutes but 15 minutes. I am talking about the time wasted over the 20-minute time limit.

I hope people will not be upset about this. I know some will. Maybe if we get in the habit of calling the votes on time, Senators will come on time.

I thank Senator BYRD for yielding me time. Senator McCAIN is not yet here. I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator from Missouri wishes 5 minutes of the time in support of the McCain amendment.

Mr. REID. There are not 5 minutes. There are 4 minutes.

The PRESIDING OFFICER. There are 4 minutes left for Senator McCAIN.

Mr. STEVENS. We will be glad to accord the Senator from Missouri 5 minutes of our time. The Senator is right; let’s hold the time and let Senator SCHUMER start his amendment.

Mr. REID. Mr. President, I ask unanimous consent that the McCain amendment be set aside, and that the 4 minutes be reserved for Senator McCAIN and Senator BYRD, and we go to the Schumer amendment, which is the last amendment in order tonight.

Mr. STEVENS. Reserving that right to object, I wish the Senator would allow me that time tonight. Senator from Alaska. I have 2 minutes; Senator McCAIN has 4; the Senator from Missouri has 5 minutes.

Mr. REID. That will be taken from the Senator’s time?

Mr. STEVENS. Yes.

The PRESIDING OFFICER. Does the Senator so modify the request?

Mr. REID. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York is recognized.

Mr. SCHUMER. I thank the Chair. I believe it is by the unanimous consent of the Senate from Nevada.

The PRESIDING OFFICER. The amendment is pending.

Mr. SCHUMER. I thank my friend, the Presiding Officer. Amendment No. 862 is an amendment I have sponsored with Senator REED of Rhode Island, Senator REID of Nevada, Senator DODD, Senator LIEBERMAN, Senator CORZINE, and Senator JOHNSON.

It is a very simple amendment. It requires in this emergency supplemental $33.9 million for advance mailings from the IRS to the General Treasury.

I ask for the yeas and nays if they have not been ordered. Have they been ordered?

The PRESIDING OFFICER. They have not been ordered.

Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SCHUMER. I thank the Chair. I believe I have 15 minutes to debate on this side.

The PRESIDING OFFICER. The Senator has 14½ minutes.

We could visit with constituents who come here. A lot of time we are waiting for other Senators to vote and we are not able to have our constituents or, if we do see them, we give them the bum’s rush. We could participate in congressional hearings more deliberately with an extra 45 or 50 hours. We could make telephone calls we simply do not have time to make. We could do something such as go home and visit with our families and have dinner.

I hope everyone understands, there will be people who are going to miss votes, but in fairness to everyone here, that is the way it has to be. I hope committee chairs will allow members to leave early. It is very difficult for us to say: Turn in the vote.

What we are doing is not partisan. Democrats and Republicans are just as responsible for the standing and waiting around. I wish it were just the Republics and we could blame them for it, but it is us. We are just as bad as they are.

There are going to be Democrats who will complain: Why did you terminate the vote? I had something real important to do. I was having dinner with my son; I was at a key point in the hearing. The excuses, most of them, are very valid. But in fairness to all 100 Senators, we have to have a time limit that is enforced.

I say that the staff, which is very good about this—they hate to turn in a vote when there are people not here because people yell at them, but we need to move along and do this.

Mr. SCHUMER. The motion to table and go on to the last amendment in order is in order.
Mr. SCHUMER. I ask the Chair to notify me after I have consumed 7 of those minutes.

The PRESIDING OFFICER. The Chair will do so.

Mr. SCHUMER. Mr. President, this amendment is a simple one. There is money in this supplemental appropriation that is unnecessary, and we don’t send out notices when the next week to 112 million taxpayers telling them they will get a rebate. The amendment is a simple one. It rescinds that money and gives it back to the committee. It does not spend it on any other specific purpose, but rather at this time when we are all desperate for money—we just spent 2 hours on Senator MCCAIN’s amendment cutting money from domestic programs so we can fund defense—this $33.9 million is needed.

Why do I think this money should be rescinded? Because the notices they will fund are unnecessary, they are inappropriately political, and they cost money that can be spent on other things, and I will talk about each. Unless we change the notices so that we send each taxpayer a notice that they are going to get a rebate. The rebate is self-explanatory. It has been in all the newspapers. More people will have read it in their newspapers than a notice they get from the IRS. And if, indeed, we thought it necessary to do which I don’t think we should, it is certainly unnecessary to do it as a separate notice which will cost all this extra money.

The idea that we have to notify taxpayers that they are getting a rebate doesn’t make sense. We have never done it before—not in the 1975 rebate, not when we have changed other tax laws. We have never done it.

Secondly, I do not agree with it because it is a political message. The message in this notification of the rebate says: We are pleased to inform you that the United States Congress passed, and President George W. Bush signed into law, the Economic Growth and Tax Reconciliation Relief Act of 2001 which provides long-term relief for all Americans who pay income taxes.

It sounds to me a bit like a political ad. The IRS has always had a reputation for being apart from politics. When the IRS gets too political we try, justifiably, to pull it back. Yet here from the IRS is a notice. We don’t send notices out to people when bad things happen: We are happy to let you know because of laws that the President proposed and the Congress passed that you will get a lien on your property, that your property will get a lien because you haven’t paid your taxes. We just put on the lien. We don’t send out notices about all the other changes in the law. We publish them in the Register and then we go forward.

Finally, of course, I support this amendment because we are in very tough times. How many Americans would make it their highest priority to spend this $33.9 million on sending a notice of rebate?

My colleague from Nevada, when I yield time to him, will give examples of the alternatives on how we could spend the money. Clearly, there are better purposes.

Secretary O’Neill wrote me that it wasn’t feasible for mechanical reasons to include notification with the check itself. I take that to mean that, despite a quarter of a century of dramatic technological advances and the impressive stewardship of Commissioner Rossotti, hailed as a world-renowned technology expert, the IRS is unable to get two pieces of paper into the same envelope—or less able than it was in 1975 because they did it then.

Now, to boot, 529,000 taxpayers will receive an inaccurate notice, erroneously informing them that they will receive a larger rebate than they will actually get. Some have said if we don’t send this notice, there will be lots of phone calls deluging the IRS. Where are they in the tax season? I think they can handle the phone calls. I argue that knowing a small percentage of these notices are erroneous will trigger more phone calls than if we didn’t send this false message at all.

The bottom line is simple: We know why this mailing is being sent. We now see political figures on television, Governors and mayors, putting their faces on, saying: Come to my State for tourism; or, sign up for our children’s health care plan.

All we know what the purpose is, but never before has the Federal Government stooped to this level. And never before has the IRS, which I think we all agree must remain above politics, been used for such a message. This notification is necessary and can be accomplished in other ways. It is political, in an agency which should remain above politics. And it wastes a badly needed $33.9 million.

This amendment was narrowly defected in, the House. I hope this body can fund defense—this $33.9 million is needed.

[...]

Mr. GRASSLEY. Mr. President, I yield myself such time as I may consume. We are hearing a great deal about politics in the debate regarding this amendment of the Senator from New York. We hear the notices in the mail to inform taxpayers of the rebate checks are somehow about “politics.” We hear the language used in a notice is about politics.

Let me assure that the only thing that is about politics is the amendment before the Senate. I make very clear the notices are being issued, being sent by Congress, because we gave that direction in the legislation we passed. I read from the conference report of the recently passed tax cut bill. Page 127 of the report says:

The conferees anticipate that the IRS will send notices to most taxpayers, approximately one month after enactment. The notices will inform taxpayers the computation of their checks and the approximate date by which they can expect to receive their check. This information should decrease the number of telephone calls made by taxpayers to the IRS inquiring when their check will be issued.

That is a quote from the conference report of the Congress of the United States, directing the Treasury Department to do what has been labeled as pure politics. This is a statement of the conference report. That is why these notices are being issued.

We are seeking to reduce confusion of taxpayers and minimize the burden on IRS employees. The National Treasury Employees Union, the union that negotiates with the Treasury Department, representing those employees, supports the issuance of the letters being criticized.

I urge you to support efforts to cut funding for the mailing of a notification to taxpayers with regard to their tax rebates.

I ask unanimous consent to have this letter printed in the RECORD. There being no objection the letter was ordered to be printed in the RECORD, as follows:

THE NATIONAL TREASURY EMPLOYEES UNION,


I am writing with regard to funding included in the FY 2001 supplemental funding bill, H. R. 2216, that was ordered to be printed in the RECORD, as follows:

The National Treasury Employees Union is a world-renowned technology expert. The IRS is unable to get two pieces of paper into the same envelope—or less able than it was in 1975 because they did it then.

I am writing with regard to funding included in the FY 2001 supplemental funding bill, H. R. 2216, that was ordered to be printed in the RECORD, as follows:

The National Treasury Employees Union, the union that negotiates with the Treasury Department, representing those employees, supports the issuance of the letters being criticized. I urge you to support efforts to cut funding for the mailing of a notification to taxpayers with regard to their tax rebates.

I ask unanimous consent to have this letter printed in the RECORD. There being no objection the letter was ordered to be printed in the RECORD, as follows:

THE NATIONAL TREASURY EMPLOYEES UNION,


I am writing with regard to funding included in the FY 2001 supplemental funding bill, H. R. 2216, that was ordered to be printed in the RECORD, as follows:

We all agree must remain above politics, and it wastes a badly needed $33.9 million.

This amendment was narrowly defected in, the House. I hope this body can fund defense—this $33.9 million is needed.
Mr. GRASSLEY. Mr. President, these concerns about the impact on services at the IRS are very real. The newsletter, Tax Notes, reported on June 9, 2001, that when Minnesota issued rebate checks, the U.S. West Company had to cut off phone service to the tax agency in Minnesota because the volume of calls brought down the system for the entire Minnesota State capital exchange.

In addition, notices are important to prevent taxpayers being subject to con games. The USA Today newspaper reported on July 5, 2001, that taxpayers are receiving solicitations from con artists offering to calculate their refund for $14.95. These letters being found fault with will go far in preventing frauds and cons such as reported in USA Today.

Some want no notices at all sent, and some want the words of the notice changed. Why are they upset? Because the letters start out by mentioning that we, the Congress, passed a bill that cuts taxes—the bill that provides long-term tax relief for all Americans who pay income taxes and was passed by the Congress, in fact, and was signed by the President of the United States.

That is the only way you increase or decrease taxes. It is not done by some magic wand being waved by somebody in Washington, DC. But this comes as a shock, supposedly, to my colleagues. Some people are a little too busy with their lives to be thumbing through the Congressional Record after work, like why we do, but our constituents don’t do this.

So this letter provides a little overview and guidance, so people have some contact as to what the letter discusses. It should be clear this is not the first time the President by name has been mentioned in some IRS notice. For example, a little less than 2 years ago the IRS sent out a notice mentioning President Clinton. Can you believe that? They sent out a notice mentioning President Clinton.

I have searched the Congressional Record in vain to find any complaints from any Senator about that specific notice.

Also, if this notice were only about politics, why would the administration also send out a notice to 32 million taxpayers, informing them they will not receive a refund check? That hardly seems a political thing to do. It is said we often find our own faults in others. Mr. SCHUMER. Will the Senator yield?

Mr. GRASSLEY. I do not think I will yield. The last time I yielded to you on the bankruptcy bill I did not get through my speech. I want to finish my speech and then if you want to ask me a question, I will do it.

Mr. SCHUMER. Second question.

Mr. GRASSLEY. No, I will not. Please, I appreciate the man, he is a friend of mine, and I do not have any ill will towards him, but I just do not want to yield at this point.

Would I suggest this amendment is about politics? I could not suggest this amendment is about politics. But here is what we have to do. We have to think of the reality of it. We are trying to make Government work. When you are sending out $60—some billion in checks, you want to make sure they go to the people they are supposed to go to, and you want to know that the people know this is happening and what they are supposed to do with it.

Some suggest we should have the notices, but the wording should be changed. As stated earlier, I believe the wording is important to better inform taxpayers. Further, to rewrite and reprint this notification of millions of dollars and delay the notices by weeks. Delay would undermine the whole point of the notice: To better inform the people prior to checks being issued.

Remember, you want to get the checks out on time because of the stimulus benefit that comes from this. That is not just my saying this as a Republican because you want to remember, the last week of March people on one side of the aisle said we ought to have an immediate tax rebate to help the economy. So that is something we both agreed should be done.

This notice, the Treasury Department informs me, will actually be cost-effective. If there is no notice, the IRS will not be able to perform other valuable and important activities. The language regarding notices is in the conference report because of concerns about the impact of issuing checks on IRS operations.

Finance Committee staff has met with the Treasury Department several times to ensure that the notice and check effort to ensure it is properly managed.

I reserve the remainder of my time.

The PRESIDENT PRO Tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, I yield 2 minutes to a cosponsor of the amendment, the Senator from South Dakota. Mr. JOHNSON. Will President, I congratulate the Senator from New York for the fiscal responsibility he is exhibiting with this amendment. The amount of money to be saved, again, is $34 million, roughly. Mr. President, $34 million—this is astonishing, $34 million to send out. This doesn’t pass the laugh test, frankly.

If I were to go home to my home State of South Dakota and talk to people in the street to tell them we are going to send some checks—by the way, which I voted for—I was happy for the stimulus package, but we are going to add $34 million to the cost, from the taxpayers, to brag about what we did in advance—they would not know whether to laugh or whether to cry.

Are we going to do this now when we do Patients’ Bill of Rights? Are we going to send out a $34 million mailing? How about ag disaster payments? What else are we going to pass this year about which we are going to send out to everybody in the country what a wonderful job we are doing for them, thanks to your dollars?

I don’t know whether or not it is political. What I care about is if you are going to carefully mind the people’s money, this is not how you ought to go about doing it.

I congratulate the Senator from New York for a little common sense, something I see all too seldom in the course of this debate.

Thank you to the Senator from New York. It seems to me this amendment deserves support. Let’s save $34 million, put it back in the kitty where the American people can have it for their benefit.

I yield.

The PRESIDENT PRO Tempore. Who yields time?

Mr. GRASSLEY. I yield 6 minutes, or the remainder of my time, to the Senator from Idaho.

The PRESIDENT PRO Tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, the Senator who is just leaving the floor needs to know that $34 or $33 million represents about 30 cents a letter. I think both he and I wish we could send out any kind of campaign solicitation for 35 cents or 30 cents a letter. It seems to be a pretty efficient operation to me. But here is what the IRS is saying today. Even though the Senator from New York is talking politics, the IRS is talking fraud. The IRS is talking scam. The IRS is trying to warn the American taxpayer, who may or may not receive a rebate check, that they better beware that there is somebody out there who wants to take $14 or $15 or $20 of their money.
Let me refer to a scam operation known as Revenue Resource Center in Boca Raton, FL. Send in your check for $34.95 and they will calculate for you what your rebate is going to be.

The IRS is already going to calculate for you what your rebate is going to be. The Senator from New York knows that. What the Senator ought to be saying is: Bravo, IRS, you may be stopping a multi-multi-million-dollar scam operation.

The IRS has identified scams in four other States: in Mississippi, Missouri, Ohio, and Oklahoma, and they are anticipating there will be a good many others before this is over with.

What does the IRS do in its letter? Not only does it say the Congress and the President provided this, on an effort your check and here it says here is how the calculation was made. If you have a question, make a phone call. Here is the phone number.

That sounds pretty responsible to me. I suggest that is the kind of government we ought to have. Is it political? I don't think it is. The Senator from Iowa mentioned that President Clinton was mentioned in an IRS letter. I have a copy of that IRS letter. Bravo. Bravo. Whether we take credit for it—in fact, it was the Senator from New York who, in 1995 said: When you do something you ought to tell your constituent about it. So he quoted himself in the New York Daily News.

Is there anything wrong with what is going on? There is nothing wrong with what is going on, in fact. I think what the Senator from New York and I know is you take this form right here; it is called 2001 Form 16-D. It looks like an official IRS form. Let me tell you it is a scam that is being developed by this group from Boca Raton, FL.

Right here it says:

If you got $14.95 from a few hundred thousand or a few million taxpayers, my guess is you walk away with a bundle because you have a mailing address and you have a computer and you have a printer.

What the IRS is saying when they notify the taxpayer is: You are going to get your rebate and here is how it is going to be calculated.

They are even saying to some taxpayers: You are not going to get a check, and here is why you are not going to get a check.

My guess is this may have a lot less to do with politics, at least from the standpoint of the IRS, and a great deal more to do with efficiency of government. But most important, should not we go the extra step so we avoid the scam that the great genius of the human mind creates when they see an opportunity to take advantage of an older person, or an innocent person who might be concerned that somehow they are not going to get their appropriate check? So they are going to fill out this form and send it in to a group in Boca Raton, FL?

That is what the issue is all about. So we are going to use $34 million at a cost of about 30 cents a letter to about 150 million Americans to notify them that all the information they need is right there available to them, even how their check was calculated, and all of that is going to be made available by the IRS. And, oh, by the way, yes, you are right, Senator from New York. The front paragraph says: And this tax relief was provided for you by the Congress—I believe that is Democrat and Republican—and by the President of the United States, George W. Bush.

Let's stop the scam artists. Let's notify the American people when they are going to get it, how they are going to get it, and how it is calculated. It seems like the right thing to do—not the political thing to do.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SCHUMER. Mr. President, I yield 4 minutes to the cosponsor of this legislation, the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, this legislation has nothing to do with scams. It has nothing to do with partisan politics. It has everything to do with saving $34 million of taxpayer money. As the Senator, for whom I have the greatest respect, and the 19 members of the Finance Committee say, this will provide a little review and guidance. Yes, it will, for $34 million.

There are a lot of domestic programs in need of funding. Thirty-four million dollars would do much for education. We could do something that deals with dropouts. Three thousand children are dropping out of school every day.

We could do something about the national treasure of Nevada and California called Lake Tahoe. It is deteriorating every day because of pollution. We could stop it if we had the money. It is a program that we need to help. There are water systems all over America, in rural America, that need help. We could do part of that with this money.

Our Nation is facing an energy shortage. The Energy and Water Subcommittee would do so much for you with $34 million dollars would mean a lot to our subcommittee.

We ought to do so many things.

Veterans: There has been a cutback in the veterans' budget this year by $30 million. We could take $34 million and provide help to the veterans. Grants are provided to the States for extended care facilities, specifically talking about veterans. On Medicare prescription drugs, we could do a little bit. But that would certainly be something we could do.

Senator CHAFEE and I have a bill that gives centers of excellence $30 million a year so they can study links between veterans and the environment. That is certainly more important than a $34 million notice that is going to go out.

There are disasters happening all the time. We used to have $250 million for Federal projects. That was deleted. It is wrong. The State of Washington found out how much that program helped.

This is something for which I don't blame the President. I don't blame the Finance Committee. I don't blame anybody. I think what we should do, though, is recognize that dollars are very scarce. We should do everything within our power to provide additional money for the programs that are desperately needed. And do that. It is more than the letter that would give a little bit of review and guidance, as my friend from Iowa said.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, how much time remains?
Mr. STEVENS. Mr. President, parliamentary inquiry: Is it not the case that the Senate finish the Schumer amendment before we go back to the McCain amendment?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Is the Senator from New York willing to yield the remainder of his time?

Mr. SCHUMER. No. Mr. President, I believe I have 2 minutes. I would like to conclude. If the other side would like to use their 1 minute remaining, I would then yield. I will wait for them.

Mr. GRASSLEY. Mr. President, I yield myself the remaining time.

There are three things to remember:

Remember that the union members working this issue for the Treasury Department to make sure the Government’s work is done right and done on time said it is very important that these notices be mailed out. That letter is a matter of record and is printed in the Record.

No. 2, remember that Congress ordered these letters to be sent. It is a conference report from which I have already quoted. But remember we said that.

No. 3, these letters are already printed and in the envelopes. There was a lot of labor put into this process. There was a lot of effort put into it. If you want to waste that money, you waste that money by voting for this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first, in reference to the debate we have heard, give me a break. This letter, if you read it, is not going to reduce fraud. If we want to reduce fraud, we contain it right with the check—not a letter that people are going to read through a month and a half in advance and then get the check. That is a bogus argument.

Second, President Clinton put his name on the notice that was on 527. The letter of the Secretary of the Treasury is wrong. All that was printed in the Record. President Clinton did not send out 112 million pieces of paper bragging about what he was going to do.

The bottom line is simple. We all know what is going on here. This is not an attempt to help the taxpayers; this is an attempt to pat ourselves on the back because we did something good. We could spend billions of dollars doing that. We all know that the same goal could be accomplished by putting the same notification in the same letter as the check. We are not doing that either.

At a time, I appeal to my colleagues, when we are scrugging around for $5 million here and $10 million there, the chairman of the Appropriations Committee and the ranking member are trying their best as the members of the committee to find the dollars we need, give me a break. This is not the best, the hundredth best, or the thousandth best way to spend $34 million to send a notification putting ourselves on the back that you are going to get a rebate check and there is going to be a long-term tax reduction. It is an absurdity.

If any of us cares about fiscal responsibility and balancing the budget, we will vote for this amendment.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The time on the amendment has expired.

The question occurs on the McCain amendment.

The Senator from Arizona withholds 4 minutes. The Senator from Missouri withholds 5 minutes.

Who yields time?

Mr. MCCAIN. Mr. President, I understand the Senator from Alaska is giving time to the Senator from Missouri. Is that correct?

Mr. STEVENS. Mr. President, that is correct—in order to accommodate the Senator’s request.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. CARNAHAN. Mr. President, I rise to support the McCain amendment. Our military has a number of pressing needs that simply are not being met this year. I have seen this first hand in my home State of Missouri. Senator McCain has done the hard work by requesting that Federal agencies identify funds that are not being spent in this fiscal year. These funds should be available and can be put to good use for basic military operations and supplies.

This amendment will provide $500 million for quality-of-life improvements for our military personnel, $600 million for operations and maintenance of our military equipment, and $65 million for the protection of our fleet in the Arabian Gulf. Senator McCain has identified these needs, and he has uncovered the resources to relate to them.

I urge my colleagues to vote for this amendment.

I yield the remainder of my time to Senator DODD.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Connecticut.

Mr. DODD. I thank my colleague from Missouri.

Mr. President, I want to take a couple of minutes to speak. I know others have spoken at length about this underlying supplemental appropriations bill.

I say to the Senator from Alaska, the Senator from Missouri yielded me her remaining time.

I commend the Senator from West Virginia and the Senator from Alaska and the Senator from Hawaii. It is a hard job. It is not easy. We are talking 80 days. And those days are shrinking as long as we take to resolve this in the supplemental.

There are a number of amendments that have been offered that under normal circumstances and the benefits probably support. The LEHAP amendment is a very important amendment for those of us who come from the Northeast. I find many down the list that are very appealing.

One think our colleagues on the Appropriations Committee have done a good job. I do not suggest that my good friend from Arizona, and others, are not making a good case that additional resources may be necessary to help our service men and women to improve equipment, but it seems to me that we are just a few days away from dealing with a larger issue, the budget issue, in which these matters could be addressed.

So when it comes to the pending amendment, I am going to reject the additional spending that is being proposed and support the committee’s desire to adopt this supplemental, if we can.

I notice, as well, there are arguments being made that some of these funds have been unexpended. I appreciate that. That is true. That is the case, but it is also the case that we are not yet at the end of the fiscal year.

One of the things I want to see us discourage is agencies rushing out to spend dollars so that they will not face the kind of arguments they get here, where we are a few months away from the end of the fiscal year and we start demanding that agencies spend money quickly because an amendment may be offered to take any unexpended funds. That is irresponsible spending, it seems to me.

So there are a number of areas here that are being targeted as resources to pay for some of these amendments that I hope my colleagues will take some note of.

Worker training is one. Again, all of us understand the need for worker training. We have just heard news in the last few days that there has been a loss of some 125,000 jobs in the month of June alone in the United States. I do not need to tell anyone in this Chamber how job training and worker training programs can make a difference for those people. Those people getting new jobs, getting the skill levels, also contribute to the strength of America.

Certainly, the job access program is another one that has been tremendously helpful to so many millions of Americans across the country.

So while all the money has not yet been expended in job access or job training programs, we are still several months away from the end of the fiscal year. In light of some of the new unemployment figures, those dollars may be very necessary before the end of the fiscal year.

So again, my compliments to those on this committee crafting this supplemental appropriations bill. It is not perfect. They have not argued it is perfect. But I think it has done a good
Mr. KYL. Mr. President, I want to simply urge the support of my colleagues for the amendment that my colleague, Senator McCain, has offered the time. The temptation to support a number of these amendments is strong. But I think we ought to resist that temptation and support the work of this committee, and then get about the business of dealing with the various appropriations bills as they come to this Chamber.

If there is any time left, I will be glad to yield it to those who may want to debate this amendment further. But if not, I would yield back whatever time may remain.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. McCAIN. Mr. President, I have 4 minutes remaining?

The PRESIDING OFFICER. That is correct.

Mr. McCAIN. I yield 1 minute to the Senator from Arizona, Mr. KYL.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I want to simply urge the support of my colleagues for the amendment that my colleague, Senator McCain, has brought forward. We have to care about the lives and the safety, as well as the ability to carry out the mission that we have entrusted to, of the young men and women in our military.

What Senator McCain is doing is nothing more than taking the word of the military—the chiefs and the other military leaders of our country—about what they need, and providing a small amount of that as a part of this supplemental appropriations bill—$847 million worth.

All of that money is offset from programs, frankly, that either can be deferred or from funds which are not going to be spent before the beginning of the next fiscal year. So there is very little in terms of loss of any program from the offsets. But this money would make a huge difference to the men and women of our military, if we can get it into the pipeline before October 1.

So I hope my colleagues will support the amendment of Senator McCain to help the folks in our military and enable them to do the job we have entrusted them to do.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I yield myself what time is remaining.

The PRESIDING OFFICER. The Senator has 2 minutes 45 seconds.

Mr. McCAIN. Mr. President, I outlined in some detail the testimony of the service chiefs last September: The need for $30 billion more than the current defense budget dollars. In a few days the Defense Department will come over with a reprogramming request. That will be for $850 million, which is really what this request is all about.

What is a reprogramming request? It is a requirement to take money out of one category and put it into another because the wheels are about to come off. They are going to have to take money from existing programs and put it into what this amendment is all about: Personnel, readiness, operations and maintenance, and the lives of the men and women in the military. This amendment puts money in the right accounts, and that is readiness and personnel.

Nothing is more important than the men and women in the military and national defense. The Department of Treasury salaries and expenses isn't more important than defense. The NASA Shuttle Electric Auxiliary Power Units are not more important than defense. The Life and Micro-Gravity Science Research is not more important than defense. The Advance Technology Program is not more important than defense. The Job Access & Reverse Commute Grants Program is not more important than defense, nor is Export Promotion Programs or Emergency Loan Guarantees.

So, Mr. President, the men and women of our military are suffering. They need help. I promised them that help during the last campaign. This is one very small way of beginning to deliver. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am constrained to point out to the Senate that part of the Budget Act gives us the power, in the Appropriations Committee, to make allocations to specific portions of the budget. We have 13 separate bills.

The allocation to the Defense Department under the Defense appropriations bill for 2001 I made when I was chairman—and Senator Byrd from West Virginia has modified that slightly, but it is still a limitation—it is a limitation that prevents us from transferring money from one bill to another without the consent of the Senate.

The amendment of the Senator from Arizona would increase the amount allocated to the Department of Defense for 2001 in excess of the current budget allocation that both Senator Byrd as chairman, and I, when I was chairman, submitted to the Senate. The amendment by the Senator from Arizona has the effect of consequence of exceeding our allocation.

I make a point of order against the McCain amendment under section 302(i) of the Budget Act. If adopted, this would exceed the allocation for the Department of Defense for 2001.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I am deeply, deeply disturbed that the Senator from Alaska would not allow an up-or-down vote on this amendment, which is paid for—which is paid for. And if we are going to play that kind of parliamentary game, the Senator from Alaska can plan on a lot of fun in the ensuing appropriations bills.

I move at this point to waive all points of order that may lie against this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. STEVENS. I raise a question about this.

All points of order?

Mr. McCAIN. That may lie against this amendment.

Mr. STEVENS. Parliamentary inquiry: Is that in order under the Budget Act? This is a specific point of order. There are other points of order I may want to try, too.

The PRESIDING OFFICER. The Senator may make a motion to cover all Budget Act points of order.

Mr. McCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. There is a sufficient second. The vote will be delayed under the current sequence.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes of general debate on the bill.

Mr. STEVENS. Mr. President, don't we have a managers' amendment still on the agenda?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Now that Senator McCain's time has expired, that is in order?

The PRESIDING OFFICER. That would be appropriate at this time.

AMENDMENT NO. 76

Mr. BYRD. Mr. President, I shall send to the desk a managers' amendment. It consists of a package of amendments. These have been cleared on both sides, and I believe there is no controversy on them.

The first items are amendments by Senator Stevens, Senator Lincoln, and Senator Hutchison for storm damage repair and relief in Arkansas and Oklahoma and emergency response and firefighting needs in Alaska. The amendment provides a total of $26,500,000 with the necessary offsets.
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The next amendment is offered by Senator INHOFE concerning the Education Impact Aid Program. No additional funds are involved.

Next is an amendment by Senator BOXER to provide $1,400,000 for the so-called "sudden oak death syndrome". This is from within existing funds in the U.S. Department of Agriculture.

Next is an amendment by Senators DORGAN and CONRAD to provide $5 million for emergency housing for Indians on the Turtle Mountain Indian Reservation in North Dakota. It, too, is fully offset.

Next is an amendment by Senator MCCONNELL making a slight modification in the Energy Employees Occupational Illness Compensation Program Act. No funding is involved.

Next is an amendment to establish the new Senate committee ratio for the Joint Economic Committee as a result of the recent change in the Senate majority. This requires an amendment to the underlying law; it is fully offset.

An amendment concerning the B-1 bomber for Senators ROBERTS, MILLER, CRAIG, CLELAND, CRAPO, and BROWNBACK.

An amendment for Senator PATSY MURRAY and Senator CANTWELL providing $2 million for drought assistance in Yakima Basin in the State of Washington. It is fully offset.

Finally, an amendment by myself to provide $5 million for providing relief from the severe recent flooding in my State of West Virginia. This amendment is also fully offset.

Over the last several days and nights, thousands of West Virginians have been digging out from the mud and muck left behind from severe flooding over the weekend.

Throughout southern West Virginia, especially, the rain fell hard and fast, dropping an average of rain across the region before the clouds finally let up. By then, the damage was done. The Guyandotte River was measured at 18 feet at Pineville, 5 feet above flood stage and above the 1977 record of 17.76 feet. The Tug Fork was at 17.5 at Welch, 7.5 feet over its banks and more than 4 feet above the previous high.

It is an almost indescribable scene for many families who have watched their homes and their belongings washed away by the torrent of flood waters. For many families, this latest flood comes just a few weeks after they finished cleaning up from May's heavy rains that prompted a Federal disaster declaration from President Bush.

Today, West Virginia's streams, creeks, and rivers are carrying refrigerators, stoves, cars, and trucks. Tree branches are filled with ruined clothing and debris. Water and sewer systems are washed out. Roads and bridges are buckled. Power is out. More than 3,000 homes have been damaged or destroyed.

In the McDowell County town of Kimball, the community is covered with thick mud. One woman described it aptly when she said: "This whole town is gone.

For everyone, there is a feeling of disbelief at the devastation. But there is also a strong determination to recover.

In an effort to speed Federal assistance, the managers' amendment contains $5 million to boost the recovery effort. This is the amount that the Natural Resources Conservation Service has stated that it needs to remove debris and obstructions to waterways that pose a threat to private property or human safety. This is just a small step in the recovery process, but it is an important step to make.

I personally thank the thousands of National Guardsmen, local firefighters, sheriffs' departments, police officials, Red Cross volunteers, State Office of Emergency Services personnel, and the countless others who have worked to save lives over the last few days. Their efforts have helped to prevent this disaster from taking an even larger toll on West Virginia.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for himself and Mr. STEVENS, proposes an amendment numbered 876.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

Mr. MCCAIN. I object. I want the managers' amendment?

Mr. BYRD. I am asking that they be withdrawn and inserted in lieu thereof.

Mr. MCCAIN. Mr. President——

Mr. BYRD. The amendment by Senators PATTY MURRAY and MARIA CANTWELL providing $2 million for drought assistance in the State of Washington. It is fully offset. I ask unanimous consent that Senator MURRAY's name be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the name of Senator PATSY MURRAY was inadvertently omitted from the sponsorship of the $2 million drought assistance in the State of Washington. I add that name at this time. So it will read: An amendment by Senators PATSY MURRAY and MARIA CANTWELL providing $2 million for drought assistance in the Yakima Basin in the State of Washington. It is fully offset. I ask unanimous consent that Senator MURRAY's name be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. The Senator will yield, I ask unanimous consent that the amendment be amended to add a million dollars for FEMA for the disaster storm Allison. I will present an amendment to the desk in writing.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment be amended to add a million dollars for FEMA for the disaster storm Allison. I will present an amendment to the desk in writing.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. The Senator has 5 minutes in his own right.

Mr. REID. The PRESIDING OFFICER has 5 minutes in general debate on the amendment.

Mr. MCCAIN. The Senator has 5 minutes under the managers' amendment.

The PRESIDING OFFICER. The Senator has 5 minutes in general debate. He may use it now.

Mr. MCCAIN. Mr. President, the amendment is debatable?

The PRESIDING OFFICER. There are 5 minutes equally divided on the amendment.

Mr. MCCAIN. Mr. President. The PRESIDING OFFICER Who yields time?

Mr. STEVENS. The Senator has 5 minutes under the managers' amendment.

The PRESIDING OFFICER. The Senator has 5 minutes in general debate time. He may use it now.

Mr. MCCAIN. Mr. President, parliamentary inquiry: Is this concerning the amendment on the B-1 that is included in this, or is this in addition to the 5 minutes?

The PRESIDING OFFICER. Senator BYRD has 5 minutes of general debate on the bill. There are 5 minutes evenly divided between the two managers on the managers' amendment. Senator BYRD has 5 minutes in his own right.

Mr. MCCAIN. On the managers' amendment, none of us had ever seen it. It was just presented. I notice that there is an emergency for an additional amount for State and private forestry, $750,000 to the Kenai Peninsula Borough Spruce Bark Beetle Task Force for emergency response and communications equipment, and $1.75 million to be provided to the municipality of Anchorage for emergency firefighting equipment and response to respond to wildfires in Spruce bark beetle-infested forests. Provided, that such
The motion to lay on the table was agreed to.
Mr. REID. Mr. President, I ask unanimous consent that all remaining amendments be withdrawn.

The PRESIDING OFFICER. Is there objection?
Without objection, it is so ordered.

The PRESIDING OFFICER. Is all time yielded back?
Mr. STEVENS. Mr. President, I will file the amendment I referred to for the managers' amendment.

The PRESIDING OFFICER. Is all time yielded back on the bill?
Mr. STEVENS. Mr. President, I am informed that we have just made an error. I ask unanimous consent that in section 210(f) of the managers' amendment the figure "$38.5 million" be "$38.5 million.

The PRESIDING OFFICER. Is there objection?
Without objection, it is so ordered.

The modification is as follows:

On page 48, after line 3, insert the following:

"FEDERAL EMERGENCY MANAGEMENT AGENCY DISASTER RELIEF"

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. $1221 et seq.), $1,000,000, to remain available until expended for costs related for tropical storm Allison.

On page 14, after line 25, insert the following:

"SEC. 2106. Of funds which may be reserved by the Secretary for allocation to State agencies under section 16(h)(1) of the Food Stamp Act of 1977 to carry out Employment and Training programs, $39,500,000 made available in prior years are rescinded and returned to the Treasury."

The PRESIDING OFFICER. Is all general debate time yielded back?
Mr. BYRD. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho.
Mr. GRAHAM. Mr. President, I thank the Senator from Arizona for working with us on the amendment he has just discussed. It is a question of notification. We have not blocked—nor would we want to block as a Senate—the ability for low-income families, many of them with disabilities, many elderly, many working poor with children.

Unfortunately, right now, only about 13 percent of households are able to benefit because this program is so severely underfunded. The money comes from administrative expenses in the whole Pentagon budget. It does not come from any programs. It does not come from readiness or quality of life for our armed services. It comes out of administrative inefficiencies, and believe me, from inspector general to the General Accounting Office, there is way more than $150 million when it comes to administrative inefficiency.

A study by the National Energy Assistance Directors Association says that 28 States and the District of Columbia are out of money or about to run out of money. These are our States that are telling us: We do not have the money for cooling assistance this summer; we do not have the money to help those in arrears and could be faced with utility shut off; we do not have the money as we approach this winter.

Last year, energy prices went up 40 percent. The very least we can do is to give this program, which is so important to the most vulnerable citizens in this country, an additional $150 million to help us over the next 3 months. It is not taken out of any significant program.

I am going to vote for this bill, but I certainly think, in the overall Pentagon budget of over $900 billion, we can find the $150 million in administrative inefficiencies.

I thank my colleagues.

The PRESIDING OFFICER. Who yields time in opposition?
Mr. STEVENS. Mr. President, I yield back the time in opposition to the Wellstone amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table amendment No. 874. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

The PRESIDING OFFICER. Are any other Senators in the Chamber desiring to vote?

The result was announced—yeas 77, nays 22, as follows:

(Rollcall Vote No. 224 Leg.)

YEAS—77

Akaka          Alano          Allen          Bayh          Bennett          Biden          Bond          Brownback        Brownning         Burns          Byrd          Campbell       Carnahan       Carper          Chafee          Chайл                    Clemans          Clinton          Cochran          Collins          Craig          Craig-Alexander  Daschle          DeWine          Dodd          Domenici          Dole


Baucus          Bingaman          Bingham         Cantwell        Conrad          Corzine         Daytoon          Durbin

Beasley          Ben Nighthorse   Call	           Cantwell        Conrad          Corzine         Daytoon          Durbin

Lincoln          Logan          Lott

Lugar          McConnell        McMillen        Mikulski         Miller          Markowitz        Nelson (FL)     Nelson (NE)      Nickles          Reed          Reid          Roberts          Santorum        Sessions        Shelby          Smith (NM)      Smith (OH)       Sorensen         Specter          Stabenow          Stevens          Thompson        Thurmond        Voinovich        Warner

NAYS—22

Peightel          Barkley         Senate          Kennedy         Kerry          Kohl

Wyden
The motion was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. We will have order in the Senate.

Mr. REID. Mr. President, under the order previously entered, all the rest of the votes will be 10-minute votes. We were able to stick with our 20 minutes on this one. We will stick with 15 on the others and move this along as quickly as possible.

**AMENDMENT NO. 863**

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Wisconsin. Who yields time?

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, the Feingold-Durbin-Kerry amendment would increase funding for the Global Fund for AIDS, TB, and Malaria by $500 million, and it would offset that increase in funding by rescinding funds from the Navy V-22 Osprey aircraft procurement account.

This is a chance for this body to move beyond rhetoric and take action in a fiscally responsible fashion to address the greatest health crisis of our time, a pandemic that has killed 22 million people and may infect 100 million by the year 2005.

U.S. leadership in the fight against AIDS is desperately needed now. Obviously, there are problems with the Osprey program. Thirty Marines have died in Osprey crashes since 1991. This troubled program is currently suspended, pending the outcome of investigations and further research, testing, and evaluation.

My amendment does not endanger the integrity of the Osprey production line. Let me repeat this. This amendment does not kill the Osprey program and does not affect the ongoing construction of planes that are being built with money from fiscal years 1999 and 2000.

What we have here is a clear choice, to use funds that are currently allocated somewhat irrationally and to redirect them towards fighting AIDS, an unquestionably worthwhile purpose that reflects our values, serves our interests, and may well be the greatest challenge confronting the world today.

I urge my colleagues to support this amendment and oppose the motion to table.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Hawaii.

Mr. INOUYE. Mr. President, this amendment will wipe out the V-22 Osprey program. One of the best-kept secrets in the United States is the role the U.S. Army has played in the battle against AIDS. The U.S. Army, Department of Defense, has spent more money than all the countries spent by the United States in the battle against AIDS. Our research has come closest to victory. We have, in the next fiscal year, 2002, the full amount requested by the administration.

We have not forgotten the problem. Yes, the United Nations has passed a resolution, but we are still waiting for other countries to come forth with their moneys. Our country will come forth with our money but not at the expense of the V-22 Osprey.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the motion to table amendment No. 863.

The yeas and nays have been ordered. The clerk will take the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

The PRESIDING OFFICER. The Senator from Wisconsin (Mr. FEINGOLD) is yielded back. The question is on agreeing to the motion to table amendment No. 863.

The result was announced—yeas 79, nays 20, as follows:

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The motion was agreed to.

Mr. REID. I move to reconsider the vote.

The clerk will then lay that motion on the table.

The motion to lay on the table was agreed to.

**AMENDMENT NO. 869**

The PRESIDING OFFICER. The question recurs on the McCain amendment. There are 5 minutes of debate evenly divided.

Who yields time?

The Senator from Arizona.

Mr. MCCAIN. Mr. President, this amendment is not objected to by the Department of Defense or the Office of Management and Budget. The amendment adds a bare minimum to fund defense readiness and personnel programs. It is $850 million. There are offsets. Whenever there are offsets, there are some objections.

Nothing is more important, I believe at this time, than national defense. And this money is earmarked for the men and women in the military and their operations and maintenance accounts.

Very soon the administration will come over with a reprogramming request for the defense. If the tables were turned, I would obviously be violently opposed to taking money from defense and putting it into nondefense. I feel obligated to support the amendment set forth now for 4 years. For 4 years, we have agreed to the amount to be spent for defense and the amount to be spent for nondefense.

This amendment takes money exclusively from nondefense and puts it in defense. If the tables were turned, I would obviously be violently opposed to taking money from defense and putting it into nondefense. I feel obligated to defend the process which has saved the defense accounts over the past 4 years, and I urge that the McCain amendment be tabled.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. STEVENS. I yield back my time.

The PRESIDING OFFICER. The motion to table was previously made.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

12817
There is a sufficient second.

The question is on agreeing to the motion to table Amendment No. 869.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 83, nays 16, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—83

Akaka DeWine Lincoln
Allen Dollott Lott
Baucus Domenci McConnell
Bayh Dorgan Mikulski
Bennett Durbin Miller
Biden Edwards Murkowski
Bingaman Enzi Murray
Bond Feingold Nelson (FL)
Boxer Feinstein Nelson (NE)
Breaux Fitzgerald Reed
Brownback Frerichs Reid
Bunning Graham Roberts
Burns Gramley Rockefeller
Byrd Greg Santorum
Campbell Harkin Sarbanes
Cantwell Hollings Schumer
Carper Helms Schumacher
Chafee Hollings Sessions
Cleland Hutchinson Shelby
Clinton Hutchinson Smith (OR)
Cochrane Inouye Snow
Collins Jeffords Specter
Conrad Johnson Stabenow
Corzine Kennedy Stevens
Craig Kerry Thurmond
Crapo Kohl Torricelli
Daschle Leahy Voinovich
Dayton Levin Wollstone
NAYS—16

Allard Kyi Smith (NH)
Carnahan Landrieu Thompson
Ensign Lieberman Warner
Granum Luken Wyden
Hagel McCain
Inhofe Nickles

NOT VOTING—1

Thomas

The motion was agreed to.

Mr. BENNETT. I move to reconsider the vote.

The amendment (No. 862) was re-considered. The motion to lay on the table was agreed to.

AMENDMENT NO. 862

The PRESIDING OFFICER. There are now 5 minutes of debate evenly divided with respect to the Schumer amendment. Who yields time?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in opposition to the Schumer amendment. Earlier today, we had a 3–94 vote on the Hollings amendment. You will remember the vote of 3–94 earlier today when the Senate rejected the Hollings amendment on repealing the tax decrease of a month ago. I think that was a vote of this body saying send the checks. The conference report was not only the same bill directed the IRS, for very good reasons, to issue these notices that the Schumer amendment wants to repeal. We have had the Treasury Em-
ployees Union saying send out a notice to inform the taxpayers so that the Treasury employees could be able to do their jobs, well, without always being on the phone informing the taxpayers of what their tax refund might consist. So if this amendment would pass, it would keep the taxpayers in the dark. It would help the scam artists preying on the poor and elderly, as we have been told before. It would play havoc with the important work of the IRS. So I strongly urge my colleagues to vote no on this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, this amendment is simple. It has nothing to do with the tax cuts and getting back your checks. It has to do with perhaps the most foolish exercise that is part of this bill: $33 million so we can send people a notice that they are going to get a check. Well, if we were awash in money, maybe we should do that. But we are not. We are living in fiscal conservatism—some of us so we are putting the money in the mail. It has to do with perhaps your checks. It has to do with perhaps your checks. It has to do with perhaps

The motion to lay on the table was agreed to. The amendment (No. 862) was reconsidered. The motion to lay on the table was agreed to.

AMENDMENT NO. 862

The PRESIDING OFFICER. There are now 5 minutes of debate evenly divided with respect to the Schumer amendment. Who yields time?

Mr. STEVENS. I move to reconsider the vote.

The amendment (No. 862) was rejected.

The motion to lay on the table was agreed to.

Mr. STEVENS. That is all the amendments; is that correct?

The PRESIDING OFFICER. The Senator is correct.
Mr. NELSON of Florida. I would like to ask the Senator from Alaska to confirm my understanding of the intent of the provision regarding Fort Greely, AK, in section 1205 of this supplemental. I understand this provision will allow the Secretary of the Army to modify a previously made determination that the property in question was surplus to the needs of the Army and to the needs of the Federal Government. Modifying this decision will allow the Secretary of the Army to retain this property until such time as a determination is made as to whether this property is needed for any defense purpose.

Is that the intent of this provision?

Mr. STEVENS. The Senator from Florida is correct. Clarifying the ability of the Army to retain this property will allow the Secretary of the Army to retain it until a future decision is made.

Mr. NELSON of Florida. I thank the Senator from Alaska for this clarification. I was concerned that this provision was an attempt to predetermine a missile defense deployment decision.

Mr. LEVIN. I, too, thank the Senator from Florida for this clarification.

WORKFORCE INVESTMENT ACT DISLOCATED WORKER FUNDING

Mr. WELLSTONE. Mr. President, I want to enter into a colloquy with my good friend from Iowa, the chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, and my friend from Pennsylvania, the ranking member of that subcommittee. I wonder if they will have time to answer some questions regarding job training programs under the legislative jurisdiction of a subcommittee that I chair, the Subcommittee on Employment, Safety and Training.

Mr. HARKIN. I will be delighted.

Mr. WELLSTONE. I know my friend agrees with me that the supplemental appropriations bill before us presents a difficult situation affecting programs funded by his Subcommittee. We both are very strong supporters of the $300 million in low-income energy assistance funding and the $161 million in title I education spending in the bill. That spending is urgently needed. The problem is that we must try to pay for that supplemental spending from a pot of money that is simply too small. The bill as reported by the Appropriations Committee thus would offset a portion of that important new spending by making a rescission from unspent funds in a job training program for dislocated workers. I know my friend is also a supporter of that important program, and I appreciate that the full Committee reiterated its support for the program in the committee report.

Mr. HARKIN. Yes, my good friend is correct. We are now having to make some very, very difficult choices—ultimately important choices—out of the pot of resources we are working with is too small. And you have correctly stated both what the committee has done as well as the committee's strong support for the job training program under the Workforce Investment Act. Our intent is to carefully monitor the need for dislocated worker assistance to ensure that this commitment is met and to take that need into account as we take up funding for fiscal year 2002.

Mr. WELLSTONE. I thank the Senator. As I understand it, one of the factors that the committee observed was a variation among the States in the rate at which each State was drawing down to clarify how it is we find ourselves in allocations. My State of Minnesota, for example, has obligated virtually all of its dislocated worker funding for this program year and will have expended nearly 85 percent of its funding. Other States—for a number of understandable reasons—are predicted to have significant unexpended balances by the end of the fiscal year. To avoid undue hardships for States, such as Minnesota, that have been expending funds at the expected pace, my understanding is that the bill contains a "hold harmless" provision. That is, it provides a mechanism for excess unspent funds to be re-allotted to States that have reached their limits up to the levels these States would have received but for the rescission. Is that correct?

Mr. HARKIN. Yes. That is correct. In addition, subsequent to our full committee action, we received Congressional Budget Office scoring that has allowed inclusion of language post-poning the bill until the Secretary of Labor reallocates the excess unexpended balances to the States. Our goal with respect to the Dislocated Worker Program has always been to try to ensure that no state finds itself without the resources to meet its obligations. We believe that is accomplished through the "hold harmless" provisions.

Mr. WELLSTONE. I thank my good friend from Pennsylvania. Now I want to clarify how it is we find ourselves in this situation of having to make such difficult choices. Am I correct that at least part of the reason we are faced with a pot of resources that is so small is because of decisions made during the budgeting process to cap supplemental discretionary spending at $6.5 billion, to avoid triggering a governmentwide sequester during fiscal year 2001?

Mr. HARKIN. Yes. My friend is absolutely correct.

Mr. WELLSTONE. And, of course, it is also true that a huge portion of the supplemental appropriations is going to support defense spending; is that correct? So, another part of the reason that we are faced with these difficult choices on where to find the resources to support urgently needed programs that provide a safety net for American families is because of the priority being given to defense spending; is that correct?

Mr. HARKIN. Yes.

Mr. WELLSTONE. Is it fair to say this is just the tip of the iceberg? That the truly perverse choices we are being asked to make today between educating our children, heating our homes, and training dislocated workers are ominous harbingers of things to come as the full impact of the $1.3 trillion tax cut is felt? Is that fair to say?

Mr. HARKIN. Again, my good friend is absolutely correct. Many of us predicted during the debate on the tax cut that we would be facing precisely these impossible choices. It is upon us and it will only get worse.

Mr. WELLSTONE. I thank my good friend. This is not a happy day, and I agree with the Senator's predictions that it will only get worse. I think we need to look for some solutions to this larger problem. It seems to me inevitable that we must re-visit the unfortunate fiscal and budgetary priorities that have been set.

CRISIS IN ARMY AVIATION

Mr. BIDEN. Mr. President, I had planned to offer an amendment to this supplemental appropriations that would have alleviated the emergency shortages of utility helicopters in the Army National Guard. Senators LEAHY, BOND, CARNAN, DODD, LIEBERMAN, and CARPER were cosponsors of the amendment and some have short statements that they will enter.

Amendment would have procured 20 new Blackhawks for those Guard units in States with the most serious shortages of modern lift helicopters. It is my understanding that there are between seven and nine States that are at a critical level, having no modern aviation assets.

Delaware is one of those States. The people of my State expect the Army Guard to be there when emergencies hit. Unfortunately, the Army Guard may not be there because they do not have lift helicopters that are flyable. Let me repeat that and be more specific. Since January, the Delaware National Guard has had no more than two UH-1 Huey helicopters that were flyable—two out of a fleet of twenty-three, and they have had two only rarely. The norm has been one. One vintage Vietnam-era helicopter out of a fleet of twenty-three is all they have had to fly for 6 months—6 months. This is absolutely insupportable. Pilots cannot fly and stay proficient and the people who depend on the Guard cannot be sure of their assistance in emergencies.

A week ago, the Secretary of Defense released his amended budget for 2002. Unfortunately, there was only enough
funding for 12 new Blackhawk helicopters for the Army. This is incredible. It is completely insufficient to deal with this problem. Over the next 5 years, the Army is retiring over 700 Vietnam-era helicopters that are no longer safe to fly, but nothing is replacing them. Instead of the 330 Blackhawks that are needed—130 for the active duty and 200 for the National Guard—less than 70, or about twenty percent of the requirement, are funded.

I have a copy of a letter sent to all of the leaders of the congressional defense committees and the appropriations committees that details this critical problem. It describes the concern these generals have that their ability to do their national security missions today is severely impaired and that the situation will only get worse, as the trained pilots and technicians leave the Guard because they are not able to do their missions or even train for them. The letter was signed by the 50 Adjutant Generals of the United States.

I ask consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GUARD ASSOCIATION OF THE UNITED STATES,
Hon. DANIEL K. INOUYE,
Ranking Member, Subcommittee on Defense, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR INOUYE: The FY2001 Army Aviation Modernization Plan requires the Army National Guard to significantly reduce its aviation force structure by retiring over 700 grounded Vietnam vintage utility aircraft by FY2004. These aircraft have been replaced for 230 UH-60L MEDEVAC helicopters. However, less than 20% of these helicopters are funded from FY2002 through FY2007. Virtually every state is currently short its required H-60 helicopters, and many states’ capability to perform their national security mission including protecting our nation against the threat of weapons of mass destruction is severely impaired by the lack of flyable aircraft.

The H-60 helicopter is the number one unfunded equipment requirement in the Army National Guard. As the Defense Committees discuss the FY2001 supplemental and the FY2002 defense budget, we request your support in the long term we need your support for a multi-year procurement of H-60s at a rate of 60 aircraft per year for the next five years.

This problem has reached a critical phase. Without the procurement of additional H-60 aircraft for our aviation force to train and utilize, it will soon face a significant loss of valuable pilots and technicians. Your support for funding will assist in our efforts to continue to modernize the aging National Guard fleet and provide our nation with the best equipped and most relevant National Guard possible.

Sincerely,

Mr. BIDEN, I have repeatedly asked the Army how it plans to address the immediate needs of States like Delaware and the larger issue of a clear crisis in Army aviation. A crisis that impacts the readiness of our Army today and in the future. It was my hope that we would have a plan early this year. Nine months later, I am still waiting for a comprehensive plan from the Army and I see no evidence that the new budget addresses this problem.

I ask the distinguished Chairman of the Defense Appropriations Subcommittee, who I know has long supported adequate funding for our National Guard units, to seriously consider the problem this amendment was intended to address. Twenty new Blackhawks this year is only the tip of the iceberg, but I believe we have a genuine crisis on our hands. It was an emergency nine months ago and it has only gotten worse today. Certainly, that is true in the state of Delaware and I have heard nothing from the Army to make me think that the same is not true in aviation units throughout the nation.

If, as I understand to be the case, the distinguished managers of this bill believe that this funding cannot be designated as emergency funding, then I hope that they will pledge to adequately address this issue within the fiscal year 2002 defense budget. I cannot go home to Delaware and tell them that we are aware of this crisis, have been for almost a year, and yet did nothing and have no plans to do anything. This problem must be addressed this year.

Mr. INOUYE, The Appropriations Subcommittee on Defense has consistently been a strong supporter of, and advocate for, the National Guard. We have historically provided significant additional funding for the National Guard where critical shortfalls were identified.

As my distinguished colleague from Delaware is aware, we have only recently received the budget request for the Department of Defense and there are ongoing discussions that the top line will ultimately be for fiscal year 2002. However, we have appropriated additional funding for National Guard Blackhaws for several years;
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for example, in fiscal year 2001, the Defense Appropriations Committee added funding for the purchase of 6 additional Blackhawk and 11 aircraft in fiscal year 2000. I agree with you that the National Guard must be provided sufficient funding to carry out their important responsibilities and aviation missions and we will do all that we can to address your concerns in the fiscal year 2002 Appropriations bill. Mr. BIDEN. I thank my colleague, and with his assurances, I will not offer this amendment. I do so only because of his assurances that we will deal with this aviation crisis in the fiscal year 2002 defense bill and because I believe this supplemental is so vital to our military that I do not wish to endanger its speedy passage. I yield the floor.

Mr. LEAHY. Mr. President, I enthusiastically support Senator BIDEN’S coloquy. As a cochair of the Senate Guard Caucus, I find it alarming that of the 1,865 Army National Guard helicopters nationwide, over 1,000 were recently grounded because of a lack of spare parts. As recently as May it was reported that only 40 percent of the fleet of Army National Guard helicopters were flying.

Our skyrocketing maintenance costs require ever increasing resources just to maintain our aging fleet. Consequently our modernization accounts remain insufficient to replace aging aircraft, creating a vicious cycle. Senator BIDEN’S effort today draws needed attention to the alarming trends that we have seen in Army aviation within the past few years.

Mr. BIDEN. I thank my colleague, and with his assurances, I will not offer this amendment. I do so only because of his assurances that we will deal with this aviation crisis in the fiscal year 2002 defense bill and because I believe this supplemental is so vital to our military that I do not wish to endanger its speedy passage. I yield the floor.

Mr. LEAHY. Mr. President, I rise today to lend my support to the spirit and the Biden amendment. The National Guard suffers from a serious shortage of helicopters, and it is critical that the Senate do more to address this threat to the readiness of the citizen-soldier force.

The National Guard needs at least an additional 200 helicopters. This is not a number pulled out of thin air. It is the minimum number of aircraft needed to carry out the Army Aviation Modernization Plan, which was developed by the office of the Chief of Staff of the Army. It is the road map for the entire Army’s helicopter inventory for the next 50 years. The plan will streamline the Army’s aviation regiments. It reduces the overall number of helicopters in the Army’s inventory, including the National Guard, while increasing capabilities through technological advances. Specifically, the service will retire 700 Vietnam-era UH-1 Hueys, in exchange for 330 advanced UH-60L Blackhaws.

In streamlining and modernizing this force, the plan reaffirms the critical role of our citizen-soldiers in our Nation’s defense. It recognizes that the National Guard is doing more than ever to defend the Nation, whether at home or abroad. Indeed, every Member of the Senate will certainly tell you what a difference these helicopters have made in a flood or medical emergency, while every field commander will similarly point out the critically important role of National Guard aviation assets in a combat environment.

But the plan also has a much more practical bent. It seeks to avoid a looming crisis in National Guard aviation. The Guard’s current inventory of UH–1 Blackhawk and AH–1 Cobra helicopters is old, expensive, and increasingly unsafe to operate. Units that possess upwards of 15 aging Huey and Cobra helicopters, may have only 2 to 6 aircraft actually flying. By legislative mandate, the National Guard must remove all of these obsolete aircraft from the flight-line when their units take full advantage of additional Kiowa helicopters, they will be hard-pressed to maintain qualified pilots and an acceptable state of readiness when newer aircraft do not arrive to replace them.

Given the Army’s sensible plans and the looming dangers to National Guard aviation readiness, I have been surprised and disappointed by the Army’s reluctance to buy more UH-1’s. For the past several fiscal years, the Army has requested only 10 helicopters a year. In this fiscal year, the service has asked for a 12. It will take well over 20 years to complete the plan at that pace.

I am especially disappointed by this meager request because the National Guard Caucus, including members with helicopter units in their States, have expressed its concern to the Army several occasions. At every one of these briefings, meetings, and extended discussions Army leaders have admitted that a service exists. Yet, when the budget request moved forward, we get this paltry number. I recognize that fiscal realities limit what Congress can do to rectify this situation on the supplemental. Nonetheless, I urge the Senate to examine this situation closely when it reviews the fiscal year 2002 defense budget.

I look forward to working with the Defense Appropriations Subcommittee, fellow Guard caucus cochair Senator BOND, and longtime caucus member Senator BIDEN on this issue. I thank Senator BIDEN in particular for offering this amendment and bring further attention to this problem.

Mr. FEINGOLD. Mr. President, I offered an amendment to the supplemental appropriations bill to increase funding for the Global Fund for AIDS, TB and malaria. My amendment was an attempt to get this Senate to put its money where its mouth is, and in a fiscally responsible fashion to make a significant contribution to the multilateral effort to fight the AIDS pandemic—a contribution that could leverage more funds from other donors. In the wake of the recent U.N. special session on AIDS, it seemed especially appropriate to take concrete action rather than rely on mere rhetoric.

The amendment failed, but I do not want that vote to leave anyone with the impression that there is no will in this Senate to address the global AIDS pandemic. Some were uncomfortable with the offset, which involved rescinding funds from the troubled V–22 Osprey procurement program for the remainder of the 2001 fiscal year. I believed that the offset was reasonable. Some were uncomfortable with the emergency designation in the amendment. The emergency designation was necessary, because the bill was already up against the cap on non-defense spending. It was also accurate. The AIDS epidemic is, unquestionably, an emergency.

While these issues may have led my amendment to defeat today, I do believe that this Senate will take meaningful action to address it. The very fact that the supplemental contains $100 million for the Global Fund is a testament to the efforts of the appropriators and the leadership. Indeed, I suspect that many Senators, including many colleagues who opposed my amendment, are left uneasy by the AIDS-related consequences of the vote on my amendment, and I believe that unease will only strengthen our collective resolve to work together, in a bipartisan and inclusive fashion, to make certain that the U.S. takes meaningful action to strengthen prevention efforts, improve AIDS awareness and education, increase global access to treatment, support vaccine research, improve health infrastructure, provide services to orphans, and support the Global Fund at an appropriate level—one far exceeding $200 million.

Mr. McCONNELL. Mr. President, I rise today in support of language which was included in the amendment to S. 1007. I am pleased that Senators BYRD and STEVENS have agree to accept my language which will extend compensation to Department of Energy employees and DoE contractor employees who suffered kidney cancer due to exposure to radiation while working at a DoE defense nuclear facility or nuclear weapons testing site.

Last year, Congress passed the Energy Employees Occupational Illness Compensation Program Act as part of the FY 2001 Department of Defense Authorization bill. This measure provides $150,000 lump sum payments as well as payments for medical coverage to Department of Energy employees and DoE contractor employees who suffered kidney cancer due to exposure to radiation while working at a DoE defense nuclear facility or nuclear weapons testing site.

In streamlining and modernizing this force, the plan reaffirms the critical role of our citizen-soldiers in our Nation’s defense. It recognizes that the National Guard is doing more than...
Mr. CAMPBELL. Mr. President, today I take this opportunity to express my support for the fiscal year 2001 Appropriations bill. This bill contains funding, not only for the defense and security of our country, but also funding for the health and well-being of American citizens. The $84 million included in this bill will pay the IOU’s our Nation made to these terminally ill workers. Hundreds of these beneficiaries live in Colorado and they are in desperate need of that money that was promised to them last year. Dying has a way of making people desperate, especially when the money promised by IOU’s could then be used for their care. There are many times we in this body act because we can. In this matter, we have the opportunity to act because we ought to.

I thank my friends and colleagues, Senators DOMENICI, and BINGLAMAN, for their assistance and support with this, as many of their constituents are claimants as well.

I would also like to express my strong support for additional funding for the Animal Plant Health Inspection Service (APHIS). The $35 million included in this bill will allow APHIS to strengthen border inspections and improve monitoring of emerging animal and plant diseases, including Mad Cow disease, Foot-and-Mouth disease, and other livestock diseases. There has never been a case of Mad Cow disease in the United States, and there has not been an outbreak of Foot-and-Mouth Disease since 1929. But, considering the potentially disastrous effects if either disease spreads to our country, we must do everything we can to protect the American food supply. As a rancher myself, and having heard from fellow cattlemen, I share their growing concern about the potential devastating impact of these diseases. Colorado is home to 12,000 beef producers and 3.15 million head of cattle—more than the human population of states 20 or more times the size of Colorado. We must do all we can to protect them. I would like to thank my friend and colleague Senator KOHL, for his support and assistance in this effort.

Finally, I would like to express my gratitude to Chairman BYRD and Senator STEVENS for their leadership and support of this bill, and particularly for their support of funding for RECA and APHS.

Mr. President, I urge my colleagues to join me in support of this important funding bill.

Mrs. FEINSTEIN. Mr. President, I want to first express my appreciation to the chairman of the Appropriations Committee for his work on the fiscal year 2001 supplemental appropriations bill. It is only through his persistence and determination that we are able to bring this bill to floor within the spending limits proposed by the President.

I want to specifically thank Chairman BYRD for his work on an issue of great importance to California. This bill includes $20 million in disaster assistance to crop growers in the Klamath Basin of northern California and southern Oregon, who, along with a total loss of income from a lack of water, I am very grateful that Chairman BYRD saw the true emergency in this situation.

This year, the Klamath Basin is facing one of the worst, if not the worst drought in the Klamath River Project’s 90-year history. Federal disaster declarations have been issued by the USDA for Modoc and Siskiyou Counties in California and Klamath County, OR. Economic losses to the farming communities have been estimated at up to $220 million.

Over 200,000 acres of farmland are irrigated in the Klamath River Basin. There are roughly 1500 farming families in the Klamath Irrigation Project.

The Endangered Species Act requires the Bureau of Reclamation to review its programs with consultation from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, with the obligation to protect endangered species. In Klamath this includes two species of suckerfish, the coho salmon, and the bald eagle. In addition to the Endangered Species Act, the Bureau of Reclamation must protect tribal fishing and water rights.

What little rainfall that has occurred this year must be first applied to minimize endangered fish species losses and then to mandatory Tribal Treaty obligations. This leaves literally no water for about 85 percent of the Klamath Project-dependent farmers. And this problem is not going to go away. Based on Bureau of Reclamation estimates, there will not be enough water for all users in 7 out of the next 10 years in the Klamath Basin.

Lack of water in the Klamath Basin is a problem that requires a long term solution. I am committed to working with the administration and my colleagues here in the Senate to develop that solution.

Unfortunately, a long-term solution will not help the farmers today. That is
BYRD recognizes this need. I want to continue to work on the R2 mission, or a suitable equivalent, and look forward to supporting NASA’s human space flight funding within the National Aeronautics and Space Administration. NASA. In its report, the Appropriations Committee included language removing a restriction placed on $40 million in fiscal year 2000 Human Space Flight funding. The restriction required these funds to be used for a dedicated shuttle research mission. With various delays in the shuttle manifest, the STS 107 mission has been rescheduled for May 2002. Removing the restriction will allow NASA to use the $40 million to cover costs associated with the delay of STS 107 mission and for research to be conducted aboard the International Space Station.

The followon shuttle dedicated research mission, also known as “R2,” is now not expected to fly until at least 2004. This mission was intended as a “gap-filler” to support the scientific community during construction of the International Space Station. At the same time, the agency is proposing to decrease funding for Space Station research in order to pay for cost overruns associated with building the vehicle itself. The life and microgravity science community is already under funded. Continuing to delay the “R2” mission will only exacerbate the research community’s already strained situation.

While I do not oppose this reprioritizing of funds, I agree with my colleagues on the Appropriations Committee about the need to balance such requests with maintaining life and microgravity research conducted aboard the shuttle and space station. While NASA certainly needs to meet its obligations, I am concerned that the redirection of these funds will ultimately preclude NASA from pursuing the dedicated research flight entirely. The Senate language associated with the supplemental appropriations bill directs NASA to consult with Congress on the research planned for the R2 mission in the context of the future funding required to support space station research. I expect NASA to continue to work on the R2 mission, or a suitable equivalent, and look forward to working with NASA and my colleagues on the Appropriations Committee in receiving and reviewing these research plans.

ISRAELI PURCHASES OF U.S. GRAIN

Mr. CRAIG. Mr. President, I have offered an amendment to the fiscal year 2001 supplemental appropriations bill regarding the purchase of U.S. grain by Israel. This issue is of concern because Israel has stated its intention to cut its U.S. grain purchases by more than 22 percent. I opposed this.

Historically, in every year since the Camp David Accords of 1978, Israel has agreed to purchase 1.6 million metric tons of grain grown by American farmers and to ship at least half that amount in United States-flag commercial vessels. These are purchases important to American agriculture and to the U.S. citizen merchant mariners critical to our national security. Every year, these purchases have been consistent, until now.

Starting in 1979, and in every year since then, Israel has entered into a side letter agreement with the United States for the purchase of grain, recognizing that the cash transfer economic assistance Israel has received replaced, in part, an adverse importuity import assistance program for Israel.

Despite a level of U.S. aid in every year since 1984 that has been higher than the 1979-1983 level, Israel never increased grain imports. Had proportionality been maintained, Israel’s purchases should have reached 2.45 million tons at least at one point. The commitment to purchase never grew as Israel’s economic support fund assistance grew. America, in generous friendship, didn’t push for those purchases to grow. And, as economic assistance to Israel has recently decreased, Israel’s commitment to purchase didn’t change until now.

The Government of Israel has announced its intention to reduce grain purchases by more than 22 percent this year, from 1.6 million tons to 1.24 million tons. This is not proportional, but disproportional. U.S. economic assistance to Israel has declined only 12.5 percent this year. If Israel’s purchases of U.S. grain rose to increasing levels of U.S. economic aid, then these purchases should not be tied to a recent downward fluctuation in economic aid. Such an overreaction ignores history, is disappointing in view of our long-term friendship and overall relationship, and ignores the express intent of this Congress in providing aid in the past.

Several times in recent years, Congress has enacted laws providing that, in administering assistance, the President would guard against policies that would curtail such exports from the United States to Israel.

The amendment I offered this week simply would have reiterated for fiscal year 2001 the past Congressional commitment that this year’s side letter agreement should be in accordance with terms as favorable as last year’s agreement. I was prepared to pursue that amendment further. I remain concerned and disappointed over this year’s side letter. However, with most of fiscal year 2001 past, with the need for this supplemental bill to move quickly for the benefit of our national defense and our men and women in uniform, and based upon discussions with the Chairman and Ranking Member of the Foreign Operations Subcommittee, I am willing to withdraw at this time. I would like to yield to these two colleagues for a discussion on this matter.

Mr. LEAHY. The Senator is correct in stating that Congress, and our subcommittee, has had a longstanding interest in this area and has consistently monitored this issue. We are prepared to turn very shortly to consideration of the fiscal year 2002 foreign operations appropriation bill. I believe that would be the best vehicle for consideration of this issue, in the regular order, when we can consider all the policy ramifications for the entire, upcoming year. I can assure the Senator of our continued attention to this matter, and of thoughtful, thorough consideration.

Mr. HATCH. Mr. President, I want to take this opportunity to comment specifically on Chapter 1 of the supplemental appropriations legislation, S. 1077, and the provision of funding for the Radiation Exposure Compensation Act, or RECA as it is more commonly known.

Since the enactment of RECA in 1990 and the subsequent amendments in 2000, thousands of Americans have received compensation based on their unknowing exposure to harmful radiation caused by the government’s nuclear production and testing activities.

As many of my colleagues will recall, last year, Congress passed the Radiation Exposure Compensation Amendments of 2000, S. 1515. This law made important changes to the 1990 Act by updating the list of compensable illnesses—primarily cancers—based on scientific and medical information gathered over the past decade.

However, even before the enactment of RECA 2000, the Trust Fund became financially depleted. Starting in the Spring of last year, approved claimants began receiving “IOUs” from the Department of Justice rather than their checks.

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As many of us are totally dismayed that the RECA Trust Fund is depleted. It is totally unfair for the government to issue IOUs rather than checks to the hundreds and potentially thousands of
individuals who are expected to be approved for compensation.

I know that my colleagues on the Appropriations Committee agree, and that is why they have included $84 million for RECA claims in this bill. It is my understanding that these funds are the amount necessary to cover all approved claims pending at the Justice Department through the end of this fiscal year. And that is good news.

The bad news is that we still face a shortfall in funding over the course of the next 10 years. That is why I introduced legislation, S. 698, along with my distinguished colleagues Senator DOMENICI and Senator DASCHLE to provide permanent funding for the RECA trust fund. Such action would provide certainty to the thousands of claimants for whom the program was enacted.

As I am sure my colleagues recognize, for the Federal Government to promise compassionate compensation to the RECA downwinders and workers and then not honor that commitment is simply unacceptable. It is inexcusable for the government to pledge this compensation and then issue nothing more than a simple IOU. This strikes at the very heart of our citizens' ability to have confidence in their government.

I have met with many of the RECA claimants in my state. It does not take long to see the pain and suffering they have endured over the years. This pain and suffering, I would add, has taken a toll on their lives and the lives of their families as well. Most of these individuals are now retired; they live on modest incomes and fear that their declining health will only exacerbate their limited family finances.

And I urge my colleagues, to ignore the overwhelming and personal human tragedy that many of these individuals already have died as a result of the injuries they sustained while working for the government’s nuclear production program. Today, we have the opportunity to right a wrong through passage of this legislation, and I hope that we do so at the earliest opportunity.

In closing, I particularly want to thank my good friend Senator DOMENICI and his excellent staff, for their work on the Appropriations Committee in securing these funds. Senator DOMENICI and I have worked together since 1990 on RECA. We have done so in the name of thousands of individuals across many states who were literally innocent victims of our nation’s nuclear weapons program. I am appreciative for all Senator DOMENICI has done to make this program the success it has been.

Mr. WARNER. Mr. President, my amendment to the bill will redesignate Building 1500 at the Norfolk Naval Shipyard, Portsmouth, VA, as the Norman Sisisky Engineering and Management Building. I am joined by my Virginia colleague, Senator GEORGE ALLEN.

As a Navy veteran of World War II, Congressman Sisisky was proud to be a part of one of the most extraordinary chapters in American history, when America was totally united at home in support of our 16 million men and women in uniform on battlefields in Europe and on the high seas in the Pacific—all, at home and abroad, fighting to preserve freedom.

During our 18 years serving together, Congressman Sisisky’s goal, our goal, was to provide for the men and women in uniform and their families.

The last 50 years have proven time and again that one of America’s greatest investments was the G.I. Bill of Rights, originated during World War II, which enabled service men and women to graduate the institutions they could rebuild America’s economy. The G.I. Bill was but one of the many benefits that Congressman Sisisky fought for and made a reality for today’s soldiers, sailors, airmen, and Marines.

His strength of public life was supported by his wonderful family; his lovely wife Rhoda and four accomplished children. They were always by his side offering their love, support, and counsel.

He worked tirelessly throughout Virginia’s 4th District, however, there was always a special bond to the military installations under his charge. As a former sailor, the Norfolk Naval Shipyard was high among his priorities. He knew the workers by name and the monthly workload in the yard. In consultation with his family and delegation members, we chose this building at the shipyard as a most appropriate memorial to our friend and colleague.

I waited until the special election was concluded for Virginia delegation could join together on this legislation.

Norman Sisisky was always a leader for the delegation on matters of national security. We are honored to join in this bi-partisan effort to remember Congressman Norman Sisisky and his life’s work; ensuring the Nation’s security and the welfare of the men and women in uniform and their families.

Along with my remarks, I would like to congratulate the Commander Chief of the Atlantic Fleet, Admiral Bob Natter. Admiral Natter worked very closely with Norman Sisisky throughout his career and joins me and the entire Virginia delegation in supporting the naming of Building 1500; the Norman Sisisky Engineering and Management building.

Admiral Bob Natter, Commander in Chief, Atlantic Fleet writes:

"It is highly fitting to name the Norfolk Naval Shipyard’s Engineering and Management building at the Navy’s oldest and most historic shipyard after Representative Norman Sisisky. Mr. Sisisky was on hand in 1983 for the dedication and ribbon cutting of this building, which has become the most recognizable building on the shipyard. He was an inspiration and service to our Navy, this great shipyard, and its many employees mirror the Norfolk Naval Shipyard motto of “Service to the Fleet, any ship, anytime, anywhere.”

From improvements in quality of life to the facilities that have made the Norfolk Naval Shipyard one of the finest yards in the nation, Mr. Sisisky strongly supported the best interests of our Navy and our Nation. Among a wide range of projects at the shipyard, he supported a new bachelor enlisted quarters which today houses 300 Sailors and served as a model for the entire Navy. He was an ardent supporter of a waterfront improvement project that significantly expanded shipyard capabilities, including the capacity to conduct simultaneous repair and construction projects at the shipyard. He was personally dedicated to keeping this great public shipyard competitive, in cost and in unparalleled quality.

Perhaps most of all, the Sailors of the Atlantic Fleet and the dedicated men and women of the Norfolk Naval Shipyard who work tirelessly on our ships and submarines knew Norm Sisisky was their strongest supporter and would fight for their best interests. His presence at nearly every important Navy event in the community made him a popular, recognizable and appreciated friend among uniformed Sailors and civilians alike. He has made an indelible mark on this community and a lasting contribution to the Atlantic Fleet. We are honored to have this centerpiece of the Norfolk Naval Shipyard named after Norman Sisisky, a great patriot who will forever be remembered as a great friend of the Navy."

Mr. COCHRAN. Mr. President, I am pleased that the supplemental appropriations bill which we will vote on today includes much needed funding for education.

Federal support to improve the educational opportunities of disadvantaged students is provided under title I of the Elementary and Secondary Education Act. Earlier this year, the Department of Education announced the allocation of title I funds for qualified schools. The Department was forced to make cuts in the expected funding for all of these school districts, due to a shortfall in the amounts appropriated for this purpose last year.

This bill provides $161 million to cover that shortfall; $2.4 million of these funds will be allocated to schools in my State. With this funding, schools in Mississippi will be able to continue to provide essential learning resources to students from preschool through 12th grade.

In April of this year, in his capacity as chairman of the Senate Subcommittee on Labor, Health and
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Human Services, Education and Related Agencies, Senator SPECTER authorized me to chair a hearing in Mississippi because it was important to me as a former Mississippi Senator. The panel of witnesses included Mississippi Department of Education officials and local school superintendents. The resounding message from the hearing was that title I funds making good classroom learning opportunities available to all of Mississippi's students.

One of the most compelling statements was that of Yazoo City School Superintendent, Dr. Daniel Watkins and the other witnesses from Montgomery Elementary School in Louise, MS. I want to share with the Senate some of his testimony, which I quote here:

I began my educational career in 1964 in Louise. My mother was a single parent with 7 children.

My first 3 years at elementary school were in a room without a bulletin board, a chair, a desk, or any textbooks. I was simply handed the plans. This question-and-answer method of teaching is what the big deal is. I think the best way to explain what happened is to sit down with an architect and sketch out their ideas of what they want their house to look like. The architect would then take these sketches and form a blueprint, the final plan that gives the instructions to the carpenter who would in turn remodel the house.

The carpenter would never dream of deviating from this blueprint. After all, his job is to follow the architect's instructions, and respect his wishes. It really wouldn't matter if he thought his ideas were better than the architect's. No family in their right mind would ever hire a carpenter who wanted to re-design their old house, the first thing they would do is sit down with an architect and sketch out their ideas of what they want their house to look like. The architect would then take these sketches and form a blueprint, the final plan that gives the instructions to the carpenter who would in turn remodel the house.

This is exactly what happened with the announcement to pull the B-1's from the Air National Guard. The Air Force is now on the verge of reversing a longstanding policy by saying that our national defense needs would be better served if the B-1's were flown exclusively by the Active Duty forces. This decision was made in spite of the facts that the blueprint for our national defense needs would be better served if the B-1's were flown exclusively by the Active Duty forces.

It is as if the carpenter has decided to remodel their old house, the first thing they would do is sit down with an architect and sketch out their ideas of what they want their house to look like. The architect would then take these sketches and form a blueprint, the final plan that gives the instructions to the carpenter who would in turn remodel the house.

The decision to cut and realign the B-1 national defense needs was made in the early 90's.

I am pleased to be joined by my colleague from Oregon, Senator Smith, and my colleagues from California, Senators FEINSTEIN and BOXER, in thanking the Chairman and Senator STEVENS for their inclusion of this important provision in this supplemental appropriations bill.

As you know, Mr. Chairman, I have come to the floor today to speak out on the Air Force's decision to substantially cut America's B-1 Bomber force. As many of my colleagues know, as part of the 2002 Defense budget amendment, the Air Force announced its intentions to remove the B-1 Bomber from the Air National Guard Wings at McConnell Air Base in Kansas, and Warner Robins Air Force Base in Georgia, and consolidate the remaining bombers at two active duty Air Force bases in Texas and South Dakota.

The Air Force intends for this proposal to take effect immediately after funds become available following the passage of the 2001 supplemental appropriations bill, and desires that the entire project be completed in a year or so. The Air Force justified this announcement to Congress by stating that this cut was a good way to realize cost savings in 2002 Defense Budget.

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If a family decided to remodel their old house, the first thing they would do is sit down with an architect and sketch out their ideas of what they want their house to look like. The architect would then take these sketches and form a blueprint, the final plan that gives the instructions to the carpenter who would in turn remodel the house.
his previous statements, Secretary Rumsfeld has acknowledged that future combat missions will depend on long-range precision strike bombers which are capable of reaching their targets from airbases within the United States. How can the Air Force make a decision to cut the B-1 Bomber fleet when such a decision seems to run contrary to Secretary Rumsfeld’s previous statements?

As a member of the Foreign Relations Committee, I fully agree with this assessment. It is becoming increasingly difficult for the U.S. to rely on other country’s airstrips to stage our Air Force operations. We must look to platforms that enable us to conduct missions from the safety of America’s shores.

No other bomber in today’s Air Force can match the B-1 for accomplishing these missions. The B-1 has more payload capacity than the Stealth B-2, and is much faster than either the B-2 and B-52.

While I agree that stealth technology is important to our Air Force, we should be cautious about becoming overly reliant on it. If we cannot always depend on stealth for surprise and protection, we will have to return to speed and maneuverability. The B-1, is the only bomber today that meets this requirement.

So if the Air Force still needs the B-1, why cut the fleet from 93 to 60? One excuse is that it will be cheaper, and that the Active Duty can accomplish this mission better than the Air National Guard.

But according to figures released by the Guard Wing at McQuillen, the Air Force is simply wrong in this estimation. Consider just a few simple facts:

The average B-1 Mission Capable rate for the Air National Judd is 61.5 percent. The active component only rates 53.4 percent.

The average Total Mission Capable rate for the Air National Guard is 19.9 percent, compared to the Active Duty’s rate of 24.6 percent.

The Kansas Air National Guard opotes one of the Air Force’s two Engine Regional Repair Centers and the Georgia Unite Provides avionics systems support for all the B-1’s providing high-level expertise in reducing costs.

When confronted with these figures, how can the Air Force conclude that the Active Duty can accomplish this mission in a more cost-effective manner than the Air National Guard? I am pleased that Senators Roberts and Cleland will be calling on the General Accounting Office to see if this decision would make more economic sense that keeping the Guard flying the B-1.

A force structure decision should never have been made without the guidance of a new national security blueprint. Even more important, such a decision should never have been made on false economic assumptions. We cannot afford to make hasty decisions.

Today, I join a bipartisan group of Senators consisting of Senators Roberts, Cleland, Miller, Craig, and Crapo in offering an amendment to the 2001 Defense Supplemental Bill that will prohibit 201 funds from being used to carry any orders to cut or transfer the B-1. In spite of the Air Forces announcement, we offer this amendment to put the Air Force on notice that hasty decisions regarding our national security are unacceptable to Congress.

Mr. DODD. Mr. President, I understand the very difficult job the Appropriations Committee has faced in producing this supplemental appropriations bill and I commend the leadership of the committee for its work.

However, it is very unfortunate that it was necessary to cut $317 million in critical dislocated worker funding. I hope that this will be a short-lived reduction and that it will be possible to eliminate this cut in conference. Further, I urge the committee to also reject the administration’s proposed further $500 million reduction in training programs in the fiscal year 2002 appropriations.

In the 105th Congress the Workforce Investment Act was overwhelmingly supported on a bipartisan basis. Few issues that we debate in Congress are as important to the future of this country as the lifelong education and training of our workforce. We live in an era of a global economy, emerging industries and company downsizing. It is imperative that our delivery of services meet the employment and educational needs of the 21st century.

We now are embarking on the creation of a streamlined and vitally necessary workforce development system. More authority is given to State and local representatives of government, business, labor, education, and youth activities. There is a true collaborative process between the state and local representatives to ensure that training and educational services provided will be held to high standards.

Our global economy is creating wonderful opportunities for American workers, but also great stress and anxiety. Today, the knowledge and skills workers must have on the job changes very rapidly. Companies and even industry segments enter and leave our economy very rapidly. Companies cut nearly 125,000 jobs in June. The Department of Labor reported that new claims for unemployment benefits increased by 7,000. On one day alone at the end of June three separate companies announced plans to eliminate 800 jobs in Connecticut. In the technology sector alone, almost 1,000 jobs cuts have been announced in Connecticut since the beginning of the year.

I urge the committee to re-evaluate these cuts to the dislocated worker program. Now is not the time to be short-changing our workers or our communities.

Mr. STEVENS. Mr. President, this is the first bill that Senator Byrd has handled now as chairman of the Appropriations Committee, and I in my new role as ranking member of the Appropriations Committee. I thank Senator Byrd for his courtesy. I have not seen the supplemental handled as fairly and evenly as this has been. We have responded to almost every request made by Senators from either side. I congratulate the Senator for this night and for the fact that the bill presented by the Appropriations Committee has been sustained.

Mr. DODD. Mr. President, I tender my thanks to my friend, Senator Stevens, without his able cooperation and assistance all the way, we would not have completed this bill today.

Mr. STEVENS. Have the yeas and nays been ordered?

Mr. BYRD. The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays will be required after the clerk reads the bill for the third time.

The bill was ordered to be engrossed for a third time and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 2216, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2216) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

The PRESIDING OFFICER. Under the previous order, after the enacting clause of H.R. 2216 is stricken, and the text of the Senate bill S. 1077, as amended, is inserted in lieu thereof.

Mr. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas have been ordered.

The PRESIDING OFFICER. Under the previous order, the question is on the engrossment of the amendment and third reading of the bill.
The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

The PRESIDING OFFICER (Mr. NELSON of Florida). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—98

Akaka, Dorgan, Lugar
Allen, Edwards, McConnell
Baucus, Ensign, Mikulski
Bayh, Enzi, Miller
Bennett, Feinstein, Murkowski
Biden, Fitzgerald, Murray
Bingaman, Feist, Nelson (FL)
Bond, Graham, Nelson (NE)
Boxer, Graham, Nickles
Breaux, Grassley, Reid
Brownback, Greg, Reid
Bunning, Hagel, Roberts
Burns, Harkin, Rockefeller
Byrd, Hatch, Rockefeler
Campbell, Hollings, Sarbanes
Carnahan, Hatchinson, Sessions
Carper, Robbison, Sessions
Chafee, Inhofe, Smith (OK)
Clinton, Jeffords, Smith (OR)
Cooper, Johnson, Snowe
Collins, Kennedy, Stabenow
Conrad, Kerry, Stabenzow
Corinne, Kohl, Stevens
Craig, Kyl, Thompson
Crapo, Landrieu, Thurmond
Daschle, Leahy, Torricelli
Dayton, Levin, Voinovich
DeWine, Lugar, Warner
Dodd, Lincoln, Wellstone
Domenici, Lott, Wyden

NAYS—1

Feingold

NOT VOTING—1

Thomas

The bill (H.R. 2216), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. GRAHAM. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. I move the Senate insist on its amendment to H.R. 2216 and request a conference with the House of Representatives, and the Chair be authorized to appoint conference on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. STEVENS, and Mr. COCHRAN conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF CONFERENCE—H.R. 1

Mr. REID. Mr. President, I ask unanimous consent that with respect to H.R. 1, the elementary and secondary education bill, the Senate insist on its amendment and request a conference with the House and the Chair be authorized to appoint conferees.

There being no objection, the Presiding Officer appointed Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. JEFFORDS, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mr. REED of Rhode Island, Mr. EDWARDS, Mrs. CLINTON, Mr. LIEBERMAN, Mr. BAYH, Mr. GREGG, Mr. FISRT, Mr. ENZI, Mr. HUTCHINSON of Arkansas, Mr. WARNER, Mr. BOND, Mr. ROBERTS, Ms. COLLINS, Mr. SESSIONS, Mr. DEWINE, Mr. ALLARD, and Mr. ENSIGN conferees on the part of the Senate.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate go into a period of morning business with Senators permitted to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ASSIGNMENTS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the following Committee assignments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AGRICULTURE

Senator Harkin, Chairman; Senators Leahy, Conrad, Daschle, Baucus, Lincoln, Miller, Stabenow, Ben Nelson, Dayton, and Wellstone.

ARMED SERVICES

Senator Levin, Chairman; Senators Kennedy, Byrd, Lieberman, Cleland, Landrieu, Reed, Akaka, Bill Nelson, Ben Nelson, Carnahan, Dayton, and Bingaman.

APPROPRIATIONS

Senator Byrd, Chairman; Senators Inouye, Hollings, Leahy, Harkin, Mikulski, Reid, Kohl, Murray, Dorgan, Feinstin, Durbin, Johnson, Landrieu, and Reed.

BANKING

Senator Sarbanes, Chairman; Senators Dodd, Johnson, Reed, Schumer, Bayh, Miller, Carper, Stabenow, Corzine, and Akaka.

COMMERCE

Senator Hollings, Chairman; Senators Inouye,Rockefeller, Kerry, Breaux, Dorgan, Wyden, Cleland, Boxer, Edwards, Carnahan, and Bill Nelson.

ENERGY

Senator Bingaman, Chairman; Senators Akaka, Dorgan, Graham, Wyden, Johnson, Landrieu, Bayh, Feinstein, Schumner, Cantwell, and Carper.

ENVIRONMENT

Senator Jeffords, Chairman; Senators Reid, Baucus, Graham, Lieberman, Boxer, Wyden, Carper, Clinton, and Corzine.

FINANCE

Senator Baucus, Chairman; Senators Rockefeller, Daschle, Breaux, Conrad, Graham, Jeffords, Bingaman, Kerry, Torricelli, and Lincoln.

FOREIGN RELATIONS

Senator Biden, Chairman; Senators Sarbanes, Dodd, Kerry, Feingold, Wellstone, Boxer, Torricelli, Bill Nelson, and Rockefeller.

GOVERNMENT AFFAIRS

Senator Lieberman, Chairman; Senators Levin, Akaka, Durbin, Torricelli, Cleland, Carper, Carnahan, and Dayton.
CONGRESSIONAL RECORD—SENATE

July 10, 2001

This agreement temporarily solves one of the most difficult to solve water issues on the Rio Grande. I can’t think of an issue that affects more New Mexicans, for this reason I decided that it was essential that I be in New Mexico and therefore, necessarily absent.

I would have voted for the First Substantive Version of the Patients Bill of Rights had I been in Washington.

ON THE FAIRNESS OF THE ADMINISTRATION OF THE DEATH PENALTY

Mr. FEINGOLD. Mr. President, “The system may well be allowing some innocent defendants to be executed.”

Were these the words of Governor George Ryan, the Illinois Governor who placed a moratorium on executions last year? They could have been, but they were not. Were these the words of an attorney defending someone facing the death penalty? They could have been. Rather, these were the remarkable words of Supreme Court Justice Sandra Day O’Connor—the same Justice O’Connor who has generally supported the death penalty during her twenty years on the Court, the same Justice O’Connor who has championed states’ rights, including the right to carry out executions, the same Justice O’Connor who joined or wrote key opinions that made it more difficult for defendants facing the death penalty to have their state sentences overturned in federal court, and the same Justice O’Connor who voted in favor of allowing executions of teenage children who committed crimes after age 16 or 17.

Justice O’Connor said, “After 20 years on the high court, I have to acknowledge that serious questions are being raised about whether the death penalty is being fairly administered in this country.” She uttered these words at a meeting before the Minnesota Women Lawyers in Minneapolis last Monday. Coincidentally, Justice O’Connor made these remarks on the 25th anniversary of the Supreme Court’s 1976 Gregg v. Georgia decision, which reinstated the death penalty as we know it today. Only four years earlier, in 1972, the Court had found the death penalty unconstitutional. But in Gregg, the Court found that sufficient safeguards had been implemented to allow states to resume use of the death penalty.

Since the Gregg decision, over 700 people have been executed in the United States and today over 3,700 people sit on death row awaiting execution. Since the Gregg decision, the rate of executions have increased: from one execution in 1981 to 98 executions in 1999, 85 in 2000, and 39 so far this year.

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She also said, “Perhaps most alarming among these is the fact that if statistics are any indication, the system may be failing some innocent defendants to be executed.”

Justice O'Connor now joins Supreme Court Justices Harry Blackmun and Lewis Powell, who also late in their lives came to reconsider their support of the death penalty.

But most importantly Justice O'Connor now joins the growing chorus of Americans who are concerned about the risk of executing the innocent and the fairness of the administration of the death penalty.

Congress can and should play a role in ensuring fairness. We can create an independent, blue ribbon panel to review the fairness of the administration of the death penalty at the state and federal levels. With so many serious concerns about how the death penalty is applied by the States and Federal Government, a simple, yet necessary, step is to create a commission to review these concerns. In addition, the Federal Government and all States that authorized the use of capital punishment should suspend executions while a thorough review of the death penalty system is undertaken.

I am pleased to be a cosponsor of legislation introduced by Senator Leahy that will take some important steps towards reducing the risk of executing the innocent, the Innocence Protection Act. But more can be done and Congress should do more. Congress should create a national commission on the death penalty and support a moratorium on executions while the commission conducts its work.

If we can agree that the system is flawed and runs the risk of executing innocent people, then we can also agree that we should undertake a thorough top-to-bottom review of the death penalty system. And while we do so, it is simply unjust to proceed with executions. I urge my colleagues to sponsor the National Death Penalty Moratorium Act. Congress should do everything it can to prevent even one innocent person from being sentence to death.

I yield the floor.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator Kennedy in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I will describe a terrible crime that occurred December 20, 1991 in Russian River, CA. A 45-year-old gay man, Joseph Mitchell, was stabbed to death along Highway 116 by a hitchhiker. Paul Daniel Huycck, 19, was arrested in Springfield, Oregon the first week of January 1992 in connection with the crime. He was charged with murder and violation of parole.

I believe that government’s first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substantive. I believe that by passing this legislation, we can change hearts and minds as well.

NEW MEXICO FLOOD AND FEMA

Mr. DOMENICI. Mr. President, I rise today to thank my colleagues for acting quickly last summer in sending support to the Los Alamos community following the Cerro Grande fires. This support was due to the work of County officials, the Federal Emergency Management Agency and the Army Corps of Engineers helped control another act of mother nature that befell Los Alamos this past week.

Torrential rainstorms struck the region resulting in substantial flooding. In some areas the water swelled 60 feet as 1.75 inches of rain fell in less than one hour. Roads flooded and pavement was uprooted. Although at least six homes were evacuated, post fire flood mitigation efforts prevented a much greater calamity.

Federal and local officials recognized a year ago that some of the fire damage created infrastructure problems that could lead to future flooding. This foresight proved decisive against the rushing floodwaters.

For example, the largest bridge in the town of Los Alamos—which spans the Pueblo Canyon—was saved by Congress’ authorization of the Army Corps of Engineers. Last year, recognizing the potential for floods, the Corps extended an 18-inch culvert to 7 feet in record time. I visited the culvert site during construction and was very impressed with the skill, dedication, and professionalism of the Corps of Engineers crew.

During the recent storms, the water swelled 55 feet and was within five feet from the top of the bridge. The bridge withstood the pressure, which it could not have done without the culvert. Without that culvert, the waters would have flowed over the roadway and probably destroyed the road and bridge. It would have cost $15 million to replace the bridge.

More importantly, if the bridge had been destroyed half of the community would have been cut off from the laboratories and from all paved access to services and hospital facilities. Instead of direct access to the town, residents would have had to drive 20 miles on dirt roads that traverse deep canyons.

Fortunately, Mr. President, this culvert and other mitigation measures protected Los Alamos from its second natural disaster in two years. This is in large part due to the actions of my colleagues in Congress, and for that I extend my utmost gratitude. This assistance helped the people of Los Alamos to once again persevere against the odds.

SOUTH CAROLINA PEACHES

Mr. HOLLINGS. Mr. President, I rise to recognize South Carolina’s peach farmers for their hard work and their delicious peaches.

Today, peaches from my home State have been delivered to offices throughout the Senate and the U.S. Capitol. Thanks to South Carolina’s peach farmers, those of us here in Washington will be able to cool off from the summer heat with some delicious peaches.

For a relatively small State, South Carolina is second in the Nation in peach production. In fact, this year farmers across my State planted more than 16,000 acres of peaches. However, a hurricane has reduced this year’s crop size by 40 percent. Nevertheless, South Carolina’s peach farmers wanted to give us, here in Washington, a taste of South Carolina. And as my colleagues can attest, these are some of the finest peaches produced anywhere in the United States.

As we savor the taste of these peaches, we should remember the work and labor that goes into producing such a delicious fruit. While Americans enjoy peaches for appetizers, entrees and desserts, most do not stop to consider where they come from. Farmers will be laboring all summer in the heat and humidity to bring us what we call the “perfect candy.” What else curbs a sweet tooth, is delicious, nutritious and satisfying, but not fattening?

The truth is, our farmers are too often the forgotten workers in our country. Through their dedication and commitment, our Nation is able to enjoy a wonderful selection of fresh fruit, vegetables, and other foods. In fact, our agricultural system, at times, is the envy of the world.

As Senators and their staff feast on these delicious peaches, I hope they will remember the people in South Carolina who make this endeavor possible: The South Carolina Peach Council, David Winkles and the entire South Carolina Farm Bureau. They have all worked extremely hard to ensure that the U.S. Senate gets a taste of South Carolina.

I am sure everyone in our Nation’s Capitol will be smiling as they enjoy these delicious South Carolina peaches.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, July 9, 2001, the Federal debt stood at $5,709,925,391,754.47, five trillion, seven
hundred nine billion, nine hundred twenty-five million, three hundred ninety-one thousand, seven hundred fifty-four dollars and forty-seven cents during the past 25 years.

During those years, Court TV has provided the Nation with an extraordinary civics lesson, enabling Americans to see their own criminal justice system first-hand. Viewers have seen some of the nation’s finest judges, prosecutors and defense attorneys at work and have watched the judicial process unfold—with the benefit of expert commentators and analysts. As part of that civics lesson, Court TV has enabled viewers to watch live trial coverage—for the first time ever—of cases involving such issues as, among other things: appellate arguments, breach of contract, jury selection, libel, medical malpractice, negligence, parole hearings, product liability, and even war crimes.

Mr. President, Court TV has also made a special commitment to helping reduce youth violence. Its public affairs initiative, “Choices and Consequences,” has received the cable television industry’s highest public service award, the Golden Beacon Award, for its efforts to keep our Nation’s children out of our Nation’s courts. A middle school curriculum, based on trial coverage of youth offenders, has been provided to more than 10,000 schools. A new high school curriculum, which addresses bullying among other issues, is now available online and through Court TV’s “Cable in the Classroom” Feed. Cable television operators in more than 50 cities in 24 states, plus the District of Columbia, have also partnered with Court TV in supporting “Your Town” town meetings, which have addressed a wide range of issues affecting adolescents and have been aired nationally.

Earlier this year, Court TV chairman and CEO Henry Schleiff was honored to be joined by the Speaker of the U.S. House of Representatives, J. Dennis Hastert, as well as Minority Leader Richard Gephardt and our colleague, Senator Sam Brownback, among other Congressional leaders, in announcing a new “media literacy” campaign designed to help students distinguished between the positive and negative images that they see in all forms of media—and to help them understand the consequences of actions in the real world that may seem inconsequential onscreen.

Today, I am pleased to recognize the important contribution that Court TV has made to public understanding of the judicial branch of Government and to criminal justice issues more broadly, and we applaud and encourage its continued efforts to work with our nation’s schools to reduce youth violence and help students understand that choices made at an early age can have consequences for a lifetime.

CELEBRATING THE 150TH ANNIVERSARY OF THE PHOENIX HOME LIFE MUTUAL INSURANCE COMPANY

Mr. DODD, Mr. President, I rise today to congratulate the Phoenix Home Life Mutual Insurance Company as it celebrates its 150th anniversary.

From its modest birth in 1851 as the Hartford-based American Temperance Life Insurance Company, the Phoenix has evolved into one of the largest and most well-respected insurance companies in the world. It has weathered the storms of the nineteenth and twentieth centuries—including civil war, depressions, and world wars. But true to its name, the Phoenix has emerged from these and other trials with an unswerving commitment to corporate innovation, social progress, and community service.

The Phoenix has espoused the principle—one that encourages employees to invest human capital as a means of promoting community development. As a result, Phoenix serves as a paradigm for businesses truly committed to improving the quality of life of the people they serve. In 2000 alone, the Phoenix Foundation contributed $1.6 million to charitable organizations across the country.

The Phoenix encourages its employees to devote 80 hours of company and personal time to community activities each year. The company also rewards its top 20 professional advisors through the Donor Award Program, which enables award recipients to designate up to $2,000 to a local charity. Over the years, the Donor Award Program has provided vital funds to many organizations, including the Juvenile Diabetes Foundation, the American Cancer Society, and the Make-a-Wish Foundation. Furthermore, Phoenix field offices have established a plethora of independent donation programs—many of which have benefited organizations such as the American Cancer Society, Habitat for Humanity, the YMCA, and the March of Dimes Birth Defects Foundation.

I am proud that the Phoenix’s commitment to community development has helped many local organizations in the State of Connecticut. By lending their professional expertise, leadership, and time to a number of local outreach initiatives, Phoenix employees have worked assiduously to make a difference in their communities. For example, Phoenix employees in the Hartford office work in conjunction with Foodshare each summer to deliver vegetables donated by Connecticut farmers to area soup kitchens and homeless shelters. And in 1999, a group of Phoenix employees planned and organized Connecticut’s first Adoption and Foster Care Exposition—an event that successfully promoted greater public awareness of these two important social issues.

The Phoenix has made significant contributions to the education of children. Through long-term partnerships with local schools such as the Fred D. Wish Elementary School in Hartford, Phoenix employees have worked individually with students in grades three through six to sharpen math skills and proficiency in the language arts. As a result, schools are seeing improved student attendance and higher student test scores. Phoenix also contributed $75,000 toward the establishment of the College Bowl, two Hartford-based organizations that provide education, culture, citizenship, health, and physical education programs for neighborhood children and
July 10, 2001

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2661. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report required by the Balanced Budget and Emergency Deficit Control Act of 1985; to the Committee on the Budget.

EC–2662. A communication from the Acting Associate Department Administrator for Management and Administration, Small Business Administration, transmitting, pursuant to law, the report of a vacancy, the designation of acting officer for the position of Associate Administrator, received on July 5, 2001; to the Committee on Small Business and Entrepreneurship.

EC–2663. A communication from the Acting Associate Department Administrator for Management and Administration, Small Business Administration, transmitting, pursuant to law, the report of a vacancy, the designation of acting officer for the position of Administrator, received on July 5, 2001; to the Committee on Small Business and Entrepreneurship.

EC–2664. A communication from the Acting Associate Department Administrator for Management and Administration, Small Business Administration, transmitting, pursuant to law, the report of a vacancy, the designation of acting officer for the position of Associate Administrator, received on July 5, 2001; to the Committee on Small Business and Entrepreneurship.

EC–2665. A communication from the Acting Associate Department Administrator for Management and Administration, Small Business Administration, transmitting, pursuant to law, the report of a vacancy, the designation of acting officer for the position of Chief Counsel for Advocacy, received on July 5, 2001; to the Committee on Small Business and Entrepreneurship.

EC–2666. A communication from the Acting Associate Department Administrator for Management and Administration, Small Business Administration, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Chief Counsel for Advocacy, received on July 5, 2001; to the Committee on Small Business and Entrepreneurship.

EC–2667. A communication from the Public Printer of the United States Government Printing Office, transmitting, the Annual Report for Fiscal Year 2000; to the Committee on Small Business and Entrepreneurship.

EC–2668. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report on the impact of the National Voter Registration Act of 1993 (NVRA) on the administration of elections for federal office during the preceding two-year period, 1999 through 2000; to the Committee on Rules and Administration.

EC–2670. A communication from the Acting Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled Cranberries Grown in the States of Massachu- setts, et al.; Establishment of Marketing Quantity and Allotment Percentages; Reform of Sales Histories and Other Modifi- cations Under the Cranberry Marketing Order; (FV01–929–2 FR and FV00–929–7 FR) received on July 2, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2671. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Aminoethoxyvinylglycine, Temporary Tolerance” (FRL6790–7) received on July 6, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2672. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “NIDRR—Rehabilitation of Persons who are Blind or Visually Impaired and Rehabilitation of Persons who are Deaf or Hard of Hearing” received on July 2, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2674. A communication from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled “Strategies for Promoting Information Technology—Based Educational Opportunities for Individuals with Disabilities; and Wayfinding Technologies for Individuals who are Blind” received on July 2, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2675. A communication from the Special Assistant, White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Commissioner of Rehabilitative Services Administration, Office of Special Education and Rehabilitative Services, received on July 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2676. A communication from the Special Assistant, White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Commissioner of Vocational and Adult Education, received on July 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the President of the Senate referred the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.
transmitting, pursuant to law, the report of a rule entitled “Extension of Expiration Dates for Several Body System Listings” (RIN0960–AF9) received on July 5, 2001; to the Committee on Finance.

EC-270. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “National Principal Contracts” (Notice 2001–44 and 2001–30) received on July 5, 2001; to the Committee on Finance.

EC-2710. A communication from the Regulation Administrator of the Health Care Financing Administrator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “State Child Health Revisions to the Regulations Implementing the State Children’s Health Insurance Program” (RIN0938–AL00) received on July 5, 2001; to the Committee on Finance.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. HIDEN for the Committee on Foreign Relations.

Pierre-Richard Prosper, of California, to be Ambassador at Large for War Crimes Issues. 
Nominee: Pierre-Richard Prosper.
Post: Ambassador at Large for War Crimes Issues.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:

1. Self: $1,000, 11/21/00, Republican Presidential Task Force
$100, 12/1/00, National Republican Congressional Committee
$50, 12/1/00, National Republican Congressional Committee
Jeanine C. Prosper (mother): none.
5. Grandparents: N/A.
6. Brothers: N/A.

Charles J. Swindells, of Oregon, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco. 
Nominee: Margaret DeBardeleben Tutwiler.
The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:

1. Self: $250, 4–1–99, Robb for Senate
$1,000, 4–28–99, Bush for President
$250, 9–5–99, Friends of Dylan Glenn
$200, 11–1–00, Kirk for Congress
$400, 2–12–99, Elizabeth Doyle for Pres. Exp.
$1,100 7–9–99, Cellular Telecommunications Industry Association PAC
$250, 9–29–00, Lazio 2000 Inc.
$1,200, 9–29–00, Cellular Telecommunications Industry Association PAC
$250, 6–29–99, McCain 2000
$500, 9–29–99, Cellular Telecommunications Industry Association PAC
$250, 10–13–98, Value Voters PAC
$500, 3–1–98, McCain for Senate
$1,000, 5–21–98, Cellular Telecommunications Industry Association PAC
$250, 10–9–98, Friends of John Warner 1996 Committee
$250, 3–1–98 Forbes for President Inc.
$1,200, 11–9–99, Kolbe 2002
2. Spouse: N/A
3. Children and Spouses: N/A.
5. Grandparents: Prince DeBardeleben—deceased; Mary Louise DeBardeleben—deceased; Herbert and Mary Addison—deceased.
6. Brothers and spouses—Temple Wilson Tutwiler (brother)
$250, 6–9–98, Alabama Republican Party Federal Account
$1,000, 6–30–99, Bush for President
$300, 11–6–95, Alabama Republican Party Federal Account
Lucy A. Tutwiler: none
7. Sisters and spouses—Ann Tutwiler West (sister)
$1,000, 4–5–99, Alexander for President
$1,000, 12–22–99, Bush for President
$1,000, 3–9–95, Alexander for President
$250, 19–18–95, Alexander for President

Wendy Jean Chamberlin, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister–Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.
Nominee: Wendy J. Chamberlin.
Post: Islamic Republic of Pakistan.
The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:

2. Spouse: none.
5. Grandparents: deceased.

William S. Farish, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Kingdom of Great Britain and Northern Ireland.

Nominee: William S. Farish, III.
Post: U.S. Ambassador to the United Kingdom
Nominate: May 22, 2001 of Great Britain.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:
1. Self: $500, 02/25/97, Republican Party of Kentucky $1,000, 02/27/97, National Republican Senate Committee $1,000, 04/23/97, New Republican Majority Fund
2. $1,000, 05/21/97, Baesler for Senate $1,000, 06/30/97, Citizens for Bunning $1,000, 06/30/97, Citizens for Bunning $2,000, 06/30/97, Anne Northup for Congress $1,000, 10/23/97, American Horse Council Committee $100, 02/18/97, Republican National Committee $1,000, 10/26/98, Scotty Baesler for U.S. Senate $1,000, 07/09/98, Fletcher for Congress '98 $2,000, 07/09/98, National Republican Senatorial Committee $1,000, 05/28/98, Fletcher for Congress $125, 06/09/98, McConnell Senate Committee $2,000, 07/09/98, National Republican Senatorial Committee $1,000, 07/09/98, Fletcher for Congress '98 $1,000, 10/26/98, Scotty Baesler for U.S. Senate $100, 02/24/99, Republican National Committee $2,000, 03/31/99, Anne Northup for Congress $2,000, 05/28/99, Fletcher for Congress $1,000, 06/15/99, McConnell Senate Committee $2,000, 07/01/99, George Bush Presidential Exploratory $1,500, 07/09/99, Churchill Downs Federal PAC $5,000, 07/09/99, Republican Party of Kentucky $5,000, 09/20/99, American Horse Council $1,000, 12/30/99, Baesler for Congress $1,000, 12/30/99, Friends of Guillani $1,000, 03/02/00, Republican Senatorial Inner Circle
5. $5,000, 06/16/00, Republican Party of Kentucky $1,000, 08/03/00, Laizo 2000 $5,000, 11/13/00, Victory 2000 (NY Rep. Party) $2,000, 08/13/00, Laizo 2000 $1,000, 10/19/00, Anne Northup for Congress $5,000, 10/26/00, Churchill Downs Federal PAC $1,000, 09/16/99, Ernest Fletcher; $1,000, 11/12/99, Anne Northup; $2,000, 09/02/00, Rick A. Laizo

$1,000, 09/28/00, Ernest Fletcher $5,000, 11/99, Florida Recount Fund

1. Check originally issued by W.S. Farish and later corrected and credited to Sarah Farish.
2. Northrop Campaign reported second $1,000 contribution dated 05/2000 to Fletcher Campaign in error.
3. Children and spouses—W.S. Farish, IV and Kelley Farish: $1,000, 05/19/98, Ernest Fletcher $1,000, 09/25/98, Ernest Fletcher $1,000, 09/25/98, Ernest Fletcher $2,000, 06/18/99, Ernest Fletcher $1,000, 06/30/99, George W. Bush $1,000, 07/13/99, George W. Bush $1,000, 09/29/99, American Horse Council $1,000, 06/30/00, Ernest Fletcher

5. Entries for campaign contribution listed above. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—amount, date, and donee:

1. Self: $1,000, 1/29/97, Paxon for Congress $1,000, 2/3/97, Quinn for Congress
2. $1,000, 10/7/98, NY Republican Federal Campaign Committee
3. $1,000, 3/9/98, Quinn for Congress
4. $1,000, 4/1/98, Reynolds for Congress $200, 10/13/98, Friends of Houghton $1,000, 11/2/98, Friends of John LaFalce $1,000, 2/24/99, Reynolds for Congress $1,000, 3/8/99, Quinn for Congress $1,000, 6/17/99, Friends of Giuliani Exploratory Cte.
5. $1,000, 6/30/99, Bush for President
6. $1,000, 1/2/99, Bush-Cheney 2000 Compliance Committee, Inc.
7. $1,220, 2/22/99, Quinn for Congress
8. $5,000, 3/4/00, NY Republican Federal Campaign Committee
9. $1,000, 3/3/00, Reynolds for Congress
10. $1,000, 3/20/00, Friends of LaFalce
11. $1,000, 4/26/00, Friends of Giuliani Exploratory Cte.
12. $3,600, 6/29/00, RNC Republican National State Elections Cte.—returned
13. $1,000, 6/30/00, Laizo 2000—Primary
14. $1,000, 3/6/00, Laizo 2000—General
15. $7,100, 10/08/00, RNC Victory 2000 $250, 10/30/00, Dallas County Republican Party
16. $1,000, 2/27/01, Reynolds for Congress
17. $1,000, 2/27/01, Quinn for Congress
18. $1,000, 3/8/01, Friends of Schume

In-kind contributions generated by me for the fundraiser—Bush for President held in my home:
$100, 8/10/00, Carol Buckingham $250, 8/29/00, Carol Buckingham $350, 8/24/00, Carol Buckingham $200, 8/29/00, Carol Buckingham $250, 9/8/00, Carol Buckingham $250, 9/15/00, Carol Buckingham $3,909, 9/29/00, Floristry

* Clerical and administrative support.

2. Spouse—Donna: $1,000, 6/01/97, Friends of D'Amato $1,000, 5/26/99, George W. Bush Compliance Funds
3. $1,000, 9/2/99, George W. Bush Compliance Funds

4. $1,000, 10/15/99, Governor George W. Bush for President
5. $561, 10/17/00, RNC State Elections Cte.—returned

6. $1,000, 4/10/00, Friends of Giuliani
7. $2,000, 6/30/00, Laizo 2000
8. $1,000, 9/4/00, Reynolds for Congress
9. $1,000, 9/9/99, Governor George W. Bush for President; David Golia $1,000, 9/9/99, Governor George W. Bush for President; Laura Golia (daughter-in-law):
Howard H. Leach, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

Nominee: Howard H. Leach.

Post: Ambassador to France.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions—Amount, Date, and Donee

$1,000, 14-Jan-97, Frank Riggs for Congress, California
$35,000, 17-Mar-97, RNSEC
$1,000, 22-Feb-98, Friends of D’Amato, Senate, New York
$10,000, 19-Feb-98, Friends of D’Amato, National Committee
$15,000, 25-Feb-98, Republican National Committee
$2,000, 14-Apr-98, State Election Committee
$25,000, 14-Apr-98, Americans for Hope Growth and Opportunity, Steve Forbes, 501(c)(4)
$25,000, 05-Aug-98, National Republican Senatorial Committee
$10,000, 05-Aug-98, GOPAC
$5,000, 25-Aug-98, Campaign American, Dan Quayle
$1,000, 01-Sep-98, Roseman for Congress, Mississippi
$30,000, 18-Sep-98, Foundation for Responsible Government, 501(c)(4), polling, advertising research issues advocacy
$5,000, 18-Sep-98, Republican National Leadership Council, Republican Candidates
$1,000, 27-Jan-99, Quayle 2000 Exploratory Committee
$1,000, 9-Mar-99, Governor George W. Bush Presidential Exploratory Committee
$1,000, 31-Mar-99, Tom Campbell for Congress Committee
$350, 31-Mar-99, Christopher Cox Congressional Committee
$200, 15-Apr-99, Republican National State Election Committee
$5,000, 13-Apr-99, Republican National State Election Committee
$2,000, 10-May-99, Friends of Giuliani
$1,000, 27-May-99, Rogan Campaign Committee
$2,000, 2-Jun-99, Frist 2000
$1,000, 2-Jun-99, Friends of George Allen
$20,000, 15-Jun-99, 1999 Republican Senate-House Dinner
$10,00, 28-Jul-99, RNSEC, Dinner—Jim Nichols
$1,000, 16-Aug-99, Snow for Senate
$10,000, 16-Aug-99, GOPAC
$1,000, 30-Sep-99, George W. Bush Compliance Committee
$1,000, 1-Nov-99, Republican Jewish Coalition 501(c)(4)
$1,000, 10-Nov-99, Christopher Cox for Congress, California
$1,000, 10-Nov-99, Abraham Senate 2000, Michigan
$5,000, 11-Nov-99, California Republican Party, Victory 2000—Federal
$1,000, 7-Dec-99, Friends or Dick Lugar, Indiana
$1,000, 7-Dec-99, Ashcroft for Senate, Missouri
$1,000, 7-Dec-99, Cunneen for Congress, Congress, California
$50,000, 2-Feb-00, Shape the Debate, Pete Wilson, 501(c)(4)
$25,000, 1-Feb-00, Republican Leadership council
$1,000, 22-Feb-00, McCollum for US Senate, Florida
$1,000, 22-Feb-00, Tom Campbell for Senate, California, primary
$30,000, 13-Mar-00, Giuliani Victory Committee, National Republican Senatorial Committee
$1,000, 13-Mar-00, Claude Hutchinson for Congress Committee
$65, 29-Mar-00, California Republican Party, Delegate Selection Convention
$1,000, 26-Apr-00, Tom Campbell for Senate, California—General
$400, 27-Apr-00, California Republican National, Convention Delegation
$25,000, 18-May-00, The Senatorial Trust
$1,000, 20-Jun-00, Giuliani Reimbursement
$2,500, 30-Jun-00, NRSC Convention Gala
$500, 6-Jul-00, 2000 RNC Convention Gala
$5,000, 24-Jul-00, New Republican Majority Fund
$1,000, 24-Jul-00, Jim Cunneen for Congress, General
$10,000, 24-Jul-00, GOPAC
$25,000 (check from Leach Carital LLC), 24-Jul-00, RNSEC
$15,000, RNSEC
$50,000 (check from San Francisco Aviation Co), RNSEC
$1,000, 29-Jul-00, Roth Senate Committee
$1,000, 29-Jul-00, Friends of George Allen
$1,000, 25-Sep-00, Lazio 2000, Senate, New York
$1,000, 25-Sep-00, Bob Franks for U.S. Senate—General
$5,300, 23-Oct-00, RNSEC
$5,000, 13-Nov-00, Bush-Cheney Recount Fund
$5,000, 28-Nov-00, Bush-Cheney Presidential Transition Foundation
$100,000, 22-Dec-00, Presidential Inaugural Committee
2001, None.

3. Children and spouses:

Howard A. Leach (son), $1,000, 6/20/99, G.W. Bush Exploratory Committee.
Elizabeth M. Leach (Betsy) (daughter-in-law), $1,000, 6/20/99, G.W. Bush Exploratory Committee.
CONGRESSIONAL RECORD—SENATE
July 10, 2001

S35, 12/6/98, Republican National Committee
Elizabeth K. Leach (Lisa) (daughter-in-law), none.
Thomas H. Leach (son):
$20, 11/1/97, SAFEPCAP, SAFEPCAP Political
Action Comm.
1998, none.
$50, 3/31/98, Republican National Committee
$50, 5/22/99, Republican National Committee
$50, 7/7/99, George W. Bush for President
$100, 4/11/00, SAFEPCAP, SAFEPCAP Political
Action Comm.
$50, 4/15/00, Republican National Committee
2001, none.
Margaret M. Leach (daughter-in-law):
$500.00, 7/17/99, George W. Bush for President.
Stephanie Leach (daughter), none.
Lisa Colgate (step-daughter), none.
Stephen Green (son-in-law):
$1,000, 6/7/2000, Lazio 2000 Inc.
$1,000, 6/7/2000, Lazio 2000 Inc.
$500, 11/3/00, Abraham for Senate
$500, 11/5/00, Rehberg for Congress
Adrine Colgate Jones (step-daughter):
$1,000, 10/12/2000, Lazio 2000 Inc.
Hugh Colton Jones: $100, 2000, McCain for
President.
Hilary Colgate McNerney (step-daughter):
$1,000, 10/9/1999, Bush for President.
Mark McNerney (son-in-law):
$1,000, 4/14/99, Bush for President.
2000, 3/21/00, Campbell for Senate-California
4. Parents: Deceased.
5. Grandparents: Deceased.
6. Brothers and spouses:
Edmund J. Leach, Jr., none.
Carol Leach, none.
7. Sisters and spouses:
Eleanor Merritt, none.
Jack Merritt, none.
William A. Eaton, of Virginia, a Career
Member of the Senior Foreign Service, Class
of Minister-Counselor, to be Assistant Secre-
ty of State (Administration).
Alexander R. Vershbow, of the District of
Columbia, a Career Member of the Senior
Foreign Service, Class of Career Minister, to
be Ambassador Extraordinary and Pleni-
totary of the United States of America to the
Russian Federation.
Post: U.S. Ambassador to Russian Federa-
tion.
The following is a list of all members of
my immediate family and their spouses. I
have asked each of these persons to inform
me of the pertinent contributions made by
them. To the best of my knowledge, the in-
formation contained in this report is com-
plete and accurate.
Contributions—amount, date, and donee
1. Self, none.
2. Spouse, none.
3. Children and spouses, Benjamin and
Gregory (sons), none.
4. Parents, Arthur and Charlotte Z.
Vershbow, none.
5. Grandparents, names (deceased).
6. Brothers and spouses, none.
7. Sisters and spouse, Ann R. Vershbow and
Charles Beitz.
$100, 11/27/97, Tom Allen, Maine Governor
$100, 8/3/98, Tom Allen, Maine Governor
$100, 10/13/00, Tom Allen, Maine Governor
Clark T. Randt, Jr., of Connecticut, to be Ambas-
sador Extraordinary and Pleni-
totary of the United States of America to the
People’s Republic of China.
Nominee: Clark T. Randt, Jr.
Post: Ambassador to China.
The following is a list of all members of
my immediate family and their spouses. I
have asked each of these persons to inform
me of the pertinent contributions made by
them. To the best of my knowledge, the in-
formation contained in this report is com-
plete and accurate.
Contributions—amount, date, and donee
1. Self, Clark T. Randt, Jr.:
$1,000, 5/26/1999, Governor George W. Bush
Presidential Exploratory Committee
$20,000, 6/5/2000, RNC President Trust
$1,000, 7/24/2000, RNC Republican National
State Elections Committee
$1,000, 12/1/2000, Bush-Cheney Recount Fund
$1,000, 12/6/2000, Bush/Cheney Presidential
Transition Fund
$2,200, 2/23/2001, RNC Republican National
State Elections Committee
2. Spouse, Sarah T. Randt:
$1,000, 5/26/1999, Governor George W. Bush
Presidential Exploratory Committee
$1,096.77, 10/4/2000, in-kind contribution of
breakfast expenses to RNC Presidential
Trust
3. Children and spouses: Clark T. Randt,
III, none; Paul M. Randt, none; and Clare T.
Randt, none.
4. Parents (deceased).
5. Grandparents (deceased).
6. Brothers and spouses: Thomas P. Randt:
$1,000, 5/20/1999, Governor George W. Bush
Presidential Exploratory Committee
Kim-Kay Randt, none; Dana M. Randt, none;
and Virginia H. Randt, none.
7. Sisters and spouses, none.
C. David Welch, of Virginia, a Career Mem-
ber of the Senior Foreign Service, Class of
Minister-Counselor, to be Ambassador Ex-
traordinary and Pleni-
totary of the United States of America to the
Arab Repub-
lic of Egypt.
Nominee: Charles David Welch.
Post: Cairo, Egypt.
The following is a list of all members of
my immediate family and their spouses. I
have asked each of these persons to inform
me of the pertinent contributions made by
them. To the best of my knowledge, the in-
formation contained in this report is com-
plete and accurate.
Contributions—amount, date, and donee
1. Self, none.
2. Spouse, Gretchen Gerwe Welch, none.
3. Children and spouses: Emma F. Welch,
none; Margaret E. Welch, none; and Hannah
A. Welch, none.
4. Parents: Donald M. Welch, Sr., 10/4/96,
Republican National Committee; and Jackie
B. Welch, none.
5. Grandparents (deceased).
6. Brothers and spouses: Joseph M. Welch
$25, 3/4/99, Libertarian Party
$10, monthly, beginning January 2001, Liber-
tarian Party
7. Sisters and spouses: Donna Elizabeth
Welch, none; and Thomas Pink, $100, 12/7/00,
George W. Bush, Republican Recount Cam-
paign.
Douglas Alan Hartwick, of Washington, a
Career Member of the Senior Foreign Serv-
ice, Class of Minister-Counselor, to be Amba-
sador Extraordinary and Pleni-
totary of the United States of America to the
Lao People’s Democratic Republic.
Nominee: Douglas Alan Hartwick.
Post: Laos.
The following is a list of all members of
my immediate family and their spouses. I
have asked each of these persons to inform
me of the pertinent contributions made by
them. To the best of my knowledge, the in-
formation contained in this report is com-
plete and accurate.
Contributions—amount, date, and donee
1. Self, Douglas Hartwick, none.
2. Spouse, Regina Z. Hartwick, none.
3. Children and spouses: Andrea Hartwick,
none; and Kirsten Hartwick, none.
5. Grandparents: Tolley/Hanna Hartwick,
none; and Mary/Elmer Thomas, none.
6. Brothers and spouses: Philip Hartwick,
none; and Rachel Hartwick, none.
7. Sisters and spouses: Mrs. Marcia
Mahoney, none; and Mr. Peter Mahoney,
none.
Daniel C. Kurtzer, of Maryland, a Career
Member of the Senior Foreign Service, Class
of Career Minister, to be Ambassador Ex-
traordinary and Pleni-
totary of the United States of America to Israel.
Nominee: Daniel Charles Kurtzer.
Post: Ambassador to the State of Israel.
The following is a list of all members of
my immediate family and their spouses. I
have asked each of these persons to inform
me of the pertinent contributions made by
them. To the best of my knowledge, the in-
formation contained in this report is com-
plete and accurate.
Contributions—amount, date, and donee
2. Spouse, Sheila Kurtzer, none.
3. Children and spouses: David Shimon
Kurtzer, none; Jared Louis Kurtzer, none;
and Jacob Doppelt Kurtzer, none.
4. Parents: Nathan and Sylvia Kurtzer,
none; and Minnie Doppelt, none.
5. Grandparents (deceased).
6. Brothers and spouses: Benjamin and
Me-lissa Kurtzer, none; and Ira Doppelt, none.
7. Sisters and spouses: Max and Gale
Bienstock, none; Richard and Debra Forman,
none; and Arthur and Joyce Mitlitz, none.
Clark Kent Ervin, of Texas, to be In-
pector General, Department of State.
Nominee: Mr. President for the
Committee on Foreign Relations, I re-
port favorably the following nomina-
tion list which was printed in the
RECORDs of the dates indicated, and
ask unanimous consent, to save the ex-
 pense of reprinting on the Executive
Calendar that these nominations lay at
the Secretary’s desk for the informa-
tion of Senators.
The PRESIDING OFFICER. Without
objection, it is so ordered.
Foreign Service nominations begin-
ing Stephen K. Morrison and ending
Joseph Laurence Wright II, which
nominations were received by the Sen-
ate and appeared in the CONGRESSIONAL
RECORD on June 12, 2001.
* Nomination was reported with rec-
ommendation that it be confirmed sub-
to the nominee’s commitment to
respond to requests to appear and test-
ify before any duly considered com-
mittee of the Senate.
(Nominations without an asterisk were
reported with the recommenda-
tion that they be confirmed.)

INTRODUCTION OF BILLS AND
JOINT RESOLUTIONS

The following bills and joint resolu-
tions were introduced, read the first
and second times by unanimous con-
sent, and referred as indicated:

By Mr. BREAUX:
S. 1158. A bill to amend the Internal Rev-
ue Code of 1986 to modify the active busi-
sness definition relating to distributions of
stock and securities of controlled corporations; to the Committee on Finance.

By Ms. COLLINS (for herself and Ms. SOWE):

S. 1159. A bill to direct the Secretary of the Army to repair and extend a wave attenuation system to protect fishermen and other boaters and promote the welfare of the town of Lubec, Maine; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER:

S. 1160. A bill to amend section 1714 of title 38, United States Code, to modify the authority of the Secretary of Veterans Affairs to provide dog-guides to blind veterans and authorize the provision of service dogs to hearing-impaired veterans and veterans with spinal cord injuries, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CRAIG (for himself, Mr. MCCONNELL, Mr. COCHRAN, Mr. ENZI, Mr. BURNS, Mr. KRIST, and Mr. HUTCHINSON):

S. 1561. A bill to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers; to provide a stable, legal, agricultural work force; to extend basic legal protections and better working conditions to more workers; to provide for a system of one-time, earned adjustment to legal status for certain agricultural workers; and for other purposes; to the Committee on the Judiciary.

By Mr. SARBANES (for himself, Mr. BIDEN, Mr. McCAIN, Mr. CAMPBELL, Ms. MUKULSKI, and Mr. CARPER):

S. J. Res. 18. A joint resolution memorializing fallen firefighters by lowering the United States flag to half-staff on the day of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. Res. 124. A resolution congratulating the University of the Pacific, and its faculty, for the university's 150th anniversary; considered and agreed to.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. Res. 125. A resolution commemorating the Major League Baseball All-Star Game and congratulating the Seattle Mariners; considered and agreed to.

ADDITIONAL COSPONSORS

S. 345

At the request of Mr. ALLARD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to strike the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 367

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 367, a bill to prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. 411

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 411, a bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

S. 530

At the request of Mr. GRASSLEY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 530, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind.

S. 543

At the request of Mr. WELLSTONE, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 550

At the request of Mr. DASCHLE, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 550, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 562

At the request of Mr. GRAHAM, the name of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 562, a bill to amend titles XIX and XXI of the Social Security Act and to modify the credit for medical and long term care services for Indian children.

S. 583

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 583, a bill to amend the Food Stamp Act of 1977 to improve nutrition assistance for working families and the elderly, and for other purposes.

S. 638

At the request of Mr. DOMENICI, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 638, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property, and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 756

At the request of Mr. GRASSLEY, the name of the Senator from Alaska (Mr. MURkowski) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 756, a bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for electricity produced from biomass, and for other purposes.

S. 803

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 803, a bill to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

S. 805

At the request of Mr. COCHRAN, the name of the Senator from Montana (Ms. COLLINS) was added as a cosponsor of S. 805, a bill to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculo-pharyngeal, and emery-dreifuss muscular dystrophies.

S. 824

At the request of Mr. GRAHAM, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 824, a bill to establish an informatics grant program for hospitals and skilled nursing facilities.

S. 829

At the request of Mr. BROWNBACK, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 829, a bill to establish the National Museum of African American History and Culture within the Smithsonian Institution.

S. 833

At the request of Mr. DODD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 833, a bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

S. 847

At the request of Mr. DAYTON, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 883

At the request of Mr. GRASSLEY, the name of the Senator from Nevada (Mr. REED) was added as a cosponsor of S. 883, a bill to amend the Internal Revenue Code of 1986 to provide for the
treatment of certain expenses of rural letter carriers.

S. 896

At the request of Mr. REID, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

S. 890

At the request of Mrs. LINCOLN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 866, a bill to amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the medicare program that have received an organ transplant, and for other purposes.

At the request of Mr. BAUCUS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 897, a bill to amend title 39, United States Code, to provide that the procedures relating to the closing or consolidating of a post office be extended to the relocation or construction of a post office, and for other purposes.

S. 896

At the request of Mr. ENZI, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 897, a bill to amend title 39, United States Code, to provide that the procedures relating to the closing or consolidation of a post office be extended to the relocation or construction of a post office, and for other purposes.

S. 904

At the request of Mr. SCHUMER, the name of the Senator from Ohio (Mr. DeWINE) was added as a cosponsor of S. 904, a bill to amend the Iran and Libya Sanctions Act of 1996 to extend authorities under that Act.

S. 899

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. COCHRAN) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1002

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1002, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 1006

At the request of Mr. HAGEL, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1006, a bill to provide for the energy security of the United States and promote environmental quality by enhancing the use of motor vehicle fuels from renewable sources, and for other purposes.

S. 1021

At the request of Mr. LUGAR, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1021, a bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004.

S. 1032

At the request of Mr. FRIST, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1032, a bill to expand assistance to countries seriously affected by HIV/AIDS, malaria, and tuberculosis.

S. 1033

At the request of Ms. STABENOW, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1033, a bill to amend the Federal Water Pollution Control Act to protect 1/5 of the world’s fresh water supply by directing the Administrator of the Environmental Protection Agency to conduct a study on the known and potential environmental effects of oil and gas drilling on land beneath the water in the Great Lakes, and for other purposes.

S. 1125

At the request of Mr. McCONNELL, the names of the Senators from New Hampshire (Mr. GREGG), the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 1125, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

S. 1135

At the request of Mr. GRAHAM, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1135, a bill to amend title XXV of the Social Security Act to provide comprehensive reform of the medicare program, including the provision of coverage of outpatient prescription drugs under such program.

S. RES. 121

At the request of Mr. KERRY, the names of the Senators from Indiana (Mr. LUGAR), the Senator from Oregon (Mr. WyDEN) and the Senator from Missouri (Mrs. CARNahan) were added as cosponsors of S. Res. 121, a resolution expressing the sense of the Senate regarding the policy of the United States at the 53rd Annual Meeting of the International Whaling Commission.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Mr. SARRANES) was added as a cosponsor of a concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 34

At the request of Mr. CAMPBELL, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Con. Res. 34, a concurrent resolution congratulating the Baltic nations of Estonia, Latvia, and Lithuania on the tenth anniversary of the reestablishment of their full independence.

S. CON. RES. 45

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

AMENDMENT NO. 862

At the request of Mr. SCHUMER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 862 proposed to S. 1077, an original bill making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 863

At the request of Mr. FEINGOLD, the names of the Senators from Illinois (Mr. DURBIN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 863 proposed to S. 1077, an original bill making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 865

At the request of Mr. VOINOVICH, the names of the Senators from Colorado (Mr. ALLARD), the Senator from Illinois (Mr. FITZGERALD), and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of amendment No. 865 proposed to S. 1077, an original bill making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 866

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of amendment No. 866.

At the request of Mr. FEINGOLD, his name was added as a cosponsor of amendment No. 866, supra.

At the request of Mr. CONRAD, the name of the Senator from Missouri (Mrs. CARNahan) was added as a cosponsor of amendment No. 866, supra.

AMENDMENT NO. 869

At the request of Mr. KYL, his name was added as a cosponsor of amendment No. 869 proposed to S. 1077, an original bill making supplemental appropriations for the fiscal year ending July 10, 2001.
Amendment No. 870

At the request of Mr. INHOFE, his name was added as a co-sponsor of amendment No. 870 proposed to S. 1077, supra.

Amendment No. 870

At the request of Mr. HUTCHINSON, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a co-sponsor of amendment No. 870 proposed to S. 1077, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX:

S. 1158. A bill to amend the Internal Revenue Code of 1986 to modify the active business definition relating to distributions of stock and securities of controlled corporations; to the Committee on Finance.

Mr. BREAUX. Mr. President, I rise today to introduce tax legislation which proposes only a small technical modification of current law, but, if enacted, would provide significant simplification of routine corporate reorganizations. The legislation is identical to S. 773 which I introduced on April 13 of last year.

This proposed change is small but very important. It would not alter the substance of current law in any way. It would, however, greatly simplify a common corporate transaction. This small technical change will alone save corporations millions of dollars in unnecessary expenses and economic costs that are incurred when they divide their businesses.

Past Treasury Departments have agreed, and I have no reason to believe the current Treasury Department will feel any differently, that this change would bring welcome simplification to section 355 of the Internal Revenue Code. Indeed, the Clinton Administration in its last budget submission to the Congress had proposed this change. The last scoring of this proposal showed no loss of revenue to the U.S. Government, and I am aware of no opposition to its enactment.

Corporations, and affiliated groups of corporations, often find it advantageous, or even necessary, to separate two or more businesses. The division of AT&T from its local telephone companies is an example of such a transaction. The reasons for these corporate divisions are many, but probably chief among them is the ability of management to focus on one core business.

At the end of the day, when a corporation divides, the stockholders simply have the stock of two corporations, instead of one. The Tax Code recognizes this is not an event that should trigger tax, as it includes corporate divisions among the tax-free reorganization provisions.

One requirement the Tax Code imposes on corporate divisions is very awkwardly drafted, however. As a result, an affiliated group of corporations that wishes to divide must often engage in complex and burdensome preliminary reorganizations in order to accomplish what, for a single corporate entity, would be a rather simple and straightforward spinoff of a business to its shareholders. The small technical change I propose today would eliminate the need for these unnecessary transactions, while keeping the statute true to Congress's original purpose.

More specifically, section 355, and related provision of the Code, permits a corporation or an affiliated group of corporations to divide on a tax-free basis into two or more separate entities with separate assets. There are numerous requirements for tax-free treatment of a corporate division, or 'spinoff,' including continuity of historical shareholder interest, continuity of the business enterprises, business purpose, and absence of any device to distribute earning and profits. In addition, section 355 requires that each of the divided corporate entities be engaged in the active conduct of a trade or business. The proposed change would alter none of these substantive requirements of the Code.

Section 355(b)(2)(A) currently provides an attribution or "look through" rule for groups of corporations that operate active businesses under a holding company, which is necessary because a holding company, by definition, is not itself engaged in an active business.

This lookthrough rule inexplicably requires, however, that 'substantially all' of the stock of the holding company consist of stock of active controlled subsidiaries. The practical effect of this language is to prevent holding companies from engaging in spinoffs if they own almost any other assets. This is in sharp contrast to corporations that operate businesses directly, which can own substantial assets unrelated to the business and still engage in tax-free spinoff transactions.

In the real world, of course, holding companies may, for many sound business reasons, hold other assets, such as non-controlling, less than 80 percent, interests in subsidiaries, controlled subsidiaries that have been owned for less than three years, which are not considered "active businesses" under section 355, or a host of non-business assets. Such holding companies routinely undertake spinoff transactions, but because of the awkward language used in section 355(b)(2)(A), they must first undertake one or more, often a series of, preliminary reorganizations solely for the purpose of complying with this inexplicable language of the Code.

Such preliminary reorganizations are at best costly, burdensome, and without any business purpose, and at worst, they seriously interfere with business operations. In a few cases, they may be so costly as to be prohibitive, and cause the company to abandon an otherwise sound business transaction that is clearly in the best interest of the corporation and the businesses it operates.

There is no tax policy reasons, tax advisors agree, to require the reorganization of a consolidated group that is clearly engaged in the active conduct of a trade or business, as a condition to a spinoff. Nor is there any reason to treat affiliated groups differently than single operating companies. Indeed, no one has ever suggested one. The legislative history indicates Congress was concerned about non-controlled subsidiaries, which are inadequately addressed, no consolidated groups.

For many purposes, the Tax Code treats affiliated groups as a single corporation. Therefore, the simple remedy I am proposing today for the problem created by the awkward language of section 355(b)(2)(A) is to apply the active business test to an affiliated group as if it were a single entity.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SECTION 1. MODIFICATION OF ACTIVE BUSINESS DEFINITION.

(a) IN GENERAL.—Section 355(b)(2) of the Internal Revenue Code of 1986 (defining active conduct of a trade or business) is amended by adding at the end the following: "For purposes of subparagraph (A), all corporations that are members of a consolidated group (as defined in section 1504) shall be treated as a single corporation."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions or transfers after the date of the enactment of this Act.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 1159. A bill to direct the Secretary of the Army to repair and expand a wave attenuation system to protect fishermen and other boaters and promote the welfare of the town of Lubec, Maine; to the Committee on Environment and Public Works.

Ms. COLLINS. Mr. President, I rise today to introduce the Lubec Safe Harbor Act of 2001.

Small communities up and down the coast of Maine literally depend upon the sea for their survival. From the rich fishing grounds that supply Maine’s great fishing industry to the beautiful coastlines that draw tourist
by both land and water, the sea provides Maine's coastal communities with their livelihood. But while the sea provides life and income to Maine's coastal communities, it can also take back what it gives.

One small community in Maine that has been particularly hard hit by the sea's fury is Lubec. In 1997, a winter storm took the lives of two Lubec fishermen. Earlier this year, storms destabilized the existing wave attenuation system in Lubec and consequently caused extensive damage to the Lubec marina. The destruction has been very difficult for this small town, whose existence, like many coastal Maine communities, is largely dependent on fishing and tourists who arrive by boat. Without the safe harbor, the town of Lubec's fishermen are further at risk.

Today, I am introducing legislation that directs the Army Corps of Engineers to construct a wave attenuation system for the Town of Lubec. For the sake of the safety of the fishermen of Lubec and the well-being of the community, this legislation directs the Army Corps to begin work immediately. My legislation authorizes $2.2 million dollars for the Army Corps to complete this project.

Call upon my colleagues to recognize the urgency of this situation. The longer Lubec goes without a safe harbor, the greater the risk to the lives of Lubec's fishermen, and the greater the threat to the economic well-being of this community. I ask my colleagues to help me pass this legislation as soon as possible.

I am pleased to be joined in this effort by my colleague from Maine, Senator Snowe. I know she will also work very hard on behalf of the people of Lubec to see this legislation enacted.

By Mr. ROCKEFELLER:
S. 1160. A bill to amend section 1714 of title 38, United States Code, to modify the authority of the Secretary of Veterans Affairs to provide dog-guides to blind veterans and authorize the provision of service dogs to hearing-impaired veterans and veterans with spinal cord injuries, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, I am pleased to introduce legislation today that would make guide dogs more available to veterans in need. Service dogs, or "guide dogs", have traditionally been viewed as being helpful only to those who are visually impaired. However, in recent years, primarily as a result of the Americans With Disabilities Act, there has been a push to find alternative methods of providing assistance to people with various kinds of disabilities. While there have been many technological developments in this field, there still remains a need for long-term assistance that allows for the most possible independence on the part of the disabled individual.

Specifically, my legislation would enable the Department of Veterans Affairs to provide hearing-impaired veterans and veterans with spinal cord injury or dysfunction, in addition to blind veterans, the ability to obtain service dogs to assist them with everyday activities.

There are numerous ways in which service dogs can assist their owners. Tasks such as opening and closing doors, turning switches on and off, carrying bags, and dragging a person to safety in the case of an emergency are just a few of the standard duties for service dogs. Their ability to perform these types of duties makes them invaluable to those who require day-to-day aid. Having this sort of assistance can make a big difference in terms of offering not only physical support, but companionship as well.

Various types of evidence illustrate the value of companion pets, not just to the disabled, but to everyone. The Journal of the American Medical Association published a trial study a few years ago that examined the impact of service dogs on the lives of people with disabilities—both in terms of economic and social impacts.

With regard to social considerations, researchers found that all participants had increased levels of self-esteem, independence, and community integration. The economic benefit was exemplified through a sharp decrease in the number of paid assistance hours. Overall, the JAMA study concluded that service dogs can greatly improve the quality of life for the disabled.

In closing, I extend my thanks to the Paralyzed Veterans Association, who assisted me invaluably in preparing this legislation. Their hard work and dedication to this issue have been a great help, and I am proud to have worked with them to develop this bill.

I urge my Senate colleagues to join me in seeking to provide greater accessibility to assistance for disabled veterans. They have sacrificed for all of us, and deserve every effort we can make to restore their sense of independence.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1160
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION AND ENHANCEMENT OF AUTHORITY TO PROVIDE DOG-GUIDES AND SERVICE DOGS TO VETERANS WITH DISABILITIES.

(a) ENHANCEMENT OF AUTHORITY—Subsection (b) of section 1714 of title 38, United States Code, is amended to read as follows:

"(b)(1) The Secretary may provide a dog-guide trained for the aid of the blind, and

(2) Any veteran with a spinal cord injury or dysfunction who is entitled to disability compensation with—

(A) a dog-guide trained for the aid of the blind; and

(B) any other equipment for aid in overcoming the disability of blindness.

(3) In providing a dog-guide or service dog to a veteran under this subsection, the Secretary may pay travel and incidental expenses (under the terms and conditions set forth in section 111 of this title) of the veteran and from the veteran's home and incurred in becoming adjusted to the dog-guide or service dog, as the case may be.

(b) CONFORMING AND CLERICAL AMENDMENTS—The section is amended to read as follows:

"1714. Fitting and training in use of prosthetic appliances; dog-guides and service dogs.

(2) The table of section at the beginning of chapter 17 of that title is amended by striking the item relating to section 1714 and inserting the following new item:

"1714. Fitting and training in use of prosthetic appliances; dog-guides and service dogs."

By Mr. CRAIG (for himself, Mr. McCONNELL, Mr. COCHRAN, Mr. ENZI, Mr. BURNS, Mr. Frist, and Mr. HUTCHINSON):
S. 1161. A bill to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers; to provide a stable, legal, agricultural work force; to extend basic legal protections and better working conditions to more workers; to provide for a system of one-time earned adjustment to legal status for certain agricultural workers; and for other purposes; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, I am pleased to have joined several colleagues this week in introducing a new, improved version of the Agricultural Job Opportunity, Benefits, and Security Act, the "AgJOBS" bill.

We are facing a growing crisis, for both farm workers and growers. We want and need a stable, predictable, legal work force in American agriculture.

Willing American workers deserve a system that puts them first in line for available jobs with fair, market wages. We want and need all workers to receive decent treatment and equal protection under the law.

Consumers deserve a safe, stable, domestic food supply.
July 10, 2001

American citizens and taxpayers deserve secure borders and a government that respects the rule of law. Yet Americans are being threatened on all these counts, because of a growing labor shortage in agriculture, while the only program currently in place to respond, the H-2A Guest Worker Program, is profoundly broken.

The problem is only growing worse. Therefore, we are introducing a new, improved bill. The name of the bill says it all—“AgJOBS”.

Our farm workers need this reform bill.

There is no debate about whether many, or most, farm workers are aliens. They are. And they will be, for the foreseeable future. The question is whether they will be here legally or illegally.

Immigrants not legally authorized to work in this country know they must work in hiding. They cannot even claim basic legal rights and protections. They are vulnerable to predation and exploitation. They sometimes have been stuffed inhumanly into dangerously enclosed truck trailers and car trunks, in order to be transported, hidden from the view of the law, around the clock. In fact, they have been known to pay “coyotes”, labor smugglers, $1,000 and more to be smuggled into this country.

In contrast, legal workers have legal protections. They can assert wage, safety, and other legal protections. They can bargain openly and join unions. H-2A workers, in fact, are even guaranteed housing and transportation.

Clearly, the status quo is broken.

Domestic American workers simply are not being found to fill agricultural jobs.

Our own government estimated that half of the total 1.6 million agricultural work force are not legally authorized to work in this country. The estimate is probably low: it’s based on self-disclosure by illegal workers to government interviewers.

Some actually have suggested that there is no labor shortage, because there are plenty of illegal workers. This is not an acceptable answer.

Congress has shown its commitment over the past few years to improve the security of our borders, both in the 1996 immigration law and in subsequent appropriations.

Between computerized checking by the Social Security Administration and audits and raids by the Immigration and Naturalization Service, more and more employers are discovering they have undocumented employees; and more and more workers here illegally are being discovered and evicted from their jobs.

Outside of H-2A, employers have no reliable assurance that their employees are legal.

It’s worse than a Catch-22, in the law actually punishes the employer who could be called “too diligent” in inquiring into the immigration document of prospective workers. The H-2A status quo is slow, bureaucratic, and inflexible. It does nothing to recognize the uncertainties farmers face, from changes in the weather to global market demands.

The H-2A status quo is complicated and legalistic. The Department of Labor misses statutory deadlines in processing the applications. The solution we need is the AgJOBS Act of 2001.

This is win-win legislation.

It will elevate and protect the rights, working conditions, and safety of workers. It will help workers, first domestic American workers, then other workers. The same for foreign guest workers, find the jobs they want and need.

It will assure growers of a stable, legal supply of workers, within a program that recognizes market realities. The adjusted-worker provisions will also give growers one-time assistance in adjusting to the new labor market realities of the 21st Century.

It will assure all Americans of a safe, consistent, affordable food supply.

I invite the rest of my colleagues to join us as cosponsors; and I urge the Senate and the House to act promptly to enact this legislation into law.

I ask unanimous consent that a summary of this bill be included in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

**The Agricultural Job Opportunity, Benefits, and Security Act of 2001**

AgJOBS II is legislation reforming the current, cumbersome H-2A agricultural guest worker program and, for non-H-2A agricultural workers, creating a program in which employers can hire workers from outside the U.S. who are already here, legally or illegally, and who can work in agriculture.

This bill builds on the significant progress made last year, in legislation, hearings, and the introduction of the AgJOBS I (S. 184), the original Agricultural Job Opportunity, Benefits, and Security Act (AgJOBS) and other proposals and ideas discussed before and since, among Members of Congress, the Administration, and the agriculture community.

This new bill also addresses many of the best ideas in similar legislation introduced in the 104th Congress (S. 184, the original Agricultural Job Opportunity, Benefits, and Security Act (AgJOBS)) and other proposals and ideas discussed before and since, among Members of Congress, the Administration, and the agriculture community.

The new bill would replace the current cumbersome with a streamlined “attestation” process like the one now used for H-1B tech workers, speeding up certification of H-2A employers and the hiring of guest workers.

The new bill sets the prevailing wage as the standard, minimum wage for guest workers admitted under the H-2A program, instead of the unrealistic “premium” wage currently mandated on H-2A employers (called the Adverse Economic Wage Rate), that often combines completely dissimilar worker categories in computing one wage rate.

Participating employers would continue to furnish housing and transportation for H-2A workers. Other current H-2A labor protections for both H-2A and domestic workers would be continued.

Highlights of the new status adjustment program

To qualify for adjustment to legal status, an incumbent worker must have worked in the United States in agriculture for at least three years in any 12-month period during the last 18 months. The average non-casual farm worker works 150 days a year.) The bill creates a time-adjustment opportunity, only for experienced and valued work force who are already in the United States by July 4, 2001.

To earn adjustment of status and the right to stay and work legally in the United States, a qualified worker must continue to work in U.S. agriculture at least 150 days each year, in each of 4 of the next 6 years.

During this 4-6 year period, the adjusting worker would have non-immigrant status and would be required to return to his or her home country for at least 2 months a year, unless he or she is the parent of a child born in the United States (i.e., a U.S. citizen), gainfully employed, actively seeking employment, or prevented by a serious medical condition from returning to work. The worker may also work in another industry, as long as the agriculture work requirement is satisfied. The worker would have to check in once a year with the INS to verify compliance with the law and report his or her work history.

Upon completion of the status adjustment program, the adjusted worker would be eligible for legal permanent resident status. Considering the time elapsed from when a worker first applies to enter the adjustment process, this gives an adjusted worker advantage over regular immigrants beginning the legal immigration process at the same time.
By Mr. SARBANES (for himself, Mr. BIDEN, Mr. McCAIN, Mr. CAMPBELL, Ms. MUKULSKI, and Mr. CARPER), to recognize the courage and commitment of America’s fire service and to pay special tribute to those firefighters who have made the ultimate sacrifice in the line of duty. Specifically, this legislation requires that the United States flag be flown at half-staff at all Federal facilities on the occasion of the annual National Fallen Firefighters Memorial Service at Emmitsburg, Maryland.

Our Nation’s firefighters are among our most dedicated public servants. Indeed, few would question the fact that our fallen firefighters are heroes. Throughout our Nation’s history, we have recognized the passing of our public servants by lowering our Nation’s flag to half-staff in their honor. In the past, this list has included elected officials, members of the Armed Services and America’s peace officers. In my view, our fallen firefighters are equally deserving of this high honor.

For the past nineteen years, a memorial service has been held on the campus of the National Fire Academy in Emmitsburg, to honor those firefighters who have given their lives while protecting the lives and property of their fellow citizens. Since 1981, the names of 2,081 fallen firefighters have been inscribed on plaques surrounding the National Fallen Firefighters Memorial, a Conventionally designated monument to these brave men and women. On October 7, at the 20th Annual National Fallen Firefighters Memorial Service, an additional 33 names will be added.

Over the years, I have worked very closely with the National Fallen Firefighters Foundation to ensure that the National Fallen Firefighters Memorial Service is an occasion befitting the sacrifices that these individuals have made. In my view, lowering the United States flag to half-staff is an essential component of this “Day of Remembrance.” It will be a fitting tribute to the roughly 100 men and women who die each year performing their duties as our Nation’s career and volunteer firefighters. It will also serve to remind us of the critical role played by the 1.2 million fire service personnel who risk their lives every day to ensure our safety and that of our communities.

I ask unanimous consent that this joint resolution be printed in the Record and urge my colleagues to support its swift passage.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 18. A joint resolution memorializing fallen firefighters by lowering the United States flag to half-staff on the day of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland; to the Committee on the Judiciary.

Mr. SARBANES, Mr. President, today I am introducing legislation, together with my colleagues Senators BIDEN, MCCAIN, CAMPBELL, MUKULSKI and CARPER, to recognize the courage and commitment of America’s fire service and to pay special tribute to those firefighters who have made the ultimate sacrifice in the line of duty. Specifically, this legislation requires that the United States flag be flown at half-staff at all Federal facilities on the occasion of the annual National Fallen Firefighters Memorial Service at Emmitsburg, Maryland.

Our Nation’s firefighters are among our most dedicated public servants. Indeed, few would question the fact that our fallen firefighters are heroes. Throughout our Nation’s history, we have recognized the passing of our public servants by lowering our Nation’s flag to half-staff in their honor. In the past, this list has included elected officials, members of the Armed Services and America’s peace officers. In my view, our fallen firefighters are equally deserving of this high honor.

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I ask unanimous consent that this joint resolution be printed in the Record and urge my colleagues to support its swift passage.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 18. Whereas 1,200,000 men and women comprise the fire service in the United States; Whereas the fire service is considered one of the most dangerous jobs in the United States; Whereas fire service personnel selflessly respond to over 16,000,000 emergency calls annually without reservation and with an unwavering commitment to the safety of their fellow citizens; Whereas fire service personnel are the first to respond to a fire, medical emergency, spill of hazardous materials, natural disaster, act of terrorism, or transportation accident; and Whereas approximately 100 fire service personnel die annually in the line of duty: Now, therefore, be it Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That each year, the United States flags on all Federal facilities will be lowered to half-staff on the day of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 124—CONGRATULATING THE UNIVERSITY OF THE PACIFIC, AND ITS FACULTY, STAFF, STUDENTS, AND ALUMNI ON THE UNIVERSITY’S 150TH ANNIVERSARY.

Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. Res. 124

Whereas the University of the Pacific, founded in 1851 as California’s first chartered university, is the oldest institution of higher education in the state; Whereas the University of the Pacific has established the first Conservatory of Music in California’s San Joaquin Valley; Whereas the University of the Pacific’s alumni are leaders in California and the western States in the professions of government, judicial, educational, religious, musical and theatrical performance, business, and engineering; and Whereas in recognition of the historic chartering of the University of the Pacific by the California Supreme Court, the Chief Justice of California is joining with others to recognize fulfillment of the University of the Pacific’s Charter of Establishment: Now, therefore, be it

Resolved, That the Senate—
(1) recognizes the University of the Pacific as a leader and pioneering innovator in higher education; and
(2) congratulates the University of the Pacific, and its faculty, staff, students, and alumni on the occasion of the Sesquicentennial Anniversary of the granting of the University of the Pacific’s charter.

SENATE RESOLUTION 125—COMMORATING THE MAJOR LEAGUE BASEBALL ALL-STAR GAME AND CONGRATULATING THE SEATTLE MARINERS

Ms. CANTWELL (for herself and Mrs. MURRAY) submitted the following resolution; which was considered and agreed to:

S. Res. 125

Whereas the City of Seattle and the Seattle Mariners franchise are honored to host the Major League Baseball All-Star Game (in this resolution referred to as the “All-Star Game”) for the second time, and the first time at beautiful Safeco Field; Whereas the game of baseball is widely considered America’s pastime, inspiring, challenging, and bringing together generations of all backgrounds; Whereas the 72nd All-Star Game on July 10, 2001, is the fans’ tribute to the skill, work ethic, dedication, and discipline of the best players in the game of baseball; Whereas the players selected for the All-Star Game are an inspiration to baseball fans across the world; Whereas 4 Seattle Mariners players (Bret Boone, Edgar Martinez, John Olerud, and Ichiro Suzuki) were selected by fans from around the world to start for the American League in the All-Star Game, and American League All-Star Game Manager Joe Torre chose three Mariners pitchers (Freddy Garcia, Jeff Nelson, and Kazuhiro Sasaki), and one Mariners outfielder (outfielder Mike Cameron) to be on the All-Star Game roster, and Mariners Manager Lou Piniella to be an assistant coach; Whereas Ichiro Suzuki, in his first year in Major League Baseball, received more votes to play in the All-Star Game than any other player; Whereas the Seattle Mariners have reached the All-Star break with a record of 49-48, the fourth best record at such point in the season in the history of Major League Baseball; Whereas this remarkable record has been reached not only by the individual efforts of the team’s 8 All-Stars, but because of the teamwork and timely contributions of every teammate and an extraordinary coaching staff led by Manager Lou Piniella; Whereas the teamwork, work ethic, and dedication of the players and coaches of the
Seattle Mariners have been an inspiration to baseball fans across the world and have contributed to the success of All-Star baseball. The resolution congratulates the Seattle Mariners baseball team for their remarkable achievements and the skill, discipline, and dedication necessary to reach such heights.

AMENDMENTS SUBMITTED AND PROPOSED

SA 876. Mr. BYRD (for himself, Mr. STEVENS, and Mr. HUTCHINSON) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

TEXT OF AMENDMENTS

SA 876. Mr. BYRD (for himself, Mr. STEVENS, and Mr. HUTCHINSON) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes, as follows:

On page 31, after line 3, insert the following:

\section*{STATE AND PRIVATE FORESTRY}

For an additional amount for “State and Private Forestry” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended.

For an additional amount for “State and Private Forestry”, $750,000 to be provided to the Kenai Peninsula Borough Spruce Bark Beetle Task Force for emergency response and communications equipment and $1,750,000 to be provided to the Municipality of Anchorage for emergency fire fighting equipment and response to wildfires in spruce bark beetle infested forests, to remain available until expended: Provided, That these funds shall be provided as direct lump sum payments within 30 days of enactment of this Act.

\section*{NATIONAL FOREST SYSTEM}

For an additional amount for the “National Forest System” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended.

On page 31, after line 14, insert the following:

“For an additional amount for “Capital Improvement and Maintenance” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $4,000,000, to remain available until expended.”

On page 31, after line 22, insert the following:

\section*{NATURAL RESOURCES CONSERVATION SERVICE WATERSHED AND FLOOD PREVENTION OPERATIONS}

For an additional amount for “Watershed and Flood Prevention Operations”, to repair damages to waterways and watersheds, resulting from natural disasters occurring in West Virginia on July 7 and July 8, 2001, $5,000,000, to remain available until expended.

On page 14, after line 25, insert the following:

SEC. 2106. Of funds which may be reserved by the Secretary of Agriculture and transferred to State and regional agencies under section 16(h)(1) of the Food Stamp Act of 1977 to carry out Employment and Training programs, $38,500,000 made available in prior years are rescinded and returned to the Treasury.

On page 14, after line 23, insert the following:

SEC. 2107. In addition to amounts otherwise available, $2,000,000 from amounts pursuant to 15 U.S.C. 713a-4 for the Secretary of Agriculture to make available financial assistance related to water conservation to eligible producers in the Yakima Basin, Washington, as determined by the Secretary.

On page 41, between lines 6 and 7, insert the following:

SEC. 2703. IMPACT AID.

(a) OPPORTUNITY THRESHOLD PAYMENTS.—Section 8003(b)(3)(B)(iv) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(3)(B)(iv) (as amended by section 1209 of the Impact Aid Authorization Act of 2000) (as enacted by law section 1 of Public Law 106–398)) is amended by inserting “or less than the average per pupil expenditures of all the States” after “of the State in which the agency is located.”

(b) FUNDING.—The Secretary of Education shall adjust payments under section 8003(b)(3)(B)(iv) of the Elementary and Secondary Education Act of 1965 from the $825,000,000 available under the heading “Impact Aid” in title III of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1 of Public Law 106–398) by $11,000,000,000 based in part on an average amount equal to 30% of the average per pupil expenditures of all the States determined for fiscal year 1999.

On page 33, after line 7, add the following:

SEC. 2809. SADDEN OAK DEATH SYNDROME.

In addition to amounts transferred under section 422(a) of the Plant Protection Act (7 U.S.C. 7772(a)), the Secretary of Agriculture shall transfer to the Forest Service, pursuant to that section, an additional $1,400,000 to the States of California, Oregon, Washington, and Idaho to carry out research and development activities to arrest, control, eradicate, and prevent the spread of Sudden Oak Death Syndrome, to be derived from the unobligated balances available to the Secretary for the acquisition of land and interests in land.

On page 46, after line 2, insert the following:

\section*{NATIVE AMERICAN HOUSING BLOCK GRANTS}

For an additional amount for “Native American Housing Block Grants”, $5,000,000, to remain available until expended: Provided, That these funds shall be made available to the Turtle Mountain Band of Chippewa for emergency housing, housing assistance and other assistance to address the housing problems at the Turtle Mountain Indian Reservation: Provided further, That these funds shall be used for the acquisition of land and interests in land.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, July 10, 2001, at 9:30 a.m., in open session to receive testimony on the fiscal year 2002 budget amendment, in review of the defense authorization request for fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, July 10, 2001, at 9:30 a.m. on climate change.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, July 10, 2001, to hear testimony regarding The Role of Tax Incentives in Energy Policy, Part I.
Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 10, 2001 at 2:15 p.m. to hold a business meeting.

The committee will consider and vote on the following agenda items:

- The Honorable Robert D. Blackwill, of Kansas, to be Ambassador to India.
- The Honorable Wendy J. Chamberlin, of Virginia, to be Ambassador to the Islamic Republic of Pakistan.
- Mr. William A. Eaton, of Virginia, to be Assistant Secretary of State (Administration).
- Mr. Clark K. Ervin, of Texas, to be Inspector General, Department of State.
- Mr. William S. Farish, of Texas, to be Ambassador to the United Kingdom of Great Britain and Northern Ireland.
- Mr. Anthony H. Giola, of New York, to be Ambassador to the Republic of Malta.
- Mr. Douglas A. Hartwick, of Washington, to be Ambassador to the Lao People's Democratic Republic.
- The Honorable Daniel C. Kurtzer, of Maryland, to be Ambassador to Israel.
- Mr. Howard H. Leach, of California, to be Ambassador to France.
- Mr. Pierre-Richard Prosper, of California, to be Ambassador at Large for War Crimes Issues.
- Mr. Clark T. Randt, Jr., of Connecticut, to be Ambassador to the People's Republic of China.
- Mr. Charles J. Swindells, of Oregon, to be Ambassador to New Zealand, and to serve concurrently and without additional compensation as Ambassador to Samoa.
- General Francis X. Taylor, of Maryland, to be Coordinator for Counterterrorism, with the rank of Ambassador at Large.
- The Honorable Margaret D. Tutwiler, of Alabama, to be Ambassador to the Kingdom of Morocco.
- The Honorable C. David Welch, of Virginia, to be Ambassador to the Arab Republic of Egypt.
- FSO promotion list—Mr. Morri-son, et al., dated June 12, 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 10, 2001 at 2:30 p.m. to hold a nomination hearing on Mrs. Lori A. Forman, of Virginia, to be an Assistant Administrator (for Asia and Near East) of the United States Agency for International Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Airland of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, July 10, 2001, at 2:30 p.m., in open session, to receive testimony on the F-22 Aircraft Program, in review of the defense authorization request for fiscal year 2002 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I ask unanimous consent that Patrick Thompson, who is from my committee staff, be granted the privilege of the floor during the remainder of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 125 submitted earlier today by Senators Cantwell and Murray.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 125) commemorating 72nd Major League Baseball All-Star Game and to congratulate the Seattle Mariners on hosting the All-Star game and on their extraordinary start to the season.

There being no objection, the Senate proceeded to consider the resolution.

Ms. CANTWELL. Mr. President, today I rise to introduce a resolution to commemorate the 72nd Major League Baseball All-Star Game and to congratulate the Seattle Mariners on their extraordinary start to the season.

The game of baseball is widely considered America's pastime. Walt Whitman once said: "I see great things in baseball. It's our game—the American game. It will take our people out-of-doors, fill them with oxygen, give them a larger physical stoicism, tend to relieve us from being a nervous, dyspeptic set, repair these losses, and be a blessing to us."

Baseball also has been a reflection of our nation's struggles and triumphs. During the Civil War, soldiers played baseball during their free moments, whether in a fort or in a prison camp. In 1942, President Franklin Delano Roosevelt requested that professional baseball continue during the war effort to help maintain our nation's morale, even as baseball stars such as Ted Williams and Bob Feller-contributed to the war effort on the front lines as soldiers. During the civil rights movement, Jackie Robinson epitomized the struggle of African Americans as he broke baseball's color barrier and continued to fight prejudice throughout his career. Now today, as our world has changed, this resolution will add to our nation's calendar a day to honor the 150th anniversary of the University of the Pacific.

The University of the Pacific has remained throughout its history, devoted to the teaching and development of students by a faculty of outstanding scholars. It has prepared more than 60,000 students for lasting achievement and responsible leadership in their careers and communities.

The University of the Pacific is also a trailblazer in higher education. Pacific was the first university in the West to enroll women and to introduce coeducation. It also established California's first medical school and music conservatory.

I am pleased to sponsor this resolution to congratulate the University of the Pacific, and its faculty, staff, students, and alumni on the university's 150th anniversary.
All-Star Managers Joe Torre and Bobby Valentine. It is also a broader celebration as fans are treated to not only the All-Star game between the National League and the American League, but other events as well, including a FanFest featuring interactive games and displays, a homerun derby by baseball's greatest sluggers, a game between the top minor league baseball prospects of the American League and National League, and a softball game featuring All-Star game legends and other celebrities.

It is an honor and pleasure for the City of Seattle to once again host this celebration. In 1979, Seattle hosted the 50th All-Star game in just the third season for the Seattle Mariners. After two years of planning, Seattle gave baseball fans what is still considered one of the All-Star Game's single greatest celebrations in the history of the event.

That year, the Mariners were represented by only one All-Star, first baseman Bruce Bochte. A deserving player on a struggling team, Bochte had a pinch-hit run-scoring single that evening—the first hit and RBI for a Mariners All-Star.

This season, as Seattle hosts the 72nd All-Star Game, the Mariners are represented by eight players and Manager Lou Pinella. The eight Mariners players are the most to participate from one team since the 1960 Pittsburgh Pirates also had eight players. This collection of talent—and the hard work, discipline, and determination that these players have demonstrated to reach All-Star status—is at the core of one of the best starts in Major League Baseball history. The Mariners have compiled a 63–24 record, the fourth best of all time after 87 games. Importantly though, the team's success has resulted not only from the talents of All-Stars Bret Boone, Mike Cameron, Freddy Garcia, Edgar Martinez, Jeff Nelson, John Olerud, Kazuhiro Sasaki, and Ichiro Suzuki, but the contributions and teamwork of each player and coach.

The work of Mariners General Manager Pat Gillick must also be recognized. Mr. Gillick has shrewdly made trades and acquired free agents who have contributed to the improvement of the Mariners both years he has been with the franchise. The result has been a team of remarkable consistency, discipline, and talent. Last year the Mariners finished with a franchise-record 91 victories and this year they are on pace to win over 110 games.

Once again, I would like to commemorate the 72nd Major League Baseball All-Star game and the remarkable start by the Seattle Mariners.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, and the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

EXECUTIVE SESSION

NOMINATION OF EUGENE HICKOK, OF PENNSYLVANIA, TO BE UNDER SECRETARY OF EDUCATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session and the HELP Committee be discharged from the consideration of the following nomination: Eugene Hickok, to be Under Secretary of Education, that the nomination be considered and confirmed, the motion to reconsider be laid upon the table, that any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

The Department of Education Eugene Hickok, of Pennsylvania, to be Under Secretary of Education.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, JULY 11, 2001

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Wednesday, July 11. I further ask consent that on Wednesday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 10:30 a.m. with Senators permitted to speak for up to 10 minutes each, with the following exception:

Senator Specter from 10:15 to 10:30 a.m. The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DASCHLE. Mr. President, on Wednesday, the Senate will convene at 10 o'clock in the morning with a period for morning business until 10:30 a.m. We expect to begin consideration of the Interior appropriations bill on Wednesday.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DASCHLE. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:23 p.m., adjourned until Wednesday, July 11, 2001, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 10, 2001:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Melody R. Bennet, of Pennsylvania, to be an Assistant Secretary of Housing and Urban Development, Vice Alan C. Dackell, III.

SECURITIES AND EXCHANGE COMMISSION

Sandy Pitt, of North Carolina, to be a Member of the Securities and Exchange Commission for a Term expiring June 1, 2005, Vice D. Bruce Hunt, Jr., Term Expired.

DEPARTMENT OF ENERGY

Theresa Alvillar-Speak, of California, to be Director of the Office of Minority Economic Impact, Department of Energy, Vice James B. Lewis, Resigned.

DEPARTMENT OF ENERGY

J. Richard Blanesdell, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Common Wealth of the Bahamas, Vice James E. Rice, Term Expired.

Thomas C. Hubbard, of Tennessee, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

Lawrence Berger, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kazakhstan.

Thomas J. Miller, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Ross J. Connelly, of Maine, to be Executive Vice President of the Overseas Private Investment Corporation, Vice Kirk K. Robertson, Resigned.

DEPARTMENT OF LABOR

Emily Stover Derocco, of Pennsylvania, to be an Assistant Secretary of Labor, Vice Raymond L. Bramucci.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Joan N. Del, of West Virginia, to be Commissioner on Children, Youth, and Families, Department of Health and Human Services, Vice Patricia C. Monroy, Resigned.

THE JUDICIARY

James R. Gritzner of Iowa, to the United States District Court for the Southern District of Iowa, Vice Charles R. Wolfr, Retired.

Michael J. Milloy, of Iowa, to the United States Circuit Judge for the Eighth Circuit, Vice George G. Fagg, Retired.
CONFIRMATION

Executive nomination confirmed by the Senate July 10, 2001:

MICHAELE P. MILLS, OF MISSISSIPPI, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF MISSISSIPPI, VICE NEAL S. BIGGERS, RETIRED.

CONFIRMATION

EXECUTIVE NOMINATIONS

DEPARTMENT OF EDUCATION

EUGENE HICKOK, OF PENNSYLVANIA, TO BE UNDER SECRETARY OF EDUCATION.
Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great American soldier and citizen, and I am proud to recognize Colonel Daniel W. Krueger in the Congress for his invaluable contributions and service to the Mid-South region and our nation.

Colonel Krueger has served for the past three years as the Memphis District Command for the U.S. Army Corps of Engineers, and he has distinguished himself by focusing on meeting the region’s water resource needs, reducing costs, and decreasing project delivery time without sacrificing quality. His exceptional leadership skills guided the Memphis District into the 21st Century with an engaged workforce dedicated to open communications, improved safety, and mission-focused training.

Key projects completed under his command include: Hickman Bluff Stabilization, White’s Creek, Francis Bland Floodway, and the initial on-farm construction phase of the Grand Prairie Demonstration Project.

He has dedicated his life to serving his fellow soldiers and citizens as a leader in both his profession as an engineer and his military service, and he deserves our respect and gratitude for his contributions.

On behalf of the Congress, I extend congratulations and best wishes to this faithful servant, Colonel Daniel W. Krueger, on his successes and achievements.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

SPEECH OF

HON. MIKE ROGERS
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 2001

Mr. ROGERS of Michigan, Mr. Chairman, I want to commend my colleague from Michigan.

This is a solution though, that is looking for a problem. There is not one State in the Great Lakes Basin that allows off-shore drilling, not one. In Michigan, there is a moratorium on new directional angle drilling wells. What are we doing with this amendment?

This amendment is not about protecting the Great Lakes. For instance, it does nothing to address the potential for diversion of our fresh Great Lakes water. This amendment goes in a direction that I hope many in this chamber find disagreeable as it deeply involves the federal government in Great Lakes decision-making.

Trust my Governor. I trust the Governors of the Great Lakes States to be in charge of the water of the Great Lakes States.

As a matter of fact, underneath the Great Lakes today, there are roughly 22,000 barrels of crude oil that float per hour under the Great Lakes. There are 550 off-shore wells operated by Canadians. This bill addresses none of that. There are 5 million tons of oil bobbing around on the Great Lakes every year via cargo ship, which leads to an average of 20 spills a year on our Great Lakes. This amendment does nothing to address any of those issues.

This amendment is not about protecting the Great Lakes; instead, it is about the federal government going into the State of Michigan and telling the legislators in Lansing that they do not know what they’re doing. There are some great protections of our Great Lakes, and I trust those Governors, and I trust those Great Lakes state legislators to do the right thing.

I want to say it again, because this is very important, and I’ve heard it 10 times if I’ve heard it once, that somebody is out there trying to build an oil rig in the Great Lakes and that President Bush is leading the charge. This is ridiculous. There is not one State in the Great Lakes Basin that permit off-shore drilling. Not one. There is a moratorium on new licenses for directional drilling in the State of Michigan today. So what is the purpose for the Bonior Amendment?

Mr. Chairman, I do not believe that a bureaucracy in Washington, D.C., whose only experience with Michigan’s Upper Peninsula is a picture in the National Geographic, is better equipped to protect our shoreline and our Great Lakes. I want the people who live on the Great Lakes to make those decisions. The governor from Ohio talked about HOMES, the acronym by which schoolchildren learn the names of the Great Lakes. HOMES is appropriate because the people who make their homes in the Great Lakes States should be making decisions about the Great Lakes. Why? Because we live there. We see the water, we see the pollution, we fought back and reclaimed Lake Erie. We can again eat the fish that swim in our lakes. Why? Because the people of the Great Lakes States took action. It is nothing that Congress did. That is why this argument should not be taking place on the floor of the United States House, it should be taking place in the legislatures of the Great Lakes States.

Mr. Chairman, I am passionate about the Great Lakes, but we have a true difference of opinion on the proper role of Congress in this debate. For example, look at the issue of water diversion. There is a bill in this House to empower Congress to decide what happens on diversion issues in the Great Lakes. The last I checked, the dry states of the Plains and Southwest could use a bit more extra water; and, the last I checked, there are more members from those states in this chamber than from Great Lakes States. These issues have no business in this Chamber. It has all the business in the chambers in our State legislatures back home.

This is a solution that is looking for a problem.

There is a package of bills in the House to address this issue in a manner that doesn’t encroach on our States’ rights. One concerns the diversion and export of Great Lakes water. Another is a resolution urging States to continue the ban on off-shore drilling in our Great Lakes and that goes after those 550 wells currently in operation in Canada.

It is important to remember that what the Federal Government can give us, they can take away. Pretty soon, maybe the faces of this Chamber will change, and maybe pretty soon the folks in this Chamber will decide that we want oil production from the Great Lakes.

And since most of the members of this Chamber do not reside in the Great Lakes Basin, nor do the Washington, D.C. bureaucrats overseeing federal policy, the decision may come from Washington to tap into the Great Lakes oil reserves.

There is only one thing that can protect us from that: Our state legislators and our governors of the Great Lakes States.

Mr. Chairman, I want to urge this body to reject the Bonior Amendment, to throw out all the rhetoric about how without this amendment there will be polluted water, people rushing to put oil rigs on the Great Lakes, and how oil will start gushing into the waters of Lake Michigan or Superior. This is just absolutely untrue.

What I would encourage the gentleman from Michigan to do is to work with us. We should take a look at studying the quality of those pipes that are pumping those 22,000 barrels an hour under the Great Lakes today. Let us get together and tell Canada, get off the water. Shut down those rigs that are pumping on the water as we speak. We should work together to ensure that those ships bobbing around on the Great Lakes carrying 5 million tons of oil are safe and don’t continue to average 20 spills each year.

Does the gentleman want to do something for the Great Lakes? Let us partner with our states and help solve this issue. The federal government should not come in and flex its muscles and tell state legislators that they really don’t know what they are doing.

I used to be an FBI agent, and when I would walk into a local police station and tell them the federal government was here to help, I can tell you I never received a warm welcome. And I can tell you that passing legislation like the Bonior Amendment ensures that Congress will not receive a warm welcome in the State halls of Lansing and other Great Lakes capitals.

Mr. Chairman, this is an important issue. It is an extremely important issue. I grew up on the Great Lakes in Michigan, and I want to keep them clean and clear.

This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
EXTENSIONS OF REMARKS

July 10, 2001

HONORING THE EFFICIENCY OF NISSAN'S SMYRNA PLANT

HON. BART GORDON
OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. GORDON. Mr. Speaker, I rise today to honor the hard work and dedication of the employees of Nissan's Smyrna, Tennessee, plant. Their work ethic has produced the most efficient car and small truck assembly plant in North America.

The Harbour Report, an annual study in productivity that's used as an industry benchmark, has picked the Smyrna plant as the most efficient for seven consecutive years. At a time when the sluggish economy forced most automakers to slow production at their assembly plants, Nissan's Smyrna plant boosted its overall productivity by seven percent. That's a real indication of the know how and dedication of the plant's workforce.

Since June 16, 1983, when the first automobile rolled off the Smyrna plant's assembly line, Nissan has contributed immensely to the area's quality of life with good-paying jobs and responsive corporate citizenship. Nissan's corporate commitment to diversity within its employee population, supplier base and dealer body, encourages a variety of ideas and opinions that inspire the team behavior that wins these kinds of accolades.

My home is in Rutherford County, Tennessee, where the Smyrna plant is located. I was excited when I heard the news that Nissan was building a new plant in Smyrna. As the plant was being built, I watched its progress knowing that good-paying jobs were coming to Middle Tennessee. Since its completion, I have visited the plant on numerous occasions.

One of my more memorable visits came on the day the 1 millionth vehicle rolled off the assembly line. On that day, a young lady who worked at the Smyrna plant stopped at the door to give me a large bouquet of flowers. The crowd that had gathered for the special occasion. She recalled for us the time she and her children were waiting at a traffic light in their car when a Nissan pickup truck pulled up to the same traffic light. She said her children asked if she had built the vehicle. With a wide smile and obvious pride, she told us that she responded to the question with an emphatic, "Yes, I did."

That young woman's story is a perfect example of the pride all Nissan employees have in their workmanship. I congratulate each and every Nissan employee at the Smyrna facility for a job well done.

HONORING THE EFFICIENCY OF NISSAN'S SMYRNA PLANT

TRIBUTE TO CHARLES "CHICKEN" JEANS

HON. MARION BERRY
OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 2001

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan and an outstanding citizen, and I am proud to recognize Charles "Chicken" Jeans in the Congress for...
PAYING TRIBUTE TO KATHERINE E. WHITE

HON. MIKE ROGERS
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to congratulate Katherine E. White of Ann Arbor, Michigan for being named a 2001–2002 White House Fellow by President Bush.

Lyndon Johnson once said “a genuinely free society cannot be a spectator society.” Through her hard work and service, Katherine White has proven to be anything but a spectator.

Mrs. White is an assistant professor of law at Wayne State University where she teaches about intellectual property laws.

In previous experience, Mrs. White was a Fulbright Senior Scholar, a Major in the U.S. Army Judge Advocate General’s Corp, as well as a legal clerk for Judge Randall R. Rader, U.S. Court of Appeals. She currently serves on the National Patent Board and is a member of the University of Michigan’s Board of Regents. She was chosen out of a field of 540 applicants to receive a White House Fellowship.

Therefore Mr. Speaker, I respectfully ask my colleagues to join me in paying tribute to Katherine E. White for appointment as one of the 12 new White House fellows.

EXTENSIONS OF REMARKS

FRENCH HERITAGE WEEK IN THE U.S. VIRGIN ISLANDS

HON. DONNA M. CHRISTENSEN
OF THE VIRGIN ISLANDS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mrs. CHRISTENSEN. Mr. Speaker, I rise today on behalf of all the people of French descent in my district, the U.S. Virgin Islands, on the occasion of the annual observance of French Heritage Week, an event that revolves around Bastille Day—which commemorates the destruction of the Bastille, the state prison in Paris, France, on July 14, 1789, which brought about one of the most significant movements in world history—the French Revolution.

The destruction of the Bastille, Mr. Speaker, was a significant act of bravery that not only altered the French Republic but also became the symbol of democracy and human rights and the founding event for the movement towards liberty and liberal democracy around the world.

Today, I am proud to represent a striving and vibrant community of people of French descent who have inhabited the U.S. Virgin Islands for centuries—contributing their expertise in fishing, farming, the professions and other vocations that have made significant differences in the political, social, cultural and economic progress and growth on the Territory.

Among the many treasures that make the Virgin Islands unique and special is our diversity. In particular, the French community has been a cultural asset through its presence and the many cultural, business and civic activities it promotes. One event put on by the Virgin Islands French Community that comes to mind, is the Father's Day celebration held each year in Frenchtown. Here, the French community recognizes the value in our fathers sponsors a weeklong celebration in their honor.

I am especially pleased and privileged to be able to pay homage to our French Community and the Virgin Islands community at-large during the 2001 French Heritage Week celebrations. While it is not generally known, my maternal great grandmother was a Parisian, and so I proudly claim kinship, although my command of the French language is limited.

This U.S. Virgin Islands French Heritage Week is a celebration of our heritage and national pride—two things that are important to the survival of any society. I congratulate Senator Lorraine L. Berry, a law firm member of the Virgin Islands Legislature, for her continual efforts to enlighten her fellow Virgin Islanders on the rich traditions of French culture and history.

On behalf of my family, staff and myself, I wish to congratulate members of the French community of the U.S. Virgin Islands for their many contributions to our community and for so generously sharing their history, culture and crafts with each generation of Virgin Islanders.

May God continue to bless our citizens of French decent and may they continue in the rich and strong democratic traditions of their motherland, France. Best wishes for an eventful, fulfilling “French Heritage Week.”

TRIBUTE TO WILLIAM JACKSON BEVIS, SR.

HON. MARION BERRY
OF ARKANSAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan and an outstanding citizen, and I am proud to recognize William Jackson Bevis, Sr. in the Congress for his invaluable contributions and service to his community, to our state, and our nation.

William was born on August 14, 1922, in Pulaski County, Arkansas. He married Mary Jo Barnett in 1942, and they were blessed with three sons, Bill Bevis, Jr., Don R. Bevis, and Bob Bevis. William was President of W.J. Bevis & Sons, Inc. and owner of William J. and Mary Jo Bevis Farms. He attended Peabody School and graduated from Scott High School in 1941. He was elected to Lonoke County Agriculture Conservation and Stabilization Service Commission in 1950 and served off and on for 25 years. He served 20 years on the District Soil and Water Conservation Board and was appointed by then-Gov. Dale Bumpers to chair a study of water diversions from the Arkansas River to the eastern Arkansas Delta. He served on the Lonoke School Board from 1962 and 1972. William was elected to the Federal Land Bank Board and served 15 years, 10 years as chairman. He was President of Farm Credit Services of Central Arkansas for 10 years and was appointed by Farm Credit of St. Louis to a task force for Missouri, Illinois, and Arkansas, to restructure regulations for farm loans and credit in these states.
He was appointed by then Gov. David Pryor to the State Board of Corrections for a five-year term. He was appointed by then Gov. Bill Clinton to the Arkansas Agriculture Museum Board in Scott and he, along with Governor Clinton and State Rep. Bill Foster were instrumental in securing funding for this preservation project for the farming community of Scott. ’This,’ as said by William, ’is a project that is very dear to me.’

William was a life-long member of All Souls Church in Scott. He has served as Sunday School Superintendent, Chairman of the church Board of Directors, and as All Souls Church Trustee until the age of 75.

Sadly, William died last month. He was pre-deced in death by one son, Judge Don Bevis of Cabot, and he is survived by his wife of 58 years, Mary Jo Bennett Bevis, two sons—Rep. Bill Davis, Jr. and his wife Kay of Scott and Bob Bevis and his wife Liz of Scott—along with numerous grandchildren and great-grandchildren and a host of friends.

On behalf of the Congress, I extend sym- pathies and condolences to the family of Wil- liam Jackson Bevis, Sr. His name commands respect and honor from all who knew him.

TRIBUTE TO MRS. OLLYE BALLARD CONLEY OF HUNTSVILLE, ALABAMA

HON. ROBERT E. “BUD” CRAMER, JR.
OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. CRAMER. Mr. Speaker, I rise today to honor Mrs. Ollye Ballard Conley on her June 30th retirement after more than 35 years of dedicated service to the Huntsville City school system. Mrs. Conley has made the students of the Huntsville community shine through her creation of a top-notch magnet school, the Academy for Science and Foreign Language. Her career in education is extensive and very impressive. Beginning as a teacher in Limestone County, Mrs. Conley has spent time teaching in Germany with the Department of Defense as well. After returning to Hunts- ville, her career took off and she soon rose through the ranks to become an administrator and then principal. She has led the schools of University Place, Rolling Hills and most re- cently the Academy for Science and Foreign Language to be more efficient, better orga- nized schools. She believes in mission and her mission has been to provide the best envi- ronment possible for children to excel. She is innovative bringing in new curriculums such as the National Service-Learning program. The Academy is the only middle school in Alabama and only one of 34 nationwide to implement the service-learning program. She has shared her knowledge and the benefits of the service-learning program as a Regional Trainer for the Southern Region Corporation for National Service-Exchange.

Mrs. Conley believes that an education does not have to be limited to the classroom. Along with her students whom she inspires to achieve more and give back to their commu- nity, she established the first annual Commu- nity Day at Glenwood cemetery earning the Huntsville Historical Society Award and the Alabama Historical Commission Distinguished Service Award.

On behalf of the United States Congress and the people of North Alabama, I want to personally thank Mrs. Conley and pay tribute to her for her being an unsung hero. The dif- ference she has made in countless children’s lives over the years is incalculable. I would like to extend my best wishes to her, her fam- ily, friends and colleagues as they celebrate her well-deserved rest and a job well done.

INTRODUCTION OF THE CYBER SECURITY INFORMATION ACT OF 2001

HON. TOM DAVIS
OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. TOM DAVIS of Virginia. Mr. Speaker, I am pleased to rise today to reintroduce legis- lation with my good friend and colleague from northern Virginia, Representative, JIM MORAN. Last year, we introduced H.R. 4246 to facili- tate the protection of our nation’s critical infra- structure from cyber threats. We aggressively pushed forward with the legislation and held a productive Subcommittee hearing with the then-Subcommittee on Government Manage- ment, Information, and Technology on the im- portance of the bill. Based on comments made at that hearing, we have worked hard with a wide range of industries to refine and improve this legislation. Today, we are again intro- ducing this legislation with the full partnership of the private sector. Over the past several months, I have worked with the industry lead- ers from each of our critical infrastructure sec- tors to draft consensus legislation that will fa- cilitate public-private partnerships to promote information sharing to prevent our nation from being crippled by a cyber-terrorism threat.

In the 104th Congress, we called upon the previous Administration to study our nation’s critical infrastructure vulnerabilities and to identify solutions to address these vulnerabilities. Through that effort, a number of steps were identified that must be taken in order to eliminate the potential for significant damage to our critical infrastructure. Foremost among these suggestions was the need to en- sure coordination between the public and pri- vate sector representatives of critical infra- structure. The bill we are again introducing today in the first step in encouraging private- sector cooperation and participation with the government to accomplish this objective.

Since early spring of this year, Congress has held a number of hearings examining the ability of our nation to cope with cyber security threats and attacks. For instance, the House Energy and Commerce has held numerous hearings regarding the vulnerability of specific Federal agencies and entities, and how those agencies are implementing—or not imple- menting—the appropriate risk management tools to deal with these threats. The House Judiciary Subcommittee on Crime has held a number of hearings specifically looking at cybercrime from both a private sector and a federal law enforcement perspective. These hearings have demonstrated the importance of better, more efficient information sharing in protecting against cyber-threats as is encom- passed in the legislation I have introduced today.

Also, the National Security Telecommuni- cations Advisory Committee (NSTAC) met in early June of this year to discuss the neces- sary legislative action to encourage industry to voluntarily work in concert with the federal government in assessing and protecting against cyber vulnerabilities. The bill I am in- troducing today was endorsed at the June meeting. In recent months, the Bush Adminis- tration has aggressively been working with in- dustry to address our critical infrastructure pro- tection needs and ensure that the federal gov- ernment is better coordinating its’ cybersecurity efforts. I look forward in the coming weeks to working with the Administra- tion to enhance the public-private partnership through industry-government systems to help in order to truly protect our critical infrastructure.

The critical infrastructure of the United States is largely owned and operated by the private sector. Critical infrastructures are those systems that are essential to the minimum op- erations of the economy and society.

Our critical infrastructure is comprised of the finan- cial services, telecommunications, information technology, transportation, water systems, emergency services, electric power, gas and oil sectors in private industry as well as our National Defense, and Law Enforcement and International Security sectors within the gov- ernment. Traditionally, these sectors operated largely independently of one another and co- ordinated with government to protect them- selves against threats posed by traditional warfare. Today, these sectors must learn how to protect themselves against unconventional threats such as terrorist attacks, and cyber in-trusions.

These sectors must also recognize the vulnerabilities they may face because of the unprecedented technological progress we have made. As we learned when planning for the challenges presented by the Year 2000 rollover, many of our computer systems and net- works are now interconnected and commu- nicate with many other systems. With the many advances in information technology, many of our critical infrastructures are linked to one another and face increased vul- nerability to cyber threats. Technology interconnectivity increases the risk that prob- lems affecting one system will also affect other connected systems. Computer networks can provide pathways among systems to exploit vulnerabilities that industry and government must in- troduce to data and operations from outside locations if they are not carefully mon- itored and protected.

A cyber threat could quickly shutdown any one of our critical infrastructures and poten- tially cripple several sectors at one time. Na- tions around the world, including the United States, are currently training their military and intelligence personnel to carry out cyber at- tacks against other nations to quickly and effi- ciently cripple a nation’s daily operations.

Cyber attacks have moved beyond the mis-chievous teenager and are now being learned and used by terrorist organizations as the lat- est weapon in a nation’s arsenal. During this past spring, around the anniversary of the
The unintended consequences they could face shared with the government and it is not shared within some industries but it is not regarding a cyber threat or vulnerability is now our nation’s critical infrastructure. Information has established many information sharing or- American people. Today, the private sector tion to produce the best outcome for the fidently share information with the federal gov- ernment within a defined framework, federal sector could share information with the gov- ernment about the virus. If the private sector could share information with the gov- ernment within a defined framework, federal agencies could have been made aware of the threat earlier.

Last month, NIPC and FedCIRC received information on attempts to locate, obtain control of and plant new malicious code known as "W32-Leaves.worm" on computers previously infected with the SubSeven Trojan. SubSeven is a Trojan Horse that can permit a remote user to gain complete control of an infected machine, typically by using Internet Relay Chat (IRC) channels for communica- tions. In June 1998 and February 1999, the Director of the Central Intelligence Agency testified before Congress that several nations recognize that cyber attacks against computer systems represent the most viable option for leveling the playing field in an armed crisis against the United States. The Director also stated that several terrorist organ- izations believed information warfare to be a low cost opportunity to support their causes.

That is why I am again introducing legisla- tion that gives critical infrastructure industries the assurance they need in order to con- fidently share information with the federal gov- ernment. As we learned with the Y2K model, government and industry can work in partnership to produce the best outcome for the American people. Today, the private sector has established many information sharing or- ganizations (ISOs) for the different sectors of our nation’s critical infrastructure. Information regarding a cyber threat or vulnerability is now shared within some industries but it is not shared with the government and it is not shared across industries. The private sector stands ready to expand this model but have also expressed concerns about voluntarily sharing information with the government and the unintended consequences they could face for acting in good faith. Specifically, there has been concern that industry could potentially face antitrust violations for sharing information with the government. To protect their shared information be subject to the Freedom of Infor- mation Act, or face potential liability concerns for information shared in good faith. My bill will address all three of these concerns. The Cyber Security Information Act also respects the privacy rights of consumers and critical in- frastructure operators. Consumers and opera- tors will have the confidence they need to know that information will be handled accu- rately, confidentially, and reliably.

The Cyber Security Information Act is close- ly modeled after the successful Year 2000 In- formation and Readiness Disclosure Act by providing a limited FOIA exemption, civil litiga- tion protection for shared information, and an antitrust exemption for information shared among private sector companies for the pur- pose of protecting, avoiding, communicating or disclosing information about a cyber-security related problem. These three protections have been requested by the U.S. Chamber of Com- merce, the National Association of Manufac- turers, the Edison Electric Institute, the Infor- mation Technology Association of America, Americans for Computer Privacy, and the Electronics Industry Alliance. Many private sector companies have also asked for this im- portant legislation.

This legislation will enable the private sec- tor, including ISOs, to move forward without fear from the government so that government and industry may enjoy a mutually cooperative partnership. This will also allow us to get a timely and accurate assessment of the vulnerabilities of each sector to cyber attacks and allow for the formulation of proposals to eliminate these vulnerabilities without increasing government regulation, or expanding un- funded federal mandates on the private sector. This will position the ISOs to play a leadership role in developing the necessary technical ex- pertise to establish baseline statistics and pat- terns within the various infrastructures, as clearinghouses for information within and among the various sectors, and as reposi- tories of valuable information that may be used by the private sector. As technology con- tinues to rapidly improve industry efficiency and operations, so will the risks posed by vulnerabilities and threats to our infrastructure. We must create a framework that will allow our protective measures to adapt and be up- dated quickly.

It is my hope that we will be able to move forward quickly with this legislation and that Congress and the Administration will work in partnership to provide industry and govern- ment with the tools for meeting this challenge. A Congressional Research Service report on the ISOs proposal describes the information sharing model as one of the most crucial pieces for success in protecting our critical in- frastructure, yet one of the hardest pieces to implement. Through the Cyber Security Information Act of 2001, we are remov- ing the primary barrier to information sharing between government and industry. This is landmark legislation that will be replicated around the globe by other nations as they too try to address threats to their critical infra- structure.

Mr. Speaker, I believe that the Cyber Secu- rity Information Act of 2001 will help us address critical infrastructure cyber threats with the same level of success we achieved in ad- dressing the Year 2000 problem. With govern- ment and industry cooperation, the seamless delivery of services and the protection of our nation’s economy and well-being will continue without interruption just as the delivery of serv- ices continued on January 1, 2000.

Hon. ——
U.S. House of Representatives, Washington, DC

DEAR REPRESENTATIVE: We, the undersi- gned, representing every sector of the United States economy, write today to strongly urge you to become an original co- sponsor of the Cyber Security Information Act to be shortly introduced by Representa- tives Tom Davis and Jim Moran. This impor- tant bill will strengthen information sharing legal protections that shield infrastructures from cyber and physical at- attacks and threats.

Over the past four years, industry-govern- ment information sharing regarding vulnerabilities and threats has been a key element of the federal government’s critical infrastructure protection plan. Critical in- dustry established information sharing organ- izations, including Information Sharing and Analysis Centers (ISACs) and the Partner- ship for Critical Infrastructure Security (PCIS), have been set up to support this ini- tiative. The National Plan for Information Systems Protection, version 1.0, also calls for private sector input about actions that will facilitate industry-government informa- tion sharing.

As representative companies and industry associations involved in supporting the ongo- ing development of a National Plan for crit- ical infrastructure protection, we believe that Congress can play a key role in facilitat- ing this initiative by passing legislation to support the Plan’s strategic objectives.

Currently, there is uncertainty about whether creating new law mandates for the private and industries that voluntarily share sen- sitive information with the federal govern- ment to unintended and potentially harmful consequences. This legislation will have a chilling effect on the growth of all informa- tion sharing organizations and the quality and quantity of information that they are able to gather and share with the federal government. As such, this situation is an im- pediment to the effectiveness of both indus- try and government security and assurance managers to understand, collaborate on and manage their vulnerability and threat envi- ronments.

Legislation that will clarify and strength- en existing Freedom of Information Act and antitrust exemptions, or otherwise create new means to promote critical infrastruc- ture protection and assurance would be very helpful and have a catalytic effect on the ini- tiatives that are currently under way.

Companies in the technology, communica- tions, information technology, fi- nancial services, energy, water, power and gas, health and emergency services have a vital stake in the protection of infrastruc- ture assets. With over 90 percent of the coun- try’s critical infrastructure owned and/or op- erated by the private sector, the government must support information sharing between the public and private sectors in order to en- sure the best possible security for all our
citizens. A basic precondition for this cooperation is a legal and public policy framework for action.

Businesses also need protection from unnecessary restrictions placed by federal and state antitrust laws on critical information sharing that would inhibit identification of R&D needs or the identification and mitigation of vulnerabilities. There are a number of precedents for this kind of collaboration, and we believe that legislation based on these precedents will also assist this process.

Faced with the prospect of unintended liabilities, we also believe that any assurances that Congress can provide to companies voluntarily collaborating with the government in risk management planning activity—such as performing risk assessments, testing infrastructure security, or sharing certain threat and vulnerability information—will be very beneficial. Establishing liability safeguards to encourage the sharing of threat and vulnerability information will add to the robustness of the partnership and the significance of the information shared. Thank you for considering our views on this important subject. We think that such legislation will contribute to the success of the institutional, information-sharing, technological, and collaborative strategies outlined in Presidential Decision Directive—63 and version 1.0 of the National Plan for Information Systems Protection.

Why Information Sharing is Essential for Critical Infrastructure Protection

**Frequently Asked Questions**

**What are Critical Infrastructures?**

Critical Infrastructures are those industries identified in Presidential Decision Directive—63 and version 1.0 of the National Plan for Information Systems Protection, deemed vital for the continuing functioning of the essential services of the United States. These include telecommunications, information technology, financial services, oil, water, gas, electric energy, health services, transportation, and emergency services.

**What Is the Problem?**

90% of the nation's critical infrastructures are owned and/or operated by the private sector. Incidents are inter-connected through networks. This has made them more efficient, but it has also increased the vulnerability of multiple sectors of the economy to attacks on particular infrastructures. According to the Carnegie-Mellon Computer Emergency Response Team (CERT), cyber attacks on critical infrastructures have increased exponentially in the past three years. This trend is expected to continue for the foreseeable future. In our free market system, it is not feasible to have a centralized-government monitoring function. A voluntary national industry-government information sharing system is needed in order for the nation to create an effective early warning system, find and fix vulnerabilities, become best practices and create new safety technologies.

**How Do Industries and the Government Share Information?**

Based on PDD–63 and the National Plan, a number of organizations have been created to foster industry-government cooperation. These include Information Sharing and Analysis Centers (ISACs). ISACs are industry-specific and have been set up in the key financial services, telecommunications, IT, and electric energy industries. Others are in the process of being organized. ISACs vary in their membership structures and relationship to the government. Most of them have a formal government sector liaison as their principal point of contact.

**What Are Current Concerns?**

Companies are concerned that information voluntarily shared with the government that reports on or concerns corporate security may be subject to FOIA. They are also concerned that lead agencies may not be able to effectively control the use or dissemination of sensitive information because of similar legal requirements. Access to sensitive information may fall into the hands of terrorists, criminals, and other individuals and organizations capable of exploiting vulnerabilities and harming the U.S. Unfiltered, unmediated information may be misinterpreted by the public and undermine public confidence in the country’s critical infrastructures. Also, competitors and others may use that information to the detriment of companies, or as the basis for litigation. Any and all of these possibilities are reasons why the current flow of voluntary data is minimal.

**What Can Be Done?**

Possible solutions include creating an additional exemption to current FOIA laws. There are currently over 80 specific FOIA exemptions throughout the body of U.S. law, so it is clear that exemptions voluntarily shared information that could affect national security is consistent with the intent and application of FOIA. Another solution is to build on existing relevant legal precedents such as the 1998 Y2K Information and Readiness Disclosure Act, the 1981 National Cooperative Research Act, territorially limited court rulings, and individual, advisory Department of Justice Findings.

**Why Pursue a Legislative Solution?**

The goal is to provide incentives for voluntary information sharing. Legislation can add legal clarity that will provide one such incentive, as well as also demonstrate the support and commitment of Congress to increasing critical infrastructure assurance.

**PERSONAL EXPLANATION**

**HON. SHELLEY BERKLEY**

**OF NEVADA**

**IN THE HOUSE OF REPRESENTATIVES**

**Tuesday, July 10, 2001**

Ms. BERKLEY. Mr. Speaker, flight delays caused me to miss rollcall votes Nos. 186, 187, and 188. Had I been present, I would have voted “yes” on No. 186, “yes” on No. 187, and “yes” on No. 188.

**CELEBRATING THE DEFENSE LOGISTICS AGENCY’S 40TH ANNIVERSARY**

**HON. JAMES P. MORAN**

**OF VIRGINIA**

**IN THE HOUSE OF REPRESENTATIVES**

**Tuesday, July 10, 2001**

Mr. MORAN of Virginia. Mr. Speaker, I rise today to congratulate the Defense Logistics Agency’s 40th anniversary. The Defense Logistics Agency has a distinguished history as the nation’s combat support agency. Its origins date back to World War II when America’s entrance into the global conflict required the rapid procurement of large amounts of munitions and supplies. When the agency was first founded, managers were appointed from each branch of the armed services for this task.

In 1961, the Department of Defense centralized management of military logistics support by establishing the Defense Supply Agency. After 16 years of increasing responsibilities, the Defense Supply Agency expanded its original charter and was renamed the Defense Logistics Agency in 1977.

I would like to commend the Defense Logistics Agency’s impeccable record of supporting defense and humanitarian missions. It serves as a testament to the agency’s commitment to provide seamless support of our armed forces around the world and to extend a helping hand to victims of all types of adversity.

As the world has changed and evolved, the Defense Logistics Agency has adapted and proven its ability to streamline. Agency employees have shown dedication to improving quality, reducing costs and improving responsiveness to our warfighter customer needs. They have also demonstrated their ability to embrace the latest technologies of today’s competitive business world, which has resulted in saving the taxpayers billions of dollars.

The Defense Logistics Agency’s record of achievement serves as an example of government service at its best, highlighted by two Joint Meritorious Service Awards.

On behalf of my colleagues, I would like to praise the individual efforts of the men and women involved in the Defense Logistics Agency, and thank them for making the Agency a world-class organization. In honor of the 40th anniversary of the Defense Logistics Agency, we are proud of the Defense Logistics Agency’s past endeavors and look forward to a bright and successful future of continued commitment and service to our nation.

Mr. Speaker, I ask you to join me in extending congratulations and best wishes to the employees of the Defense Logistics Agency on this memorable occasion and achievement.

**TRIBUTE TO JAMES H. MULLEN**

**HON. MARION BERRY**

**OF ARKANSAS**

**IN THE HOUSE OF REPRESENTATIVES**

**Tuesday, July 10, 2001**

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan and outstanding educator. I am proud to recognize James H. Mullen in the Congress for his invaluable contributions and service to his community, to our state, and to our nation.
For over three decades James Mullen of DeWitt, Arkansas has made a profound impact on the lives of people. Born in Mendenthal, Mississippi, James served in the United States Air Force during World War II. After being honorably discharged, he used the GI benefits to attend Mississippi State University, where he earned a degree in agriculture. That government investment would reap tremendous returns.

After graduating from Mississippi State, James moved to DeWitt, an area primarily dependent on its agrarian strengths. It was his responsibility to assist other veterans in developing their agricultural proficiency.

In 1955, James accepted a job with the DeWitt Independent School system teaching agriculture. For the next eleven years he would remain in this position. His influence far exceeded his teaching responsibilities.

It was not uncommon for young men to seek him out for personal counsel. His home was always open to young men who needed a listening ear, wise counsel, or any type of support. On one occasion a former student came to James and informed him he was going to quit college because of lack of funds. Although James didn’t have the money to loan the student, he did the next best thing and went to the bank and secured a personal loan.

Each summer, in addition to visiting in the home of each student, James would take a group of students to camp. He had the unique ability to have fun with the students while maintaining an authoritarian position. On one visit to summer camp, the students destroyed his hat. With James, there were two things you never messed with: his hat or his pipe! Before nightfall, he had driven all those boys to town and required them to purchase a new hat. He never lost control!

In 1966, James joined the Arkansas State Department of Education as Associate Director of Petit Jean Vocational Technical School in Morrilton, Arkansas. He would remain in that position until 1970 when he was named Director of the Crowley’s Ridge Vocational Technical School in Forrest City, Arkansas. At Crowley’s Ridge, he inherited a fledgling institution and successfully restored the integrity of the institution.

Construction of the Rice Belt Vocational Technical School was approved in 1974. Community leaders from DeWitt would accept no other than James Mullen as first choice to head the school. Building a school from the ground had been his ambition, and he quickly acquiesced to return to his adopted hometown. Because of the strong foundation laid by James and others, Rice Belt stands as a model institution for continuing education.

James is probably most proud of his long marriage to Mary Helen, and his children: Terry Mullen of Canyon Lake, Texas and Steve Mullen of Burleson, Texas.

James H. Mullen is an educator, advisor and friend to many. He has dedicated his life to serving his fellow citizens as a leader in both his profession and his community, and he deserves our respect and gratitude for his priceless contributions. On behalf of the Congress, I extend congratulations and best wishes to my good friend James H. Mullen, on his successes and achievements.

WE MUST NOT REWARD CHINESE TYRANNY BY GIVING THE OLYMPICS TO BEIJING

HON. TOM LANTOS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. LANTOS. Mr. Speaker, I rise today to call the attention of my colleagues to a powerful testimonial that appeared in today’s Wall Street Journal by three human rights heroes, Wei Jingsheng, Vladimir Bukovsky, and Gerhard Loewenthal who are united in opposition to China’s bid to host the 2008 Summer Olympics. The authors are witnesses to and victims of human rights violations by three of the most brutal regimes of recent history, Communist China, the Soviet Union, and Nazi Germany. In the article, they urge the International Olympic Committee (IOC), when it votes on the host city for the 2008 Olympics in Moscow this Friday, July 13th, to avoid the shameful decision of two past IOC’s to award the games to totalitarian states—Germany in 1936, and the Soviet Union in 1980.

The Chinese leadership in Beijing has argued strenuously that “politics” should be kept out of the IOC’s decision. They assert that the potential candidates should only be judged by their ability to build a new sports facility, construct a new subway stop or erect more shining hotels. But focusing on bricks and mortar—and turning a blind eye to the egregious human rights violations taking place every day in China—does not remove politics from the Olympics. It simply permits a brutal regime to exploit the Olympics to prop up its faltering legitimacy—as Nazi Germany did in 1936 and the Soviet Union did in 1980—by basing itself on the reflected glow of the Summer Games.

Four months ago, I was joined by my colleagues from California, Mr. Cox and Ms. Pelosi, and by Mr. Wolf from Virginia in introducing H. Con. Res. 73, which expresses strong opposition to Beijing’s Olympic bid due to China’s horrendous human rights record. This resolution was overwhelmingly approved by the International Relations Committee on March 27th by a vote of 27-8. Unfortunately, the leadership has failed to schedule a vote on the resolution.

Mr. Speaker, I ask that the entire article “Don’t Reward Beijing’s Tyranny,” by Wei Jingsheng, Vladimir Bukovsky, and Gerhard Loewenthal and published in the July 10th edition of The Wall Street Journal be placed in the Congressional Record. I urge my colleagues to consider the poignant testimony provided in this article to the tragic human suffering that was contributed to by granting the Olympics to Nazi Germany in 1936 and the Soviet Union in 1980. In the hope of preventing a similar travesty in 2008, I call on the leadership to immediately schedule a vote on H. Con. Res. 73. The House must be given an opportunity to express its views on this critical moral issue.

DON’T REWARD BEIJING’S TYRANNY
Wei Jingsheng, Vladimir Bukovsky and Gerhard Loewenthal

The International Olympic Committee should not offer the 2008 Olympic Games to the one-party dictatorship of the Chinese government. Such a decision would not only be harmful to the interests of the Chinese people, but it could also threaten the interests of China’s neighbors and ultimately world peace. That’s hardly what the Olympic spirit is all about. The IOC offered the 1936 games to Nazi Germany. Adolf Hitler and his party exploited that opportunity to fan their political fanaticism, and ultimately initiated a war that caused tens of millions of deaths. Although the Olympic Games were not the cause of World War II, they were indeed one of the tools Hitler used for his purposes. Does the IOC feel no shame for offering the games to a regime that killed six million Jews and many more? I. Gerhard Loewenthal, am one of the witnesses and victims of that tragedy.

The IOC offered the 1980 games to the Communist Soviet Union, which cruelly oppressed its own people and the Eastern Europeans, and sought control of the rest of the world too. The Soviet Communist Party used the games as an opportunity to shore up faith in their system. Moscow also started a war in Afghanistan that resulted in many Soviet and Afghan deaths. Only the effort and unity of various peace-loving parties turned back that aggression and stopped the spread of the war. Does the IOC feel regret for helping the Soviet dictators? I, Vladimir Bukovsky, witnessed the disaster of the former Soviet Union and the Eastern European countries.

Apparently ignorant of history, the IOC may now be on the verge of giving the Chinese Communist dictatorship the honor of hosting the 2008 Olympic Games. The Chinese Communist government is already challenging the sovereignty of Taiwan, inciting nationalism and fanaticism in China, in an effort to encourage and prepare for military aggression that could threaten China’s neighbors and ultimately world peace.

Beijing will surely use this opportunity to oppress those Chinese who fight for human rights and democracy. This oppression will delay China’s democratic progress and extend the life of a dictatorial and corrupt government. I, Wei Jingsheng, have seen what the Chinese people have had to suffer for the last half century. I protest the wrongful deaths of 80 million Chinese under the Communists. I do not want to see more disasters in the future.

All three of us are pleading with you, the members of the IOC, to cast your votes for the 2008 host city with your conscience, to avoid the regret you may have when the future replays the nightmares we have.

Mr. Wei spent 18 years in Chinese prison for dissident activity. Mr. Bukovsky spent 12 years in Soviet prison for opposing the government. Mr. Loewenthal, a Jew, is a German TV journalist and a concentration camp survivor.

EXTENSIONS OF REMARKS
The Senate met at 10 a.m. and was called to order by the Presiding Officer, the Honorable Mark Dayton, a Senator from the State of Minnesota.

PRAYER
The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, we belong to You. You gave us our talents, nurtured us by parents and teachers and friends, opened doors of opportunity we could never have pried open without You, and gave us creative vision of what we were to accomplish. You have been the author of our insights and the instigator of solutions to problems. We praise You for all that You have provided us so we can serve our Nation. We thank You for the people You have sent to the Senate. Today we especially thank You for Gary Sisco as he completes his time of service as Secretary of the Senate. We thank You for his deep faith, his commitment to the work of Government through the Senate, and his loyalty to all of us as friends. We humbly thank You for all that we have and are because of Your incredible generosity. Amen.

PLEDGE OF ALLEGIANCE
The Honorable Mark Dayton led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE
The Presiding Officer. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Byrd).

The assistant legislative clerk read the following letter:


To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Mark Dayton, a Senator from the State of Minnesota, to perform the duties of the Chair.

Robert C. Byrd, President pro tempore.

Mr. Dayton thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME
The Acting President pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS
The Acting President pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for up to 10 minutes each.

RECOGNITION OF THE ACTING MAJORITY LEADER
The Acting President pro tempore. The Senator from Nevada.

ORDER OF PROCEDURE
Mr. Reid. Mr. President, I ask unanimous consent that the Senator from Pennsylvania be given his full 15 minutes. The two 15-minute spots would take us probably to 10:35 or thereabouts. I ask unanimous consent that Senator Specter control the first 15 minutes.

The Acting President pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 2217
Mr. Reid. Mr. President, I further ask unanimous consent that the Senate proceed to H.R. 2217 at 10:35 this morning. I note to anyone within the sound of my voice, we have been in touch with Senator Craig and Senator Kyl who had some suggestions last night in moving to this bill. Their questions have been answered.

The Acting President pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

NOMINATION OF ROBERT MUELLER
Mr. Specter. Mr. President, I have sought recognition this morning to comment about the confirmation hearings which are scheduled later this month for Mr. Robert Mueller to be Director of the Federal Bureau of Investigation. That position arguably is as important as any position in the United States of America, perhaps even the most powerful position.

The statutory 18-year term is 2 years longer than the maximum a President may serve under the Constitution. The Director of the FBI has power over the largest investigative organization in the world, global in its exposure.

There are an enormous number of problems which have befallen the agency in recent years. The confirmation hearing will provide a unique opportunity for oversight for the U.S. Senate to seek to establish standards as to what the FBI should be doing in cooperation with congressional oversight.

The FBI is a well-respected organization. I have had very extensive opportunities to work with the FBI. After graduation from college, I was in the Air Force Office of Special Investigations for 2 years and had training from the FBI. The commanding officer of the OSI was a former top aide to Director J. Edgar Hoover. I worked with the FBI on the prosecution of the Philadelphia Teamsters, an investigation which was conducted by the McClellan committee with the counsel, Robert Kennedy, and saw their very fine work. Then, as Assistant Counsel to the Warren Commission, I worked with the FBI; then as district attorney of Philadelphia and for the last 20 years extensively on the Judiciary Committee.

I have great respect for the Federal Bureau of Investigation. At the same time, my experience has shown me that there is an over concern by the personnel of the FBI with their so-called institutional image and that there cannot be a concession of any problems, which is really indispensable if problems are to be corrected.

(Disturbance in the visitors' galleries.)

The Acting President pro tempore. Will the Sergeant at Arms restore order in the galleries.

Mr. Specter. We have a nominee who has been put forward by the President who has very impressive credentials: United States Attorney in Boston, United States Attorney in San Francisco, 3 years as Assistant Attorney General in the Justice Department, where I had contacts and saw his impressive work.

He will be succeeding a man, Director Louis Freeh, who came to the Bureau with extraordinary credentials and overall did a good job, although he presided over the Bureau at a time when there were many institutional failures. I analogize Director Freeh to the little boy on the Netherlands dike running around putting his finger in all the holes to try to stop the water from coming through. With so many holes and so many problems, it was not possible.

I believe similarly that the Congress, including the Senate and the Senate Judiciary Committee, has not been sufficiently active on oversight. These hearings will give us an opportunity to set standards as to what the FBI
should be doing in response to oversight activities by the Senate Judiciary Committee.

I have an opportunity to talk for the better part of an hour yesterday to FBI Director-designee Mueller and went over quite a number of issues that I intend to ask him in the public forum.

I comment about these today because the Senate ought to be preparing for this hearing with unique care for this very important position.

One of the matters I intend to discuss with Mr. Mueller in the confirmation hearings is the failure of the FBI to turn over for congressional Senate oversight a memorandum dated December 9, 1996, which was written at a time when there was a question as to whether Attorney General Reno was going to be reappointed by President Clinton. At that time the criminal investigation was just being started. There was a conversation by a top FBI official Esposito, with a top Department of Justice official Lee Radek, and FBI Director Freeh wrote this memorandum to the file to Mr. Esposito and Mr. Reno. Referring to a meeting that he had with the Attorney General on December 6, Director Freeh wrote this memo December 9:

I also advised the Attorney General of Lee Radek’s comment to you that there was a lot of “pressure” on him and the Public Integrity Section regarding this case because the “Attorney General’s job might hang in the balance” (or words to that effect).

This memorandum did not come to the attention of the Judiciary Committee until April of 2000, some 3½ years later, when, in my capacity as chairman of the subcommittee on Department of Justice oversight, a subpoena was issued for all of the FBI records relating to the campaign finance investigation. When this memo was discovered, Director Freeh was questioned as to why he hadn’t turned it over for Judiciary Committee oversight, because it was the view of many that it absolutely should have been done.

Director Freeh defended his inaction on the ground that it would have compromised his relationship with Attorney General Reno. But notwithstanding that fact, it is my view that this is a further example of the Judiciary Committee must undertake. This will be the subject of my questioning of Mr. Mueller during the confirmation hearing.

Director Freeh declined to appear voluntarily before the Judiciary Committee or the subcommittee to comment about this memorandum, and the committee decided not to issue a subpoena, which I thought should have been done.

It is my view that when a matter of this importance comes to light there ought to be a public inquiry as to what happened between the Attorney General and the Director of the FBI. It takes a congressional committee to get to the bottom of that. When Attorney General Reno testified, she said, “I don’t recall that, but if that had come to my attention, I certainly would have done something about it.” In my view, anybody who is going to be confirmed for FBI Director has to have a commitment to making this sort of information available to Senate oversight.

Another matter which I intend to question Mr. Mueller about is the insistence of the FBI on not cooperating with Senate oversight where there is a pending criminal investigation. Now, I understand the sensitivity of a pending criminal investigation, having some experience as a prosecutor myself, but the case law is plain that congressional oversight is so fundamental and so important to the FBI’s operation as it may proceed even as to pending criminal investigations. But that has not been honored by the Department of Justice or by the FBI. And in the case involving Dr. Wen Ho Lee, the subcommittee on Department of Justice oversight was briefed at every turn by the FBI refusing to make available information, citing a pending criminal investigation.

Now, the chairman of the committee and the ranking member, or chairman and the ranking member of the subcommittee, have standing, it seems to me, on a discrete inquiry, carefully controlled, where the prosecution would not be compromised. That is the role of oversight. But when Wen Ho Lee was indicted on December 11, 1999, immediately, the FBI used that as a reason to resist any further Senate oversight. And there was a real question of why the FBI and the Department of Justice allowed Dr. Lee to remain at large after a search of his premises in April of 1999 was conducted, and then he was at liberty, at large, until December when an arrest warrant was issued. Suddenly, he became more problematic than public enemy No. 1, when he was put in manacles and solitary confinement which had all the earmarks of an effort at the top of the Justice Department and FBI to coerce a guilty plea.

After the guilty plea was entered, Judiciary Committee oversight had been thoroughly conducted, and the F.B.I. were well aware of what was going on because Dr. Lee was still being de-briefed. Here again, I believe the Judiciary Committee is entitled to a commitment that oversight will be respected, and the case law will be respected, and that there may be oversight even on pending criminal investigations.

In the case of Hanssen, who has just entered a guilty plea on an arrange-ment to avoid the death penalty, it raises some very fundamental questions that need to be answered as to procedures in the Federal Bureau of Investigation. Although this matter did not come to light until very recently, in August of 1986, Hanssen’s voice was recorded by an FBI wiretap on his Soviet contact’s telephone. In 1992, Hanssen improperly accessed his supervisor’s computer. In 1997, Hanssen began to search the FBI computerized case database for his name, his home address, and for terms referring to espionage activities.

A question arises, what steps have been taken by the FBI to detect a spy such as Hanssen? There was a very strong report issued by an inspector general of the CIA after Aldrich Ames was detected as a spy, and the inspector general of the CIA, Fred Hitz, wrote this in the report:

We have no reason to believe that the directors of Central Intelligence who served during the relevant period were aware of the deficiencies described in this report.

That relates to Aldrich Ames.

But directors of Central Intelligence are ordered to ensure that they are knowledgeable of significant developments relating to crucial agency missions. Sensitive human source reporting on the Soviet Union and Russia during and after the cold war was such a mission, and certain directors of Central Intelligence must therefore be held accountable for serious shortcomings in that regard.

Now, what that does essentially is to say that the Directors are at fault, even though they didn’t know about Aldrich Ames, or have reason to know about Aldrich Ames, because the presence of spies in the Central Intelligence Agency so threatens national security that the Directors have an obligation to find out about it. If you make it an absolute responsibility, that, according to the CIA inspector general, would put the pressure on the Directors to find out about it.

The three Directors of the Central Intelligence Agency who were in office during the time Aldrich Ames functioned—freeh, woolsey, and woolsey—responded with a very hot letter denying responsibility and saying that the standard set by the CIA inspector general was too high. Well, this is a subject I have discussed preliminarily with Mr. Mueller and intend to ask him about.

It is a very tough standard to say that a public official is liable for matters that he didn’t know about or didn’t have reason to know about. But if our Nation’s secrets are to be safeguarded, and if we are to be secure from spies such as Ames and Hanssen, this is a matter that we are going to have to determine as to what is the appropriate standard.

When I talked to Mr. Mueller, I didn’t ask him for a response, but this is another subject that will be probed during the course of the confirmation hearings. The issues of management in the FBI are just gigantic; they are enormous. We have seen repeated failures by the Federal Bureau of Investigation to come forward with documents in a timely manner. In the
Yesterday, we discussed at some length the rector of the FBI. There was no doubt as to guilt or as to the justification for the death sentence which was imposed, but there was an obligation on the part of the prosecutor to turn over all the papers. There had been some controversy about sentencing. Here you had a 5-month delay where the Federal Bureau of Investigation had reason to know that all those documents were not turned over.

The question is: What is to be done in the management of the Federal Bureau of Investigation to avoid this sort of an error? In an age of computerization and mechanization, we search for an answer and really must find a way that the FBI will correct these kinds of problems.

A similar issue was confronted in the Waco matter. It was an incident which occurred on April 19, 1993, where the compound was attacked and where so many people lost their lives in one of the most controversial incidents in American history, but it was not until August of 1999 that the FBI suddenly found a whole ream of records. Here again, management responsibilities require something much, much better than this.

The incident at Waco is really a very sad chapter in American history for many reasons: The confrontation, the deaths, the failure of congressional oversight, the failure of candid disclosure by the officials who were in charge.

On April 28 of 1993, Attorney General Reno and then FBI Director William Sessions testified before Congress that no pyrotechnic tear gas rounds were used at Waco. The hostage rescue team commander, Richard Rogers, who was present for their testimony but who did not testify, did not correct them.

Regrettably, that is an occurrence which has happened too often where there is a concern about the FBI institutional image which blinds people who ought to be coming forward and who ought to be making a disclosure as to what the facts were when there is congressional oversight and you have critical people such as the Attorney General of the United States and by the Director of the FBI.

When Mr. Mueller and I talked yesterday, we discussed at some length the culture of the Federal Bureau of Investigation and the difficulties of even the Director finding out what is going on in his own bureau. This is a challenging task which Robert Mueller is going to have to confront.

In the context of what has happened with Wen Ho Lee, Waco, McVeigh, Hansen, and the campaign finance investigation, these are issues which need to be very thoroughly explored in the confirmation hearing, and we ought to come to some common understanding between those of us who have oversight responsibilities on the Judiciary Committee and the Director of the FBI as to what his standard will be and what we think the standard should be so that we can come to a meeting of the minds or so that we may not confirm a Director who does not measure up to what's expected, which is required as a matter of legitimate oversight.

At the same time, as I suggested before, Congress has not done its job on oversight. We had the incident at Waco on April 19 of 1993. In my view, there should have been a prompt, detailed, piercing oversight investigation of what went on there. It was not until former Senator Danforth undertook that investigation in 1999 that anything really was done.

Who can say as to the bombing of the Oklahoma City Federal building 2 years to the day after the Waco incident, when the Oklahoma City bombing occurred on April 19, 1995, whether that was related to the Waco incident or whether it might have been prevented had there been vigorous congressional oversight?

In 1995, I served as the chairman of the Subcommittee on Terrorism and moved to have oversight hearings at that time on both Waco and Ruby Ridge and to have a great deal more needed to be done. Finally, the subcommittee was permitted to have oversight as to Ruby Ridge.

That was an incident where Randy Weaver was on the mountain and refused to come down. There was a veritable army which approached him and had a firefight, and a U.S. marshal was killed in the process.

The oversight in which the Terrorism Subcommittee got to the bottom of the matter, and to the credit of FBI Director Louis Freeh, the FBI changed the rules of engagement related to the use of deadly force in what was a very important matter.

When we finished the hearings, Mr. Weaver said in the hearing room, had he known there was going to be this kind of congressional oversight, he would have come down from the mountain if he had believed there would be an inquiry and an appropriate resolution.

It was at that time that militia were springing up in some 40 States across the United States. If Congress exercises appropriate oversight, it is my view that will do a great deal to quell public unrest and public doubts as to what is happening with Federal action in a place such as Ruby Ridge and Federal action in a place such as Waco.

In summary, these are matters which are of the utmost importance when we will be confirming the next Director of the FBI, an occurrence which happens only once every 10 years because it is a 10-year turn, although a Director may leave earlier. Louis Freeh is leaving after 8 years, a term of office longer than the maximum a President may serve under the Constitution. The Justices of the Supreme Court have enormous power on 5–4 decisions establishing the law of the land, but there are four others who go with the one deciding vote.

The FBI, with all of its power—most of what it does is necessarily confidential and secret—ought to be subject to very profound changes in FBI management on the items which have been mentioned and an attitude that will not emphasize the institutional image to the sacrifice of not having appropriate congressional oversight—whether having appropriate congressional disclosure of the memorandum referred to, having appropriate congressional disclosure when a matter is pending, even if it is a criminal matter.

Mr. President, I ask unanimous consent that the full text of the memorandum from Director Freeh, dated December 9, 1996, be printed in the Congressional Record.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

As I related to you this morning, I met with the Attorney General on Friday, December 6, to discuss the above-captioned matter.

I stated that DOJ had not yet referred the matter to the FBI to conduct a full, criminal investigation. It was my recommendation that this referral take place as soon as possible.

I also told the Attorney General that since she had declined to refer the matter to an Independent Counsel it was my recommendation that she select a first-rate DOJ legal team from outside Main Justice to conduct the inquiry. In fact, I said that these prosecutors should be "junk-yard dogs" and that in my view, PIS was not capable of conducting the thorough, aggressive kind of investigation which was required.

I also advised the Attorney General of Lee Radek's comment to you that there was a lot of "pressure" on him and PIS regarding this case because the "Attorney General's job might hang in the balance" (or words to that effect). I stated that PIS people would be enough for me to take him and the Criminal Division off the case completely.

I also stated that it didn't make sense for PIS to call the FBI the "lead agency" in this matter while operating a "task force" with DOC IGs who were conducting interviews of
key witnesses without the knowledge or participation of the FBI.

I strongly recommend that the FBI and hand-picked DOJ attorneys from outside Main Justice run this case as we would any matter of such importance and complexity. We left the conversation on Friday with arrangements to discuss the matter again on Monday. The Attorney General and I spoke today and she asked for a meeting to discuss the "investigative team" and hear our recommendations. The meeting is now scheduled for Wednesday, 12/11/96, which you and Bob Dole will also attend.

I intend to repeat my recommendations from Friday's meeting. We should present all of our recommendations for setting up the investigation—both AUSAs and other resources. You and I should also discuss and consider whether on the basis of all the facts and circumstances—including Huang's recently released letters to the President as well as Radek's comments—whether I should recommend that the Attorney General reconsider referral to an Independent Counsel. It was my recommendation that DOJ declined to allow the FBI to play any role in the Independent Counsel referral deliberations. I agree with you that based on the DOJ's experience in other matters—which has only referred to an Independent Counsel because the FBI and I intervened directly with the Attorney General—it was decided to exclude the FBI from the investigation-making process.

Nevertheless, based on information recently reviewed from PIS/DOC, we should determine whether or not an Independent Counsel referral should be made at this time. If so, I will make the recommendation to the Attorney General.

Mr. SPECTER. Mr. President, I ask unanimous consent that an extract of a report from CIA Inspector General Frederick Hitz be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

We have no reason to believe that the DCIs are hand-picked DOJ attorneys from outside Main Justice. The DCIs have a proven record of being aware of the deficiencies described in this report. But DCIs are obligated to ensure that they are knowledgeable of significant developments related to crucial Agency missions. Sensitive human source reporting on the Soviet Union and Russia during and after the Cold War clearly was such a mission, and certain DCIs must therefore be held accountable for serious shortcomings in that reporting.

Mr. SPECTER. I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I rise to express grave disappointment and concern. Yesterday the Secretary of Health and Human Services, Tommy Thompson, indicated he would not get the best price for American-made, FDA-safety-approved medications from other countries such as Canada.

Last year, Congress passed a bill that says we will no longer protect the prices charged in this country that disadvantage our citizens by stopping us from free commerce across the border. I supported this effort in the House of Representatives. I find it ironic, at a time when our President talks about wanting free trade authority and expanding free trade, that we stop our citizens at the border from being able to benefit from free trade regarding the purchase of prescription drugs.

Yesterday, the Secretary of Health and Human Services said he was concerned about the safety of reimported prescription drugs. We addressed those concerns in legislation already approved by the Senate. Further, I have introduced legislation called the Medication Equity and Drug Savings Act, S. 215, the MEDS Act, that addresses the safety concerns expressed by former Secretary Shalala. The Act guarantees in the clearest terms that American labels will be used on the wholesale products that come from another country and that there will be complete safety precautions to make sure Americans will be receiving American-made, safe, FDA-approved drugs.

What is the difference in cost for prescription drugs? The difference is clear when I stand in Detroit, MI, and I look across the river, I know that prices for FDA-approved drugs can truly reduce the costs of one of the most important parts of the health care system today—medicines for our people, for the families of America, We deserve a break. Unfortunately, the roadblock was maintained yesterday. It is time to take down the barrier at the border and allow our people to buy prescription drugs wherever they can get the best price. I urge we act as quickly as possible.

Mr. BURNS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will begin consideration of H.R. 2217, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2217) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30th, 2002, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes, namely:

CONGRESSIONAL RECORD—SENATE 12857
Provided further, That balances in the Federal budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That such sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), $9,978,000, to remain available until expended: Provided, That no payment shall be made to other than the Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California Railroad grant lands and is deposited to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (30 Stat. 876).

FOREST ECOSYSTEMS HEALTH AND RECOVERY FUND (REVOLVING FUND, SPECIAL ACCOUNT) In addition to the purposes authorized in Public Law 102–381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, and monitoring salvage timber sales and forest ecosystem recovery activities such as release from competing vegetation and density control treatments. The Federal share of receipts (defined as the portion of salvage timber sales and improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing corridor of roads on or adjacent to such grant lands; $106,061,000, to remain available until expended: Provided, That 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California Railroad grant land fund and is deposited to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (30 Stat. 876).

FIRE PROTECTION, PROTECTION, AND ACQUISITION For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), notwithstanding any other Act, sums equal to 50 percent of all monies received during the prior fiscal year under section 318(c)(4)(E)(xiii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That no payment shall be made to other than the Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California Railroad grant lands and is deposited to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (30 Stat. 876).
mineral leasing receipts from Bunkhead-Jones lands to the Department of the Interior pursuant to law, but not less than $10,000,000, to remain available until expended: Provided, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of uses in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94–579, as amended, and Public Law 93–153, to remain available until expended: Provided, That notwithstanding any provision to the contrary of section 305(a) of Public Law 94–579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriated such amounts as may be contributed under Public Law 94–579, as amended, and Public Law 93–153, to remain available until expended: Provided, That notwithstanding any provision to the contrary of section 305(c) of that Act, that any such moneys shall be considered as appropriated and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a person, source developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys received from such sale are used on the exact lands damaged which led to the action: Provided further, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

MISCELLANEOUS TRUST FUNDS

In addition to amounts appropriated to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, relocation, operation, repair, and alteration of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on her certificate: Provided, That notwithstanding 44 U.S.C. 501, the Bureau may, under contract for cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperators are capable of meeting accepted quality standards: Provided further, That section 2(b) of title 30, United States Code, is amended:

(1) In section 289(a), by striking the first sentence and inserting, ‘‘The holder of each unpatented mining claim, placer claim, or tunnel right, or tunnel or water right pursuant to the mining laws of the United States, whether located before, on or after the enactment of this Act, shall pay to the Secretary of the Treasury of the United States $100 per claim or site’’; and

(2) In section 289, by striking ‘‘and before September 30, 2006’’ and substituting ‘‘and before September 30, 2006’’;

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, by direct expenditure and economic studies, conservation management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, maintenance of the herd of low-horned cattle on the Wichita Mountains Wildlife Refuge, general administration, and for the performance of other authorized functions related to the planning of and coordination of contracts, grants, cooperative agreements and reimbursable agreements with public and private entities, $845,714,000, to remain available until September 30, 2001, except as otherwise provided herein, of which $31,000,000 is for conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That balances in the Federal Infrastructure Improvement account shall be transferred to this appropriation, and shall remain available until expended: Provided further, That not less than $2,000,000 shall be provided to local governments in southern California for planning associated with the Natural Communities Conservation Planning (NCCP) program and shall remain available until expended: Provided further, That not less than $2,000,000 for high priority projects which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided further, That not to exceed $9,000,000 shall be used for implementing subsections (a), (b), (c), and (d) of section 4 of the Endangered Species Act, as amended, for species that are indigenous to the United States (except for processing petitions, developing and implementing proposed federal regulations, and taking any other steps to implement actions described in subsection (c)(2)(A), (c)(2)(B)(i), or (c)(2)(B)(ii)): Provided further, That not to exceed $50,000,000, to remain available until expended, may at the discretion of the Secretary, not to exceed 2,000,000, to remain available until expended, to be for the conservation activities described in section 250(c)(4)(E)(iv) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided further, That the amount provided herein is for the Secretary to establish a Private Stewardship Grants Program to provide grants and other assistance to individuals and groups engaged in private conservation efforts that benefit federally listed, proposed, or candidate species, or other at-risk species.

STEWARDSHIP GRANTS

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–6 through 11), and to the Land and Water Conservation Fund, to remain available until expended, and to be for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits: Provided, That the amount provided herein is for a Landowner Incentive Program established by the Secretary that provides matching, competitively awarded grants to States, the District of Columbia, Tribes, Puerto Rico, the United States Virgin Islands, the Northern Mariana Islands, and American Samoa, to establish, or supplement existing, landowner incentive programs that provide technical and financial assistance for the acquisition, rehabilitation, and restoration, to private landowners for the protection and management of habitat to benefit federally listed, proposed, or candidate species, or other at-risk species on private lands.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended, $91,000,000, to be derived from the Cooperative Endangered Species Conservation Fund, to remain available until expended, and to be for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of discretionary spending limits: Provided, That the amount provided herein is for the Secretary to establish a Private Stewardship Grants Program to provide grants and other assistance to individuals and groups engaged in private conservation efforts that benefit federally listed, proposed, or candidate species, or other at-risk species.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715a), $14,410,000.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–213, as amended, $42,000,000, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E)(vi) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

MULTINATIONAL SPECIES CONSERVATION FUND

appropriations for rhinoceros, tiger, Asian elephant, and other species of wildlife as are exempt from any sanctions imposed against any country under section 102 of the Arms Export Control Act (22 U.S.C. 279aa–1).

STATE WILDLIFE GRANTS

INCLUDING RECEIPTS

For wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, the Northern Mariana Islands, and American Samoa, under the provisions of the Wildlife Conservation and Recovery Act of 1956 (16 U.S.C. 669b–1), the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished.

$100,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 205(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That the Secretary shall, after deducting administrative expenses, apportion the amount provided herein in the following manner: (A) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to one-half of 1 percent thereof; and (B) to Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof: Provided further, That the Secretary shall apportion the remaining amount in the following manner: 30 percent based on the ratio to which the land area of such State bears to the total land area of all such States; and 70 percent based on the ratio to which the population of such State bears to the total population, based on the most recent U.S. Census; and the amounts so apportioned shall be adjusted equitably so that no State shall be apportioned a sum which is less than one percent of the total amount available for apportionment or more than 10 percent: Provided further, That the Federal share of planning grants shall not exceed 75 percent of the total costs of such projects and the Federal share of implementation grants shall not exceed 90 percent of the total costs of such projects: Provided further, That the non-Federal share of such projects may not be derived from Federal grant programs: Provided further, That no State, territory, or other jurisdiction shall receive a grant unless it has developed, or committed to develop, by October 1, 2001, a comprehensive wildlife conservation plan, consistent with criteria established by the Secretary of the Interior, that considers the broad range of the State’s wildlife and associated habitats, with appropriate priority placed on those species with the greatest conservation need and taking into consideration the relative level of funding available for the conservation of those species: Provided further, That any amount apportioned in 2002 to any State, territory, or other jurisdiction that remains unobligated as of September 30, 2003, shall be reapportioned, together with funds apportioned in 2004, in the manner provided hereinafter.

Of the amounts apportioned in title VIII of Public Law 106–291, $49,890,000 for State Wild- life Grants are rescinded.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 74 passenger motor vehicles, of which 69 are for replacement only (including 22 for police-type use); 11 for law enforcement and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed $1 for each option; facilities interconnected by conservational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities associated with the operation of the Service due to which the United States has title, and which are used pursuant to law in connection with management and investigation of fish and wildlife resources: Provided further, That the notwithstanding 4 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing and related services from state, local, or Federal governments, or with jointly produced publications for which the operators share at least one-half the cost of printing either in cash or services and the Service determines the cooperators are capable of meeting accepted quality standards: Provided further, That the Service may accept donated aircraft as replacements for existing aircraft: Provided further, That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to use as an extension of or any existing unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with procedures contained in Senate Report 105–56.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the Nation Park Service, $1,761,190,000, of which $19,881,000 for research, planning and interagency coordination in support of land acquisitions for Everglades restoration shall remain available until expended, and of which $17,181,000, to remain available until September 30, 2003, is for maintenance repair or rehabilitation projects for constructed assets, operation of National Parks, and Arts and Cultural Resources Projects, management software system, and comprehensive facility condition assessments; and of which $2,000,000 is for the Youth Conservation Corps, of which $1,000,000 is for the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That the Secretary may accept donated aircraft as replacements for existing aircraft: Provided further, That the amount provided $30,000,000 shall be for the conservation activities defined in section 205(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333), $74,000,000, to be derived from the Historic Preservation Fund, to remain available until expended, for the support of Federal activities, including activities defined in section 205(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That of the amount provided $30,000,000 shall be for the conservation activities defined in section 205(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, $338,585,000, to remain available until expended, of which $60,000,000 is for conservation activities defined in section 250(c)(4)(E)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

LAND AND WATER CONSERVATION FUND

CONTRIBUTION FOR ANNUITY BENEFITS

For reimbursement (not heretofore made), pursuant to provisions of Public Law 85–157, to the District of Columbia on a monthly basis for benefit payments to District Police Officers, to United States Park Police annuitants under the provisions of the Policeman and Fireman’s Retirement and Disability Act (Act), to the extent payments are made by those active Park Police members covered under the Act, such amounts as hereafter may be necessary for the purposes of such Act.
Emergency Deficit Control Act of 1985, as amended, of such excess, plus interest on $164,424,000 is for the State assistance program including $4,000,000 to administer the State assistance program, and of which $11,000,000 shall be for grants, not covering more than 50 percent of the costs of any acquisition to be made with such funds, to States and local communities for purposes of acquiring lands or interests therein, within the Everglades watershed (consisting of lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area) under terms and conditions deemed necessary to improve the hydrological function of the Everglades watershed; and $16,000,000 may be for project modifications authorized by section 104 of the Everglades Protection Act of 1978, as amended. Provided further, That funds provided under this heading, $15,000,000 may be for Federal grants to the State of Florida for the acquisition of lands or waters, or interests therein, within the Everglades watershed (consisting of lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area) under terms and conditions deemed necessary to improve the hydrological function of the Everglades watershed; and $16,000,000 may be for project modifications authorized by section 104 of the Everglades Protection Act of 1978, as amended. Provided further, That funds provided under this heading for assistance to the State of Florida to acquire lands within the Everglades watershed are contingent upon new matching non-Federal funds to the State and shall be subject to an agreement that the lands to be acquired will be managed in perpetuity for the restoration of the Everglades: Provided further, That none of the funds provided for the State Assistance program may be used to establish a contingency fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 237 for police-type use, 11 buses, and 8 ambulances: Provided, That none of the funds appropriated for the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1933. Provided further, That none of the funds appropriated for the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days after the date of when the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island containing the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of training programs designed to improve workplace and employee safety, and to encourage employees receiving workers’ compensation benefits pursuant to chapter 81 of title 31 to return to their pre-injury positions for which they are medically able.

UNITED STATES GEOLOGICAL SURVEY SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses of the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, biology, and the mineral and biological resources of the United States, its territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permission and Federal Energy Regulatory Commission licenses; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate surveys and reports concerning activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 961(c)) and related purposes as authorized by law and to publish and disseminate data; $102,474,000, of which $64,318,000 shall be available only for cooperation with States or municipalities on resources investigations; and of which $16,400,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries; and of which $8,000,000 shall remain available until expended for satellite operations; and of which $23,226,000 shall be available until September 30, 2003 for the operation of the Cooperative Research Units: Provided, That none of these funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: Provided further, That of the amount provided herein, $25,000,000 is for the conservation activities described in section 250(c)(4)(E)(viii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided further, That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for the purchase of not to exceed 33 passenger motor vehicles, of which 48 shall be for replacement only, including not to exceed 237 for police-type use, 11 buses, and 8 ambulances: Provided, That none of the funds appropriated for the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1933. Provided further, That none of the funds appropriated for the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days after the date of when the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island containing the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of training programs designed to improve workplace and employee safety, and to encourage employees receiving workers’ compensation benefits pursuant to chapter 81 of title 31 to return to their pre-injury positions for which they are medically able.
MARYLAND must first complete all Surface Mining Reclamation and Treatment Fund, the State of any amounts greater than 10 percent of its title IV grants are deposited in an acid mine drainage abatement and treatment projects, except that before the State to undertake acid mine drainage abatement and treatment fund, the United States Government to pay for construction or facilities improvement and repair agreements and for unmet welfare assistance programs contained in 43 CFR part 12, the Secretary and the Academy of Public Administration’s August 1999 report shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103-413).

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs for distribution to other tribes, this action shall not diminish the Federal Government’s trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe’s ability to access future appropriations.
funds available to the Bureau shall be used to support exploration for any offshore mineral resources beyond the grade structure in place or approved by the Secretary of the Interior at any school in the Bureau school system as of October 22, 1999. Funds made available pursuant to this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978, (25 U.S.C. 2001)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 30, 1989, may continue to operate in that school for the remainder of that period, but only if the charter school pays to the Bureau a pro rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not have access to such schools as Bureau schools. Charter schools shall be a continuation of the Bureau's local educational unit functions related to the charter school's operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 35 of title 31, United States Code (commonly known as the "Federal Tort Claims Act").

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $76,450,000, of which: (1) $71,922,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and tribal control and management; (2) grants to the Judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $4,528,000 shall be available for salaries and expenses of the Office of Insular Affairs: Provided, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 31 of title 31, United States Code: Provided further, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives of the People United States Financial Assistance for the Northern Mariana Islands approved by Public Law 104–134: Provided further, That of the amounts provided for technical assistance, not to exceed $2,000,000 shall be made available for transfer to the Disaster Assistance Direct Loan Financing Account of the Federal Emergency Management Agency for the purpose of offsetting the cost of compliance with the repayment obligation of the Government of the Virgin Islands on Community Disaster Loan 441, as required by section 504 of the Congressional Budget and Impoundment Control Act of 1976 (25 U.S.C. 661c): Provided further, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close-Up Foundation: Provided further, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintain an array of operations in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia, to include operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and educational training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary), to maintain a territorial commitment to timely maintenance of its capital assets: Provided further, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5766):

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as authorized by section 218 and 233 of the Compact of Free Association, and for economic assistance and necessary expenses for the Republic of Palau as provided for in sections 122, 221, 223, and 233 of the Compact of Free Association, $23,245,000, to remain available until expended, as authorized by Public Law 99–239 and Public Law 99–658.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $67,541,000, of which not to exceed $8,300 may be for official reception and representation expenses, and of which up to $1,000,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines: Provided, That all necessary expenses of the Office of the Solicitor: $44,074,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, including $3,827,000 to be transferred, as needed, to the Department of the Interior or other departments or agencies of the Federal Government, for salaries and expenses of the Office of Inspector General: $13,601,000.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL LAND ACQUISITION PROGRAMS

For operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, $99,224,000, to remain available until expended: Provided, That the funds for trust management improvements may be transferred, as needed, to the Bureau of Indian Affairs “Operation of Indian Programs” account and to the Departmental Management “Salaries and Expenses” account: Provided further, That funds made available to Tribes and Tribal organizations through contracts or grants obligated during fiscal year 2002, as authorized by section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and be replenished by a supplemental appropriation which must be requested as promptly as possible.
SEC. 104. Appropriations made to the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing, and related activities, on lands within the North Aleutian Basin planning area.

SEC. 105. Appropriations made in this title shall be available for obligation in connection with contracts issued for services or rentals for periods not in excess of 12 months beginning at any time during the fiscal year.

SEC. 106. Annual appropriations made in this title shall be deemed to alter the Secretary's statutory authority.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 111. Advance payments made under this title to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) may be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purposes of the grant, compact, or annual funding agreement so long as such funds are—

(1) invested by the Indian tribe, tribal organization, or consortium only in obligations of the United States, or in obligations or securities that are guaranteed or insulated by the United States, or in a mutual or other fund or corporation established under the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insulated by the United States;

(2) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure that funds are—

(a) invested in obligations of the United States, or in obligations or securities that are guaranteed or insulated by the United States; or

(b) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

SEC. 112. Appropriations made in this Act for the Bureau of Land Management and Office of Special Trustee for American Indian Affairs and Office of Special Trustee for American Indian Affairs and Office of Special Trustee for American Indian Affairs and Office of Special Trustee for American Indian Affairs and Office of Special Trustee for American Indian Affairs shall be available for operation of warehouses, and other equipment in connection with their use for wildland fire operations, such reimbursement to be credited to appropriations currently available at the end of the fiscal year.

SEC. 113. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever considered necessary to contribute to the efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 333 and 334 of title 31, United States Code: Provided, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 114. Appropriations made to the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing, and related activities, on lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.

SEC. 115. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to distribute Tribal Priority Allocation funds, including tribal base funds, to alleviate tribal funding inequities by transferring funds to address identified, unmet needs, dual enrollment, overlapping service areas, or inaccurate distribution methodologies. No tribe shall receive a reduction in Tribal Priority Allocation funds of more than 10 percent in fiscal year 2002.

SEC. 116. Funds appropriated for the Bureau of Indian Affairs for postsecondary schools for fiscal year 2002 shall be allocated among the schools proportionate to the unmet need of the schools as determined by the Postsecondary Funding Formula adopted by the Office of Indian Education Programs.

SEC. 117. (a) The Secretary of the Interior shall take such action as may be necessary to ensure that the lands comprising the Huron Cemetery in Kansas City, Kansas (as described in section 123 of Public Law 106–291) are used only in accordance with the previous right granted to the United States; and (b) the lands of the Huron Cemetery shall be used only for the purposes of the United States as determined by the Postsecondary Funding Formula adopted by the Office of Indian Education Programs.

SEC. 118. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104–134, as amended by Public Law 104–298, the Secretary may accept and retain land and transfers of other forms of reimbursement: Provided, That the Secretary may retain and use any such reimbursement until expended and without further appropriation for: (1) the benefit of the National Wildlife Refuge System within the State of Minnesota; and (2) all activities authorized by Public Law 100–696; 16 U.S.C. 669c.


SEC. 120. Notwithstanding any other provision of law, the National Park Service may authorize, through cooperative agreement, the Golden Gate National Parks Association to provide (fee-based) educational, interpretative, and visitor services functions within the Crissy Field and Fort Point areas of the Presidio.

SEC. 121. Notwithstanding any other provision of law, for the purpose of reducing the backlog of Indian probate cases in the Department of the Interior to conduct offshore leasing and related activities placed under restriction in the President’s moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 122. Appropriations made in this title shall be deemed to alter the Secretary's statutory authority.

SEC. 123. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore oil and natural gas preleasing, leasing, and related activities, on lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.
sec. 122. tribal school construction demonstration program. (a) definitions. in this section—

construction. the term "construction", with respect to a tribally controlled school, includes the construction or renovation of that school.

indian tribe. the term "indian tribe" has the meaning given in section 4(e) of the indian self-determination and education assistance act (25 u.s.c. 450b(e)).

secretary. the term "secretary" means the secretary of the interior.

tribally controlled school. the term "tribally controlled school" has the meaning given in section 521 of the tribally controlled schools act of 1988 (25 u.s.c. 2511).

department. the term "department" means the department of the interior.

demonstration program. the term "demonstration program" means the tribal school construction demonstration program.

(b) demonstration program. the secretary shall carry out a demonstration program to provide grants to indian tribes for the construction of tribally controlled schools.

(1) subject to the availability of appropriations, in carrying out the demonstration program under subsection (b), the secretary shall award a grant to each indian tribe that submits an application that is approved by the secretary under paragraph (2). the secretary shall ensure that an eligible indian tribe currently on the department's priority list for construction or replacement educational facilities receives the highest priority for a grant under this section.

grant applications. an application for a grant under this section shall—

(a) include a proposal for the construction of a tribally controlled school of the indian tribe that submits the application; and

(b) be in such form as the secretary determines appropriate.

grant agreement. as a condition to receiving a grant under this section, the indian tribe shall enter into an agreement with the secretary that specifies—

(a) the costs of construction under the grant;

(b) that the indian tribe shall be required to contribute to the costs of the construction in an amount equal to 50 percent of the costs; and

(c) any other terms, conditions or provisions that the secretary determines to be appropriate.

eligibility. grants awarded under the demonstration program shall only be for construction or replacement tribally controlled schools.

effect of grant. a grant received under this section shall be in addition to any other funds received by an indian tribe under any other provision of law. the receipt of a grant under this section shall not affect the eligibility of an indian tribe receiving funding, or the amount of funding received by the indian tribe, under the tribally controlled schools act of 1968 (25 u.s.c. 2501 et seq.) or the indian self-determination and education assistance act (25 u.s.c. 450 et seq.).

sec. 123. white river oil shale mine, utah. (a) sale. the administrator of general services (referred to in this section as the "administrator") shall sell all right, title, and interest in the chinese wall, the ventilation/fan building, the mining office building, the ventilation/fan building, the mine headframe, and the miscellaneous mine-related equipment.

(b) description of improvements and equipment. the improvements and equipment referred to in subsection (a) are the following improvements and equipment associated with the mine:

(1) mine service building,

(2) sewage treatment building,

(3) 100,000 gallon underground storage tank,

(4) water treatment building/plant,

(5) ventilation/fan building,

(6) water storage tanks,

(7) mine headframe and headframe,

(8) miscellaneous mine-related equipment.

(c) description of land. the land referred to in subsection (a) is the land located in union county, utah, and is known as the "white river oil shale mine" and is described as follows:

(1) t. 10 s., r. 24 e., salt lake meridian, sections 1 through 14, through 19, through 20, 33, and 34.

(2) t. 16 s., r. 25 e., salt lake meridian, sections 18 and 19.

(d) use of proceeds. the proceeds of the sale under subsection (a)—

(1) shall be deposited in a special account in the treasury of the united states; and

(2) shall be available until expended, without further act of congress.

(1) first, to reimburse the administrator for the direct costs of the sale; and

(2) second, to reimburse the bureau of land management for service for the costs of closing and rehabilitating the mine.

(e) mine closure and rehabilitation. the closing and rehabilitation of the mine (including closing of the mine shafts, site grading, and surface revegetation) shall be conducted in accordance with—

(1) the regulatory requirements of the state of utah, the mining safety and health administration, and the occupational safety and health administration; and

(2) other applicable law.

sec. 124. the secretary of the interior may use or contract for the use of helicopters or motor vehicles on the shenon and hart national wildlife refuges for the purpose of capturing and transporting horses and burros. the provisions of subsection (a) of the act of september 8, 1959 (73 stat. 470; 18 u.s.c. 47(a)) shall not be applicable to such use. such use shall be in accordance with land management procedures prescribed by the secretary.

sec. 125. upon application of the governor of a state, the secretary shall—

(1) agree, in writing, to a transfer not to exceed 25 percent of that state's formula allocation under the heading "national park service, land acquisition and state assistance" to increase that state's allocation under the heading "united states fish and wildlife service, state wildlife grants" or (2) transfer not to exceed 25 percent of the state's formula allocation under the heading "united states fish and wildlife service, state wildlife grants" to increase the state's formula allocation under the heading "national park service, land acquisition and state assistance".

sec. 126. section 819 of public law 106–58 is hereby repealed.

sec. 127. moore's landing at the cape roanoke division in south carolina is hereby named for george garris and shall hereafter be referred to in any law, document, or record of the united states as "garris landing".

title i—related agencies

department of agriculture forest service

forest and rangeland research

for necessary expenses of forest and rangeland research as authorized by law, $242,822,000, to remain available until expended.

state and private forestry

for necessary expenses of cooperating with and providing technical and financial assistance to states, territories, possessions, and other agencies, and for forest health management, cooperation, education, and research, $30,000,000, to remain available until expended.

national forest system

for necessary expenses for the forest service, not otherwise provided for, for management, protection, improvement, and utilization of the national forest system, $1,324,491,000, to remain available until expended, including 50 percent of all moneys received during prior fiscal years as fees collected under the land and water conservation fund act of 1965, as amended, for the purposes of section 4 of the act (16 u.s.c. 460l–6a(i)): provided, that unobligated balances available at the start of fiscal year 2002 shall be displayed by extended budget level item in the fiscal year 2003 budget justification: provided further, that notwithstanding any other provision of law, the funds provided under this heading, $5,000,000 shall be made available to kake tribal corporation as an advanced direct lump sum payment to implement the kake tribal corporation land transfer act (public law 106–263).

wildland fire management

for necessary expenses for forest fire suppression activities on national forest land systems, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, and for emergency re-establishment of burned-over national forest systems lands and water, $1,115,394,000, to remain available until expended: provided, that such funds including unobligated balances under this heading, are available for repayment of advances from other appropriations accounts previously transferred for such purposes: provided further, that not less than 50 percent of any unobligated balances remaining (exclusive of amounts for the reasonable fuels reduction at the end of fiscal year 2001 shall be transferred, as repayment for past advances that have not been repaid, to the fund established pursuant to section 3 of public law 71–319 (16 u.s.c. 576 et seq.): provided further, that notwithstanding any other provision of law, $4,000,000 of funds appropriated under this appropriation shall be used for fire science research joint fire science program: provided further, that all authorities for the use of funds, including
the use of contracts, grants, and cooperative agreements contained in the Rangeland Research appropriation, are also available in the utilization of these funds for Fire Science Research: Provided further, That funds provided for shall be available for the expenses necessary to rehabilitate and restore, hazard reduction activities in the urban-wildland interface, support to federal emergency response, and wildfire suppression activities of the Forest Service: Provided further, That amounts under this heading may be transferred as specified in the report accompanying this Act to the State and Private Forestry account; (4) the Cooperative Forest Rangeland Research Act; and (5) the Capital Improvement and Maintenance accounts to fund state fire assistance, volunteer fire assistance, and forest health management, vegetation and watershed management, heritage site rehabilitation, wildlife and fish habitat management, trails and facilities maintenance and restoration: Provided further, That transfers of any amounts in excess of those specified shall require approval of the House and Senate Committees on Appropriations in compliance with reprogramming contained in this report. Provided further, That the costs of implementing any cooperative agreement between the Federal government and any non-Federal entity may be shared, and shall be approved by the affected parties: Provided further, That in entering into such grants or cooperative agreements, the Secretary may consider the enhancement of local and small business employment opportunities for rural communities, and that in entering into procurement contracts under this section on a best value basis, the Secretary may take into account the ability of an entity to enhance local and small business employment opportunities in rural communities, and that the Secretary may award procurement contracts under this section to entities that include local nonprofit entities, Youth Conservation Corps or related partnerships with State, local or nonprofit youth groups, or small or disadvantaged businesses: Provided further, That:

(1) In expending the funds provided with respect to this Act for hazardous fuels reduction, the Secretary of the Interior and the Secretary of Agriculture may conduct fuel reduction treatments on Federal lands using all contracting and hiring authorities available to the Secretary of the Interior, or the National Marine Fisheries Service of the Department of Commerce, for the costs of carrying out their responsibilities under the Emergency Forest Service Act of 1978 (16 U.S.C. 1570 et seq.) to consult and conference as required by section 7 of such Act in connection with wildfire fire management activities in fiscal years 2001 and 2002; and (B) Only those funds appropriated for fiscal years 2001 and 2002 to Forest Service (USDA) for wildfire fire management are available to the Secretary of Agriculture for such transfer or reimbursement.

(C) The amount of the transfer or reimbursement shall be as mutually agreed by the Secretary of Agriculture and the Secretary of the Interior or Secretary of Commerce, as applicable, or their designees. The amount shall in no case exceed the actual costs of consultation and conferencing in connection with wildfire fire management activities affecting National Forest System lands.

For necessary expenses to cover necessary expenses for emergency rehabilitation, wildfire suppression and other fire operations of the Forest Service, $165,000,000, to remain available until expended: Provided, That an additional $50,000,000 for emergency rehabilitation and wildfire suppression, and $65,000,000 is for other fire operations: Provided, That the entire amount appropriated in this paragraph by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, is made in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

For an additional amount to liquidate obligations previously incurred, $274,147,000.

CAPITAL IMPROVEMENT AND MAINTENANCE

For necessary expenses of the Forest Service, not otherwise provided for, $541,280,000, to remain available until expended for construction, reconstruction, maintenance and acquisition of buildings and other facilities, and for construction, reconstruction, repair and maintenance of Forest Service roads as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205, of which $61,000,000 is for conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That fiscal year 2001 balances in the Federal Infrastructure Improvement Fund account for the Forest Service shall be transferred to and merged with this appropriation and shall remain available until expended, Provided further, That the amount appropriated in this heading shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: Provided further, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project: Provided further, That the Forest Service shall transfer $300,000, appropriated in Public Law 106–291 within the Capital Improvement and Maintenance Appropriation: Provided further, That the State and Private Forestry appropriation, and shall provide these funds in an advance direct lump sum payment to Purdue University for planning and construction of a hardwood tree improvement and generation facility.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 660–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, for the purposes of such Act, to be derived from the Land and Water Conservation Fund, $128,877,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and for the conservation activities defined in section 259(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

ACQUISITION OF LANDS FOR NATIONAL FORESTS AND RANGELAND RESEARCH

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,609,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or urban Indian tribes under this Act, as amended (6 U.S.C. 844a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 30 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND REQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1642(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USE

For necessary expenses of the Forest Service to manage federal lands in Alaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96–487), $5,480,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of not to exceed 132 passenger motor vehicles of which eight will be used primarily for law enforcement purposes and of which 130 shall be for replacement; acquisition of 215 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed 50 for police work only, and acquisition of sufficient aircraft from excess sources to maintain the operable fleet at 195 aircraft for use in Forest Service wildland fire programs and other Forest Service programs: Provided that other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed $100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and facilities improvement; (4) acquisition of land, water, and interests therein, including the Oscoda-Wurtsmith land exchange in Michigan, pursuant to 7 U.S.C. 428a; (5) the costs for the replacement of equipment.
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authorized by 5 U.S.C. 5901–5962; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to abolish any existing program, or close any regional office for the National Forest System Administration of the Forest Service, Department of Agriculture without the consent of the Senate Committee on Appropriations, or to transfer Federal funds to a non-Federal recipient.

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for forest fire suppression if the National Forest System lands or related to burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions and only if all previously appropriated emergency contingency funds under the heading “Wildland Fire Management” have been released by the President and apportioned.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest fire suppression in a development, technical assistance, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States, its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 177) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report No. 105–163.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the procedures contained in House Report No. 105–163.

Funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Funds appropriated to the Forest Service shall be available to conduct a program of not less than $2,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E)(xii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

Of the funds available to the Forest Service, $2,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Pursuant to sections 405(b) and 410(b) of Public Law 101–593, of the funds available to the Forest Service, up to $2,250,000 may be advanced for necessary expenses, that is expenses not directly related to specific programs or to the accomplishment of specific work on-the-ground, from any funds available to the Forest Service: Provided, That the Forest Service shall implement and adhere to the definitions of indirect expenditures established pursuant to Public Law 105–277 on a nationwide basis without flexibility for modification by any organizational level except the Washington Office, and when changed by the Washington Office, such changes in definition shall be reported in writing to be submitted by the Forest Service: Provided further, That the Forest Service shall provide in all future budget justifications, planned indirect expenditures in accordance with the definitions, summarized and displayed to the Regional, Station, Area, and detached unit office level. The justification shall display the estimated source and amount of indirect expenditures, by expanded budget line item, of funds in the Service’s annual budget justification. The display shall include appropriated funds and the Knudson–Van- dendyke–Brown Brush Disposal Project, Work–Other, and Salvage Sale funds. Changes between estimated and actual indirect expenditures shall be reported in subsequent budget justifications: Provided, That during fiscal year 2002 the Secretary shall limit total annual indirect obligations from the Brush Disposal, Knudson–Vandenberg, Reforestation, Salvage Sale, Work Roads and other funds to 20 percent of the total obligations from each fund. Obligations in excess of 20 percent which would otherwise be charged to the above funds may be charged to other funds appropriated to the Forest Service subject to notification of the Committees on Appropriations of the House and Senate.

Any appropriations or funds available to the Forest Service may be used for necessary expenses in the event of law enforcement emergencies as necessary to protect natural resources and public or employee safety: Provided, That such amounts shall not exceed $750,000.

The Secretary of Agriculture may authorize the sale of excess buildings, facilities, and other properties owned by the Forest Service and located on the Green Mountain National Forest, the revenues of which shall be retained by the Forest Service and disbursed by the Secretary without further appropriation and until expended for maintenance and rehabilitation activities on the Green Mountain National Forest.

DEPARTMENT OF ENERGY

Fossil Energy Research and Development (Including Transfers of Funds)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 94–163), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisitions, equipment, construction, land, leases, management reviews, land purchase negotiations and similar non-litigation related matters, $297,000,000., to remain available until expended: Provided further, That such funds may be used for assistance to private industry and for assistance to public agencies and institutions for precommercial development of fossil energy technologies and for activities to support the Congressionally authorized fossil energy research and development programs, to carry out the purposes of Public Law 88–379, to carry out the purpose of Public Law 89–699, to carry out the purpose of Public Law 90–448, and to carry out the purposes of Public Law 91–517, to provide for the support of fossil energy research and development activities the Congressionally authorized fossil energy research and development programs, to carry out the purposes of Public Law 88–379, to carry out the purpose of Public Law 89–699, to carry out the purpose of Public Law 90–448, and to provide for the support of fossil energy research and development activities.
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disposal of mineral substances without objection- al environmental consequences, as defined in section 300c-2 of Public Law 99–509 (15 U.S.C. 4907); Provided further, That notwithstanding section 300c(d)(2) of Public Law 99–509, such sums shall be allocated to eligible programs as follows: $123,000,000 for State demonstration assistance grants and $28,000,000 for State energy conservation grants.

ECONOMIC REGULATION
For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, $1,996,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE
Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

PROCLAMATIONS, DEPARTMENT OF ENERGY
Appropriations made under this Act, transfers of sums may be made to other agencies of the Department for the performance of work for which the appropriation is made. None of the funds made available under this Act shall be available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions to the department for use in connection with the procedures or projects in cooperation with other agencies, Federal, State, private or foreign: Provided, That revenues and other moneys received by or in connection with the activities of the Strategic Petroleum Reserve and the Strategic Petroleum Reserve Laboratory may be used to support Department of Energy activities not included in this account.

ALTERNATIVE FUELS PRODUCTION (RESCISION)
Of the unobligated balances under this heading, $2,000,000 are rescinded.

NAVAL PETROLEUM AND OIL SHALE RESERVES
For expenses necessary to carry out naval petroleum and oil shale reserve activities, not to exceed $17,371,000, to remain available until expended:

ELK HILLS SCHOOL LANDS FUND
For necessary expenses in fulfilling installment payment requirements for the settlement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104–106, $38,000,000, to remain available until October 1, 2002 for payment to the State of California for the State Teachers' Retirement Fund from the Elk Hills School Lands Fund.

ENERGY CONSERVATION
For necessary expenses in carrying out energy conservation activities, $870,805,000, to remain available until expended: Provided, That $251,000,000 shall be for use in energy conservation programs as defined in section 300c-2 of Public Law 99–509 (15 U.S.C. 4907): Provided further, That notwithstanding section 300c(d)(2) of Public Law 99–509, such sums shall be allocated to eligible programs as follows: $123,000,000 for State demonstration assistance grants and $28,000,000 for State energy conservation grants.

For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, $1,996,000, to remain available until expended.

For expenses necessary to carry out the Department of Energy shall make project selections no later than one hundred and twenty days following enactment of this Act, proposals shall be submitted no later than ninety days after the issuance of the request for proposals, and the Department of Energy shall project selections no later than one hundred and twenty days after receipt of proposals: Provided further, That funds shall be expended in accordance with the provisions governing the use of funds contained in the heading "Energy Conservation and Energy Efficiency Programs": Provided further, That the Department may include provisions for repayment of Government contributions to individual projects or an amount up to the Government contribution to the project on terms and conditions that are acceptable to the Department including repayments from sale and licensing of technology resulting from domestic and foreign transactions: Provided further, That such repayments shall be retained by the Department for future coal-related research, development and demonstration projects: Provided further, That any technology selected under this program shall be considered a Clean Coal Technology and any project selected under this program shall be considered a Clean Coal Technology Project, for the purposes of 42 U.S.C. §7651n, and Chapters 51, 52, and 60 of title 40 of the Code of Federal Regulations: Provided further, That revenues and other moneys received by or in connection with the activities of the Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 621 et seq.), $159,000,000, to remain available until expended, of which $8,000,000 shall be available for maintenance of a Northeast Home Heating Oil Reserve.

ENERGY INFORMATION ADMINISTRATION
For necessary expenses in carrying out the activities of the Energy Information Administration, $75,499,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY
For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, $1,996,000, to remain available until expended.

Indian Health Services
For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and the Public Health Service Act with respect to the Indian Health Service, $2,388,614,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238b for services furnished by the Indian Health Service: Provided, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award, and the amount made available to the tribe or tribal organization without fiscal year limitation: Provided further, That $15,000,000 shall remain available until expended for the Indian Health Astrophic Health Emergency Fund: Provided further, That $439,776,000 for contract medical care shall remain available for obligation until September 30, 2003: Provided further, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: Provided further, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of title XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): Provided further, That funding contained herein, in any earlier appropriations Acts, to be used for scholarships programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 2003: Provided further, That funds received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: Provided further, That notwithstanding any other provision of law, of the amounts provided herein, not to exceed $288,234,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts or annual funding agreements between the Bureau of Indian Affairs and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to, or during fiscal year 2002, of funds made available to tribes and tribal organizations for such costs associated with the Navajo Nation’s new and expanded contracts, grants, self-governance compacts or annual funding agreements: Provided further, That funds provided in this Act may be used, as needed, to carry out activities typically funded under the Indian Health Facilities accounts.

Indian Health Facilities
For construction, repair, maintenance, improvement, and equipment of health and related
auxiliary facilities, including quarters for personnel, to provide an appropriate facility: Provided further, that from the funds appropriated herein, $5,000,000 shall be designated by the Indian Health Service as a contribution to the Yukon-Kuskokwim Health Corporation (YKHC) to continue a priority project for the acquisition of land, planning, design and construction of 79 staff quarters at Bethel, Alaska, pursuant to the negotiated project agreement between the YKHC and the Indian Health Service: Provided further, That this project shall not be subject to the construction provisions of the Indian Self-Determination and Education Assistance Act (42 U.S.C. 2004a), the Indian Sanitation Facilities Act) and Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 86–121 (the Indian Sanitation Facilities Act). Reimbursable goods and services, or technical assistance. The appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

NOTES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–319, $15,148,000, to remain available until expended: Provided, That funds provided under this Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in siphon housing, and all others certified as eligible and not included in the preceding categories: Provided further, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: Provided further, That no relocatee will be provided with more than one new or replacement home: Provided further, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence on the Yuma Reservation: Provided further, That the land acquired pursuant to 25 U.S.C. 640d–10, INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–458, as amended (20 U.S.C. 56 part A), $4,540,000.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; publication, dissemination, and exchange of information; publication and conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to five replacement passenger vehicles; purchase, rental, repair, and cleaning of vehicles; $9,345,000, to remain available until expended: Provided, That funds made available in this Act to the Indian Health Service to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment, and the reimbursements received therefrom, along with the funds received therefrom, shall be deemed to be funds provided by the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account with which the funds are included, and not to remain available until expended. Reimbursements for training, technical assistance, or services provided by the Indian Health Service will continue, included in the appropriation structure set forth in this Act. With respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the reorganization of the Indian Health Service is authorized to provide goods and services to those entities, if the Indian Health Service is not reimbursed for such services. Provided, That from the funds provided under this Act, the Indian Health Service is authorized to provide goods and services to those entities.
available until expended, and including such funds as are necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: Provided, That funds appropriated herein are available for advance payments to independent contractors for performance of research services or participating in official Smithsonian presentations: Provided further, That the Smithsonian Institution may expend Federal appropriations designated in this Act for lease or rent payments for long term and swing space, as rent payable to the Smithsonian Institution, and such amounts may be deposited in the general trust funds of the Institution to the extent that federally supported activities are housed in the 900 H Street, N.W. building in the District of Columbia: Provided further, That this use of Federal appropriations shall not be construed as debt service, a Federal guarantee of, a transfer of risk to, or an obligation of, the Federal Government: Provided further, That no appropriated funds may be used to service debt which is incurred to finance the costs of acquiring the 900 H Street building or of planning, designing, and constructing improvements to such building.

REPAIR, RESTORATION AND ALTERATION OF FACILITIES

For necessary expenses for repair, alteration, and restoration of buildings, branches, and facilities owned or occupied by the Smithsonian Institution, or by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $200,000 for services as authorized by 5 U.S.C. 3109, $67,900,000, to remain available until expended, of which $10,000,000 is provided for maintenance, repair, rehabilitation, and alteration of facilities at the National Zoological Park: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $25,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

None of the funds in this or any other Act may be used to initiate the design for any proposed expansion of current space or new facility without consultation with the House and Senate Appropriations Committees.

None of the funds in this or any other Act may be used for the Holt House located at the National Zoological Park in Washington, D.C., unless identified as repairs to minimize water damage, monitor structure movement, or provide interim structural support.

None of the funds in this or any other Act may be used to make any changes to the existing Smithsonian science programs, including closure of facilities, relocation of staff or redirection of functions and programs, without approval by the Board of Regents and recommendations received from the Science Commission.

None of the funds available to the Smithsonian may be reprogrammed without the advance written approval of the House and Senate Committees on Appropriations in accordance with the procedures contained in House Report No. 105-163.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including necessary expenses for the construction of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to public at a price lower than to the general public: purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for selected employees as authorized by law (5 U.S.C. 590-590d); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, operation, repair, or renovation of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $68,967,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses for repair, restoration and renovation of buildings, grounds and facilities occupied or owned by the National Gallery of Art, by contract or otherwise, as authorized by 5 U.S.C. 3109, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be awarded to selected contractors and awarded on the basis of contractor qualifications as well as price.

J ohn F. Kennedy Center for the Performing Arts

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $15,000,000.

CONSTRUCTION

For necessary expenses for capital repair and restoration of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $19,000,000, to remain available until expended.

Woodrow Wilson International Center for Scholars

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1969, including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $7,796,000.

National Foundation on the Arts and Humanities

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, $68,234,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to sections 6(c) and 5(g) of the Act, for program support, and for administering the functions of the Act, to remain available until expended.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Endowment for the Humanities Act of 1965, as amended, $109,882,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of section 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

Institute of Museum and Library Services

GRANTS AND ADMINISTRATION

For carrying out subtitle C of the Museum and Library Services Act of 1996, as amended, $26,899,000, to remain available until expended.

Challenge America Art Fund

For necessary expenses as authorized by Public Law 89–209, as amended, $17,000,000 for support for arts education and public outreach activities to be administered by the National Endowment for the Arts, to remain available until expended.

Administrative Provisions

None of the funds appropriated to the National Foundation on the Arts and Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913. Provided, That none of the funds appropriated to the National Foundation on the Arts and Humanities may be used for official reception and representation expenses: Provided further, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses.

Commission of Fine Arts

SALARIES AND EXPENSES

For necessary expenses of the Commission of Fine Arts, as authorized by Public Law 89–209, (20 U.S.C. 956(a)), as amended, $7,000,000.

Advisory Council on Historic Preservation

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation, as authorized by Public Law 89–665 (40 U.S.C. 164), $1,174,000: Provided, That the Commission is authorized to charge fees to cover the full costs of its publications, and such fees shall be credited to this account and offsetting collection, to remain available until expended without further appropriation.

National Capital Arts and Cultural Affairs Advisory Commission

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Endowment for the Arts Act of 1965, as amended, $3,130,000: Provided, That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

National Capital Planning Commission

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Commission Act of 1982 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $7,253,000: Provided, That all appointed members of the Commission will be compensated at a rate of $200 per day, or the daily equivalent of the annual rate of pay for positions at level IV of the Executive Schedule for each day such member is engaged in the actual performance of duties.

United States Holocaust Memorial Museum

For expenses of the Holocaust Memorial Museum, as authorized by Public Law 106–292 (36

MATCHING GRANTS

To carry out the provisions of section 10(g)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $15,622,000, to remain available until expended, of which $11,622,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of section 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.
(a) EXCEPTIONS.—The provisions of subsection (b) shall not apply to any program, budget activity, subactivity, or project funded by such Acts, as the case may be, that have been affected by reduced timber harvests from trees classified as giant sequoia (Sequoiadendron giganteum) which are located within areas in which timber-dependent areas in the States of Washington, Oregon, and California, and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 311. Notwithstanding any other provision of law, the Secretary of the Interior shall provide an annual application for the purposes of this section of the National Endowment for the Arts—

(a) The Chairperson shall only award a grant for the purposes specified in this section to the extent that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations.

(b) The term ‘‘underserved population’’ means a population of individuals, except as otherwise provided by law.

SEC. 312. All of the funds made available in this Act for any program, subprogram, or project funded by such Acts shall be available for any purpose to carry out the purposes of such Act, except that such funds shall be obligated or expended as follows:

(1) the Chairperson shall only award a grant to any individual or a State, or any institution of higher education, that has been affected by reduced timber harvests from trees classified as giant sequoia (Sequoiadendron giganteum) which are located within areas in which timber-dependent areas in the States of Washington, Oregon, and California.

(2) The Chairperson may make grants for the purposes specified in this section to the extent that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations.

SEC. 313. In providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations, the Chairperson shall consider the benefits to the local economy in the areas in which the funding is provided, including the employment of local residents and the retention of jobs in the local economy.

SEC. 314. In providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations, the Chairperson shall consider the benefits to the local economy in the areas in which the funding is provided, including the employment of local residents and the retention of jobs in the local economy.
In such cases, the agency may use the Reacre- 
osystem to provide for additional operations until a subsequent operator can be 
found through the offering of a new prospectus.

SEC. 327. The authority to enter into steward- 
ship and end result contracts provided to the Forest Service in accordance with section 347 of 
title III of section 101(e) of division A of Public 
Law 105–277 is hereby expanded to authorize the 
Forest Service to enter into an additional 28 
contracts subject to the same terms and condi- 
tions as provided in that section: Provided, That 
of the additional contracts authorized by this 
section, at least 18 shall be allocated to Region 1 
and at least 3 to Region 6.

SEC. 328. Any regulations or policies promul- 
gated or adopted by the Departments of Agri- 
culture or the Interior regarding recovery of 
costs for processing authorizations to occupy 
and use Federal lands under their control shall 
adhore to and incorporate the following prin- 
ciples arising from Office of Management and 
Budget Circular, A–25; no charge should be 
made for a service when the identification of 
the specific beneficiary is obscure, and the service 
costs are considered primarily as benefiting broad- 
ly the general public.

SEC. 329. Notwithstanding any other provision 
of law, for fiscal year 2002, the Secretary of Ag- 
culture, acting through the Chief of the Forest 
Service shall:

(1) extend the special use permit for the Sioux 
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...
Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum to be terminated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I am very honored to join with my colleagues, the distinguished Senator from Montana, Mr. BURNS, in bringing before the Senate H.R. 2217, the Interior and related agencies bill for fiscal year 2002, as amended, by the Senate Appropriations Committee.

This is the first of the 13 annual appropriations measures to be considered by the Senate this year. In my opinion, this is a well-crafted bill. It balances both the needs of the American people and the resources available to the committee. We have only so much money available and we're not going to spend what we ain't got.”

That being the situation then, I urge my colleagues to adopt this bill in a timely fashion so we can proceed to conference with the House of Representatives. We have gotten a late start to this year and we have to work hard and long to catch up. Darkness may have fallen, from time to time, before we catch up on these appropriations bills.

H.R. 2217 provides more than $1.2 billion in much-needed funding to attack the deferred maintenance problems at our national parks, our national wildlife refuges, our national forests, and other federal recreational facilities across the nation. The bill would provide $1480 million to the National Park Service, $108 million to the Fish and Wildlife Service, $78 million to the Bureau of Land Management, and $541 million to the Forest Service for literally hundreds, hundreds and hundreds of important maintenance projects.

In addition, the bill restores $35 million in abandoned mine clean-up funds that were unwisely proposed to be cut by the administration. We are not going down that road, Mr. President. It restores nearly $80 million in proposed cuts to the budget of the U.S. Geological Survey, a matter of great importance to many of our colleagues. The bill fully funds the construction needs of the next six schools on the priority list of the Bureau of Indian Affairs, while increasing funding for the Indian Health Service. It increases funding for important energy research programs overseen by Department of Energy, another issue of particular importance to those from the West. Finally, this bill provides nearly $895 million in funding for various cultural agencies: agencies such as the Smithsonian Institution, the National Gallery of Art, the Kennedy Center for the Performing Arts, the National Endowment for the Arts, the National Endowment for the Humanities, and the Office of Museum Services.

I am proud of the fact that the committee has kept its previous commitment and has fully funded the Conservation Spending Category established in title VIII of last year’s Interior appropriations bill. Included in that amount is $406 million for federal land acquisition; $221 million for State and other conservation programs such as endangered species programs and wetland conservation programs; $137 million for historic preservation programs; an additional $50 million for the Payment-In-Lieu-of-Taxes program; and $180 million for Federal infrastructure improvements.

This is a well-balanced bill, given the demands placed on the committee as a result of 1,799 Member requests versus the resources available to it. Despite that, I know there are Members who are passionate about some of the programs funded in this bill, and they would like to increase funding in one area or another. I appreciate that. I respect the right of every Member to come to the floor and offer such an amendment. But let me unfurl the warning flag. As reported by the Appropriations Committee, this bill is fully consistent with the 302(b) allocation provided to the Interior Subcommittee.

In short, in plain, simple, mountain language, that means there is no extra money on the table waiting to be spent—none, no extra money waiting on the table, waiting to be spent.

Friends, Romans, countrymen, lend me your ears: There is no extra money on the table. Any amendment proposing to increase spending in one area of the bill will have to be offset with a cut in some other area. Any Senator who wishes to add money may have to show that a great stillness fell over the chamber upon my saying that. I have heard rumors that some Senators are concerned that we are working too late, too long, too hard.

It is mortifying to hear such rumors. I can remember when for Easter Sunday we were out on Friday and came back here on Monday. We didn’t use to have so-called “breaks.” We were also in session Monday through Fridays, and sometimes we were in on Saturdays.

God made the universe—all of creation, the beasts of the fields, the fowl of the air, fruits and herb yielding seed—and he made men, not in 3 days. He didn’t have a 3-day work week.

We have gotten used to 3-day work-weeks here; come in late on Tuesday, vote late on Tuesday, vote late on Wednesday, vote Thursday, and be out Friday, out Saturday, and out Sunday. God said keep the Sabbath day holy. But that is not why the Senate lets out on Sunday.

Let us not be stunned if we are asked to work a little later or a little longer. I would be happy to start voting on Monday and vote late on Friday. I would just as soon be here as to be at home on Saturday mopping the floor. Let some of these Senators learn how to mop the floor for their wives. Then they, too, will probably be married 64 years, as I have been. Mop the floor, keep the wrists and the fingers strong. There is no arthritis in my fingers. They tremble, but the bones are strong. The wrists are strong. You would be surprised how many men I can wrestle to their knees with these strong wrists. These strong wrists come from mopping the floors. Yes. I mop. I do the dishes. I dust. It is good for me. It keeps me humble. I even clean the commodes around my house. Things have changed in this country. It used to be that we all worked the inside of the house and went outside to the toilet. But anymore we eat on the outside of the House and go inside to the toilet.

A Senator? Surely, a Senator wouldn’t be concerned about working a little longer or a little later. We have become spoiled. It is all right for Senator REID and me to become spoiled on Fathers’ Day. But to say that we don’t want to vote on Mondays, and we don’t want to vote on Tuesdays until after the conference—we didn’t even have weekly conferences here when I was majority whip. We Democrats didn’t have conferences every Tuesday. We didn’t need them.

When I ran for the office of United States Senator for the eighth consecutive 6-year term, I didn’t say just sign me up for 3 days a week. I didn’t say that some Senators think we are working too hard in the Senate. Let the record show that a great stillness fell over the chamber upon my saying that. I have
too long, too late, too many days a week. I hope the majority leader will keep us in late tonight. I hope he will keep us in late tomorrow night, if we don't finish this bill. I hope he will say we will be in Friday, and with votes, if we don't finish this bill today. And if we aren't finished by Saturday, I hope the leader will say: Let's go at it, boys. We will be in Saturday.

But if there is a Senator who is complaining about working too hard, Mr. Majority Whip, tell them where my office is. While we are on this bill, I am for working. I want to get this bill finished. We have 12 more appropriations bills behind this bill.

I urge my colleagues to come to the floor today to offer any amendment they may have and to allow us to conclude debate on this measure no later than this bill. There can be w.a. Larry Byrd and my little dog, Billy Byrd. The bill and report have been available for more than a week, and Senator Burns and I are here ready and willing to work with our colleagues.

Mr. President, at this time, my colleague, Mr. Burns, for his steady hand and for the leadership he has demonstrated in the markup, in the hearings on the bill, and for his splendid cooperation, for his always charitable attitude toward other Senators, and for his fairness. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my good friend and colleague from West Virginia, the chairman of the Interior Appropriations Subcommittee. I am recommending that this body pass the Interior appropriations bill for fiscal year 2002.

I join my colleague in what he said in relation to folks who would complain about working too much. I come from an agricultural background. I was raised on a small farm in northwest Missouri. My dad always had a little saying: When you look like a mule, you're not to work like one. So I guess I have hired on for the duration.

We will get this bill completed. I was lucky enough to hold the chairmanship of this Interior Subcommittee earlier this year, and I made it a priority to move this bill forward in a non-controversial and bipartisan way. I was extremely pleased to learn, when the Senator from West Virginia took control of the gavel, that he also shared this vision. He and his staff have been extremely gracious in dealing with all the requests before the subcommittee.

The bill up for consideration is a delicate balance of meeting our Nation's needs while remaining fiscally responsible.

Not everyone will be happy with every portion of this bill—it has never happened with this particular piece of legislation since I have been in the Senate for the last 12 years—but I can guarantee you, the bill is extremely fair. We had to make some tough choices, but I believe those who have worked with us to put this bill together will agree that the chairman has done an exemplary job in dealing with the resources we had available to us in the subcommittee.

The bill before us provides over $18.5 billion in budget authority. This number is $343 million above the President's request; however, it is over $470 million less than has been requested by the House of Representatives and almost $230 million below last year's appropriations for the same activities.

The unprecedented and unsustainable increases of previous years have been checked, but we have still upheld our commitments as stewards to our public lands. If time will allow, I would like to highlight some of the accomplishments in this bill.

The Bureau of Land Management receives a substantial increase in funding to help address our Nation's energy needs while balancing these needs with the ongoing maintenance necessary to keep our public lands healthy.

Initiatives of which I am especially proud include an increase in excess of $15 million over last year's level for energy and minerals management to help address the current backlog in energy-related permitting, an increase above the budget request for noise research, control, and outreach, and the highest funding level ever for the payments in lieu of taxes account.

Let me tell you, I am especially thankful to our chairman. Noxious weeds is not a great—for the lack of another word—"sexy" issue. When you start talking about things around Washington, DC, folks do not think a lot about weeds, but they are something that we deal with across this Nation. On one hand our payments in lieu of taxes, which means in the areas of counties that have a big preponderance of BLM land, they are paid, as if taxes will be collected on that land, by the Government. In other words, if the Federal Government has made the choice they want to own that land, then they have to pay taxes like everybody else—county taxes—that go to support schools, public services, roads, and other demands of local government.

Our commitment to the Nation's wild spaces is continued in the U.S. Fish and Wildlife Service budget, which has received a $52 million increase over last year's level. This helps us to address habitat needs while working with private landowners through brand new initiatives such as the Landowner Incentive Program. These new initiatives will allow us to focus on a new era of working across land-ownership lines to do what is best to help the species and their needs.

The National Park Service remains one of my top priorities. After all, I have two of the really crown jewels of the National Park System in my State: Yellowstone Park, of which part is in the State of our friends to the south, in Wyoming, and Glacier National Park. It receives an increase of almost $161 million above a year ago. This funding helps address our crumbling infrastructure in our most treasured public areas while increasing our assistance to States to protect the areas that are high on their priority lists.

I am also pleased the bill provides $11 million for grants to preserve Civil War battlefields.

Also, within the Bureau of Indian Affairs, no other priority is higher on my list than the education of our Native American children. We have been able to continue our aggressive attack on the construction backlog of schools in Indian country by providing funds to replace the next six schools on the Bureau of Indian Affairs' replacement list. Again, the chairman has done an admirable job in attempting to meet my request for the increase in the operating funds available to tribally controlled community colleges. It remains one of my top priorities, and I hope to work with the chairman to increase the funding level even further in future years.

We have seen great strides made, especially in the 2-year colleges on our reservations. In fact, the gentleman who operates one of the tribal colleges in our State is probably one of the best educators I have ever known, and the impact he has had on his people on that reservation has been tremendous. Additionally, I am pleased that we have been able to match the President's request for trust reform and management issues. And there are many.

The Forest Service's largest initiative in recent years is the new Interagency Fire Plan, and I am pleased to report that we have been able to fund the efforts of the Bureau of Land Management and the Forest Service to address the dangerous build-up of fuel in our national forests and adjacent lands.

Fire operations will continue to drain hundreds of millions of dollars again this year as we enter another historic fire year, but the investment in hazardous fuel reductions will pay off tenfold in future years.

Last year was a devastating fire year in the West. We are still experiencing drought in those areas. We can expect fires again this year.

Unfortunately, the Department of Energy received massive proposed cuts in this year's budget request. However, I believe the chairman has restored these accounts in a very responsible manner. Working with the rest of the committee and me, he has focused the energy accounts toward technologies that will increase efficiency and the cleanliness of our aging power infrastructure, while addressing the negative impacts of power generation.
We have started a new clean fuels initiative and increased our research in methods to control and capture greenhouse emissions. The conservation accounts under the Department of Energy also receive substantial increases over last year, including an addition of over $60 million from last year's weatherization assistance, and large increases to make our buildings and transportation methods more efficient.

Finally, the conservation spending category created in last year's final appropriations negotiations has been retained, and the compromise of last year has been upheld both in the spirit and in the execution. The bill contains $1.32 billion for the conservation spending category, continuing our focus on protecting our wild areas while taking care of our publicly owned facilities.

Clearly, a bill of this magnitude is difficult to craft, especially considering the volume of requests that we field in this subcommittee every year and those with which we have to deal. I thank the chairman for his willingness to address the requests of all Members to the best of his ability. I urge our colleagues to recognize his generosity and take a hard look at the bottom line prior to attempting to amend this bill.

I also ask our colleagues to respect our collective request that legislative riders be avoided so we can get this bill to the President as soon as possible.

Mr. CONRAD. Mr. President, I am pleased to rise today in support of H.R. 2217, the Interior and Related Agencies Appropriations Act for Fiscal Year 2002.

The Senate provides $18.5 billion in nonemergency discretionary budget authority including an advance appropriation into 2003 of $86 million, which will result in new outlays in 2002 of $11.5 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the Senate bill total $17.6 billion in 2002. Of that total, $1.32 billion in budget authority and $1.03 billion in outlays falls under the new cap for conservation spending. The remaining amount counts against the general purpose cap for discretionary spending. The Senate bill is within its Section 302(b) allocations for both general purpose and conservation spending.

In addition, the Senate bill provides new emergency spending authority of $355 million for wildland fire management, which will result in outlays of $167 million. In accordance with standard budget practice, the budget committee will adjust the appropriations committee's allocation for emergency spending at the end of conference.

I commend Chairman Byrd and Senator Stevens for their bipartisan effort in moving this and other appropriations bills quickly, in order to meet our responsibilities to maintain an effective federal government. Their bill limits the use of the contentious legislative riders that have hampered its predecessor, and provides vital funding to manage our nation's natural resources, to support better and more efficient use of our energy supplies, and to meet our commitments to Native American tribes.

I urge the adoption of the bill.

Mr. President, I ask for unanimous consent that a table displaying the budget committee scoring of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 2217, INTERIOR AND RELATED AGENCIES, 2002

<table>
<thead>
<tr>
<th>General purpose</th>
<th>Conservation</th>
<th>Mandatory</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senate-reported bill.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Budget Authority</td>
<td>17,150</td>
<td>1,029</td>
<td>59</td>
</tr>
<tr>
<td>Outlays</td>
<td>16,539</td>
<td>1,029</td>
<td>59</td>
</tr>
</tbody>
</table>

House-passed:

| Budget Authority | 17,151 | 1,026 | 59 | 18,236 |
| Outlays | 16,626 | 1,026 | 59 | 17,721 |

President's request:

| Budget Authority | 17,621 | 1,025 | 77 | 18,323 |
| Outlays | 17,726 | 1,025 | 77 | 18,426 |

Notes: Details may not add to totals due to rounding. Totals adjusted for inclusion of emergency funding ($125 million in budget authority and $147 million in outlays) and inclusion of 2002 advance appropriation of $186 million (budget authority and outlays). The Senate Budget Committee increases the Senate's 302(c) allocation for emergencies when a bill is reported out of conference.

Prepared by SBC Majority Staff, 7–10–01.

Mr. CONRAD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, will the Senator from West Virginia yield for a comment?

Mr. BYRD. Yes.

Mr. REID. Mr. President, around here it is easy for us to forget people. I want the record to reflect what a good job Slade Gorton did on this bill during the time he was chairman of this subcommittee. Slade is not in the Senate anymore. The record should be spread with the fact that he did an outstanding job when he was chairman of the subcommittee.

He was always willing to listen to us. He held meetings and was very inclusive. I don't want to dwell on it other than to say that I have not forgotten Slade Gorton and the good work he did on this bill. I am confident that his successor, the Senator from Montana, will do just as well. I have known Senator I learned a lot from Senator Gorton from the way he handled things. I hope we will all remember Slade Gorton for his dedication to the Senate and the good work he did.

Mr. BYRD. Mr. President, I join the distinguished Democratic whip in recalling Slade Gorton. Slade Gorton was an outstanding chairman of this subcommittee. On many occasions, I lauded Slade Gorton's chairmanship. He was eminently fair, preeminently knowledgeable of the bill. In conferences, he knew everything that a Senator ought to know about the projects and the items at issue between the two Houses. I have never seen a more cut and dry explanation than the one he made at the conference.

Along this line, let me say that on yesterday, and the day before, we worked hard to complete the supplemental appropriations bill. Senator Stevens is the former chairman of the Appropriations Committee in the Senate, about whom I have no hesitancy in saying, he was the best chairman of the Appropriations Committee that I have seen in my 43 years in the Senate, including Robert Byrd. I have no hesitancy, not a bit, in lauding a Republican. I have no hesitancy in saying, "He is a better man than I am."

I have seen some great chairmen of this committee, the Appropriations Committee. Senator Byrd, to me, was the finest Senator, the best Senator with whom I have ever served in my 43 years in the Senate. He was chairman of the Appropriations Committee at one time. There have been other great Senators, such as Senator Stennis of Mississippi. He was always courteous, always the gentleman. Then there was Senator Mark Hatfield.

But times have changed and chairmen have to change in accordance with the times and the circumstances. So in our time, in our day, Ted Stevens is the best. I don't mind thinking I might have been second. But I won't dare say that. It is a bit like Publius Cornelius Scipio Africanus Major, who defeated Hannibal in the Battle of Zama in 202 B.C. He met Hannibal at Ephesus, and they walked together upon one occasion and he asked Hannibal, "Who was the greatest general?" Hannibal thought for a moment, and then he said, "Pyrrhus the Greek from Epirus was the greatest. The second was Alexander. The third was I, Hannibal." Whereupon, Scipio Africanus Major asked, "Where would you have placed yourself if I had not defeated you at
congressional record—senate

july 11, 2001

zama?" hannibal thought for a moment, and then said, "i would have been first.

i did have the good fortune to chair this committee for 6 years. but ted stevens i salute. he is a republican, yes, but a great one, a fine gentleman, a gentleman always, somebody who keeps his word. and he doesn't put politics at the apex of all things that matter. well, with his assistance and his leadership, on yesterday we passed the supplemental appropriations bill. the president requested $6.5 billion and that bill did not exceed that request one thin dime.

the senators' amendments were offset. the amendments that senators offered and were considered, if they were adopted, if they had to do with money, were offset. senators had offsets—meaningful offsets, not "waste, fraud and abuse." there is no doubt but that there is some waste, fraud, and abuse in the budget in every department, i would say, in this government. but we don't offset with false offsets. we had everything appropriately offset.

there wasn't a single amendment designated as an "emergency" in this senate. the president had complained about the use of "emergencies." mr. stevens and i believe there is a time and place for emergencies, yes, but there is no question but that the designation of "emergency" has been overdone in both houses. and in the supplemental appropriations bill that passed the house, there are $473 million in emergencies. not $1 in the bill that passed the senate was designated as an emergency.

where is the president going to stand on this when the bill goes to conference? i hope he will let us know. what is his position going to be with regard to the amendments that were in the republican-controlled house bill? the first question that was ever asked in the history of the human race was, when god entered the garden of eden in the shadow of the evening, in the cool of the day, and he started looking for adam. adam had hidden himself, and god said: "adam, where art thou?" that was the first question ever asked in the history of mankind. "adam, where art thou?"

so if, indeed, in my small way as a direct descendent of adam, let me ask the question of the president: mr. president, where art thou in regard to the emergencies that were in the republican-controlled house bill? the first question that was ever asked in the history of the human race was, when god entered the garden of eden in the shadow of the evening, in the cool of the day, and he started looking for adam. adam had hidden himself, and god said: "adam, where art thou?" that was the first question ever asked in the history of mankind. "adam, where art thou?"

so if, indeed, in my small way as a direct descendent of adam, let me ask the question of the president: mr. president, where art thou in regard to the $473 million in emergencies that are contained in the house-passed bill? let us know, mr. president, where art thou? if i get a chance to ask the president, i am going to say: mr. president, where art thou with respect to the $473 million that was added as emergencies in the house bill? where art thou? let us know who would like to know.

in any event, that is the kind of bill we passed in this senate. no emergencies, not one! mr. stevens and i had the opportunity to serve without ted stevens and his help, his assistance, his leadership on that bill, the cooperation of senators and staff on both sides, the help of our distinguished democratic, and our leaders, we could not have accomplished that. so i take this opportunity to compliment our colleagues.

amendment no. 877

mr. byrd. mr. president, i send a technical amendment to the desk.

the presiding officer. the clerk will report.

the bill clerk read as follows:

the senator from west virginia [mr. byrd] proposes an amendment numbered 877.

mr. byrd. mr. president, i ask unanimous consent that the senator proceed to the consideration of the amendment and that it be adopted.

the presiding officer. without objection, it is so ordered.

the amendment is as follows:

(purpose: to make a technical correction)

on page 152, line 4, strike "$17,181,000" and insert "$17,460,000".

mr. byrd. mr. president, i ask unanimous consent that the senator proceed to the consideration of the amendment and that it be adopted.

the presiding officer. without objection, it is so ordered.

is there further debate on the amendment? if not, the question is on agreeing to the amendment.

the amendment (no. 877) was agreed to.

mr. byrd. mr. president, senator burns and i are here. we are at our posts of duty. we are ready to entertain any requests for an amendment by any senator. the clock is running.

mr. burns. we are open for business.

mr. byrd. the sign is out: open for business. senator burns and i join in urging the leadership and all senators to let us know of any amendments senators intend to offer by no later than 4 p.m. today, and it will be my hope that at 4 p.m. we can close out the window for amendments. i hope all senators within the sound of my voice and all staffs within the reach of our joint voice will be alerted to the fact that when the clock strikes 4 this afternoon, we expect to close out the window on all amendments.

mr. reid. will the senator from west virginia yield for a comment?

mr. byrd. absolutely; gladly.

mr. reid. as directed by the two managers of this bill, we have asked both cloakrooms to clear their request: that there be a filing of amendments by 4 o'clock today, which gives people ample time, many hours. it was announced even prior to the break that the interior bill would be the first bill brought up, and we even indicated when it would be brought up. so i hope we can get this cleared right away.

i say to my friend, the junior senator from montana, who has done such a good job in getting this bill to this point, the holding on that side. maybe if we go into a quorum call senator burns will be gracious enough to see if he can move this along. until that happens, my experience is this bill is in a flounder.

mr. byrd. i thank the distinguished whip.

mr. burns. mr. president, it is my hope that we can do this by 4 o'clock this afternoon. there is no need for us to dillydally around here when we have other things to do. i only have one thing i have to do at 2 o'clock this afternoon. i have to introduce a couple of judges who have been nominated to the montana district court system. by the time i get that done, 4 o'clock should be going.

we should be talking about amendments right now. there is no reason why we cannot move this bill to final conclusion tomorrow.

mr. reid. i believe the senator from west virginia still has the floor, if i can make another comment.

mr. byrd. sure.

mr. reid. it is my thought, if the two managers agree, that at 12:30 p.m., if there is still a problem with hotlining, a unanimous consent request be made and if anybody objects to it, they are going to have to come here in person to object to it. that is my suggestion. on a bill as important as this, we need to have the senators, not the staff lurking in some of these rooms around the capitol complex making objections for their senators.

after we go into a quorum call, upon consulting with the two managers, i make the suggestion that perhaps that is what we should do.

mr. byrd. mr. president, i thank the distinguished senator from nevada, the majority whip, for his suggestion. i like it. we have just heard senator burns voice his opinion.

mr. burns. we will do everything we can to get that taken care of. we do not want to close anybody out either, understanding the sensitivity of that. i believe we have made a reasonable request. i thank the chairman.

i suggest the absence of a quorum.

mr. byrd. mr. president, i ask unanimous consent that the order for the quorum call be rescinded.

the presiding officer. without objection, it is so ordered.

recess

mr. byrd. mr. president, there being no senators seeking recognition and having discussed the following request with the distinguished majority whip and the distinguished manager on
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the other side of the aisle, it appears it might be best if the Senate stood in re-
cess until 12:15 p.m., during which time
some Senators can more usefully and hopefully that will speed up the entire process to
some extent.
I, therefore, ask unanimous consent that the Senate stand in recess until the hour of 12:15 p.m. today.
There being no objection, at 11:39 a.m., the Senate recessed until 12:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. STABENOW).

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—Continued

The PRESIDING OFFICER. The Sen-
ator from Nevada.

Mr. REID. With the consent of Sen-
ator BYRD, I ask unanimous consent all first-degree amendments to H.R. 2217, the Interior appropriations bill, be filed at the desk by 4 p.m. today, Wednesday, July 11.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 880

Mr. BYRD. Madam President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD) proposes an amendment numbered 880.

Mr. BYRD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 157, line 7, insert "Protection" after the word "Park".

Mr. BYRD. Madam President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

AMENDMENT NO. 879

Mr. DURBIN. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. DURBIN), for himself and Mr. DAYTON, proposes an amendment numbered 879.

Mr. DURBIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: to make available by this Act shall be used to conduct any preleasing, leasing, or other related activity under the Act of June 8, 1906 (16 U.S.C. 431 et seq.), except to the extent that such a preleasing, leasing, or other related activity is allowed under the Presidential proclamation establishing the monument.

Mr. DURBIN. Madam President, I note that the Republican ranking member is not on the floor at this time. I will proceed and, of course, afford all opportunity for him for comment or rebuttal or perhaps a speech in support of amendments that I want to make sure I extend that courtesy to him since he is not currently in the Chamber.

The amendment I bring before us today is one that is very straightforward. I suppose I could have had it read, and it would have made it very clear what I am setting out to do. It basically will prohibit any preleasing or other related activity within the boundaries of a national monument.

What it boils down to is, there are certain lands in the United States which have been designated as important national treasures. We call them national monuments. Virtually every President in the last century, save three, decided to designate certain areas of land in America that were so important they wanted to preserve them so that future generations could enjoy the bounty which God has left us.

There are those, of course, who see that land not as a great treasure to be valued but as a resource to be used. The purpose of my amendment is to stop oil and gas drilling on national monuments across the United States.

We owe the existence of many of America’s natural treasures to pione-
ers of yesterday. Their appreciation of our rugged, untamed new country gave them the foresight to preserve many of our natural resources and public lands for future generations to enjoy.

Theodore Roosevelt was one such pioneer. In 1906, he established Devils Tower, WY. Unfortunately, not every President has been inspired by Teddy Roosevelt. Sadly, I come to the floor today because of threats by this new administration in Washington to at least consider the option of drilling for oil and gas in these national monuments across the United States.

Some leaders in Washington lack the foresight of our Founding Fathers and pioneers. They hide today behind the shield of an ‘energy crisis’—an energy crisis, which they believe that we have to change all the rules, saying we can no longer keep this land at least protected so future generations can enjoy it. They say because of our need for energy we have to break a lot of rules; we have to start drilling in the Arctic National Wildlife Refuge: we have to start drilling in the national monuments; we have to start looking for oil and gas in places that a lot of Americans honestly believed we had declared a bipartisan idea. These are treasures that don’t know the difference between parties. The treasurers which our children and future genera-
tions should enjoy. Roosevelt said this at one point, and his words I think tell the story: "We must ask ourselves if we are leaving future generations an environment that is as good or better than what we found."

That is simple. That inspired him in 1906 to create the first national monu-
mament at Devils Tower, WY. Unfortunately, not every President has been inspired by Teddy Roosevelt. Sadly, I come to the floor today because of threats by this new administration in Washington to at least consider the option of drilling for oil and gas in these national monuments across the United States.

President Bush needs to realize that damaging these irreplaceable lands is
This amendment is addressing a new mindset that says when it comes to today’s national monuments, it is a different story. They are up for grabs. We are involved in an energy crisis. People can drill for oil and gas on these new monuments designated by President Clinton. That is shortsighted. It loses vision when it comes to what our country is all about and should be all about.

The Bureau of Land Management has the responsibility of managing public lands across the United States, and we have thousands and thousands of acres. I see Senator HARRY REID from Nevada is here. I don’t know what percentage of his home State is Federal land—

Mr. REID. It is 87 percent.

Mr. DURBIN. It is 87 percent. Many Western States have similar percentages. Federal land within their boundaries. In the earliest days of our country, of course, there wasn’t a great hue and cry to have private ownership in this land. The Federal Government owned it, and some of it may never have been surveyed when it becomes to residential or commercial development. But the Federal Government took the responsibility under an agency known as the Bureau of Land Management. This is kind of the landlord of America’s public lands. The Bureau of Land Management has determined that 95 percent of the lands they manage across the United States are already available for oil and gas leasing. So if you hear an argument from the other side that now we have to go and drill into the national monument lands because we have nowhere else to look for oil and gas and precious minerals, that is just not the fact. Ninety-five percent of the Federal lands managed by the Bureau of Land Management are already available for oil and gas leasing.

Instead of hopping onto the drilling bandwagon, we should first focus on energy exploration in existing areas before we turn to these precious national monuments. I am afraid that the President and many of the people in the energy industry talk about oil and gas development as though it were the cure for all of our energy woes in America—drill and burn, drill and burn, drill and burn. There is much more to the challenge that faces our Nation.

The President has to acknowledge that the longstanding supply and demand balance in the United States will not be solved overnight, and it won’t be solved with 30th and 20th century thinking. Our Nation consumes 9.1 million barrels of oil a day. We import about half of that—more than half, frankly. Oil production from Federal lands—all Federal lands—supplies about one-tenth of our total oil needs. This isn’t enough to bring U.S. energy independence or significantly meet the U.S. demand. It is interesting that the Wilderness Society—

Mr. REID. Will the Senator from Illinois yield for a question?

Mr. DURBIN. Yes.

Mr. REID. First, I ask the Senator to list me as a cosponsor.

Mr. DURBIN. Madam President, I ask unanimous consent that that be the case.

The PRESIDING OFFICER (Mrs. CARNANAN). Without objection, it is so ordered.

Mr. REID. I say to my friend, is the Senator aware that the U.S. Geological Survey has estimated that the reserves within the 15 national monuments designated since 1996 would produce 15 days’ worth of oil and 7 days’ worth of natural gas for our country? Is the Senator aware of that?

Mr. DURBIN. The Senator is right. Those are the numbers I was about to bring to the floor.

Mr. REID. I am sorry.

Mr. DURBIN. I am happy to have the Senator add that to the debate. Frankly, if we are talking about energy needs in America and drilling in places we haven’t drilled before, whether in the Arctic National Wildlife Refuge or national monuments, certainly someone has to make a compelling argument there is so much energy there that America cannot turn its back. The statistics the Senator from Nevada has quoted and an analysis by the Wilderness Society come to the same conclusion.

The total economically recoverable oil from the monuments that I protect in this amendment is the equivalent of 15 days, 12 hours, 28 minutes’ worth of energy for the United States. Economically recoverable gas, as a portion of total U.S. consumption, is 7 days, 2 hours, 11 minutes.

Where would we give up for that small opportunity to bring that much energy into the picture in the United States? Frankly, we would be drilling in areas which have been designated as special and important treasures that the United States should preserve.

I am glad we are having this national debate about energy conservation and energy efficiency. It is important that we have it, but it is also important that we do not believe the answer to all of our energy problems is to find new places to drill.

Just last week I joined my colleagues, Senator FITZGERALD of Illinois and Senator DEBBIE STABENOW of Michigan, at a press conference on the banks of Lake Michigan on a rainy Tuesday before the Fourth of July. As hard as it is to believe, there is one Governor of a State adjoining Lake Michigan who now believes we should drill for oil and gas in Lake Michigan and the Great Lakes. There are those of us who think that, too, is a rash judgment and one we can come to regret.

A lot of people say: It would only be a small little derrick or a small drill
out there. I had the experience, I guess it has been over 15 years ago or close to it, of going up to Alaska after the Exxon Valdez. I always think of Exxon Valdez, if I remember correctly, was about the size of three football fields. It was a long vessel. When it ran ashore and when its tanks and all its crude oil spread out across the area, it devastated wildlife and left contamination for decades to come.

When we talk about drilling for oil and gas, we have to be careful that we do it in a responsible environmental way so that we do not run the risk of contamination or ruination of important national treasures, such as the Great Lakes, the Arctic National Wildlife Refuge, or the national monuments designated by President Clinton.

As we can see from the situation in California, if we take away the rodeo, it does not work. When they saw the high prices, they reduced their consumption by over 11 percent in a short period of time. It is a lesson to all of us. We can all do better, every single one of us. Before we jump into drilling into these pristine areas, should we not have a national policy that talks about sustainable, renewable fuels and energy conservation?

I am afraid this administration focuses on drilling and drilling and drilling, and that is just not the answer to all of our challenges.

This land is protected as national monuments because we realize all of the Nation’s public landscapes are not appropriate for oil and gas drilling. These lands have intrinsic value. Just because there may be some energy there, even if it is very limited, does not mean we need to drill for it and run the risk of contamination and ruining these great national treasures.

The monuments belong to the American people. The Government has agreed to hold these lands in trust for our generation and future generations to appreciate. The President of the United States, as a successor to George Washington, as a successor to previous Presidents, was given the responsibility of protecting these lands—first and foremost, protect our national heritage—not destroy them.

This energy crisis should not be used as an excuse for us to do things we will rue in the days and years to come. Exploiting our national monuments for a tiny bit of mineral resources will not ease energy prices today, tomorrow, or even next year.

Let’s not be misguided. Let’s focus the energy debate on responsible energy development, renewable energy, efficiency, and conservation efforts. I urge my colleagues to support my amendment.

In talking to my colleagues with this quote, again from Theodore Roosevelt whose words still ring true today:

Conservation means development as much as it does protection. I recognize the right hand duty of this generation to develop and use the natural resources of our land, but I do not recognize the right to waste them or to rob by wasteful use the generations that come after us.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I oppose this amendment. It seems we want to make a blanket assertion on what we should do with our monuments. We have to remind ourselves that we are energy deficient.

As for Montana, where there was a national monument created, there are 77,000 acres of privately held land. Even the former Secretary of the Interior, Bruce Babbitt, recommended that oil and gas production in that area should be sustained.

There was a public process. The resource advisory committees in each of these areas made the same recommendation: Gas and oil production could be sustained without harming the land in that national monument.

These areas have also been studied. They have been studied by different committees whose members live in the area. They understand that land and the recommendations that were made.

In Montana we want to contribute something to the energy situation in this country. So far, no one has come up with any solid replacement to oil and gas production for transportation or power generation fuels.

I, therefore, urge my colleagues to oppose this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I thank the Chair.

Madam President, I rise today to support the amendment that will protect our national monuments from energy exploration. I am pleased to be a cosponsor of this important amendment, and I thank Senator DURBIN from Illinois for his work and tremendous efforts on behalf of our national heritage and our national monuments.

The truth is, we should not need an amendment to protect our country’s national monuments from energy exploration. These unique landscapes, including the Hanford Reach National Monument in my home State of Washington, were designated as national monuments because they are important in their own right and they deserve to be protected.

We should not need an additional amendment to keep oil derricks out of these lands, but unfortunately that is where we find ourselves today. The Bush administration has proposed exploring for energy even in our national monuments.

When I go home every weekend and talk to my friends and neighbors and go to the grocery store, my constituents come up to me and ask: Is nothing sacred anymore? Drilling in our national monuments is just wrong. This amendment says the Federal Government should not promote energy exploration on our most precious lands, on our heritage.

I recognize the need to find new sources of energy. The Federal Government has always actively promoted the extraction of new energy resources. This can and will continue. During the Clinton administration, thousands of new drilling permits were actually issued for Federal lands. Since the early 1980s, the projection of natural gas on Federal lands has been increasing steadily. Efforts to find energy on our Federal lands must continue. But attempts to find energy in our national monuments must never begin.

Today, 95 percent of Bureau of Land Management lands in the Western United States are open to coal, oil, and gas leasing. We do not need to open up our national monuments, as well. I realize this is a challenging time because we are facing an energy crisis. In my home State of Washington, we are experiencing huge increases because of the many factors involved, including a drought and too little energy production and a spike in gas prices.

Thousands of my constituents are out of work because of high energy costs. No one needs to tell anyone in Washington State we have to increase energy production. We know we need to increase capacity and that is what we are doing. We are working to site new generation capacity. On the Oregon and Washington border, we are constructing the country’s largest wind farm. We have natural gas plants going up. We have a proposal for a coal-fired plant. We are upgrading our transmission system to deliver new generation supplies.

I know what we need to do and we are taking action. But we know we don’t need to drill for natural gas in our national monuments.

The Hanford Reach National Monument is a national treasure. It includes the last free-flowing stretch of the Columbia River. It is the most productive spawning ground for threatened salmon in the entire Columbia River Basin. It is home to threatened sage grouse and 2 plant and 40 insect species that are brand-new to science.

The monument also includes and borders important historic and cultural features. The area is rich in important Native American, early pioneer, and nuclear production history. The Hanford Reach National Monument may be the most unique monument in the entire country.

I have heard some people suggest that the national monument designations made by President Clinton were motivated by economic involvement, and without consideration of energy production values. That is simply not true. I have been working since my first year in the Senate, 9
years ago, to protect the Hanford Reach. I introduced legislation in the previous Congress to protect that area. We held numerous public meetings, we got lots of local input from local leaders, local folk, and we debated a lot of different proposals.

The administration had 8 years of knowledge provided by the consideration of various protection proposals. The plans considered irrigation, farming, and the potential for gas outside the monument’s boundaries. The plan considered commercial development of lands by ports and cities. In fact, the final designation even included a provision ensuring a new right-of-way for energy transmission lines to go across the Hanford Reach. All of those considerations helped define the final boundaries of that national monument. So for some to suggest now that we never thought about our future energy needs is just plain wrong.

In the end, the final decision was that the geological and historical values of the Hanford Reach mandate protection as a national monument. We knew what we were doing by that designation. We knew we were choosing to protect the unique and vital habitats. We knew we were honoring important cultural sites, and we intended to leave this legacy to future generations.

Protecting certain areas for generations to come is an admirable goal. These designations were made after full consideration. This Congress should not now in any way undermine those legacies in favor of the energy industry. We should not have to fight back these attacks on our very limited protected lands.

I believe we should preserve these ecological and historic treasures for future generations. These lands belong to all of us. We are responsible for protecting them. That is why the Durbin amendment is so important. I urge my colleagues to support it. I thank my colleague from Illinois.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I rise today to support also the amendment offered by my colleague from Illinois, Mr. DURBIN. I am proud to join him in this effort and to be an original cosponsor of his amendment.

My colleague from Illinois seeks to make certain that amendment language offered by the Congressman from West Virginia, Mr. RAHALL, which would prohibit drilling for oil and gas and mining in our national monuments is included in the Senate bill. The Rahall amendment passed the House overwhealmingly by a vote of 242-173.

Madam President, I support this amendment because I believe that to not speak loudly against the Bush administration’s proposals to re-open many of these monuments under the guise of our present energy concerns is a dereliction of responsibility for this body and this Senator. It is the responsibility of this body to review areas designated as national parks. I have biked the Grand Staircase or not additional designations should be conferred—such as creating a national park or a wilderness area out of lands administratively protected as a monument.

Presidents have designated about 120 national monuments, totaling more than 70 million acres, and given that Congress has done its review, most of this acreage is no longer in monument status. For instance, Grand Canyon National Park initially was proclaimed a national monument but was converted by Congress into a national park.

Congress should responsibly exercise its authority, and be clear about its intent, which this amendment does. This amendment prohibits the administration from proceeding with drilling for oil and gas and mining in our national monuments. This amendment will prevent these activities which are incompatible with federal land use designations Congress might confer until we truly examine these areas. Monument designations create expectations on behalf of our constituents, Madam President, that these areas are protected and we should work to make certain that is so.

I am aware that Presidential establishment of national monuments under the Antiquities Act of 1906 has protected valuable sites but also has been contentious. President Clinton used his authority 22 times to proclaim 19 new monuments and to enlarge 3 others. The monuments were designated during his last year in office, with one exception, and I will speak about that exception later. President Clinton’s 19 new and 3 enlarged monuments comprise 5.9 million Federal acres. Only President Franklin Delano Roosevelt used his authority more often—23 times—and only President Jimmy Carter created a new monument acreage—56 million acres in Alaska.

The monument actions, regardless of one’s position on them, were needed because Congress had not acted quickly enough to protect these Federal lands. The best response to concerns about the monument process is to support my colleague from Illinois, Mr. DURBIN, and not allow modifications to the monuments that some perceive were created unfairly to be made in an equally concerning fashion.

My constituents do not support expansion of oil and gas drilling and mining in lands designated by Presidential declarations. I personally know the value of wild areas, and the threats that mineral, coal and oil and gas exploration pose. Though I have not been to all the monuments designated by President Clinton, I have hiked the Grand Staircase-Escalante National Monument, an area that the Senator from Illinois and I believe should be designated as wilderness.

I hiked down a 65-degree slope to Upper Calf Creek Falls in the Grand Staircase. It was a challenging and rewarding trip. Upper Calf Creek meanders along a shallow valley with several deep clear pools before the upper falls, where the creek drops 88 feet over a cliff face at the head of Calf Creek Canyon. This deepens gradually for 2.5 miles south there are wide pools below the 126-foot lower falls. The path to the falls is down a steep slope of white slickrock marked by cairns of dark, volcanic pebbles then across flatter sandy ground to the canyon edge, with a total elevation loss of almost 600 feet. My experience is that this monument is a spectacular place and one with new tremendous recreational value and use. I should be preserved that way.

I use my Upper Calf Creek trip as an example of why the Senator’s amendment is needed. We should be preserving our options with these lands, not opening them for development. I support this amendment and urge my colleagues to do so as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I don’t know if any Senators are here to speak in opposition. If there are none, I will yield to them. I would like to speak and close debate, but I want to make certain the other side has ample opportunity to express its point of view.

Mr. BURNS. I ask the Senator from Illinois, as I understand it, the amendment prevent any further drilling, or does it bar all drilling, even though there are rights there in the first place?

Mr. DURBIN. The amendment clearly states if there is existing drilling, existing rights, it does not in any way interfere upon the conversion of new drilling, new leasing in these areas.

Mr. BURNS. If that resource is there and it can be done in an environmentally sensitive way, why is that bad on energy?

Mr. DURBIN. I say to the Senator from Montana, I don’t believe either of us would consider drilling on the Capitol Mall or perhaps in the Grand Canyon near it. There are certain things you draw the line and say we know there may be energy resources, but if we are so desperate in this country that we have to reach that point, we have gone too far.

I think when you look at the estimated resources available in these monuments, they are so minuscule in terms of our national energy picture, many of us believe it is far better to say to future generations: Listen, we found another way to find energy, to conserve energy. We didn’t spoil something that future generations will treasure.

Mr. BURNS. We had the Secretary of the Interior up in Montana. In the
upper Missouri, which was designated as a national monument, I tell my good friend from Illinois, we asked the Secretary of Interior to find the geysers well and then find the pipeline that carried the gas from the wellhead into the main pipeline. He could not find it. He could not find either one of them—he tried by air and by land—until we showed him where they were.

What I am saying is we should consider the new technologies and how we regard our lands, especially the big open lands. I am not talking about a monument such as The Mall; I am talking about land that is in bigger country that is very seldom ever walked upon by the people who probably own the grazing lease. We still allow grazing in national monuments. Very seldom are those lands ever walked on by anybody else.

We have an area in Montana that is going to demand some more attention in the next 2 or 3 years because it is along the Missouri River and that was the route of Louis and Clark. Of course, this was the 200th anniversary of the Louisiana Purchase, and the trek of Louis and Clark will draw a little more attention to that area.

But tell me why we would completely close out the possibility, even under emergency conditions, in areas where we could develop that energy—and especially natural gas, which is the cleanest of all energy that is coming from the fossil fuels we take from the Earth—why we would close out that possibility.

Mr. DURBIN. I say this to the Senator from Montana, whom I respect. We come at this with a different attitude towards national monuments and national lands. I think we do have a genuine difference of opinion. I am aware, and I am sure my colleague is, too, that 95 percent of the Federal public lands under the management of the Bureau of Land Management are currently open for oil and gas drilling. I do believe it is not unreasonable to say that 5 percent of the Federals lands that we own are so important to our national heritage that we are not going to go in and drill.

No matter whether you can sneak in there and come out again and folks say, "We were not even sure they were there," every time you do that you run a risk—I am sure the Senator from Montana knows that—that it will not be as clean an operation as you want it to be. You run a risk you will change an ecological balance in an area that has been the same for centuries. I think it is not unreasonable for us to say, as we do in our normal lives, there are certain places that are treated differently than others. We treat our church a little differently than we treat our shopping malls. We just view them differently. I think when it comes to our national treasures, our national monuments, it is not unreasonable to say these are areas which will be treated differently.

Mr. BURNS. And with my good friend, it is that kind of mind-set that said we are going to save the suckerfish in Klamath Falls, OR, and it takes precedence over 1,500 families and their future and our ability to provide food and fiber for this country. This is a trash fish. That is going on right now in that basin.

That is what I am saying. When we take a look at what our attitude is about a certain thing and hide behind the screen of green, I think we have entirely thrown all logic on the management of those lands, then we may have to readdress how we look at all lands, even those that exist in the State of Illinois. That is what I am saying. It is something that creeps into the mind-set, that it is all right to disrupt our lives and our families—even though we do it right and in an environmentally sensitive manner—because of a mind-set. I think that is where we have a basic philosophical difference on how we manage land.

I look at it much differently. I know you come from down there not too far from where I was raised. I was raised in Missouri. I never thought about water rights until I went west, where there wasn't any. There wasn't any water. Those things become very important. But they never entered our life when I lived in the lower Midwest.

I just think it is a mistake whenever we close up an area because of a mind-set that we cannot do it right and we here in Washington, DC, are basically in a better position to make the decision, more than having the decision made locally. The Senator from Washington says we had local input. We did the boundaries originally. We looked at the land that was sensitive, and we set it aside.

I agree with that. There are areas in the Missouri Breaks that I think should be set aside and even made wilderness. The river is already a protected river. I agree with that.

But whenever you take one broad swipe across a huge amount of land, especially when you have 77,000 acres of in-holdings and you have to cross public lands just to get to them, then we make a decision here that impacts people's lives in a real way. Those people have futures. That is why I oppose this amendment. I am not calling for the repeal of the Antiquities Act. What I am saying is we are impacting our own Nation's ability to produce food and fiber and energy because of a mind-set that sounds so green, and fuzzy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Senator from Montana. I know his opinions are heartfelt. He and I have talked about this on the floor on previous occasions. But I hope we can put this in some perspective.

America is a great nation. God has blessed us with resources that many nations around the world envy. Fortunately, leaders in this country with foresight decided long ago that there were certain treasures, national treasures in America, that needed to be protected and preserved.

Mark my words, when they made those suggestions, they were not always popular. There were people who had ideas that something else could be done with that national park or that national monument. But those leaders stood their ground and said, We can find other ways to provide for the occupations and professions of people living in these States. We can find other sources of energy. We do not have to spoil a national asset, part of our national heritage that we can never ever reclaim.

The Senator from Montana talked about national monuments, and, I guess, the energy potential that they offer to the United States. Here is a summary from the U.S. Geological Survey, about the economically recoverable oil and gas from national monuments.

I might remind those following the debate that it is now President Bush who wants to initiate new drilling for oil and gas in national monuments—protected lands set aside by the previous administration to be preserved for future generations. This President wants to let the oil and gas companies come in and drill on these lands.

When the Senator from Montana talked about trash fish, I can't argue the story. I don't know that side. This is not trash. This is a national monument. This is a beautiful span of land set aside for future generations by the previous President.

Please, if you will, in this rare piece of real estate in America, oil and gas drilling. Have we reached that point? This is not trash. This is a treasure. We shouldn't take it lightly when it comes to oil and gas drilling in America's treasures.

Let me give you an example of some of the national monuments and what the geological survey estimates is available there if we follow President Bush's recommendation to go ahead and keep drilling; let's find new areas for oil and gas drilling in these national monuments.

In the Upper Missouri River Breaks in Montana, which the Senator from Montana made reference to earlier, the economically recoverable oil from that entire national monument is the equivalent of one hour's worth of gas consumption in the United States.

I didn't take those numbers because the Senator mentioned his own State, but I just to put this in some perspective.

We are going to go drilling in these national monuments to try to recover one hour's worth of energy for our
country. And what do we leave behind? If we are lucky, not much—maybe a few footprints in the soil. But we can never predict that they haven’t spoiled or changed that forever.

All of the economically recoverable oil from all of the national monuments—where President Bush now wants to go drill—is the equivalent of 15 days, 12 hours, and 28 minutes of America’s energy consumption. All of the economically recoverable gas as a portion of the total U.S. consumption from these monuments where the President now wants to go drilling is the equivalent of 7 days, 2 hours, and 11 minutes’ worth of America’s energy.

I listened to the news this morning. I hear there is a bill over in the House of Representatives on energy, and they are talking about perhaps for the first time and for the first time in the history of fuel efficiency standards for SUVs and trucks in this country. That is not radical thinking. I think it is sensible. I voted for it in the Senate. Just a little bit of energy conservation and a little bit of fuel efficiency makes this debate totally meaningless. With just a little change in Detroit we can save more oil than we can possibly derive from monuments. But the oil and gas companies want to get in there, and they want to make a profit. They have put these national treasures in the United States on the altar of greed and profit and the bottom line. That is just plain wrong.

I don’t think I will prevail on this amendment. But I tell you that, as Senator FEINGOLD from Wisconsin, Senator MURRAY from Washington, and Senator REID from Nevada said, this is worth a fight.

You don’t get many opportunities to cast a vote while on the floor of the Senate and have this kind of lasting impact for generations to come. This is worth a fight. This is worth a vote.

I hope some of the Republican Members who come to the floor will remember one of the greats in their political party, Teddy Roosevelt, whose bust is just right outside this door—who really defended conservation for America and made his party the proud patriarch for conservation in America. I hope they will remember when they come to the floor of the Senate how it is better to do something that the oil and gas companies that just want to get their dirty hands on our national monuments.

We can do a lot better in this country. The oil and gas people have 85 percent of the Federal land to deal with. They do not need the 5 percent that we should be preserving and protecting for future generations. This amendment says to them: Keep your hands off of it. Leave it for future generations. Let’s find other ways to meet our energy needs that are environmentally sensible and responsible.

If I lose on this amendment, and if the Bush administration goes forward with the oil and gas drilling, a lot of people will, frankly, never know it. How many of us visit all these national monuments? But someone or someone who go to look for that treasure that was set aside will find it is no longer the treasure it once was; it has been used; it has been exploited; it has been spoiled and perhaps even ruined in the name of profit. The starting point, for those following the debate, is these are public lands. This is not private property. These are national monuments and public lands. They are lands that belong to all of us as Americans. It is not just the 285 million alive today but our children and grandchildren as well. If we don’t have the courage to stand up and say protect and preserve a small portion of it for future generations, then we are turning our back on the legacy of wise stewardship that has guided this country for so many years. It has been 95 years since a Republican President named Teddy Roosevelt had the courage to stand up and say they were going to protect that heritage. Ninety-five years later, another Republican President says, no; we are going to drill for oil and gas in that heritage.

What a difference. We will put an end to it with this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Madam President, there is a great deal of what my colleague from Illinois has said that I just won’t disagree with at all. This is an important thing to be corrected, though, in his statement because we must deal with facts here when we are talking to the American people about the choices they will have to make depending on the policies we create.

First, the Bush administration is not advocating drilling in all of the monuments of the lower 48 States. That is a falsehood. What is important to say is that the Bush administration is proposing an energy policy that would open up public lands to be explored for the purpose of finding additional energy resources to determine whether or not they ought to be developed. That is a very real and different statement than the one my colleague from Illinois just made, that drilling or allowing exploration in national monuments is the right policy.

What is important about this debate is a choice that we are asking the American people to make. I think it is an important choice. I think it is worthy of the debate that we are having.

Energy security, the right of the family to know that their energy is secure, that their lights won’t go out, or the cost of driving their minivan or their SUV is going to double or triple over the next couple of years, or the very economic security and the power of big oil and OPEC to dictate that because policy-makers were asleep at the switch or used false arguments to cause fear amongst the American people—if that is true, then shame on those policymakers. But brave to the policymaker that is willing to stand up for the security of our country and the security of the American family.

That is what is important. Should the mom have to pay three or four times what she is paying now to drive her son or her daughter to a soccer game? Well, her costs have doubled in the last year. The reason they have doubled is because this country has not had a national energy policy. We had to go begging to the thieves in the Middle East, the OPEC crowd. That was the policy of the past administration—grab my tin cup and beg and let mom pay at the gas pump.

Was it the right policy? I don’t think it was. I am not even going to suggest that drilling or allowing exploration in monuments is right. I think it is wrong.

But what I will suggest to you today and to my colleague from Illinois is, do we have to make very hard-line choices in a world of modern technology and the talent that we possess today? Can we not shape an environment and shape a national economy that are compatible?

I agree with my colleague from Illinois. If you want to step back 30 years and use the argument of 30 years ago, then I win. If he is opposed to drilling or if he is opposed to exploration, that is correct. And I lose, if I am for it being based on 30-year-old technology. If you want the technology of today and tomorrow, then my guess is that it is a bit of a tossup.

We have preserved and protected the environment. But most importantly, we haven’t forced mom to go to the gas pump and double her prices.

I recently talked to a young man who is vice president of a new technology company out in California. We know what has gone on out in California, and we can pick losers and winners and those to blame. I will tell you what was wrong with that young man. He had not made any bad choices. He was not laying off people; he was not driving a minivan; he has an economy car; and he has a house. But he said: Senator Craig, I am frightened I am going to lose my job. I have spent 20 years building a retirement, and the company I work for is teetering today because their energy costs have tripled, their profitability is disappearing, and they are laying off people.

That is as a result of this Senate, and others, not making the right policy choices over the last decade. That is why that young man in California is frightened today about his future.

What does that have to do with national monuments or the 23 new monuments that former President Clinton created in the lower 48? I believe it has something to do with it. I believe it has to do with the fundamental question that is being asked of my colleague from Illinois today, and that I ask of...
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all of us: Can we live together compatibly in an environment in which we can apply new technologies to have abundant energy resources to serve our Nation’s needs. I am not arguing with that. I accept that.

This amendment says that for 5 percent—1 acre out of 20—we are going to treat it differently. These are national monuments. These are special lands. These are not your run-of-the-mill pieces of real estate. These are lands designated by President Clinton, and monuments that have been designated by previous Presidents, that are being protected and treated differently. The Durbin amendment says: No oil and gas drilling or mining in the new national monuments designated by President Clinton because I want to be able to take my grandson one day to take a look at them and see the beauty that God created and not have to duck the pipelines and the trucks and all the economic activity of people trying to make a buck off Federal public lands.

Ninety-five percent of the Federal public lands are open to this exploration. For 5 percent there should be a different standard. Yes, there should be a hard-line choice.

Let me address for a second the issue that has been brought up over and over again: What about our energy crisis? We do face an energy challenge. There are no doubt about it. In my home State of Illinois, across the United States, in the last calendar year we have seen some terrible examples. Home heating bills have gone up dramatically in my home State of Illinois, and other places; electric bills in the State of California; gasoline prices between Easter and Memorial Day—that has now become the play period for big oil companies. They run the gasoline prices up a buck a gallon between Easter and Memorial Day, and then after every politician gets a head of steam and starts screaming at them, they bring them back down. I would like to believe this has something to do with whether or not we are going to drill for oil in a national monument, but I doubt it. We are victims of oil companies now that are making decisions that have little or nothing to do with supply and demand. This is the only industry I know that can consistently guess wrong in terms of the supply available to sell and make record profits. And they have done it consistently for 2 straight years.

So to argue that the only way to deal with our energy challenge and the OPEC stranglehold is to start drilling for oil and gas in precious lands set aside as national monuments is shortsighted. Are we so bereft of original and innovative ideas in Congress and in Washington that we cannot think of another way to help provide modern, sustainable, reliable energy to America other than to drill for oil and gas in our national monument lands? I do not think so.

I think there are other ways—sustainable energy sources—things that work, things you will be proud of, 21st century thinking—not the drill-and-burn thinking of the 20th century and the 19th century that has
inspired this administration to decide that, unlike President Teddy Roosevelt, this Republican President is ready to start exploring and looking for oil and gas in these national monuments.

We can end our dependence on foreign oil, but we don’t have to do it at the expense of America’s national and natural treasures. I urge my colleagues in both political parties to agree with me that setting aside 5 percent of Federal lands, keeping them separate and sacred, is worth the investment. We can find another answer, an answer that preserves those lands for future generations and still meets the energy needs of America.

If there are other Senators seeking recognition on this amendment, I yield the floor.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Utah.

MR. BENNETT. Mr. President, there has been a lot of historic revision going on with respect to the creation of national monuments. I rise to set the record straight.

The record is available for those who will research it, but for those who may have been listening to this debate, it needs some accuracy in terms of what happened.

I was involved in it right from the public beginning, but I cannot say I was involved in it from the real beginning because the creation of the Grand Staircase-Escalante National Monument was done in the dark. It was done without consultation with any member of the Utah delegation. And when members of the Utah delegation called the administration and asked what was going on, we were told: It is not happening.

To say very specific, in one example, let me describe to the Members of the Senate and to the Chair an exchange I had with Katie McGinty, chairman of the Council on Environmental Quality.

First, to put this in historic context, a story appeared in the Washington Post saying that President Clinton was considering a major national monument in the State of Utah. Immediately after that story appeared, the administration denied it and said it was just a consideration, just an idea, and under no circumstances were they that far along in serious consideration of a national monument.

Understand that the law required, under NEPA and appropriate environmental laws, that there be full public examination and consultation. The administration knew that. So they said, no, there will be no consultation because this is just an idea.

I had had experience. I called Bruce Babbitt, Bruce Babbitt and I had a very frank relationship. Even though we agreed on many things, we could be honest with each other. I called Bruce Babbitt. He was appropriately professional; he didn’t let out any secrets.

But he let me know that it was perhaps more than just an idea.

I said: What should we be worried about? He told me of some things we should be worried about in a theoretical sense. In case this was a real monument, we should be worried about the following. I wrote him a letter about them.

Finally he called me. He said: Come down to the Department of the Interior and we will talk about this. And with the other members of the Utah delegation, Senator Hatch and Congressman Hansen, I went down to Department of the Interior. It was on a Saturday morning when there was nobody else around. We sat in his conference room. Katie McGinty was there, along with a large number of his staff.

I asked him repeatedly and directly: Mr. Secretary, will the President announce the creation of a national monument on Wednesday of this coming week, as the press is speculating that he will?

Bruce Babbitt, being a careful lawyer, looked at me and said: No decision has been made. He didn’t say yes and he didn’t say no. He just said: No decision has been made.

I took that, from my experience with the Clinton administration, to mean “yep, it is a done deal; I can’t tell you about it, but it is done.”

So convinced that the monument was going to be created, on Monday morning, in my office, Katie McGinty was there as the leading administration spokesperson on this issue. And I said: Ms. McGinty, you say this is under consideration but no decision has been made. Given the consideration, can you give me a copy of the map so that I can see what lands are under consideration?

She looked me in the eye and said: Senator, there is no map. We are not that far along. This is just an idea. There is no map.

I said: As soon as there is a map, can I have a copy?

Oh, yes, Senator, as soon as we have a map, but we are not that far along.

That was Monday morning. On Wednesday morning I get a phone call from Leon Panetta, Chief of Staff to President Clinton.

Leon Panetta said: Senator, I am calling to tell you that this afternoon in Arizona, President Clinton will announce the formation of the Grand Staircase-Escalante National Monument, the details of where it will be and everything with respect to it.

I held my anger because Mr. Panetta obviously had nothing to do with this. This was a done deal outside even the office of the Chief of Staff of the White House.

I said: National monuments require— and I listed all of the things that were involved in the creation of a national monument.

He said: Yes, national monuments require all those things. There will be a 3-year period after the creation of the monument in which we will deal with those issues.

Every one of those issues should have been dealt with publicly and openly prior to the creation of the national monument, but all of them had been held in secret.

I expressed my disappointment in that. Mr. Panetta, in a moment of candor said: Well, Senator, we have 3 years in which to try to clean it all up.

When Katie McGinty appeared before the appropriations subcommittee, I sat with the subcommittee and I said to her: I want to see all of the documents relating to this decision. You didn’t create this out of whole cloth in a 24-hour period.

I made very clear that I did not believe her earlier statement that there was no map and no consideration if, in less than 48 hours, the President made a complete public disclosure of it. Presidents don’t do things in 24-hour periods. Something as major as this doesn’t just happen overnight. It isn’t an immediate decision. It is staffed out somewhere.

I said to her: I want to see all of the documents relating to the decision to create this national monument.

Oh, yes, Senator. I will provide this. It was a completely open process.

And then we got a map. I discovered, by the way, that the map had been in circulation among environmental groups for 3 months prior to the time when I asked her for a copy, and she told me none existed.

We looked at the map to see how carefully drawn the boundaries were of this national treasure we were hearing about. In one of the towns in Utah, the high school football field was in the national monument. The map was drawn in secret. The map was drawn with people who would not consult with those who knew what was going on, and they had drawn the line so wildly that they had picked up the football field of a high school, thinking that was part of the national monument.

One of my constituents found his front driveway in the national monument. He had to drive across national monument lands to get to his home because they had ignored the procedures so fully, they were so anxious to do this in secret and not consult with anybody so that they would have a political coup to announce in the middle of a Presidential campaign, that they made those kinds of mistakes.

Is it now so sacred a land that we cannot take the football field out and turn it back to the high school?

Is it so sacred a piece of land that we can’t give the man his driveway back?

I ask those questions rhetorically because we did that. In one of the previous Congresses, we redrew the boundaries and took out the football field.
and the driveway and some other mistakes that were made. I got my first set of documents from Katie McGinty, which I found in the State fore and a travel bureau brochure. I went back to the Appropriations subcommittee meeting. It is not usually my style, but I am afraid I embarrassed her by holding these up and saying, “You are suggesting that these are the basis of a decision to lock up 1.7 million acres in my home State? You are saying this is the complete record? I am sorry, I cannot accept that.”

Finally, at a later time, we got the complete file that she had with respect to the creation of this monument. I will say this in her defense. She did not shred any documents. When she turned the documents over to me, the file was complete. It contained the following documents but we can only read the first since it is in the file. In the first few months before, where she says, “We will have to abandon the project of trying to find lands in Utah that qualify for a national monument because it is clear there are none that do. Let’s forget Utah project because we can’t find any lands that will qualify.” And then, what I consider the smoking gun, there was a 5% by 8½ piece of paper in which she had written in her own hand a note to the Vice President. The Vice President had been her boss. She was on his staff while he was a Senator. That would explain the familiarity of the note. It said: AI, the enviros have $500,000 to spend on this campaign, either for us or against us, depending on what we do in Utah. Signed, Katie.

I can’t touch for that being the exact language, but that is close enough. I read and reread that note many times. The national monument was being created in southern Utah in the dark to stimulate the expenditure of $500,000 of campaign activity on behalf of the Clinton—Gore ticket in 1996. There was the entire motivation following on the earlier document where she said there aren’t any lands that qualified.

Now, the Senator from Illinois had these are special lands and that they can explore for oil and gas on 95 percent of the public lands. This is reminiscent of a statement President Clinton made when he announced that monument. He said, “Mining jobs are good jobs, but we can’t find any lands that will qualify.” So we will set this land apart so there won’t be any mines here.”

If I had been there and had the opportunity to have an exchange with President Clinton, I would have said: President Clinton, you are exactly right. We cannot have mines everywhere. We can only have mines where there are minerals. Sure, you say 95 percent of the land is open for exploration. But nobody there wants to look at that. Nobody wants to explore lands where there are no mineral resources. Why was this land set aside in a national monument?

The Senator from Illinois says he wants to take his grandson out some day to look at the beauty of the land. His grandson is supposed to look at it right now. You will have the same reaction we are getting from tourists who are coming. We were told when this was created that we would have an economic bonanza of tourists coming to look at this magnificent piece of scenery. I have gone to the county commissioners of the counties around there and said, “How much tourism have you had?” They said, “None.” None! This has so much publicity, surely people have come from all over the world to see this scenic wonder. Yes, they come—one day. They say we have come to see this magnificent scenery President Clinton talked about on the rim of the Grand Canyon and the backdrop to make the announcement. That is scenic and it is worth coming from all over the world to see. That was his visual aid when he talked about the land in Utah. The folks show up from Germany and Japan and elsewhere to look at the land in Utah, but they say: This doesn’t look any different than any of the other BLM land we can see. What is the big deal?

They don’t come back. We have seen two counties be destroyed economically since the creation of the Grand Staircase-Escalante Monument, as people were afraid to invest in those counties. They were not very viable to begin with and have no tourism. With all of the publicity, there is no tourism.

All right. I suggest to the Senator from Illinois, if he wants to take his grandchild to see this grand scenery, he can do it, and it will be there in future generations because he can do it without telling nobody, and to do it in such a way that it will never be subject to public comment or oversight in the future. And to do it in such a way that it will never be subject to public comment or review. We will do it in secret. We will do it without telling anybody, and
when members of the Utah delegation ask us about our plans, we will lie to them.

I am sorry to be that strong, but that is what happened because I asked the question directly, and I was given the answer directly, and the answer was a lie, demonstrable, provable in the Record. The answer I got was a lie.

Now we are being told: Oh, these are special lands that we must preserve for our grandchildren, when in fact the genesis of this monument makes it clear these are special lands primarily because of the mineral resources that are in them, the energy sources that are there, the low-sulfur coal which, by the way, if mixed with more traditional coal, would lower emissions at every power plant where it was used.

For those who are concerned about green energy, the Interior Department and the folks at the BLM have, indeed, come up with a long-term management plan for the monument that probably belong in national monument status? The answer is yes, we are, but it should be done in the first place.

And I do not impugn the motives of other members of the Utah delegation, and the citizens of Utah feel about our State. We want to do it with everybody participating, we want to do it intelligently. We want to do it in a way that makes sense. We want to do it with everybody participating in the process who will come to the table and talk to us. We want to hear every idea. We want to hear every point of view.

We don't want to see a repeat of what Katie McGinty and others in the Clinton administration did, of creating something in the dark, cramming it down people's throats without any opportunity for comment, and then declaring that it is forever and ever inviolate. That process only breeds ill will. That process only creates bad feelings. There is no place for that kind of process to ever be repeated.

My objection to the amendment by the Senator from Illinois is—and he would enshrine the results of that process—not the process; he had nothing to do with the process. He didn't know what was going on. If he had, given his sense of fair play, he probably would have objected to it, but he would enshrine the results of that process into law forever. That, frankly, doesn't make sense. It is a process that does not deserve to be rewarded with that kind of perpetual reference. We need to deal with our lands in a way that is good for the lands, a way that is good for the people, a way that is good for
our posterity, and enshrining what was done in the case of the Grand Staircase-Escalante Monument is not the way and not the way it should be. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that Senators Feinstein and Boxer be added as cosponsors to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DURBIN. I ask the majority whip if this is appropriate, we have a unanimous consent that the amendment be scheduled for 2:45. If this is appropriate, we have a unanimous consent that the rollcall vote on my amendment.

Mr. DURBIN. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I will work on the exact time.

Mr. DURBIN. I will suspend a unanimous consent request on a specific time.

I will respond to my colleague and friend, the Senator from Utah, Mr. BENNETT. I have heard him speak before about the Grand Staircase-Escalante National Monument. He is a man of great control and moderation. I can tell it brings his blood pressure to a high level to recall the creation of this particular monument. He has heartfelt feelings about this process and he has expressed them, hopefully, in private.

I do say in fairness that one of the people he mentioned several times on the floor is someone I respect very much and worked with for many years, Miss Katie McGinty, who worked for the Clinton administration. I found her to be entirely professional and ethical, with the highest integrity and great skill. I want to make certain that is part of the record.

I also do want to make note of the following for the record, as well. With regard to the Grand Staircase-Escalante National Monument, the Bureau of Land Management has utilized an extensive process to develop a management plan to administer the new monument. The planning team included five representatives nominated by the Governor of Utah, Mike Leavitt. Over 28 meetings were held and over 9,000 comments considered prior to finalizing the monument management plan in February of 2000. In addition, following establishment of the monument, the Department of the Interior worked closely with the State of Utah to negotiate a major land exchange that traded State and Federal land so as to help maximize the value of State lands for the benefit of Utah's schoolchildren and provided a $50 million payment to the State.

My amendment addresses whether or not we will drill for oil and gas and mine minerals, particularly coal in this case, in the Grand Staircase-Escalante National Monument.

I make the following comments for the record: According to the U.S. Geological Service, all of the recoverable oil in the Grand Staircase-Escalante National Monument would provide for America's energy needs for a total of 4 hours. All of the recoverable gas in the Grand Staircase-Escalante National Monument would provide for America's energy needs for 1 hour.

On the issue of coal, fortunately, we are not at the mercy of anything like OPEC when it comes to coal in the United States. The U.S. Department of the Interior has estimated we have 250 years worth of coal reserves right here in the United States. The Senator has said repeatedly that the coal in this monument itself will light all the lights in San Francisco for a long period of time. I suggest all the coal in the United States could light the lights of most of the western civilization for a pretty substantial period of time. We could light it, but we would do it.

I have three times more coal in my State of Illinois than the Senator from Utah believes he has in his State, at least by estimates from the Department of Energy.

The Interior Department bought back all of the Federal coal leases within the Grand Staircase at a cost to taxpayers of $20 million. There are no existing leaseholders, no coal development taking place in this national monument. So those who were there were compensated when they left.

Let me go back to what this amendment is all about and why I have offered it. The Bush administration said they are prepared to explore the possibility of drilling for oil and gas in national monuments. When visiting Washington, D.C., and you hear the words “national monument” you think of the Washington Monument and the Lincoln Memorial. But national monuments under Federal lands are tracts of land set aside by Presidents over the centuries out west, who really think if they can get their hands on this land there and they can do anything they think, they will be able to see something spectacular in American history, that they are able to leave for their children, grandchildren, and their children and grandchildren, that they will be able to see something spectacular in American history.

I encourage my colleagues to join me in voting for this amendment. It had a strong bipartisan vote in the Senate and in the House of Representatives and, yes, in the White House as well, to preserve this national heritage.

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Mr. MURKOWSKI. Mr. President, I listened with great attention to the debate concerning the amendment that is before us. I would like to specifically identify the amendment in some detail because I think Members should have an understanding of just what the intention of the Senator from Illinois is.

In the amendment, the specific purpose is to prohibit the use of funds for the conduct of preleasing, leasing, and related activities within national monuments established under the act of June 8, 1906. It is further appropriate to reflect on the concluding sentence of the amendment, which states:

... a national monument established under the Act of June 8, 1906 (16 U.S.C. 431 et seq.), except to the extent that such a preleasing, leasing, or other related activity is allowed under the Presidential proclamation establishing the monument."

What we have here, in the establishment of a monument, in the normal course of events, is a Presidential proclamation. And in that proclamation it is specifically addressed as to what can occur within the monument.

I really question the necessity of the amendment. I question the applicability of the amendment. I question the application of the amendment. I question the purpose and objective of the amendment.

I am not one of the managers of the bill, but one of the more expeditious alternatives would be to accept the amendment because the amendment does not do a thing. It implies that you are not going to have any funds for preleasing and related activities—and I assume we mean oil and gas or mineral exploration in national monuments—but then it goes on and says: "except to the extent that such preleasing . . . or other related activity is allowed under the [authority of the President]." Which basically states the authorization for the proclamation establishing the monument. Hopefully, that is clear.

I assume there are some out there who would say, we do not want oil and gas or mineral exploration occurring in our national monuments. We have heard from Senators who have had some experience with national monuments, the creation of these monuments under the Antiquities Act. Certainly one of the more recent States is the State of Utah and the case of the Grand Staircase-Escalante episode where a monument was created with very significant acreage. It took off the development scenario of some coal leases that the Senator was going to use to fund their educational system. I think, unfortunately, the application of the Antiquities Act in that particular case was inappropriate.

Our previous President took that action without the knowledge of the Governor of Utah, and without the knowledge of the congressional delegation of Utah. Furthermore, he did not have the compassion to even make the announcement in the State of Utah. I believe it was made in Arizona.

So the application of the Antiquities Act, traditionally, on national monuments is well established. But the criteria of what can be done in those national monuments are ordinarly left up to the Presidential proclamation establishing the monument, which certainly is the case in the amendment pending before this body. I hope Senators, upon reflection, will recognize that this particular amendment really accomplishes no purpose.

One of the issues that concern me, however, is the implication and the lack of understanding of terminology associated with the designation of public land.

We have all seen the concern expressed on the floor—both in the House and in the Senate—as to the issue of developing resources offshore or within our States or within specific designated areas. But I would like to share with you a chart that shows the designated areas that have been taken off limits in recent years by State and Federal action. It is kind of interesting to note the entire east coast—from Maine to Florida—has been removed from any OCS (Outer Continental Shelf) activity. And the merits of those actions speak for themselves. These States simply do not want any activity off their shore.

We saw an agreement on lease sale 181 in Florida the other day where a significant portion of the lease was removed. Yet the inconsistency is, Florida wants very much to receive a portion of the energy that would come from exploration offshore in the gulf. It is kind of hard to have it both ways, but some would like that.

The chart also shows the Pacific coast—the entire area from Washington State to California—is off limits. In other words: NIMBY, Not In My Backyard. We have in the overtrust belt the States of Wyoming, Colorado, Utah, and Montana. These are States that have oil and gas development and production. As a consequence of the roadless area promulgated by the previous administration, we have seen a significant area of prospect for oil and gas, particularly natural gas, taken off limits. There were estimates to be about 22 to 23 trillion cubic feet of natural gas in this overtrust area. We have taken it off limits. That means basically no resource development.

There you have it. With the exception of Texas, Mississippi, Louisiana, and Alabama, that support OCS leasing—we find ourselves in a position where we have an energy crisis. We find ourselves in a position where we are becoming more and more dependent on sources overseas coming into the United States.

We debate the merits of the inconsistency in our foreign policy where we find ourselves dependent on 750,000 barrels of oil a day from Iraq, from our old friend Saddam Hussein, where we fought a war in 1991 and 1992. We lost 148 U.S. lives in that war. And now we are importing oil from that country. We buy Iraq's oil, put it in our airplanes, and then go bomb him while enforcing a no-fly zone, basically a blockade in the air. We risk U.S. lives in that. We have flown over 230,000 individual sorties over Iraq.

So here we are putting our own area off limits, going overseas, not really where we want to be.

Whether it comes from a scorched-earth refinery or a scorched-earth oil field in OPEC, we find ourselves subject to the cartel of OPEC. Cartels are illegal in the United States. We would not even pass the test associated with that type of business in this country because we have antitrust laws, but we are, in effect, supporting the viability of the OPEC cartel by becoming more and more dependent.

I am sure the Presiding Officer remembers back in 1979, we had gas lines going around the block in this country. We had the Arab oil embargo at the Yom Kippur war. We had the public indignant, outraged because there were gas lines around the block. We were 37-percent dependent on imported oil at that time. Today, we are 57-percent dependent. The Department of Energy says the way we are going, we are going to be 63- or 64-percent dependent by the year 2007 or 2008. Where is it going to stop?

People generalize, very conveniently, that we have alternatives: We have renewables; we have solar power; we have wind power; we have new technology. If
you really think about it, most of these sources are for stationary power generation. But they do not move America. They do not move the world. Mr. President you, and I, and others, do not fly in and out of Washington, DC, on hot air. Somebody has to produce the oil, refine it, and put the kerosene in the jet. Only then do you take off. Whether it is your planes or your trains or your automobiles or your boats, America and the world are dependent on oil. And we are becoming more and more dependent on one source, and that is OPEC.

We are sacrificing our national security interests; there is no question about it. To give a recent example, just a few weeks ago, Saddam Hussein didn't get his way with the U.N. So he cut his oil production. He pulled 2% million barrels of oil a day off the world market. We thought OPEC would make up that difference. They took one look at it and said: No, we are going to hold off. So we were short that month. This month alone, about 60 million barrels were held off the world market. It kept the price up.

Look at what happened in this last year with OPEC in developing their internal discipline. They developed a floor and a ceiling on oil: $22 was the floor; $28 was the ceiling. It has gone over that. They have a discipline. We are becoming more and more dependent on that source, and we are becoming more and more exposed from the standpoint of our national security.

Where is it going? We are debating an amendment that doesn't do a thing to address supply. We should be debating an energy bill at this time in a timely manner. We have over 400 wells in Louisiana refuges alone. It is important that the public understand the difference between national monuments and national wildlife refuges. Oil production in national refuges is allowed, subject to the authority of the President. We have salt water conversion.

Here are the States. We have 17 refuges in Louisiana, Alabama, Mississippi, four in California, Montana, Michigan, my State of Alaska. These are activities that are authorized under the terminology of refuges.

This chart shows where these refuges are. It is important that the public understands the difference between national monument designation under proclamation by the President and what is allowed in them by the proclamation and refuges. In Alabama, there is the Choctaw National Wildlife Refuge. Oil production in national refuges and wetlands management districts is a concept that has long been fostered by the Congress. It is specifically the balanced use of Federal funds and the reality that it is accepted and is commonplace.

This is oil and gas activity in 30 refuges, and there are 118 refuges from coast to coast where we are safely exploring for oil and gas. We have over 400 wells in Louisiana refuges alone. And we have 118 refuges in Arkansas, Kansas, Louisiana, Texas, Alaska—the Kenai National Wildlife Refuge—North Dakota, Mississippi, Michigan, and Montana.

I am not going to get into a presentation of the merits of ANWR. What makes it any different than any of the others? Certain not from the establishment of the terminology "refuge." ANWR is included as a refuge, therefore oil and gas activity is allowed, subject to the authority of the Congress. That is what that debate is all about.

But as we look at the reality associated with the energy crisis, we have to recognize we are going to have to look for relief. You are not going to get it from alternatives. You are not going to get it from renewables. In spite of the fact that I support the technology, I support the subsidy, I support continued taxpayer support of these, they still constitute less than 4 percent of the total energy mix. We have expended over the last 10 years. It has been money well spent, but it is not going to replace our dependence on conventional sources of energy.

How did we get into this thing? Why are things different now? I could talk about oil and gas, but if we look at foreign oil dependence—now at 56 percent, up to 66 percent by the year 2010—the national security interest of this country is in jeopardy. What are we going to use as leverage?

In 1973, we created the Strategic Petroleum Reserve. Some people say that can be our relief. Do you know what we found out when the previous administration took 30 million barrels out of the Strategic Petroleum Reserve? We found out we didn't have the refining capacity to refine it into the heating oil that was needed to meet the crisis at that time in the Northeast Corridor. We were genuinely concerned.

When we took those, we simply found we had to offset what we would ordinarily import. We didn't have the refining capacity. I think we achieved, out of that 30 million barrels, somewhere in the area of a 1-day supply of heating oil for the Northeast Corridor. It just won't work. If you don't have the refining capacity, you can have all the oil in the ground you want, it isn't going to do the job. You are not going to be able to increase, if the need is there, any more than the extent of the consumption about $5 billion a year.

The reason things are different this time is we have natural gas prices that have soared. They have gone up as high as $10. They are down now, thank God, but we are still using our reserves faster than we are finding them. We haven't had a new nuclear plant licensed in this country in 10 years. We haven't had a new coal-fired plant of any consequence built in this country since 1995, and coal is our most abundant domestic energy resource.

We have technology for clean coal. Nothing has been done in that area. Why? It isn't because the supply isn't adequate; it is because we haven't had...
the conviction to come to grips with the reality of the law of supply and demand. Even Congress can't resolve the law of supply and demand; it can only increase the supply or reduce the demand.

Demand has gone up and supply hasn't. That is why it is different this time. I indicated that there have been no new gasoline refineries in 10 years. So if we look at our increased dependence on foreign oil, increased price of natural gas, nuclear plants—nuclear is 22 percent of our stationary energy—no new gasoline refineries, no new coal-fired plants, and to top it off, we find our capacity to transmit our natural gas and electricity is inadequate. Why? Because we have become more of an electronic society. We leave our computers on; we leave our air-conditioning on. We have become, perhaps, a more fuel-efficient refrigerator and use half of the energy, but if the old one isn't worn out, you won't do it.

The point is that the "perfect storm" has come together in the sense of energy. We have an energy crisis. As a consequence of that crisis, I would have hoped that we would be debating how to address this energy situation as opposed to debating the merits of a national monument determination that isn't going to result in any significant activity. Other than some of the media might be misled that it is going to terminate any activity in areas of national monuments, which it will not. We have skyrocketing energy prices, gas shortages, and I guess I will conclude with a reference to, again, how important energy is, how we have a tendency to take it for granted.

You know, the American standard of living is based on one thing: affordable and adequate supplies of energy. That is why if we don't keep up with the increased demand by increasing the supply by conservation, alternatives, renewables, we are going to jeopardize that standard of living. And with it goes our economic security, and with it goes our national security.

I think we all feel exposed to the potential of being held hostage by a foreign leader such as Saddam Hussein. We have our job security at risk—to keep Americans working and create more jobs. Energy certainly powers our economy on in times such as this, and that is America's technology and ingenuity.

We have the capability to meet the challenges associated with a responsible environmental sensitivity and the reality that we can do things better. But there is no magic to it. Somebody has to produce this energy. It has to come from some identifiable source. I am speaking primarily of what moves America, and right now that is oil. I wish we had another alternative, but for the foreseeable future, we simply do not.

As a consequence of that reality, we have before us an energy plan. I intend to work cooperatively with Senator Bingaman toward a chairmain's mark. We have an outline given by the President and the Vice President and their energy task force report. So I guess even more so, if you will, on the process in the Senate. It is moving in the House. The House is moving on an energy bill. We should be moving on it here. I am very pleased to see that it is now in the Democratic leadership's recommendations.

We haven't gotten a schedule on it at this time, but I hope we will in the very near future.

So, again, we get back to the debate at hand with regard to the amendment, prohibiting preleasing-related activities within national monuments by disallowing any funding and, yet, recognizing in the amendment to the extent that such a preleasing or other related activity is allowed under the Presidential proclamation establishing the monument, would seem that the amendment is neutral to the issue of supply, neutral to the issue of whether or not there is any authority for oil or gas and mineral activity within any new national monuments that might be created in the future is certainly not applicable to those already in existence.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I believe all debate on this amendment is completed, and the yeas and nays have been ordered.

The PRESIDING OFFICER. That is correct, the yeas and nays have been ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the vote on or in relation to the Durbin amendment occur at 4:10 p.m. today.

The PRESIDING OFFICER. Is there objection?

Mr. BURNS. Mr. President, I move to table the Durbin amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, I ask the Senator to allow an amendment to his motion to table—that there be no second-degree amendments allowed to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there objection to the request to have the vote occur at 4:10 p.m.?

Mr. BURNS. I move that the Durbin amendment be tabled, and I ask for the yeas and nays, which vote will occur at the agreed time.

The PRESIDING OFFICER. First, the Senate needs to address the request raised by the Senator from Nevada of having the vote at 4:10 p.m. He pronounced a unanimous consent request to have the vote at 4:10 p.m. Is there objection?

Mr. BYRD. What was the request, what is the request?

Mr. REID. Mr. President, I say to my friend, the manager of the bill, we will have a motion to table the amendment at 4:10 p.m. today, and prior to the vote there will be no second-degree amendments to the Durbin amendment.

Mr. BYRD. A vote on the motion to table would occur at 4:10 p.m. today.

Mr. BURNS. Yes.

The PRESIDING OFFICER. The Senator from Nevada asked unanimous consent the vote occur at 4:10 p.m. There has been no objection. The Senator from Montana has moved to table and asked for the yeas and nays at 4:10.

Mr. BURNS. And the vote occur at the agreed time at 4:10.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BYRD. What was the request, and then 4:15?

Mr. BURNS. The meeting with the President and the group downtown was not in until 4:15. We are going to begin the vote at 4:10 and they will have time to vote; 4:15 had nothing to do with it. We agreed at 4:10 to table the Durbin amendment.

Mr. BYRD. I remove my reservation.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second on the motion to table.

The yeas and nays were ordered.

Mr. REID. I ask unanimous consent the Senator from New Jersey be allowed to speak for up to 10 minutes as if in morning business.
The PRESIDING OFFICER. Without objection, it is so ordered.

The remarks of Mr. TORRICELLI are located in today’s RECORD under “Morning Business.”

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. JOHNSON). Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the vote now scheduled for 4:10, on a motion to table, be rescheduled for 4:20. This has been cleared with the Senate Manager.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, in 10 minutes or so, the Senate will be voting on my pending amendment. I believe the Senator from Montana has been given authority to offer a motion to table the amendment. But I want my colleagues who come to this Chamber to understand what the nature of this amendment is because it is very simple and straightforward.

My amendment will simply prohibit new mineral leases from being issued in designated national monuments. It does not affect any existing, valid right, or prevent leasing in any area that was authorized for mineral activity when the monument was established.

That description is pretty legal. Let me try to translate it so that those who have not followed this debate will understand what is at issue.

We have designated, in this country, various national monuments. These are tracts of land which Presidents of the United States, since Teddy Roosevelt, have set aside by saying that they have certain national monument lands, in fact, that many of our national parks began as national monuments.

When you look at former national monuments, they include the Grand Canyon—designated first as a national monument—Glacier Bay, Zion National Park, and Acadia National Park.

So though I use the term “national monument,” most Americans are familiar with the term “national park.” Although they are not the same legally, the fact is that many of our national parks began as national monuments.

We have taken great care when it comes to these national monuments to say that they are so special and important that we will be careful what we do with them once we have designated them as treasures for our Nation to protect.

The reason I have offered this amendment is because it is very important to say to any oil company or mining company: Please come take a look at our national monuments as a possible place to drill and to make a profit.

Some will argue—and they have in this Chamber—that it is shortsighted for us to limit any drilling for oil and gas or the mining of minerals at a time when our Nation faces a national energy crisis or an energy challenge. I disagree. Of all the Federal land owned in the United States by taxpayers, 95 percent of it is open to oil and gas drilling company or mining company: Please come take a look at our national monuments as a possible place to drill and to make a profit.

Some will argue—and they have in this Chamber—that it is shortsighted for us to limit any drilling for oil and gas or the mining of minerals at a time when our Nation faces a national energy crisis or an energy challenge. I disagree. Of all the Federal land owned in the United States by taxpayers, 95 percent of it is open to oil and gas drilling and mining. We have said, if you can find those resources on that public land, we believe it will not compromise the environment nor jeopardize an important national treasure to go ahead and drill. But for 5 percent—one acre out of 20—of Federal public lands which we have designated as special lands—monuments; some may someday be a national park—in those lands we do not want to have that kind of exploration and economic exploitation.

If some step back and say: You must be turning your back on a great amount of energy resources if the Durbin amendment is enacted and prohibiting oil and gas drilling on these national monument lands, in fact, that is not the case at all. The U.S. Geologic Service did a survey of these national monument lands to determine just how much oil and gas there would be available. After they had done their survey, they established that all of the mineral potential on all of these lands combined has economically recoverable oil as a portion of total U.S. consumption that amounts to 15 days, 12 hours, and 28 minutes of energy. When it comes to gas, 7 days, 2 hours, and 11 minutes in terms of our national energy consumption. It is a tiny, minuscule, small part of the energy picture.

I have listened to some of my colleagues from other States talk about our energy crisis. You would believe that the only way we could keep the price of a gallon of gasoline under control is to allow the oil companies to go in and drill on lands that have been set aside by administrations to be protected. I do not believe we have reached that point where the energy crisis or challenge should be used as a battering ram to beat down that which we hold sacred in this country. I think it is pretty clear, on a bipartisan basis, that at least Senators in this Chamber do not want to see us drill for oil in the Arctic National Wildlife Refuge, as President Bush has proposed.

I think it is also clear when it comes to drilling off our coastal shores, there are many States, including the State of Florida—coincidentally, governed by a man with the same surname as the President—that don’t want to see drilling offshore. They think it is too dangerous when it comes to spoiling the beaches and the recreational activity that are part of the States of Florida, California, and others.

This amendment says there is also an area of America we should take care not to exploit as well, and it is the national monument space.

The Senator from Montana has offered a motion to table my amendment. He opposes it. He has stated his position very effectively. But I would implore my colleagues on both sides to understand that this is a bipartisan amendment. It is an amendment which was supported by Democrats and Republicans in the House of Representatives because when it comes to conservation and the protection of our natural resources, why in the world should this be a partisan issue?

Teddy Roosevelt was a great Republican. Franklin Roosevelt was a great Democrat. All of these Presidents set aside land that was important for future generations.

I am certain that some Republican Presidents—other than Bush in the future—will do the same. And I hope that Democratic Members of Congress will respect it. But if we are going to show respect for these national monuments,
we have to understand that allowing for the drilling of oil and gas runs the risk of spoiling a national treasure.

I hope this Senate, on a strong bipartisan vote, will reject the motion to table offered by the Senator from Montana and will enact the Durbin amendment which protects these lands and says to the Bush White House: Help us find other sources of energy, other sources of energy that do not compromise important and pristine areas in this country.

There are things we can and should do as a nation to deal with energy: Sustainablility, clean energy; finding ways to conserve; having Congress accept its responsibility when it comes to fuel efficiency in the vehicles that we drive.

These are the things that are going to help us be a better nation in the 21st century. To stick with the philosophy and notion of the 19th and 20th centuries, to drill and burn our way into the future is so shortsighted. To think we would even consider going to lands such as national monument land that has such special value to every American citizen would be a serious mistake.

I urge all of my colleagues to vote against the motion to table and, once it has been defeated, to support the passage of the Durbin amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I ask unanimous consent that I may summarize my argument.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, Mr. President.

Mr. BURNS. I will be very short.

Mr. DURBIN. I have no objection.

Mr. BURNS. The figures the Senator cited are from a USGS survey taken in 1995. Those figures have changed and moved up. No. 2, if he doesn't want people to drill there, where can they drill? How many people in this body or in this town drove an automobile or rode something here that required energy? How many? Do we close off the whole Nation because somebody is making a profit? Do we take the same mindset into agriculture, into production agriculture, as they have in Klamath Falls where 1,500 farmers cannot irrigate because of a suckerfish? It is a mindset.

I move to table this amendment for the simple reason that it will impact the country. You say only 5 percent or 2 percent of the acreage. I say to the Senator: $5 is not very much to some of us. But it is when you don't have it. We have that possibility with this kind of a mindset.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—42

Allen  Conn  Daschle  Dickerson  Specter
Allen  Craig  DeWine  Edwards  Swanger
Bennett  Grassley  Durbin  Feingold  Voinovich
Bond  Hagel  Breaux  Harkin  Allen
Brownback  Helms  Running  Hutchinson  Bennett
Campbell  Inhofe  Burns  Sessions  Hollings
Cochran  Kyl  Craig  Smith (MI)  Bunning
Cornyn  Landrieu  Crapo  Steven  Bunning
Ensign  Lugar  Enzi  McConnell  Voinovich
Frist  McCain  Risch  Voinovich  Burns
Nickles  Inhofe  Hatch  Sessions  Lott
OREGON—3

NAYs—57

Akaka  Allard  Baucus  Bayh  Biden
Bennett  Breaux  Brown  Breaux  Byrd
Bingaman  Bayh  Bayh  Byrd  Cantwell
Carnahan  Bayh  Bingaman  Byrd  Cantwell
Carper  Bayh  Bingaman  Byrd  Cantwell
Chafee  Bayh  Bingaman  Byrd  Cantwell
Chambliss  Bayh  Bingaman  Byrd  Cantwell
Clinton  Bayh  Bingaman  Byrd  Cantwell
Collins  Bayh  Bingaman  Byrd  Cantwell
Conrad  Bayh  Bingaman  Byrd  Cantwell
Corzine  Bayh  Bingaman  Byrd  Cantwell
Daschle  Bayh  Bingaman  Byrd  Cantwell
Dayton  Bayh  Bingaman  Byrd  Cantwell

NOT VOTING—1

Thomas

The motion was rejected.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment.

Mr. NICKLES. I ask unanimous consent to vitiate the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.
The amendment (No. 879) was agreed to.

Mr. DASCHLE. I move to reconsider that vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, we have been working with the distinguished managers of the bill. I would like to propose a unanimous consent request. I think it has the agreement of both sides. I have consulted with the managers of the bill.

I ask unanimous consent the Nelson amendment be the next order of business; that it be debated for a period of 3 hours, equally divided, and that the vote occur following the expiration of the 3 hours tonight.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I thank the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I do not object. Would the distinguished majority leader make that verbiage “not to exceed 3 hours”?

Mr. DASCHLE. Mr. President, I would so ask, that it not exceed 3 hours; that the time be equally divided, and that there be no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object, I ask the majority leader, I think there were two Nelson amendments, one was a 1-year and one is a permanent ban. Would you tell us which one this is?

Mr. REID. One is a year and one is 6 months.

Mr. NELSON of Florida. It is the 6-month amendment identical to the House provision, amendment No. 893.

Mr. NICKLES. I shall not object.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 893

Mr. NELSON of Florida. Mr. President, I call up amendment No. 893.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 893.

Mr. NELSON of Florida. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose to prohibit the use of funds to execute a final lease agreement for oil and gas development in the area of the Gulf of Mexico known as “Lease Sale 181”)

On page 194, between lines 9 and 10, insert the following:

SEC. 1. LEASE SALE 181.

None of the funds made available by this Act shall be used to execute a final lease agreement for oil or gas development in the area of the Gulf of Mexico known as "Lot 181", as identified in the Outer Continental Shelf 5-Year Oil and Gas Leasing Program, before April 1, 2002.

Mr. BYRD. Will the distinguished Senator yield for a unanimous consent request without losing his right to the floor?

Mr. NELSON of Florida. Of course, I yield.

Mr. BYRD. I ask unanimous consent the committee amendment be agreed to, that the bill as thus amended be considered original text for the purpose of further amendment, and that no points of order be waived by this request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The committee amendment was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Florida.

The PRESIDING OFFICER (Ms. LANDRIEU). The Senator from Florida.

Mr. NELSON of Florida. Madam President, in offering this amendment, let me frame the amendment so everyone understands the context of the amendment. In the House of Representatives’ discussion of the Interior appropriations bill some 3 or 4 weeks ago, a bipartisan amendment was offered by two Members of Congress from Florida.

The amendment that was attached by an overwhelming vote in the House of Representatives was with regard to a proposed lease sale, designated as 181, in the Gulf of Mexico, for the purpose of drilling for oil and gas. The House of Representatives, in a fairly substantial bipartisan vote passed a prohibition of the offer to auction that lease sale for 6 months. Specifically, this amendment tracks the House amendment identically, in essence saying no money appropriated under this act, the Interior appropriations bill, can be used for the purpose of offering for oil and gas drilling lease sale 181.

Lease sale 181 was originally proposed as a tract of some 6 million acres. It is in the eastern planning area of the Gulf of Mexico, an area that heretofore has not been violated with any drilling.

When the White House saw that there was considerable opposition, almost unanimous, from the Florida congressional delegation, the White House scaled back the proposal from approximately 6 million acres to some 1.5 million acres. It is in a location that starts to violate the eastern planning area of the Gulf by some 1.5 million acres, in which drilling for oil and gas could occur.

Why am I opposed to that? I could say that clearly the people of Florida have expressed their opinion over and over and over again, in huge numbers, with huge majorities, whether that be in the expressions through previous bills in previous years, by both the Senate and the House delegations from Florida, or whether that has been in the body in which I last served as an elected, statewide cabinet official of the State of Florida, in resolutions by the Governor and the cabinet of Florida opposing offshore oil drilling off Florida.

Why is there such intensity in Florida about not having drilling in the eastern planning area of the Gulf? It is simply this: We have a $50 billion-a-year industry of tourism. A lot of that tourism is concentrated along the coast of Florida. The Good Lord has given us the beneficent sugary white, powdered sand beaches. The beauty of those beaches has attracted, over decades and decades—indeed, over the last century—people to come to Florida to enjoy our beautiful environment.

It is without question in most Floridians’ minds that they see the possibility of oil spills from drilling off of Florida in the eastern Gulf planning area and it would be a devastating economic blow—a spike right to the heart in our $50 billion-a-year tourism industry.

Floridians happen to have another reason for not wanting drilling. That is the fact that we are very sensitive about our environment. As a matter of fact, so much of our tourism is inextricably intertwined with protecting our environment and protecting it. The bottom line is that Floridians simply do not want waves of oil lapping onto the beaches.

I think we will hear testimony today by those who are on the opposite side of the issue who will say that drilling for oil and gas in the offshore Continental Shelf became a lot safer. That well may be the case. But the fact is that according to the Minerals Management Service, the chance of an oil spill in lease sale 181 is all the way up to a 37-percent chance of an oil spill and that slick floating across the waters of the Gulf of Mexico and washing up onto the beaches of Florida where so much of our prized environment is displayed for the wonderful people who come to enjoy the natural bounty and beneficence of Florida.

I want to draw your attention to this map of the Gulf of Mexico. This map is very revealing with regard to the Florida story. I have talked to Senators in this Chamber who have had the White House tell them their side of the story. When they see this map, they say: I had no idea it was like that.

This map tells a completely different story. The story they are being told by the White House is that a compromise has been made that is acceptable, a compromise in which originally lease sale 181 included 6 million acres, part of which was this stovepipe that came
up close to the Alabama shoreline, which was, in fact, within about 30 miles of Perdido Key, which is our westernmost beach in the State of Florida.

What they are being told by the White House is that the compromise of shrinking lease sale 181 is acceptable because it narrows it down, as represented here by the yellow, to a tract of 1.5 million acres instead of 6 million. They point out that it is 100 miles from Pensacola Beach, and that it is some 280 miles from Clearwater and St. Petersburg. Whereas, the original lease sale 181 was 213 miles from the west coast of Florida, and still 100 miles from here up to the top of the stovepipe. Of course, it was much closer.

But what they are not telling is the full story, and that is what I wanted to show here.

The green color indicates the existing drilling leases in the Gulf of Mexico. Beyond this boundary is the eastern planning area in which there is no drilling for the simple reason that Floridians have insisted each year that the threat is too great and the risk is too great to despoil our beaches and our environment.

As well as that, the estimated future reserves were expected to be very little. In all of the Outer Continental Shelf, which includes not only the Atlantic seaboard, all of the gulf, as well as the Outer Continental Shelf off of the west coast of the United States, California, Oregon, and Washington, 80 percent of the future gas reserves are estimated to be in the area that is already being drilled in the Gulf of Mexico—not in the eastern gulf planning area. And 60 percent of the future oil reserves are estimated to be in that area that is already being drilled know the gulf planning area and the central planning area—not in the eastern planning area.

We come to the table quite naturally to make our case to the Senate, having had the case overwhelmingly made to the House already that if the future reserves are mostly off the States of Texas, Louisiana, Mississippi, and Alabama, the area already being drilled, and the future reserves are not here, why take the risk of an oil spill that would despoil some of the world’s most beautiful beaches that support the economy of Florida. To repeat myself, the Minerals Management Service says the chance of a spill in lease sale 181 is up to 37 percent. That is a risk simply not worth taking.

I think this map tells the whole story. This area has not been violated—an area called the eastern planning area. Now in the attempt at a so-called compromise, the White House is pushing 1.5 million acres that now go eastward into this area that has not been violated in the past.

As you can see, with all of this drilling activity, that yellow spot right there on this map of the Gulf is what I call the proverbial camel’s nose under the tent. You can see that dirty little nose working underneath the edge of that tent.

What is going to happen in the future? That camel is going to start crawling into that tent, and that drilling is going to proceed in an inevitable manner eastward straight for Tampa Bay. The people of Florida think that is too much of a risk.

We could talk about energy and a lot of the things that we ought to be doing that are not the subject of this particular amendment, but I am compelled to bring up the fact that, good-naturedly, if we but improve the miles per gallon for new automobiles manufactured—and there is another very controversial lease sale, the Arctic National Wildlife Refuge—by 3 miles per gallon on all new vehicles—not the existing vehicles, new vehicles—it would save the equivalent amount of energy that would be produced by all of the oil to be drilled in the Arctic.

So as we approach an energy crisis, and I am looking forward to having a debate when the Department of Energy authorization bill comes to this Chamber—what Senator Graham of Florida and I will probably be offering at that point is a complete moratorium. But for purposes of this Interior Appropriations bill, I am offering an amendment that is identical to what was adopted in the House so that if adopted here this will not be an issue in the conference committee but, rather, would be accepted in the conference committee and would become a 6-month moratorium on the offering of this lease sale.

So perhaps what we ought to do is to rethink to White House’s energy policy of drill, drill, drill. Drill in the areas where the future reserves are already proven. Drill in the areas where the States do not object to the drilling off their shore. Drill in the area where a State such as Louisiana really does not have the God-given beaches, the white sand beaches that we have in Florida that are so much a part of our economy.

Save energy by conservation. Use our technological prowess to produce an automobile that will have a much higher miles-per-gallon average.

I had the pleasure of riding in one of these hybrids. I could not believe it. It was just as comfortable. The car was just as roomy. The car had just as much pickup. In the hot summer Florida Sun, the air-conditioning worked just as well as any other car. All of the electrical demands of radio and CDs and tape players were all there, with no sacrifice.

As we drove down the road, I, as the passenger, could not help but have my eyes riveted to the TV screen in the middle of the console that showed how the engine would be running partly from the gasoline and partly from the battery, and when it was not running the battery, in fact, was recharging—a vehicle known as a hybrid. And I was astounded for my host, the driver, the owner of the vehicle, to tell me that, in fact, this hybrid got a total, in city driving, of 53 miles per gallon; that the battery, in fact, was recharging—what Senator Graham of Florida has been insisting each year that drilling for the simple reason that Florida, the area already being drilled in the Gulf of Mexico, is too much of a risk.

But I bring that point up to say that we have an old country saying here in Florida: There are many ways to skin a cat. And you don’t just have to skin that cat by saying: We are going to drill, drill, drill; and we are going to do it to the risk of a $50 billion a year tourism economy in Florida. We know in the state of Florida that by 2010, 80 percent of our tourism, our tourist dollars, will be coming from outside the nation, that the Exxon Valdez tanker did to the shores of Alaska. We also know what the winds and the wave currents can do with an oil slick in carrying it hundreds of miles within days. And, ladies and gentlemen, Senators all, it is not fair and it is not worth the risk to Pensacola and Port Walton Beach and Destin and Panama City and Mexico Beach, and all these fragile areas of the ecosystem around Apalachicola Bay, and the big bend of Florida, and down into Cedar Key and the mouth of the Suwannee River, and coming on down to the white sand beaches of Clearwater Beach and St. Petersburg, and then into the very fragile ecosystems of Tampa Bay, and the Port Manatee County and Bradenton, down to the way south past Sarasota, down near Charlotte, and into Port Myers—some of the most beautiful beaches in the world—and south of Port Myers to Naples—one of the hottest spots for new people to come to Florida and enjoy the environment of Florida—just south of there to Marco Island—a place known as the “Ten Thousand Islands”—one of the most productive fisheries in the world, and not to speak of coming on around into the Florida Straits into this beautiful land known as the Florida Keys—something that ballads have been made famous by people such as Jimmy Buffett who would tell you the same thing that I am telling you today: It is not worth the risk to the Florida environment nor to our economy. That 37-percent risk of oil drilling off of Florida could produce an oil spill that would become a slick that could travel, by wind and wave action, miles within days to despole these Florida beaches.

So I make a plea on behalf of 16 million Floridians that the Senate will debate this, understand it. Do not confuse
it by saying that this line is not over the Alabama line. Where is the Alabama line? The Alabama-Florida line runs up here as shown on this map. These are the waters of the Gulf of Mexico. And this line right here is the line of demarcation, the beginning of the eastern gulf planning area that has never been violated by drilling.

So do not listen to the arguments that this is not over the line. This is over the line, 1 1/2 million acres over the line. That simply is not worth the risk to us.

There are others who have a similar set of circumstances. I want to remind the Senators, the Senators of the Great Lakes, they do not want drilling off their shores. The Senators of New England, especially off of Maine, and that great lobster industry, they do not want the drilling there. The Senators of the eastern seaboard, with all of their tourism and ecological activities, don’t want the drilling there. The Senators off the west coast of the United States don’t want the drilling there.

The fact is, the drilling has not occurred here for years because the future reserves are simply not there. I am expecting others and I expect to be joined by my senior Senator, Mr. GRAHAM. What I will do is reserve the remainder of my time.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BREAUX. Madam President, parliamentary inquiry: What is the time sequence and who is in control of the time?

The PRESIDING OFFICER. There are 3 hours evenly divided on this amendment, and the Senator from Florida has used 25 minutes. There is an hour and a half remaining on the opposing side.

Mr. BREAUX. I yield myself 10 minutes from the time in opposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana is recognized.

Mr. BREAUX. Madam President, the subject matter is energy. I just came from a meeting with the Vice President and a group of Senators, both Republicans and Democrats, who are trying to see what we can do as a Congress to come up with an energy policy that makes sense for this country.

It is very clear that the United States at this time is in dire circumstances with regard to how we get energy, how much we get, and how much it costs. Over the last several weeks and the last couple of months, we have seen the price of gas go up. We have seen people panicking because they cannot afford their electricity bills because of the high price of natural gas. We see the uncertainty of areas of this country suffering blackouts and businesses having to close and suffer economic damage because they don’t have enough energy.

At the same time, we import 57 percent of the energy we consume every day from foreign sources. Many of these foreign sources are undependable. They are not our allies, and they certainly do not have the best interests of the United States as the premise for their operations. Yet 57 percent of our energy comes from overseas. It comes from organized cartels that regularly do things for which, if done in this country, they would go to the penitentiary.

What they do every day is fix prices of energy that we have to buy from them. They tell us how much we are going to have to pay by controlling the amount they produce. Yet we as a nation, in the year 2001, have been commodities, how we governed and energy policy to govern how we exist when it comes to energy supplies.

If we imported 57 percent of the food we eat, people would be marching on the capital of this country saying that is an unacceptable condition. Because our food obviously is important to our national security and the way we live in America. That is absolutely true. But it is no less true that when we import 57 percent of the energy, that is an unacceptable set of circumstances we must address.

How do we address it? Unfortunately, one of the ways that we have, over the years and over several administrations and over several Congresses, was to say what we were not going to do. We have said that we are not going to look for oil in the Outer Continental Shelf, which has some of the most promising resources of any place in the world off the coast of the United States; that we are not going to do anything from Canada; that those areas are too valuable and should not be touched; and through congressional moratoriums and through Presidential moratoriums, basically everything from Key West to the border of Canada is off limits: Don’t touch it.

In addition to that, when we look over to the west coast, which happens to have some of the States that consume by far the greatest amount of energy per capita, we have said, through moratoriums and Presidential, that we are not going to do anything from Canada on the west coast all the way to Mexico on our southern border because those areas are pristine, they are nice, we should not have the potential for having an oil spill.

The only area of our Outer Continental Shelf in which we have had production, which produces the greatest amount of natural gas, the greatest amount of oil and gas, and has done so for the last 60 years, of the offshore areas is the Gulf of Mexico.

We have said we are not going to touch ANWR. We are not going to touch the Arctic National Wildlife Refuge. We will not touch the monuments. We will not touch the east coast. We will not touch the west coast. But go drill for oil and gas in the Gulf of Mexico.

I represent Louisiana. I am happy with that policy because it provides jobs. It provides energy. We make a contribution to solving the energy policy of this country. We understand it. We have developed the industry. We know its faults. We know what it can do and what it cannot do, and we have done it for 60 years. The technology that has been developed in the Gulf of Mexico is the technology that is used worldwide.

Less than 2 percent of the oil that is spilled in the oceans of the world comes from offshore exploration and production activities. Where does it come from? It comes from seepage, which is natural. It comes from ballast discharges from ships. And it comes from rusty, leaky tankers that import oil from all over the world.

The Senator from Florida mentioned the Exxon Valdez. That was not a drilling accident, that was a ship accident. That was a tanker delivering oil, as they do every day to the ports of the United States, where we import 57 percent of the oil that we use, coming to this country in tankers that have a far greater risk than any risk that possibly could occur from drilling activities in the offshore waters of the entire United States.

The State of Florida, under a Democratic Governor, Lawton Chiles, our good friend and our former colleague with whom I served in the Senate, and a Democratic President of the United States—at that time, President Clinton—agreed to a lease sale 181. It was sold under a Democratic administration, and it was agreed to by a Democratic Governor. The original sale has the potential to supply Florida with as much as 7 years of the natural gas they use every day to do all their homes in the summer and to possibly heat their homes if it gets cold enough in the winter months. That sale can provide 7 years of their natural gas supplies.

They import 59 percent of the natural gas they use, yet now they say: We are going to object to a sale that has been worked out, carefully crafted, proposed by a Democratic administration, approved by a previous Democratic Governor, because it has the potential to damage their coastline.

We have done that in Louisiana for 60 years. While the beaches of Florida may be prettier than the beaches of Louisiana, I argue that the value of the coastal estuarial area is less valuable in Louisiana and Texas and Alabama and Mississippi than it is on the coast of Florida. In fact, I argue that the coastal estuaries of Louisiana are far more important in the sense that
they are the habitat for waterfowl, for
ducks, and for geese, and for finfish,
and for shrimp, and for oysters, and for
fur-bearing mammals, and for a great
thing that is important to an ecosys-

We have been able to preserve those
areas and to do so while producing the
largest amount of oil and gas for our
neighbors in the other 49 States in the
history of this country. We have done
so successfully. We have done so in a
balanced fashion, and we have done so
with a minimum impact. Is it perfect?
Of course not, but nothing is perfect.

It is fine to drive around in battery-
operated cars. I am all for that. It is
great to have windmills, and it is great
to have geothermal power. What is not
great is to import 57 percent of our en-
ergy from foreign sources which are
underdeveloped and only allow 25 percent.
If we start blocking the Gulf of Mexico?
Are we going to fight to open up Cali-
ifornia? Are we going to fight to open
up George’s Banks? That is not going
to happen.

I fully believe we make a very serious
mistake to say: Oh, let them do it over
there, but not in my backyard. We will
consume; we want it cheap; we want a
plentiful supply; but, by golly, don’t do
it in my backyard. Do it somewhere
else. We are too good to have oil and
gas production off our coast because
our beaches are clean.

Well, my beaches and coastline are
also very valuable, but we also show
that it can be done in a compatible
fashion to produce energy needs for
this country and at the same time pre-
serve and protect the environment and
wetlands.

The Democratic bill offered by the
chairman, Senator Bingaman, calls for
goffs, with lease sale 181. A
Democratic President proposed lease
sale 181, and a previous Democratic
Governor of the State of Florida ap-
proved lease sale 181. I don’t know
what has happened, and I don’t under-
stand the politics of it, but something
has changed. The administration, in an
effort to say, all right, we are going to
do something—I think what they did
was terrible. They took sale 181 and cut
it by 75 percent. They said we are going
to cut out 75 percent of the size of this
lease sale and only allow 25 percent. I
think that was a terrible decision. I
was told that.

For them to now say Congress has to
come in and postpone all of that—even
the 25 percent remaining—is abso-
lutely, in my opinion, unacceptable. If
we are going to have an energy policy
in this country that makes sense, we are
going to have to have a balanced
policy. I suggest that saying “not in
my backyard, never, ever, don’t want
to see it, let’s get it from somebody
else” is unacceptable, not prudent, and
is bad public policy. I think it is some-
thing that should not be adopted. At
the appropriate time, I am sure we will
have a vote on this. I hope colleagues
will join with me in saying that at
least in the Gulf of Mexico we can
have sensible exploration, which will be
willing to have a reasonable exploration
program in an area where we have al-
ready done it for the past 60 years.
I reserve the remainder of my time.

The PRESIDING OFFICER. Who
yields time?

Mr. NICKLES. Madam President, I
suggest the absence of a quorum.

The PRESIDING OFFICER. Without
objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to
call the roll.

Mr. NICKLES. Madam President, I
ask unanimous consent that the order
for the quorum call be rescinded.

The PRESIDING OFFICER. Without
objection, it is so ordered.

Mr. NICKLES. Madam President, I
yield my time back in opposition to
the amendment.

The PRESIDING OFFICER. The Sen-
ator from Oklahoma is recognized for
10 minutes.

Mr. NICKLES. Madam President, I
listened to my colleague and friend
from Florida on his amendment that
would basically block any production
in a large area of waters, not only off
the coast of Florida, but also off Ala-
abama, Mississippi, and Louisiana.

I have great respect for State sov-
ereignty and for listening to Senators
who are dealing with areas surrounding
their States. When they talk about the
Everglades, I want to listen. I want
them to listen to me when I talk about
Oklahoma. I have a tendency to give
great deference to Senators from their
home States. I think the Senators from
Alaska know Alaska much better than
we do, and we should listen when they
have recommendations to make about
their lands, the development of it, and
the balance of policies.

I also think we should listen to Gov-
ernors. I know this lease sale 181 was
somewhat controversial. I was kind of
disappointed. I know originally Gov-
ernor Bush of Florida was opposed to
it. He is not opposed to the modifica-
tion. The amendment of the Senator
from Florida would stop any lease in
this entire area. This lease, as modi-
ified, has been reduced by 75 percent.
The lease that we now have, which the
administration has negotiated with the
Governors of Florida, Alabama, Mis-
sissippi, and Louisiana, has been
agreed to by all of the Governors, in-
cluding the Governor of Florida.

So I am thinking, wait a minute, I
want to listen to the Senator from
Florida and give him some deference,
but this is not just off the coast of
Florida. This is not even close to the
cost of Florida. This is 285 miles from
Tampa—285 miles. If someone visits
the coast of California, they will see a
lot of refineries that are in full oper-
tion. This is within 3 miles of the coast
of California, which also prides itself
on beautiful beaches and shoreline.
They don’t want those desecrated in
any way. Neither do I. I happen to be a
fan of the beaches, and I want to keep
them as pristine as possible. But I want
to use common sense, too—285 miles
from Tampa, 138 miles from Panama
City, 100 miles from Pensacola.

I heard my colleague say, “This is
in Florida waters.” It is not in Florida
waters. This actually goes down the
borderline, and it is on the Alabama
side. The negotiated deal—and maybe
this was to get the Governor of Florida
to support this deal, but all of the
lands directly south of Florida were
take it permanently.

I agree with my colleague from Lou-
siana; I think the administration gave
up too much in the negotiation. They
took a lot of potential area—area that
is well beyond the boundaries—and said
don’t go any further. Those lands, I heard my colleague from Flor-
ida say that there is not much there.
Well, we don’t know because there hasn’t been any exploration. There is
not simultaneous desecration of the
beaches because somebody happens to
done exploring to find out whether
there is any potential for gas.

I am bothered by the fact that maybe
there are people saying, yes, we know
this is an energy problem, but don’t
touch it in my backyard. I understand
that. But this is not somebody’s back-
yard when it is 285 miles away or it
is 100 miles from the closest point to
someone’s State. That is not in their
backyard; that is a long way away.

We have a lot of facts that show that
shares royalty and lands that are
offshore areas that are close to lands
and get a higher royalty. This is not
close; this is in Federal waters a long
way from the State of Florida. The
very fact that the Governors of Ala-
abama, Mississippi, Louisiana, and Flor-
ida support this modified sale tells me
it is a reasonable compromise and one
that should not be vitiated or post-
poned indefinitely.

I know one amendment says to post-
pone indefinitely and another says for
a certain period of time. It basi-
cally says: We don’t want to drill or
explore or have oil and gas, but, inciden-
tally, we would like to have a pipeline
to run from Mobile, AL, down to south-
ern Florida because we are going to
need gas.

As a matter of fact, the State of
Florida is the third largest consumer
of petroleum products in the country. Yet
they are saying don’t drill or touch or
explore anywhere. They are 285 miles
from our coast. I find that to be in-
consistent. Are we going to say you don’t
get to use natural gas or oil? Don’t
they use oil and gas? Yes, they are the
third largest consumer of petroleum products in the country. It is a growing State. It is a coastal State. There is nothing inconsistent with having some exploration off the gulf coast.

If you listen to my colleagues from Louisiana, Mississippi, and Alabama, there is a lot of drilling off the coast of Louisiana. If you look at the map in the Venice area, and so on, there is a lot of activity in those areas. They have been able to do it in ways that preserve the beautiful environment of southern Louisiana and Mississippi. Southern Mississippi and southern Alabama also have a coast, and they have casinos, and they have a lot of tourism in those areas. They are concerned about them. It can be done in an environmentally safe and compatible manner and in a way that provides energy resources on time needed to keep the lights on, to keep the economy growing, to keep the tourists renting cars and visiting the beaches and enjoying the Florida coast. To say we want to have a moratorium on any exploration this far removed—285 miles from Tampa or 100 miles from the coastal point in Florida—I think goes way too far. At some point, somebody is going to have to say, wait a minute; use a little common sense.

I do not think, with all due respect, this amendment should be adopted. I understand the intention. I do not question the motivation of my colleagues from Florida for offering the amendment, but when the Florida Governor supports this modified lease, when the other Governors who are logistically much closer to this potential lease support it, I say let this go forward; let’s not block it; let’s not block it indefinitely; let’s not make this dependence on unreliable sources even greater.

That is exactly what we are doing. Some people are asking the question: How did we get into this energy crisis? Why are we importing 56, 57 percent of our gas needs? And that number will increase as the years go by, especially if we adopt these kinds of amendments. If my colleagues want to increase our dependence on unreliable sources, such as in the Middle East, on Saddam Hussein, people who have partial agendas directly contrary to ours, then support this amendment. It is very shortsighted for energy policy; it is very shortsighted for the well-being and future national security of our country; and it is very shortsighted for the people of Florida who need energy, who happen to live in one of the growing, thriving economies in our country which needs energy—oil and gas.

This amendment is a serious mistake. I urge my colleagues to support it. When we make a motion to table the amendment, I urge our colleagues to support that motion. Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana.

Mr. BREAUX. Madam President, I am not sure who controls the time in opposition. I yield whatever time the Senator needs. Ten minutes?

Mr. MURKOWSKI. I am looking for the brilliant staff to plead my case.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Mr. BREAUX. I will take 5 minutes off the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. Madam President, so that people who may be watching on their monitors in their offices can understand a couple things about lease sale 181, this lease sale did not happen overnight. As I indicated before, when President Clinton was serving in office and negotiating with Governor Lawton Chiles—two Democrats—on this lease sale 181, President Clinton said: We are going to set off limits all the areas in the eastern Gulf, but we are going to have lease sale 181.

In 1996 when they released the plan, the Governor of Florida, Lawton Chiles, expressed his appreciation for Minerals Management designating lease sale 181 to not be within 100 miles of the coast of Florida. It is 70 miles off the coast of Louisiana. It is much closer to Louisiana, but in no case is it within 100 miles of the coast of Florida. It is 285 miles from Tampa, 213 miles from their coast, 138 miles from Panama City. It is only 70 miles, as I indicated, from the coast of Louisiana.

In 1996 when we had a Democratic Governor and a Democratic President, they thought this compromise was fine and agreed to the compromise at that time and said this is something that fits into our plans for energy and thank you very much for making sure it does not come within 100 miles of the coast of Florida. That was their agreement.

It has proceeded forward under those terms until, because of opposition of the current Governor of Florida, the administration lopped off 75 percent of the sale in addition to that agreement in 1996. This amendment takes the remaining 25 percent and says we cannot have that either.

As the Senator from Oklahoma has indicated, when one is talking about a balanced energy policy in the country, this is something that is not acceptable.

The other point I will make is we have done exploration in the eastern Gulf of Mexico for decades. This is not a first movement into the eastern Gulf of Mexico. Drilling for natural gas and oil has occurred in the eastern Gulf of Mexico for more than three decades. For more than three decades we have had activities off the Destin Dome, which I happen to love, which is a beautiful part of the country. I spent many summers on the beautiful beaches in Destin.

They have not gotten anything. They have had extensive exploratory wells. Shell had in the past a bunch of dry holes right off Pensacola.

We have been drilling in the eastern Gulf for three decades. I suggest it has been done without any problems, without any spills or anything of that nature.

We have a compromise based on a compromise based on a compromise. Yet today we have an effort to say even those compromises are unacceptable.

If you have a State that imports 99 percent of the natural gas they consume, they, too, have an obligation to help contribute to the supply of something that is clearly the cheapest burning fuel in the world.

Unfortunately the area they knocked off, the top area, is the area that has the greatest potential for natural gas because the natural gas fields are flowing off the coast of Louisiana, moving in a northeast way. All the activity has been in that area. That is where the natural gas is. Unfortunately, it has already been removed. That is where most of the natural gas potential is.

As I indicated, the Minerals Management survey said if you have wholesale gas, that could supply as much as 14 years of the natural gas needs for the State of Florida. We have a compromise that people have knock off the area, the projection is, even lopping this off, it has enough potential natural gas alone to supply Florida with 7 years of their natural gas needs for cooling, operating their industries and businesses, and also for heating in the winter whenever it might be necessary on those rare days.

To say this compromise is still not acceptable is, in fact, unacceptable and the amendment should be tabled.

Mr. NICKLES. Will my colleague yield?

Mr. BREAUX. I will be happy to yield.

Mr. NICKLES. I know in the State of Louisiana and I know also in the State of Texas there is a lot of activity off the coast. I asked my staff to find out what percent of our domestic oil production and gas production right now comes from the Gulf of Mexico. They told me about 23 percent of our domestic oil and gas of our gas is produced in those areas.

That is a big chunk of our domestic production: A fourth of the oil and almost a third of our gas. Has that produced any harm to the ecology, to the environment, to the coast of Louisiana, to the wildlife which is so abundant in the southern part of the State of Louisiana?

Mr. BREAUX. The Senator makes a very good point. I answer his question with two points. Some in Florida—and I understand their argument—say we have beautiful beaches; we do not want oil to be spilled around our beaches.
I do not want it to happen either. I argue the wetlands in Louisiana, which are about 25 percent of all the wetlands in North America, with the wildlife—the birds, the ducks, the geese, fish, shrimp, oysters, fur-bearing animals, alligators—all of that ecosystem which is probably the most complicated anywhere in the world. It has been called the salad bowl of Florida. What is the true understanding of what this risk is? What are we talking about developing? We are talking about developing, in this lease sale, a significant, known deposit of natural gas.

When you take natural gas out of the reserve and you take it ashore and condition it, basically you are taking out the impurities, the wet gas. You are taking the oil that happens to be mixed in, you are taking it ashore, conditioning it, and then moving the clean gas, in theory, to Tampa where it would be utilized for the benefit of Floridians.

What is the risk associated with that conditioned gas? It is pretty minimal. If you had some kind of fracture of that pipeline, you are not talking about unconditioned gas, which includes oil and various components associated with hydrocarbons; you are talking about pure, conditioned gas. It would bubble up and dissipate. You are not talking about moving crude oil or the risks associated with crude oil from a pipeline.

We have heard of the NIMBY theory: not in my backyard. I think that has been pretty well exercised. But one of the things that is frustrating—obviously, I do not have a constituency in Florida, but I am sensitive to the concerns of my friend from Florida relative to what is good for his State. But at what point do we have a reasonable definition of what is offshore of my State or the State of Louisiana or any other State? This is 265 miles, in one case, to this area which is now the alternative that has been agreed upon. According to my understanding, it has been agreed upon by basically all the parties concerned.

The Secretary of the Interior modified the boundaries of the lease sale in response to the concerns of the State of California, the Governor of California. The indication by this agreement is there will be absolutely no new leases off the coast of Florida. They have modified the sale to one-fourth of the original lease area. What constitutes a reasonable determination of what is offshore? We used to have the 3-mile limit. We have the 12-mile limit. We have the economic zone. Now we are moving out to 265 miles to offshore and we are saying that is offshore. I think we have to be reasonable.

Therefore, the amendment proposed by my colleague from Florida that would cancel the authorization for the lease sale, as I believe, to state in my own opinion, is rather unrealistic. I want to show another chart because I think it reflects a reality that is occurring. That is the NIMBY theory: not in my backyard. We have taken the entire east coast off limits for oil and gas exploration. We have taken an area of the over-thrust belt in Montana, Colorado, Wyoming, a number of States known to have significant deposits of natural gas. As I recall, it is about 23 trillion cubic feet of natural gas that was found in this area, known to exist, available for commercial recovery, and with the last administration banning road access into these areas we made these areas off limits. Where is the energy going to come from in this country?

If we look at realities associated with the status of the OCS leasing program as evidenced by the next chart, I think we can get a better understanding of just what is happening.

These are various provinces. These estimates show oil and gas potential reserves; whether you start in Washington-Oregon or northern California or central California, southern California, you note and identify reserve estimates of considerable merit. The only problem is the areas were withdrawn from leasing through January 30, 2012. These were done, for the most part, without any public hearing process before congressional bodies. These were done at the request of individual Members, attaching riders to legislation moving on the floor. So they really have not been subject to any debate. Some have been included in previous Interior appropriations bills. If you look at the entire east coast, you will look at the North Atlantic area, the mid-Atlantic area, the South Atlantic area, all with considerable oil and gas potential from the estimations of the estimated reserves. They, too, are off limits—everything in the buff color.

If we go down to Florida the same thing is true in the eastern Gulf of Mexico; it is off limits. The remaining area, the blue area, is off the coast of Texas, Louisiana, Mississippi, and Alabama. The occupant of the chair is well versed, obviously, in the significance of what oil and gas development does in the State of Louisiana. But why should Louisiana alone, and to a degree Texas and Alabama and Mississippi, have to bear the brunt of the requirements of the rest of the Nation when they do not have to share in any of the impact?

The occupant of the chair was very active in CARA legislation last year, which was to suggest that, indeed, these States impacted deserve some consideration associated with the impact of activity off the shores of Louisiana, Texas, Alabama, and Mississippi—and we have on the table that was not resolved to the satisfaction of those of us who supported it. That was, indeed, unfortunate. We are going to come back again. Because if you are...
looking to just a few States to support the rest of the Nation, those States that have to bear that impact are enti-
tled to some consideration. The con-
sideration was to come from the Fed-
eral account associated with oil and
gas funding that came into the Treas-
ury.

I think we have, if you will, an obli-
gation to address the responsibility of
those States that have to bear this bur-
den and have not been given the cour-
tesy, or the consideration of any shar-
ing of funds that go into the general
fund, a portion of which should cer-
tainly go to these States.

As we look at reality, again the red
indicates existing leases; the buff color
is the national marine sanctuaries; we have our balance of payments. I could go on
security of this Nation. We sacrifice as
of war in the minds of many.

ocean when you stop all shipping. That
poses is similar to what you do in the
hand we are enforcing an air embargo.
we are importing oil and on the other
relationship with Iraq, on the one hand
can't capability in producing energy.
who have traditionally had a signifi-
merits of the OPEC cartel and others
to be beholding more and more to the
improvements in producing energy.

I think the amendment by the Sen-
ator from Florida really is unneces-
sary. You have an agreement now. It
appears that most parties are happy.
Again, if the argument of the Sen-
ator from Florida prevails, then to
what extent are we going to limit, if
you will, reasonableness in deter-
moving where a lease sale offshore can
take place, if one can't take place as
proposed in the amendment between
213 and 285 miles offshore?
For the time being, that pretty well
account for my opinion. The ne-
necessity of recognizing where energy
comes from and the reality that we
have a workable compromise which
which certainly seems fair and equitable.

When you consider reasonableness on
the distance from the coast of Florida,
the reality that Florida will benefit in
land from either, Louisiana, Missis-
sippi, or Alabama, then across coun-
try and down into Florida, Floridians
will then be paying undoubtedly a
higher price. But the most efficient
way to transport their gas is through a
pipeline to Tampa.

The PRESIDING OFFICER (Mr.
REED). Who yields time?
Ms. LANDRIEU. Mr. President, I do.

The PRESIDING OFFICER. Without
objection, the request of the Senator
from Louisiana is agreed to.

The Senator from Florida.
Mr. NELSON of Florida. Mr. Presi-
dent, I want to respond to some of the
things that have been said on the floor.
The Senator from Alaska has referred
to the proponents of this amendment
taking their bodies in front of the
train, a vehicle, or whatever. I gladly
do so because of the stakes that are in
this for the State of Florida.

I would like to point out that accord-
ing to the statistics compiled by the
Department of Interior, during the pe-
riod between 1980 and 1999—almost two
decades—some 3 million gallons of oil
was spilled from Outer Continental
Shelf oil and gas operations in 73 inci-
dents. In addition, in one incident in
April of this year, more than 90,000 gal-
ions of salt water and crude oil spilled
out of a pipeline in Alaska's North
Slope, becoming the fourth major inci-
dent there.

I point out the Department of Inte-
rior statistics simply to counter the
perception that all of the Senators who
have spoken in opposition to this amend-
ment, of invading the eastern Gulf by drilling in an area which here-
tofore has been off limits to drilling,
come from an oil-producing State.
What do you expect? They articulate
the interests of the economic engines
of their State. But when they give the
impression that, in fact, offshore oil
drilling is so safe, that there is no risk,
and say instead the risk is in tankers, indeed, we know the risk in tankers because we saw what happened with the Exxon Valdez. But then when they point out the fact that oil drilling and gas drilling is so safe and there are no spills, that is not what the facts say as compiled by the Department of the Interior.

Some 3 million gallons of oil from Outer Continental Shelf have been spilled in 73 incidents in time period between 1980 and 1999.

I want to clear up another statement that was made. It is stated there is all this oil out there. That is contrary to all of the engineering and the technology we have seen.

Indeed, let me tell you what has been estimated is in this lease sale 181. It is not some huge find. In this new lease sale, of all of whom are from 10 days’ worth—10 days, T-E-N, 1–0—of energy for this country. Is that worth the risk to an industry that needs to protect its beaches and its environment? I say that it is not worth the tradeoff. It is not worth the risk.

As a matter of fact, the Natural Resources Defense Council has stated that in the eastern Gulf of Mexico, where the oil and gas industry has been pressing to drill—this area that, as you can see, is not violated, including this area shown on the map that is shaded in yellow, which is the subject of the lease sale we are trying to block—indeed, it said 60 percent of the Nation’s undiscovered economically recoverable Outer Continental Shelf oil and 80 percent of the Nation’s undiscovered economically recoverable Outer Continental Shelf gas is located in the central and western Gulf of Mexico.

So protecting this area that for years we have been the moratorium on because of its sensitivity to the ecology and economy of the surrounding areas—protecting that area will still leave a vast majority of the Nation’s Outer Continental Shelf oil and gas available to the industry.

According to one study that even minimizes the risk of an oil spill, the chance of an oil spill in this area is as high as 37 percent. That is according to the Minerals Management Service.

So I want to respond to my colleagues, Senator Daschle, all of whom are from the oil and gas States against the one State of Florida, and for the sake of our Nation of this moratorium. For the sake of Florida, and for the sake of our Nation, I ask for your support.

I reserve the remainder of our time and yield the floor.

Mr. DASCHLE. Mr. President, we have been consulting with Senators on both sides of the aisle. I appreciate very much the help and cooperation of both our managers. I am now at a point where I can make a unanimous consent request.

I ask unanimous consent that the vote in relation to Senator Nelson’s amendment No. 893 occur tomorrow morning following the swallower of the cloture vote on the motion to proceed to the House bankruptcy bill, H.R. 333, and that there be 4 minutes of debate equally divided between the votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, in light of this agreement, there will be no further votes today. We will resume consideration of the bill tomorrow after the cloture vote. The managers have indicated to me that they believe we can finish the bill tomorrow. If we finish the bill tomorrow and dispose of the Griles nomination tomorrow, then we will have no other roll call votes on Friday or on Monday. There will be tomorrow, as I noted in the unanimous consent request, a debate for a period of 3 hours, beginning at 9 o’clock, on the House bankruptcy bill, H.R. 333.

Following that, we will then come back to the Nelson amendment on which we have 4 minutes of debate equally divided.

The PRESIDING OFFICER. Under the previous agreement, the Senator from Louisiana is recognized.
That might make some sense initially in its first blush. However, the fact is, every State produces some food products, some produce wonderful oranges. I have enjoyed them every year. Louisiana produces some as well. The State of the Presiding Officer has commodities of which it is proud. Some of us grow cotton. Some of us grow soybeans. Some of us grow wheat. Some of us run cattle. Some of us grow other food products. We all contribute to the overall food supply of this Nation.

While we don’t all grow the same crop, while we don’t all run the same kind of cattle or livestock, every State in the Union contributes to the food supply of this Nation. That is the way it should be.

Every State should also contribute to the energy supply of the Nation. We have great resources in oil and natural gas. In addition, there is clean coal, nuclear and hydropower. We have a diversity of fuels to choose from in this nation and we should make use of all of them.

This attitude of “I want to consume the power, but I refuse to produce the power” has got to come to an end. It is not fair. It is not right. It is not smart. If we get caught up in this hysteria, we are going to leave this Nation into a dangerous place where our businesses are hurt and our economy cannot survive.

Let me talk about the State of Florida.

The State of Florida is the third largest consumer of petroleum products in the Nation. The State of Florida only produces, however, roughly 2 percent of the petroleum that it consumes and a very small percentage of the natural gas.

From 1960 to 1994, Florida’s electrical demand increased 700 percent. It is not the only State that has increased its demands, but it has been one of the fastest growing States. We are all happy and proud of the development in Florida and we want Florida to continue to grow and to expand, as we want all of our States in this Union to grow and to prosper but it must hold up it’s end of the bargain as well.

From 1960 to 1994, Florida’s fossil fuel use for electrical generation, made necessary by this extraordinary growth in population and electrical demand, has increased 551 percent. More than 80 percent of Florida’s electrical demand is met today by fossil fuels.

Right now Florida, as every State, uses energy produced by fossil fuels. In south Florida, the natural gas demand for electricity generation purposes is expected to double by the year 2008. However, there are no increases in the number of new nuclear power or hydroelectric power foreseen in Florida to supplement this need.

There is rising demand in Florida but it makes it quite difficult for those of us from Alabama and Florida to want to help in Florida when they are not willing to help themselves. It makes it very difficult for us to help Florida when they are not willing to help themselves.

There is not yet the significant increase in solar or wind production in Florida or generally in the United States, to adequately take the place of fossil fuels. Although those technologies are very promising we have not made the adjustment yet. I disagree with the President’s decision to cut funding for those kinds of research and development projects. We need to increase funding.

In addition, from 1995 to 2002, a minimum of 24 new electrical generating plants will be added to Florida’s power grid, and 21 out of the 24 new plants to get the gas that are being designed today have to run by natural gas.

This amendment doesn’t make sense for Florida. It doesn’t make sense for Louisiana, Alabama, Texas, Mississippi, or the Nation but it certainly does not make sense for Florida. Florida needs more natural gas, not less.

I grew up on the beaches of Florida and appreciate their beauty. My family vacations all over the gulf coast. The compromise announced by the Administration, which is threatened by this amendment, allows us to salvage almost half of the natural gas and oil resources from the original lease sale area and is more than 100 miles from any part of Florida’s coast.

It is not just Louisiana or Florida waters where there is gas and oil but the waters of the United States. In this day and age we can drill with minimal footprints and minimal risk to not only the Florida coast, but the entire Gulf coast. States such as Florida, Mississippi, Alabama and Georgia with the power we need to grow.

I want to talk about that growth for a minute. When we talk about growth, we are talking about jobs, about people creating wealth, about people having a dream to start a business, about a new family buying their first home, and the electricity they need to run that home. This is about people who need to get to work, and the transportation they need to get to work. This isn’t about mere statistics. If we can’t power our economy, how can people feed their children and families?

Let me talk about risk for a moment.

We have had people come on the floor and say we can’t risk the beaches. However, in reality there is minimal risk. As the senior Senator from Louisiana pointed out, there is minimal risk associated with drilling. There is more risk from the possibility of oil spills when tankers have to transport the oil to our country.

This amendment, and others like it, will not decrease the risk, it will increase the risk because we will have more tankers coming into this Nation. The environmental leaders should be strong enough in this Nation to stand up and admit this.

There are also other risks to consider. The risk of a recession. I want the President to know I strongly disagree with his decision to modify this lease sale. He should have held his ground. We should be exploring for oil and gas in this entire lease sale area as originally proposed. If we do not supply states such as Ohio, California, Illinois or Louisiana, with the oil and natural gas to generate the power they need, we risk jeopardizing the economic future for our Nation. So if we are going to talk about risk, let’s not just talk about environmental risk, let’s talk about other risks to this Nation.

Another important risk to consider is tax revenues. The risk of a compromise announced by the Administration, which is threatened by this amendment, allows us to salvage almost half of the natural gas and oil resources from the original lease sale area and is more than 100 miles from any part of Florida’s coast.

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CONGRESSIONAL RECORD—SENATE
July 11, 2001

S. RES. 127

COMMENDING GARY SISCO FOR HIS SERVICE AS SECRETARY OF THE SENATE

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 127, which is at the desk, and that the resolution be read in total.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 127) commending Gary Sisco for his service as Secretary of the Senate:

S. Res. 127

Whereas, Gary Sisco faithfully served the Senate of the United States as the 29th Secretary of the Senate from the 104th to the 107th Congress, and discharged the difficult duties and responsibilities of that office with unfailing dedication and a high degree of competence and efficiency; and

Whereas, as an elected officer, Gary Sisco has upheld the high standards and traditions of the United States Senate and extended his assistance to all Members of the Senate; and

Whereas, through his exceptional service and professional integrity as an officer of the Senate of the United States, Gary Sisco has earned the respect, trust, and gratitude of his associates and the Members of the Senate; Now, therefore, be it

Resolved, That the Senate recognizes the notable contributions of Gary Sisco to the Senate and to his Country and expresses to him our appreciation for his dedicated professional integrity as an officer of the Senate and all Members of the Senate; and

Resolved, That the Secretary of the Senate shall transmit a copy of this resolution to Gary Sisco.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 127) was agreed to.

The preamble was agreed to.

Mr. LOTT. Mr. President, I wanted the entire resolution to be read in the Record. I did want a complete record of the appreciation of the entire Senate for Gary Sisco who has served so capably over the past 5 years as the Secretary of the Senate.

I appreciate Senator Daschle joining me for this time because he knows, as I know, that we have some very dedicated officers of the Senate and other employees of our floor staff who put in long hours and do a great job in making this institution function the way it should. We do not say thank you enough to those who serve in the Chamber with us who make it possible for us to do our job, and we do not say thank you enough to the officers of the Senate, people such as the Secretary of the Senate, the Sergeant at Arms, the Chaplain, and others who work every day to help make this place function.

I have a very personal warm feeling for Gary Sisco. He is from Tennessee. He was born in Bolivar, TN, a small blue-collar town. He grew up in strictly a blue-collar family. I believe his father did serve for a period of time as sheriff in that county in Tennessee.

I got to know him only because of my friend, the Senator from Tennessee, the Senator who lives in Bolivar, the Senator who now sits in that same Senate, the Senator who represents the people of this State in the United States Senate, the Senator who represents this State in the Senate. I got to know him as a friend.

He wound up having a blind date with his now wife, thanks to the arrangement of my wife, Mary Sue Sisco from Pascagoula, MS.

He went on to work with IBM after graduation and was involved in gubernatorial campaigns in Tennessee. He served Gov. Lamar Alexander, and then wound up in Washington and worked for Gary Adams as his administrative assistant. He worked for Howard Baker reaching the position of executive assistant. He then returned to Tennessee and had a very successful business life.

Five years ago, I called on him and said: We need somebody who understands computers, somebody who understands how to manage a pretty good size operation, somebody who has political instinct and knows and loves the Senate. You are the man.

He left his business in Nashville, TN, and came to Washington and has been in the position of Secretary of the Senate for 5 years. He has done a wonderful job.

The only thing I ever asked of him was: Gary, when we have a few things we want to discuss, will you have time to discuss them? He would always say yes. I do not think I have ever had to ask him if he was going to be there, because he was always there.

I believe Gary Sisco has achieved more than any of us could have expected. He has served and contributed in every aspect of this institution.

SASCHLE. Mr. President, first, I compliment the distinguished minority leader on his remarks. I appreciate very much the opportunity to address the resolution this afternoon.

Five years ago, Gary Sisco came to Washington and came to the Senate as Secretary of the Senate with the full confidence of then-majority leader Trent Lott. Today he leaves the Senate, leaves his job as Secretary of the Senate, and I believe the Senate also has that feeling for them.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, first, I compliment the distinguished minority leader on his remarks. I appreciate very much the opportunity to address the resolution this afternoon.

In conclusion, we do not want to drive this industry off the shores of our Nation to other places in the world. We need our military presence there for economic as well as national security reasons.

I urge my colleagues to vote against this amendment. With all due respect to my good friend, the Senator from Florida, this is not the right direction in which to lead our Nation.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Mr. President, this is not related to the issue at hand, although I want to speak on that under whatever time I am entitled. This is under leader time on a resolution. I believe Senator Daschle will be joining me momentarily. We want to be sure to do this when we both can be here.

As Senator Daschle has noted, the mark of a good and able public servant is one who leaves his job in a better position he is, Senator Daschle had agreed, frankly, that the officers of the Senate should stay on through this session of Congress, whether or not the majority might change. So I know he would have kept his word and Gary could have stayed, but he submitted his resignation, and I agreed that I think the majority leader should have officers of the Senate of his selection. It was the right thing to do, but it was his idea; it was not mine.

Senator Daschle has been very gracious in the way he has treated the employees in the Office of the Secretary of the Senate. He has selected an outstanding, capable, experienced person and one who also understands the Senate very well, Jeri Thomson. I know she will continue the great legacy Gary Sisco has built.

To my colleagues in the Senate, I thank them all for the courtesies and support they have given to Gary Sisco, and I wish my friend the very best in his next career.

Some of us, as Senator Daschle and myself, have been here in the Congress many, many years now, in my case 28 years. I have to confess, in a way, I am a little envious of a guy who was in the business world, back in the Senate arena, and is now going out to the next stage of his life. I am sure it will be an outstanding one.

I, again, extend my best wishes to Gary Sisco, his wife Mary Sue, and their children. I know they will always have a special feeling in their hearts for the Senate, and I believe the Senate also has that feeling for them.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, first, I compliment the distinguished minority leader on his remarks. I appreciate very much the opportunity to address the resolution this afternoon.

In conclusion, we do not want to drive this industry off the shores of our Nation to other places in the world. We need our military presence there for economic as well as national security reasons.

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The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Mr. President, this is not related to the issue at hand, although I want to speak on that under whatever time I am entitled. This is under leader time on a resolution. I believe Senator Daschle will be joining me momentarily. We want to be sure to do this when we both can be here.

As Senator Daschle has noted, the mark of a good and able public servant is one who leaves his job in a better position

SEC. 2. The Secretary of the Senate shall

shall transmit a copy of this resolution to Gary Sisco.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The resolution (S. Res. 127) was agreed to.

In conclusion, we do not want to drive this industry off the shores of our Nation to other places in the world. We need our military presence there for economic as well as national security reasons.

I urge my colleagues to vote against this amendment. With all due respect to my good friend, the Senator from Florida, this is not the right direction in which to lead our Nation.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Mr. President, this is not related to the issue at hand, although I want to speak on that under whatever time I am entitled. This is under leader time on a resolution. I believe Senator Daschle will be joining me momentarily. We want to be sure to do this when we both can be here.

As Senator Daschle has noted, the mark of a good and able public servant is one who leaves his job in a better position
than when he came. I can say without equivocation Gary Sisco has met that test. It has been my pleasure to work with him, I want to admire him and respect him, and I also respect the position he has taken with regard to this particular resignation.

I confirm exactly what Senator LOTT has just noted, that because of my respect not only for Senator Lott but for Gary Sisco and the Sergeant at Arms, it was my view, in keeping the continuity of the officers of the Senate, as well as because they were serving us so well, they had every right and could have every expectation that regardless of what may happen to the majority in the Senate, they would have the full confidence and have the full support of both caucuses for the duration of this Congress.

Gary Sisco has made his decision, and I respect it, but I do so with a great deal of appreciation. I do so with the hope that he will come back often. I do so with a realization that in this business we get to work with quality people, people who give back to their country, to their community, and to each of us in ways that I think is admirable. He has done so. Our country owes him a debt of gratitude. This Senate owes him a debt of gratitude.

On behalf of our caucus, I thank him for all he has given us. I yield the floor.

Mr. LOTT. Mr. President, again, I thank Senator Daschle for coming to the Chamber and making that statement, and I look forward to working with him and the new Secretary of the Senate to continue the very efficient and fine way the Senate has been conducted, in the way the Office of the Secretary of the Senate has been run. I know he will do a great job.

Mr. President, I do not know who is controlling the time now, but I want to be yielded time to speak against the pending amendment.

Several Senators addressed the Chair.

Mr. SESSIONS. Mr. President, will the majority leader yield for 1 minute to comment on Mr. Sisco?

Mr. LOTT. I will be happy to do so.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. I yield to Senator Sessions from Alabama.

Mr. SESSIONS. Mr. President, I thank the Republican leader and the Democratic leader and others for their kind comments about Gary Sisco.

In short, he is one of the finest people I know. He served the Senate with great integrity, ability, and fidelity. He has a wonderful family, high personal values, the kind of person you like to call your friend, you want to have in your home. He has served so well, and he leaves with grace and style quite in harmony with his whole lifestyle. I thank Senator LOTT for raising this point, and I join in his compliments.

Mr. LOTT. I believe the time has been off the leader time.

The PRESIDING OFFICER. That is correct.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—Continued

AMENDMENT NO. 893

Mr. LOTT. Mr. President, I rise to speak against the pending amendment. My question is, If we are not going to have exploration in the Gulf of Mexico in a limited area for oil and gas, where are we going to do it? Not in the Atlantic along the coast. Not in the Pacific along the coast. Some people say not in Alaska in the area that has been pursued. Then I believe we can do it effectively, efficiently, responsibly, and productively in the Gulf of Mexico.

For years, exploration in the gulf and, in fact, drilling activity occurred primarily in Texas and Louisiana waters. Then, in more recent years it has moved over under Mississippi and Alabama. It has been very productive.

This is an interesting map to which others have referred. The Florida coastline goes to Pensacola, Alabama with Mobile, Biloxi, and New Orleans. I live right here; that is where my house sits. I can step off my front porch and put a rock in the Gulf of Mexico. I can sit out on my front porch and I can see a natural gas well working right in this area. In the daytime you can see it. It is clear. And at night sometimes they flare it off. It has never been a problem and it is producing natural gas. As a matter of fact, it is closer to my front doorstep, literally, than it is to Panama City, Florida, or Pensacola, or Biloxi. I can sit down and I am perfectly comfortable with this. There is no risk.

Those who live in the gulf area know that some of the most effective drilling and exploration drilling anywhere in the world is done in the gulf. It has become more efficient, with greater accuracy. If there has ever been a spill in the gulf, it must have been very minor and certainly never affected my State, I don’t believe, since we have had the drilling off the coast of Alabama and Mississippi. I don’t believe we have ever had one.

It also is a wonderful place to fish around the oil rigs. We take old liberty ships out and sink them in the gulf so they will form fishing mounds. It is very effective. The rig serves the same purpose.

But now we have people who say we should not have it in the Gulf of Mexico, or we should delay it even further, even though there has been a compromise. I think this whole area should be opened up for lease. But now it is down to just this green area, a very small area. The Governors of the States that are involved—Louisiana, Mississippi, Alabama, and I believe this compromise provision is supported everywhere—Job Bush—all of our leaders with all of the people who live in this area support this.

What are we going to do? We are depending on foreign oil for 56 percent of our energy needs, and it is going up. It will be 60 percent. Can we get everything we need just from wind and sun? If we triple what we got from those areas, it wouldn’t get us at 6 percent. As I said before, maybe we will have to harness some of the speeches around here to produce more energy needs in this country. But we need exploration for oil and gas. We need to look at greater use of nuclear power. We need to take advantage of clean coal technology. We do need alternative sources of energy—wind, solar, hydro. We need energy to keep the economy growing. I do so with a realization that in this Congress, if the American people realize this, the economy will have difficulty paying for the cost of the oil, of the electricity, of the gas. This makes no sense.

Are we going to have this national security risk, facing the danger of loss of freedoms in America? Who thinks gasoline prices will not go up again next summer? They are. And so will diesel fuel prices. The families won’t be able to afford to drive to their vacation spots. The small business men and women are going to have to pay their electricity bills. The farmers will have difficulty paying the cost of diesel fuel for their tractors. It will ripple through the economy.

This is probably the most serious problem this country faces today. Meanwhile, we fiddle in Washington while the country has a heat stroke and is threatened with not having the energy to keep the economy growing. I think the American people realize this is a very serious problem. Some people shy away from calling it a crisis, OK, don’t use that word. There is no imminent danger now. But there could be tomorrow, there could be next week.
Mr. GRAHAM. Mr. President, I am proud of my colleague from Florida, Senator BILL NELSON, as we offer my amendment to help assure that America will have a policy of energy that is also a policy for our economic future and for the protection of important environmental treasures.

Let us clearly understand what the amendment we offer will do. It will provide for a short, 6-month delay in the leasing of property in the area that is known as lease sale 181. This short delay, 6 months from the time the bill is enacted, will allow time to make some important decisions before we are committed to an option that may not be in the best interests of our Nation.

This is also an issue, while it is today in the eastern Gulf of Mexico, the exact same issues which I will speak about are relevant to other areas of the country which share a similar concern, whether or not it is on the Atlantic coast. I heard this weekend of concerns off the northeast coast regarding a proposal for drilling in an area that has been very significant parts of the American tradition and history of commercial fishing for hundreds of years.

We know our friends who live in the area of the coastal lakes are concerned about proposals for drilling in Lake Huron and Lake Superior—again, areas that have in the past been off limits for drilling. California is another area that has expressed concern about the proposals for drilling under the rules as they currently exist.

While this may be characterized as a Gulf of Mexico issue, or even more specifically a Florida issue, it raises important implications for the Nation.

Mr. NELSON of Florida, I yield to my colleague, the senior Senator from Florida.

Mr. NELSON. Senator DASCHLE said we will focus on appropriations bills. He is right for doing that. We should try to help him move the energy bill. We will not get to a free-standing energy bill probably until the fall. But we should do it. In the meantime, we should not take this step of prohibiting or delaying exploration and development of the resources that we know are in the Gulf of Mexico.

My beach is closer to this area than the beaches in Florida. I say, bring it on. I am worried about the future of my country and my children’s economic future. I urge my colleagues, this should be an overwhelming bipartisan defeat on an amendment that really, in view of all that has gone on, should not be passed.

I thank my colleague from Louisiana for yielding me this time.

The CHIEF JOE OFFICER. The Senator from Florida.

Mr. NELSON of Florida. I yield to my colleague, the senior Senator from Florida, such time as he consumes.

Mr. GRAHAM. Mr. President, I am proud of my colleague from Florida, Senator BILL NELSON, as we offer this amendment to help assure that America will have a policy of energy that is also a policy for our economic future and for the protection of important environmental treasures.

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Let me discuss two of those issues to which the 6-month delay we are requesting through this amendment.

First, the current laws that govern Outer Continental Shelf drilling in my judgment are imbalanced. They do not take into consideration to other factors in addition to energy production, factors such as economic and environmental needs. We are all aware that America has needs for increased energy production. We are not insensitive to that. But we also are not myopic, that that is the only issue America needs to take in the balance in making these judgments. We believe balanced legislation on Outer Continental Shelf drilling would include the other factors that might be affected by that drilling. Let me give, as an example, what is happening today as a result of our law.

A number of years ago, leases were granted in these areas that are within 40 miles of the coast of Florida. Those are depicted on this map in the light pink and blue. The blue area is what is called Destin Dome. It is an area that is approximately 35 miles south of Pensacola. That lease has been outstanding for a number of years but was dormant. Then a few years ago the owner of that lease, the Chevron Oil Company, made an application for a drilling permit, to start production on that property. What was discovered was that basic environmental analysis, which in my judgment should have preceded the base being granted in the first place, had not been done and it was deferred until the drilling permit was requested. As an example of those basic studies, one of them is the Coastal Zone Management Act. The Coastal Zone Management Act is administered in a joint program between the U.S. Department of Commerce and the various coastal States affected. The result of that analysis of the Coastal Zone Management Act was a determination by the State of Florida that it was a violation of the act and of the management plan, which had been approved by the U.S. Department of Commerce, to drill on this Destin Dome. That has now precipitated a series of litigation and administrative actions which have drawn the process out for many years.

In my judgment, the lesson of Destin Dome is let’s do the environmental surveys before we grant the lease, before we create the expectations that a lease carries with it, before people apply for the permit to drill, so we have satisfied ourselves on environmental, economic, and the other considerations that this is a property which will be appropriate to drill should a lease be granted.

One of the things we could do, during this 6 months of deferral, would be to do an analysis of our current law to see if it is appropriately representing the wide range of interests that should be considered. We know we are going to be doing a major energy bill sometime in the next few months. Our Republican leader has indicated he thinks that will be on the Senate floor sometime this fall. I know the chairman of the Energy Committee is driving a schedule that would have it come through committee this month. So we are not talking about long delays. We are talking about legislation that is viable at this moment and would be the appropriate means by which to raise these issues as to whether our current laws are adequate to represent the range of interests.

The second point I would make, that in my opinion justifies the 6-months delay in those leases which the House of Representa

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Mr. BURNS. Mr. President, I watched the debate with a great deal of interest. I can only think of the amendment that I introduced last night offered by the Senator from Illinois. The Minerals Management Service has been working on this lease sale for quite a while, and includes the current 5-year Outer Continental Shelf Oil and Gas Program. This was put on the table under the Clinton administration. The service prepared the draft EIS. They have ensured that the proper public hearings have taken place, including the hearings in Pensacola, Tallahassee, and Mobile. But despite the fact that service has jumped through all of the required administrative hoops, some opponents are now trying to foul the whole thing up in the end game right before the lease, of course, is finalized.

When we took over the Land and Water Conservation Fund, it is interesting that Members who have been leaning towards voting for this amendment are the same Members who have submitted healthy requests for money out of this Land and Water Conservation Fund for some of their projects. It is also interesting to note that in this very bill, Florida has approximately $22 million in items that are funded under the Land and Water Conservation Fund. It is likely that State has been the single largest drafter on the Land and Water Conservation Fund in the last 5 years. That money is derived from royalties from offshore drilling and production. It is ironic to note that the State of Florida is actually the third largest consumer of petroleum products. However, it only produces about 2 percent of the petroleum that it consumes.

Basically, this amendment on the surface appears to be one of those 'not in my backyard' kinds of situations or games. To top it off, this amendment totally ignores the fact that last week the administration announced that it decided to reduce the size of the lease sale and in particular decided to make sure that the lease sale is much further away from Florida's shores.

A while ago, we had the amendment of the Senator from Illinois. Now we have the proponents of this amendment pleading with us to heed the local concerns for the protection of Florida's beaches, of which I would concur. I will say right now that I think the offshore drilling probably does less damage than the tankers that go up and down and unload in the Gulf of Mexico every day. They want those decisions to be made locally. But when it comes to voting on an issue that affected the West, they disregarded that.

When voting, I ask my fellow Members to put to mind the fact that this is a legislative rider that could ultimately reduce the amount of funds contributed to the Land and Water Conservation Fund, and it might interfere with our country's ability to produce its own oil and gas during a time when the country is facing a very serious energy crunch.

If local concerns are in play in Florida, why aren't they in Montana? I call that the lack of fairness. I think that is all we ever want in this body—fairness.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, this is a very serious national issue. It is not a Florida issue in any strict legal sense at all.

I used to be the U.S. attorney and represented the Federal Government. I know that these Federal waters are 260 miles away from Tampa, FL. It is a Federal decision about whether to lease or not to lease. Now they want to take it from it.

As a resident of Mobile, AL, which is right here at the tip of OCS central planning area, I am pretty familiar with the facts in this case and what happens.

Obviously, I have to say I am a little bit disappointed. The President of the United States, in my view, made a mistake when he cut back huge portions of this lease that is on that map to accommodate and appease the political leaders in Florida. What did he get? They still opposed the lease and are still opposing it right on this floor.

Yet this map shows a dotted line from my hometown of Mobile, AL, over to Tampa, FL. I wonder if anybody knows what those dotted lines reflect. They reflect a pipeline. That pipeline is being built at this moment. It started in June. The pipeline is to take natural gas produced in the western Gulf to Tampa, FL, and to south Florida to its surging demands for natural gas. Yet when it comes time for them to go along with a national goal of producing natural gas way out in the Gulf of Mexico, far from where you can see it from land, they say: Oh, no. We can never allow that to happen.

They have fought it natural gas production consistently. I am really concerned about this position. We have natural gas here in the Gulf of Mexico. It is being produced off the shores of Alabama, Mississippi, Louisiana and Texas. They have fought to transport that gas over to Florida. What is that going to do to the price of natural gas for the homeowners in Alabama and electricity users in Alabama?

They are going to bid it up. This demand on the limited supply in the western Gulf of Mexico is going to drive up the price of natural gas for the people in Alabama; and, at the same time, Florida refuses to allow any production in Federal waters 100 or more miles from their shore.

This is a national issue. One reason, in my view, we have an economic slowdown—and I do not think anybody can dispute it—is an increase in energy.
prices. Fifty-seven percent of our fossil fuels comes from outside the country. And that amount is growing. What does that mean? That we risk America's wealth in America as a whole. You may producing States and not to go off to an annual basis.

percent of our general fund budget on interest on that fund contributes over 10 gas production in state waters has these oil and gas wells. Offshore oil and gas rigs about 1 mile off the gulf shore's—1 mile.

picture of a 40-pound ling, a great fish. Let me tell you, we do not just have oil and gas wells off the Alabama, Mississippi, Texas, and Louisiana coast 100 miles away, we have them right up in Mobile Bay, in some instances less than a mile from homes. I drove over to Gulf Shores right near Pensacola this Saturday to visit my brother-in-law, and he was there with his grandson. They were so proud. They had a picture of a 40-pound ling, a great fish. Where did they catch it? Under an oil rig about 1 mile off the gulf shore's—1 mile.

We have never had a problem with these oil and gas wells. Offshore oil and gas production has helped to generate for the State of Alabama a trust fund of $2 billion. The interest on that fund contributes over 10 percent of our general fund budget on an annual basis.

America has benefited from that. That supply has allowed American money to stay in Alabama and the producing States and not to go off to Saudi Arabia. It has helped to build wealth in America as a whole. You may say: "What's the money for Alabama. The truth is, Alabama is not going to get a dime out of this lease except as any other State would under the Land and Water Conservation Fund. The proposed lease sale is in Federal waters. It is not in State waters. But we have produced oil in State waters right off the beaches, right in the bay here, and we have had no problems. People fish around it on a regular basis. It has created a steady flow of income and has been good for America. The President, in trying to be accommodating, agreed to cut back this lease sale to less than one-quarter of the original area proposed by President Clinton. He tried to do that. He moved it off on the Alabama side—nothing in the Florida waters—to try to accommodate Florida. And the Florida politicians are still not happy. But they want this pipeline built. They want this pipeline built so they can get natural gas. And why do they want the natural gas? Because it is needed to fuel the new cleaner burning electricity plants they need to heat and cool their homes, shops and offices.

What is particularly valuable in the Gulf are the huge reserves of natural gas. The wells in the remaining lease area are going to be a mixture of oil and gas. But the neck, the "stovepipe", that the President shut off as part of his compromise to appease Florida's political leaders was virtually all natural gas.

So I think the Senators from Florida are asking a bit much. I would ask them to think about this. Is not this the philosophy that got California in the fix they are in today? For decades California was facing the question of offshore drilling: No. Nuclear power: No. Coal plants: No. Electric plants: No. Energy is going to come from foreign sources or our own resources. We should not threaten our economy. We should not press down on what is needed to fuel the new cleaner burning electricity plants they need to heat and cool their homes, shops and offices.

But energy is going to come from somewhere. It is either going to come from foreign sources or our own sources. We should not threaten our economy. We should not press down on what the world needs to heat and cool their homes, shops and offices. It is going to hurt us economically.

The demands in Florida are significant. Thirty percent of all natural gas produced in America comes out of the gulf, and Florida will consume huge amounts. Their demand is going to double in the next 15 years, and in 15 years over 12 new electric plants will be needed for the next 20 years, according to experts.

Yes, we should conserve. Yes, I hope people will use those hybrid automobiles. I would like to have one myself. I don't know why everybody doesn't buy one. There must be some reason they don't buy them. If they are so wonderful, why doesn't everybody go buy one? But they have potential. I am interested in looking at them and support the efforts of our automakers to improve efficiency. But it is a free country. Are we going to make everybody go out and buy one? The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I will just say that I believe the President has submitted a scaled-down, fair, and reasonable proposal—too scaled down, frankly. It ought to have satisfied those who would object. Unfortunately, it has not. We have had to have this debate. And though it is healthy to have the debate, I am confident that the amendment will be defeated and that this small production area will be opened for the benefit of American taxpayers and the American economy. I thank the Chair and yield the floor. The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, how many minutes remain in opposition?

The PRESIDING OFFICER. Forty-one minutes twenty-one seconds.

Mr. NELSON of Florida. I do not intend to take that. I see all of the staff smiling at me.
But I would like to summarize. I would like to see if I can bring to closure on a page setting any energy policy in this country that is very important not only to us along the Gulf coast but to the Nation as a whole.

I want to mark the contrast in the debate that you have heard: Every Senator who has spoken in opposition to this amendment to stop oil drilling off Florida in the eastern Gulf of Mexico planning area is from an oil State.

Senator GRAHAM, my senior colleague from the State of Florida, has eloquently pointed out a number of things. He pointed out in his summary that these light-colored areas are active leases but no drilling has occurred. Senator GRAHAM and I have offered a bill to buy back these leases, just as President George Herbert Walker Bush had proposed buying back a bunch of leases off the Ten Thousand Islands off of Naples, off of Port Myers that occurred about a decade ago. We want to get rid of these, including the lease called the Destin Dome, where Chevron has an active permit to drill.

Let me give you some statistics about Chevron and its offshore rigs in the Gulf of Mexico and what they have experienced between 1956 and 1995.

There were 10 gas blowouts and an additional 5 blowouts of oil and a combination of gas. There were 65 fires and explosions at least 28 originated from natural gas, 14 significant pollution incidents, and 40 major accidents, resulting in at least 19 fatalities. There were five pipeline breaks or leaks.

I don’t have any particular reason to cite this with regard to Chevron, except that Chevron came up because they have an active lease that is ready to be drilled 30 miles off of some of the world’s most beautiful beaches called the Destin Dome. What Senator GRAHAM and I would like to do is to see us buy back that lease so that drilling, with a safety record and a blowout record as has been shown by the facts—and remember, facts are stubborn things—so that that won’t occur right off of the sugary white sand beaches of Destin, FL.

We would like to reacquire that lease, just as the first President Bush had acquired so many leases down here threatening the 10,000 islands of the Florida Keys.

That is not the issue here today. The issue today is taking these active drilling leases in the central and western planning areas of the Gulf of Mexico and thrusting eastward toward the coastline of Florida with a new sale of 1.5 million acres.

They had 1 million acres in this original lease sale 181. They knew they were not going to pass it. They knew there was too much political opposition. So what they have done is they have scaled it back to 1.5 million acres, thinking they can get it through.

It is, in fact, the eastward inevitable march of drilling into the eastern planning area, an area that heretofore has not been violated with this drilling.

Let me cite some more statistics as we wrap up this debate. The Department of the Interior, on the day that the Senate and the House goes home for the Fourth of July, on Monday, July 2, announces this deal, that they are shrinking 181. In the course of that announcement, out comes a news bulletin: Secretary Norton announces area of proposed 181 lease sale on Outer Continental Shelf. And in that, the release states: The area also contains 185 billion barrels of oil.

You have heard the statistics of how much oil there is. The fact is, it is not 185 billion barrels of oil; it is 185 million barrels of oil that MMS, a part of the Department of the Interior, estimates is in this lease sale 181.

So I raise the question again, since this equates to about 10 days’ worth of oil and gas energy for this country, is it worth the risk to the beaches of Florida, this eastward march that will inextricably, inexorably happen, is it worth the risk? It is not.

I said earlier in my remarks, if ever I have seen anything that looks like the nose of a camel suddenly under the tent, it is that yellow-colored, 1.5 million-acre eastern planning area that has no drilling.

Back in the middle 1980s, I was a junior Congressman from the east coast of Florida. The Reagan administration had a Secretary of the Interior named James Watt. James Watt was absolutely intent on drilling for oil off the entire eastern coast of the United States and was offering for lease sale leases from as far north as Cape Hatteras, NC, all the way south to Fort Pierce, FL. I went to work, as the Congressman from the middle eastern coast of Florida, to try to defeat that. And we defeated it in the appropriations bill, in an appropriations subcommittee on this very same Interior Department appropriations.

They left me alone. And 2 years later, they came back. This time they had worked the full Appropriations Committee in the House so that they thought they had the votes. And they were running that train down the track for oil drilling from North Carolina to south Florida. The only way that we beat it was to finally get NASA and the Department of Defense to own up to the fact that off the east coast of Florida, where we were launching the space shuttle, you couldn’t have oil rigs out there where you were dropping the solid rocket boosters from the space shuttle launches and where you were dropping off the first stages of the expendable booster rockets that were going out of the Cape Canaveral Air Force Station.

They have left us alone on oil drilling until now. That was almost 16, 17 years.

What we happened to do was call the Pensacola Naval Air Station.

Fast forward 17 years. We decided to call one of the greatest military installations in the world, the naval air station at Pensacola, the place where almost every naval aviator has learned to fly, and we asked if this lease sale 181 were to have a spill—remember, I cited statistics earlier that the Minerals Management Service says this lease sale has up to a 37-percent possibility of having an oilspill—so we said to the executive officer at the Naval Air Station Pensacola: What would happen to Pensacola Naval Air Station and to the Air Force installations at Eglin Air Force Base at Fort Walton and Hurlburt Air Force Base near Fort Walton Beach?

No. 1, for both of those military complexes, virtually all testing, training, and operations over water would cease until the oil slick was completely cleaned up.

No. 2, flights would cease due to the hazards to pilots if they had to egest over oily water.

No. 3, water training and equipment testing would cease.

No. 4, test firing of weapons would cease.

In other words, the Pensacola Naval Air Station would virtually cease to operate as one of our greatest national assets.

We have not even talked about something that is a natural phenomenon in the State of Florida. Look at this peninsula. It is a land that I call paradise, but paradise happens to be a peninsula that sticks down into something known as hurricane highway, for in the course of the summer and into the early fall, because the Lord designed the Earth this way, hurricanes spring up in the Gulf, they spring up in the Atlantic, and they go from the Atlantic into the Gulf. It is an additional reminder of the additional hazards of Florida offshore oil drilling.

As we bring to a close this 3-hour debate, the risk of spill, according to the Department of Defense, on this lease 181 is all the way up to 37 percent. This lease sale, by the Department’s own recognition, is only going to have about 10 days of oil and gas for the entire country. It is not going to lessen the dependence on foreign oil.

My goodness, the United States has 5 percent of the world’s population, 3 percent of the reserves, but we consume 25 percent of the world’s oil. We
cannot drill our way out of dependence on foreign oil. We have to have a balanced energy policy which includes the use of technology to get our hands on solar-gallon in our transportation, as well as conservation, as well as being balanced with drilling.

I recite the statistic I cited that of all the future reserves, they are not in the eastern gulf planning area. Sixty percent of the Nation’s undiscovered economically recoverable Outer Continental Shelf oil is in the central and western gulf area where they are already drilling, and for natural gas, of the entire Outer Continental Shelf, 80 percent of the future reserves are from the central and western areas, not from the eastern area.

I come back to the point at which we began 2 hours ago: Is it worth the risk? Is it worth the tradeoff: Little oil and gas, and yet the first invasion of the eastern planning area, a huge invasion, a million and a half acres? Is it worth the risk to an economy of a State that has sandy beaches on which its economy is so dependent because of a $50 billion-a-year tourism economy? Is it worth it to the estuaries of Apalachicola, the Big Ben, and the Ten Thousand Islands, Tampa Bay, and the Caloosahatchee River, and the sandy beaches from Tampa all the way to Marco Island? It is not worth the risk. It is not worth the tradeoff.

That is why for years we see, as depicted by the green color, the active drilling leases off Texas, Louisiana, Mississippi, and Alabama, but not off Florida in the eastern planning area of the gulf.

I know the White House is putting on a full-court press. I know the oil and gas industry, through all of their innumerable lobbyists, are putting on a full-court press. We heard the Senators from each of the oil States. Not one non-oil-producing State spoke against this. Yet we have our hands full because the full court lobbying press by every special interest involved in drilling in oil and gas is going to be working this issue as hard as it can be fore our vote that is going to occur sometime late tomorrow morning.

I ask my colleagues to consider the risk to their Outer Continental Shelf and to consider what is in the best interest of the Nation.

I am deeply honored that this is one of the first great debates in which I have engaged, in which I have joined so many of those with whom I argued in many of the other debates, such as budget, education, and the Patients’ Bill of Rights. This, however, is one of the great debates that will take place, and it is an honor for me to have participated in it.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, OCS Lease Sale 181 is an essential element of a national energy policy that will provide affordable and secure supply of energy.

Sale 181, the most promising domestic opportunity for newly-available leases in many years is a resource rich area for supplies of natural gas and oil. It will play an important role in meeting the Nation’s energy needs.

Sale 181 is the work-product of more than five years of planning and preparation by the Federal Government, affected States, and industry, and should proceed as scheduled in December 2001.

The Nation’s demand for natural gas is expected to grow significantly.

According to a 1999 National Petroleum Council study, the nation’s demand for natural gas is expected to increase by 32 percent to 29 trillion cubic feet by 2010 and by 41 percent to 31 trillion cubic feet by 2015.

Current demand is 22 trillion cubic feet. Natural gas is essentially a North American commodity.

If the Nation is to meet its growing natural gas demand, access to gas resource rich areas like the Sale 181 area is an indispensable element of the energy policy agenda.

Major reserves of oil and natural gas are believed to exist in the eastern gulf. According to a study conducted in conjunction with the 1999 National Petroleum Council study, the Sale 181 area may hold 7.8 trillion cubic feet of natural gas and 1.9 billion barrels of oil.

This is enough natural gas to supply 4.6 million households for 20 years and enough oil to fill the Strategic Petroleum Reserve for three and one-half years or make enough gasoline to fuel 3.1 million cars for 20 years.

This is also three and one-half times the amount of oil currently in the Strategic Petroleum Reserves.

Sale 181 was recently modified to ensure a balance between state and federal interests.

Key affected constituencies include Alabama, Florida, and the Department of Defense were consulted during development of the current five-year plan to ensure that all concerns were addressed.

For example, the sale area was drawn to insure it was consistent with the State of Florida’s request for no oil and gas activities within 100 miles of its coast, including limiting the number of tracts offered for lease.

In 1996, Florida Governor Lawton Chiles expressed appreciation to MMS for developing a program that recognized the need to exclude any tracts within 100 miles of Florida’s coasts.

The sale area, with full recognition by Florida, including Florida congressional delegation, was specifically excluded from current leasing moratoria language under both Congressional action and President Clinton’s 1996 Executive order.

Other tracts are expected to be deferred to assure smooth operations when the military and industry operate in the same area.

Sale 181 is a regional opportunity that impacts 5 Gulf States; all 5 Gulf States were consulted. Mississippi, Alabama, Louisiana, and Texas support Sale 181.

These States will enjoy significant economic benefits as a result of exploration and production activities in the area.

In addition, the coastal area of Louisiana will be the most heavily impacted of the five States.

The impact on Florida will be minimal. Many tracts in the sale area are closer to Louisiana, Mississippi, and Alabama than to Florida. In fact, Cuba is closer to Florida shore than is this lease.

Parts of the sale area come within about 40 miles of Mississippi, 64 miles of Louisiana, and about 16 miles of Alabama.

Florida could benefit significantly from Sale 181. Florida’s population is expected to grow by 29 percent between now and 2020.

Florida’s natural gas demand for natural gas is expected to grow by 142 percent during the same period.

About two-thirds of this growth in demand is for natural gas to generate electricity.

Some of the potential 7.8 trillion cubic feet of natural gas that could be produced from Sale 181 could help meet the State’s significant demand for natural gas during this time.

Making more natural gas available to Florida utilities for electricity generation should lead to better air quality in the state.

Mr. MCCAIN. Mr. President, I would like to clarify for the RECORD why I voted to table the Durbin amendment to H.R. 2217, the Interior Appropriations bill for fiscal year 2000.

First of all, once national monuments are designated, similar to other federal designations, those lands are withdrawn from any further mining activity, with exception to existing leases. My understanding is that nearly all of the recent monuments designated by the prior Administration are protected in this manner. Only one of the newly established monuments in Colorado has specific provisions in its proclamation that could potentially allow some type of oil or gas mining development. Unless the Congress or the President by executive action changes the terms of the original proclamation that established these monuments, these lands are protected. I would imagine that such changes would be difficult to approve.

The second reason I opposed this amendment is that I object to the process by which many of these monuments were designated by the previous Administration. If important land use issues like this one had been thoroughly evaluated during an open and fair public process prior to the monument designation, the Senate would
not have to vote on this type of amendment. The use of the 1960 Antiquities Act is not an acceptable way to unilaterally cut off millions of acres of land from public use by fiat nor does it allow for the type of open and fair input to those living and working on and near those lands. Our democratic process should promote such procedural fairness and consultation.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 5 minutes each. The PRESIDING OFFICER. Without objection, it is so ordered.

CAMPAIGN FINANCE REFORM

Mr. TORRICELLI. Mr. President, no matter what other issues are discussed in this Senate, what other concerns are brought before the body, the Nation's attention is turned again to the issue of campaign finance reform, the seemingly never-ending effort to restore integrity to this process and change the Nation's campaign finance laws.

In March, the Senate passed a comprehensive and workable piece of legislation; it required 2 weeks and 22 amendments. One of those amendments I offered together with my colleagues, Senator CORZINE, Senator DURBIN, and Senator ENSINN. It was the other part of the equation: As we reduce the amount of money that is raised, to reduce the amount that must by necessity be spent.

Campaign spending in America is easily defined. It is used for television advertising; it is the cost of the Senate campaign goes to a television network.

This amendment was passed overwhelmingly by the Senate. I take the floor today because it is now in jeopardy. It is unenforceable, void. The American people have demanded a control on the amount of political money being spent in America, unconscionable while this Congress has fought for campaign finance reform, the broadcast industry is fighting to the death to reverse this amendment in the House of Representatives and allow the television networks to charge whatever they want to charge for political advertising.

I take the floor today as one who has voted for campaign finance reform since I came to the Congress 18 years ago. I have always voted for campaign finance reform. I always want to vote for it because I believe the system must be fundamentally changed to restore integrity to the system and gain the confidence of the American people. I take the floor to make this very clear: Reducing campaign fundraising without reducing the cost of campaigns is not reform. That reduces the amount of communication. It makes it more difficult for third political parties and candidates to communicate their message. This cannot be reform. This is silencing political debate in America.

The bill that passed this Senate reduced the amount of soft money, eliminated the amount of soft money and, correspondingly, I am glad to report, dealt with this cost of advertising.

In 1971, the Congress believed we had faced this problem and required the charging of the lowest unit charge. Over 30 years, the law became ineffective. That is why I offered this amendment. This chart shows, by 1990, an audit by the FEC found that 80 percent of television stations were failing to give the lowest rate. These are examples from around the country. The price of a 30-second advertisement on the local network was below the lowest rate that should have been offered: NBC in New York, 21 percent higher than by law should have been charged; WXYZ in Detroit, 124 percent; KGO, San Francisco, 62 percent. These are the numbers that convinced 69 Democrats and Republicans in the Senate to pass this amendment.

The second reason for the amendment is that stations are charging candidates the lowest rate, looking back 365 days. So they cannot simply charge the lowest rate available on that day, which they were not doing anyway, but had to look back for what was the lowest rate during the course of the year. The fact is, the broadcast industry in America has been profiteering at the expense of the political system. There is not another democracy in the world where the public airwaves, licensed to private companies, are used for profiteering and price gouging when a public candidate attempts to communicate with people in the country.

The patterns are quite clear. This chart indicates the percentage of ads sold above or below the lowest unit cost per station. Below the unit rate, Philadelphia, KYW, 9 percent; Detroit, WXYZ, 8 percent; Los Angeles, one of the better in the country, is only 63 percent. NBC in New York, 15 percent of their ads are sold in accordance with the 1971 law at the lowest unit rate.

It isn't that the law isn't being obeyed; it is being violated wholesale. Compliance with the law is the rare, rare, exception.

Here is the magnitude of the problem. In the 2000 political season, political advertisers spent $1 billion on television ads; $1 billion was raised, fundraiser by fundraiser, mailer by mailer, telephone call by telephone call. And an extraordinary percentage of this advertising, if it had been paid for at the lowest unit rate, would have saved hundreds of millions of dollars in political fundraising.

My message out of this, I hope, is clear. I speak not to my colleagues, but I speak to the broadcast industry, to the network television, which since the 2000 Presidential campaign have carried on a campaign of their own, criticizing the political community, attacking individual candidates, railing against the problems of political fundraising.

Instead of being part of the problem, be part of the solution. Campaign finance reform does not simply mean the Democrat and Republican Parties. It means ABC, NBC, CBS. It means you. Get your lobbyists out of the House of Representatives, out of these Chambers, and be part of a solution of campaign finance reform. Allow a balanced piece of legislation to pass this Congress that deals with this problem.

The National Association of Broadcasters has been fighting against this reform; it is now standing on its own, convinced there are two myths: First, that this will lead to perpetual campaigns because the low rates will mean this will go on and on forever in advertising.

That simply is not the case. The low rates will only allow the lowest rates for 365 days. Mr. SHAYS and MEEHAN have only proposed 180 days. That is the extent, in the primary season, campaigns are taking place anyway. The campaigns will not be longer; they will just be less expensive. And that is the problem for the broadcasters.

Second, that this is somehow unconstitutional, that we are taking private property. For 30 years this has already been the law, The broadcasters, as a condition of their license, are required to do public broadcasting, sometimes children's broadcasting. They comply with all kinds of Federal requirements as a condition of having a public license. This is one more, but it is not new, new requirement. For 30 years we have required them to sell at the lowest unit rate. They simply are not doing it. We are just strengthening the law; we are not fundamentally changing the law.

Third, they allege the amendment could force a TV station to sell a 30-second spot during a prime time television show for a de minimus amount of money. Actually, that would not be bad if it were true, but it is not. The FCC, in mediating pricing disputes under the law, has always taken viewshipers levels into account, that they must be comparable. You cannot take a 2 o'clock in the morning television show that sells at a discount rate and compare it with prime time. It simply is not true.

Fourth, the broadcasters say lowering the costs of candidate advertising will result in candidates running more ads. As my friend MITCH MCCONNELL commented on occasion, the Nation does not suffer from too much political discussion. It would not be a bad thing if there were more advertising, discussing more issues. But that is probably not the result of this amendment.
It simply means candidates will raise less money because of campaign finance reform and hopefully be able to have the same amount of advertising because rates are lower.

This is all part and parcel of eliminating a major source of revenue for the broadcasters, and that is the problem. Political advertising is a paid form, in my judgment, of community service. This is not running a public service ad for the Boy Scouts, but it should not be akin to charging General Motors to advertise a new car either. And that is exactly what has happened.

Here, political ads have now become the third highest source of revenue for the broadcasters. In 1996, the automobile industry was the source of 25 percent of advertising dollars in America. Political candidates, using the public and Los Angeles and Chicago any issues under campaign finance law restrictions, are 10 percent of advertising dollars in America. This is growing faster than any other component of advertising in the Nation. Political advertising is not an industry; it is how we conduct public policy in a democracy. That is why we have offered this amendment as well.

This legislation will be voted upon in the House of Representatives in another day. The House of Representatives has a choice that was before this Senate. The local broadcasters have spent $19 million since 1996 to lobby this Congress. They have spent $11 million to defeat no fewer than 12 campaign finance bills that would have reduced the cost of candidate advertising. It is unconscionable and it is wrong. It is also hypocrisy. The very news departments and executives that come to this Congress and complain about the state of politics in America, the lack of confidence, the declining levels of integrity in the public discourse because of campaign fundraisers, are now a principal obstacle to reform.

I want to vote for McCain-Feingold when that legislation returns to this Senate after a conference, but I will make it very clear: Restricting campaign fundraising with no restriction on the cost of campaign advertising, in the region of the country in which I live, and Los Angeles and Chicago, there is no way the broadcasters will be able to communicate with the public. There will be no independent means of the political parties actually getting their message to American voters.

I am prepared to vote to limit campaign spending, to eliminate soft money, but the test, in my judgment, at least for the region of the country in which I live, is whether we can overcome this hurdle of the broadcasters as well.

Mr. President, I hope the House of Representatives meets its responsibility. I hope we can get a bill that in good conscience many of us in the Senate can vote to support.

I yield the floor.

H-2A REFORM

Mr. BURNS. Mr. President, I rise today to express my support of the Agriculture Job Opportunity, Benefits, and Security Act of 2001. I am proud to join my colleague Senator CRAIG as a cosponsor of this important legislation.

I am a strong believer that American workers should have the first chance to have American farm and ranch jobs. However, when there are not enough American workers, our agricultural producers should be able to find farmworkers elsewhere. Under the current H-2A program, producers are required to go through a lengthy, uncertain, and undoubtedly costly process to demonstrate to the Federal Government that American workers are not available in order to gain authorization for guest workers. During this long process, Montana crops are not being harvested and cattle and sheep herds are not being tended to the degree they require. A General Accounting Office study recently found that the Government’s inefficiency in processing such claims discourages use of the program. As a result, the Federal Government estimates that only half of this country’s 1.6 million agricultural workers are authorized to work in the U.S., and the figure may be higher since the estimate is based on self-disclosure by illegal workers.

Let me give you an example of how H-2A reform will benefit real producers. We have a number of large sheep producers in Montana. All of these sheep need to be sheared in the spring of the year, and as any sheep rancher will tell you, this is a job that needs to be done quickly, safely, and accurately. Shearers need to pay close attention to detail; lest sheep could be severely injured. With the number of sheep ranches in this country dwindling, there are few Americans who shear professionally, so guest workers from countries such as Argentina must be brought in to do the job. Reform of the H-2A program would make this process easier for our sheep producers.

It is high time we reformed the H-2A program. This legislation will replace the current system with a more efficient process for certification of H-2A guest workers. It will also replace the current, unrealistic premium wage mandated for H-2A employers with the standard, minimum wage. Employers will continue to furnish housing and transportation to H-2A workers.

This bill makes sense for producers in Montana, Senator CRAIG’s home State of Idaho, and other agricultural States across the country. It also provides a better environment for our guest workers. I look forward to working with my colleagues on this important legislation.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred January 14, 1999 in El Dorado, AR. Thomas Gary, 38, was run over by a truck he owned after he suffered a blow to the head and shotgun injuries that killed him. Chuck Bennett, 17, who has been charged with the crime, claimed that Gray made a sexual advance toward him.

I believe that government’s first duty is to defend its citizens, to defend them against the harm that comes out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, July 10, 2001, the Federal debt stood at $5,710,436,329,428.99, five trillion, seven hundred ten billion, four hundred thirty-two million, three hundred twenty-nine thousand, four hundred twenty-eight dollars and ninety-nine cents.

One year ago, July 11, 2000, the Federal debt stood at $5,662,956,000,000, five trillion, six hundred sixty-two billion, nine hundred fifty million.

Five years ago, July 10, 1996, the Federal debt stood at $5,148,771,000,000, five trillion, one hundred forty-eight billion, one hundred twelve million.

Ten years ago, July 11, 1991, the Federal debt stood at $3,533,712,000,000, three trillion, five hundred thirty-three billion, seven hundred twelve million.

Fifteen years ago, July 10, 1986, the Federal debt stood at $2,071,214,000,000, two trillion, seven-one billion, two hundred fourteen million, which reflects a debt increase of more than $3.5 trillion, $3,639,222,329,428.99, three trillion, six hundred thirty-nine billion, two hundred twenty-two million, three hundred twenty-nine thousand, four hundred twenty-eight dollars and ninety-nine cents during the past 15 years.
PAYING TRIBUTE TO THE KNOLL MOTEL IN BARRE, VERMONT

Mr. LEAHEY. Mr. President, I rise today to pay tribute to the Knoll Motel in Barre, VT, a pioneer establishment of the VT tourism industry.

In April 2000, the Knoll Motel celebrated its 50th anniversary of offering warm and courteous hospitality to tourists of the Green Mountain State. Founded in April of 1950, it is the state’s first and longest operating motel.

During the period following World War II, the number of Americans traveling for recreational purposes increased dramatically. As more and more citizens traveled the country’s expanding network of highways, the touring public were in need of economical and conveniently located overnight accommodations. Responding to this trend, tourism industry establishments that catered to the needs of family highway travelers. Recognizing the economic potential associated with the growing tourist industry in Vermont, Stanley and Minnie Sabens established the Knoll Motel on 1015 North Main Street in Barre. Located near the State Capital, Montpelier, and what eventually became Interstate 89, the original eight-room facility became a model for the motel industry in Vermont, where tourism is vital to the success of the state’s economy.

Keeping with Vermont’s proud tradition of family-owned businesses, Stanley Sabens II has assumed the management of the Knoll Motel, a family-owned and operated motel serving as the first President of that organization. In her thirty-two year career working on behalf of the motel industry in Vermont, she has advanced the causes of both Doyon and her Native culture, but to all who knew and loved her. Again our deepest sympathies to her family and friends. She will always be remembered with great fondness.

IN MEMORY OF ROSEMARIE MAHER

Mr. MURKOWSKI. Mr. President, I rise today to speak in remembrance of a wonderful Alaskan, Mrs. Rosemarie Maher, the President and Chief Operating Officer of the Doyon Native Regional Corp. based in Fairbanks, Alaska.

On Monday, I attended the moving memorial service in Fairbanks in Rosemarie’s Maher’s honor, who tragically died quite suddenly last week at far too young an age—53. Along with my wife Nancy, I want to express our deepest sympathies to Rosemarie’s husband, Terry J. Maher, their children; Malinda and husband Jim Holmes, Warren J. and wife Angela Westfall, and Kerry Rose and Kevin Maher, and all other family members.

I also want to express my condolences to the employees and all of the nearly 14,000 shareholders of Doyon Ltd. upon the death of a very dedicated and talented woman, whose success was advanced by the leadership of both Doyon members and of all Alaska Natives.

Rosemarie Maher showed uncommon grace and perseverance during her three decade career working on behalf of Alaska Natives. For 21 years, she served as a member of the Doyon corporation’s board of directors and assumed the role of daily leadership of the corporation under such difficult circumstances in winter 2000.

Rosemarie Maher began her involvement in Alaska Native organizations and public service while still in her 20’s. As a devoted wife and mother, she helped to steer development of several organizations, including the Interior Village Association and the Tanana Chiefs Conference. In 1979, she was first elected to the Doyon Ltd. Board of Directors. Seven years later, she was elected Chairman of the Board, a position she held until her appointment as President and Chief Executive Officer after the tragic plane crash in January 2000 of long-time Doyon President Morris Thompson.

Mrs. Maher was born in a fish camp on the Nabesna River near her home of Northway along the Alaska Highway in Central Alaska. As a child she was raised as a traditional Athabascan Indian, but as a young teen she was educated at Sheldon Jackson School in Sitka and later at East High School in Anchorage. After graduating from high school, she trained at Alaska Business College and in 1969 moved to Fairbanks, working for several U.S. Government agencies.

During the mid 1970s, Mrs. Maher moved back to Northway where she was elected President of the Northway Village Council and helped form the Upper Tanana Alcohol Program in the Tok area. She also played a key role in the incorporation of Greater Northway Inc., the non-profit organization formed to administer local infrastructure and economic development projects in the region. She was a shareholder of Northway Natives Inc., the Alaska Native Claims Settlement Act Village Corporation for Northway, serving as the first President of that organization. She also was President of Naabia Niign, a Northway Native subsidiary.

From 1976 to 1984 she entered governmental public service as a member of the Alaska Gateway School District Board and was a director of the Northwest Regional Education Lab, a non-profit, federally and privately funded educational research organization based in Portland, Ore. She also was a member of the Teamsters Union, working summers in road construction and hazardous waste cleanup between 1992 and 2000.

At the statewide level, Rosemarie served as Co-Chair of the Alaska Federation of Natives from 1997–2000 and was a member of the Alaska Board of Game. She also served as a member of the Governor’s Commission on Local Governance and Empowerment and on the Governor’s Highway and Natural Gas Policy Council.

Rosemarie truly did commit her life to the success of Alaska Native corporations and to the betterment of her neighbors and all of Alaska Natives. Her death is a great loss, not just to Doyon and her native culture, but to all who knew and loved her. Again our deepest sympathies to her family and friends. She will always be remembered with great fondness.

MESSAGES FROM THE HOUSE

At 12:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.


The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:


H. Con. Res. 170. Concurrent resolution encouraging corporations to contribute to faith-based organizations.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2131. An act to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004, and for other purposes; to the Committee on Foreign Relations.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 168. Concurrent resolution expressing the sense of Congress in support of victims of torture; to the Committee on the Judiciary.

H. Con. Res. 170. Concurrent resolution encouraging corporations to contribute to faith-based organizations; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with
accompanying papers, reports, and documents, which were referred as indicated.

EC–2711. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, a report of a rule entitled “Employee Retirement Income Security Act of 1974; Rules and Regulations for Administrative and Enforcement; Claiming, Determination, and Payment of Annuity” (RIN1991–A585) received on July 9, 2001; to the Committee on Energy and Natural Resources.

EC–2712. A communication from the Director of the Office of Regulations Management, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled “Payment or Reimbursement for Emergency Treatment Furnished at Non-VA Facilities” (RIN2900–AK08) received on July 10, 2001; to the Committee on Veterans’ Affairs.

EC–2713. A communication from the Acting Administrator of the Small Business Administration, transmitting, pursuant to law, a report concerning Minority Small Business and Capital Ownership Development for Fiscal Year 2000; to the Committee on Small Business and Entrepreneurship.

EC–2714. A communication from the Counsel for Legislation and Regulations, Office of Community Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled “Designation of Round III Urban Empowerment Zones and Renewal Communities” (RIN2506–AC09) received on July 9, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2715. A communication from the Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled “Prohibited Purchasers in Foreclosure Sales of Multifamily Projects with HUD-Held Mortgages and Sales of Multifamily HUD-Owned Projects” (RIN2506–AC08) received on July 9, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2716. A communication from the Chairman and CEO of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2000, to March 31, 2001; to the Committee on Governmental Affairs.

EC–2717. A communication from the Acting Chief Administrative Officer/Secretary of the Postal Rate Commission, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Chairman/Commissioner, received on July 10, 2001; to the Committee on Governmental Affairs.

EC–2718. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to sexual harassment complaints and sexual misconduct for Fiscal Year 1998; to the Committee on Armed Services.

EC–2719. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–2720. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report relative to the Administrative/Management Support function at Naval Air Systems Command, Naval Air Warfare Center Aircraft Division at Lakehurst, Ocean County, New Jersey; to the Committee on Armed Services.

EC–2721. A communication from the Assistant Secretary of the Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Employee Retirement Income Security Act of 1974; Rules and Regulations for Administrative and Enforcement; Claiming, Determination, and Payment of Annuity” (RIN1210–AA61) received on July 9, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2722. A communication from the Assistant Secretary for Administrative and Management, Department of Labor, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Deputy Administrator of the Federal Old-Age, Survivors, and Disability Insurance Program (OASDI), the report of the discontinuation of service in acting role for the position of Administrator of the Federal Executive Retirement System (EX–V), and the report of the discontinuation of service in acting role for the position of Deputy Administrator of the Federal Service Retirement System (FSRS) (RIN2724–AA53) received on July 10, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2723. A communication from the Assistant Secretary for Administrative and Management, Department of Labor, transmitting, pursuant to law, the report of the designation of acting officer for the position of Wage and Hour Administrator, EX–V, received on July 10, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2724. A communication from the Acting Assistant Attorney General for Administration, Justice Management Division, Department of Justice, transmitting, pursuant to law, the report of the Implementation of the Automated Immigration Lookout System (NAILS); Immigration and Naturalization Service (INS) (Justice/INS–032) received on July 10, 2001; to the Committee on the Judiciary.

EC–2725. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Refugee Resettlement Program for the period from October 1, 1998 through September 30, 1999; to the Committee on the Judiciary.

EC–2726. A communication from the Chief of the Division of General and International Law, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Service Obligation Reporting Requirement for USMMA Graduates and State Maritime Schools Graduate’s Records Program” (RIN2725–AA29) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2727. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 757–200, 200PF, 200CB, and 757 300 Series Airplanes” ((RIN2120–AA64)(2001–0275)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2728. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Dornier Model 328–300 Series Airplanes” (RIN2120–AA64)(2001–0274) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2729. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 120 Series Airplanes” ((RIN2120–AA64)(2001–0281)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2730. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Raytheon Model BAe 125 Series 900A (C–29A and U–125 Military), 1000A, and 1000B Airplanes; Hawker 800 (U–125A Military) Airplanes, and Hawker 800 XP and 1000 Series Series Airplanes” ((RIN2120–AA64)(2001–0276)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2731. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 747–120, 140, 100PF Series Airplanes” ((RIN2120–AA64)(2001–0277)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2732. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Eurocopter France Model EC 155B Helicopters” (RIN2120–AA64)(2001–0280) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2733. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 747–100, 200, 300 and 747SP Series Airplanes” ((RIN2120–AA64)(2001–0272)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2734. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Raytheon Model BAe 125 Series 900A (C–29A and U–125 Military), 1000A, and 1000B Airplanes; Hawker 800 (U–125A Military) Airplanes, and Hawker 800 XP and 1000 Series Series Airplanes” ((RIN2120–AA64)(2001–0276)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2735. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 757–200, 200PF, 200CB, and 757 300 Series Airplanes” ((RIN2120–AA64)(2001–0277)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2736. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Airbus Model A330 and A340 Series Airplanes” ((RIN2120–AA64)(2001–0271)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2737. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Kaman Aerospace Corp Model K 1200 Helicopter” (RIN2120–AA64)(2001–0279) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2738. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Eurocopter France Helicopters” (RIN2120–AA64)(2001–0289) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2739. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 747–100, 200, 300 and 747SP Series Airplanes” ((RIN2120–AA64)(2001–0272)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.
transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Bell Helicopter Textron Canada Model 407 Helicopters” (RIN2120–AA64)(2001–0267) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2741. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 747–100, 200, 300, 747 SP and 747 SR Series Airplanes; Powered by P and W JT9D–3 and –7 Series Engines” (RIN2120–AA64)(2001–0265) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2742. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model DC 9–41, 81, 82, 83, and 87 Series Airplanes and MD 88 Airplanes” (RIN2120–AA64)(2001–0264) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2743. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Economic Zone Off Alaska—Amendment to the Steller Sea Lion Emergency Interim Rule” (RIN0648–AO66) received on July 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2744. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Economic Zone Off Alaska—Amendment to Late Red King Crab Standard for the Second Half of 2001” (RIN0648–AO66) received on July 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2745. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Economic Zone Off Alaska—Amendment to the Steller Sea Lion Emergency Interim Rule (removes seasonal allocation of Pacific halibut prohibited species catch associated to the “shallow water trawl fishery” and closes that fishery)” (RIN0648–AO66) received on July 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2746. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Access Charge Reform, CC Docket No. 96–262, Order” (CC 01–166) received on July 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2747. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna Recreational Fishery; Retention Control Action; Amendment to a rule entitled “VISAS: Documentation of Nonimmigrants Under the Immigration and Nationality Act: Application for Nonimmigrant Visas: XIX Olympic Games and XIX Paralympic Games: Winter Games and World Cup 2002 Sports Events” (22 CFR Part 42) received on July 5, 2001; to the Committee on Foreign Relations.

EC–2748. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled “VISAS: Documentation of Immigrants under the Immigration and Nationality Act, as amended—Diversity Visas” (22 CFR Part 42) received on July 5, 2001; to the Committee on Foreign Relations.

EC–2749. A communication from the Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled “Security Requirements for Unclassified Information Technology Resources” (48 CFR Parts 1804 and 1852) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2750. A communication from the Secretary of the Army and the Secretary of Agriculture, transmitting, pursuant to law, a report relative to the interchange jurisdiction of Army and National Forest Service lands at Fort Leonard Wood Military Reservation in Missouri; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2751. A communication from the Congressional Review Coordinator of Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Foot-and-Mouth Disease Status of Uruguay Because of Foot-and-Mouth Disease” (Doc. No. 00–11–2) received on July 15, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2752. A communication from the Acting Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Tart Cherries Grown in the State of Michi- gan, et al.; Modifications to the Rules and Regulations under the Tart Cherry Marketing Order” (Doc. No. FV01–930–3 IFR) received on July 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2753. A communication from the President of the United States, transmitting, pursuant to law, a report relative to Federal Climate Change Expenditures; to the Committee on Foreign Relations.

EC–2754. A communication from the Deputy Director of the United States Trade and Development Agency, transmitting, pursuant to law, the report of the discontinuation in acting role and a nomination confirmed subject to the advice and consent of the Senate.

EC–2755. A communication from the Assistant Administrator for Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning the Central African Republic; to the Committee on Foreign Relations.

EC–2756. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning the Central African Republic; to the Committee on Foreign Relations.

EC–2757. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled “VISAS: Documentation of Immigrants under the Immigration and Nationality Act, as amended—Diversity Visas” (22 CFR Part 42) received on July 5, 2001; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Douglas Jay Feth, of Maryland, to be Under Secretary of Defense for Policy.

*Jessie Hill Roberson, of Alabama, to be an Assistant Secretary of Energy (Environmental Management).

*Jack Dyer Crouch, II, of Missouri, to be an Assistant Secretary of the Army.

*Steven John Morello, Sr., of Michigan, to be General Counsel of the Department of the Army.

*Michael Montelongo, of Georgia, to be an Assistant Secretary of the Air Force.

*Michael W. Wynne, of Florida, to be Deputy Under Secretary of Defense for Acquisition and Technology.

*Dionel M. Aviles, of Maryland, to be an Assistant Secretary of Defense.

*Thomas P. Christie, of Virginia, to be Director of Operational Test and Evaluation, Department of Defense.

*Susan Morrissey Livingston, of Montana, to be Under Secretary of the Navy.

*Peter W. Rodman, of the District of Columbia, to be an Assistant Secretary of Defense.

*Reginald J. Brown, of Virginia, to be an Assistant Secretary of the Navy.

*Reginald J. Brown, of Virginia, to be an Assistant Secretary of the Navy.

*Alberto Jose Mora, of Virginia, to be General Counsel of the Department of the Navy.

*Stephen A. Cambone, of Virginia, to be Deputy Under Secretary of Defense for Policy and Materiel Readiness.

*William A. Navas, Jr., of Virginia, to be an Assistant Secretary of the Navy.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first
ADDITIONAL COSPONSORS

S. 170
At the request of Mr. Reid, the name of the Senator from Utah (Mr. Hatch) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 222
At the request of Mr. Voinovich, the name of the Senator from Georgia (Mr. Cleland) and the Senator from Michigan (Mr. Levin) were added as cosponsors of S. 356, a bill to establish a National Commission on the Bicentennial of the Louisiana Purchase.

S. 356
At the request of Ms. Landrieu, the name of the Senator from Arkansas (Mr. Barton) was added as a cosponsor of S. 356, a bill to establish a National Commission on the Bicentennial of the Louisiana Purchase.

S. 358
At the request of Mr. Breaux, the name of the Senator from Delaware (Mr. Carper) was added as a cosponsor of S. 358, a bill to amend the Social Security Act to establish a Medicare Prescription Drug and Supplemental Benefit Program and for other purposes.

S. 392
At the request of Mr. Salls, the name of the Senator from New Hampshire (Mr. Smith) was added as a cosponsor of S. 392, a bill to grant a Federal Charter to Korean War Veterans Association, Incorporated, and for other purposes.

S. 527
At the request of Mrs. Hutchison, the name of the Senator from Arkansas (Mr. Hutchinson) was added as a cosponsor of S. 527, a bill to amend the Internal Revenue Code of 1986 to exempt State and local political committees from duplicate notification and reporting requirements made applicable to political organizations by Public Law 106-230.

S. 654
At the request of Mr. Torricelli, the name of the Senator from New Jersey (Mr. Kennedy) was added as a cosponsor of S. 654, a bill to amend the Internal Revenue Code of 1986 to increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 694
At the request of Mr. Leahy, the name of the Senator from Florida (Mr. Graham) was added as a cosponsor of S. 694, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 706
At the request of Mr. Kerry, the name of the Senator from Washington (Ms. Cantwell) was added as a cosponsor of S. 706, a bill to amend the Social Security Act to establish programs to alleviate the nursing shortage, and for other purposes.

S. 721
At the request of Mr. Hutchinson, the name of the Senator from Washington (Ms. Cantwell) was added as a cosponsor of S. 721, a bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes.

S. 742
At the request of Mr. Cochran, his name was added as a cosponsor of S. 742, a bill to provide for pension reform, and for other purposes.

S. 744
At the request of Mrs. Hutchinson, the name of the Senator from Arkansas (Mr. Hutchinson) was added as a cosponsor of S. 744, a bill to amend section 527 of the Internal Revenue Code of 1986 to eliminate nondeductibility and return requirements for State and local candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law.

S. 778
At the request of Mr. Hagel, the name of the Senator from Iowa (Mr. Harkin) was added as a cosponsor of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act extending the deadline for classification petition and labor certification filings. At the request of Mr. Edwards, his name was added as a cosponsor of S. 778, supra.

S. 805
At the request of Mr. Wellstone, the name of the Senator from Connecticut (Mr. Lieberman) was added as a cosponsor of S. 805, a bill to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and emery-dreifuss muscular dystrophies.

S. 834
At the request of Mr. Murkowski, the name of the Senator from Tennessee (Ms. Thompson) was added as a cosponsor of S. 834, a bill to provide duty-free treatment for certain steam or other vapor generating boilers used in nuclear facilities.
s. 836
At the request of Mr. Craig, the name of the Senator from Delaware (Mr. Carper) was added as a cosponsor of S. 836, a bill to amend part C of title XI of the Social Security Act to provide for coordination of implementation of administrative simplification standards for health care information.

s. 866
At the request of Mr. Dodd, the names of the Senator from New Jersey (Mr. Corzine) and the Senator from Delaware (Mr. Carper) were added as cosponsors of S. 838, a bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

s. 870
At the request of Mr. Reid, the name of the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 896, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

s. 913
The request of Mr. Smith of New Hampshire, the name of the Senator from Texas (Mrs. Hutchison) was added as a cosponsor of S. 870, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for public-private partnerships in financing of highway, mass transit, high speed rail, and intermodal transfer facilities projects, and for other purposes.

s. 917
At the request of Ms. Snowe, the name of the Senator from Rhode Island (Mr. Lugar) was added as a cosponsor of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

s. 919
At the request of Ms. Collins, the name of the Senator from West Virginia (Mr. Rockefeller) was added as a cosponsor of S. 917, a bill to amend title XVIII of the Social Security Act to provide for COLAs as they have lost.

s. 937
At the request of Mr. Cleland, the name of the Senator from Georgia (Mr. Miller) was added as a cosponsor of S. 937, a bill to amend title 38, United States Code, to permit the transfer of entitlement to educational assistance the Montgomery GI Bill by members of the Armed Forces, and for other purposes.

s. 972
At the request of Mr. Murkowski, the name of the Senator from Colorado (Mr. Allard) was added as a cosponsor of S. 972, a bill to amend the Internal Revenue Code of 1986 to improve electric reliability, enhance transmission infrastructure, and to facilitate access to the electric transmission grid.

s. 979
At the request of Mr. Burr, the name of the Senator from Maryland (Mr. Sarbanes) was added as a cosponsor of S. 979, a bill to amend United States trade laws to address more effectively import crises, and for other purposes.

s. 999
At the request of Mr. Bingaman, the name of the Senator from Maine (Ms. Collins) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

s. 1013
At the request of Mr. Levin, the name of the Senator from New York (Mrs. Clinton) was added as a cosponsor of S. 1018, a bill to provide market loss assistance for apple producers.

s. 1021
At the request of Mr. Lugar, the name of the Senator from New Jersey (Mr. Corzine) was added as a cosponsor of S. 1021, a bill to authorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004.

s. 1098
At the request of Mr. Smith of Oregon, the name of the Senator from Arkansas (Mrs. Lincoln) was added as a cosponsor of S. 999, a bill to provide market loss assistance for apple producers.

s. 1140
At the request of Mr. Hatch, the name of the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 1140, a bill to amend chapter 5, Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Mrs. Feinstein (for herself and Mr. Thompson):
S. 1162. A bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, to provide for a 9.6 percent increase in judicial salaries, and for other purposes; to the Committee on the Judiciary.

Mrs. Feinstein. Mr. President, I rise, along with Senator Thompson, to introduce legislation to restore pay equity for our Federal judges. This legislation would guarantee judges automatic and annual cost-of-living adjustments, COLAs, just like other rank-and-file Federal employees.

In addition, the legislation would end a decade of Federal judicial salary neglect by giving judges a one-time salary increase of 9.6 percent. In the past decade, Congress has denied COLAs for judges in four separate years, in 1994, 1995, 1996, and 1998. This bill would restore to Federal justices the four COLAs they have lost.

In his year-end report on the state of the Federal Judiciary, Chief Justice William Rehnquist called the “the need to increase judicial salaries” the most pressing issue facing the Federal judiciary.

Simply put, while government service offers its own rewards, we should not create financial disincentives to service on the Federal bench.

Federal judges bear enormous responsibility as they preside over the most pressing legal issues. Often, they must render life-or-death decisions or preside over cases with millions of dollars at stake. For this vitally important work, they deserve appropriate compensation.

Recently, Congress took some action to restore equity in Federal salaries by doubling the salary of the President of the United States from $200,000 to $400,000.

Congress should now consider an appropriate pay adjustment for the Federal judiciary. As of January 2001, Federal district judges receive an annual salary of $145,000. If judges had received the COLAs to which they were entitled, a Federal District judge’s salary would actually be $164,700, nearly $20,000 higher.

Now, $145,000 is a lot more money than the salary of a typical worker but it is not so high when you compare it to equivalent positions of authority in the private sector. For example, the average partner in a major national law firm earns well over $500,000 per year.

It is even more striking to note that major national law firms are offering first-year associates salaries topping $125,000 a year. With bonuses, some of these newly minted lawyers are earning more than appellate judges.

The bottom line is that we cannot expect to keep our country’s best lawyers in service on the Federal bench if we continue to denigrate the salary of the post. Just since 1993, the salary of Federal judges, adjusted for inflation, has declined by 13 percent.
Not surprisingly, more and more judges are leaving the Federal bench. Between 1991 and 2000, 52 Federal judges resigned their seats, many of them for the purposes of returning to private practice. These 52 judges represent 40 percent of the 125 Federal judges who have left the bench since 1965.

Attorneys should not expect to become wealthy through an appointment as a Federal judge. Neither should judges expect to have their salaries eroded by Congress’ failure to give them Cost-of-Living Adjustments.

Preserving judicial salaries is vital to maintaining the high quality of our Federal judiciary. I look forward to working with my colleagues in the Senate to restore fairness to judicial compensation.

By Mr. CORZINE (for himself, Mr. CARPER, and Mr. SCHUMER):

S. 1163. A bill to increase the mortgage loan limits under the National Housing Act for multifamily housing mortgaged to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, I am pleased to join with my distinguished colleague, Senator CARPER, in introducing legislation, the FHA Multifamily Housing Loan Limit Adjustment Act, that would improve access to affordable housing.

Our Nation currently faces a critical housing shortage. A report released recently by the Center for Housing Policy, “Housing America’s Working Families,” documented the overwhelming need for affordable housing. The report indicates that in 1997, nearly 14 million families had a critical housing need, meaning they lived in substandard housing conditions or spent more than half their monthly income on the cost of housing. The FHA Multifamily Housing Loan Limit Adjustment Act would provide America’s working families with increased access to affordable rental housing.

The bill is simple, it increases by 25 percent the statutory limits for multifamily project loans that can be insured by the FHA. This increase reflects the increased costs associated with the production of multifamily units since 1992, when these limits were last revised. The bill also would index the loan limits for inflation and increases to the Annual Construction Cost Index, which is published by the Census Bureau.

Rising construction costs have resulted in a shortage of moderately priced affordable rental units. Rent increases now exceed inflation in all regions of the country, and new affordable rental units have become increasingly harder to find. Because of the current dollar limits on loans, FHA insurance cannot be used to help finance construction in high-cost urban areas such as the New York/New Jersey metropolitan area, Philadelphia and San Francisco.

By increasing the limits on loans for rental housing we will create more incentives for public/private investment in communities through America and spur the new production of cooperative housing projects, rental housing for the elderly, and new construction or substantial rehabilitation of apartments by for- and non-profit entities.

Late last year, Congress sought, through a number of initiatives, to implement programs aimed at increasing the production of affordable housing for the millions of Americans who currently face critical housing needs. For example, we expanded the Low Income Housing Tax Credit, the one Federal program designed to produce new housing. We also enacted the production of housing vouchers. However, these programs were targeted largely at families with very low incomes. Currently, there are no programs designed specifically to provide access to affordable housing for the working middle class, the people who serve as the engine of our nation’s economy.

Far too many of these individuals, including vital municipal workers like teachers, nurses and police officers, are struggling to gain access to affordable housing even remotely near where they work.

Without this much-needed adjustment to the FHA multifamily loan limits, access to affordable housing for our working-citizens will continue to lag, thousands of more families will join the 14 million people who currently face severe housing needs and our nation’s economy will suffer.

This bill is modeled after bipartisan legislation introduced in the House by my colleague from New Jersey, Congresswoman MARGE ROUKEMA, and Congressman BARNEY FRANK of Massachusetts. The bill is supported by housing and community advocates and has also been endorsed by the National Association of Realtors, the National Association of Home Builders, the National Association of Realtors, and the Mortgage Bankers Association.

I hope my Senate colleagues will support the legislation and help us ensure that America’s working families have access to affordable housing.

Mr. CARPER. Mr. President, I am very pleased to join today with my distinguished colleague from New Jersey to introduce the FHA Multifamily Housing Mortgage Loan Limit Adjustment Act of 2001.

A recent report published by the National Housing Conference’s Center for Housing Policy found that in 1997, nearly 14 million families either lived in substandard housing or spent more than half their income on housing costs. This affordable housing shortage also comes at a time of limited resources. Thus, we have to find the best use of each dollar at our disposal, as well as the most effective use of existing Federal programs to stimulate production and substantial rehabilitation.

The Federal Housing Administration’s, FHA, multifamily mortgage insurance is an important financing device for housing production. Unfortunately, production through this public/private partnership has been low in recent years. One of the reasons for FHA’s absence from the rental housing market is that the multifamily loan limits have not been increased since 1992. While the annual Construction Cost Index, published by the Census Bureau, has increased over 23 percent since 1992, FHA’s multifamily loan limits have remained static.

These rising construction costs have contributed to FHA’s inability to be a significant participant in the production of multifamily housing. Increasing these loan limits by 25 percent, as this legislation does, is something Congress can do today to address immediately the shortage of affordable rental housing. This bill modifies a current federal program, FHA’s underwriting, to make that program more effective. Importantly, this legislation also indexes the loan limits to the Annual Construction Cost Index.

I ask my colleagues to join with Senator CORZINE and me to increase these multifamily loan limits so that more working families will have access to affordable rental housing.

By Mr. EDWARDS:

S. 1164. A bill to provide for the enhanced protection of the privacy of location information of users of location-based services and applications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. EDWARDS. Mr. President, I rise today to introduce much-needed legislation to protect the privacy of consumers who use technologies that can pinpoint their location. Under my bill, the Location Privacy Protection Act, any company that monitors consumers’ physical location will be prohibited from using or disclosing that information without express permission from the consumer. And third parties that gain access to this information cannot use or disclose it without the individual’s permission first.

Within the next few years, new technologies will allow companies to know our location any time of day or night. Our cell phones, pagers, cars, palm pilots and other devices will enable companies to constantly track where we go and how often we go there. These services can have enormous advantages. For example, public safety and rescue teams can save lives with systems that enable them to quickly locate crash victims. Imagine being able to ask your cell phone for directions to the nearest Italian restaurant. Or imagine...
you are traveling in a new city and your pager alerts you when you are within a block of your favorite coffee shop, which happens to be serving a sale on coffee. The possibilities for location-based services and application are endless.

But these new technologies also raise serious privacy issues. Location information is very private, sensitive information that can be misused to harass consumers with unwanted solicitations or to draw inaccurate or embarrassing inferences about them. And in extreme cases, improper disclosure of location information to a domestic abuser or stalker could place a person in physical danger.

The wireless industry is unique in that it has worked with Congress to guarantee some privacy protections in the laws that have been carefully crafted to allow emergency medical services to use location information to obtain location information pursuant to an appropriate court order, it does not provide the FCC with extraordinary authority to control law enforcement can and cannot gain access to location information. Although I have concerns about unnecessary and surreptitious government surveillance, I believe that this issue is best addressed either separately, or at a later date. The purpose of my bill is primarily to lay down guidelines for when private persons, such as businesses, are able to use and disclose consumers’ location information.

The law needs to be strengthened, and we have the opportunity to do so while these location-based technologies are in their infancy. We have a unique opportunity to give consumers power over their location information before making more monetary progress with the law. It is impossible for consumers to prevent the buying and selling of this very personal information.

In sum, I believe the Location Privacy Protection Act is a common sense measure offered at an ideal time. I know that wireless carriers and many companies such as OnStar, ATX, Qualcomm and others care deeply about privacy. I applaud them for their efforts and I look forward to continuing working with them on this issue.

I ask unanimous consent that the text bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1164
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. This Act may be cited as the “Location Privacy Protection Act of 2001”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Location-based services and applications allow customers to receive services based on their geographic location, position, or known presence. Telematics devices, for instance, permit subscribers in vehicles to obtain emergency road assistance, driving directions, or other information with the push of a button. Other devices, such as those with Internet access, support position commerce in which notification of points of interest or promotions can be provided to customers based on their known presence or geographic location.

(2) There is a substantial Federal interest in safeguarding the privacy right of customers of location-based services or applications to control the collection, use, retention of, disclosure of, and access to their location information. Location information is non-public information that can be misused to commit fraud, harassment, or other unwanted messages, to draw embarrassing or inaccurate inferences about them, or to discriminate against them. Improper disclosure of access to location information could also place a person in physical danger. For example, location information could be misused by stalkers or by domestic abusers.

(3) The collection and retention of unnecessary location information magnifies the risk of its misuse or improper disclosure.

(4) Congress has recognized the right to privacy of location information by classifying location information as customer proprietary network information subject to section 222 of the Communications Act of 1934 (47 U.S.C. 222), thereby preventing use or disclosure of that information without a customer’s express prior authorization.

(5) There is a substantial Federal interest in ensuring fair competition in the provision of wireless services and in ensuring the consumer confidence necessary to ensure continued growth in the use of wireless services. These goals can be attained by establishing a set of privacy rules that apply to wireless location information, regardless of the location of the customer’s service provider.

SEC. 3. PROTECTION OF LOCATION INFORMATION PRIVACY.

(a) RULEMAKING REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Federal Communications Commission shall complete a rulemaking proceeding for purposes of further protecting the privacy of location information.

(b) ELEMENTS.—Subject to the provisions of paragraph (2), the rules prescribed by the Commission under subsection (a) shall—

(A) require providers of location-based services and applications to inform customers, with clear and conspicuous notice, about their policies on the collection, use, disclosure of, retention of, and access to customers’ location information;

(B) require providers of location-based services and applications to obtain a customer’s express authorization before—

(i) collecting, using, or retaining the customer’s location information; or

(ii) disclosing or permitting access to the customer’s location information to any person who is not a party to, or who is not necessary to the performance of, the service contract between the customer and such provider;

(C) require that all providers of location-based services or applications—

(i) restrict any collection, use, disclosure of, retention of, and access to customer location information to the specific purpose that is the subject of the express authorization of the customer concerned; and

(ii) not subsequently release a customer’s location information for any purpose beyond the purpose for which the customer provided express authorization;

(D) ensure the security and integrity of location data, and give customers reasonable access to their location data for purposes of verifying the accuracy of, or deleting, such data;

(E) be technology neutral to ensure uniform privacy rules and expectations and provide the framework for fair competition among similar services.

(F) require that aggregated location information not be disaggregated through any...
means into individual location information for any purpose; and
(G) not impede customers from readily utilizing location-based services or applications.

(2) PERMITTED USES.—The rules prescribed under subsection (a) may permit the collection, use, retention, disclosure of, or access to a customer’s location information without prior notice or consent to the extent necessary to—

(A) provide the service from which such information is derived, or to provide the location-based service that the customer is accessing;

(B) initiate, render, bill, and collect for the location-based service or application;

(C) protect the rights or property of the provider of the location-based service or application, or protect customers of the service or application from fraudulent, abusive, or unlawful use of, or subscription to, the service or application;

(D) produce aggregate location information; and

(E) comply with an appropriate court order.

(3) ADDITIONAL REQUIREMENT.—Under the rules prescribed under subsection (a), any third party receiving access to, a customer’s location information from a provider of location services or applications pursuant to the express authorization of the customer, may disclose or permit access to such information to any other person without the express authorization of the customer.

(4) EXPRESS AUTHORIZATION.—

(A) FORM.—For purposes of the rules prescribed under subsection (a), any authorization for receiving access to, a customer’s location information from a provider of location-based service or application, whether or not such person is also a provider of commercial mobile service (as that term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))

(b) RELATIONSHIP TO WIRELESS COMMUNICATIONS AND PUBLIC SAFETY ACT OF 1999.—The rules prescribed by the Commission under subsection (a) shall apply to any person that provides a location-based service or application, whether or not such person is also a provider of commercial mobile service (as that term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)).

(c) RELATIONS TO FEDERAL LAW.—The rules prescribed by the Commission under subsection (a) shall apply to any person that provides a location-based service or application, whether or not such person is also a provider of commercial mobile service (as that term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)).

(d) RELATIONSHIP TO WIRELESS COMMUNICATIONS AND PUBLIC SAFETY ACT OF 1999.—The rules prescribed by the Commission under subsection (a) shall be consistent with the amendments to section 222 of the Communications Act of 1934 (47 U.S.C. 222) made by section 5 of the Wireless Communications and Public Safety Act of 1999 (Public Law 106-81; 113 Stat. 1268), including the provisions of section 222(d)(4) of the Communications Act of 1934, as so amended, permitting use, disclosure, and access to location information to provide safety, fire, services, and other emergency services providers for purposes specified in subparagraphs (A), (B), and (C) of such section 222(d)(4).

(e) TAKING TITLE V FUNDS.—

(1) IN GENERAL.—No State or local government may adopt or enforce any law, regulation, or other legal requirement addressing the provider location information that is inconsistent with the rules prescribed by the Commission under subsection (a).

(2) PREEMPTION.—Any law, regulation, or requirement that is inconsistent with the rules prescribed by the Commission under subsection (a) that is in effect on the date of the enactment of this Act shall be preempted and superseded as of the effective date of the rules prescribed by the Commission under subsection (a).

(3) DEFINITIONS.—In this section:

(1) AGGREGATE LOCATION INFORMATION.—The term “aggregate location information” means a collection of location data relating to a group or category of customers from which individual customer identities have been removed.

(2) CUSTOMER.—The term “customer”, in the case of the provision of a location-based service or application with respect to a device, means the person entering into the contract or agreement with the provider of the location-based service or application for provision of the location-based service or application for the device.

By Mr. BIDEN (for himself, Mr. KOHL, and Mr. REED):

S. 1165. To require that, upon a person being convicted of juvenile crime, promote accountability by and rehabilitation of juvenile crime, punish and deter violent gang crime, and for other purposes; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise today to introduce, along with Senator KOHL and Senator REED, the Juvenile Crime Prevention and Control Act of 2001. This is a balanced bill that recognizes the need to get tough on juvenile crime and violence, attempts to break the dangerous link between kids and guns, and, most importantly, puts the Federal Government firmly behind the proposition that preventing juvenile violence is the most effective crime fighting measure any of us could craft.

Before I discuss the specifics of the bill, let me give a brief overview of the current state of juvenile crime in America. Juvenile crime, like almost all other categories of crime, is down. Last December’s released statistics that show the homicide arrest rate for juveniles down 68 percent from its 1993 peak. We are now experiencing the lowest rate of juvenile homicide arrests since 1986. Between 1994 and 1999, the arrest rate of juveniles for violent crimes, murder, rape, robbery, and aggravated assault, dropped 36 percent.

These statistics have not eased public concern about the scope and nature of juvenile crime. One 1998 poll showed that 62 percent of those asked believed juvenile crime was increasing. A poll conducted in 1999 revealed that 71 percent thought it likely that a shooting could occur in a school in their community. In the face of these popular perceptions, the Education Department reports that American children face a 1 in 2 million chance of being killed in their school.

Why the disparity? There are several reasons, in my opinion. First, and probably most importantly, the number of delinquent juvenile arrests of juveniles are unquestionably down, juvenile crime is still too high. The incidence of the most common crime committed by juveniles, property offenses, changed little throughout the last two decades. The rate of juvenile violent crime arrests has not yet returned to its 1988 level.

Second, and this cannot be understated, too many of our kids have access to guns, and those guns are finding their way into our Nation’s schools at an alarming rate. A report released last year by the Education Department revealed that over 3,500 students were expelled in 1998 and 1999 for bringing guns to school, that’s an average of 88 kids per school. The juvenile arrest rate for weapons crimes fell 30 percent from 1993 to 1999, but it too has not yet returned to 1988’s low point.

Third, the American people understand that crime cannot stay down forever. I like to say that fighting crime is like mowing the grass. If you don’t keep it cut, it just grows back up. We have good, demographic reasons to think this is particularly true in the case of juvenile crime. Today, there are approximately 39 million children younger than age 10. These kids, the children of the baby boom generation, stand on the edge of their teen years, the years when every reliable study reveals they are the most at-risk of turning to drugs and crime.

What does this mean for juvenile crime? Even if we do everything right, even if we fund programs that work, put incorrigible juveniles behind bars, crack down on gun crimes, the demographic inevitability of this so-called “baby boomerang” means there is likely to be a 20 percent increase in juvenile murders by 2005. Such a jump would increase the overall murder rate by 5 percent. Our challenge is to make sure that does not happen.

We need to take another look at the Juvenile Justice and Delinquency Prevention Act of 1974. That Act expired on September 30, 1996, and, despite the good efforts of several Congresses, Members on both sides of the aisle, and the prior Administration, it has not been reauthorized. We should get that job done in the 107th Congress. The bill I introduce today includes provisions to reauthorize the Act, to fine tune some of its grant provisions, and to make some common sense changes to our firearms laws, changes that respect the rights of gun owners, but hold them accountable.

My bill reauthorizes the Community Prevention Grant Program, commonly known as Title V. It funds this critical juvenile crime prevention initiative at $250,000,000 per year for the next six years and mandates that no State would receive less than $200,000 in annual prevention grants. These funding levels would more than double juvenile crime prevention funding, enough resources for localities to implement a comprehensive delinquency prevention strategy and then fund smart prevention programs that work. In Delaware, Title V funds have been used to sponsor programs to reduce school violence,
provide transition counseling to students returning to their local school from alternative school placement, reduce stress that these funds continue to flow to States and localities.

The bill also reauthorizes the Formula Grant Program for the next six years at $200,000,000 per year. I have included provisions to expand and the permissible uses of these funds so as to make clear that employment training, mental health treatment, and other effective programs that meet the needs of children and youth in the juvenile system could be funded. The bill reauthorizes state-level court through a reporting requirement. It emphasizes the disruption and prosecution of gangs. It extends the juvenile justice mentoring program, and adds a pilot program to encourage and develop mentoring initiatives that focus on entire communities. The bill also includes funds for grants to States to upgrade and enhance their juvenile felony criminal record histories.

My bill includes important provisions to continue the core protections for incarcerated youths that were included in the original Juvenile Justice and Delinquency Prevention Act of 1974. It continues the Act’s function of protecting children from abuse and assault by adults in jails by prohibiting any contact between juveniles and adult inmates. The bill ensures that children are not detained in any jail or lockup for adults, except for very limited periods of time and under very limited circumstances. And it continues current law’s requirement that States address the disproportionate number of minority children in confinement.

The bill authorizes $500,000,000 per year over the next six years for the Juvenile Accountability Block Grant program. While the formula has been almost the same for the last six years, this program has never been authorized. Its purpose is to strengthen State juvenile justice systems. States would receive funds as long as they implement or consider implementing graduated sanctions, though this condition can be lifted through a reporting requirement. The language I have included in my bill is drawn from H.R. 863, a measure which is currently working its way through the other body. I am supportive of that measure, as it will provide much needed funds for States to hire additional prosecutors, juvenile court judges, probation officers, and court-appointed defenders and special advocates. In years past, my State has used these funds to establish a Serious Juvenile Offender program through the Delaware Division of Youth Rehabilitative Services, which provides an immediate secure placement of violent youth offenders who have violated the terms of their probation. Delaware has also used these funds to expand diversionary programs such as Teen Court, thus reducing the time between arrest and disposition of juvenile offenders, and to add psycho-forensic evaluators in the Delaware Office of the Public Defender to identify and address mental illness as a cause for delinquent conduct. This is a good program and it needs to be authorized.

My bill also reauthorizes the Violent Crime Reduction Trust Fund. The Trust Fund, created in the 1994 Crime Bill, has been the key to our successful fight against crime over the past several years. Unfortunately, it expired in 2000. The Violent Crime Reduction Trust Fund was the vehicle for providing billions of dollars to State and local governments to implement a variety of law enforcement and crime-fighting initiative, from the COPS program to the Violence Against Women Act to youth violence programs. Without the Trust Fund, I fear we may not have the resources necessary to continue our struggle to keep our streets safe. I am pleased to include provisions in this bill that will extend the Fund through fiscal year 2007.

Finally, the bill I am introducing today includes several common sense gun safety provisions. First, it incorporates Senator Reed’s Gun Show Background Check Act. This language will ensure that criminals cannot purchase guns at gun shows, and I applaud Senator Reed for his leadership in this area. Second, I have included Senator Kohl’s Child Safety Lock Act. This moderate provision would require handguns to be sold with government-certified trigger locks. Studies indicate trigger locks save lives; I was pleased to see the Administration’s endorsement of this idea in its budget request for the upcoming fiscal year; and I thank Senator Kohl, for including his bill in this larger measure today. Third, the bill would extend the Brady Law to dangerous juvenile offenders. This provision would make it unlawful for any person adjudicated a juvenile delinquent for serious drug offenses or violent felonies to possess firearms. This is an important step toward getting guns out of the hands of criminals, and its enactment will prevent violent juveniles from accessing weapons and thus make it difficult for them to commit gun crimes as adults.

This is not a perfect bill, and I am not wedded to each and every line. I welcome comments from my colleagues, the juvenile justice community, and anyone interested in preventing and controlling juvenile crime. I am committed, however, to renewing our efforts to keep our children and our communities safe from crime and violence. I am committed to protecting our kids through meaningful prevention and intervention programs, to cracking down on drugs and the violence that accompanies them, and to ensuring that meaningful, appropriate and swift punishment is imposed on all juvenile offenders. I believe the Juvenile Crime Prevention and Control Act that I introduce today is an important step toward accomplishing these goals.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Juvenile Crime Prevention and Control Act of 2001”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—JUVENILE CRIME PREVENTION AND CONTROL

Sec. 101. Findings; declaration of purpose; definitions.
Sec. 102. Juvenile crime control and prevention.
Sec. 103. Juvenile offender accountability.
Sec. 104. Extension of violent crime reduction trust fund.

TITLE II—PROTECTING CHILDREN FROM VIOLENCE

Subtitle A—Gun Show Background Checks
Sec. 201. Short title.
Sec. 203. Extension of Brady background checks to gun shows.

Subtitle B—Gun Ban for Dangerous Juvenile Offenders
Sec. 211. Permanent prohibition on firearms transfers to or possession by dangerous juvenile offenders.

Subtitle C—Child Safety Locks
Sec. 221. Short title.
Sec. 222. Requirement of child handgun safety locks.
Sec. 223. Amendment of consumer product safety act.

TITLE III—JUVENILE CRIME PREVENTION AND CONTROL

Sec. 301. Findings; declaration of purpose; definitions.
Title I of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661 et seq.) is amended to read as follows:

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

Sec. 101. FINDINGS.

“Congress finds that—
(1) the juvenile crime problem should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting—
(A) quality prevention programs that—
(i) work with juveniles, their families, local public agencies, and community-based organizations, and take into consideration such factors as whether juveniles have ever been the victims of family violence (including child abuse and neglect); and
(ii) are designed to reduce risks and develop competencies in at-risk juveniles that will prevent, and reduce the rate of, violent delinquent behavior; and
"(B) programs that assist in holding juveniles in custody or that are implementing a system of graduated sanctions to respond to each delinquent act, requiring juveniles to make restitution, or perform community service for the damage caused by their delinquent acts, and methods for increasing victim satisfaction with respect to the penalties imposed on juveniles for their acts; and

"(2) action is required now to reform the Federal juvenile justice program by focusing on juvenile delinquency prevention programs to improve or protect juvenile and family involvement in the prevention and treatment of juvenile delinquency; and

SEC. 102. PURPOSES.

"(7) COMMUNITY-BASED.—The term ‘community-based’ means any activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, evaluation, training, and research, including—

"(A) drug and alcohol abuse programs;

"(B) any program or activity that is designed to improve the juvenile justice system; and

"(C) any program or activity that is designed to reduce known risk factors for juvenile delinquent behavior, by providing activities that build on protective factors for, and develop competencies in, juveniles to prevent and reduce the rate of juvenile delinquent behavior.

"(18) JUVENILE DELINQUENCY PROGRAM.—The term ‘juvenile delinquency program’ means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, evaluation, training, and research, including—

"(A) drug and alcohol abuse programs;

"(B) any program or activity that is designed to reduce known risk factors for juvenile delinquent behavior, by providing activities that build on protective factors for, and develop competencies in, juveniles to prevent and reduce the rate of juvenile delinquent behavior.

"(19) LAW ENFORCEMENT AND CRIMINAL JUSTICE.—The term ‘law enforcement and criminal justice’ means any activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, evaluation, training, and research, including—

"(A) drug and alcohol abuse programs;

"(B) any program or activity that is designed to reduce known risk factors for juvenile delinquent behavior, by providing activities that build on protective factors for, and develop competencies in, juveniles to prevent and reduce the rate of juvenile delinquent behavior.

SEC. 103. DEFINITIONS.

"In this Act:

"(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Office of Juvenile Crime Control and Prevention, appointed in accordance with section 201.

"(2) ADULT INMATE.—The term ‘adult inmate’ means an individual who—

"(A) has reached the age of full criminal responsibility under applicable State law; and

"(B) has been arrested and is in custody for, awaiting trial on, or convicted of criminal charges.


"(5) COLLOCATED FACILITIES.—The term ‘collocated facilities’ means facilities that are related in the same building, or are part of a related complex of buildings located on the same grounds.

"(6) COMBINATION.—The term ‘combination’ as applied to States or units of local government means any grouping or joining together of States or units of local government for the purpose of preparing, developing, or implementing a juvenile crime control and delinquency prevention plan.

"(7) COMMUNITY-BASED.—The term ‘community-based’ facility, program, or service means a small, open group home or other suitable place located near the home or family of the juvenile and programs of community supervision and service that maintain community and consumer participation in the planning, operation, and evaluation of those programs which may include, medical, educational, vocational, social, and psychological counseling, training, specialized education, counseling, alcoholism treatment, drug treatment, and other rehabilitative services.

"(8) COMPREHENSIVE AND COORDINATED SYSTEM OF SERVICES.—The term ‘comprehensive and coordinated system of services’ means a system that—

of local government, or any law enforcement agency, to obtain or detain or confine adults.

"(A) pending the filing of a charge of violating a criminal law;

"(B) who are awaiting trial on a criminal charge; or

"(C) who are convicted of violating a criminal law.

"(18) JUVENILE DELINQUENCY PROGRAM.—The term ‘juvenile delinquency program’ means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, evaluation, training, and research, including—

"(A) drug and alcohol abuse programs;

"(B) any program or activity that is designed to reduce known risk factors for juvenile delinquent behavior, by providing activities that build on protective factors for, and develop competencies in, juveniles to prevent and reduce the rate of juvenile delinquent behavior.

"(19) LAW ENFORCEMENT AND CRIMINAL JUSTICE.—The term ‘law enforcement and criminal justice’ means any activity related to crime prevention, control, or reduction or the enforcement of the criminal law, including police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of correctional institutions, parole agencies, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.


"(21) NONPROFIT ORGANIZATION.—The term ‘nonprofit organization’ means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

"(22) OFFICE.—The term ‘Office’ means the Office of Juvenile Crime Control and Prevention established under section 201.


"(24) OUTCOME OBJECTIVE.—The term ‘outcome objective’ means an objective that relates to the impact of a program or initiative, that measures the reduction of high risk behaviors, such as incidence of arrest, the commission of criminal acts or acts of delinquency, failure in school, violence, the use of alcohol or illegal drugs, involvement in youth gangs, violent and unlawful acts of animal cruelty, and teenage pregnancy, among youth in the community.

"(25) PROCESS OBJECTIVE.—The term ‘process objective’ means an objective that relates to the manner in which a program or initiative is carried out, including—

"(B) an objective relating to the degree to which the program or initiative is reaching the target population; and

"(26) PROHIBITED PHYSICAL CONTACT.—The term ‘prohibited physical contact’ means—

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SEC. 201. ESTABLISHMENT OF OFFICE.

(a) IN GENERAL.—The Office shall be headed by an Administrator, who shall be appointed by the Administrator, and who shall have the same authority as the directors of other offices and bureaus in the Office.

(b) OFFICERS.—The Administrator may appoint, and to fix the compensation of those officers and employees of the Office as the Administrator shall direct.

(c) DETAIL OF FEDERAL PERSONNEL.—Upon the request of the Administrator, the head of any Federal agency may detail, on a reimbursable basis, any of its personnel to the Administrator to assist the Administrator in carrying out the functions of the Administrator under this title.

(d) SERVICES.—The Administrator may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the rate now or hereafter payable under section 5376 of title 5, United States Code.

SEC. 202. PERSONNEL, SPECIAL PERSONNEL, EXPERTS, AND CONSULTANTS.

(a) NATIONAL JUVENILE CRIME PREVENTION, CONTROL, AND JUVENILE OFFENDER ACCOUNTABILITY PLAN.

(1) IN GENERAL.—Subject to the general authority of the Attorney General, the Administrator shall develop objectives, priorities, and short- and long-term plans, and shall implement overall policy and a strategy to carry out those plans, for all Federal juvenile crime prevention, juvenile offender accountability programs and activities relating to improving juvenile crime control, the rehabilitation of juvenile offenders, the prevention of juvenile crime, and the enhancement of accountability by offenders within the juvenile justice system in the United States.

(b) DELEGATION OF PERSO NS.—(A) IN GENERAL.—Each plan described in paragraph (1) shall.
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“(i) contain specific, measurable goals and criteria for assessing progress toward national juvenile crime control, prevention, and juvenile offender accountability programs, and Federal policies relating to juveniles prosecuted or adjudicated in the Federal courts; 

“(ii) implement and coordinate Federal juvenile crime control, prevention, and juvenile offender accountability programs and activities, including proposals for joint funding to be coordinated by the Administrator; 

“(iii) provide a detailed summary and analysis of the most recent data available indicating the number of juveniles taken into custody, the rate at which juveniles are taken into custody, the time served by juveniles in custody, and the trends demonstrated for assessing progress toward national juvenile crime control and juvenile offender accountability programs; and 

“(iv) provide a description of the activities for which amounts are expended under this title; 

“(v) provide specific information relating to the attainment of goals set forth in the plan, including specific, measurable standards for assessing progress toward national juvenile crime reduction and juvenile offender accountability goals; and 

“(vi) provide for the coordination of Federal, State, and local initiatives for the reduction of youth crime, preventing delinquency, and ensuring accountability for juvenile offenders. 

(B) SUMMARY AND ANALYSIS.—Each summary and analysis paragraph under subparagraph (A)(iii) shall set out the information required by clauses (i), (ii), and (iii) of this subparagraph separately for juvenile non-offenders, juvenile status offenders, and other juvenile offenders, and shall separately address with respect to each category of juveniles specified— 

“(i) the types of offenses with which the juveniles are charged; 

“(ii) the ages of the juveniles; 

“(iii) the programs and policies used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lock-ups; 

“(iv) the length of time served by juveniles in custody; and 

“(v) the number of juveniles who died or suffered serious bodily injury while in custody and the circumstances under which each juvenile died or suffered that injury. 

(C) DISPROPORTION OF SERIOUS BODILY INJURY.—In this paragraph, the term ‘serious bodily injury’ means bodily injury involving extreme physical pain or the impairment of a function of a bodily member, organ, or mental faculty that requires medical intervention such as surgery, hospitalization, or physical rehabilitation. 

“(D) ANNUAL REVIEW.—The Administrator shall annually— 

“(A) review each plan submitted under this subsection; and 

“(B) revise the plans, as the Administrator considers appropriate; and 

“(C) not later than March 1 of each year, present the plans to the Committee on the Judiciary of the Senate and the Committee on Education and the Workforce of the House of Representatives. 

(D) DUTIES OF ADMINISTRATOR.—In carrying out this title, the Administrator shall— 

“(1) advise the President through the Attorney General with respect to the administration of federally assisted juvenile crime control, prevention, and juvenile offender accountability programs, and Federal policies relating to juveniles prosecuted or adjudicated in the Federal courts; 

“(2) implement and coordinate Federal juvenile crime control, prevention, and juvenile offender accountability programs and activities, including proposals for joint funding to be coordinated by the Administrator; 

“(3) serve as a single point of contact for States, units of local government, and private entities for purposes of providing information and juvenile delinquency programs or for referral to other agencies or departments that operate such programs; 

“(4) provide for the auditing of grants provided pursuant to this title; 

“(5) collect, prepare, and disseminate usable data regarding the prevention, correction, and control of juvenile crime and delinquency, and issue, not less than once each calendar year, a report on successful programs or for referral to other agencies or departments that operate such programs; 

“(6) ensure the performance of comprehensive rigorous independent scientific evaluations, each of which shall— 

“(A) be independent in nature, and shall employ rigorous and scientifically valid standards and methodologies; and 

“(B) include measures of outcome and process objectives, such as reductions in juvenile crime, youth gang activities, youth substance abuse, and delinquency, as well as increases in protective factors that reduce the likelihood of delinquency and criminal behavior; 

“(C) consult with appropriate authorities in the States and with appropriate private entities regarding the development, review, and revision of the plans required by subparagraph (a) and the development of policies relating to juveniles prosecuted or adjudicated in the Federal courts; 

“(D) provide technical assistance to the States, to be used by any agency, organization, or private entity that administers a Federal juvenile crime control, prevention, and juvenile offender accountability program or activity; and 

“(E) ensure that the development statement transmitted under paragraph (1), together with the comments of the Administrator under subparagraph (A), shall be— 

“(i) included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation that significantly affects juvenile crime control, prevention, and juvenile offender accountability; and 

“(ii) made available for promulgation to and use by State and local government officials, and by nonprofit organizations involved in delinquency prevention programs. 

(F) JOINT FUNDING.—Notwithstanding any other provision of law, any funds available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile crime control, prevention, and juvenile offender accountability program or activity— 

“(A) participating in the development and use of program models developed through the Institute and through programs funded under section 254; and 

“(B) conducting an annual conference of the members of the National Juvenile Justice Governing Board and the State advisory groups appointed under section 222(b)(2) to assist that eligible organization in— 

“(1) providing technical and financial assistance to eligible organizations; 

“(2) disseminating information, data, standards, advanced techniques, and program models developed through the Institute and through programs funded under section 254; and 

“(3) reviewing and commenting on proposals for joint funding to be coordinated by the Administrator.
**SEC. 204. COMMUNITY PREVENTION GRANT PROGRAM.**

"(a) PURPOSE.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for youth who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to children, youth, and families of—

(1) recreation services;

(2) tutoring and remedial education;

(3) assistance in the development of work awareness skills;

(4) child and adolescent health and mental health services;

(5) alcohol and substance abuse prevention services;

(6) workforce development activities; and

(7) the teaching that people are and should be held accountable for their actions.

"(b) ELIGIBILITY.—The requirements of this subsection are—

(1) in compliance with the requirements of part B of title II;

(2) the unit has submitted to the State advisory group a 3-year plan outlining the local front end plans of the unit for investment for delinquency prevention and early intervention activities;

(3) the unit has included in its application to the Administrator for formula grant funds a summary of the 3-year plan described in paragraph (2);

(4) pursuant to its 3-year plan, the unit has appointed a local policy board of no fewer than 15 and no more than 21 members with the involvement of representatives from agencies and private, nonprofit organizations serving children, youth, and families and business and industry;

(5) the unit has, in order to aid in the prevention of delinquency, included in its application a plan for the coordination of services for at-risk youth and their families, including such programs as nutrition, energy assistance, and housing;

(6) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title;

(7) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.

"(c) PRIORITY.—In considering grant application under this section, the Administrator shall give priority to applicants that demonstrate—

(1) plans for service and agency coordination and collaboration including the collocalization of services;

(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities; and

(3) developing or enhancing a statewide substate or local government that is dedicated to early intervention and delinquency prevention.

**SEC. 205. GRANTS TO INDIAN TRIBES.**

"(a) IN GENERAL.—In each fiscal year, the Administrator shall make grants to Indian tribes for programs pursuant to the purposes specified in subsection (b), subject to the fiscal accountabilities, of Indian tribes that receive grants under this section.

"(b) APPLICATIONS.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, an Indian tribe shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

(2) PLANS.—Each application submitted under paragraph (1) shall include a plan for conducting projects described in section 204(a), which plan shall—

(A) provide evidence that the Indian tribe performs law enforcement functions as determined by the Secretary of the Interior;

(B) identify the juvenile justice and delinquency problems and juvenile delinquency prevention needs to be addressed by activities conducted by the Indian tribe in the area under the jurisdiction of the Indian tribe with assistance provided by the grant;

(C) provide for fiscal control and accounting procedures that—

(i) are necessary to ensure the prudent use, proper disbursement, and accounting of funds received under this section; and

(ii) are consistent with the requirements of subparagraph (A) of section 222 (c) of this title;

(D) comply with the requirements of section 222(a) (except that such subsection relates to consultation with a State advisory group) and with the requirements of section 222(c); and

(E) contain such other information, and be subject to such additional requirements, as the Administrator may reasonably prescribe to ensure the effectiveness of the grant program under this section.

"(c) FACTORS FOR CONSIDERATION.—In awarding grants under this section, the Administrator shall consider—

(1) the resources that are available to each applicant that will assist, and be coordinated with, the tribal juvenile justice system of the Indian tribe; and

(2) for each Indian tribe that receives assistance under such a grant—

(A) the relative juvenile population; and

(B) who will be served by the assistance provided by the grant.

"(d) GRANT AWARDS.—

(1) IN GENERAL.—

(A) COMPETITIVE AWARDS.—Except as provided in paragraph (2), the Administrator shall—

(i) annually award grants under this section on a competitive basis; and

(ii) enter into a grant agreement with each grant recipient under this section that specifies the terms and conditions of the grant.

(B) PERIOD OF GRANT.—The period of each grant awarded under this section shall be 2 years.

"(2) EXCEPTION.—In any case in which the Administrator determines that a grant recipient under this section has performed satisfactorily in the preceding year in accordance with an applicable grant agreement, the Administrator may—

(A) waive the requirement that the recipient be subject to the competitive award process described in paragraph (1)(A); and

(B) renew the grant for an additional grant period (as specified in paragraph (1)(B)).

"(3) MODIFICATIONS OF PROCESSES.—The Administrator may prescribe requirements to provide for appropriate modifications to the grant application and approval process specified in subsection (b) for an application for a renewal grant under paragraph (2)(B).

"(e) REPORTING REQUIREMENT.—Each Indian tribe that receives a grant under this section shall be subject to the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (20 U.S.C. 1251a), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(f) MACHINERY REQUIREMENT.—Funds appropriated by Congress for the activities of any agency of an Indian tribal government used to implement and administer law enforcement functions on any Indian lands may be used to provide the non-Federal share of any program or project with a matching requirement funded under this section.

"(g) TECHNICAL ASSISTANCE.—From the amount reserved under section 206(b) in each fiscal year, the Administrator shall reserve 1 percent for the purpose of providing technical assistance to recipients of grants under this part.

**SEC. 206. ALLOCATION OF GRANTS.**

"(a) IN GENERAL.—Subject to subsections (b), (c), and (d), the amount allocated under section 261 to carry out section 204 in each fiscal year shall be allocated to the States as follows:

(1) The amount allocated to any State shall not be less than $200,000.

(2) Not less than 75 percent of the funds made available under Part A of this title shall be used to carry out section 205.

"(b) RESERVATION OF FUNDS.—Notwithstanding any other provision of law, from the amounts allocated under section 261 to carry out section 204 and part B in each fiscal year the Administrator shall reserve an amount equal to the amount which all Indian tribes that qualify for a grant under section 205 would collectively be entitled, if such tribes were collectively treated as a State for purposes of subsection (a).

"(c) EXCEPTION.—The amount allocated to the Northern Mariana Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be less than $75,000 and not more than $100,000.

"(d) ADMINISTRATIVE COSTS.—A State, unit of local government, or eligible unit that receives funds under this part may not use more than 5 percent of those funds to pay for administrative costs.

**PART B—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS**

**SEC. 221. AUTHORITY TO MAKE GRANTS AND CONTRACTS.**

"(a) IN GENERAL.—The Administrator may make grants or contracts to or for Indian tribes, States or units of local government, or combinations thereof, to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs and other areas of juvenile delinquency and programs to improve the juvenile justice system.

"(b) TRAINING AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—With not to exceed 2 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants or contracts with public and private agencies, organizations, and individuals to provide training
and technical assistance to States, units of local government, and combinations thereof, and local private agencies to facilitate compliance with section 222 and implementation of the State plan approved under section 222(c).

(2) ELIGIBLE RECIPIENTS.—

(A) IN GENERAL.—Grants may be made to and contracts may be entered into under paragraph (2) with public and private agencies, organizations, and individuals that have experience in providing training and technical assistance required under paragraph (1).

(B) ACTIVITY COORDINATION.—In providing training and technical assistance required under paragraph (1), the recipient of a grant or contract under this subsection shall coordinate its activities with the State agency described in section 222(a)(1).

SEC. 222. STATE PLANS.

(a) Annual Plans.—In order to receive formula grants under this part, a State shall submit a plan, developed in consultation with the State Advisory Group established under section 222(c), to the Administrator, each of which shall describe the processes necessary to update the State plan, including monitoring, evaluation, and other one-time staff position.

(b) Allocation.—A portion of any allocation of formula grants to a State shall be available to develop a State plan or for other activities associated with such State plan which includes contracts and grants necessary to update the State plan, and shall describe the status of compliance with State plan requirements.

(c) Contents of Plan.—In accordance with regulations that the Administrator shall prescribe, a State plan shall—

(1) designate a State agency as the sole agency for supervising the preparation and administration of the State plan;

(2) contain satisfactory evidence that the State has developed in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement the State plan in conformity with this part;

(3) contain active coordination with and participation of units of local government in the development of a State plan that adequately takes into account the needs and requests of units of local government, except that nothing in the State plan requires, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies, including religious organizations;

(4) to the extent feasible and consistent with paragraph (5), provide for an equitable distribution of the assistance received with the State, including rural areas;

(5) contain provisions for the use of funds made available to the State under this part in accordance with the manner in which programs are expected to meet the identified juvenile crime and delinquency prevention needs (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the State (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of the performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime and delinquency prevention needs (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the State;

(6) an indication of the manner in which the programs relate to other similar State or local programs that are intended to address the same or similar problems; and

(7) a strategy for the concentration of State efforts, which shall coordinate all State juvenile crime control, prevention, and delinquency prevention programs with respect to overall policy and development of objectives and priorities for all State juvenile crime control and delinquency programs and activities, including the gathering of data on the activities and findings of State officials with responsibility in the area of juvenile justice and delinquency prevention;

(8) needed gender-specific services for the prevention and treatment of juvenile delinquency;

(9) needed services for the prevention and treatment of juvenile delinquency in rural areas;

(10) needed health care services and mental health services to juveniles in the juvenile justice system;

(11) projects designed to deter involvement with, participation in, and participation in unlawful activities on the part of juveniles, including educational failure, with responsible adults (such as law enforcement officers, adults working with local businesses, and adults working with community-based organizations) who are properly screened and trained;

(12) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize, refer, and provide for learning disabled and other juveniles with disabilities;

(13) projects designed to deter involvement in illegal activities and promote involvement in lawful activities, including the development of programs to encourage juveniles to remain at home with their families, in order to reduce the likelihood that those juvenile offenders will commit crimes) and juvenile justice and delinquency prevention programs for purposes of establishing treatment plans for juvenile offenders;

(14) programs designed to provide for the treatment for a youth who is dependent on or abuses alcohol or other addictive or nonaddictive drugs;

(15) comprehensive juvenile crime control and delinquency prevention programs that meet the needs of youth through the collaboration of public and private private/agencies and organizations, including the use of graduated sanctions and of neighborhood courts or panels that increase victim satisfaction and require juveniles to make restitution for the damage caused by their actions;

(16) juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of public and private agencies and organizations, including the use of graduated sanctions and of neighborhood courts or panels that increase victim satisfaction and require juveniles to make restitution for the damage caused by their actions;

(17) that may promote the complete treatment of the juveniles and the preservation of their families;
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(8) programs that utilize multidisciplinary approaches to enhance management and information sharing, that enable the juvenile justice and law enforcement agencies, schools, and social service agencies to make more informed decisions regarding early identification, investigation, supervision, and treatment of juveniles who repeatedly committed violent or serious delinquent acts;

(9) programs designed to prevent and reduce hate crimes committed by juveniles;

(10) court supervised initiatives that address the illegal possession of firearms by juveniles;

(11) programs for positive youth development that provide delinquent youth and youth at-risk of delinquency with—

(i) an ongoing relationship with a caring adult (such as a mentor, tutor, coach, or shelter youth worker);

(ii) safe places and structured activities during nonschool hours;

(iii) a healthy start;

(iv) a marketable skill through effective education; and

(v) an opportunity to give back through community service;

(12) programs and projects that provide comprehensive post-placement services that help prevent kids from re-offending and successfully re-integrate back into the community, including mental health services, substance abuse treatment, counseling, education, and employment training;

(13) programs and services designed to identify and address the health and mental health needs of youth; and

(14) programs that have been proven to be successful in preventing delinquency, such as Multi-Systemic Therapy, Multi-Dimensional Treatment Foster Care, Functional Family Therapy, and the Bullying Prevention Program;

(15) provide—

(A) a juvenile who is charged with or who has committed an offense that would not be criminal if committed by an adult shall not be placed in a secure detention facility or secure correctional facility unless the juvenile—

(i) was charged with or committed a violation of section 922(x)(2) of title 18, United States Code, or of a similar State law;

(ii) was not charged with or committed a violation of a valid court order; or

(iii) was held in accordance with the Interstate Compact on Juveniles as enacted by the State; and

(B) a juvenile shall not be placed in a secure detention facility or secure correctional facility if the juvenile—

(i) is not charged with any offense; and

(ii) is—

(A) an alien; or

(B) alleged to be dependent, neglected, or abused;

(16) provide—

(A) a juvenile who is alleged to be or found to be delinquent or a juvenile who is described in paragraph (11) will not be detained or confined in any institution in which prohibited physical contact or sustained oral and visual contact with an adult immediate occurs, other non-Federal funds.

(B) there is in effect in the State a policy that requires an individual who works with both juveniles and adult inmates, including in correctional facilities, to be trained and certified to work with juveniles;

(17) provide that no juvenile will be detained or confined in any jail or lockup for adults or older youth;

(A) juveniles who are accused of non-status offenses and who are detained in such jail or lockup for a period not to exceed 6 hours—

(i) for processing or release;

(ii) while awaiting transfer to a juvenile facility; or

(iii) in which period such juveniles make a court appearance;

(B) juveniles who—

(i) are accused of nonstatus offenses;

(ii) are awaiting an initial court appearance that will occur within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays); and

(iii) are accused of a crime or are awaiting trial on criminal charges;

(18) where conditions of safety exist (such as severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance shall be delayed until 24 hours after the time that such conditions allow for reasonable safe travel;

(19) provide assurances that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency and—

(A) provide assurances that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency and—

(B) approaches under subparagraph (A) should include the involvement of grandparents or other extended family members, when possible, and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible;

(20) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to the services provided to any individual under the State plan;

(21) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

(22) provide reasonable assurances that Federal funds made available under this part for any period shall be used to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would, in the absence of the Federal funds, be made available for the programs described in this part, and shall in no event replace the State, local, and other non-Federal funds;

(23) provide that the State agency designated under paragraph (1) shall, not less than 4 years younger than that convicted person, be tested for the presence of a sexually transmitted disease and that the results of that test be provided to the victim or to the family of the victim as well as to any court or other government agency with primary authority for sentencing the person convicted for the commission of the sexual act or sexual contact (as those terms are defined in paragraphs (2) and (3), respectively, of section 2246 of title 18, United States Code);

(24) provide that if a juvenile is taken into custody for violating a valid court order issued for committing a sexual offense—

(A) an appropriate public agency shall be promptly notified that the juvenile is being taken into custody for violating the court order;

(B) that within 24 hours of the juvenile being taken into custody, an authorized representative of the public agency shall interview the juvenile in person; and

(C) that within 48 hours of the juvenile being taken into custody—

(i) the authorized representative shall submit an assessment regarding the immediate needs of the juvenile to the court that issued the order; and

(ii) the court shall conduct a hearing to determine—

(25) whether there is reasonable cause to believe that the juvenile violated the order; and

(26) the appropriate placement of the juvenile pending disposition of the alleged violation;

(27) specify a percentage, if any, of funds received by the State under section 221 that the State reserve for expenditure by the State to provide incentive grants to units of local government, to the extent that those funds are spent consistent with the State plan, except that direct funding of any local private agency by a State shall be permitted only if the local private agency requests direct funding from the State agency has applied for and been denied funding by a unit of general local government.
"(24) provide for the establishment of youth courts, or 'juvies' in school districts in the State to promote zero tolerance policies with respect to misdemeanor offenses, acts of juvenile delinquency, and other antisocial behavior occurring on school property, including truancy, vandalism, underage drinking, and underage tobacco use; and

"(25) provide for projects to coordinate the delivery of adolescent mental health and substance abuse services to children at risk by coordinating councils composed of public and private service providers.

"(26) provide assurances that—

"(A) any assistance provided under this title will not cause the displacement (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) of any currently employed employee;

"(B) activities assisted under this title will not impair an existing collective bargaining relationship, contract for services, or collective bargaining agreement; and

"(C) no assistance would be inconsistent with the terms of a collective bargaining agreement shall not be undertaken without the written concurrence of the labor organization involved.

"(27) address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, and lockups who are members of minority groups, if such proportion exceeds the proportion such groups represent in the general population.

"(e) APPROVAL BY STATE AGENCY.—

"(1) STATE AGENCY.—The State agency designated under subsection (d)(1) shall approve the State plan and any modification of that plan prior to submission of the plan to the Administrator.

"(2) STATE ADVISORY GROUP.—

"(A) ESTABLISHMENT.—The State advisory group referred to in subsection (d) shall be known as the ‘State Advisory Group’.

"(ii) MEMBERS.—The State Advisory Group shall—

"(I) consist of representatives from both the private and public sector, each of whom shall be appointed for a term of not more than 2 years, and

"(II) include not less than 1 prosecutor and not less than 1 judge from a court with a juvenile crime or delinquency docket.

"(iii) MEMBER EXPERIENCE.—The State shall ensure that members of the State Advisory Group shall have experience in the area of juvenile delinquency prevention, the prosecution of juvenile offenders, the treatment of juvenile delinquency, the investigation of juvenile crimes, or the administration of juvenile justice programs.

"(iv) CHAIRPERSON.—The chairperson of the State Advisory Group shall not be a full-time employee of the Federal Government or the State government.

"(B) CONSULTATION.—

"(i) IN GENERAL.—The State Advisory Group established under subparagraph (A) shall—

"(I) participate in the development and review of a State plan under this section before the plan is submitted to the supervisory agency for final action; and

"(II) have the opportunity to review and comment, not later than 30 days after the submission to the State Advisory Group, on all juvenile justice and delinquency prevention applications submitted to the State agency designated under subsection (d)(1).

"(ii) AUTHORITY.—The State Advisory Group shall report to the chief executive officer and the legislature of a State that has submitted a plan, on an annual basis regarding recommendations related to the compliance by that State with this section.

"(C) FUNDING.—From amounts reserved for administrative costs, the State may make available to the State Advisory Group such sums as may be necessary to assist the State Advisory Group in adequately performing its duties under this paragraph.

"(d) COMPLIANCE WITH STATUTORY REQUIREMENTS.—If a State fails to comply with any of the applicable requirements of paragraph (11), (12), (13), (27) of subsection (d) in any fiscal year beginning after September 30, 2001, the amount allocated to that State for the subsequent fiscal year shall be reduced by not to exceed 12.5 percent for each such paragraph with respect to which the failure occurs, unless the Administrator determines that the State—

"(1) has achieved substantial compliance with the applicable requirements with respect to which the State was not in compliance; and

"(2) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance with the applicable requirements within a reasonable time.

"SEC. 223. ALLOCATION OF GRANTS.

"(a) IN GENERAL.—Subject to subsections (b), (c), and (d), of the amount allocated under section 261 to carry out this part in each fiscal year that remains after reservation under section 206(b) for that fiscal year—

"(1) no State shall be allocated less than $750,000; and

"(2) the amount remaining after the allocation under paragraph (1) shall be allocated proportionately based on the juvenile population in the eligible States.

"(b) SYSTEM SUPPORT GRANTS.—Of the amount allocated under section 261 to carry out this part, not to exceed 10 percent of that part that remains after reservation under section 206(b) for that fiscal year, up to 10 percent may be available for use by the Administrator to provide—

"(1) training and technical assistance consistent with the purposes authorized under sections 203, 204, and 221;

"(2) direct grant awards and other support to develop, test, and demonstrate new approaches to improving the juvenile justice system and reducing, preventing, and abating delinquent behavior, juvenile crime, and youth violence;

"(3) for research and evaluation efforts to discover and test methods and practices to improve the juvenile justice system and reduce, prevent, and abate delinquent behavior, juvenile crime, and youth violence; and

"(4) [other provisions]

"(c) EXCEPTION.—The amount allocated to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 and not more than $100,000.

"(d) ADMINISTRATIVE COSTS.—A State, unit of local government, or eligible unit that receives funds under this part may not use more than 5 percent of those funds to pay for administrative costs.

"PART C—GANG-FREE SCHOOLS AND COMMUNITY-BASED GANG INTERVENTION

"SEC. 231. DEFINITION OF JUVENILE.

"In this part, the term ‘juvenile’ means an individual who has not attained the age of 22 years.

"SEC. 232. GANG-FREE SCHOOLS AND COMMUNITIES.

"(a) IN GENERAL.—

"(1) FAMILY AND COMMUNITY GRANTS.—The Administrator shall make grants to or enter into contracts with public agencies (including educational agencies), nonprofit organizations, public and private agencies, organizations, and institutions to establish and support programs and activities that involve families and communities and that are designed to—

"(A) prevent and reduce the participation of juveniles in criminal gang activity by providing—

"(I) Individual, peer, family, and group counseling, including a provision of life skills training and preparation for living independently, which shall include cooperation with local and state services, welfare, and health care programs;

"(ii) education, recreation, and social services designed to address the social and developmental needs of juveniles who are or may become members of gangs; and

"(iii) an organization of neighborhood and community groups to work closely with parents, schools, law enforcement, and other public and private agencies in the community; and

"(B) develop within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles who have been involved in drug-related and other offenses;

"(C) target elementary school students, with the purpose of steering students away from gang involvement;

"(D) provide treatment to juveniles who are members of gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent;

"(E) promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes;

"(F) promote and support, with the cooperation of community-based organizations experienced in providing services to juveniles engaged in gang-related activities and the cooperation of local law enforcement agencies, the development of policies and activities in public elementary and secondary schools that will assist those schools in maintaining a safe environment conducive to learning;

"(G) assist juveniles who are or may become members of gangs to obtain appropriate educational instruction, in or outside a regular school program, including the provision of counseling and other services to juveniles who may be required to participate in programs provided for these juveniles in the instructional programs;
(B) expand the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substance analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802)) by juvenile justice, education, and public and private health and social services agencies;  

(I) provide services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity;  

(J) provide services authorized in this section and carried out in a school, housing project or other appropriate site; or  

(K) support activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this section.  

(2) Research and Evaluation.—From not more than 15 percent of the total amount appropriated to carry out this part in each fiscal year, the Administrator may make grants to and enter into contracts with public agencies and private nonprofit agencies, organizations, and institutions located in the geographical area in which the applicant proposes to carry out the programs and activities for which the grants and contracts are requested, and  

(C) for assistance for programs and activities that—  

(I) are broadly supported by public and private nonprofit agencies, organizations, and institutions located in the geographical area in which the applicant proposes to carry out the programs and activities; and  

(ii) will substantially involve the families of juvenile gang members in carrying out the programs or activities.  

(SEC. 233. Community-Based Gang Intervention.  

(g) IN GENERAL.—The Administrator shall make grants to or enter into contracts with public and private nonprofit agencies, organizations, and institutions to carry out programs and activities—  

(I) to reduce the participation of juveniles in the illegal activities of gangs;  

(2) to develop regional task forces involving State, local, and community-based organizations, and institutions to carry out the programs and activities; and  

(2) APPLICATION CONTENTS.—In accordance with guidelines established by the Administrator, each application submitted under paragraph (1) shall—  

(A) set forth a program or activity for carrying out 1 or more of the purposes specified in subsection (a), and specifically identify each purpose the program or activity is designed to carry out;  

(B) provide that the program or activity shall be administered by or under the supervision of the applicant;  

(C) provide for the proper and efficient administration of the program or activity;  

(D) provide for regular evaluation of the program or activity;  

(E) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;  

(F) describe how the program or activity is coordinated with programs, activities, and services available locally under part B of this title and under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (22 U.S.C. 11801–11805);  

(G) certify that the applicant has requested the State planning agency to review and comment on the application and to summarize the responses of that State planning agency to the request;  

(H) provide that regular reports on the program or activity shall be sent to the Administrator and to the State planning agency; and  

(I) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.  

(3) Preity.—In reviewing applications for grants and contracts under this section, the Administrator shall give priority to an application—  

(A) submitted by, or substantially involving, a local educational agency (as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891));  

(B) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles in the geographical area in which the applicant proposes to carry out the programs and activities for which the grants and contracts are requested; and  

(C) for assistance for programs and activities that—  

(I) are broadly supported by public and private nonprofit agencies, organizations, and institutions located in the geographical area in which the applicant proposes to carry out the programs and activities; and  

(ii) will substantially involve the families of juvenile gang members in carrying out the programs or activities.  

(7) Supporting activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this section.  

(c) Approval of Applications.—  

(1) IN GENERAL.—Any agency, organization, or institution that seeks to receive a grant or enter into a contract under this section shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe.  

(2) APPLICATION CONTENTS.—In accordance with guidelines established by the Administrator, each application submitted under paragraph (1) shall—  

(A) set forth a program or activity for carrying out 1 or more of the purposes specified in subsection (a), and specifically identify each purpose the program or activity is designed to carry out;  

(B) provide that the program or activity shall be administered by or under the supervision of the applicant;  

(C) provide for the proper and efficient administration of the program or activity;  

(D) provide for regular evaluation of the program or activity;  

(E) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;  

(F) describe how the program or activity is coordinated with programs, activities, and services available locally under part B of this title and under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (22 U.S.C. 11801–11805);  

(G) certify that the applicant has requested the State planning agency to review and comment on the application and to summarize the responses of the State planning agency to the request;  

(H) provide that regular reports on the program or activity shall be sent to the Administrator and to the State planning agency; and  

(I) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.  

(3) Priority.—In reviewing applications for grants and contracts under subsection (a), the Administrator shall give priority to an application—  

(4) Promoting the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes;  

(5) Expanding the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substance analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802)), by juveniles, provided through State and local health and social services agencies;  

(6) Providing services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity; or  

(7) Supporting activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this section.  

(D) APPROVAL OF APPLICATIONS.—  

(1) IN GENERAL.—Any agency, organization, or institution that seeks to receive a grant or enter into a contract under this section shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe.  

(2) APPLICATION CONTENTS.—In accordance with guidelines established by the Administrator, each application submitted under paragraph (1) shall—  

(A) set forth a program or activity for carrying out 1 or more of the purposes specified in subsection (a), and specifically identify each purpose the program or activity is designed to carry out;  

(B) provide that the program or activity shall be administered by or under the supervision of the applicant;  

(C) provide for the proper and efficient administration of the program or activity;  

(D) provide for regular evaluation of the program or activity;  

(E) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;  

(F) describe how the program or activity is coordinated with programs, activities, and services available locally under part B of this title and under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (22 U.S.C. 11801–11805);  

(G) certify that the applicant has requested the State planning agency to review and comment on the application and to summarize the responses of the State planning agency to the request;  

(H) provide that regular reports on the program or activity shall be sent to the Administrator and to the State planning agency; and  

(I) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.  

(3) Priority.—In reviewing applications for grants and contracts under subsection (a), the Administrator shall give priority to an application—  

(4) Providing services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity; or  

(5) Expanding the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substance analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802)), by juveniles, provided through State and local health and social services agencies;  

(6) Providing services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity; or  

(7) Supporting activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this section.  

(7) Supporting activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this section.  

This page has been reviewed by the Office of the Federal Register, National Archives and Records Administration, according to 5 U.S.C. 552 (a).
“(A) submitted by, or substantially involving, a public or private organization experienced in providing services to juveniles.

“(B) based on the incidence and severity of crimes committed by gangs whose membership is comprised primarily of juveniles in the geographical area in which the applicant proposes to carry out the programs and activities for which the grants and contracts are requested; and

“(C) for assistance for programs and activities that—

“(i) are broadly supported by public and private agencies, organizations, and institutions located in the geographical area in which the applicant proposes to carry out the programs and activities; and

“(ii) would involve families of juvenile gang members in carrying out the programs or activities.

SEC. 234. PRIORITY.

“In making grants under this part, the Administrator shall give priority to funding programs and activities described in subsections (a)(2) and (b)(1) of section 233.

PART D—DEVELOPING, TESTING, AND DEMONSTRATING NEW INITIATIVES AND PROGRAMS

SEC. 241. GRANTS AND PROJECTS.

“(a) AUTHORITY TO MAKE GRANTS.—The Administrator may make grants to, and enter into contracts with, States, units of local government, Indian tribal governments, public and private agencies, organizations, and individuals, or combinations thereof, to carry out projects for the development, testing, and demonstration of promising initiatives and programs for the prevention, control, or reduction of juvenile delinquency.

“(b) DISTRIBUTION.—The Administrator shall ensure that, to the extent reasonable and practicable, a grant made under subsection (a) is made to achieve an equitable geographical distribution of such projects throughout the United States.

“(c) USE OF GRANTS.—A grant made under subsection (a) may be used to pay all or part of the cost of the project for which the grant is made.

SEC. 242. GRANTS FOR TRAINING AND TECHNICAL ASSISTANCE.

“The Administrator may make grants to, and enter into contracts with, public and private agencies, organizations, and individuals to provide training and technical assistance to States, units of local government, Indian tribal governments, local private entities or agencies, or any combination thereof, to carry out the projects for which grants are made under section 241.

SEC. 243. ELIGIBILITY.

“To be eligible to receive assistance pursuant to a grant or contract under this part, a public or private organization, Indian tribal government, organization, institution, individual, or combination thereof, shall submit an application to the Administrator at such time, in such form, and containing such information as the Administrator may reasonably require by rule.

SEC. 244. REPORTS.

“Each recipient of assistance pursuant to a grant or contract under this part shall submit to the Administrator reports as may be reasonably requested by the Administrator to describe progress achieved in carrying the projects for which the assistance was provided.

PART E—MENTORING

SEC. 251. MENTORING.

“The purposes of this part are to, through the use of mentors for at-risk youth—

“(1) reduce juvenile delinquency and gang participation; and

“(2) improve academic performance; and

“(3) reduce the dropout rate.

SEC. 252. DEFINITIONS.

“In this part—

“(1) AT-RISK YOUTH.—The term ‘at-risk youth’ means a youth at risk of educational failure, dropping out of school, or involvement in criminal activity.

“(2) MENTOR.—The term ‘mentor’ means a person who works with an at-risk youth on a one-to-one basis, provides a positive role model for the youth, and establishes a supportive relationship with the youth, and provides the youth with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the youth to become a responsible adult.

SEC. 253. GRANTS.

“(a) LOCAL EDUCATIONAL GRANTS.—The Administrator shall make grants to local education agencies and nonprofit organizations to establish and support programs and activities for the purpose of implementing mentoring programs that—

“(1) are designed to link at-risk children, particularly children living in high crime areas and children experiencing educational failure, with responsible adults such as law enforcement officers, persons working with local businesses, elders in Alaska Native villages, and the local community.

“(2) improve academic performance; and

“(3) reduce juvenile delinquency.

“(b) DISTRIBUTE.—The Administrator shall ensure that, to the extent reasonable and practicable, grants made under section (a) are made to achieve an equitable geographical distribution of such programs throughout the United States.

“(c) USE OF GRANTS.—A grant made under subsection (a) may be used to pay all or part of the cost of the project for which the grant is made.

SEC. 254. REGULATIONS AND GUIDELINES.

“(a) PROGRAM GUIDELINES.—To implement this part, the Administrator shall issue program guidelines which shall be effective only after a period for public notice and comment.

“(b) MODEL SCREENING GUIDELINES.—The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.

SEC. 255. USE OF GRANTS.

“(a) PERMITTED USES.—Grants awarded under this part shall be used to implement mentoring programs, including—

“(1) the hiring of mentoring coordinators and support staff;

“(2) the recruitment, screening, and training of adult mentors;

“(3) the reimbursement of mentors for reasonable incidental expenditures, such as transportation, that are directly associated with mentoring; and

“(4) such other purposes as the Administrator may reasonably prescribe by regulation.

“(b) PROHIBITED USES.—Grants awarded pursuant to this part shall not be used—

“(1) to directly request the services of any individual, except as provided pursuant to subsection (a)(3);

“(2) to obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the operations of the grantee;

“(3) to support litigation of any kind; or

“(4) for any other purpose reasonably prohibited by the Administrator by regulation.

SEC. 256. PRIORITY.

“(a) IN GENERAL.—In making grants under this part, the Administrator shall give priority for awarding grants to applicants that—

“(1) serve at-risk youth in high crime areas;

“(2) have 60 percent or more of the youth eligible to receive funds under the Elementary and Secondary Education Act of 1965;

“(3) have a considerable number of youths who drop out of school each year;

“(4) provide a mentoring approach that matches volunteer families with at-risk families allowing parents to work directly with their children; and

“(5) develop community-based organizations and agencies.

“(6) have an after-school program for volunteering.

“(b) FAMILY-TO-FAMILY MENTORING GRANTS.—

“(1) DEFINITIONS.—In this subsection:

“(A) FAMILY-TO-FAMILY MENTORING PROGRAM.—The term ‘family-to-family mentoring program’ means a mentoring program that—

“(i) utilizes a 2-tier mentoring approach that matches volunteer families with at-risk families allowing parents to work directly with their children;

“(ii) has an after-school program for volunteers and at-risk families.

“(B) POSITIVE ALTERNATIVES PROGRAM.—The term ‘positive alternatives program’ means a positive youth development and family-to-family mentoring program that emphasizes drug and gang prevention components.

“(C) QUALIFIED POSITIVE ALTERNATIVES PROGRAM.—The term ‘qualified positive alternative program’ means a positive alternatives program that has established a family-to-family mentoring program, as of the date of enactment of the Juvenile Crime Prevention and Control Act of 2001.

“(2) AUTHORITY.—The Administrator shall make and enter into contracts with a qualified positive alternative program.

SEC. 257. APPLICATIONS.

“An application for assistance under this part shall include—

“(1) information on the youth expected to be served by the program;

“(2) a provision for a mechanism for matching youth with mentors based on the needs of the youth;

“(3) an assurance that no mentor or mentoring family will be assigned a number of youths that would undermine the ability of the mentor to be an effective mentor and ensure a one-to-one relationship with mentored youths;

“(4) an assurance that projects operated in secondary schools will provide the youth with a variety of experiences and support, including—
(A) an opportunity to spend time in a work setting that is not otherwise encum-berable, a (B) an opportunity to witness the job skills that will be required for the youth to obtain employment upon graduation; (C) assistance with homework assignments; and (D) exposure to experiences that the youth might not otherwise encounter; and (5) an assurance that projects operated in elementary schools will provide the youth with— (A) academic assistance; (B) exposure to new experiences and activities; and (C) emotional support; (6) an assurance that projects will be monitored to ensure that each youth benef-its from a mentor relationship, and will include a provision for a new mentor assign-ment if the relationship is not beneficial to the youth; (7) the method by which a mentor and a youth shall be matched to the project; (8) the method by which a prospective mentor will be screened; and (9) the training that will be provided to a mentor.

**SEC. 258. GRANT CYCLES.** Each grant under this part shall be made for a 3-year period.

**SEC. 259. FAMILY MENTORING PROGRAM.** (a) DEFINITIONS.—In this section: (1) COOPERATIVE EXTENSION SERVICES.—The term ‘cooperative extension services’ means the cooperative extension service or services of the State or a unit of local government, and the programs, projects, and activities that are conducted by such service or services. (2) FAMILY MENTORING PROGRAM.—The term ‘family mentoring program’ means a mentoring program that— (A) utilizes a 2-tier mentoring approach that uses college-age or young adult mentors working directly with at-risk youth and uses retirement-age couples working with the parents and siblings of at-risk youth; and (B) has a local advisory board to provide direction and advice to program administra-tors. (3) QUALIFIED COOPERATIVE EXTENSION SERVICE.—The term ‘qualified cooperative extension service’ means a cooperative extension service that has established a family mentoring program, as of the date of enactment of the Juvenile Crime Prevention and Control Act of 2001. (b) MODEL PROGRAM.—The Administrator, in cooperation with the Secretary of Agri-culture, shall make a grant to a qualified co-operational family mentoring programs to reduce the incidence of juvenile crime and delinquency among at-risk youth. (c) ESTABLISHMENT OF NEW FAMILY MENTORING PROGRAMS.— (1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Agri-culture, may make 1 or more grants to coop-erative extension services for the purpose of establishing family mentoring programs to reduce the incidence of juvenile crime and delinquency among at-risk youth. (2) MATCHING REQUIREMENT AND SOURCE OF MATCH.— (A) IN GENERAL.—The amount of a grant under this subsection may not exceed 35 per-cent of the total costs of the program funded by the grant. (B) SOURCE OF MATCH.—Matching funds for grants under this subsection may be de-reived from amounts made available to a State under subsection (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 334), except that the total amount derived from Fed-eral sources may not exceed 70 percent of the total cost of the program funded by the grant.

**PART F—ADMINISTRATIVE PROVISIONS**

**SEC. 261. AUTHORIZATION OF APPROPRIATIONS.** (a) IN GENERAL.—There is authorized to be appropriated for— (1) the program or activity for which the grant or contract involved was made has been so changed that the program or activity no longer complies with this title; or (2) in the operation of such program or activity there is failure to comply substan-tially with any provision of this title.

**SEC. 262. ADMINISTRATIVE PROVISIONS.** (a) AUTHORITY OF ADMINISTRATOR.—The Director of the Bureau of Justice Statistics shall be considered to be a reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bu-reau of Justice Statistics shall be considered to be a reference to the Office of Juvenile Crime Control and Prevention; and (b) APPLICABILITY OF CERTAIN CRIME CONTROL AND SAFE STREETS ACT PROVISIONS.—Sections 809(c), 811(a), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789e et seq.) shall apply with respect to the administration of and compli ance with this title, except that, for purposes of this title— (1) any reference to the Office of Justice Programs in such sections shall be consid-ered to be a reference to the Assistant Attor-ney General who heads the Office of Justice Programs; (2) the term ‘this title’ as it appears in such sections shall be considered to be a refer-ence to this title. (c) APPLICABILITY OF CERTAIN OTHER CRIME CONTROL PROGRAMS.—Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789c(a), 3789c(c), and 3789e(d)) shall apply with respect to the administration of and compli ance with this title, except that, for purposes of this title— (1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Di-rector of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assist ance shall be considered to be a reference to the Administrator; (2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bu-reau of Justice Statistics shall be considered to be a reference to the Office of Juvenile Crime Control and Prevention; and (3) the term ‘this title’ as it appears in those sections shall be considered to be a refer-ence to this title.

**SEC. 263. RULES, REGULATIONS, AND PROCEDURES.**—The Administrator may, after approp-riate consultation with representatives of States and units of local government, and an opportunity for notice and comment in accordance with subchapter II of chapter 5 of part R of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789e et seq.), establish such rules, regulations, and procedures as are nec-essary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

**SEC. 264. WITHHOLDING.**—The Administrator shall initiate such proceedings as the Admin-istrator determines that are appropriate to withhold (or to reduce) any grant, if the Administrator, after giving reasonable no- tice and opportunity for hearing to a recipi-ent of financial assistance under this title, finds that— (1) the program or activity for which the grant or contract involved was made has been so changed that the program or activity no longer complies with this title; or (2) in the operation of such program or activity there is failure to comply substan-tially with any provision of this title.

**SEC. 265. JUVENILE OFFENDER ACCOUNT-ABILITY.** (a) GRANT PROGRAM.—Part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789e et seq.) is amend-ed to read as follows:

**PART R—JUVENILE ACCOUNTABILITY BLOCK GRANTS**

**SEC. 266. PROGRAM AUTHORIZED.** (a) IN GENERAL.—The Attorney General is authorized to provide grants to States, for use by States and units of local government, and in certain cases directly to specialty groups or individuals, for the purpose of— (1) developing, implementing, and adminis-tering graduated sanctions for juvenile of-fenders; (2) building, expanding, renovating, or op-erating temporary or permanent juvenile correction, detention, or community correc-tions facilities; (3) hiring juvenile court judges, probation officers, and court-appointed special advocates, and funding pretrial services for juvenile offenders, to promote the ef-fective and expeditious administration of the juvenile justice system, which includes— (i) developing, implementing, and adminis-tering graduated sanctions for juvenile of-fenders; (4) hiring additional prosecutors, so that more cases involving violent juvenile offend-ers can be prosecuted and case backlogs re-duced; (5) providing funding to enable prosecu-tors to address drug, gang, and youth vio-lence problems more effectively and for tech-nology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders;
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“(6) establishing and maintaining training programs for law enforcement and other court personnel with respect to preventing and controlling juvenile crime;

“(7) establishing juvenile gun courts for the prosecution and adjudication of juvenile firearm offenses;

“(8) establishing drug court programs for juvenile offenders that provide continuing judicial supervision over juvenile offenders with substance abuse problems and the integrated administration of other sanctions and services for such offenders;

“(9) maintaining a system of juvenile records designed to promote public safety;

“(10) establishing and maintaining inter-agency information-sharing programs that enable the juvenile and criminal justice systems, schools, and social services agencies to make more informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts;

“(11) establishing and maintaining accountability-based programs designed to reduce recidivism among juveniles who are referred by law enforcement personnel or agencies;

“(12) establishing and maintaining programs to conduct risk and need assessments of juvenile offenders that facilitate the effective early intervention and the provision of comprehensive services, including mental health screening and treatment and substance abuse testing and treatment to such offenders;

“(13) establishing and maintaining accountability-based programs that are designed to enhance school safety;

“(14) establishing and maintaining restorative justice programs;

“(15) establishing and maintaining programs to enable juvenile courts and juvenile probation officers to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism; and

“(16) hiring detention and corrections personnel, and establishing and maintaining training for such personnel to improve facility practices and programming.

“(c) Definition.—In this section the term ‘restorative justice program’ means—

“(1) a program that emphasizes the moral accountability of an offender toward the victim and the affected community; and

“(2) may include community reparations boards, restitution (in the form of monetary payment or service to the victim or, where no victim can be identified, service to the affected community), and mediation between victim and offender.

“SEC. 1802. Grant eligibility.

“(a) State Eligibility.—To be eligible to receive a grant under this part, a State shall submit to the Attorney General an application at such time, in such form, and containing such assurances and information as the Attorney General may require by guidelines, including—

“(1) information about—

“(A) the activities proposed to be carried out with such grant; and

“(B) the criteria by which the State proposes to assess the effectiveness of such activities on achieving the purposes of this part; and

“(2) assurances that the State and any unit of local government to which the State provides funding under section 1803(b), has in effect (or shall have in effect, not later than 1 year after the date that the State submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the unit submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the unit submits such application) policies and programs that provide for a system of graduated sanctions described in subsection (c).

“(b) Local Eligibility.—To be eligible to receive a grant, a unit of local government, other than a specially qualified unit, shall provide to the State—

“(A) information about—

“(i) the activities proposed to be carried out with such grant; and

“(ii) the criteria by which the unit proposes to assess the effectiveness of such activities on achieving the purposes of this part; and

“(B) such assurances as the State shall require, that, to the maximum extent applicable, the unit of local government has in effect (or shall have in effect, not later than 1 year after the date that the unit submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the unit submits such application) policies and programs, that provide for a system of graduated sanctions described in subsection (c).

“(c) Special Rule.—The requirements of paragraphs (1) and (2) of the total funds remaining after the date that the unit submits such application to the Attorney General under section 1803(e), except that information that is otherwise required to be submitted shall be submitted to the Attorney General.

“(d) Graduated Sanctions.—A system of graduated sanctions, which may be discretionary as provided in subsection (d), shall ensure, at a minimum, that—

“(1) sanctions are imposed on a juvenile offender for each delinquent offense;

“(2) sanctions escalate in intensity with each subsequent, more serious delinquent offense;

“(3) there is sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender; and

“(4) appropriate consideration is given to public safety and victims of crime.

“(e) Discretionary Use of Sanctions.—

“(1) IN GENERAL.—Except as provided in paragraph (2), each State which receives funds under subsection (a)(1) in a fiscal year shall distribute among units of local government that are eligible for funding under subsection (a) the amounts received.

“(2) Waiver.—The percentage referred to in paragraph (1) shall equal the percentage determined by subtracting the State percentage from 100 percent, if a State submits to the Attorney General an application for waiver that demonstrates that such a waiver results in a savings to the Federal Government.

“(f) Reporting Requirement if Graduated Sanctions Not Used.—

“(1) Juvenile Courts.—A State or unit of local government in which the imposition of graduated sanctions is discretionary shall require each juvenile court within its jurisdiction—

“(A) its system of graduated sanctions is discretionary

“(B) it demonstrates that it has promoted the use of a system of graduated sanctions by taking steps to encourage implementation of such a system by juvenile courts.

“(2) Reporting Requirement if Graduated Sanctions Used.—

“(A) of the total funds remaining after the date that the State submits such application for the most recent calendar year in which such data is available bears to the amount of remaining funds described in subparagraph (B) that is to be submitted to the Attorney General an application for the purposes specified in section 1801, not less than 7 percent of such amounts received.

“(B) Waiver.—The percentage referred to in paragraph (1) shall equal the percentage determined by subtracting the State percentage from 100 percent, if a State submits to the Attorney General an application for waiver that demonstrates that such a waiver results in a savings to the Federal Government.

“(g) Sec. 1803. Allocation and Distribution of Funds.

“(1) In General.—In accordance with regulations promulgated by the Attorney General, a State shall allocate to each unit of local government for which it receives funds under section 1803(b), a percentage from 100 percent, if a State submits to the Attorney General an application for waiver that demonstrates that such a waiver results in a savings to the Federal Government.

“(2) Waiver.—The percentage referred to in paragraph (1) shall equal the percentage determined by subtracting the State percentage from 100 percent, if a State submits to the Attorney General an application for waiver that demonstrates that such a waiver results in a savings to the Federal Government.

“(3) Allocations.—In making the distribution under paragraph (1), the State shall allocate to such units of local government an amount that bears to the aggregate amount of such funds as—

“(A) the sum of—

“(i) the product of—

“(B) State's average juvenile justice expenditures for such unit of local government for
the 3 most recent calendar years for which such data is available, or
(ii) the product of—
(1) one-quarter; multiplied by
(2) the average annual number of part 1 violent crimes in such unit of local government that are not affected by such operation in accordance with this subsection.

(c) Unavailability of Data for Units of Local Government.—If the State has reason to believe that the reported rate of part 1 violent crimes or juvenile justice expenditures for a unit of local government is insufficient or inaccurate, the State shall—
(1) with such methodology used by the unit to determine the accuracy of the submitted data; and
(2) if necessary, use the best available comparable data, including the number of violent crimes or juvenile justice expenditures for the relevant years for the unit of local government.

(d) Local Government with Allocations Less Than $10,000.—If under this section a unit of local government will deposit all payments received under this section any reference in such provisions to title I shall be deemed to include a reference to this part.

(e) Direct Grants to Speciallly Qualified Units.—

(f) Reports to Attorney General.—

(g) Title I Provisions.—Except as otherwise provided, the administrative provisions of title I shall apply to this part and all other provisions of this section any reference in such provisions to title I shall be deemed to include a reference to this part.

(h) Matching Funds.—

(i) Administrative Costs.—A State or unit of local government that receives funds under this part may use more than 0 percent of such funds to pay for administrative costs.

(j) Nonsupplanting Requirement.—Funds made available under this part may not be used to supplant State or local funds that are the same purpose as the funds made available under this part.

(k) Use of Funds in the Trust Fund.—

(1) IN GENERAL.—The Attorney General shall reserve not more than 50 percent of approved cost.

(l) Specialized or Customized Services.—

(m) Use of Funds.—

(n) Calculation of Assessments.—

(1) IN GENERAL.—The Attorney General shall pay to each State or unit of local government that receives funds under this part an amount that is equal to the product of—

(2) the first day of the payment period if the State has provided the Attorney General with the assurances required by subsection (b)

(3) repayment of unexpended amounts.

A (A) repayment required.—From amounts awarded under this part, a State or specially qualified unit shall repay to the Attorney General, before the expiration of the 36-month period beginning on the date of the one-time extension, by not more than 12 months, of the period referred to in paragraph (1).

(2) Penalty for Failure to Repay.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payment in future payment periods accordingly.

(3) Deposit of Amounts Repaid.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to States and specially qualified units.

(4) Deposit of Amounts Repaid.—

(c) Administrative Costs.—A State or unit of local government that receives funds under this part may use not more than 0 percent of such funds to pay for administrative costs.

(d) Nonsupplanting Requirement.—Funds made available under this part may not be used to supplant State or local funds that are the same purpose as the funds made available under this part.

(e) Matching Funds.—

(f) Reports to Congress.—Not later than 90 days after the last day of each fiscal year for which 1 or more grants are awarded under this part, the Attorney General shall submit to the Congress a report, which shall include—

(1) a summary of the information provided under subsection (a);

(2) the assessment of the Attorney General of the grant program carried out under this part; and

(3) such other information as the Attorney General considers appropriate.

(g) Definitions.

In this part:

(1) Unit of Local Government.—The term ‘unit of local government’ means—

(i) a county, township, city, or political subdivision of a county, township, or city, that is a unit of local government as determined by the Secretary of Commerce for general statistical purposes;

(ii) any law enforcement district or judicial enforcement district that—

(i) is established under applicable State law;

(ii) has the authority, in a manner independent of other State entities, to establish and maintain a publicly accessible criminal justice database; and

(iii) has the authority to establish and maintain a publicly accessible criminal justice database.

(h) Specialized or Customized Services.—

(i) General.—A State or specially qualified unit that receives funds under this part shall—

(ii) establish a trust fund in which the State or unit of local government that receives funds under this part shall deposit all payments received under this part; and

(iii) use any funds in the trust fund for the purposes specified under section 1805(b)(1) and any extension of that period under section 1805(b)(2).

By the authority vested in me by the Act of July 11, 2001, I determine that this part and the provisions of this part shall apply to this part and all other provisions of this section any reference in such provisions to title I shall be deemed to include a reference to this part.

S. 1805. Payment Requirements.

(a) Timing of Payments.—The Attorney General shall—

(i) pay to each State or unit of local government that receives funds under this part any amount allotted under this section to such State or unit; and

(ii) pay to each State or unit of local government that receives funds under this part any amount allotted under this section to such State or unit.
under this part only in accordance with section 1803(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b) and section 314 of the Congressional Budget Act of 1974).”.

**TITLE II—PROTECTING CHILDREN FROM GUN VIOLENCE**

Subtitle A—Gun Show Background Checks

**SECTION 201. SHORT TITLE.**

This subtitle may be cited as the “Gun Show Background Check Act of 2001.”

**SEC. 202. FINDINGS.**

Congress finds that—

(1) more than 4,400 traditional gun shows are held annually across the United States, attracting thousands of attendees per show and hundreds of Federal firearms licensees and nonlicensed firearms sellers;

(2) traditional gun shows, as well as flea markets and other organized events, at which a large number of firearms are offered for sale by Federal firearms licensees and nonlicensed firearms sellers, form a significant part of the national firearms market;

(3) firearms associated with gun shows and other organized events are exhibited or offered for sale or exchange at gun shows, flea markets, and other organized events move easily into substantially affected interstate commerce;

(4) in fact, even before a firearm is exhibited or offered for sale or exchange at a gun show, flea market, or other organized event, the gun, its component parts, ammunition, and the raw materials from which it is manufactured have moved in interstate commerce;

(5) gun shows, flea markets, and other organized events at which firearms are exhibited or offered for sale or exchange, provide a convenient and centralized commercial focal point at which firearms may be bought and sold anonymously, often without background checks and without records that enable gun tracing;

(6) at gun shows, flea markets, and other organized events at which guns are exhibited or offered for sale or exchange, criminals and other prohibited persons obtain guns without background checks and checks are not conducted on guns that cannot be traced to later crimes;

(7) many persons who buy and sell firearms at gun shows, flea markets, and other organized events cross State lines to attend these events and engage in the interstate transportation of firearms obtained at these events;

(8) gun violence is a pervasive, national problem that is exacerbated by the availability of guns at gun shows, flea markets, and other organized events;

(9) firearms associated with gun shows have been transferred illegally to residents of another State by Federal firearms licensees and nonlicensed firearms sellers, and have been involved in subsequent crimes including drug offenses, crimes of violence, property crimes, and illegal possession of firearms by felons and other prohibited persons; and

(10) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States to ensure, by means of this subtitle, that criminals and other prohibited persons do not obtain firearms at gun shows, flea markets, and other organized events.

**SEC. 203. EXTENSION OF CRIMINAL HISTORY CHECKS TO GUN SHOWS.**

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“35) GUN SHOW.—The term ‘gun show’ means any event—

as adjusted in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b) and section 314 of the Congressional Budget Act of 1974).”

**CONGRESSIONAL RECORD—SENATE**

July 1, 2001

**SEC. 104. EXTENSION OF VIOLENT CRIME REDUCTION PROGRAMS.**

(a) IN GENERAL.—Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) is amended by inserting at the end the following:

“(3) for fiscal year 2005, $6,458,000,000;

(4) for fiscal year 2005, $6,516,000,000;

(5) for fiscal year 2006, $6,616,000,000; and

(6) for fiscal year 2007, $6,774,000,000.

(b) DETERMINATION.—Title XVI of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211 et seq.) is amended by inserting after section 310001 the following:

**SEC. 310002. DISCRETIONARY LIMITS.**

“For the purposes of allocations made for the discretionary category pursuant to section 302(a) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)), the term ‘discretionary spending limit’ means—

(1) with respect to fiscal year 2002—

(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Budget Committee; and

(B) for the violent crime reduction category: $6,225,000,000 in new budget authority and $5,714,000,000 in outlays;

(2) with respect to fiscal year 2003—

(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Budget Committee; and

(B) for the violent crime reduction category: $6,169,000,000 in new budget authority and $6,020,000,000 in outlays;

(3) with respect to fiscal year 2004—

(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Budget Committee; and

(B) for the violent crime reduction category: $6,316,000,000 in new budget authority and $6,303,000,000 in outlays;

(4) with respect to fiscal year 2005—

(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Budget Committee; and

(B) for the violent crime reduction category: $6,458,000,000 in new budget authority and $6,303,000,000 in outlays;

(5) with respect to fiscal year 2006—

(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Budget Committee; and

(B) for the violent crime reduction category: $6,616,000,000 in new budget authority and $6,606,000,000 in outlays;
(A) at which 50 or more firearms are offered on sale, transfer, or exchange, if 1 or more of the firearms has been shipped or transported in, or otherwise affects, interstate or foreign commerce; and

(B) at which 51 or more than 20 percent of the exhibitors are firearm exhibitors;

(ii) there are not less than 10 firearm exhibitors;

(iii) 50 or more firearms are offered for sale, transfer, or exchange.

(36) **GUN SHOW PROMOTER.**—The term "gun show promoter" means any person who organizes, plans, promotes, or operates a gun show.

(37) **GUN SHOW VENDOR.**—The term "gun show vendor" means any person who exhibits, sells, offers for sale, transfers, or exchanges 1 or more firearms at a gun show, regardless of whether or not the person arranges with the gun show promoter for a fixed location from which to exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms.

(b) **REGULATION OF FIREARMS TRANSFERS AT GUN SHOWS.**

(1) **IN GENERAL.—**Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"(38) "

Richardson amendment of firearms transfers at gun shows

"(a) **REGISTRATION OF GUN SHOW PROMOTERS.**—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

"(1) registers with the Secretary in accordance with regulations promulgated by the Secretary; and

"(2) pays a registration fee, in an amount determined by the Secretary.

"(b) **RESPONSIBILITIES OF GUN SHOW PROMOTERS.**—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

"(1) before commencement of the gun show, verifies the identity of each gun show vendor participating in the gun show by examining a valid identification document (as defined in section 302(d)(1) of the gun control act of 1968), and maintains a copy of the records described in paragraph (1); and

"(2) before commencement of the gun show, requires each gun show vendor to sign—

"(A) a ledger with identifying information concerning the vendor; and

"(B) a notice advising the vendor of the obligations of the vendor under this chapter; and

"(3) notifies each person who attends the gun show of the requirements of this chapter, in accordance with such regulations as the Secretary shall prescribe; and

"(4) maintains a copy of the records described in paragraphs (1) and (2) at the permanent place of business of the gun show promoter for such period of time and in such form as the Secretary shall require by regulation.

"(c) **RESPONSIBILITIES OF TRANSFERRORS OTHER THAN LICENSEES.**—

"(1) **IN GENERAL.—**If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to receive a firearm from another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer to which the transfer is made under subsection (e) of this section.

"(2) **CRIMINAL BACKGROUND CHECKS.**—A person who is subject to the requirements of paragraph (1) shall not have a criminal conviction for a felony or a misdemeanor crime of violence.

"(3) **COMPLYING WITH REGULATIONS.**—A person who is subject to the requirements of paragraph (1) shall comply with the regulations promulgated by the Secretary.

"(4) **EFFECTIVE DATE.**—This section shall take effect 36 months after the date of the enactment of this section.

(c) **RESPONSIBILITIES OF MANUFACTURERS AND DEalers.**—

"(1) **IN GENERAL.—**Any person who transfers a firearm under section (e)(3)(A) or (e)(3)(B) of this section, the term 'firearm transaction'—

"(A) shall be on a form specified by the Secretary by regulation; and

"(B) shall not include the name or other identifying information relating to any person otherwise involved in the transfer who is not licenced under this chapter.

"(2) **EFFECTIVE DATE.**—This section shall take effect 36 months after the date of the enactment of this section.

"(d) **REGISTRATION OF MANUFACTURERS AND DEALERS.**—

"(1) **IN GENERAL.—**Any person who transfers a firearm under section (e)(3)(A) or (e)(3)(B) of this section, the term 'firearm transaction'—

"(A) shall be on a form specified by the Secretary by regulation; and

"(B) shall not include the name or other identifying information relating to any person otherwise involved in the transfer who is not licenced under this chapter.

"(3) **EFFECTIVE DATE.**—This section shall take effect 36 months after the date of the enactment of this section.

"(E) **RECORDS OF MANUFACTURERS AND DEALERS.**—

"(1) **IN GENERAL.—**Any person who transfers a firearm under section (e)(3)(A) or (e)(3)(B) of this section, the term 'firearm transaction'—

"(A) shall be on a form specified by the Secretary by regulation; and

"(B) shall not include the name or other identifying information relating to any person otherwise involved in the transfer who is not licenced under this chapter.

"(F) **EFFECTIVE DATE.**—This section shall take effect 36 months after the date of the enactment of this section.
Section 221. Permanent Prohibition on Firearm Transfers to or Possession by Dangerous Juvenile Offenders

(a) Definition.—Section 922(a)(20) of title 18, United States Code, is amended—
(1) by inserting ‘‘(A)’’ after ‘‘(20)’’;
(2) by redesigning subparagraphs ‘‘(A)’’ and ‘‘(B)’’ as clauses ‘‘(i)’’ and ‘‘(ii), respectively;’’;
(3) by inserting after subparagraph (A) the following:
‘‘(B) For purposes of subsections (d) and (g) of section 922, the term ‘‘adjudicated delinquent’’ means an adjudication of delinquency based upon a finding that the person accused of an offense—
(i) under paragraph (1) or (3) of section 922, the term ‘‘adjudicated delinquent’’ means an adjudication of delinquency which has been expunged or set aside, or for which a person has been pardoned or has had civil rights restored by the jurisdiction in which the conviction or adjudication of delinquency was entered, except that the record of such a conviction or adjudication of delinquency shall be considered a conviction or adjudication of delinquency unless (i) the expunction, set aside, pardon or restoration of civil rights is directed to a specific person, (ii) the State authority granting the expunction, set aside, pardon or restoration of civil rights is a conviction of such a crime or an adjudication of delinquency that the person’s record and reputation are such that the person will not act in a manner dangerous to public safety, and (iii) the expunction, set aside, pardon or restoration of civil rights expressly authorizes the person to ship, transport, receive or possess firearms. The requirement of this subparagraph for an individualized restoration of civil rights shall apply whether or not, under State law, the person’s civil rights were taken away by virtue of the conviction or adjudication.’’;
(b) Prohibition.—Section 922 of title 18, United States Code is amended—
(1) in subsection (d)—
(A) by striking ‘‘or’’ at the end of paragraph (8);
(B) by striking the period at the end of paragraph (9) and inserting ‘‘; or’’; and
(C) by inserting after paragraph (9) the following:
‘‘(10) who has been adjudicated delinquent.’’;
(2) in subsection (g)—
(A) by striking ‘‘or’’ at the end of paragraph (8);
(B) by striking the comma at the end of paragraph (9) and inserting ‘‘; or’’; and
(C) by inserting after paragraph (9) the following:
‘‘(10) who has been adjudicated delinquent.’’;
(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.
as evidence in any proceeding of any court, agency, or other entity, except with respect to an action to enforce this section.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a government action, to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(y) of that title.

(d) Civil Penalties.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking “or (f)” and inserting “(f), or (p);” and

(2) by adding at the end the following:

“(p) PENALTIES RELATING TO LOCKING DEVICES.—

“(1) IN GENERAL.—

“(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(y)(1) by a licensee, the Secretary may, after notice and opportunity for a hearing—

“(i) suspend or revoke any license issued to the licensee under this chapter; or

“(ii) subject that licensee to a civil penalty in an amount equal to not more than $10,000.

“(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 922(f).

“(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative proceeding or any criminal proceeding for good cause.

“(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to impose any penalty under any provision of chapter 13 of subtitle A of title 18, United States Code.

“(4) DEFINITIONS.—In this section:

“(1) CHILD.—The term ‘child’ means an individual who has not attained the age of 13 years.

“(2) LOCKING DEVICE.—The term ‘locking device’ has the meaning given that term in clauses (i) and (ii) of section 921(a)(38)(A) of title 18, United States Code.

“(b) CONFORMING AMENDMENT.—Section 1 of the Consumer Product Safety Act is amended by adding at the end of the table of contents the following:

“Sec. 38. Child handgun safety locks.’’.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Consumer Product Safety Commission $2,000,000 to carry out the provisions of section 38 of the Consumer Product Safety Act, such sums as necessary to remain available until expended.

Mr. KOHL. Mr. President, I rise today with Senator BIDEN to introduce the Juvenile Crime Prevention and Control Act.

This bill is an important step forward in the debate on juvenile justice. It is a comprehensive approach that recognizes prevention and enforcement are indispensable partners in combating juvenile crime. This bill addresses the issues most important to our communities, to the police, to the teachers, to the social workers, and most importantly, to the at-risk children whom we need to help. The legislation does this by giving crime prevention programs the priority, attention, and funding they deserve while recognizing that enforcement programs are indispensable to safer communities.

Let me begin with the legislation. The Juvenile Crime Prevention and Control Act increases the authorization of Title V, the Community Prevention Grant program, to $250 million. I worked closely with Senator BROWN to create the VICTIMS program in 1992 because we listened to local law enforcement experts who told us that prevention works. Almost a decade later, they still say the same thing: a crime bill without adequate prevention is only a half-measure. That’s just common sense.

Congress has slowly realized the merits of crime prevention funding. Since 1992, funding for Title V has increased from $20 million to $95 million. Unfortunately, almost two-thirds of that money has been consistently earmarked for purposes other than crime and delinquency prevention. The bill remedies this problem by ensuring that at least 75 percent of all Title V Community Prevention Grants be spent on pure prevention and not set aside for other purposes.

We now know that crime prevention programs like Title V work. Studies prove that crime prevention programs mean less crime. For example, a RAND Study found that crime prevention efforts were three times more cost-effective than increased punishment. A study of the Big Brothers/Bigsisters’ mentoring program showed that mentees were 46 percent less likely to use drugs, 27 percent less likely to use alcohol, 33 percent less likely to commit assault, and skipped 50 percent fewer days of school. A University of Wisconsin study of 64 after-school programs found that participating children became better students and developed improved conflict resolution skills; in addition, vandalism decreased at one third of the schools that participated in the programs.

One of the reasons these programs work is that Title V is designed to let the people with the real expertise do what they know best. Title V is a flexible program of direct local grants. The flexibility permits each community, through a local planning board of experts from the community, to determine how to best fight juvenile crime and delinquency. Title V trusts each community to address its unique problems.

Law enforcement officials appreciate the importance of juvenile crime prevention programs and crave more. Last year, I surveyed every sheriff and chief of police in Wisconsin and found that 100 percent of Wisconsin’s sheriffs and 100 percent of the police chiefs of Wisconsin’s largest cities who responded to the questionnaire believe more Federal money needs to be spent on crime prevention programs. Similarly, more than 80 percent of the police chiefs of small and mid-size cities in Wisconsin want more prevention funding.

When asked how much of Federal juvenile crime funding should go to prevention, these same law enforcement officials answer that close to 40 percent should be spent on prevention programs, far more than the current level of prevention funding. The Juvenile Crime Prevention and Control Act of 2001 listens to what local law enforcement experts have been telling us for years and addresses their concerns.

Congress, of course, prevention is not the sole answer to juvenile crime. Indeed, we need a comprehensive crime-fighting strategy aimed at juvenile offenders and potential offenders, from violent
predators to children at-risk of becoming delinquent. This legislation understands that. Tough law enforcement playing the last does. Certain violent juveniles should be incarcerated, and hopefully rehabilitated, and this bill provides the States with sufficient funds to get them off the streets and safeguard our communities.

Finally, no sensible juvenile crime fighting strategy is complete if it does not address the toxic combination of children and guns. This bill does that as well by mandating the sale of child safety locks with every handgun and insisting that those locks are designed well enough to work as intended.

Each year, teenagers and children are involved in more than 10,000 accidental shootings in which close to 800 people die. In addition, every year 1,300 children use firearms to commit suicide. Safety locks can be effective in deter ring some of these incidents and in preventing others.

The sad truth is that we are inviting disaster every time an unlocked gun is stored, but is still easily accessible to children. The guns are kept in 43 percent of American households with children. In 23 percent of the gun households, the guns are kept loaded. And, in one out of every eight of those homes the guns are left unlocked.

During the last decade, crime rates, including juvenile crime rates, have decreased. Since 1994, the juvenile arrest rate for violent crime has dropped 36 percent. Nonetheless, the public perceives that juvenile crime is a growing problem, especially school violence.

We need to remain vigilant and think creatively about how to maintain this trend in falling juvenile crime. This measure provides a comprehensive approach. Prevention, enforcement, and keeping guns out of the hands of children are three essential elements to a common sense juvenile crime strategy.

By Mr. BINGAMAN (for himself and Mr. DEWINE):
S. 1166. A bill to establish the Next Generation Lighting Initiative at the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today with Senator DeWine to introduce a bill authorizing the Secretary of Energy to lead the United States into the next generation of lighting technology. If this bill is enacted, I believe it will allow us not only to maintain a world leadership role that Thomas Edison invented Incandescent lighting relies on running a current through a wire to heat it up and illuminate your surroundings. Only 5 percent of the electricity in a conventional bulb is converted into visible light. The second type of lighting is fluorescent lights, which use a combination of chemical vapors, mainly mercury, to discharge light when current is passed through it. Fluorescent lights are six times more efficient than a light bulb.

As I have mentioned, today’s lighting uses up about 19 percent of our electricity supply. In 1998, lighting electricity cost about 47 billion dollars which accounted for about 100 million tons of carbon equivalent from fossil fuels. This is the problem. We need to address.

Today, this paradigm is changing, because some scientists recently made a leap ahead in lighting research. Technology leaps displace, very quickly, traditional markets. We know the stories: cell phones, personal computers, digital cameras, telephones, the telephone, the Internet.

That is why Senator DeWINE and I are proposing this legislation, because some advances have been made in the areas of solid state lighting that require a national investment that no one lighting industry can match. This emerging technology has the capability to disrupt our existing lighting markets. So quickly in fact, that other countries have formed consortia between their governments, industries, laboratories and universities. Solid state lighting is being taken very seriously around the world.

Let me describe solid state lighting. The basic element of solid state lighting is diodes, or "LED’s", found in digital clocks. LED’s produce only one color but they do not burn up a wire like a bulb and are seven times more efficient.

Until recently LED’s were limited to yellow or red. That all changed in 1995. In 1995, some Japanese researchers developed a blue LED. Soon other bright colors started to emerge, such as green. That is when things started to change. Because, white light is a combination of red, blue, the recent Japanese breakthrough, and green or yellow. The recent Japanese breakthrough of that simple blue LED has now made it possible to produce white light from LED’s ten times more efficient than a light bulb.

If it is successful, white light LED’s will revolutionize lighting technology and will disrupt the existing industries. It’s imperative that we move quickly on these advances. We need a consortia of government, research labs and academia to develop the necessary pre-competitive research to maintain our leadership role in this field.

I would like to mention one other technology that will change lighting. That technology is found in your cell phone. Three Nobel Prizes were just awarded for this technology. Conductive polymers offer the possibility of covering large surface areas and replacing fluorescent lamps. These materials will not only provide white light, but like your computer screen, display text or programmed color pictures. These technologies can be Internet controlled to adjust building lighting across the country.

Given these advances, I would like to describe the Next Generation Lighting Initiative Act. If enacted, it will move our country to capture these revolutionary mergers between lighting and information. It will supply the necessary pre-competitive R&D which no one industry alone can provide, and, which we as holders of the public trust of basic research owe a duty to further. It will keep the United States in a leadership role of commercial lighting while promoting energy efficiency that can either be ten times that of incandescent lights or twice that of fluorescent lights. We need to enact this legislation now.

The Next Generation Lighting Initiative authorizes the Department of Energy to grant up to $680 million over ten years to a consortium of the United States lighting industry and research institutions. The goals of the Act are to have a 25 percent penetration of solid state lighting into the commercial markets by the year 2012. The Next Generation’s consortium will perform the basic and manufacturing research. The lighting industry will take this R&D and develop the necessary technologies to make it commercially viable.

This is precompetitive research. It is research that no one industry by itself can achieve and which we have a duty to promote together with industry. It has implications for our country’s energy policy far broader than economic competitiveness. It is the reduction in energy consumption that makes it a national initiative. Once the pre-competitive research is transitioned to industry then it should be terminated, we think that will take about 10 years.

If this initiative is successful, then by 2025, it can reduce our energy consumption by roughly 17 billion watts of power or the need for 17 large electricity generating plants. That’s as much as 17 million homes consume in a single day. That’s more homes than in all of California, Oregon, and Washington combined.

Let me conclude that the Next Generation Lighting Initiative will carry the U.S. lighting industry into the twenty-first century. It capitalizes on technologies that have emerged...
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only five years ago but have the poten-
tial to quickly displace our lighting in-
dustry. This Initiative will reduce our na-
tional energy consumption and green-
house gas emission. The research ne-
necessary to advance this technology re-
quires a national investment that must be in partnership with industry.

I encourage my colleagues to review this bill, offer their comments, and, join Senator DeWINE and me in its bi-
partisan support. I ask unanimous con-
sent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1166
Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in Congress as-
assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as “Next Generation Lighting Initiative Act”.

SEC. 2. FINDING.
Congresses have agreed that it is in the economic and energy security interests of the United States to encourage the development of white light emitting diodes by providing financial assistance to firms, or a consortium of firms, and supporting research organiza-
tions in the lighting development sectors.

SEC. 3. DEFINITIONS.
In this Act:

(1) CONSTITUENCY.—The term “constituency” means the Next Generation Lighting Initiative Com-
mittee established under section 5(b).

(2) INORGANIC WHITE LIGHT EMITTING DIODE.—The term “inorganic white light emitting diode” means a semiconducting package that produces white light using externally applied voltage.

(3) LIGHTING INITIATIVE.—The term “Lighting Initiative” means the Next Generation Lighting Initiative established by section 4(a).

(4) ORGANIC WHITE LIGHT EMITTING DIODE.—The term “organic white light emitting diode” means an organic semiconducting compound that produces white light using externally applied voltage.

(5) PLANNING BOARD.—The term “planning board” means the Next Generation Lighting Initiative Planning Board established under section 6(a).

(6) RESEARCH ORGANIZATION.—The term “research organization” means an organization that performs or promotes research, de-
velopment, and demonstration activities with respect to white light emitting diodes.

(7) SECRETARY.—The term “Secretary” means the Secretary of Energy, acting through the Assistant Secretary of Energy for Energy Efficiency and Renewable Energy.

(8) WHITE LIGHT EMITTING DIODE.—The term “white light emitting diode” means—

(A) an inorganic white light emitting diode; and

(B) an organic white light emitting diode.

SEC. 4. NEXT GENERATION LIGHTING INITIATIVE.

(a) ESTABLISHMENT.—There is established in the Department of Energy a lighting ini-
tiative to be known as the “Next Generation Lighting Initiative” to research, develop, and conduct demonstration activities on white light emitting diodes.

(b) OBJECTIVES.—The objectives of the Lighting Initiative shall be to develop, by 2011, white light emitting diodes that, com-
pared to incandescent and fluorescent light-
ing technologies, are—

(A) longer lasting;

(B) more energy-efficient; and

(C) cost-competitive.

(2) INORGANIC WHITE LIGHT EMITTING DIODE.—The objective of the Lighting Initiative with respect to inorganic white light emitting diodes shall be to develop an inor-
ganic white light emitting diode that has an efficiency of 160 lumens per watt and a 10-
year lifetime.

(3) ORGANIC WHITE LIGHT EMITTING DIODE.—The objective of the Lighting Initiative with respect to organic white light emitting diodes shall be to develop an organic white light emitting diode with an efficiency of 100 lumens per watt with a 5-year lifetime that—

(A) illuminates over a full color spectrum;

(B) covers large areas over flexible sur-
faces; and

(C) does not contain harmful pollutants typical of fluorescent lamps such as mer-
cury.

SEC. 5. ADMINISTRATION.

(a) PLANNING BOARD.

(1) IN GENERAL.—The Secretary shall estab-
lish a planning board, to be known as the “Next Generation Lighting Initiative Plan-
ning Board”, to assist the Secretary in de-
veloping and implementing the Lighting Ini-
tiative.

(2) COMPOSITION.—The planning board shall be com-
posed of—

(A) 4 members from universities, national laboratories, and other individuals with ex-
pertise in white lighting, to be appointed by the Secretary;

(B) 3 members nominated by the consor-
tium and appointed by the Secretary;

(C) STUDY.—

(I) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the planning board shall complete a study on strategies for the development and imple-
mentation of white light emitting diodes.

(ii) REQUIREMENTS.—The study shall—

(A) develop a comprehensive strategy to im-
plement, through the Lighting Initiative, the use of white light emitting diodes to in-
crease energy efficiency and enhance United States competitiveness; and

(B) identify the research and development, manufac-
turing, and market barriers that must be overcome to achieve a goal of a 25 percent market penetration by white light emitting diode technologies into the incandescent and fluorescent lighting markets by the year 2012.

(C) IMPLEMENTATION.—As soon as prac-
ticable after the study is submitted to the Secretary, the Secretary shall implement the Lighting Initiative in accordance with the recommenda-
tions of the planning board.

(b) CONSORTIUM.

(1) IN GENERAL.—The Secretary shall sol-
licit the establishment of a consortium, to be known as the “Next Generation Lighting Initiative Consortium”, to initiate and man-
age basic and manufacturing related re-
search contracts on white light emitting di-
des for the Lighting Initiative.

(ii) COMPOSITION.—The consortium may be composed of firms, national laboratories, and other entities so that the consortium is representational of the United States solid state lighting industry as a whole.

(ii) FUNDING.—The consortium shall be funded by—

(A) membership fees; and

(B) grants provided under section 6.

SEC. 6. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall make grants to firms, the consortium, and re-
search organizations to conduct research, de-
velopment, and demonstration projects re-
lated to white light emitting diode tech-
nologies.

(b) REQUIREMENTS.—To be eligible to re-
ceive a grant under this section, a consor-
tium shall—

(I) enter into a consortium participation agreement that—

(A) is agreed to by all members; and

(B) describes the responsibilities of partici-
pants, membership fees, and the scope of re-
search activities; and

(II) develop a Lighting Initiative annual program plan.

(c) ANNUAL REVIEW.

The annual independent review of firms, the consortium, and research organizations receiving a grant under this section shall be conducted by—

(I) a committee appointed by the Secre-
tery under the Federal Advisory Com-
mittee Act (5 U.S.C. App.); or

(II) a committee appointed by the Na-
tional Academy of Sciences.

(2) REQUIREMENTS.—Using clearly defined standards established by the Secretary, the rev-

(e) TECHNICAL AND FINANCIAL ASSIST-
ANCE.—The national laboratories and other pertinent Federal agencies shall cooperate with and provide technical and financial as-
sistance to firms, the consortium, and re-
search organizations conducting research, development, and demonstration projects carried out under this section.

(f) AUDITS.—

(1) IN GENERAL.—The Secretary shall retain an independent, commercial auditor to de-
termine the extent to which funds made available under this Act have been expended in accordance with paragraph (2).

(g) APPLICABLE LAW.—The Lighting Initia-
tive shall not be subject to the Federal Ac-
quision Regulation.

SEC. 7. PROTECTION OF INFORMATION.

The Federal Government on a confidential basis under this Act shall be considered to constitute trade secrets and commercial or financial informa-
tion obtained from a person and privileged or confidential under section 552(b)(4) of title 5, United States Code.
and Naturalization Service, INS, was private bill on behalf of Zhenfu Ge, a recently. Earlier this year I introduced a States. Nor will the beneficiary be sub-
and in some cases, face deportation. The sponsor, the beneficiary would not lose the line if the visa category is numeri-
have to file a new immigrant visa peti-
ond and sign the affidavit. Without the affidavit of support promising to provide for the support of the immi-
grant. This is the last step before a green card is issued. If the family sponsor dies while they have the chance to adjust status or receive an immigrant visa.

Under current law, a family member who petitions for a relative to receive an immigrant visa must sign a legally binding affidavit of support promising to provide for the support of the im-
igrant. This is the last step before a green card is issued. If the family sponsor dies while the green card applica-
tion is pending, the applicant is forced to find a new sponsor and restart the application process, usually a 7- to 8-year process, or face deportation.

The legislation I have introduced today would correct this anomaly in the law by permitting another family member to stand in for the deceased sponsor and sign the affidavit. Without this legislation, another relative who qualifies as a family sponsor would have to file a new immigrant visa peti-
tion on behalf of the relative and the relative would have to go to the end of the line if the visa category is numeri-
cally limited. Thus, the beneficiary would lose his priority date for a visa based on the filing of the first petition, and in some cases, face deportation.

With the passage of this legislation, even though the original sponsor may be a different sponsor, the beneficiary would not lose his or her priority date to be admitted as a permanent resident of the United States. Nor will the beneficiary be subject to deportation even though they meet all the requirements for an immigrant visa.

A classic example of this situation was presented to my office just recently. Earlier this year I introduced a private bill on behalf of Zhenfu Ge, a 73-year-old grandmother whose daughter died before the Immigration and Naturalization Service, INS, was able to complete the final stage of application process: her interview. As a result, her immigration application is no longer valid and she is now subject to deportation. Whose petition was introduced would allow her to adjust her status, given that she has met all the requirements for a visa.

In previous years, I have introduced other private bills which eventually became law. One bill was on behalf of Sucha Kwong whose husband was killed in a car accident just weeks before her final interview with the INS. In 1997, I introduced a private bill on behalf of Jasmin Salehi, a Korean im-
migrant who became ineligible for per-
manent residency after her husband was murdered at a Denny’s in Reseda, California, where he worked as a man-
ger.

In all of these cases, a family’s grief was compounded by the prospect of the deportation of Family member, who had met all the requirements for a green card. This legislation is an effi-
cient way to alleviate the need for pri-
vate legislation under these cir-
cumstances by making the law more just for those who have chosen to be-
come immigrants in our country through the legal process.

We introduce the “Family Immigra-
tion Act of 2001,” in the hopes that it will go further to alleviate some of the hardships families face when con-
fronted by the untimely death of a sponsor. Similar legislation has gained bipartisan support in the House of Rep-
resentatives. I look forward to working with my colleagues to move it quickly through the Senate.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1167

Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Family Sponsor Immigration Act of 2001”.

SEC. 2. SUBSTITUTION OF ALTERNATIVE SPON-
SOR IF ORIGINAL SPONSOR HAS DIED.

(a) PERMITTING SUBSTITUTION OF ALTERN-
ATIVE CLOSE FAMILY SPONSOR IN CASE OF DEATH OF PETITIONER.—

(1) RECOGNITION OF ALTERNATIVE SPONSOR.— Section 213A(f)(5) of the Immigration and Nationality Act (8 U.S.C. 1183a(f)(5)) is amended to read as follows:

“(5) NON-PETITIONING CASES.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who:

(A) accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immi-
grant under paragraph (4) and who dem-
onstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line; or

(B) is a legal guardian of a sponsored alien, meets the requirements of paragraph (1) (other than subparagraph (D)), and executes an affi-
davit of support with respect to such alien in a case in which—

(i) the individual petitioning under sec-
tion 204 for the classification of such alien died after the approval of such petition; and

(ii) the Attorney General has determined for humanitarian reasons that revocation of such petition under section 205 would be inap-
propriate.

(2) CONFORMING AMENDMENT PERMITTING SUBSTITUTION.—Section 212(a)(4)(C)(ii) of such Act (8 U.S.C. 1118a(a)(4)(C)(ii)) is amend-
ed by striking “(including any additional sponsor required under section 213A(f))” and inserting “(and any additional sponsor required under section 213A(f) or any alter-
native sponsor permitted under paragraph (5)(B) of such section)”.

(3) ADDITIONAL CONFORMING AMENDMENTS.— Section 213A(f) of such Act (8 U.S.C. 1183a(f)) is amend-
ed, in each of paragraphs (2) and (4)(B)(ii), by striking “(5).” and inserting “(5)(A).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with re-
spect to deaths occurring before, on, or after the date of the enactment of this Act, except that, in the case of a death occurring before such date, such amendments shall apply only if:

(1) the sponsored alien—

(A) requests the Attorney General to rein-
state the classification petition that was filed with respect to the alien by the de-
ceased and approved under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) before such death; and

(B) demonstrates that he or she is able to satisfy the requirement of section 212(a)(4)(C)(ii) of such Act (8 U.S.C. 1182(a)(4)(C)(ii)) by reason of such amend-
ments; and

(2) the Attorney General reinstates such petition after making the determination de-
scribed in section 213A(f)(3)(B)(ii) of such Act (as amended by such subsection).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 126—EX-
PRESSING THE SENSE OF THE SENATE REGARDING OBSER-
VANCE OF THE OLYMPIC TRUCE

Mr. DASCHLE (for himself, Mr. STE-
VENS, Mr. REID, Mr. CONRAD, Mr. HARKIN, Mr. DORGAN, and Mr. SARBANES) submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. Res. 126

Whereas the Olympic Games are a unique opportunity for international cooperation and the promotion of international understanding;

Whereas the Olympic Games bring to-
gether embattled rivals in an arena of peace-
ful competition;

Whereas the Olympic Ideal is to serve peace, friendship, and international under-
standing;

Whereas participants in the ancient Olymp-
ian Games, as early as 776 B.C., observed an Olympic ‘‘Truce’’ whereby the warring part-
ies ceased hostilities and laid down their weapons for the duration of the games and

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during the period of travel for athletes to and from the United States.

Whereas war extracts a terrible price from the civilian populations that suffer under it, and truces during war allow for the provision of humanitarian assistance to those suffering casualties;

Whereas truces may lead to a longer cessation of hostilities and, ultimately, a negotiated settlement and end to conflict;

Whereas the Olympics can and should be used as a tool for international public diplomacy, rapprochement, and building a better world;

Whereas terrorist organizations have used the Olympics not to promote international understanding but to perpetrate cowardly acts against innocent participants and spectators;

Whereas, since 1992, the International Olympic Committee has urged the international community to observe the Olympic Truce;

Whereas the International Olympic Committee and the Government of Greece established the Olympic Truce Center in Athens in 2004; and

Whereas the National Assembly of the United States, has three times called for member states to observe the Olympic Truce, most recently for the XXVIII Olympiad in Sydney, Australia: Now, therefore, be it

Resolved, SECTION 1. SENSE OF THE SENATE WITH RESPECT TO THE OLYMPIC TRUCE.

(a) COMMENDATION OF THE IOC AND THE GOVERNMENT OF GREECE.—The Senate commends the efforts of the International Olympic Committee and the Government of Greece to urge the international community to observe the Olympic Truce.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States Government should join efforts to use the Olympic Truce as an instrument to promote peace and reconciliation in areas of conflict; and

(2) the President should continue efforts to work with the Greeks.

SEC. 2. TRANSMISSION OF RESOLUTION.

The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that he further transmit such copy to the International Olympic Committee and the Government of Greece.

SENATE RESOLUTION 127—COMMENDING GARY SISCO FOR HIS SERVICE AS SECRETARY OF THE SENATE

Mr. LOTTT (for himself, Mr. DASCHEL, Mr. BYRD, and Mr. THURMOND) submitted the following resolution; which was considered and agreed to:—

Whereas, Gary Sisco faithfully served the Senate of the United States as the 29th Secretary of the Senate from the 104th to the 107th Congress, and discharged the difficult duties and responsibilities of that office with unfailing dedication and a high degree of competence and efficiency; and

Whereas, as an elected officer, Gary Sisco has upheld the processes and traditions of the United States Senate and extended his assistance to all Members of the Senate; and

Whereas, through his exceptional service and personal standards and traditions of the Senate of the United States, Gary Sisco has earned the respect, trust, and gratitude of his associates and the Members of the Senate; Now, therefore, be it

Resolved, That the Senate recognizes the contributions of Gary Sisco to the Senate and to his Country and expresses to him its appreciation for his faithful and outstanding service, and extends its best wishes in his future endeavors.

S. 2. The Secretary of the Senate shall transmit a copy of this resolution to Gary Sisco.

SENATE RESOLUTION 128—CALLING ON THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA TO IMMEDIATELY AND UNCONDITIONALLY RELEASE LI SHAOMIN AND ALL OTHER AMERICAN SCHOLARS OF CHINESE ANCESTRY BEING HELD IN DETENTION.

Resolved, That the Senate recognizes the efforts of the International Olympic Committee and the Government of the People's Republic of China to urge the International Olympic Committee to urge the People's Republic of China to observe the Olympic Truce during the period of travel for athletes to and from the games; and

That during the period of travel for athletes to and from the games, the Olympic Games; and

Whereas the United Nations General Assembly, with the strong support of the United States, has called for member states to observe the Olympic Truce;

Whereas the United States citizens and scholars who have been detained by the Government of the People's Republic of China for over more than 114 days, and has been formally charged with espionage for Taiwan on May 15, 2001, and is expected to go on trial on July 14, 2001;

Whereas Dr. Li Shaomin has been deprived of his basic human rights by arbitrary arrest and detention, has not been allowed to contact his wife and child (both United States citizens) and was prevented from seeing his lawyer for an unacceptably long period of time;

Whereas Dr. Gao Zhan is a permanent resident of the United States and scholar who has been detained by the Government of the People's Republic of China for more than 114 days, and was formally charged with “conspiring to obtain foreign influence” on April 4, 2001;

Whereas Dr. Gao Zhan has been deprived of her basic human rights by arbitrary arrest and detention, has not been allowed to contact her husband and child (both United States citizens) or Department of State consular personnel in China, and was prevented from seeing her lawyer for an unacceptably long period of time;

Whereas Wu Jianmin is a United States citizen and author who has been detained by the Government of the People's Republic of China, has been deprived of his basic human rights by arbitrary arrest and detention, has been denied access to lawyers and family members, and has yet to be formally charged with any crimes;

Whereas Qin Guangquang is a permanent resident of the United States and researcher of the Government of the People's Republic of China on suspicions of “leaking state secrets”, has been deprived of his basic human rights by arbitrary arrest and detention, has been denied access to lawyers and family members, and has yet to be formally charged with any crimes;

Whereas Tong Chunyan is a permanent resident of the United States, Falun Gong practitioner, and researcher who has been sentenced to three years in prison for spying by the Government of the People's Republic of China, apparently for conducting research which documented violations of the human rights of Falun Gong adherents in China, has been deprived of her basic human rights by being placed on trial; her appeal to the Beijing Higher People's Court was denied on May 11, 2001;

Whereas Liu Yaping is a permanent resident of the United States and a businessman who was arrested and detained in Inner Mongolia in March 2001 by the Government of the
People's Republic of China, has been deprived of human rights by being denied any access to family members and by being denied regular access to lawyers, is reported to be suffering from severe health problems, was accused of tax evasion and other minor crimes, and has been denied his request for medical parole; whereas because there is documented evidence that the Government of the People's Republic of China uses torture to coerce confessions from suspects, because the Government has thus far presented no evidence to support its claims that the detained scholars and intellectuals are spies, and because spying is vaguely defined under Chinese law, there is reason to believe that the "confessions" of Dr. Li Shaomin and Dr. Gao Zhan may have been coerced; and whereas the arbitrary imprisonment of United States citizens and residents by the Government of the People's Republic of China, and the continuing violations of their fundamental human rights, demands an immediate and forceful response by Congress and the President of the United States: Now, therefore, be it

Resolved, That

(1) the Senate—

(A) condemns and deprecates the continued detention of Li Shaomin, Gao Zhan, Wu Jianmin, Qin Guangguang, and Teng Chunyan, and other scholars detained on false charges by the Government of the People's Republic of China, and calls for their immediate and unconditional release;

(B) condemns and deprecates the lack of due process afforded to these detainees, and the probable coercion of confessions from some of them;

(C) condemns and deprecates the ongoing and systematic violations of the fundamental human rights violations by the Government of the People's Republic of China, of which the unjust detentions of Li Shaomin, Gao Zhan, Wu Jianmin, Qin Guangguang, and Teng Chunyan, are only important examples;

(D) strongly urges the Government of the People's Republic of China to consider carefully the implications to the broader United States-Chinese relationship of detaining and coercing confessions from United States citizens and permanent residents on unsubstantiated and unfounded suspicions;

(E) urges the Government of the People's Republic of China to consider releasing Liu Yaping on medical parole, as provided for under Chinese law; and

(F) believes that human rights violations inflicted on United States citizens and residents by the Government of the People's Republic of China will reduce opportunities for United States-Chinese cooperation on other matters; and

(D) should immediately send a special, high ranking representative to the Government of the People's Republic of China to reiterate the deep concern of the United States regarding the continued imprisonment of Li Shaomin, Gao Zhan, Wu Jianmin, Qin Guangguang, and Liu Yaping, and to discuss their legal status and immediate humanitarian needs.

AMENDMENTS SUBMITTED AND PROPOSED

SA 877. Mr. BYRD proposed an amendment to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

SA 878. Mr. CRAPO (for himself, Mr. MURKOWSKI, and Mr. DODD) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 879. Mr. DURBIN (for himself, Mrs. MURRAY, Mr. DAYTON, Mr. REID, Mr. FINKEL, and Mrs. BOXER) proposed an amendment to the bill H.R. 2217, supra.

SA 880. Mr. NICKLES (for himself) submitted an amendment to the bill H.R. 2217, supra.

SA 881. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 882. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 883. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 884. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 885. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 886. Ms. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 887. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 888. Mr. HARKIN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 889. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 890. Mr. BREAX (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 891. Mr. CORZINE (for himself and Mr. TORRICE) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 892. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 893. Mr. NELSON, of Florida (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra.

SA 894. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 895. Mr. KERRY (for himself, Ms. SNOWE, Ms. COLLINS, Mr. KENNEDY, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 896. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 897. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 898. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 899. Mr. SMITH, of Oregon submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 900. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 901. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 902. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 903. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 904. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 905. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 906. Ms. CANTWELL (for herself, Mr. BINGAMAN, and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 907. Ms. LANDRIEU (for herself, Mr. SMITH, of New Hampshire, Mr. BREAUX, and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 908. Ms. LANDRIEU (for herself, Mr. BREAUX, Mr. LOTT, and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 909. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 910. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 911. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 912. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, supra, which was ordered to lie on the table.

SA 913. Mr. BINGAMAN submitted an amendment intended to be proposed by him
to the bill H.R. 2217, supra; which was or
dered to lie on the table.

SA 914. Mr. BINGAMAN submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, supra; which was or-
dered to lie on the table.

SA 915. Mr. BINGAMAN submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, supra; which was or-
dered to lie on the table.

SA 916. Mr. BINGAMAN submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, supra; which was or-
dered to lie on the table.

SA 917. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment inten
tended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 918. Mr. CRAIG submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 919. Mr. BINGAMAN submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, supra; which was or-
dered to lie on the table.

SA 920. Mr. BINGAMAN submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, supra; which was or-
dered to lie on the table.

SA 921. Ms. COLLINS submitted an amend
tment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 922. Ms. COLLINS submitted an amend
tment intended to be proposed by her to the bill H.R. 2217, supra; which was ordered to lie on the table.

SA 923. Mr. TORRICELLI submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 877. Mr. BYRD proposed an amend
tment to the bill H.R. 2217, mak-
ing appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 152, line 4, strike ''longitude'' and insert ''longitude, or for the conduct of preleasing activities in those areas''.

SA 878. Mr. CRAPO (for himself, Mr. MURKOWSKI, and Mr. CRAIG) submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, making appro
cipations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 152, line 4, strike ''$17,181,000'' and insert ''$72,640,000''.

SA 879. Mr. DURBIN (for himself, Mrs. MURRAY, Mr. DAYTON, Mr. REID, Mr. FEINGOLD, and Mrs. BOXER) proposed an amend
tment to the bill H.R. 2217, making appropriations for the De-
partment of the Interior and related agencies for the fiscal year ending Sep-
tember 30, 2002, and for other purposes; as follows:

On page 194, between lines 9 and 10, insert the fol-
lowing:

SEC. 1 . PRELEASING, LEASING, AND RELATED ACTIVITIES.

None of the funds made available by this Act shall be used to conduct any preleasing, leasing, or other related activity under the Prohibited Area Leasing Act of 1990 (30 U.S.C. 131 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), within the boundary (in effect as of January 20, 2001) of a national monument established under the Act of June 8, 1906 (16 U.S.C. 431 et seq.), except to the ex-
tent that such a preleasing, leasing, or other related activity is allowed under the Presi-
dential proclamation establishing the monument.

SA 880. Mr. BYRD proposed an amend
tment to the bill H.R. 2217, mak-
ing appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 157, line 7, insert ''Protection'' after the word "Park".

SA 881. Mr. KYL submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, making appro
cipations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 70, line 4, before "(v)" insert the fol-
lowing: "(v) which of $2,000,000 shall be provided to the Ecological Restoration Institute".

SA 882. Mr. KYL submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, making appro
cipations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 69, line 10 before "(v)" insert the fol-
lowing: "(v) which of $500,000 is provided to the Ecological Restoration Institute for as-
sistance to communities and land manage-
ment agencies to support the design and im-
plementation of forest restoration treat-
ments.".

SA 883. Mr. KYL submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, making appro
cipations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 4, line 16, insert before "(v)" the fol-
lowing: "(v) which of $338,000 shall be pro-
vided for Mt. Trumbull".

SA 884. Mr. KERRY submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, making appro
cipations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 183, line 16, strike "longitude" and insert "longitude, or for the conduct of preleasing activities in those areas".

SA 885. Mr. MURKOWSKI submitted an amend
tment intended to be proposed by him to the bill H.R. 2217, making appro
cipations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the fol-
lowing:

(a) SHORT TITLE AND FINDINGS.—

(1) This Title can be cited as the "Iraq Pet-
troleum Import Restriction Act of 2001".

(2) Findings.—Congress finds that—

(A) the government of the Republic of Iraq—

(i) has failed to comply with the terms of United Nations Security Council Resolution 687 regarding unconditional Iraqi acceptance of the destruction, removal, or rendering harmless, under international supervision, of all nuclear, chemical and biological weapons and all stocks of agents and all related sub-
ystems and components and all research, development, support and manufacturing fa-
cilities, as well as all ballistic missiles with a range greater than 150 kilometers and re-
lated major parts, and repair and production facilities and has failed to allow United Na-
tions inspectors access to sites used for the production or storage of weapons of mass de-
struction;

(ii) routinely contravenes the terms and conditions of UNSC Resolution 661, author-
izing the export of petroleum products from Iraq in exchange for food, medicine and other humanitarian products by conducting a rou-
tine and extensive program to sell such prod-
ucts outside of the channels established by UNSC Resolution 661 in exchange for mili-
tary equipment and materials to be used in pursuit of its program to develop weapons of mass destruction in order to threaten the United States and its allies in the Persian Gulf and surrounding regions.

(iii) has failed to adequately draw down upon the amounts received in the Escrow Ac-
count established by the United Nations Security Council Resolution 686 to purchase food, medicine and other humani-
tarian products required by its citizens, re-
sulting in massive humanitarian suffering by the Iraqi people;

(iv) conducts a periodic and systematic campaign to harass and obstruct the enforce-
ment of United Nations and United States law-enforced "No-Fly Zones" in effect in the Republic of Iraq;

(v) routinely manipulates the petroleum export production volumes permitted under the United Nations Security Council Resolution 661 in order to create un-
certainty in global energy markets, and therefore threatens the economic security of the United States;

(B) further imports of petroleum products from the Republic of Iraq are inconsistent
with the national security and foreign policy interests of the United States and should be eliminated until such time as they are not so inconsistent.

(b) Prohibition on Iraqi-origin petroleum and petroleum products in violation of UNSC Resolution 986, and not inconsistent with the national security and foreign policy interests of the United States.

(d) Humanitarian Interests.—It is the sense of the Senate that the President should take all appropriate efforts to ensure that the humanitarian needs of the Iraqi people are not negatively affected by this Act, and should encourage through public, private, domestic and international means the direct or indirect sale, donation or other transfer to appropriate non-governmental health and humanitarian organizations and individuals within Iraq of food, medicine and other humanitarian products.

(e) Definitions.—(1) 661 COMMITTEE.—The term ‘‘661 Committee’’ means the Security Council Committee established by UNSC Resolution 661, and persons acting for or on behalf of the Committee under its specific delegation of authority for the relevant matter or category of activity, including the overseers appointed by the Secretary-General to examine and approve agreements for purchases of petroleum and petroleum products from the Government of Iraq pursuant to UNSC Resolution 986.


(4) Effective Date.—The prohibition on importation of Iraqi origin petroleum and petroleum products shall be effective 30 days after enactment of this Act.

SA 886. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 1. LEASE SALE 181.

Notwithstanding any other provision of this Act, none of the funds made available under this Act shall be used to authorize or carry out the construction of the Gulfstream Natural Gas Project.

SA 887. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, lines 6, 7, and 8, strike ‘‘Act’’ and insert ‘‘Act (of which $4,000,000 shall be available for the Tumbledown/Mount Blue conservation project, Maine)’’.

SA 888. Mr. HARKIN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

(1) The National Park Service shall make further evaluations of significant national, suitability and feasibility for the Glenwood locality and each of the twelve Special Landscape Areas (including combinations of such areas) as identified by the National Park Service in the course of undertaking the Special Resource Study of the Loess Hills Landform Region of Western Iowa.

(2) The National Park Service shall provide the results of these evaluations no later than January 15, 2002, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives.

SA 889. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the Land and Water Conservation Fund, insert: ‘‘$33,000 shall be made available for the purchase of land for the United States Forest Service’s Bearlodge Ranger District Work Center (Old Stoney) in Sundance, Wyoming;’’

And, at the appropriate place in the report, insert: ‘‘$354,000 for the design of historic office renovations of the Bearlodge Ranger District Work Center (Old Stoney) in Sundance, Wyoming;’’

SA 890. Mr. BREAUx (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 9 and 10, insert the following:

SEC. 1. LEASE SALE 181.

Notwithstanding any other provision of law, if the University of Louisiana at Lafayette or the University of Louisiana at Lafayette makes a commitment to construct a facility adjacent to and connected with the National Wetlands Research Center, Louisiana, the Director of the United States Geological Survey, before commencement of construction, center into a long-term lease of the facility.

SA 891. Mr. CORZINE (for himself and Mr. TORRICELLI) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, line 6, after ‘‘activities’’, insert: ‘‘(including related studies)’’.

SA 892. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill insert the following new General Provision:

The term ‘‘Act’’ includes from within available funds in the Alaska Region including entrance fees generated in Glacier Bay National Park, the National Park Service shall conduct an Environmental Impact Statement on cruise ships entering such park to account possible impacts on whale populations; Provided, That none of the funds available under this Act shall be used to reduce or increase the number of permits and vessel entries into the Park below or above the levels established by the National Park Service effective for the 2001 season until the Environmental Impact Statement required by law is completed and any legal challenges thereto are finalized notwithstanding any other provision of law.

SA 893. Mr. NELSON of Florida (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 194, between lines 9 and 10, insert the following:

SEC. 1. LEASE SALE 181.

None of the funds made available by this Act shall be used to execute a final lease agreement for oil or gas development in the area of the Gulf of Mexico known as ‘‘Lease Sale 181’’ as identified by the Outer Continental Shelf 5-Year Oil and Gas Leasing Program, before April 1, 2002.

SA 894. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 9 and 10, insert the following:
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SEC. 1. LEASE SALE 181.

None of the funds made available by this Act shall be used to execute a final lease agreement for oil or gas development in the area of the Gulf of Mexico known as ‘‘Lease Sale 181’, as identified in the Outer Continental Shelf 5-Year Oil and Gas Leasing Program.

SA 895. Mr. KERRY (for himself, Ms. SOWE, Ms. COLLINS, Mr. KENNEDY, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, line 11, after ‘‘offshore’’, insert ‘‘preleasing’’.

SA 896. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, line 9 strike ‘‘$2,388,614,000’’ and insert ‘‘$2,408,614,000’’.

On page 235, line 14 strike ‘‘$98,234,000’’ and insert ‘‘$78,234,000’’.

SA 897. Mr. NITZE submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 202, line 5, after 205 insert ‘‘of which, $244,000 is to be provided for the establishment of the Cahaba River National Wildlife Refuge, authorized by PL 102–580, for the establishment of the Cahaba River National Wildlife Refuge, authorized by PL 106–331, to remain available until expended, and to be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

LANDOWNER INCENTIVE PROGRAM

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, as amended, $42,000,000, to remain available until expended: Provided, That the amount made available under this Act shall be apportioned a sum which is less than one-half of one percent of the total amount of the total costs of such projects and the Federal share of implementation grants shall not exceed 75 percent of the Federal share of such projects may not be derived from Federal grant programs: Provided further, That the State shall receive a sum which is less than one percent of the total amount available for apportionment or more than 10 percent: Provided further, That the Federal share of planning grants shall be for not more than one percent of the total costs of such projects and the Federal share of implementation grants shall not exceed 75 percent of the total costs of such projects: Provided further, That the proportion of the Federal share of each such project may not be derived from Federal grant programs: Provided further, That no State, territory, or other jurisdiction shall receive such funds unless it has developed, or committed to develop by October 1, 2005, a comprehensive wildlife conservation plan, consistent with criteria established by the Secretary of the Interior that considers the broad range of the State, territory, or other jurisdiction’s wildlife and associated habitats, with appropriate priority placed on those species with the greatest conservation need and taking into consideration the relative level of funding available for the conservation of those species: Provided further, That any amount apportioned in 2002 to any State, territory, or other jurisdiction that remains unobligated as of September 30, 2003, shall be reapportioned, together with funds appropriated in 2004, in the manner provided herein.

Of the amounts appropriated in title VIII of Public Law 106–291, $49,890,000 for State Wildlife Grants are rescinded.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 74 vehicles, and any motor vehicle for replacement only (including 32 for police-type use); repair of damage to public roads.
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within and adjacent to reservation areas caused by the United States or its instrumentalities. The Department of the Interior and related agencies may use such funds in the manner and to the extent provided in the resolution of the Senate of February 26, 2001, inserting the text of SA 902, to provide fish passage upstream of the Klamath Project in accordance with the March 15, 1999 and the April 1, 1999 biological opinions on the Klamath Project.

SA 900. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.

(a) Recessions.—There is rescinded an amount equal to 1 percent of the discretionary budget authority provided (or obligation limit imposed) for fiscal year 2002 in this Act, or department, agency, instrumentality, or entity of the Federal Government funded in this Act. Provided, That this reduction percentage shall be applied on a pro rata basis to each program, project, and activity subject to the rescission.

(b) Reconciliation amount. —The amount rescinded pursuant to this section shall be deposited into the account established under section 312(f) of title 31, United States Code, to reduce the public debt.

(c) Report.—The Director of the Office of Management and Budget shall include in the President’s budget submitted for fiscal year 2003 a report specifying the reductions made to each account pursuant to this section.

SA 901. Mr. DURBAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 9 and 10, insert the following:

SEC. . . . No funds provided in this Act may be expended to conduct preleasing, leasing and related activities under either the Mineral Leasing Act (30 U.S.C. 181 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundaries of a National Monument established pursuant to the Act of June 8, 1906 (16 U.S.C. 431 et seq.) as such boundary existed on January 20, 2001, except where such activities are allowed under the Presidential proclamation establishing such monument.

SA 902. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table, as follows:

On page 145, line 9, before the period at the end, insert the following: “; of which $500,000 shall be available to acquire land for the Don Edwards San Francisco Bay National Wildlife Refuge, California”.

SA 903. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for...
the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table, as follows:

On page 266, between lines 7 and 8, insert the following:

SEC. 3. FOREST LEGACY PROGRAM.

Section 7(i) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2182c(i)) is amended by adding at the end the following:

"(3) STATE AUTHORIZATION.—Notwithstanding any other provision of this Act, a State may authorize a local government, or any qualified organization (as defined in section 170(h)(3) of the Internal Revenue Code of 1986) that is organized for 1 or more purposes described in clauses (1), (2), or (3) of section 170(h)(4)(A) of the Internal Revenue Code of 1986, to acquire lands and interests in land to carry out the Forest Legacy Program in the State."

SA 904. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, line 22, before the period, insert the following:

"That beginning on page 148, strike line 6 and all that follows through page 150, line 7, and insert the following:

A. MODIFIED LEASE SALE 181.

On page 217, line 7, strike the period and insert:

"Beginning on page 194, between lines 9 and 10, insert the following:

SEC. 1. SENSE OF CONGRESS CONCERNING MODIFIED LEASE SALE 181.

(a) Findings.—Congress finds that—

(1) the United States continues to be reliant on fossil fuels (including crude oil and natural gas) as a source of most of the energy consumed in the country;

(2) this reliance is likely to continue for the foreseeable future;

(3) about 65 percent of the energy needs of the United States are supplied by oil and natural gas;

(4) the United States is becoming increasingly reliant on clean-burning natural gas for electricity generation, home heating and air conditioning, agricultural needs, and essential chemical processes;

(5) a large portion of the remaining crude oil and natural gas resources of the country are on Federal land located in the western United States, in Alaska, and off the coastline of the United States;

(6) the Gulf of Mexico has proven to be a significant source of oil and natural gas and is predicted to remain a significant source in the immediate future;

(7) many States and counties oppose the development of Federal crude oil and natural gas resources within or near the coastline, which opposition results in congressional, executive, state, or local policies to prevent the development of those resources;

(8) actions that prevent the development of certain Federal crude oil and natural gas resources do not lessen the energy needs of the United States or of those States and counties that object to exploration and development for fossil fuels;

(9) actions to prevent the development of certain Federal crude oil and natural gas resources focus development pressure on the remaining areas of Federal crude oil and natural gas resources onshore and offshore Alaska, certain onshore areas in the western United States, and the central Gulf of Mexico off the coasts of Alabama, Alaska, Louisiana, Mississippi, and Texas; and

(10) the development of Federal crude oil and natural gas resources is accompanied by adverse effects on the infrastructure services, public services, and the environment of States, counties, and local communities that host the development of those Federal resources;

(11) States, counties, and local communities do not have the power to tax adequately the development of Federal crude oil and natural gas resources, particularly when those development activities occur off the coastline of States that serve as platforms for that development, such as Alabama, Alaska, Louisiana, Mississippi, and Texas;

(12) the Mineral Leasing Act (30 U.S.C. 181 et seq.), which governs the development of Federal crude oil and natural gas resources located onshore, provides, outside the budget and appropriations processes of the Federal Government, payments to States in which Federal crude oil and natural gas resources are located in the amount of 50 percent of the direct revenues received from the Federal Government for those resources; and

(13) there is no permanent provision in the Outer Continental Shelf Lands Act (33 U.S.C. 1311 et seq.), which governs the development of Federal crude oil and natural gas resources located offshore, that authorizes the sharing of a portion of the annual revenues generated from Federal offshore crude oil and natural gas resources with adjacent coastal States that—

(A) serve as the platform for that development; and

(B) suffer adverse effects on the environment and infrastructure of the States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress should provide a significant portion of the Federal offshore mineral revenues to coastal States that permit the development of Federal mineral resources off the coastline, including by the States of Alabama, Alaska, Louisiana, Mississippi, and Texas."

SA 909. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, between lines 10 and 11, insert the following:

SEC. 1. MODIFIED LEASE SALE 181.

Notwithstanding any other provision of this Act, not later than December 31, 2001, the Secretary of the Interior shall use such funds made available by this Act as are necessary to proceed with the sale of the area known as “Modified Lease Sale 181”, located in the eastern portion of the Gulf of Mexico, consisting of 256 lease blocks for a total of approximately 1,470,000 acres, as depicted on the map entitled “Eastern Gulf of Mexico and Sale 181 Area”, dated June 29, 2001.
funds made available by this Act as are necessary to proceed with the sale of the area known as “Lease Sale 181”, located in the eastern portion of the Gulf of Mexico, modifying the sale by excluding from Lease Sale 181 the area comprised of 120 blocks that forms a narrow strip beginning 15 miles south of the coast of Alabama.

SA 911. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 145, line 9, before the period, insert the following:

"On page 145, line 9, before the period, insert the following: ‘‘of which not more than $250,000 shall be used for acquisition of 1,750 acres for the Red River National Wildlife Refuge and not more than $250,000 shall be available for use by the Louisiana herbivory (nutria) control program’’.

SA 912. Ms. LANDRIEU submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 145, line 9, before the period, insert the following:

"On page 145, line 9, before the period, insert the following: ‘‘of which not more than $250,000 shall be used for acquisition of 1,750 acres for the Red River National Wildlife Refuge and not more than $250,000 shall be available for use by the Louisiana herbivory (nutria) control program’’.

SA 913. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . . VALLES CALDERA TRUST.

$300,000 of the funds provided to the Bureau of Land Management shall be available for erosion control and watershed rehabilitation projects and initiatives developed by the Rio Puerco Management Committee (section 401 of Public Law 104–333) in New Mexico.

SA 916. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . . RIO PUECURO MANAGEMENT COMMITTEE.

$300,000 of the funds provided to the Bureau of Land Management shall be available for erosion control and watershed rehabilitation projects and initiatives developed by the Rio Puerco Management Committee (section 401 of Public Law 104–333) in New Mexico.

SA 910. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 145, strike line 10 and all that follows through page 146, line 22.

Proposed Reallocations:

On page 132, line 9, strike “$1,000,000” and insert “$3,000,000”.

On page 145, line 9, strike “$50,000,000” and insert “$100,000,000”.

On page 145, line 19, strike “$2,000,000” and insert “$4,000,000”.

On page 145, line 9, strike “$2,000,000” and insert “$4,000,000”.

Description: The Committee-reported bill includes $50 million in funding for a “Landowner Incentive Program” and $10 million for a “Stewardship Grants” Program as part of the conservation spending category. Neither program was authorized in last year’s agreement establishing the conservation spending category and neither program is authorized as a stand-alone program. This amendment strikes the funding for both programs and reallocates it to other authorized programs within the overall ceiling on additional funding for the Payments in Lieu of Taxes Program and $10 million in additional funding for Youth Conservation Corps Programs.

SA 902. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 144, line 22, strike “expended.” and insert “expended: Provided, That $1,000,000 shall be used for the Moosehorn National Wildlife Refuge to develop and display exhibits in the Downeast Heritage Center in Calais, Maine.”
out a competitively awarded grant program for State, local, or other organizations in Maine to fund on-the-ground projects to further Atlantic salmon conservation and restoration efforts, at least $550,000 of which shall be awarded to projects that will also assist the State of Maine to prevent the listing of Atlantic salmon under the Endangered Species Act.”

SA 923. Mr. TORRICElli submitted an amendment intended to be proposed by him to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, line 7, after “herein,” insert “of which $140,000 shall be made available for the preparation of, and not later than July 31, 2002, submission to Congress of a report on, a feasibility study and situational appraisal of the Hackensack Meadowlands, New Jersey, to identify management objectives and address strategies for preservation efforts, and”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, July 11, 2001, at 9 a.m. for a business meeting to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 11, 2001, at 9:30 a.m. on Internet Privacy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, July 11, 2001, to hear testimony regarding the Role of Tax Incentives in Energy Policy, Part II.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 11, 2001 at 3 p.m. to hold a nomination hearing.

Nominees:

Mr. Peter R. Chaveas, of Pennsylvania, to be Ambassador to the Republic of Sierra Leone.

Mr. Aubrey Hooks, of Virginia, to be Ambassador to the Democratic Republic of the Congo.

Mr. Donald J. McConn, of Ohio, to be Ambassador to the State of Eritrea.

Mr. Nancy J. Powell, of Iowa, to be Ambassador to the Republic of Ghana.

Mr. George M. Stapples, of Kentucky, to be Ambassador to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador to the Republic of Equatorial Guinea.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 11, 2001, at 9:30 a.m. for a hearing regarding S. 860, the e-Government Act of 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND WELFARE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on achieving parity for mental health treatment during the session of the Senate on Wednesday, July 11, 2001, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a nominations hearing on Wednesday, July 11, 2001, at 2 p.m., in Dirksen Senate Office Building.

Panel I: Roger L. Gregory, of Virginia, to be U.S. circuit judge for the Fourth Circuit.

Panel II: Richard F. Cebull, of Montana, to be U.S. district judge for the District of Montana; Sam E. Haddon, of Montana, to be U.S. district judge for the District of Montana.

Panel III: Eileen J. O’Connor, of Maryland, to be Assistant Attorney General for the Tax Division.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 11, 2001 at 2:30 p.m., to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS ACT, 2001

On July 10, 2001, the Senate amended and passed H.R. 2216, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2216) entitled “An Act making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.”, do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, and for other purposes, namely:

TITLE I—NATIONAL SECURITY MATTERS

CHAPTER 2

DEPARTMENT OF JUSTICE

RADIATION EXPOSURE COMPENSATION

PAYMENT TO RADIATION EXPOSURE COMPENSATION TRUST FUND

For an additional amount for “Payment to Radiation Exposure Compensation Trust Fund” for claims covered by the Radiation Exposure Compensation Act, $84,000,000, to remain available until expended.

CHAPTER 2

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, $164,000,000.

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, $84,000,000.
Military Personnel, Marine Corps
For an additional amount for “Military Personnel, Marine Corps”, $89,000,000.

Military Personnel, Air Force
For an additional amount for “Military Personnel, Air Force”, $126,000,000.

Reserve Personnel, Army
For an additional amount for “Reserve Personnel, Army”, $52,000,000.

Reserve Personnel, Air Force
For an additional amount for “Reserve Personnel, Air Force”, $2,000,000.

National Guard Personnel, Army
For an additional amount for “National Guard Personnel, Army”, $6,000,000.

National Guard Personnel, Air Force
For an additional amount for “National Guard Personnel, Air Force”, $2,000,000.

Operation and Maintenance, Army Reserve
For an additional amount for “Operation and Maintenance, Army Reserve”, $1,000,000.

Operation and Maintenance, Air Force Reserve
For an additional amount for “Operation and Maintenance, Air Force Reserve”, $2,000,000.

Operation and Maintenance, Marine Corps Reserve
For an additional amount for “Operation and Maintenance, Marine Corps Reserve”, $1,000,000.

Operation and Maintenance, Air Force Reserve
For an additional amount for “Operation and Maintenance, Air Force Reserve”, $34,000,000.

Operation and Maintenance, Army National Guard
For an additional amount for “Operation and Maintenance, Army National Guard”, $42,000,000.

Operation and Maintenance, Air National Guard
For an additional amount for “Operation and Maintenance, Air National Guard”, $119,300,000.

Procurement
Other Procurement, Army
For an additional amount for “Other Procurement, Army”, $3,000,000, to remain available for obligation until September 30, 2003.

Shipbuilding and Conversion, Navy (Transfer of Funds)
For an additional amount for “Shipbuilding and Conversion, Navy”, $297,000,000, Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amount specified: Provided further, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred:

To:


Aircraft Procurement
For an additional amount for “Aircraft Procurement, Air Force”, $78,000,000, to remain available for obligation until September 30, 2003.

Missile Procurement, Air Force
For an additional amount for “Missile Procurement, Air Force”, $155,650,000, to remain available for obligation until September 30, 2003.

Procurement of Ammunition, Air Force
For an additional amount for “Procurement of Ammunition, Air Force”, $31,200,000, to remain available for obligation until September 30, 2003.

Other Procurement, Air Force
For an additional amount for “Other Procurement, Air Force”, $185,650,000, to remain available for obligation until September 30, 2003.

Procurement, Defense-Wide
For an additional amount for “Procurement, Defense-wide”, $5,800,000, to remain available for obligation until September 30, 2003.

Research, Development, Test and Evaluation, Navy
For an additional amount for “Research, Development, Test and Evaluation, Navy”, $287,000,000, to remain available for obligation until September 30, 2003.

Research, Development, Test and Evaluation, Air Force
For an additional amount for “Research, Development, Test and Evaluation, Air Force”, $155,650,000, to remain available for obligation until September 30, 2003.

Revolving and Management Funds
Defense Working Capital Funds
For an additional amount for “Defense Working Capital Funds”, $150,000,000, to remain available until expended.

Other Department of Defense Programs
Defense Health Program
For an additional amount for “Defense Health Program”, $1,522,200,000 for operation and maintenance: Provided, That of the funds made available under this heading, not more than $65,000,000 may be made available pursuant to TRICARE contract costs associated with the provision of health care services to eligible beneficiaries of all the uniformed services: Provided further, That of the funds made available under this heading, not less than $220,000,000 shall be made available upon enactment only for the requirements of the direct care system and military medical research, to be administered solely by the uniformed services Surgeons General.

SEC. 1206. Of the funds appropriated in the Department of Defense Appropriations Act, 2001, Public Law 106–259, in Title IV under the heading, “Research, Development, Test and Evaluation, Navy”, $2,000,000 may be made available for a Maritime Fire Training Center at the Marine and Environmental Research and Training Station (MERTS), and $2,000,000 may be made available for a Maritime Fire Training Center at Barbers Point, including provision for laboratories, construction, and other efforts associated with research and development of such programs of major importance to the Department of Defense.

SEC. 1207. Of the amounts appropriated in this Act under the heading “Operation and Maintenance, Army”, $8,600,000 shall be available for the purpose of repairing storm damage at Fort Sill, Oklahoma, and Red River Army Depot, Texas.

SEC. 1208. (a) Of the total amount appropriated under this Act to the Army for operation and maintenance, such amount as may be necessary shall be available by virtue of a conveyance by the Secretary of the Army, without consideration, of all right, title, and interest of the Department of Defense.
United States in and to the firefighting and rescue vehicles described in subsection (b) to the City of Bayonne, New Jersey.

(b) The firefighting and rescue vehicles referred to in subsection (a) are a rescue hazardous material, a 2,000-gallon per minute pumper, and a 100-foot elevating platform truck, all of which are at Military Ocean Terminal, Bayonne, New Jersey.

SEC. 1290. None of the funds available to the Department of Defense for fiscal year 2001 may be obligated or expended for retiring or dismantling any of the 93 B–1B Lancer bombers in service as of June 1, 2001, or for transferring or realigning any of those aircraft from the unit, or the facility, to which assigned as of that date.

CHAPTER 3
DEPARTMENT OF ENERGY
ATOMIC ENERGY DEFENSE ACTIVITIES
NATIONAL NUCLEAR SECURITY ADMINISTRATION
WEAPONS ACTIVITIES

For an additional amount for "Weapons Activities", $140,000,000, to remain available until expended: Provided, That funding is authorized for Project 01–D–020, Atlas Relocation and Operations, and Project 01–D–108, Microsystems and Engineering Science Application Complex.

OTHER DEFENSE RELATED ACTIVITIES
DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For an additional amount for "Defense Environmental Restoration and Waste Management", $85,000,000, to remain available until expended.

DEFENSE FACILITIES CLOSURE PROJECTS
For an additional amount for "Defense Facilities Closure Projects", $21,000,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION
For an additional amount for "Defense Environmental Management Privatization", $29,600,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES
For an additional amount for "Other Defense Activities", $5,000,000, to remain available until expended.

CHAPTER 4
DEPARTMENT OF DEFENSE
MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", $18,000,000, to remain available until September 30, 2005: Provided, That these funds, no less than $1,000,000 shall be used for construction of a new animal taxiing ramp at Ellington National Guard Base, Texas, and that $3,000,000 remain available until September 30, 2003.

"Military Construction, Air National Guard", $6,700,000;
"Family Housing, Army", $1,000,000: Provided, That the funds in this section shall remain available until September 30, 2003.

(F) Of the funds provided in the Military Construction Appropriations Act for the years 2000 and 2001, the following amounts are rescinded:
"Military Construction, Defense-Wide", $6,700,000;
"Family Housing, Army", $1,000,000.

SEC. 1402. Notwithstanding any other provision of law, the amount authorized, and authorized to be appropriated for the Defense Agencies for the TRICARE Management Agency for a military construction project for Bassett Army Hospital at Fort Wainwright, Alaska, shall be $215,000,000.

TITLE II—OTHER SUPPLEMENTAL APPROPRIATIONS
CHAPTER 1
DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $3,000,000, to remain available until September 30, 2002: Provided, That of these funds, no less than $1,000,000 shall be used to enhance humane slaughter practices under the Federal Meat Inspection Act: Provided further, That of these funds, no less than $1,000,000 shall be used to enhance humane slaughter practices under the Federal Meat Inspection Act: Provided further, That no more than $500,000 of these funds shall be made available to the Under Secretary for Research, Education and Economics for development and demonstration of technologies to promote the humane treatment of animals: Provided further, That these funds may be transferred to and merged with appropriations for agencies performing this work.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $35,000,000, to remain available until September 30, 2002.

FARM SERVICE AGENCY
AGRICULTURAL CONSERVATION PROGRAM
(RECISION)

Of the funds appropriated for "Agricultural Conservation Program" under Public Law 104–37, $45,000,000 are rescinded.

NATURAL RESOURCES CONSERVATION SERVICE
WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and Flood Prevention Operations", to repair damages to waterways and watersheds, resulting from natural disasters occurring in West Virginia on July 7 and July 8, 2001, $5,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER
SEC. 1401. (a) In addition to amounts appropriated or otherwise made available elsewhere in the Military Construction Appropriations Act, 2001, and the Act, the amounts appropriated are hereby appropriated as authorized by section 2854 of title 10, United States Code, as follows for the purpose of repairing storm damage at Ellington National Guard Base, Texas, and Fort Sill, Oklahoma:
"Military Construction, Air National Guard", $6,700,000;
"Family Housing, Army", $1,000,000: Provided, That the funds in this section shall remain available until September 30, 2003.

(b) (1) In the third proviso, by striking “ability of” and inserting “ability of low income rural communities and”; and

CHAPTER 2
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
COASTAL AND OCEAN ACTIVITIES
(INCLUDING RECISION)

Of the funds made available in Public Law 106–553 for the costs of construction of a research center at the ACE Basin National Estuarine Research Reserve in South Carolina, $5,000,000 are rescinded.

For an additional amount for the activities specified in Public Law 106–553 for which funds were rescinded in the preceding paragraph, $5,000,000, to remain available for construction of and $5,000,000, to remain available for land acquisition.
For an additional amount for "Children's Bureau'', $131,000 from local funds for Taxicab Operations, $5,000,000 for the Children Investment Trust.

PUBLIC WORKS

For an additional amount for "Public Works'', $131,000 from local funds for Taxicab Inspectors.

FINANCING AND OTHER USES

WORKFORCE INVESTMENTS

For expenses associated with the workforce investments program, $40,500,000 from local funds.

WILSON BUILDING

For an additional amount for "Wilson Building'', $7,100,000 from local funds.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY

For an additional amount for "Water and Sewer Authority'', $2,151,000 from local funds for initiatives associated with complying with stormwater legislation and proposed right-of-way fees.

GENERAL PROVISION—THIS CHAPTER

SEC. 2301. REPORT BY THE MAYOR. Pursuant to Section 222 of Public Law 104–8, the Mayor of the District of Columbia shall provide the House and Senate Committees on Appropriations, the Senate Committee on Governmental Affairs, and the House Committee on Government Reform with recommendations relating to the transition of responsibilities under Public Law 104–8, the District of Columbia Financial Responsibility Act of 1995, at the earliest practicable time.

CHAPTER 4

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies'', $50,000,000, as authorized by Section 3 of the Flood Control Act of August 18, 1941, as amended, to remain available until expended.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For an additional amount for "Non-Defense Environmental Management'', $11,400,000, to remain available until expended.

URANIUM FACILITIES MAINTENANCE AND REMEDIATION

(TRANSFER OF FUNDS)

For an additional amount for "Uranium Facilities Maintenance and Remediation'', $18,000,000, to be derived from the Uranium Enrichment Decontamination and Decommissioning Fund, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2401. AUTHORIZATION TO ACCEPT PREPAYMENT OF OBLIGATIONS. (a) In General.—Notwithstanding any provision of law, the Secretary of the Interior may accept the prepayment of all amounts due the Secretary for equipment and services provided to the Secretary under this Act, and for the rehabilitation of the Secretary's facilities on Indian reservations, by agreements authorized by section 1000(a)(2) of Public Law 106–113, as amended, whereby the Secretary agrees to accept a payment in lieu of amounts otherwise due to the Secretary under this Act.

CHAPTER 5

BILATERAL ECONOMIC ASSISTANCE AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND DISEASE PROGRAMS FUND (INCLUDING RECISSION)

For an additional amount for "Child Survival and Disease Programs Fund'', $500,000,000, to remain available until expended: Provided, That this amount may be made available, notwithstanding any other provisions of law, for United States contributions to a global trust fund to combat HIV/AIDS, malaria, and tuberculosis. Of the funds made available under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as enacted into law by section 1000(a)(2) of Public Law 106–113), as amended, is hereby repealed, and the funds identified by such proviso shall be made available pursuant to the authority of section 526 of the Foreign Assistance Act of 1961 (as amended), to include $1,000,000,000 for the Global Fund to Fight AIDS, Tuberculosis and Malaria, as authorized by section 526 of the Foreign Assistance Act of 1961 (as further amended).

GENERAL PROVISION—THIS CHAPTER

SEC. 2501. The final proviso in section 526 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as enacted into law by section 1000(a)(2) of Public Law 106–113), as amended, is hereby repealed, and the funds identified by such proviso shall be made available pursuant to the authority of section 526 of Public Law 106–113.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount to address increased permitting responsibilities related to energy needs, $3,000,000, to remain available until expended, and to be derived by transfer from appropriated to unobligated balances of the American Lands Management Fund, the Department of the Interior for the acquisition of lands and interests in lands.
For an additional amount for “Capital Improvement and Maintenance” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $4,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

(INCLUDING TRANSFER OF FUNDS)

SEC. 2001. Pursuant to title VI of the Steens Mountain Cooperative Management and Protection Act, Public Law 106–399, the Bureau of Land Management may transfer such sums as are necessary to complete the individualized and exchanges identified under title VI from unobligated land acquisition balances.


SEC. 2003. Section 2 of Public Law 106–558 is amended by striking subsection (b) in its entirety and inserting in lieu thereof:

“(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.”

SEC. 2004. Federal Highway Administration emergency relief for Federally owned roads, made available to the Forest Service as Federal-aid highways funds, may be used to reimburse Forest Service for expenditures previously completed only to the extent that such expenditures would otherwise have qualified for the use of Federal-aid highways funds.

SEC. 2005. For providing any other provision of law, $2,000,000 provided to the Forest Service in Public Law 106–291 for the Region 10 Jobs in the Woods program shall be advanced as a direct lump sum payment to Ketchikan Public Utilities within thirty days of enactment: Provided, That such funds shall be used by Ketchikan Public Utilities specifically for hiring workers for the purpose of removing timber within the right-of-way for the Swan Lake-Lake Tyee Intertie.

SEC. 2006. Section 122(a) of Public Law 106–291 is amended by:

(1) inserting “hereafter” after “such amounts”; and

(2) striking “June 1, 2000” and inserting “June 1, 2001”.


SEC. 2008. SUDEN OAK DEATH SYNDROME. In addition to amounts transferred under section 442(a) of the Plant Protection Act (7 U.S.C. 7775d) the Secretary of Agriculture shall transfer to the Forest Service, pursuant to that section, an additional $1,400,000 to be used by appropriate offices within the Forest Service that carry out research and development activities to arrest, control, eradicate, and prevent the spread of Sudden Oak Death Syndrome, to be derived by transfer from the unobligated balance available to the Secretary of Agriculture for the acquisition of land and interests in land.

CHAPTER 7

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(INCLUDING RESCISIONS)

For an additional amount to carry out chapter 1 of the Job Training Programs Act, $45,000,000 to be available for obligation for the period April 1, 2001 through June 30, 2002.

Of the funds made available under this heading—

(1) the aggregate amount specified for the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–558), $45,000,000 are rescinded; and

(2) the aggregate amount specified for the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554), $217,500,000 available for obligation for the period July 1, 2001 through June 30, 2002 for Safe Schools/Healthy Students.

Of the funds made available under this heading—

(1) the aggregate amount specified for the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554), for Dislocated Worker Employment and Training Activities, $217,500,000 available for obligation for the period July 1, 2001 through June 30, 2002 are rescinded: Provided, That, notwithstanding any other provision of law, the Secretary shall increase State allotments under section 132(b)(2)(A) of the Workforce Investment Act for program expenses exceeding balances, as determined by the Secretary, as of June 30, 2001, from those States determined to have excess unobligated balances: Provided further, That the rescission of funds under section 132(a)(2)(B) is effective at the time the Secretary re-allots excess unobligated balances to the States: Provided further, That the amount specified in this proviso for the redistribution of the State’s formula allotment under section 132(b)(2), shall equal, to the extent possible, the amount the State would have received on July 1, 2001 had no recision occurred.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH CARE SERVICES

The matter under this heading in the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554) is amended by striking “$226,224,000” and inserting “$224,724,000”.

The provision for Northeastern Universities is amended by striking “$25,000,000” and inserting “$7,000,000”.

National Institutes of Health

(TRANSFER OF FUNDS)

Funds appropriated to the Office of the Director, National Institutes of Health, in fiscal year 2001 for the Office of Biomedical Imaging, Bioinformatics and Bioengineering are transferred to the National Institute of Biomedical Imaging and Bioengineering.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out the Public Health Service Act with respect to mental health services, $6,500,000 for maintenance, repair, preservation, and protection of the Federally owned facilities, including the Civil War Cemetery, at St. Elizabeths Hospital, which shall remain available until expended.

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW INCOME HOME ENERGY ASSISTANCE

For an additional amount for “Low Income Home Energy Assistance” under section 2002(e) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621(e)), “$200,000,000, to remain available until expended: Provided, That these funds are for the home energy assistance needs under the grant program authorized by section 2604(e) of that Act and notwithstanding the designation requirement of section 2002(e) of such Act.”

DEPARTMENT OF EDUCATION

EQUITY REFORM

In the statement of the managers of the committee of conference accompanying H.R. 4577 (Public Law 106–554; House Report 106–1013), in title III of the explanatory language on H.R. 5656 (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001), in the matter relating to the Education for the Disadvantaged Grants Act for the fiscal year 2001 under the heading “Education Reform”, the amount specified for the Appalachian Regional Commission is $10,000,000; and inserting in lieu thereof: “$139,853,000”.

An additional amount (to the corrected amount under this heading) for “Education for the Disadvantaged” to carry out part A of title II (including Technological Competencies Grants, etc.) of the Education for the Disadvantaged Act of 1965 in accordance with the eighth proviso under that heading, $61,000,000, which shall remain available until September 30, 2002.

IMPACT AID

Of the $12,802,000 available under the heading “Impact Aid” in the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554) for construction under section 8007 of the Elementary and Secondary Education Act of 1965, $8,802,000 shall be used as directed in the first proviso under that heading, and the remaining $4,000,000 shall be distributed to eligible local educational agencies under section 8007, as such section was in effect on September 30, 2000.

SPECIAL EDUCATION

In the statement of the managers of the committee of conference accompanying H.R. 4577 (Public Law 106–554; House Report 106–1013), in title III of the explanatory language on H.R. 5656 (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001), in the matter relating to the Fund for the Improvement of Education under the heading “Education Research, Statistics, and Improvement”:

(1) the aggregate amount specified shall be deemed to be $319,853,000; and

(2) the amount specified for the National Mentoring Partnership in Washington, DC for establishing the National Education Training and Technical Assistance Clearinghouse shall be deemed to be $461,000; and

(3) the provision specifying $1,275,000 for one-to-one computing shall be deemed to read as follows: “$1,275,000—NetSchools Corporation, to provide one-to-one e-learning pilot programs for
Deaver Elementary School in San Pablo, California, and the Haven Elementary School in East Menlo Park, California, East Rock Magnet School in New Haven, Connecticut, Reid Elementary School in Searchlight, Nevada, and McDermott Combined School in McDermott, Nevada.

G. GENERAL PROVISIONS—THIS CHAPTER

Sec. 2701. (a) Section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2237) is amended—

(1) in subsection (a), by inserting “that are not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)” after “institutions”; and

(2) in subsection (b), by adding “institutional support of” after “for”;

(3) in subsection (d), by inserting “that is not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)” after “institution”; and

(4) by adding at the end the following:

“(D) institutional support of vocational and technical education (as defined in section 397(11) of the Communications Act of 1934 (47 U.S.C. 397(11)) is an entity eligible in section 396 of the Communications Act to be appropriated to the Fund solely (notwithstanding any other provision of law) for basic support payments under section 3006(b)(3)(B)(iv) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(3)(B)(iv)) (as amended by section (B) areas under-served by public broadcasting stations including for the support of digital transmission facilities and for the development, production, and distribution of digital programs and services.

(2) Any ‘public broadcasting entity’ as defined in section 397(11) of the Communications Act of 1934 (47 U.S.C. 397(11)) is an entity eligible to receive grants under this subsection.

(3) Proceeds of grants awarded under this subsection may be used for costs associated with the transition of public broadcasting stations including for the support of digital transmission facilities and for the development, production, and distribution of digital programs and services.

(4) The grants shall be distributed to the eligible entities in accordance with principles and criteria established by the Corporation in consultation with the public broadcasting licensees and officials of national organizations representing public broadcasting licensees. The principles and criteria shall include special priority for providing digital broadcast services to:

(A) rural or remote areas;

(B) areas under-served by public broadcasting stations; and

(C) areas where the conversion to, or establishment of primary digital public broadcasting service is made possible by an insufficient availability of private funding for that purpose by reason of the small size of the population or the low average income of the residents of the area.

(b) AUTHORIZATION OF APPROPRIATIONS.—

Subsection (b)(1) of section 396 of the Commu- nications Act of 1934 (47 U.S.C. 396) is amend- ed—

(1) by re-designating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

“(D) In any additional amounts authorized under any other provision of this Act to be appropriated to the Fund, funds are hereby authorized to be appropriated to the Fund solely (notwithstanding any other provision of this subsection) for carrying out the pur- pose of subsection (n) as follows:

“(1) For fiscal year 2001, $20,000,000 to carry out the purposes of subsection (n);

“(2) For fiscal year 2002, such sums as may be necessary to carry out the purposes of subsection (n).

Sec. 2702. Impact Aid. (a) Learning Opportunity Threshold Payments—Section 8003(b)(3)(B)(iv) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(3)(B)(iv)) (as amended by section (2) in subsection (b), by adding “institutional” and “d” after inserting “or” the average per-pupil expenditure of all the States” after “of the State in which” the agency is located”.

(b) Funding.—The Secretary of Education shall make payments under section 8003(b)(3)(B)(iv) of the Elementary and Secondary Education Act of 1965 from the Impact Aid authorizations of section 8003(a)(6) of the Department of Education Appropriations Act, 1999 to the following entities:

(1) in subsection (d), by inserting “that are not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)” after “institutions”; and

(2) by inserting after the second sentence the following:

“(n) In addition to any amounts authorized under any other provision of this Act to be appropriated to the Fund, funds are hereby authorized to be appropriated to the Fund solely (notwithstanding any other provision of this subsection) for carrying out the purposes of subsection (n) as follows:

“(1) For fiscal year 2001, $20,000,000 to carry out the purposes of subsection (n);

“(2) For fiscal year 2002, such sums as may be necessary to carry out the purposes of subsection (n).”;

Sec. 2703. Impact Aid. (a) Learning Opportunity Threshold Payments—Section 8003(b)(3)(B)(iv) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(3)(B)(iv)) (as amended by section 1006(b)(2)(C) of the Impact Aid Reauthorization Act of 2000 (Public Law 106–358)) is amended by inserting “or other than the average per-pupil expenditure of all the States” after “of the State in which” the agency is located”.

(b) Funding.—The Secretary of Education shall make payments under section 8003(b)(3)(B)(iv) of the Elementary and Secondary Education Act of 1965 from the $882,000,000 available under the heading “Impact Aid” in title II of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1 of Public Law 106–554) for basic support payments under section 8003(b)(3)(B)(iv).

CHAPTER 8
OFFICE OF COMPLIANCE
SALARIES AND EXPENSES
For an additional amount for “Salaries and Expenses”, $35,000.

GOVERNMENT PRINTING OFFICE
CONGRESSIONAL PRINTING AND BINDING
For an additional amount for “Congressional Printing and Binding”, $14,000,000.

GOVERNMENT PRINTING OFFICE REVOLVING FUND
For payment to the “Government Printing Office Revolving Fund”, $6,000,000, to remain available until expended, for air-conditioning and lighting systems.

G. GENERAL PROVISIONS—THIS CHAPTER
Sec. 2801. Section 101(a) of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h–6(a)) is amended—

(1) by inserting after the second sentence the following: “The President pro tempore emeritus of the Senate is authorized to appoint and fix the compensation of one individual consultant, on a temporary or intermittent basis, at a daily rate of compensation not in excess of that specified in the first sentence of this subsection;”.

(2) in the last sentence by inserting “President pro tempore emeritus,” after “President pro temp-”;

Sec. 2802. The Abraham Lincoln Bicentennial Commission Act, Public Law 106–173, February 25, 2000 is hereby amended in section 7 by striking subsection (e) and inserting the following:

“(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Librar- ian of Congress shall provide to the Commission, on a reimbursable basis, administrative support services. The Commission shall carry out its responsibilities under this Act, including disbursing funds available to the Commission, and computing and disbursing the basic pay for Commission personnel.”;

Sec. 2803. Notwithstanding any limitation in 31 U.S.C. sec. 1553(b) and 1554, the Architect of the Capitol may use current year appropriations to provide for the support of personnel for the Office for prior year water and sewer services payments otherwise chargeable to closed accounts.

Sec. 2804. That notwithstanding any other provision of law, and specifically section 5(a) of the Employment Act of 1946 (15 U.S.C. 102(a)), the Members of the Senate to be appointed by the President of the Senate shall for the duration of the One Hundred Seventh Congress, be represented by six Members of the majority party and five Members of the minority party.

CHAPTER 9
DEPARTMENT OF TRANSPORTATION
OPERATING EXPENSES
For an additional amount for “Operating Expenses”, $92,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS
For an additional amount for “Acquisition, Construction, and Improvements”, $4,000,000, to remain available until expended, for the repair of Coast Guard facilities damaged during the Nisqually earthquake or for costs associated with moving the affected Coast Guard assets to an alternative site within Seattle, Washington.

FEDERAL AVIATION ADMINISTRATION
GRANTS-IN- AID FOR AIRPORTS
(AMERICAN AIRWAY TRUST FUND)
(RESCISSION OF CONTRACT AUTHORIZATION)
Of the unobligated balances authorized under 49 U.S.C. 48103, as amended, $39,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION
EMERGENCY HIGHWAY RESTORATION
For the costs associated with the long term restoration or replacement of seismically-vulnerable highways recently damaged during the Nisqually earthquake, $15,000,000, to remain available until expended; Provided, That the amount made available under this heading, $3,000,000 shall be for the Alaskan Way Viaduct in Seattle, Washington and $9,000,000 shall be for the Magnolia Bridge in Seattle, Washington.

FEDERAL-AID HIGHWAYS
(HIGHWAY TRUST FUND)
(RESCISSION OF CONTRACT AUTHORIZATION)
Of the unobligated balances authorized under Public Law 100–17, $14,000,000 are rescinded.

ALASKA RAILROAD COMMISSION
To enable the Secretary of Transportation to make an additional grant to the Alaska Rail- road, $2,000,000 for a joint United States-Can- ada commission to study the feasibility of connect- ing the rail system in Alaska to the North American continental rail system.

G. GENERAL PROVISIONS—THIS CHAPTER
Sec. 2901. (a) Item 143 in the table under the heading “Capital Investment Grants” in title I of the Department of Transportation and Related Agencies Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–465) is amended by striking “Northern New Mexico park and ride facilities” and inserting “Northern New Mexico park and ride facilities and State of New Mexico, Buses and Bus-Related Facilities”.

(b) Item 167 in the table under the heading “Capital Investment Grants” in title I of the Department of Transportation and Related Agencies Appropriations Act, 2000 (Public Law 106–69; 113 Stat. 1006) is amended by striking “Northern New Mexico Transit Express/Park and Ride Facilities” and inserting “Northern New Mexico Transit Express/Park and Ride Facilities and State of New Mexico, Buses and Bus-Related Facilities”.

CONGRESSIONAL RECORD—SENATE 12953

July 11, 2001
SEC. 3003. DESIGNATION OF ENGINEERING AND MANAGEMENT BUILDING AT NORFOLK NAVAL SHIPYARD, VIRGINIA, AFTER NORMAN SISKIY. The engineering and management building (also known as Building 1500) at Norfolk Naval Shipyard, Portsmouth, Virginia, shall be known as the Norman Siskiyou Engineering and Management Building. Any reference to that building in any law, regulation, map, document, record, or other paper of the United States shall be considered a reference to the Norman Siskiyou Engineering and Management Building. This Act may be cited as the “Supplemental Appropriations Act, 2001”.

UNANIMOUS CONSENT AGREEMENT—H.R. 333

Mr. REID. Mr. President, I ask unanimous consent that the previously ordered debate with respect to the Nelson of Florida amendment No. 893 occur immediately following the vote on cloture on the motion to proceed to H.R. 333, the offering of the substitute amendment, and clamping of that amendment, as under the previous order; further, that no amendments be in order to the substitute amendment to H.R. 333 prior to the cloture vote on the substitute amendment. The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING USE OF THE ROTUNDA OF THE CAPITOL

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 174 just received from the House.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 174) authorizing the Rotunda of the Capitol to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers.

FEDERAL EMERGENCY MANAGEMENT AGENCY

HUMAN SPACE FLIGHT

Notwithstanding the proviso under the heading, “Human Space Flight”, in Public Law 106–74, $840,000 of the amount contained therein shall be available for preparations necessary to carry out future research supporting life and micro-gravity science and applications.

TITLE III—GENERAL PROVISIONS

SEC. 3003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 3002. UNITED STATES—CHINA SECURITY REVIEW COMMISSION. There are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, $1,700,000, to remain available until expended, to the United States—China Security Review Commission.

SEC. 3001. DESIGNATION OF ENGINEERING AND MANAGEMENT BUILDING AT NORFOLK NAVAL SHIPYARD, VIRGINIA, AFTER NORMAN SISKIY. The engineering and management building (also known as Building 1500) at Norfolk Naval Shipyard, Portsmouth, Virginia, shall be known as the Norman Siskiyou Engineering and Management Building. Any reference to that building in any law, regulation, map, document, record, or other paper of the United States shall be considered a reference to the Norman Siskiyou Engineering and Management Building. This Act may be cited as the “Supplemental Appropriations Act, 2001”.

CONGRESSIONAL RECORD—SENATE
There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations reported earlier today by the Government Affairs Committee:

Othonel Armendariz, to be a member of the Federal Labor Relations Authority;

Kay Coles James, to be the Director of the Office of Personnel Management;

that the nominations be confirmed, the motions to reconsider be laid upon the table; that any statements thereon appear at the appropriate place in the RECORD, and that the President be immediately notified of the Senate’s action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

OFFICE OF PERSONNEL MANAGEMENT

Kay Coles James, of Virginia, to be Director of the Office of Personnel Management;

FEDERAL LABOR RELATIONS AUTHORITY

Othonel Armendariz, of Texas, to be a Member of the Federal Labor Relations Authority for a term of five years expiring July 1, 2005.

EXECUTIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Nos. 182 through 205 and all nominations on the Secretary’s desk; that any statements therein be printed at the appropriate place in the RECORD; that any motions to reconsider be laid upon the table; the President be immediately notified of the Senate’s action, and the Senate adjourn to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Pierre-Richard Prosper, of California, to be Ambassador at Large for War Crimes Issues, to a term of five years; that the Senate vote at a time to be determined by the majority leader, may turn to the consideration of Executive Calendar No. 104, the nomination of John Graham to be the Administrator of the Office of Regulatory Affairs at OMB and that it be considered under the following time limitation:

One hour under the control of Senator LIEBERMAN, 3 hours under the control of Senator THOMPSON, 2 hours under the control of Senator DURBIN, 2 hours under the control of Senator WELLSTONE, 15 minutes under the control of Senator KERRY; that upon the use or yielding back of the time, the Senate vote at a time to be determined by the two leaders on the nomination; that upon the disposition of the nomination, the President be immediately notified of the Senate’s action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JULY 12, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9 o’clock a.m., on Thursday, July 12. I further ask consent that on Thursday immediately following the prayer and the pledge, the Senate resume consideration of the bankruptcy bill, the Senate resume consideration of the motion to proceed to H.R. 333, the House Bankruptcy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, on Thursday, the Senate will convene at 9 a.m. and resume consideration of the motion to proceed to the House Bankruptcy Reform Act, with 3 hours for debate prior to a cloture vote on the motion to proceed.

Following consideration of the bankruptcy act on Thursday, the Senate will resume consideration of the integrations bill and the vote in relation to Nelson of Florida amendment No. 893.

At 11:30 a.m., the Senate will swear in the new Secretary of the Senate, Jeri Thomson.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, I ask unanimous consent that following the remarks of Senator MURRAY and Senator
CANTWELL, who will be recognized to speak on matters of importance to them and the States and the country, the Senate stand in adjournment under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, the majority leader has indicated that he wants us to notify people in case we were not able to finish tomorrow.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington is recognized.

LOSS OF FOUR WASHINGTON FIREFIGHTERS

Mrs. MURRAY. Mr. President, I come to the Senate Chamber this evening to join my colleague, Senator MARIA CANTWELL, in acknowledging four young Americans who lost their lives in service to our country last evening.

Like many Americans, this morning I awoke to the very tragic news that four firefighters had died while battling a wildfire in Okanogan County. A tragedy of this magnitude is felt throughout Washington state, but should also be recognized and mourned by a grateful nation.

This is the nation’s deadliest wildfire since 1994. On behalf of the citizens of Washington State, I extend my deepest sympathies to the families of the four brave men and women who gave their lives to protect their neighbors. Squad Leader Tom Craven of Ellensburg, Devin Weaver of Yakima, Jessica Johnson of Yakima, and Karen Fitzpatrick of Yakima gave their lives to keep us safe. Today, we mourn their loss.

Mr. President, I also want to wish a speedy recovery to the other firefighters who were injured while battling the problem.

I want to thank the firefighters in Washington State—and across the country—for the work they do to protect us. We owe them a debt of gratitude.

Today, we owe four families our condolences and our thanks for their sacrifice. I yield to Senator CANTWELL from Washington State.

The PRESIDING OFFICER. The Senator from Washington is recognized. Ms. CANTWELL. Mr. President, it is with a heavy heart that I come to the floor today after learning of the tragic deaths of four firefighters in the Wenatchee National Forest in Washington State. These courageous firefighters died yesterday battling a wildfire in Okanogan County. A tragedy of this magnitude is felt throughout Washington state, but should also be recognized and mourned by a grateful nation.

This is the nation’s deadliest wildfire since 1994. On behalf of the citizens of Washington State, I extend my deepest sympathies to the families of the four brave men and women who gave their lives to protect their neighbors. Squad Leader Tom Craven of Ellensburg, Devin Weaver of Yakima, Jessica Johnson of Yakima, and Karen Fitzpatrick of Yakima gave their lives to keep us safe. Today, we mourn their loss.

As Senator MURRAY pointed out, this tragedy reminds us that we often take for granted the men and women who routinely put their lives on the line to protect us. Every state in the nation has experienced the loss of people involved in fighting wildfires. I hope the families and friends of these brave firefighters know that the courage and sacrifice of their loved ones will not be forgotten and that our sympathies reach out to their families. I also want to recognize the hard work of those firefighters who are still fighting; to those who are injured, I also wish them a speedy recovery. The firefighters of the U.S. Forest Service come from all over the country. They have been battling fires for years. This year alone, 300 firefighting personnel are available on the Okanogan and Wenatchee National Forests. These firefighters work year after year in service to their country with little recognition.

On behalf of the residents of Washington State and the Nation, I thank them for their hard work and their dedication under very trying circumstances. We all remember the sacrifice that each and every one of you have made.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.
I am also pleased to see as part of this order that the Attorney General has enhanced whistleblower protection for FBI employees who complain with protected disclosures. As an author of legislation that is on the books now for whistleblower protection, the last time we enhanced the protection for whistleblowers there was just enough sympathy—within this body for the FBI that somehow the FBI could have a separate set of regulations just for whistleblowers within the FBI. As a result, whistleblowers within the FBI have not had the same amount of protection that whistleblowers in any other agency of the Federal Government might have. So this will also help in that direction. I thank the Attorney General for that.

Today, then, following up on this action of the Attorney General, I have forwarded a letter to Attorney General Ashcroft, commending him on these steps, and also request that his office provide me with additional details regarding how the various investigative and audit entities within the Department of Justice, the FBI, and the DEA are to be administered and organized.

Earlier this week, I had the opportunity to meet with FBI Director nominee Robert Mueller. I discussed with Robert Mueller several concerns that I have with how the Bureau has been managed over the past several years. I also discussed with Mr. Mueller my views on the type of leadership that I think the FBI needs.

We have a once-every-10-year opportunity to find someone who can fix the problems inherent in the management culture at the Bureau because that appointment comes up for a 10-year length of time. I want to make sure, during this once-in-a-10-year opportunity, Mr. Mueller understands my concerns.

Part of our discussion concerned the need for strengthening FBI oversight, both on the part of the executive branch, along the lines of what I have been saying about the inspector general, but also from the Congress—oversight, constitutional oversight over the executive branch agencies.

Without asking Mr. Mueller to comment pending legislation, I mentioned to Mr. Mueller I am working on a bill to permanently extend by statute the jurisdiction that was given today by the Attorney General to the Department of Justice inspector general, so that some future Attorney General cannot put impediments in the way of the inspector general investigating things within the FBI. I encourage Mr. Mueller, should he be confirmed, to make it a priority to ensure that he and the FBI will cooperate fully with whatever oversight entity is in place.

I also discussed with Mr. Mueller the need for increased whistleblower protection for FBI employees. Over the years the FBI has been notorious for retaliating against those who would expose the types of waste, fraud, and abuse in cases that have now become synonymous with a culture of arrogance within the FBI. These are cases such as Ruby Ridge, Waco, the TWA-800 investigation, the FBI crime lab investigation, Wen Ho Lee, Robert Hanssen, and most recently the Oklahoma bombing investigation in the McVeigh case.

I will be introducing legislation that will provide statutory protection for FBI whistleblowers to overcome the shortcomings of the legislation that was signed by President Bush in 1989. Those exemptions that were made from the FBI need to be taken out so the whistleblowers in the FBI have the same protections as whistleblowers in any other agency of Government. I hope the new Director will not only support this important reform but will work to ensure these important reforms are communicated clearly throughout the FBI.

I believe that in order to regain the trust and confidence of the American people, the FBI must be open and fully responsive to differing points of view within its own ranks. More importantly, employees must be able to present these opinions in an atmosphere that is free of retaliation that happens so often against people whom we call whistleblowers.

Basically, within any organization there is a great deal of peer pressure to go along to get along. But that peer pressure also has the capability of covering up wrongdoing and bad administration. That is why the process of people telling the truth and coming out in the open is so important.

Without this freedom, the FBI will continue to suppress and marginalize those who speak out, and things will go wrong and hard for so long. That is not good. That is what has brought about a culture of arrogance—of believing within the FBI that the FBI can do no wrong.

Perhaps the greatest example of this type of retaliation against a whistleblower occurred in an investigation I made involving a whistleblower by the name of Dr. Fred Whitehurst. You may remember that when Dr. Whitehurst came forward with proof of abusive practices at the FBI crime lab, he was shamelessly discredited by senior FBI officials. An inspector general investigation—after going through all of those hoops I talked about—later supported the assertions made by Dr. Whitehurst and called back his good name. Dr. Whitehurst won a settlement that ended up costing the American taxpayers $1 million.

There is something wrong when a whistleblower comes forward and he is not listened to, and he has to sue, and it costs the taxpayers $1 million to settle. He should have been listened to in the first instance.

We want to encourage an environment within all government agencies, and particularly that FBI, where wrongdoing is not covered up; that people who whistleblow aren’t treated like a skunk at a picnic on a Sunday afternoon, that they are held up as somebody who ought to be honored rather than somebody who ought to be suppressed.

I want to make sure to mention that the comments I make about the FBI today, though, should in no way minimize the great sacrifices made every day by hard-working FBI agents and support personnel. These men and women serve their nation proudly. They deserve an organization that has integrity and credibility.

The FBI management system is broken. This does a real disservice to the hard-working agents on the street. When the FBI does what they are set up to do—to seek the truth and let the truth convict—they do their job right. But when there is an effort to cover up wrongdoing, then the FBI and people are more concerned about the headlines and the public relations of the organization as opposed to the fundamentals of law enforcement—that is, these cases and a lot of others I have already listed—that is when their agency gets in trouble and loses credit.

In regard to these agents who do their work and do it right and because of this management culture that must be changed by the new Director, I have asked the Attorney General to provide me with information regarding the extent to which the new FBI Director will be able to institute the department-wide reforms and to make staffing changes, including changes at the senior staff and management level.

I believe that a new FBI Director will only have a certain period of time—maybe a couple of months—in which he can bring about real change. In order for the new Director to do that, in that time, he must be afforded maximum flexibility for staffing and policy setting.

I also agree that we have not done enough in Congress. I am not putting the blame just on the Department of Justice and the FBI. We have a constitutional responsibility of oversight. We spend all of our time legislating, giving speeches, passing laws, voting, and offering amendments. That is what most people think being a Congress-man is all about. But also, once laws are passed, the checks and balances of our Constitution require that we do our constitutional job of oversight; that is, to make sure that the laws that we have executed and that money spent appropriated by Congress is spent within the intent of Congress and that the law is enforced within the intent of Congress, Congress does not do a good enough job. For too long we have seen mishap after mishap occur, with the end result being more money and more jurisdiction for the FBI. The Director of the
FBI comes up to Capitol Hill, everybody sees the Director of FBI, and they just melt. The Director of the FBI says a couple of mea culpas and walks out of here with a nice pat on the back, and probably a bigger appropriation. That is not oversight. That is just business as usual. One way this can be improved is through the creation of a subcommittee within the Committee on the Judiciary that would be directly responsible for FBI oversight.

We need to help the FBI change the kind of culture that places image and publicity before basics and fundamentals. We need to help the FBI change the kind of culture that holds press conferences in high-profile cases before the investigation is complete and all the facts are in, and when all the facts are in, then the FBI has egg on its face.

Yes, the American people deserve the kind of agency that won't make the kind of mistakes the FBI has made in the Wen Ho Lee and the Atlantic Olympic bombing case, and the Waco case and the Ruby Ridge case. But, more importantly, the American people deserve an agency that is honest and forthright about their errors; in other words, very transparent.

As one of our Supreme Court Justices said 80 or 100 years ago, the best dispensation is sunshine. Let the Sun shine in and there won't be mold. That is transparency. That is the way the American Government ought to operate.

I look forward to getting down to the business of helping the FBI and its next Director regain the trust and confidence of the American people.

I yield the floor. I thank the Presiding Officer for waiting for me to speak tonight.
The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. COOKSEY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The Speaker pro tempore laid before the House the following communication from the Speaker:


I hereby appoint the Honorable JOHN COOKSEY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Tommy Nelson, Pastor, Denton Bible Church, Denton, Texas, offered the following prayer:

Our Father, You have made us as You have made all things. You have established the nations and their boundaries. You have ordained their leaders, their authority and the absolutes by which they rule. To You, who are the foundation of justice, of love and equality, we ask Your sovereign mercy.

Grant these men and women, whom You have vested, the wisdom to perceive Your pleasure, the skill to implement it, the courage to stand by the right, and the consistency and the integrity of life to merit the trust of this Nation, who has looked unto them. Encourage them and surround their families and marriages with Your blessing and help and truth.

Have mercy on this Nation through them, to walk in Thy way and know Thy peace.

In Thy Holy and Merciful Name we pray. Amen.

THE JOURNAL

The Speaker pro tempore. The Chair has examined the Journal of the last day’s proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker’s approval of the Journal.

The Speaker pro tempore. The question is on the Speaker’s approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The Speaker pro tempore. Will the gentleman from Oregon (Mr. WU) come forward and lead the House in the Pledge of Allegiance.

Mr. WU led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1. An act to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind. H.R. 2216. An act making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1) “An Act to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind”, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MUKULA, Mr. JEFFORDS, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mr. REED, Mr. EDWARDS, Mrs. CLINTON, Mr. LIEBERMAN, Mr. BAYH, Mr. GREGG, Mr. FRIST, Mr. ENZI, Mr. HUTCHISON, Mr. WARNER, Mr. BOND, Mr. ROBERTS, Ms. COLLINS, Mr. SENSIONS, Mr. DeWINE, Mr. ALLARD, and Mr. ENSIGN, to be the conference on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2216) “An Act making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes”, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. ENOYE, Mr. HOLLINGS, Mr. STEVENS, and Mr. COCHRAN, to be the conference on the part of the Senate.

WELCOMING THE REVEREND TOMMY NELSON, PASTOR, DENTON BIBLE CHURCH, DENTON, TEXAS

Mr. THORNBERY. Mr. Speaker, on behalf of the gentleman from Texas (Mr. ARMEND), the majority leader, and my colleague the gentleman from Texas (Mr. HALL), it is my privilege to welcome as our guest chaplain today Tom Nelson, the Senior Pastor of Denton Bible Church in Denton, Texas. Tom was born and raised in Waco and grew up in a family of four boys. He attended what is now the University of North Texas in Denton, where he played quarterback for the football team and earned his degree in 1973. From there, he attended Dallas Seminary.

Tom has been pastoring at Denton Bible Church for 23 years. With over 4,000 members, Denton Bible Church is the largest church in Denton. Beside the four services he leads each Sunday, Tom disciples over 20 young men and teaches two men’s Bible studies.

In addition, Tom has served as a national speaker for the Fellowship of Christian Athletes, Campus Crusade for Christ, and Navigators. He is the author of two books and three video series. His taped messages have been heard throughout the world. Tom and his wife Teresa have two sons, Benjamin and John Clark.

Once again, Mr. Speaker, it is my privilege to welcome Tom Nelson to the Congress of the United States. I would like to thank him for his leadership in the community of Denton and express my appreciation for his leading the House today in prayer.

SUPPORT FLETCHER-PETERSON BALANCED PATIENTS’ BILL OF RIGHTS

Mr. GIBBONS. Mr. Speaker, today I rise to express my strong support for a meaningful and responsible Patients’ Bill of Rights recently introduced by my colleagues and friends, the gentleman from Kentucky (Mr. FLETCHER)
and the gentleman from Minnesota (Mr. Peterson).

We have been debating this issue for years, and it is time to give Americans what they need and what they deserve. This bill ensures that Americans will have access to medical care, including pediatric services, OB–GYN, specialists and emergency care. It further provides accountability by assuring those who make medical decisions which result in an injury are held responsible for their actions.

And this bill assures Americans can count on affordable health care. After all, what good is a Patients’ Bill of Rights if millions of more Americans are unable to afford health care?

I call upon everyone in this Chamber to support the Fletcher-Peterson bill. It is a balanced Patients’ Bill of Rights, which ensures that medical decisions are made by doctors and patients, and not by HMO gatekeepers or lawyers.

APPROVE FEDERAL FUNDING OF STEM CELL RESEARCH

(Ms. Eshoo asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, I was recently visited in my office here in Washington by two of my young constituents, Mary Lucas, 9 years old, and Kelsey Kagle, 15. They both have juvenile diabetes.

Mary Lucas, the 9-year-old, said something to me that has remained with me and I think always will. She told me that if we found a vaccine or a cure for diabetes, and if there was enough for everyone, she would give up her share to someone who needed it more than her. Her unselfish words, I think, are instructive to us.

How will we cure juvenile diabetes? One promising method is by investing in stem cell research, which has the potential to cure diseases that afflict tens of millions of Americans today, diseases like cancer, Alzheimer’s and Parkinson’s.

According to a recent article in the New York Times, a study by the NIH sites the dazzling array of treatments that may result from research on both embryonic and adult stem cells. The report makes clear that embryonic stem cells are clearly superior to adult stem cells for stem cell research.

Most Americans understand that stem cell research is not about destroying lives, but prolonging and bringing quality to and curing American lives today. So let us get this out of political science and keep it in the hands of the real scientists that understand this, and let us take a giant step, Mr. President, and allow Federal funding for stem cell research.

WALK FAR FOR NATIONAL ALLIANCE FOR AUTISM RESEARCH

(Ms. Ros-Lehtinen asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, these posters portray two beautiful, happy children, Bonnie and Willis Flick. While these pictures do not portray is that Bonnie and Willis cannot effectively communicate with their parents or their playmates because they live with autism.

In recent years autism has risen dramatically across our Nation, and although it typically affects 1 in every 500 children, in my hometown of Miami-Dade County, the rate of autism in young children has jumped to about 1 in every 256.

On Saturday, November 3, I will participate in Walk Far for NAAR, the National Alliance for Autism Research. This will raise funds for research projects and fellowships to fight this devastating disorder.

I ask my colleagues to join me in congratulating the chair of this year’s walkathon, Patricia Cambo, and the co-chairs, Rene Vega and Dr. Michael Alessandri, as well as last year’s co-chairs, Michelle Cruz and Marie Irene Whitehurst.

Due to the success of Walk Far, the National Alliance for Autism Research more than doubled its level of funding for this year, and we hold promise that a cure for autism is just around the bend for Bonnie and Willis Flick and many other children with autism.

SUPPORT USE OF FEDERAL FUNDS FOR STEM CELL RESEARCH

(Ms. DeGette asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DEGETTE. Mr. Speaker, why should we use Federal money for embryonic stem cell research? While it is a difficult medical-ethical decision to make sure we put controls in place, embryonic stem cell research promises new breakthroughs in science that will help literally tens of millions of Americans.

There are three reasons why we need to make sure this research is federally funded and federally supervised.

First, medical breakthroughs of underestimated value are available through funding of this research. A large body of successful work with mouse embryonic stem cells shows these cells are superior to adult stem cells in the development of what may be cures for diabetes, Parkinson’s disease, Alzheimer’s and other chronic diseases.

Second, Federal funding provide necessary oversight of stem cell research. This is the new frontier, and we need to make sure we keep control of it.

Finally, America has the greatest health, medical and science community in the world. Federal funding will help U.S. scientists keep pace with international researchers. We need to find the cure for diabetes, we need to find the cure for Parkinson’s, for Alzheimer’s and so many other diseases.

Let us keep this research going.

FUND ADULT STEM CELL RESEARCH GENEROUSLY

(Mr. Pitts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, we must have stem cell research. Alzheimer’s, Parkinson’s and diabetes, these are all very serious diseases that have no cures. But our research must be ethical. Adult stem cell research holds the most promise for finding cures.

We should fund adult stem cell research, and fund it now, not embryonic stem cell research. Creating human embryos for research, experimentation, harvesting and destruction is not ethical. Killing one human life, even though very tiny, on the off chance of maybe one day saving another, is not ethical, moral, and I should add, even legal to do with taxpayer money.

Since 1996, our laws ban government funding of research that involves killing human embryos. We should keep that ban. Now we have a study that shows that embryonic stem cells may be too unstable to be of much use any- way, unless they are produced in huge numbers. But there is no such evidence that adult stem cells also involves killing human embryos. We should keep that ban.

Adult stem cell research holds great promise. Adult stem cell research promises to help us find cures to diseases that have plagued mankind for centuries. Let us fund adult stem cell research, and fund it generously.

China does not deserve to host 2008 Olympic games

(Mr. Traficant asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, China has executed 1,781 citizens in the last 90 days. That is more executions than the entire world performed over the last 3 years. China is now even executing citizens for pimping and prostitution. It is getting so bad that Chinese citizens, Chinese lovers, in fact, are afraid to kiss in public. Meanwhile, China says it is necessary to ensure “social stability.”

Now, if that is not enough to power surge your electric chair, China is in line to host the 2008 Olympic games.

Beam me up. The Olympic games are designed to be a celebration of life, not death. China does not deserve to host these games.
I yield back the human rights abuses, the death and dying at the hand of Communist Chinese dictators.

GOVERNMENT SPENDING CAUSES DEFICIT SPENDING

(Mr. BRADY of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADY of Texas. Mr. Speaker, Washington is out of touch with the real world again. Tax relief does not cause deficit spending, as we hear; spending causes deficit spending.

Washington spends every dime we send up here. That is the reason why this Congress stopped deficit spending in America. That is why this Congress stopped 40 years of dipping into the Social Security and Medicare Trust Funds, and that is why this Congress has started to pay down a good amount of the national public debt. Mr. Speaker, make no mistake. The very reason we sent money back home to the people is because we will spend every dime of it.

Look what we spend. Let us talk about the outhouse, the $1 million, two-seater outhouse that our National Parks and Wildlife built a year ago. Let us talk about the salmon. We spend $5 billion a year helping salmon swim upstream to their spawning grounds. We could put each fish in a first-class ticket seat and fly them to the top of the river each year and still save money. We have enough dollars for the priorities of America. What we do not have is enough for the priorities of silliness. Tax relief does not cause deficit spending; spending causes deficit spending.

STEM CELL RESEARCH IS PRO–LIFE

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, I rise today to urge strong support in Congress and the administration for a vital field of medical research. Federal funding for embryonic stem cell research should not be caught up in the abortion debate. As many antichoice proponents have courageously noted, stem cell research is pro-life. It will save lives, not take them.

Let me review what we know about stem cell research.

First, research using embryonic stem cells is helping us understand and treat not just Parkinson’s disease, spinal cord injuries, and Alzheimer’s, but possibly heart disease, arthritis and cancer.

Second, stem cell research is going on today and should be subject to Federal guidelines. Research of the type described in the lead story in today’s Washington Post is not permitted under NIH’s ethical standards.

Third, adult stem cells are not able to develop into as many kinds of tissue as embryonic cells.

Fourth, the embryos used in stem cell research would otherwise be destroyed by fertility clinics.

Mr. Speaker, if the embryos used in this research are simply discarded, we discard with them the hope of patients across the country and the promise of a new generation of medical cures.

HYDROPOWER FOR CLEAN AND SAFE ENERGY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, we in this House will be marking up an energy policy this week, and part of this policy will include hydropower. Hydropower provides a clean and safe source of energy. Hydropower is the fourth largest source of total generation, making it an important part of America’s energy supply mix. In addition to providing sustainable power at a low cost, hydropower production has significant environmental benefits. Hydropower production has no emissions. Every kilowatt of power that is produced from hydropower reduces the need to burn oil and coal to produce the same amount of energy.

I am pleased that the Republican energy package will include elements to assure that we maximize the potential of our existing hydropower facilities. While we work to implement policies and strategies to conserve energy, we must also work to increase energy supply to keep pace with growing demand. Mr. Speaker, I believe that maximizing the benefits of our hydropower resources is an important part of meeting that challenge.

CHOOSING TO BE RELEVANT TO SCIENCE

(Mr. WU asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WU. Mr. Speaker, stem cell research offers the prospect for cures for diseases such as diabetes, Alzheimer’s, and Parkinson’s disease. It is a development of such great historic significance that I want to hearken back to another era when science was under threat from a theocracy.

About 400 years ago, Galileo Galileo was forced to recant the evidence of his eyes that the moons and the planets revolved around other than the sun. But even as the theocracy forced Galileo to recant his views, he was heard to mutter, “But the planets do move.”

Mr. Speaker, just as the planets move, stem cell research will go forward. The only question is whether it goes forward in this country or in foreign countries; with government support or without government support; subject to NIH guidelines or subject to no ethical guidelines whatsoever.

Our choice here is not about stem cell research or not. Just as a theocracy can prevent the planets from moving, no theocracy can prevent stem cell research from going on. The only choice is whether we choose to be relevant to science.

AMERICA IS A NATION OF THE PEOPLE, BY THE PEOPLE, AND FOR THE PEOPLE

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON. Mr. Speaker, do my colleagues know what? Our taxes were lowered on July 1. That means we will take home more of our own money. We can thank President Bush for that.

When I was home in Texas over July 4, I met Kris and Melissa Kelly who are constituents of mine, and I asked them, what are you going to do with that tax refund? They said they are going to put a down payment on a brand-new minivan for their family. Is that not what America is all about?

Instead of allowing the Federal Government to keep our hard-earned money, creating new and expensive government programs, we gave the people their own money back so they can buy the things they need. So I salute President Bush for all he has done for the hard-working people of this great Nation. America really is a Nation of the people, by the people, for the people.

STEM CELL RESEARCH

(Mr. EVANS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS. Mr. Speaker, there should really be no debate about stem cell research, given the immense promise that it holds for a number of diseases. This is an issue that is of paramount importance to millions of Americans who stand to benefit from this groundbreaking research. I know, because I am one of them. I suffer from Parkinson’s disease.

This debate is being mired down in the politics of abortion, but it has nothing to do with abortion. This is an issue of medicine. Stem cells are never derived from an embryo that a woman intends to be implanted into her womb, nor are embryos ever created for their
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use in stem cell research. Researchers only use embryos which were scheduled to be discarded.

Clearly, these embryos can be put to better use. The scientific promise of embryonic stem cells offers hope that simply did not exist a few years ago. We cannot afford to literally throw away such potential. Every day that we continue research brings with it astonishing possibilities for enhanced treatments and cures for now-irreversible diseases and injuries.

Let us come together as a body in support of stem cell research.

SUPPORT ETHICAL AND RESPONSIBLE STEM CELL RESEARCH

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, I rise in support of ethical stem cell research and in opposition to the destruction of human life. I firmly believe we have a responsibility to respect and protect life at every stage. The issue we face is not whether we allow this research. Both the ethical adult stem cell research that I support and the controversial embryonic research will continue on.

However, we must now decide if we are going to force taxpayers to fund this controversial embryonic research. Allocating Federal dollars for research that retires destruction of human embryos would require many Americans to fund something that they morally oppose. I urge the President and my colleagues to join me in supporting responsible and ethical stem cell research and standing for what is right and moving ahead with this research.

JULIAN C. DIXON POST OFFICE

(Ms. WATSON of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON of California. Mr. Speaker, on December 8, 2000, Julian Dixon, a Member of Congress, died of a heart attack at age 66. On that day, California lost an experienced leader, and Dixon lost a tireless advocate. But the loss of Julian Dixon was felt the hardest in the 32nd Congressional District of California where Angelenos lost a beloved friend and neighbor.

Yesterday, I introduced a bill to rename a post office in the 32nd district as the "Congressman Julian C. Dixon Post Office." This one small effort pales in comparison to the years of dedicated service Julian provided to his community.

But as a friend and a school chum of Julian Dixon, I know that my neighbors in the 32nd Congressional District would be proud to have Julian remembered in this way. What an appropriate way to honor him, since he was well known for corresponding with his constituents by mail.

Mr. Speaker, I ask the entire California delegation, as well as any other Member, to join me in cosponsoring this piece of legislation.

FROZEN EMBRYOS ARE BEING ADOPTED

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, Hannah is a happy 2½-year-old little girl. She is a normal, healthy toddler discovering the joys of life. In a few days I hope to meet Hannah and when I do, I will reassure her that there is no such thing as a "spare" or "leftover" person.

Although she may not yet understand what that means, her parents sure do. They understand perfectly, because little Hannah used to be a frozen embryo in an invitro fertilization clinic. She was what those who support embryonic stem cell research—research that destroys human embryos—callously call "spare" and "leftover" embryos.

But Hannah is neither "spare" nor "leftover," despite the fact that she spent a considerable amount of time in a deep-freezer that served as her frozen orphanage. The perky toddler could have been fodder for researchers, but instead today is talking a blue streak, and in a few years will go to school.

Mr. Speaker, the story of Hannah and other adopted embryos underscores why we should not spend Federal tax dollars to destroy human embryos to steal their precious stem cells. These stem cells are not ours to take. And given the discoveries from adult stem cell research, which does not rely on destroying human embryos, arguments for federally funding embryonic stem cells is less persuasive than ever.

PUT POLITICS ASIDE AND SUPPORT STEM CELL RESEARCH

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise today in support of stem cell research. It is time for people on all points of the political spectrum to come together, support efforts to make stem cell research safe, legal and ethical. Stem cell research has the potential to unlock the door to medical knowledge for a host of diseases. We cannot allow America's health to be held hostage to politics, while medical research stagnates.

For people suffering from Alzheimer's or Parkinson's, or for those who have loved ones with these diseases, including cancer and juvenile diabetes, stem cell research represents hope for a cure. Yet by banning this research, either adult or embryonic research, we foreclose the possibility of improving or saving many, many lives. And who will pay the price? A mother fighting Parkinson's or a child battling juvenile diabetes. That is why I strongly urge my colleagues to put politics aside, support the promising scientific research of stem cell research.

RESEARCH MONEY SHOULD GO TOWARD ADULT STEM CELL RESEARCH

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, prior to coming to the United States Congress, I practiced internal medicine for 15 years, including treating many patients with diabetes, Alzheimer's disease, and Parkinson's disease. For that reason, I was very interested in this issue of stem cell research.

I have reviewed the medical literature on this issue. Today, most of the people advocating for the use of embryonic stem cells are bench researchers who like to use them because they tend to proliferate very nicely in the U.S. culture. That very same property makes them very problematic in using them in clinical applications.

There is today the use of adult stem cells in treating diseases. There is no use of embryonic stem cells in treating any diseases. Indeed, there is not even an animal model where we can take a rat with a disease and treat it with an embryonic stem cell.

Using embryonic stem cells in clinical applications is very problematic for the very same reason that the bench researchers like to use it, the cells tend to proliferate and behave like malignancies. It is not only ethical to use adult stem cells, it makes the most sense, and it is where the research money should be going.

EMBRYONIC STEM CELL RESEARCH IS A MEDICAL ISSUE

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHAKOWSKY. Mr. Speaker, the issue of embryonic stem cell research has been misrepresented as one of abortion. It is not an abortion issue. Stem cell research is a medical issue, one that should transcend political lines and instead focus on human lives.

One such life is that of Carolyn Laughlin, a mother of two diabetic
sons in my hometown of Evanston, Illinois, who wrote me this past April to share her family’s struggle and urge me to support federally-funded stem cell research.

She said, “Diabetes haunts my family every waking hour. Injections, blood testing, calculating food portions are constant companions of my sons. Overnight, I fear insulin reactions that will leave them unconscious. Long-term we face the concerns of kidney failure, blindness, and amputations."

Most scientists are in agreement that embryonic cell research offers the greatest hope for families like the Laughlins. Federal funding guidelines assure that research will meet ethical standards and allow advancements to be made as quickly as possible in diseases like Parkinson’s and Alzheimer’s, cancer, heart disease, spinal cord injury.

The Laughlins and millions of other families are counting on us.

ETHICAL STEM CELL RESEARCH
USES ADULT STEM CELLS

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today in strong support of ethical stem cell research that uses adult stem cells instead of embryonic stem cells. Life begins at conception, and the use of embryos for research destroys young life.

I support the use of adult stem cells, not just because no young lives are lost, but also because research using adult stem cells has already produced exciting results. Large Scale Biology Corporation, a biotechnology company in the Second District of Kentucky, has produced a growth factor using tobacco-based plant proteins that causes adult stem cells to behave like embryonic stem cells.

Using their patented method, Large Scale Biology Corporation has successfully produced breast cancer and leukemia vaccines in conjunction with a joint Navy-NIH research team.

We all want to see diseases like cancer and Alzheimer’s cured, so let us support a proven alternative that we can all agree on and is not controversial. I urge my colleagues and President Bush to support funding for adult stem cell research and oppose life-destroying embryonic stem cell research.

WE MUST ALLOW FEDERAL FUNDING FOR LIFE-SAVING EMBRYONIC STEM CELL RESEARCH

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, throughout time people have resisted scientific advancement. History is replete with the examples of fundamentalist religious leaders issuing scientific decisions based on absolutely no evidence.

It is deja vu all over again today with this current administration as they inject politics into the single most promising medical research of the century. The Bush administration is unfortunately not committed to research that would hasten medical discoveries, but rather, to hold science hostage to the Catholic vote.

Carl Rove, the President’s chief political adviser, is concerned about the views of the Catholic Church because the Catholic voters are seen as a swing vote in the elections. This administration has degraded medical research and the tremendous potential of embryonic stem cell research into an anti-abortion vote.

The White House is currently reviewing the matter. In other words, they are looking at the polls. “A responsible leader,” and this is a quote, “is someone who makes decisions based upon principles, not based upon polls or focus groups.” The New York Times reminds us that President Bush said those words a few days before Election Day. Perhaps he needs to be reminded.

Without a microscope, one cannot even see what this debate is all about. The center of the controversy is a microscopic cluster of cells stored in test tubes like this one. It is smaller than the period at the end of a sentence.

When ORRIN HATCH says he can tell the difference between cells in the test tube and those in a woman’s body, then we know that this is a nonsense argument. We should continue this research.

GUTKNECHT AMENDMENT ALLOWS ACCESS TO REASONABLY-PRICED DRUGS FOR SENIORS

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, later today we are going to have a very heated debate about a simple amendment that I am going to offer to make it clear what the Congress intended last year in terms of prescription drugs and allowing seniors and other Americans access to drugs from other places.

Much of the debate is going to revolve around this chart and the issue of safety. I just want to talk about a couple of these items here for Glucophage, a commonly-prescribed drug for diabetes, in the United States the average price is $30.12 for a 30-day supply. That same drug made in the same place for $4.11.

Mr. Speaker, a lot of people are going to say, what about safety? What about safety? Well, there is not a single piece of evidence, not one piece of evidence, that anyone has been injured by bringing legal drugs back into the United States where they have a prescription. That is a fact.

It is also a fact that 4.4 percent of the fruit and produce that comes into this country every day is tainted with serious pathogens. Mr. Speaker, we are going to have a chance to vote on this amendment. We are going to have to decide whether we are going to defend and explain this chart, and say that Americans should not have the access to legal drugs from legal countries around the world.

URGING THE PRESIDENT TO ALLOW STEM CELL RESEARCH TO PROCEED

(Mrs. MALONEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I urge the President to allow stem cell research to proceed.

Along with the gentlewoman from Maryland (Mrs. MORELLA) and many others in this Congress, we have introduced House Resolution 17 that calls on Federal funding of human pluripotent stem cell research to continue.

As the recent statements by a number of prominent Republicans, such as Andy Card and Tommy Thompson, have said, they have come out in support of stem cell research. They underscore that this should not be a partisan issue. After a lengthy public comment period on August 25, the NIH published guidelines on human pluripotent stem cell research. Additionally, they accepted applications for research projects through March, 2001.

However, President Bush has put a hold on this work, calling for a review of the guidelines. I say to the President that it is estimated that over 100 million Americans are living with diseases like Parkinson’s, Alzheimer’s, diabetes. These people could be helped by stem cell research. We need to support science. We need to support medical knowledge. We need to support stem cell research.

EMBRYONIC STEM CELL RESEARCH DESTROYS LIFE

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, I rise in support of a fact, stem cell research, research that is ethical and which has been proven effective. The stem cell research I am referring to is derived from adults, umbilical cord blood, and placental blood, to name just a few sources. I, however, am not talking about stem cell research extracted from human embryos.

We can and are saving lives with stem cells gathered from adults even
more effectively than the stem cell research from embryos that some of my colleagues and I would think that that would be enough to convince folks where they should be on this important issue.

In case it is not, the fact that living human embryos would be deliberately destroyed in order to obtain their stem cells to me is absolutely appalling. Once we begin justifying the killing of human beings at one stage of development, we invite other troubling applications.

Stem cell research from human embryos establishes a bad precedent and is ethically wrong. Human life is too valuable. Let us condemn the logic of faulty research that extinguishes one life on the pretext of extending others. Instead, we should support the promising research methods that will save lives without ending others.

THE SUGAR PROGRAM

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, some of our colleagues defend the sugar subsidy as a no-net-cost program. If that was ever true, it is not true today. The sugar program costs plenty.

It costs tax dollars. Last year the Department of Agriculture spent $465 million on sugar subsidies.

It costs consumers. The General Accounting Office, a congressional agency, estimates that the people who consume and use sugar, which is all of us, pay an additional $1.9 billion a year because the Federal sugar subsidy keeps prices higher than they would be in a free market.

And the sugar program costs industry. Companies in my community, in my neighborhood, and other places throughout the country are moving away because the price is too high.

That is unfair. It is unfair to consumers. It is unfair to workers, and it is unfair to America.

COMMITTEE ON ENERGY AND COMMERCE IS CRAFTING BALANCED, LONG-TERM ENERGY POLICY

(Mrs. WILSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. WILSON. Mr. Speaker, the Committee on Energy and Commerce of the House today starts working on a comprehensive energy bill. It is going to be a balanced, long-term approach on energy policy for the Nation.

We have made wonderful strides in the last 20 years in conserving energy in this country. The refrigerator that we can buy today down at our local appliance store is one-third more efficient than it was in 1972.

We also have to increase supplies of energy and reduce our reliance on foreign oil. We have to improve our energy infrastructure, strengthen it, and give ourselves safe pipelines and modern transmission grids and refineries to get the energy where it needs to be.

We have a wonderful opportunity this summer to craft a policy important to the future of this country and to every citizen who pumps gas into their car or pays the family electric bill. We should seize that opportunity.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempe (Mr. COOKSEY). Although some minutes have passed since the remarks that prompt the Chair to mention it, the Chair must remind all Members that remarks in debate in the House may not include quotations of Senators, except in making legislative history on a pending measure.

FLAG PROTECTION AMENDMENT

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, I rise today in support of House Joint Resolution No. 36, the flag protection constitutional amendment.

The flag stands for all of us in this wonderful country, and the honor we bestow upon it as our symbol is as great as the contributions each of us should hope to make for our Nation.

If the Stars and Stripes could talk, I am sure that they would say, “I am what you make of me. It is up to you to keep me raised high and flying. I am your belief in yourself, your dream of what a people may become. I am all that you hope to be and have the courage to try for.

“I am song and fear, struggle and panic, and emboldening hope. I am the day’s work of the weakest man, and the largest dream of the most daring. I am the battle of yesterday and the mistake of tomorrow. I am the clutch of this world and the embrace of the world to come.”

The bipartisan Shays-Meehan Campaign Finance Reform Act has passed in this body twice before. We should finally move to make it law.

Unfortunately, the Republican leadership is determined to drive a stake through the heart of all campaign finance reform. They have introduced a sham alternative that is intended to delay, distract, and to ultimately kill real reform. The bill will not clean up our campaign finance system but rather allow even more money to flow through it.

Their bill would allow a wealthy couple to give $1.26 million in hard and
soft money to a national party in an election campaign, and it allows Federal candidates to raise unlimited amounts of soft money for State parties to spend on TV attack ads.

Let us stand up for clean elections, let us stand up for good political discourse in this country, let us stand up for real campaign finance reform.

**STEM CELL RESEARCH**

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise to voice my support for stem cell research under the strict NIH guidelines. I want to thank the Members on both sides of the aisle who have joined with me, both pro choice and pro life, in support of this important research.

This is not a political issue, it is not a partisan issue, it is a medical issue and it is a human issue. It is, for some, a life and death issue. It affects our seniors, men and women, and it affects our children. It goes without saying that the children of this country deserve the best medical research that one can find.

I speak of the children with juvenile diabetes, known as the silent killer. More than 1 million Americans have Type 1, which is the juvenile diabetes, a disease that strikes children suddenly, makes them insulin dependent for life, and carries the constant threat of devastating complications. Someone is diagnosed with Type 1 diabetes every hour. It can and does strike adults as well.

In diabetes research, it is hoped that stem cells can be differentiated into insulin-producing islet cells. If so, we will have found a cure for this disease. Stem cell research offers them hope. Stem cell research will no doubt, in one way or another, touch all Americans. We cannot, we must not shut that door.

Mr. Speaker, I urge President Bush to keep the NIH guidelines in place.

**FEDERAL FARM POLICY**

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, today, in a few minutes, we will take up the agricultural bill. In agricultural appropriations we do several things: we have a program in this country, our Federal agricultural policy that guarantees a farmer a minimum price that they can receive from the program commodity crops that they grow.

The problem we are dealing with in an amendment I will offer today says there should be a limitation on how much money goes to any particular producer. The limitation under current law is $75,000. In the bill that was debated under suspension, unavailable for any amendments 2 weeks ago, we increased that to $150,000.

I think when we consider that the giant farm operations are taking a lot of that price support money and realistically taking away from the small family farmer, we need to decide what Federal farm policy should be. I would ask my colleagues to consider an amendment of $75,000 per producer.

We have producers in this country that are now getting $1.2 million. The average size of farm in this country is 420 acres. We have farms up to 80,000 acres. We should be looking at helping family farmers with Federal farm policy.

**THE JOURNAL**

The SPEAKER pro tempore (Mr. COOKSEY). Pursuant to clause 8, rule XX, the pending business is the question of the Speaker’s approval of the Journal of the last day’s proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HINCHLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic devices, and there were—yeas 366, nays 42, answered “present” 2, not voting 23, as follows:

[List of names]

**[Roll No. 214]**

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Mr. OBERSTAR changed his vote from "yea" to "nay."
So the result of the vote was approved as above recorded.

Mr. FILNER. Mr. Speaker, on rollcall No. 214, I was unavoidably detained. Had I been present, I would have voted "nay."
An amendment by the gentleman from California (Mr. BACA) related to Hispanic-serving institutions for 10 minutes;

An amendment by the gentleman from California (Ms. PELOSI) related to HIV for 10 minutes;

An amendment by Mr. BROWN related to abbreviated applications for the approval of new drugs under section 505(j) of the Food, Drug and Cosmetic Act for 20 minutes;

An amendment by the gentleman from Michigan (Mr. STUPAK), or the gentleman from New York (Mr. BONILLO), related to elderly nutrition, for 20 minutes;

An amendment by the gentelman from North Carolina (Mrs. CLAYTON) related to socially disadvantaged farmers for 20 minutes;

An amendment by the gentleman from New York (Mr. HINCHLEY) related to American Rivers Heritage for 30 minutes;

An amendment by the gentleman from Ohio (Mr. KUCINICH) related to transgenic fish for 30 minutes;

An amendment by the gentleman from Minnesota (Mr. GUTENBERG) related to drug importation for 30 minutes;

An amendment by the gentleman from Vermont (Mr. SANDERS) related to drug importation for 40 minutes;

An amendment by the gentleman from Massachusetts (Mr. OLIVER), or the gentleman from Maryland (Mr. GILCHREST), related to Kyoto, which may be brought up at any time during consideration, for 60 minutes.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent to strike the last word to permit me to engage in a colloquy with the distinguished chairman of our Committee on Agriculture, the gentleman from Texas (Mr. BONILLA).

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, I appreciate the efforts of the gentleman from Texas (Mr. BONILLA) to provide assistance to all of the farmers throughout our Nation. Our onion growers in Orange County, New York, have incurred substantial crop losses due to the damaging weather-related conditions in 3 of the last 4 years?

Mr. BONILLA. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I would first of all like to say that I hope that the constituents back home of the gentleman from New York (Mr. GILMAN) understand how hard he has been working on this issue.

Mr. GILMAN. I appreciate that.

Mr. BONILLA. This is not something that, as the gentleman is presenting it to us today, we are hearing for the first time. The gentleman has done yeoman’s work on bringing this issue to our attention; and we know it is a very serious problem.

It is going to be a difficult issue for us to deal with, but I do commit to the gentleman that we will do what we can and whatever might be possible between now and conference to help the growers back home.

Mr. GILMAN. I thank the gentleman from Texas (Chairman BONILLA) for his encouraging words, and I look forward to working with him on this.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In addition, $2,950,000, solely for carrying out section 804 of the Federal Food, Drug, and Cosmetic Act, to be available only after the requirements of section 804(h) have been satisfied.

In addition, mammography user fees authorized by 42 U.S.C. 381(b) may be credited to this account, to remain available until expended.

In addition, export certification user fees authorized by 21 U.S.C. 381 may be credited to this account, to remain available until expended.
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BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, acquisition of real property, acquisition of plant and equipment, maintenance and operation of buildings, purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $34,281,000, to remain available until expended (7 U.S.C. 2209b).

INDEPENDENT AGENCIES

COMMERCY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and rental of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109, $70,700,000, including not to exceed $2,000 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION OF ADMINISTRATIVE EXPENSES

Not to exceed $36,770,000 (from assessments collected from insured institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized by 12 U.S.C. 2249f. Provided, That this limitation shall not apply to expenses associated with receivables.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for fiscal year 2002 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 379 passenger motor vehicles, of which 378 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 703. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by sections 1 and 10 of the Act of August 14, 1946 (7 U.S.C. 427 et seq.), and of the Act of June 29, 1935 (7 U.S.C. 427, 427i; consolidated and reenacted in the Agricultural Adjustment Act of 1938; as amended by sections 1 and 10 of the Commodity Credit Corporation Act of 1949 (7 U.S.C. 1661 et seq.)); and of the Act of August 28, 1954 (7 U.S.C. 1766b). Provided, That notwithstanding any other provision of law, none of the funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements made by the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate purchase of indirect costs on grants and cooperative agreements when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 704. The Secretary of Agriculture may transfer unobligated balances of funds appropriated by this Act or other available unobligated balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture (hereinafter referred to as the Bankhead-Jones Act), subtitie A of title II and section 302 of the Act of August 14, 1946 (7 U.S.C. 1621 et seq.), and title XI, subtitle C, of the Act of November 30, 1965 (42 U.S.C. 247). Provided, That these funds shall be available for contracts in accordance with such Acts and chapter.

SEC. 705. The Secretary of Agriculture may transfer unobligated balances of funds appropriated by this Act or other available unobligated balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture (hereinafter referred to as the Bankhead-Jones Act), subtitie A of title II and section 302 of the Act of August 14, 1946 (7 U.S.C. 1621 et seq.), and title XI, subtitle C, of the Act of November 30, 1965 (42 U.S.C. 247). Provided, That none of the funds made available by this Act or any other Act shall be transferred to the Working Capital Fund without the prior approval of the agency administra-

SEC. 706. No appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed $50,000 of the appropriations of the Commodity Futures Trading Commission for the fiscal year 2002 under this Act shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of October 17, 1975 (15 U.S.C. 78t-2).

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements made by the United States Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of October 17, 1975 (15 U.S.C. 78t-2).

SEC. 709. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of the Federal Intermediate Credit Banks to carry out programs of public interest.

SEC. 710. None of the funds in this Act shall be available to pay grants awarded competitively by the Cooperative State Research, Education, and Extension Service that exceed 19 percent of total Federal funds provided under each award: Provided, That notwithstanding section 1602 of the Act of July 11, 1941 (7 U.S.C. 1602), that any other provision of law, none of the funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements made by the United States Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of October 17, 1975 (15 U.S.C. 78t-2).

SEC. 711. Notwithstanding any other provision of law, none of the funds in this Act shall be available to pay negotiated indirect cost rates on cooperative agreements or similar arrangements made by the United States Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of October 17, 1975 (15 U.S.C. 78t-2).

SEC. 712. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in fiscal year 2002 shall remain available until expended in fiscal year 2002 for the following accounts: the Rural Development Loan Fund program account; the Rural Telephone Bank program account; the Rural Utilities Service loans program account; the Rural Housing Insurance Fund program account; and the Rural Economic Development Loan program account.

SEC. 713. Notwithstanding section 10 of the Commodity Exchange Act (7 U.S.C. 1671 et seq.), the Secretary of Agriculture may use cooperative agreements to reflect a relationship between the Agricultural Marketing Service; the Grain Inspection, Packers and Stockyards Administration; the Animal and Plant Health Inspection Service; and the fund safety activities of the Food Safety and Inspec-

SEC. 714. Notwithstanding any other provi-

SEC. 715. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has been authorized by section 901 of the Act of July 11, 1941 (7 U.S.C. 1616a). Provided, That notwithstanding any other provision of law, none of the funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements made by the United States Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of October 17, 1975 (15 U.S.C. 78t-2).

SEC. 716. Of the funds made available by this Act, not more than $1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 717. None of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 671 et seq.). Provided, That notwithstanding any other provision of law, none of the funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements made by the United States Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of October 17, 1975 (15 U.S.C. 78t-2).

SEC. 718. No employee of the Department of Agriculture may be detailed or assigned to any other agency or office of the Department of Agriculture, except for an employee of the Department of Agriculture on leave without pay to serve in another agency or office of the Department of Agriculture, for the period of such leave, for the salary and expenses of the employee for the period of such leave.
pay the salaries and expenses of personnel to
able by this or any other Act may be used to
funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to carry out a conservation farm option program, as authorized by section 1230M of the Food Security Act of 1985 (16 U.S.C. 3839bb).

SEC. 725. None of the funds appropriated by this Act shall be available for obligation or expenditure for personnel which would result in a change in expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes functions of programs or activities currently performed by Federal employees; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

SEC. 726. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Drug Analysis (recently renamed the Division of Pharmaceutical Analysis) in St. Louis, Missouri, except that funds could be used to plan a position or office within the city limits of St. Louis, Missouri.

SEC. 727. None of the funds made available to the Food and Drug Administration by this Act may be used to relocate the office of the Administrator of the Food and Drug Administration District Office below the operating and full-time equivalent staffing level of July 31, 2003, to change the Office to a station, residence post or similarly modified office; or to reassign residence posts assigned to the Detroit Office: Provided, That this section shall not apply to Food and Drug Administration field laboratory facilities or operations currently located in Detroit, Michigan, except that field laboratory personnel shall be assigned to locations in the general vicinity of Detroit, Michigan, pursuant to cooperative agreements between the Food and Drug Administration and other laboratories associated with the State of Michigan.

MARKET LOSS ASSISTANCE FOR APPLE PRODUCERS

SEC. 740. (a) Assistance Available.—The Secretary of Agriculture, with the approval of the Commodity Credit Corporation, may use any balances available to carry out title III of such Act as of the date of enactment of this Act, and any recoveries and reimbursements that become available after the date of enactment of such Act, may be used to carry out title II of such Act.

SEC. 741. Section 375(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008(e)(6)(B)) is amended by striking "$25,000,000" and inserting "$32,000,000".

SEC. 742. None of the funds appropriated or otherwise made available by this Act shall be used to issue a notice of proposed rulemaking, to promulgate a proposed rule, or to otherwise change or modify the definition of "animal" in existing regulations pursuant to the Animal Welfare Act.

SEC. 743. Notwithstanding any other provi-
sion of law, the Secretary shall consider the City of Casa Grande, Arizona, as meeting the requirements of a rural area in section 520 of the Housing Act of 1949 (42 U.S.C. 1400).

SEC. 735. Notwithstanding any other provi-
sion of law, the City of Saint Joseph, Mis-
souri, shall be eligible for grants and loans administered by the rural development mission areas of the Department of Agriculture.

SEC. 736. Notwithstanding any other provi-
sion of law, the Secretary of Agriculture shall consider the City of Hollister, Cali-
fornia, as meeting the requirements of a rural area for the purposes of housing pro-
grants in the rural development mission areas of the Department of Agriculture.

SEC. 737. None of the funds appropriated or otherwise made available by this Act may be used to maintain, modify, or implement any assessment against agricultural producers as part of a commodity promotion, research, and consumer information order, known as a check-off program, that has not been approved by the affected producers in accordance with the statutory requirements applicable to the order.

SEC. 738. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Drug Analysis (recently renamed the Division of Pharmaceutical Analysis) in St. Louis, Missouri, except that funds could be used to plan a position or office within the city limits of St. Louis, Missouri.

SEC. 743. None of the funds appropriated or otherwise made available by this Act shall be used to issue a notice of proposed rulemaking, to promulgate a proposed rule, or to otherwise change or modify the definition of "animal" in existing regulations pursuant to the Animal Welfare Act.
make payments for that amount of a particular crop's apple production that is in excess of 20,000,000 pounds.

(c) DUPLICATIVE PAYMENTS.—A producer shall be ineligible for payments under this section with respect to a market loss for apples to the extent of that amount that the producer received as compensation or assistance for the same loss under any other Federal program or under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(d) OTHER TERMS AND CONDITIONS.—The Secretary shall not establish any terms or conditions for producer eligibility, such as limits based upon gross income, other than those specified in this section.

(e) APPLICABILITY.—This section applies only with respect to the 2000 crop of apples and producers of that crop.

Mr. BONILLA (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 74 line 21 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT NO. 12 OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Ms. KAPTUR: Add before the short title at the end the following new section:

SEC. 7. (a) The Secretary, in issuing regulations under this section, shall prescribe the procedures by which the Secretary will be notified of a request for assistance under this section.

(b) The Secretary shall, to the extent practicable, direct that tonnage equal in value to not more than $25,000,000 shall be made available to foreign countries to assist in mitigating the effects of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome on communities, including the provision of:

(1) agricultural commodities to—

(A) individuals with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome in the communities, and

(B) households in the communities, particularly individuals caring for orphaned children;

and

(2) agricultural commodities monetized to provide other assistance (including assistance under microcredit and microenterprise programs) to create or restore sustainable livelihoods among individuals in the communities, particularly individuals caring for orphaned children.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentlewoman from California (Ms. PELOSI) and a Member opposed each will control 5 minutes.

Ms. PELOSI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I intend to withdraw the amendment after a brief discussion due to an understanding with the gentleman from Texas (Mr. BONILLA) to look for funds for the celebration of the centennial anniversary of National 4-H as we move toward conference.

Also, I do this out of respect for the National 4-H leadership that has committed not to have those funds come at the expense of existing extension programs which are already stretched.

Mr. BONILLA. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) is recognized for 5 minutes.

Mr. BONILLA. Mr. Chairman, just briefly, I would like to acknowledge the gentlewoman's hard work on this issue and commit to working with her as we move to conference to addressing the needs of our good 4-H people around the country.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I thank the chairman very much for his openness and willingness to work with us as we move toward conference.

AMENDMENT OFFERED BY MS. PELOSI

Ms. PELOSI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. PELOSI: At the end of title VII, insert the following new section (preceding any short title) the following section:

Sec. 7. (a) Of any shipments of commodities authorized pursuant to section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Secretary of Agriculture shall, to the extent practicable, direct that tonnage equal in value to not more than $25,000,000 shall be made available to foreign countries to assist in mitigating the effects of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome on communities, including the provision of:

(1) agricultural commodities to—

(A) individuals with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome in the communities, and

(B) households in the communities, particularly individuals caring for orphaned children;

and

(2) agricultural commodities monetized to provide other assistance (including assistance under microcredit and microenterprise programs) to create or restore sustainable livelihoods among individuals in the communities, particularly individuals caring for orphaned children.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentlewoman from California (Ms. PELOSI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as a member of the Committee on Appropriations, I am pleased to rise and join the gentlewoman from North Carolina (Mrs. CLAYTON), a member of the authorizing committee, the Committee on Agriculture, in offering this amendment to ensure continued funding to reduce the burden of hunger for HIV-AIDS patients and children orphaned by AIDS in developing world.

I commend the gentlewoman from North Carolina (Mrs. CLAYTON) for her leadership on this issue. She worked with us on this issue in the Committee on Agriculture as well as a member of the Congressional HIV Task Force. She developed this proposal, and her leadership has been very important, because this amendment affects so many millions of families worldwide.
I would like to thank the gentleman from Texas (Chairman Bonilla) and the ranking member, the gentlewoman from Ohio (Ms. Kaptur), for their leadership on the subcommittee and their support for this amendment.

Mr. Chairman, I will submit my statement for the record, but I just want to make two quick points. Poor nutrition accelerates the progression of HIV to AIDS, and an adequate food supply is critical to any prevention and care strategy. When a family member becomes infected with HIV, household food production is undermined, limited financial resources are used for medical costs rather than crop production, and family members are forced to care for the sick, rather than work in the fields.

Starting last year, $25 million was provided through the Food for Peace program to reduce the burden of hunger for families impacted by AIDS through food, nutrition, and health programs and direct distribution of food commodities. Today's amendment will continue this vital funding. I wish that we could have the number be higher in the future, but the $25 million called for here is a very, very important addition. I thank my colleagues for their support of this important amendment.

Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Ohio (Ms. Kaptur), the very distinguished ranking member of the subcommittee.

Ms. KAPTUR. Mr. Chairman, I want to compliment the wonderful, wonderful gentlewoman from North Carolina (Ms. Clayton), the real author of this amendment, and commend her for her tremendous leadership.

Mrs. CLAYTON. Mr. Chairman, I want to thank the gentlewoman from California for her leadership on this and also her continuous and long-standing leadership in fighting AIDS. This is a unique opportunity to do good while doing well. The Food for Peace program allows us to make contributions all across world where there is suffering. What better effort than to direct $25 million of the Food for Peace program to reduce the burden of hunger for families impacted by AIDS through food, nutrition, and health programs.

As the gentlewoman from California (Ms. Pelosi) said already, this program is available to be a prevention-intervention program. We are increasingly aware that the medication alone does not improve health by itself. Not only that, but because of the health condition of the individual, their productivity and ability to afford food has been decreased drastically. I am very happy that the Republicans as well as the Democrats, all support this, and I want to commend the chairman for his support of this amendment.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas (Mr. Bonilla) is recognized for 5 minutes.

Mr. BONILLA. Mr. Chairman, I rise to simply state that I am not opposed to the gentlewoman's amendment. A similar provision was included in the conference agreement last year as section 745 of our bill, without any objection of which I am aware. I would hope that we can quickly move to a vote on this issue, and commend the gentlewoman's work on this very important issue.

Ms. PELOSI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the distinguished chairman of the committee for his words of cooperation.

Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Ohio (Ms. Kaptur), the very distinguished ranking member of the subcommittee.

Ms. KAPTUR. Mr. Chairman, I want to compliment the wonderful, wonderful gentlewoman from California (Ms. Pelosi) and the gentlewoman from North Carolina (Mrs. Clayton). Would I not know that the two of them would do something this significant? What they are proposing is only to continue what the House had agreed to do in conference last year, and that is to use the food power of this country to help alleviate suffering around the world, and certainly the plague of HIV/AIDS.

Their effort uses the power of food in the most creative way possible. Yet the sponsors of the amendment and all who support it should keep in mind that the President's budget proposes a review of the 416 programs with an eye toward reducing their availability. So, those who utilize and understand these programs need to be prepared to speak out before these programs are eliminated or reduced.

I want to thank the gentlewomen for bringing this up before the full House to make sure that we effectively use the dollars that are there, and not permit the food surplus of this country to be subscribed in a way that would not be made available to those who truly need it globally. I support them in their efforts.

Ms. PELOSI. Mr. Chairman, I rise to join Representative Clayton in offering this amendment to ensure continued funding to reduce the burden of hunger for HIV/AIDS patients and children orphaned by AIDS in the developing world. I commend Representative Clayton for her leadership on this issue, which affects so many millions of families worldwide. I would also like to thank Ranking Member Kaptur and Chairman Bonilla for their leadership on the Subcommittee and their support for this amendment.

We have all heard the staggering statistics—36 million people infected with HIV, 22 million deaths from AIDS, and nearly 14 million children orphaned. Archbishop Desmond Tutu has said, "AIDS in Africa is a plague of biblical proportions. It is a holy war that we must win." It is indeed, and the battles in this war occur on many fronts.

The impact of HIV/AIDS on poor families goes beyond the pain that accompanies the loss of a loved one. AIDS strikes people during their most productive years, and family income is cut by more than half when a parent is sick.

Household food production is undermined as limited financial resources are used for medical costs rather than crop production, and family members are forced to care for the sick, rather than work in the fields.

Starting last year, $25 million was provided through the Food for Peace program to reduce the burden of hunger for families impacted by AIDS through food, nutrition, and health programs and direct distribution of food commodities. Today's amendment will continue this vital funding. I wish that we could have the number be higher in the future, but the $25 million called for here is a very, very important addition. I thank my colleagues for their support of this important amendment.

Mr. Chairman, I will submit my statement for the record, but I just want to make two quick points. Poor nutrition accelerates the progression of HIV to AIDS, and an adequate food supply is critical to any prevention and care strategy. When a family member becomes infected with HIV, household food production is undermined, limited financial resources are used for medical costs rather than crop production, and family members are forced to care for the sick, rather than work in the fields.

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I thank my colleagues for their support of this important amendment.

Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Ohio (Ms. Kaptur), the real author of this amendment, and commend her for her tremendous leadership.

Mrs. CLAYTON. Mr. Chairman, I want to thank the gentlewoman from California for her leadership on this and also her continuous and long-standing leadership in fighting AIDS. Their effort uses the power of food in the most creative way possible. Yet the sponsors of the amendment and all who support it should keep in mind that the President's budget proposes a review of the 416 programs with an eye toward reducing their availability. So, those who utilize and understand these programs need to be prepared to speak out before these programs are eliminated or reduced.

I want to thank the gentlewomen for bringing this up before the full House to make sure that we effectively use the dollars that are there, and not permit the food surplus of this country to be subscribed in a way that would not be made available to those who truly need it globally. I support them in their efforts.

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The impact of HIV/AIDS on poor families goes beyond the pain that accompanies the loss of a loved one. AIDS strikes people during their most productive years, and family income is cut by more than half when a parent is sick.

Household food production is undermined as limited financial resources are used for medical costs rather than crop production, and family members are forced to care for the sick, rather than work in the fields. Many families must mortgage their land and sell productive assets, including livestock, to pay for food and medicine.

The U.S. has sought to reduce the burden of hunger that results from families' diminished ability to produce food. Starting last year, $25 million was provided through the Food for Peace program to improve food security through agricultural improvement, maternal and child health programs, and direct distribution of food commodities.

Today's amendment continues this vital funding. I thank my colleagues for their support of this important amendment.

Mr. Chairman, I will submit my statement for the record, but I just want to make two quick points. Poor nutrition accelerates the progression from HIV to AIDS. In addition to the prevention, treatment, and infrastructure needs that must be addressed to stem the tide of the pandemic, we must also recognize that good nutrition is critical to any prevention and care strategy.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. Pelosi).

The amendment was agreed to.

Mr. HINCHHEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

[The amendment text would be inserted here.]

Mr. HINCHHEY. Mr. Chairman, I rise to join Representative Clayton in offering this amendment to ensure continued funding to reduce the burden of hunger for HIV/AIDS patients and children orphaned by AIDS in the developing world. I commend Representative Clayton for her leadership on this issue, which affects so many millions of families worldwide. I would also like to thank Ranking Member Kaptur and Chairman Bonilla for their leadership on the Subcommittee and their support for this amendment.

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Today's amendment continues this vital funding. I thank my colleagues for their support of this important amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. Pelosi).

The amendment was agreed to.
gentleman from Texas (Mr. BONILLA), for working with us on this very important subject. I also want to express my appreciation to the gentleman from Pennsylvania (Mr. KANJORSKI), who has also been very deeply concerned about the continuation of these positions, particularly in his case the position of river navigator for the Susquehanna River, a river that flows through Pennsylvania as well as New York.

I believe that the language that we have arrived at here is language which is acceptable to the chairman of the subcommittee, and that the amendment will be accepted by him.

Before I ask him that, I just want to make the point that these two positions are very, very important. What they do is they coordinate all Federal programs on these two rivers. These two rivers are two very important rivers, the Susquehanna, of course, feeding into the Chesapeake Bay, and there are a great many Federal programs, including programs consistent with the Federal Clean Water Act and others, that are very important to these rivers and the people who live along them. Therefore, Federal coordination of all programs associated with these rivers is very important.

I thank the chairman of our subcommittee, the gentleman from Texas, for recognizing that importance, and I want to express to the gentleman my appreciation for the ability to work with him and express my pleasure in having had the opportunity to work with him on this important issue.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. BONILLA. Mr. Chairman, I want to acknowledge the good amendment that the gentleman from New York is offering, and tell him that we are delighted to accept the amendment.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. Mr. Chairman, I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I just want to thank the chairman for his support of our very able colleague from New York who has such a persevering record on attempting to get the American Heritage Rivers Initiative fully operational for the city of New York and for rivers immediately adjacent to and in his district, so that these local river conservation plans become more than plans, but, in fact, help us to preserve the precious fresh water resource that is ours alone in this quadrant of the United States.

I would have to just say as the ranking member on the subcommittee, no Member has fought harder for this program than the gentleman from New York (Mr. HINCHHEY), and the people of New York have sent the right man here to represent them.

Mr. HINCHHEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the gentlewoman from Ohio (Ms. KAPTUR), the ranking member on our Subcommittee on Agriculture of the Committee on Appropriations, for those very kind words, and for her diligent and very effective work on the committee. Once again, I want to extend my appreciation to the chairman of our subcommittee and also to the staff that works under his direction for their assistance in putting this amendment together and for its successful acceptance.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HINCHHEY).

The amendment was agreed to.

AMENDMENT NO. 20 OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. SANDERS:

At the end of title VII, insert after the last section (preceding any short title) the following section:

Sec. 7. None of the amounts made available in this Act for the Food and Drug Administration may be used for enforcing section 801(d)(1) of the Federal Food, Drug, and Cosmetic Act.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 20 minutes.

The chair recognizes the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this tripartisan amendment is offered by the gentleman from New York (Mr. CROWLEY), the gentlewoman from Connecticut (Ms. DELAUNO), the gentleman from California (Mr. ROHRABACHER), and the gentleman from Texas (Mr. PAUL).

It is about lowering the cost of prescription drugs so that the American people do not have to pay far the highest prices in the world for prescription drugs. It is about ending the national disgrace of tens of thousands of American citizens in New England, the Midwest, the Northwest, from having to go across the Canadian border in order to purchase the same exact prescription drugs that they buy at home for 50 percent of the cost or 60 percent of the cost or 20 percent of the cost.

It is about ending the absurdity of American citizens in California, Texas, Arizona, and the southern parts of our country of having to go to Mexico for the same exact reason.

It is about allowing women in the United States who are fighting for their lives against breast cancer so they do not have to pay 10 times more than the women in Canada for Tamoxifen, a widely prescribed breast cancer drug.

It is about telling the drug companies that they can no longer charge the American people $1 for drugs when those same exact products are sold in Germany for 60 cents, France for 51 cents, and Italy for 49 cents, the same exact products made by the same exact companies.

Mr. Chairman, for decades now, good people, Democrats, Republicans, in the House and in the Senate, have attempted to do something about lowering the cost of prescription drugs in this country so that the American people do not have to pay outrageously high prices for their medicine, so that doctors do not have to write out prescriptions knowing that their patients cannot afford to fill them. But year after year with legislation, with well-paid lobbyists and massive amounts of campaign contributions the pharmaceutical industry always wins. They never lose.

In the last three years alone the drug companies have spent $200 million in campaign contributions, lobbying and political advertising. In the last election cycle they doubled the amount of campaign contributions from 9 million to $18 million, and I have no doubt that they are prepared to double it again.

The issue today is not only the high cost of prescription drugs. The issue today is whether the Congress has the guts to stand up for their constituents, people who are being charged people who are dying and suffering because they cannot afford sky-high prescription drug prices; or do we cave in again to the pharmaceutical industry that is spending so much money trying to buy our votes.

The pharmaceutical industry has endless amounts of money. Year after year the industry sits at the top of the charts in profits. The top 10 companies last year made $27 billion in profits. They have a lot of money to spend on Congress. Their top executives, well, they have a lot of money to spend too.

A report came out yesterday from Families U.S.A., which talked about the compensation of executives in the pharmaceutical industry.

At a time when Americans die and suffer because they cannot afford prescription drugs, you might be interested to know that the CEO of Bristol-Myers Squibb has unexercised stock options of over $227 million. Elderly people cannot afford prescription drugs, and this CEO has unexercised stock options of over $227 million.

Pfizer has $130 million in unexercised stock options. Merck has $180 million, and on and on it goes.

Mr. Chairman, today in a tripartisan amendment, the gentlewoman from...
Mr. BONILLA. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

The gentleman seeks to solve one problem by creating another, and I am going to cite some very, very serious testimony here from the Food and Drug Administration that was presented in front of the gentleman from Pennsylvania (Mr. GREENWOOD) and his Subcommittee on Oversight and Investigations just last month.

At the hearing, the FDA stated, and I quote: "From a public health standpoint, importing prescription drugs for personal use is a potentially dangerous practice. FDA and the public do not have any assurance that unapproved products are effective or safe or have been produced under U.S. good manufacturing practices. U.S.-made drugs that are reimported may not have been stored under proper conditions or may not be the real product, because the U.S. does not regulate foreign distributors or pharmacies. Therefore, unapproved drugs and reimported approved medications may be contaminated, subpotent, superpotent, or even counterfeit."

The FDA also said, and I quote: "Under FDA's personal importation policy, FDA inspectors may permit the importation of certain unapproved prescription medications for personal use. The Secretary of Health and Human Services has an enforcement discretion to allow entry of an unapproved prescription drug if: the product is for personal use, (a 90-day supply or less, and not for resale); the intended use is for a serious condition for which effective treatment may not be available domestically (and, therefore, the policy does not permit inspectors to allow foreign versions of U.S.-approved drugs into the U.S.); or there is no known commercialization or promotion to U.S. residents by those involved in the distribution of the product."

There are several other points here, but the bottom line is, this could be a dangerous threat to consumers in this country. This could be a dangerous threat to consumers in this country. This could be a dangerous threat to consumers in this country. The FDA has not officially permitted the importation of foreign versions of U.S.-approved medications, even if sold under the same name, because these products are unapproved, and the agency has no assurances that these products are safe or effective. I would like to inform my colleagues that both the Committee on Energy and Commerce, which is the authorizing committee for the FDA, and the administration strongly oppose this language and any other language allowing for importation of drugs.

So I rise in strong opposition. We will be hearing from other good Members from the Committee on Commerce as well in just a few minutes.

Mr. SANDERS. Mr. Chairman, I yield 2 1/4 minutes to the gentleman from Connecticut (Ms. DELAUNO), the co-sponsor of this legislation and a real fighter in terms of lowering the price of prescription drugs.

Ms. DELAUNO. Mr. Chairman, I rise in strong support of the Sanders-Crowley-Rohrabacher-DelAuro-Paul amendment to help American families and seniors get the necessary prescription drugs at affordable prices. With spending on prescription drugs by seniors and others up by 18 percent last year to nearly $23 billion, we need to do everything that we can to make them safe, effective, and affordable, make these drugs accessible to those who need them.

One would think that this is a goal that we could rally around. But no, once again, we are being fought by the pharmaceutical industry. They oppose reimportation. That poses the question: What exactly are they for? They are against the Medicare prescription drug plan for all seniors. They are opposed to the Allen bill that would allow for pharmacists to be able to purchase at a discounted rate, the pharmaceuticals that Germany, France, Britain, and others can purchase. They are against across-the-board price reductions. They never tell us why.

In fact, the only thing they seem to be for is extending their patents and seeing their profits increase.

Last year, the top 10 pharmaceutical companies earned $26 billion in profits. They oppose this amendment because the bill might cut into its considerable profit margin. They are waging a massive dollar campaign to protect their agenda across the land. Over the past five election cycles, the Pharmaceutical Research and Manufacturers Association, the trade group for brand-name drug companies, gave nearly $360 million in political contributions, lobbying and advertising campaigns, to protect its legislative agenda.

Mr. Chairman, there are opponents of this amendment who raise the safety issue. The fact is that reimportation is something that has worked for years in Europe. Twenty-five percent of drugs consumed in European countries are reimported. This legislation requires all imported drugs to be the exact same FDA-approved medications that are sold in the United States. Pharmaceutical labels must comply with FDA regulations.

Last year, Dr. David Kessler, the former FDA Commissioner under Presidents Bush and Clinton, stated that U.S.-licensed pharmacists and wholesale distributors would be able to safely import quality prescription drugs. He believes the importation of prescription drugs can be done without causing a greater health risk to American consumers.

Let me just say that GlaxoWellcome is a British company. They send drugs to the United States, and they are perfectly well approved.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I absolutely believe that we need to control the cost of prescription drugs for seniors. But this is an ill-advised way to do it. I understand that the people who speak for this amendment are well motivated, but the fact is that they run the risk because they are tackling this issue indirectly rather than directly, they run the risk of allowing large numbers of adulterated drugs into this country.

It is one thing to fight for access to affordable drugs for seniors; it is another thing in the process to open our seniors up to the dangers of adulterated or expired drugs, and that is exactly what this amendment does.

If we take a look at what happened last year when we applied a similar approach, try though the Congress did, we wound up producing an importation process which the Secretary of Health and Social Services said she could not certify as to efficacy or safety, and so the proposal could not be approved.

I would point out that every Member of the House has a letter from the gentleman from Louisiana (Mr. TAUZIN),
the chairman of the Committee on Energy and Commerce, and the gentleman from Michigan (Mr. Dingell), one rank and file and various other members of the committee, which says the following: “Despite anybody’s best intention, if the Sanders amendment becomes law, our citizens will have no idea whether the source of their pills is an FDA-approved facility or an unregulated warehouse rented for the weekend by big business counterfeiters and larcenists seeking to penetrate the U.S. market. Drug counterfeiters present a severe and growing threat to the health and safety of the United States consumers.”

If we want to deal with this problem, in my view, the correct way is to support the Allen legislation, because that produces into this country by larcenists; it does not force seniors to have lower the price that is charged to seniors; it does not assure that they are safe, and they are

Mr. SANDERS. Mr. Chairman, just as a point of fact, Donna Shalala did not implement last year because of safety. It had nothing to do with safety; it had to do with pricing loopholes.

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. Gutknecht), who has done an excellent job on this issue.

Mr. GUTKNECHT. Mr. Chairman, I thank the gentleman from Vermont for yielding time to me. I want to show a couple of charts, because we are going to have several debates. This amendment is somewhat broader than the one that I have drafted, but it really involves around a couple of important points.

One is the issue of price. I do not think anybody here today is going to dispute this chart. I did not make this chart. This was done by the Life Extension Foundation. The information is about 2 weeks old.

If we compare what Americans pay to what Europeans pay, and we are talking about Europe here, not Mexico, not Third World countries, but we are talking about Switzerland and Germany, where they do not have price controls, at some point we are going to have to explain to our constituents why we stand idly by and allow this chart to exist.

The issue they are going to raise, and it is going to be a red herring, is safety. Safety. Understand this, Mr. Chairman, every day millions of pounds of raw meat and vegetables come into this country, and we have checked with the FDA, it is the Food and Drug Administration, their own study in 1999 said that 4.4 percent of the produce coming into the United States has dangerous pathogens, including 3.3 percent have salmonella.

Do Members know what can happen if we get salmonella? We can get real sick. In fact, we can die. That is every day that is coming into the United States. Yet, there is no known scientific study where consumers in the United States have been injured importing legal drugs from G–8 countries, not one. As a matter of fact, if we had heard that, it would be all over. I suspect the pharmaceutical industry would have that over every newspaper and on television.

The truth of the matter is that there is almost no risk to consumers to bringing legal drugs back into the United States.

They are going to talk about illegal drugs. Nothing in the Sanders amendment does to any extent, nothing that is going to be discussed today is about legalizing illegal drugs. We are not talking about the Medellin drug cartel, which incidentally does ship billions of dollars worth of illegal drugs into the United States. I am unable to do almost anything about it. What we are talking about today is the Medellin drug cartel, which incidentally does ship billions of dollars worth of illegal drugs into the United States. The Food and Drug Administration is unable to do almost anything about it. What we are talking about today is legalizing illegal drugs. We are not talking about the Medellin drug cartel, which incidentally makes a lot of money.

We are not talking about the Medellin drug cartel, which incidentally makes a lot of money.

Mr. GREENWOOD. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. Rohrabacher), our co-sponsor.

Mr. ROHRABACHER. Mr. Chairman, I rise in strong support of the Sanders amendment. We have to take a look at the substance here, instead of trying to be diverted away from the central point of what is going on by scare tactics.

I do not know if any Members have had calls come to their office last night, but I had calls. My office was flooded with calls from people who had been told that the Sanders amendment meant that marijuana and heroin and all sorts of drugs would be permitted to flow across the border. That type of scare tactic is what is so important to the health of the American people as the issue that we are discussing today.

It appears that the people on the other side of this issue are so afraid of the actual facts that they have succumbed to this type of scare tactic and dishonesty. That should play no part of this debate.

Let me note that we are being told that there will be a few Americans who will be hurt. Yes, a few Americans might be hurt, and let us admit that. But what we are talking about is the vast number of Americans who will be hurt if we pass the Sanders amendment because some people will get hold of counterfeit drugs, some people will get hold of drugs that are not exactly regulated correctly and produced correctly.

Yes, a few Americans might be hurt, and let us admit that. But what we are talking about is the vast number of Americans who will be hurt if we pass the Sanders amendment because some people will get hold of counterfeit drugs.

This bill permits people, American citizens, and especially those who live near the borders of another country, to go across those borders and buy drugs that are being sold at a cheaper rate.

Sometimes we have seen it to be half as much, a third as much, sometimes one-quarter or 20 percent the price across the border. That type of scare tactic is what is so important to the health of the American people as the issue that we are discussing today.

It makes no sense for us to talk about globalizing the economy and globalizing the world economy without letting our people benefit from the competitive advantages, the consumers’ competitive advantages in dealing on an international market.

We believe, okay, in free trade. We believe in a competitive market and a global market. Let us let the American consumer benefit from that. What will happen if we pass this amendment is that there will be pressures, competitive and market pressures, on our own
drug producers here in the United States to lower the price of their product in the United States as well. By de- feating the Sanders amendment, we are not protecting anybody. What we are doing is keeping the prices high and protecting the pharmaceutical companies from competition.

I like the pharmaceutical companies, and I appreciate the good job that they have done for the American people and for the people of the world in developing new drugs. But that does not mean that they should be free of competition. That does not mean that they should be able to have differential pricing in one country versus another.

Let us stand up for the American people and also stand up for competition at the same time.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it was pointed out by the distinguished gentleman from Minnesota (Mr. GUTKNECHT) a moment ago that in this letter that comes from the gentleman from Louisiana (Chairman TAUZIN), the gentleman from Michigan (Mr. DINGELL), and other subcommittee chairs, the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Florida (Mr. DEUTSCH), it points out clearly, the ALS Association, the National Prostate Cancer Coalition, the Cystic Fibrosis Foundation, the Pancreatic Cancer Action Network, the National Kidney Cancer Association, the National AIDS Treatment Advocacy Project, all of these groups are adamantly opposed to the Sanders amendment.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. BURR).

Mr. BURR of North Carolina. Mr. Chairman, I think the gentleman for yielding time to me.

Mr. Chairman, this is not about bringing illegal drugs in. This is about whether we are going to withhold the gold standard of the Food and Drug Administration in the United States of America.

In 1997, this House in a bipartisan way, and as a matter of fact, under suspended rules in an unanimous vote, voted to modernize the Food and Drug Administration. The one vigilant thing that every Member as I understand was to assure that the gold standard, that stamp of approval that we say to the American people passes on from the FDA on manufactured pharmaceuticals, was maintained.

As a matter of fact, when my good friend, the gentleman from California, talked about global trade, one of our objectives with global trade was to harmonize the standards of approval so that we could reach the efficiencies of a global manufacturing base. We have not yet today to reach harmonization standards with the EU because we cannot accept the Italian standard for drug approval.

But what this amendment does, it says we are going to defund any, any and all reviews at our borders of reforming counterfeits. The gentleman from Pennsylvania (Mr. GREENWOOD) just showed the awful conditions where drugs are manufactured, where they look identical, where they are packaged identically. Today the DEA, the FDA, the Customs Department, they are all against this amendment. They are all against reducing the gold standard that we currently find at the FDA.

As a matter of fact, the executive director of the trade program at U.S. Customs had this quote: “Counterfeit pharmaceuticals enter in both wholesale and retail quantities. Additional problems include expired material, products that have not been approved by the FDA in facilities under no proper regulation, and products not having the proper instructions for consumers to use.”

Mr. Chairman, we should not do this to the American people. We should maintain the gold standard.

Mr. SANDERS. Mr. Chairman, I yield 2½ minutes to the gentleman from New York (Mr. CROWLEY), a cosponsor of this amendment.

Mr. CROWLEY. Mr. Chairman, I rise in strong support of the Sanders-Crowley-DeLauro-Paul-Rohrabacher amendment. This language offered today is the same language I offered last year in the agriculture appropriations bill. We again offer this amendment as a first start to provoke a discussion and get real reimportation language enacted into law.

This is the only way Democrats and Independents can get heard on this issue. The GOP-controlled House authorizing committees are not doing it. The problem of counterfeits is not just a phenomenon of the developing world. Our lucrative market and ineffective import controls are increasingly making the United States an attractive target for drug counterfeiters and diverters.

“Last month three counterfeit prescription drugs were found in the shelves of pharmacies of several States. It is not known whether these fake drugs were made in the United States or overseas, but such a cluster of counterfeiters has not been seen for years in this country.”

The hearing proved that the FDA is unable to assure the U.S. public that it can prevent unsafe imports from entering this country at this point in time. If we look specifically at what this amendment does, it stops all funding for FDA in terms of importation. That is what the amendment actually does. That is a scary thing if we start to think about it.

The CHAIRMAN. Objection is heard.

Mr. BONILLA. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Chairman, I would yield to no Member of this House in terms of my efforts to lower prescription drug costs for seniors in America. I support the efforts of the gentleman from Vermont (Mr. SANDERS) to allow importation of drugs from outside the United States.

However, this amendment is not the way to do it. If we look specifically at what this amendment does, it stops all funding for FDA in terms of importation. That is the amendment actually does. That is a scary thing if we start to think about it.

The CHAIRMAN. Objection is heard.
drug, it is paint that is coming in. This amendment cuts out all FDA funding in terms of literally looking at the substance of the drugs that come in, the United States of America, and zip. Nothing. We could not review that if this amendment actually became law.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. DEUTSCH. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, the gentleman knows this is not what we are doing. This is a place holder for the Senate and the conference committee to do what we did last year in developing a comprehensive bill and doing away with the pricing loopholes.

Mr. DEUTSCH. I support the gentleman’s efforts, but again, as a place holder, we do not do place holders, we do real amendments. We do real law.

And, unfortunately, I understand the limitations that the gentleman had in the appropriations process, and what this was a way to raise the issue. It is an important issue, and I am glad it is being raised. But when we vote, we actually vote on real things. Members that support this legislation, in fact, are supporting no funding for the FDA to regulate drugs that come into the United States of America. If any of my colleagues had joined me in looking at the drugs that come in, I am sure they would vote against this amendment.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise to strongly oppose this amendment. However, I agree with the makers of the amendment and what they are trying to do. We all do, indeed, want to see the price of medications come down, especially for our senior citizens. But this is simply the wrong way to do it. I am very fond of, for example, the President’s initiative on a senior citizen’s discount card. We should turn over every leaf to try to lower it. But the most expensive drugs there are are drugs that do not work.

Let it be very clear what this amendment would do to drug safety in America. This amendment would allow anyone, individuals and import companies, to import any drug with no FDA inspection for alteration, misbranding, or strength. Any company in the country, in the world, could ship any product in a bottle, label it any way they wanted, be totally fraudulent in their claim, while we sit here and ban the FDA from doing anything about it. If my colleagues liked the Mexican strawberries that poisoned our school children, then they are going to love the Red Chinese sugar pills labeled amoxicillin that allows the child’s strep throat to become heart disease.

When a drug is prescribed, a doctor or dentist has to know with absolute certainty that the drug is precisely what it is asked. This bill will destroy that certainty and undermine the safety of American patients.

Vote “no,” then let us work together on a real effort to try to reduce the cost of prescription drugs for our senior citizens.

Ms. KAPTUR. Mr. Chairman, I was just rising to either ask unanimous consent to strike the last word to get some of my own time on this or to plead with the chairman to see if we could not even get a few more minutes on each side. We have more speakers than we had anticipated, and it is an important issue and lives actually hang in the balance on it. I wondered if we might take a few additional minutes on each side.

The CHAIRMAN. Is the gentlewoman making a unanimous consent request?

Ms. KAPTUR. I am.

The CHAIRMAN. What is that request?

Ms. KAPTUR. My request is to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

Mr. BUYER. I object.

Mr. SANDERS. Mr. Chairman, can I have a point of personal something or other?

On this issue of enormous consequence our friends do not want to add a few more minutes to debate? I think that is really unfortunate.

I want to ask the chairman again, the gentleman from Texas (Mr. BONILLA), who I know is a decent man and I respect his opinion, but we have many people here, so what is wrong with 5 more minutes on either side?

The CHAIRMAN. Is the gentleman making a unanimous consent request?

Mr. SANDERS. I am.

The CHAIRMAN. What is that request?

Mr. SANDERS. That the chairman grant us 5 minutes more so people on both sides can have the opportunity to debate this issue. Five minutes on both sides.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

Mr. BUYER. I object.

The CHAIRMAN. Objection is heard.

Ms. KAPTUR. Mr. Chairman, may I know what the time frame is?

The CHAIRMAN. The gentleman from Vermont (Mr. SANDERS) has 4½ minutes remaining and the gentleman from Texas (Mr. BONILLA) has 8 minutes remaining.

Mr. SANDERS. I would urge the other side to go ahead.

Mr. SANDERS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, why have all of us from the Committee on Commerce come up here to debate this issue and are opposed to it? Because this is exactly what happened. For 2 years we have been working on this project: reimportation. When it leaves this country and comes back into this country, we do not know what it is.

This is one post office, where 721 parcels came back in. We cannot tell what that is. We cannot tell what it is. We do not know what it is. We could not review that if it got here, how it was made, what it is ever made of. This is the yellow powder we speak of. This is boric acid and yellow highway paint. They do it to put on these pills which they put in this blister pack for Poncelet. Nothing we can use medically in this country.

This is about drug safety. It is not priced for senior citizens. All of us Democrats, most of us Republicans, would like to see lower drug prices. This is drug safety. For 2 years we have been working on this issue. Do not limit the FDA’s ability to do enforcement when these drugs like this highway paint are coming in and being put on pills and we are supposed to take it as a safe drug.

Reject this amendment. If you want to pass meaningful legislation, pass the Allen bill.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Chairman, I do agree on one thing with the gentleman from Vermont (Mr. SANDERS). This amendment is important. It is important because if it passes, people will die, and that is no exaggeration.

Why would we ever want to permit a system that is one of the best in the world, like the FDA, which ensures that we have drug safety in our Nation, why do we want to open it up so we are not able to have that gold standard that a former colleague talked about? When people see an FDA-approved drug, they know about the efficacy and safety of that particular drug.

The Food and Drug Administration and the Customs Service have testified before this Committee as recently as June 7th that “Drugs being imported from outside the United States pose considerable risk to consumers because they may be counterfeit, expired, superpotent, subpotent, simply tainted, or mislabeled.”

American consumers should not have to worry that the drugs they take may be adulterated, just as the gentleman from Michigan (Mr. STUPAK) said, with yellow highway paint, which the FDA has found with imported drugs. Defeat the Sanders amendment.

Mr. SANDERS. Mr. Chairman, I yield 45 seconds to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Chairman, I was going to ask a lot of other questions, however, I have been covered here on the floor already.

So, I wish to ask the gentleman from Vermont (Mr. SANDERS), we have been hearing about who is against this
Mr. HOLT. Mr. Chairman, I thank the gentleman for yielding me this time. Congress does have an obligation to help seniors get the prescription drugs that they need, and seniors deserve a voluntary universal prescription drug benefit under Medicare. We can all agree on that. But making it easier to bring counterfeit medicines into the United States is not the way to help seniors get these medications, not the way to help families.

The Sanders amendment is a step backward. The FDA and the Customs Service have a huge challenge keeping counterfeit drugs out of this country. In New Jersey and California and Kansas, they are putting safe, tested, clean medicines into their bodies. It is not just agencies like the Customs Service that oppose this; it is also patients' groups, like the National Prostate Cancer Coalition, the Cystic Fibrosis Foundation, and the ALS Foundation. They all strongly oppose it. It is simply not the way to provide seniors with affordable prescription drugs. It would undermine confidence that doctors and patients have in their ability to make informed decisions about patient care.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Mr. BONILLA, 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN), a member of the Committee on Appropriations.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, that is absolutely correct. Some groups supporting it are Public Citizens Network, the National Catholic Social Justice Lobby, the National Educational Association, Communication Workers of America, the Children's Foundation, the Alliance for Retired Americans, the Gray Panthers, and a number of other organizations. And I thank the gentlewoman for asking that question.

Ms. DEGETTE. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Ms. D EGETTE).

Mr. ALLEN. Mr. Chairman, I thank the gentlewoman, all of us, all of us want to see lower drug prices, and all of us are frustrated by the high price of drugs. It does no good, though, to import these drugs if we cannot be guaranteed of their efficacy. In my hand, I have three packages of Viagra, all of them imported. Two of these packages are counterfeit. All the packages look the same. The holograms on the back are the same and the blister packs holding the pills are exactly the same in all three boxes. I am sure that two of these boxes are cheaper than the third, but I would ask my gentlemen colleagues if they would rather have lower prices, or which two of these boxes would they take?

Mr. SANDERS. Mr. Chairman, I yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of the Sanders amendment, not because it is the perfect amendment but because I believe it is a step in the right direction. Duly elected, few people, no one really, has asked why are drugs so much less expensive in other countries. The reason is because other countries do not allow the pharmaceutical companies to gouge their citizens, senior citizens or others.

In Canada, in all the rest of the G-7, there are caps on what the pharmaceutical industry can charge. In those countries the pharmaceutical industry sells lots of drugs, they make profits, and they do just fine. Only in America, only in America do we basically allow them to charge the highest prices in the world to seniors, who can least afford it.

That is why this is a step in the right direction. I do believe we need a prescription drug cap here in the United States so that our seniors are not discriminated against and our seniors no longer pay the highest prices in the world.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. HOLT).

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Mr. HOLT. Mr. Chairman, I thank the gentleman for yielding me this time. Congress does have an obligation to help seniors with the high cost of prescription medicines, but this amendment is not the answer. Secondly, we debated this same issue 1 year ago. The only thing that has changed is that we now have confirmation from both the former Secretary of Health and Human Services, Donna Shalala, and her successor that this amendment could endanger our constituents.

Anyone who thinks the threat is not real, I would refer them to the recent testimony of the U.S. Customs Service and the recent news that counterfeit drugs are already coming into this country that pose a serious health threat to our citizens. This amendment would essentially make that practice legal and allow unscrupulous marketers to invade our markets and endanger our constituents.

Our Nation, with the FDA, has the world's gold standard for ensuring the quality and safety of medicines used by consumers here in the United States and around the globe. Let us not undermine these high standards for consumer safety.

Mr. SANDERS. Mr. Chairman, I would once again ask unanimous consent to ask the chairman now just for 3 minutes on each side of additional time, because we have many speakers who feel strongly about this; and I am sure the gentleman does as well.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

Mr. LUCAS of Oklahoma. Objection, Mr. Chairman.

The CHAIRMAN. Objection is heard. Ms. KAPTUR. So could I ask unanimous consent to ask the chairman now just for 3 minutes on each side of additional time, because we have many speakers who feel strongly about this; and I am sure the gentleman does as well.

The CHAIRMAN. Objection is heard. Ms. KAPTUR. So could I ask unanimous consent to ask the chairman now just for 3 minutes on each side of additional time, because we have many speakers who feel strongly about this; and I am sure the gentleman does as well.

The CHAIRMAN. Objection is heard. Ms. KAPTUR. So could I ask unanimous consent to ask the chairman now just for 3 minutes on each side of additional time, because we have many speakers who feel strongly about this; and I am sure the gentleman does as well.

The CHAIRMAN. Objection is heard. Ms. KAPTUR. So could I ask unanimous consent to ask the chairman now just for 3 minutes on each side of additional time, because we have many speakers who feel strongly about this; and I am sure the gentleman does as well.

The CHAIRMAN. Objection is heard. Ms. KAPTUR. So could I ask unanimous consent to ask the chairman now just for 3 minutes on each side of additional time, because we have many speakers who feel strongly about this; and I am sure the gentleman does as well.
Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Sanders amendment. Again I repeat, last year the vote on this issue passed overwhelmingly 363 to 12 in this House. Indeed the House has spoken. Yet no one confuse what the issues are. First of all, drugs are already being brought into this country. People from my district go up to Canada and buy prescription drugs all the time. That is true for people from San Diego, or New York to Niagra Canada. In fact, most drugs sold here are manufactured in Puerto Rico anyway! They are not even made in the United States, and we require the FDA to inspect those laboratories. So we are not talking about anything different with this amendment. We are talking about expanding an existing system that works and provides the safest drug and food supply in the world.

Mr. Chairman, some of my colleagues came up here and said this amendment poses a threat to consumers. The only threat to consumers is that our seniors and others cannot afford to buy the drugs that they need to keep them alive; that is the threat out there! No industry in this country should be allowed to keep prescription drugs away from people to save their lives.

Someone else talked about the effect of this amendment reducing the gold standard of drug inspection. In fact with this amendment, we want to apply the gold standard of inspection more broadly to make more medications available that are approved by the FDA.

Let me say that we even inspect meat plants and license meat plants all around the world when they ship products in here. We can certainly do that more comprehensively for prescription drugs.

Finally, let me end by stating that when we went to conference on this important item last year, we offered four amendments to deal with some of the important regulatory questions that were raised by the FDA. We were defeated on a totally partisan vote each time. I will say to the Republican Party in this institution, they caused this amendment to be unworkable. Give us the right with this amendment to fix the system as we tried last year when we went to conference and our four amendments were defeated. Mr. Chairman, we want to provide the safest food and drugs supply to the people of this country. Allow us to do that. Again, support the Sanders amendment.

Mr. BONILLA. Mr. Chairman, what is the reasoning time for each side?

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) has 3 minutes remaining; and the gentleman from Vermont (Mr. SANDERS) has 3 minutes remaining.

Mr. BONILLA. Mr. Chairman, I reserve the balance of my time.

Mr. SANDERS. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. DeFAZIO).

Mr. DeFAZIO. Mr. Chairman, we have heard a lot from the other side of the aisle about the FDA is the gold standard. It is fool’s gold. Guess what? U.S. drugs are manufactured mostly in Puerto Rico with major components imported from China and India with no mandatory testing. None.

This bill imposes mandatory testing, a whole new regime. The EU has been doing this for 25 years. What is the result, counterfeit drugs and people dying? No. The result is drugs are much cheaper in the European Union; and in Britain they are on average 36 percent cheaper, and there has not been a single incidence of all of these chimaeras that are raised.

What really happened was the pharmaceutical industry was caught napping last year. The seniors that I have seen divide their pills in half, against doctor’s orders, and I have seen spouses that have to choose, one gets drugs and the other does not. We are doing nothing about that. We are supporting the profits of this industry. If the other side reverses their vote from last year, they will be held accountable by the tens of millions of Americans who can’t afford their pharmaceutical drugs. This is not about safety, it is about affordability, and it is about lives.

Mr. BONILLA. Mr. Chairman, we only have one remaining speaker, and we reserve the right to close.

Mr. Chairman, I reserve the balance of my time.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The jurisdiction of the Committee of the Whole to enlarge the time prescribed by the Order of the House depends on congruent division of the time. The gentleman from Texas (Mr. BONILLA), therefore, has 2 additional minutes as a consequence of the 2 additional minutes granted to the gentlewoman from Ohio (Ms. KAPTUR).

Mr. SANDERS. Mr. Chairman, I do not object; but my understanding of the unanimous consent that the gentleman from Ohio (Ms. KAPTUR) gave was to give Ms. KAPTUR 2 minutes.

Mr. Chairman, I ask unanimous consent for 2 additional minutes for both sides.

Mr. LUCAS of Oklahoma. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SANDERS. Mr. Chairman, I yield 45 seconds to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Chairman, this is really an unfortunate circumstance that we are being forced as citizens of our country to have to reimport drugs that are manufactured in our country under our country’s supervision in FDA-approved laboratories, but in order to be able to get affordable prescription medicines to our citizens.

Our citizens are paying 33 to 50 percent higher for the same drugs. This is no different from some of our agriculture farmers who recognize the importation of products that are manufactured here but sold overseas cheaply. It is cheaper to bring it in than it is to pay for it at the same level in our own country, and we are being put through this process.

Mr. Chairman, this amendment will allow us to get those safe, FDA-approved, reviewed and supervised prescription drugs to our seniors that need them. Our State needs this relief now.

Mr. SANDERS. Mr. Chairman, I yield 45 seconds to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, it seems to me that the honest opponents of this bill are focusing on the trees and, therefore, cannot see the forest. The forest is that Americans pay exorbitantly high prices for pharmaceuticals. We subsidize the price of pharmaceuticals everywhere else in the world.

If we were running this place properly, we would have an honest debate on a pharmaceutical drug program under Medicare. We are not going to have that. We would have an honest debate about health insurance for all Americans. We are not going to have that.

Mr. Chairman, this is the only vehicle that we are permitted. If Members want to move us closer to honest prices for pharmaceuticals for senior citizens and everyone else in America, vote for this amendment.

The CHAIRMAN. The gentleman from Vermont (Mr. SANDERS) has 30 seconds remaining; and the gentleman from Texas (Mr. BONILLA) has 5 minutes remaining.

Mr. SANDERS. Mr. Chairman, is the procedure that the gentleman from Texas has the right to close?

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA), as the chairman of the subcommittee, has the right to close.

Mr. SANDERS. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, it is a shame we have not had more time for this debate because our constituents do not have time to survive when they
Mr. Chairman, the FDA was created and this important consumer protection law was created to protect our children and loved ones from this stuff. This amendment removes that protection.

I want to ask Members, in the interest of cheaper tires, are Members willing to repeal NHTSA, our Highway Safety Administration? Do Members willing to take away the consumer protections we have built around the law that says people cannot sell us tires that will blow up and flip our trucks over? In the interest of cheaper energy, are Members ready to repeal the EPA so anyone can do anything they want in this country to the environment?

Mr. Chairman, in the interest of cheaper toys and sleepwear, are Members ready to repeal the Consumer Products Safety Commission so our kids can have cheaper toys and sleepwear, but they might burn to death at night because sleepwear is flammable and nobody is looking after them?

Mr. Chairman, the FDA was created to protect us, not the companies; to protect my mom and other moms. When we passed this ban on reimportation, we did something very important. We said to our Secretary, unless we can satisfy that the drugs coming into this country are going to be safe, they are not going to kill my mother, they are not coming from these drug kitchens in Colombia and Thailand, unless the Secretary can satisfy us, keep the ban.

Do Members know what the Secretary said in the last administration? "I cannot tell you that we can satisfy you that without FDA approval these drugs are safe."

Yes, we all want cheaper drugs for our mothers and fathers; and yes, we are working on bills that say that the administration is working on a project to provide discount cards to all seniors. Yes, we ought to be concerned about the high cost of those drugs, but are we going to trade drug safety for drug prices? Are we going to put everybody at risk for the sake of a cheaper drug?

I suggest to Members this is the wrong remedy for the problem. We can all agree that is a problem. We can all agree that there is something wrong about the way that drugs are priced in America, and we are working on something in the Subcommittee on Oversight and Investigations. We can all agree that the Medicare system ought to make drugs more affordable; and the copayment is too high when seniors need treatment for cancer therapy.

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But this is a wrong remedy. This lets these operations become legal. It takes away the operation of the Government designed to protect our seniors from this kind of an operation and says from now on, This is legal, this is okay. You can cook it up in a kitchen in Colombia, and you can cook it up in a kitchen in Thailand, using whatever systems you want, whatever unsanitary conditions you want; and you can ship it into America because we think cheaper drugs are so important, we do not care how unsafe they are.

Mr. Chairman, this Sanders amendment is dangerous. It needs to be defeated.

Mr. GARY G. MILLER of California. Mr. Chairman, I rise today to speak in opposition to the amendment offered by my colleague from Vermont, Mr. SANDERS.

In 1988, Congress passed legislation that banned the reimportation of prescription drugs because it recognized that there was a significant risk to the American people associated with counterfeit, adulterated or sub-potent medication.

In fact, recognizing the importance of quality counterfeit drugs, Congress required not only that all domestic distribution centers be licensed, but also that the FDA develop a stringent set of guidelines to regulate domestic prescription drugs.

These guidelines called for detailed record-keeping, including guidelines which outlined very specific temperature and humidity control parameters.

The Sanders Amendment clearly contradicts the reasoning behind these efforts and would instead allow unrestricted reimportation of prescription drugs.

Moreover, the Sanders Amendment would delete the provision which Congress passed last year directing the Secretary of Health and Human Services to demonstrate that any cost-savings derived from reimported drugs be passed to the American consumer.

Last December, then-HHS Secretary Donna Shalala found she could not demonstrate that the reimportation law would not jeopardize patient safety, nor could she demonstrate that savings would be passed on to consumers.

Moreover, Mr. SANDERS' amendment would likely lead to an increase in the flow of counterfeit drugs into the U.S., which is already a growing problem the Government cannot control.

At a June 7, 2001 hearing, Ms. Elizabeth Durant, Executive Director of Trade Programs at the U.S. Customs Service, testified that "perhaps as much as 90 percent of the pharmaceuticals that enter the U.S. via the mail do so in a manner that violates FDA and/or DEA requirements. . . . To offer an example, one seizure included a 3,000-tab shipment of a counterfeit drug with an expiration date of 1980. . . . We have counterfeit drugs. We have gray-market drugs. We have prohibited drugs and we have unapproved drugs. The whole gamut of illegal substances pass through our mail facility at Dulles. And this is a situation that is pretty much replicated around the country."

While I am concerned about the rising cost of pharmaceuticals in the U.S., I am more concerned that Mr. SANDERS' amendment would compromise the health and safety of millions of Americans who count on the quality and purity of pharmaceuticals approved by the FDA to treat their illnesses. What we cannot afford to do is knowingly expose American consumers to drugs and pharmaceuticals that
may jeopardize their health, and yet that is precisely what the Sanders amendment would do.

Again, I urge my colleagues to put the welfare of Americans first and vote against the Sanders amendment.

Ms. LEE of California. Mr. Chairman, I rise in strong support of the Sanders/Crowley/DeLauro prescription drug reimportation amendment to the Agriculture Appropriations bill. This amendment will lay the groundwork for lowering the cost of prescription drugs in the U.S. by 30 to 50 percent.

This amendment will allow prescription drug distributors and pharmacists to purchase FDA-approved prescription drugs from anywhere in the world at competitive and reasonable prices.

It is a shame that millions of Americans are not able to afford the outrageously high cost of prescription drugs in this country. Their quality of life continues to deteriorate while we continue to limit their access to basic health necessities.

Citizens of the United States pay the highest prices in the world for prescription drugs. Many of our constituents will travel to Mexico or Canada to buy the same drugs for a lesser value. In my district in California, the average prices that senior citizens must pay are 97% higher than the prices that Canadian consumers pay and 96 percent higher than the prices that Mexican consumers pay.

For every $1 spent in the United States for prescription drugs, those same drugs are purchased in Switzerland for $.65, the United Kingdom for $.64, France for $.51, and Italy for .49.

Why should patients have to continually compromise their health while being forced to decide which prescription drugs to buy and which drugs not to take because they cannot afford to pay for all of them. These patients cannot afford to pay such burdensome costs.

These patients are forced to gamble with their health when they cannot afford to pay for the care needed to treat their conditions. Every day, these patients have to live with the fear of encountering major medical problems because they were denied access to prescription drugs they could not afford to pay out of their pocket. Often times, these individuals must choose between buying food or medicine. With outrageously high energy costs in California right now, some seniors and other Californians have to choose between paying their electric bill or their drug bills. This is wrong.

All Americans should be entitled to medical treatment at affordable prices. The Sanders/Crowley/DeLauro amendment will allow these patients to buy the prescription drugs needed to lead a healthy and productive life.

This amendment will break the monopoly the pharmaceutical industry now has over reimportation.

Let’s stop gambling with the lives of our patients and support this reimportation amendment in order to cut these outrageous prescription drug prices. Americans deserve the right to lead healthy lives by purchasing prescription drugs at reasonable and competitive prices.

Mr. PAUL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Vermont. As I am sure I need not remind my colleagues, many Americans are concerned about the high prices of prescription drugs. The high prices of prescription drugs particularly affect lower-income citizens since many senior citizens have a greater than-average need for prescription drugs. One of the reasons prescription drug prices are high is because of government policies which give a few powerful companies a monopoly position in the prescription drug market.

One of the most egregious of these policies is those restricting the importation of quality pharmaceuticals. If members of Congress are serious about lowering prescription drug prices they should support this amendment.

As a representative of an area near the Texas-Mexican border I often hear from constituents angry that they cannot purchase inexpensive quality pharmaceuticals in their local drug store. Many of these constituents regularly travel to Mexico on their own in order to purchase pharmaceuticals.

Mr. Chairman, where does the federal government get the Constitutional or moral right to tell my constituents they cannot have access to the pharmaceuticals of their choice?

Opponents of this amendment have been waging a hysterical campaign to convince members that this amendment will result in consumers purchasing unsafe products. I dispute this claim for several reasons. Unlike the opponents of this amendment I do not believe that consumers will purchase an inferior pharmaceutical simply to save money. Instead, consumers will carefully shop to make sure they are receiving the highest possible quality at the lowest possible price. In fact, the experience of my constituents who are currently traveling to Mexico to purchase prescription drugs shows that consumers are quite capable of ensuring they only purchase safe products without interference from Big Brother.

Furthermore, if the supporters of the status quo were truly concerned about promoting health instead of protecting the special privileges of powerful companies, they would consider how our current policies endanger safety by artificially raising the cost of prescription drugs. Oftentimes lower income Americans will take less than the proper amount of a prescription medicine in order to save money or forgo other necessities, including food, in order to afford their medications.

Mr. Chairman, I urge my colleagues to show they are serious about lowering the prices of prescription drugs and that they trust the people to know what is in their best interest by voting for the Sanders amendment to the Agriculture Appropriations bill.

Mr. CROWLEY. Mr. Chairman, I move to strike the last word.

I rise in strong support of the Sanders/Crowley/DeLauro/Paul/Rohrabacher amendment.

This language offered today is the same language I offered last year.

We again offer this amendment as a first start to provoke a discussion and get real reimportation legislation enacted into law.

This is the only way Democrats and Independents can get heard on this issue—the GOP congressional authorizing committees are not doing their jobs.

All we have seen to date was a Commerce Committee hearing held earlier this month on the horrors of reimportation—and the arguments from that hearing have hardened my resolve in supporting reimportation.

Why?

In part because of the comments from that hearing, such as Chairman TAURIQ’S opening statement where he remarked on June 7, 2001:

"The problem of counterfeit drugs is not just a phenomenon of the developing world. Our lucrative market and ineffective import controls are increasingly making the United States an attractive target for drug counterfeiters and diverters. Last month, three counterfeit prescription drugs were found in the shelves of pharmacies of several states. It is not known whether these fake drugs were made in the United States or overseas. But such a cluster of counterfeits has not been seen for years in this country."

Yes, in fact, counterfeit drugs are making it onto our shores and the legislation that was enacted to stop it—the Prescription Drug Marketing Act (PDMA) enacted in 1987, which includes section 801(d)(1) that we are striking funding for today, has not been successful in protecting consumers.

It has been tremendously successful in protecting drug company profits though.

We, as Democrats, have been trying legislative remedy after legislative remedy to address the spiraling costs of medications—and each time the leaders of this Congress have rebuffed us.

The GOP passed a fake prescription drug benefit last Congress—so weak that 178 of their members later backed my amendment to Agricultural Appropriations last year making reimportation a better alternative to lowering drug prices then their Party Plan.

This year, Congress expressed a collective round of laughter at the Drug proposal advanced by this White House—representing one of the greatest feats of bi-partisanship in recent memory.

I recognize the safety concerns advanced by Commerce Chairman TAURIQ and Ranking Member DINGELL are legitimate and I greatly respect their diligence on this issue and their hard working in protecting American consumers—their motives cannot be questioned here.

But the current laws are not working, as we all readily admit.

Something new must be done.

We cannot protect people from medications by not allowing them to have any access to affordable drugs at all—and unfortunately that is more and more the case throughout the U.S.A.

I remember the thoughts of a local pharmacist who told me that American seniors pay the highest drug prices on Earth.

Some Members will oppose this amendment on fair grounds and for valid reasons—but we offer it as a starting point for discussion to get Congress to act and act this year to lower drug prices for Americans—especially our seniors.

Let me put this in perspective, I have a constituent in Long Island City, NY who must purchase 100 capsules of Prilosec every three months for his wife. He pays almost $400 for these drugs. Diverters.

I have this letter from a gentleman who writes "Isn’t that an outrageous price for a medication my wife will have to take on a regular basis"
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Yes it is, sir. Especially, in light of the fact that this same drug that costs $400 in Queens New York, would have cost him $107 in Mexico and $184 in Canada.

Price gouging is wrong and needs to be stopped.

Price gouging medications is illegal in Canada and Mexico, and—as surprise—their drug prices are half the cost of what they are in the U.S.—even for the same drugs, with the same FDA-approved label.

This amendment this year will allow for reimportation of FDA-approved drugs and will serve as an important place marker for more comprehensive reimportation language to be included by the Democratically-controlled Senate.

Americans are turning more and more to giant super stores for their consumer needs—because they can get great bargains at prices like Wal-mart and they have no such large wholesaler to purchase their medications.

Something that is not a luxury but a necessity.

What upsets me most is that the drug companies get away with it—they give super discount in every other country in the world, because they know those governments would never allow for price gouging of their elderly.

But knowing full well they can commit this price gouging in the U.S.—they mark up their products well beyond what any reasonable senior can afford.

This price gouging must stop.

We can no longer, in good conscience, as a nation allow our seniors to ration their medications, or have to choose between paying their rent and purchasing their drugs.

Representative SANDERS and I are offering this reimportation amendment as the first of a three pronged approach to helping America’s seniors afford their medications.

Besides reimportation, we argue for the passage of the Prescription Drug Fairness for Seniors Act by Congressman TOM ALLEN of Maine.

And I hope that all of the sponsors of this amendment will join me in this fight—the goals are the same here—lowering drug prices and protecting American seniors.

This legislation would automatically lower the drug prices paid by American seniors by an average of 40 percent overnight at negligible cost to the Government by mandating an average of 40 percent overnight at negligible cost to the Government by mandating foreign wholesalers were cut out of the drug distribution system in 1987 because of the flood of contaminated, counterfeit, and mislabeled products. These shady characters have taken advantage of the appropriate public outrage over drug prices to encourage America to once again open its borders to these dangerous drugs.

Proponents of the amendments argue that if the drugs are made in America they must be safe. They are wrong. Our Committee’s investigations on the counterfeits in the 1980’s showed that American packaging and labeling was duplicated perfectly by counterfeiters entering their product as re-imports. Unfortunately, they had not duplicated the FDA vigilance that Americans believe is attached to such packaging.

Counterfeit aspirin that was imported into the U.S. as “American Goods Returned” before the PDMA put an end to it. Ask the women who took the two million counterfeit birth control pills—in packaging that duplicated Searle’s—just how good the coorks are at graphic design. The cycles, the boxes they came in, and the instructions that accompanied the pills were knocked off perfectly in Spain and in Guatemala. The Spanish product had so much excess hormone that it caused excessive bleeding. The Guatemalan product contained no active ingredient so it went undetected, except, of course, for the unwanted pregnancies that resulted.

I could go on with many more examples such as the perfectly packaged Naprosyn from Mexico that contained aspirin as the only active ingredient. That must have come as a shock to women who were sensitive to aspirin. Even the non-counterfeit products were often so poorly stored that safety was frequently compromised.

Did these counterfeiters and diverters produce any savings to the American consumer? We looked in depth at this $500 million a year market and found no evidence that consumers saved so much as a penny. No compensation was provided to unsuspecting consumers for all the risks they unknowingly assumed.

We should be able to find a way to address effectively the problem of high priced drugs and to protect consumers from risky products. The amendments offered today do nothing, and should be rejected.

Mrs. MALONEY of New York. Mr. Chairman, I come to the floor today in support of the Sanders/Crowley/DeLauro amendment.

Prescription drug costs are a life and death issue for thousands of Americans. Making these life saving and health sustaining drugs affordable for our citizens, and especially for our seniors, is simply the right thing to do.

Just look at the cost of prescription drugs in my district. Last year, I conducted three different studies in New York City that showed rampant price discrimination against uninsured seniors by pharmaceutical companies. Beyond a shadow of a doubt, New Yorkers are being stickered by inflated drug prices.

For instance, Tamoxifen—which is sold under the brand name Nolvadex—is the most frequently prescribed breast cancer drug in this nation. It is used by thousands of women across this state and across the country to treat early and advanced breast cancer. In fact, in 1998, total sales of Tamoxifen were over $520 million.

Women in my district who need Tamoxifen must pay ten times what seniors in other countries pay. According to the study I conducted, a one month supply of Tamoxifen costs only nine dollars in Canada—yet it costs over one-hundred dollars in my district. That means that, over the course of a year, a woman in my district will pay roughly twelve hundred dollars more than women in Canada.

That’s a price differential of over one thousand percent. This is a life-saving drug that thousands of women need to survive. Many women in New York are forced to dilute prescriptions they need to fight breast cancer—force cut their pills in half or in thirds—in order to get by financially. No doctor recommends this. No person deserves this.

All eight of the drugs I studied cost at least forty percent more in my district than they do abroad. The average price differential with Canada was 112 percent, and with Mexico it was 108 percent.

Prilosec, an ulcer medication and the U.S.’s top prescription drug in dollar sales in 1998, cost $49.80 for a one month supply in Canada, but cost $121.83 for a one month supply in my Congressional District, that’s a 145 percent price differential.

Prescription drugs costs are too high for America’s families and are now the largest out-of-pocket health care expense for America’s seniors.

Congress recognized this crisis last year when both the House and Senate passed a drug reimportation bill by wide margins.

Once passed, however, significant flaws were detected in the details of the bill that jeopardized our ability to ensure lower prices and safe products for U.S. consumers through the new policy.

The bill before us today tries to get us back on track by more explicitly preserving the Food and Drug Administration’s authority to ensure the safety and efficacy of a system to reimport prescription drugs.

I urge passage of this reimportation amendment which would allow U.S. pharmacists and prescription drug distributors to purchase and sell locally FDA-approved medications purchased from abroad. This measure should lower the price of prescription drugs, perhaps as much as 50 percent.

I strongly support adoption of the Sanders/Crowley/DeLauro amendment.

Mr. SLUMENAUER, Mr. Chairman, today the House of Representatives is faced with an amendment, offered by Representative SANDERS of Vermont, which attempts to address the problem of high drug prices in the United States. Seniors in the United States pay the highest prices in the industrialized world for prescription medicines and are often the victims of discriminatory pricing. This amendment, however, seriously undermines the current system that protects U.S. consumers from
reimporting potentially tainted drugs from abroad and this is why I play to vote against this measure. We must consider additional amendments to the Agriculture Appropriations bill today that attempt to accomplish similar goals, but unless they address the need for strong consumer protections, I also plan to vote against these amendments.

Prevention drugs are an increasingly vital part of health care and are the fastest growing component of health care expenditures. Spending on prescription drugs is expected to continue to rise. Seniors, who comprise only 13% of the total population, account for more than a third of the annual expenditure on prescription drugs. The average senior uses 18 prescriptions a year and these vital prescriptions are absolutely essential to their quality of life. The rising costs of pharmaceuticals, combined with the increasing reliance on drugs for medical treatments, have created a serious threat to the financial security of a particularly vulnerable population, seniors who are on fixed incomes.

We must provide relief to seniors in the United States. My concern though is that this amendment weakens our ability to ensure the integrity of drug products and could put American consumers, especially our seniors, in serious jeopardy. Counterfeit medicines have already infiltrated the U.S. market and we must make sure that any reimportation proposal addresses consumer safety and the need for thorough drug inspections. It does seniors no good to allow the importation of less costly prescription drugs if we cannot also ensure their safety and efficacy.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The amendment was agreed to.

AMENDMENT NO. 17 OFFERED BY MRS. MINK OF HAWAII

Mr. LUCAS of Oklahoma. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The amendment is as follows:

Amendment No. 17 offered by Mrs. MINK of Hawaii.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Oklahoma (Mr. LUCAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. LUCAS). Mr. LUCAS of Oklahoma. Mr. Chairman, I yield myself such time as I may consume.

The amendment that I am offering today will provide $3 million to be used for the rehabilitation of aging watershed dams. Public Law 106-472 authorizes USDA to assist local communities with rehabilitation of their aging flood-control dams constructed with USDA assistance. The authorizing legislation, which I authored, received widespread bipartisan support in both the Committee on Agriculture and on the House floor.

Since the authorizing legislation was signed into law, NRCS has been flooded with requests from communities for assistance on rehabilitation for their aging dams. As of March of this year, 434 communities have requested rehabilitation assistance on more than 1,400 dams in 35 States. The cost to rehabilitate these dams is estimated to be in excess of $500 million.

In fact, nearly 10,500 small watershed dams have been built in the United States since 1944. Many of these dams, which were built and designed with a 50-year life span, will reach their life expectancy over the next few years.

These watershed projects are extremely important to our communities. They provide flood control, municipal water supply, recreation, soil erosion control, water quality improvement, wetland development, and wildlife habitat enhancement on more than 130 million acres in this Nation. These dams benefit thousands of people's lives every day.

In fact, the small watershed program has proven to be one of our Nation's most successful public-private partnerships. The program represents an $8.5 billion Federal investment and an estimated $6 billion local investment in the infrastructure of this Nation. These completed small watershed projects have provided $2.20 in benefits for every $1 of cost. Very few Government projects can make that claim.

We must continue to build on this program that our predecessors started 50 years ago. I hope that my colleagues will support this very important amendment to begin the process of rehabilitating these dams before we have a tragic dam failure.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent to claim the time in opposition and to pending my support of the amendment.

The CHAIRMAN. Without objection, the gentleman from Texas (Mr. BONILLA) is recognized for 5 minutes.
(Mrs. MINK) and a Member opposed each will control 5 minutes.

Mr. BONILLA. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Texas reserves a point of order.

The Chair recognizes the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I yield myself such time as I may consume.

Both of these amendments go to the Agricultural Research Service. One has to do with the earmarking of $950,000 for the Hawaii Agricultural Research Center. The other is an earmark of $1,603,000 for the Oceanic Institute.

Both of these programs are long existing and have been funded at this level in the past fiscal year. Both of these programs, the Oceanic Institute and the Hawaii Agricultural Research Center, are included in the President's budget.

I think that the importance of these two amendments is to recognize and to herald the tremendous contributions that these centers have made, not only to Hawaii as a single State but to the entire United States and perhaps even globally with reference to the Oceanic Institute research.

The Hawaii Agricultural Research Center provides vital services to Hawaii's farmers, and particularly now with the loss of our sugar industry with only two plantations remaining, the existence of this center and its support is even more vital as the State struggles to find additional crops to grow on the vast acreages that are being farmed as a result of the closure of the agricultural industry. We do have tremendous potential in coffee, tropical fruits, vegetables, macadamia nuts and many other industries.

In respect to the Oceanic Institute, this program assists the expansion of aquaculture and feed manufacturing sectors and to develop new products, processes and markets for U.S. grains. The Oceanic Institute in Hawaii manages the program and is a world leader in feeds and nutrition technology with extensive experience in a variety of marine finfish.

Some of the program's research highlights in the past year have included the development of new feed formulations that enabled the production of market-size shrimp in only 8 weeks. The program has recently assumed a critical role in the development of a new technology package that offers the United States substantial worldwide competitive advantage in the domestic farming of marine shrimp.

It is because of the importance of both of these research centers that I rise today to ask this House to include special designations of these two programs in allocation of funding for the overall Agricultural Research Service.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Texas insist on his point of order?

Mr. BONILLA. Mr. Chairman, it is my understanding that the gentlewoman is going to withdraw her amendments, but we are willing to work with the gentlewoman as we move toward conference on this issue. I know it is a very important issue to her.

Mrs. MINK of Hawaii. I thank the gentleman from Texas. It is very important that report language include these two projects. I am heartened to hear that the gentleman will work toward the consent when the matter goes to conference.

With that assurance, Mr. Chairman, I withdraw both my amendments.

The CHAIRMAN. Without objection, the two amendments may be withdrawn. There was no objection.

AMENDMENT OFFERED BY MR. GUTKNECHT

Mr. GUTKNECHT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GUTKNECHT:

At the end of title VII, insert after the last section (preceding any short title) the following section:

SIC. 7 . . None of the amounts made available in this Act for the Food and Drug Administration under section 801 of the Federal Food, Drug, and Cosmetic Act to prevent an individual who is not in the business of importing prescription drugs within the meaning of section 801(g) of such Act from importing a prescription drug that (1) appears to be FDA-approved; (2) does not appear to be a narcotic drug; and (3) appears to be manufactured, prepared, propagated, compounded, or processed in an establishment registered pursuant to section 510 of such Act.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Minnesota (Mr. GUTKNECHT) and the gentleman from Texas (Mr. BONILLA) each will control 15 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this debate is going to be very similar to the debate we had just a few minutes ago concerning the price of prescription drugs. I supported the Sanders amendment even though it was a bit broader than the amendment that I offer. I hope Members will take a few minutes to at least read the amendment that I am offering. Essentially what I am saying is, let us not stop law-abiding citizens from importing drugs from G-8 countries for personal use. The issue again is price. If Members do nothing else, please pay attention to this chart. Because at the end of the day, someday later we are all going to have to try at least to explain this, and there is no explanation.

Americans, it is a fact, it is a dirty little secret in three different ways, we are paying all the research cost for all the other countries in the world, and we are going it in three ways: first of all in the prioritization that we pay for prescription drugs, as Members can see, anywhere from 30 to 70 to 80 percent more than other countries in Europe; secondly, we are paying for the research in the money that we put into the NIH and some of the other science programs here in the United States. It amounts to almost $14 billion a year that the taxpayers are subsidizing research; and, finally, we subsidize the research through the Tax Code. When by law manufacturers of this country says, well, we are spending billions of dollars on research, that is true. The last year that we have numbers for, they spent about $12 billion on research. But do understand they pay hefty taxes, and as a result they can write off all of that research and in some cases they even qualify for research and development tax credits. So the real net cost to the pharmaceutical industry is far lower than most people say.

What we are saying in this amendment is the game has to stop. We have been subsidizing Europe for a long time. It is time for us to stop subsidizing the starving Swiss.

My amendment is very simple. It simply says that an individual who is not in the business of reimporting drugs shall have the right to bring those drugs in either on their person or by mail from any country.

This does not even include Mexico.

We heard this big safety issue. We are going to talk a little bit about that.

The truth of the matter is most of the safety issues that were talked about in the previous amendment exist today. We are not changing anything. We are not going to change the law. We are not going to tell people that they can bring in adulterated drugs. We are talking about law-abiding citizens that have a legal prescription that are bringing in FDA-approved drugs made in pharmacetical industries in some countries.

We have a problem right now, as I mentioned earlier, in terms of contamination on all of the food and produce we bring in. Yet we do not hear this ballyhoo because there is not a company out there, there is not an industry out there like the pharmaceutical industry that stands to make billions of dollars.

Make no mistake, at the end of this debate, this is about money. I believe my simple little amendment that simply opens the door for personal importation could at the end of the day save American consumers upwards of $30 billion. Now, if Members wonder why individuals and groups have been spending millions of dollars over the last couple of weeks, it is about money.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.
Mr. Chairman, once again we have an effort here to solve one problem by creating another; and in fact it could create a series of additional problems. Let me just mention once again a few of the facts that have been stated clearly by the Food and Drug Administration. This presents a clear danger, a potential danger, a serious threat to consumers who could use drugs that are dangerous, that have not been stored under proper conditions, have not been manufactured properly, do not conform to the standards of drug manufacturing in our country. This is simply something that, as we have just heard in the debate in the last half-hour or so, would not be in the best interest of consumers.

We are all in agreement here on both sides of the political aisle that we want to do something about the high cost of drugs in this country, but we want to do it the right way and not add language on an appropriations bill that is not supported by anyone who has been working on this issue in a very serious and sincere way on the authorizing committees for months now. I rise in strong opposition to this amendment and would urge its defeat.

Mr. Chairman, I reserve the balance of my time.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just bring to the attention of the body that last year a much broader amendment than the one that I am offering, that would have had blanket reimportation, passed this House by a vote of 363-to-12. So we are passing the House overwhelmingly, Congress said last year on a bill that had blanket reimportation, passed this one that I am offering, that would have the attention of the body that last year assumed.

Mr. GUTKNECHT. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Chairman, it is with great respect that I rise in opposition to the amendment of my good friend the gentleman from Minnesota (Mr. GUTKNECHT). I did support this last year. But since that time, as a Member of the Committee on Commerce, we have held numerous hearings on the safety of drugs and the possibility of reimporting these drugs; and I have seen very direct evidence that has caused my concern to change enough to oppose that amendment this year.

We have seen films of laboratories overseas that produce counterfeit drugs. We know that drugs are tampered with, with the effectiveness of it is sometimes wasted because of age. The FDA has no way to protect our American citizens from this type of action; and my concern is when it is all said and done, when somebody is actually hurt because of this or someone actually dies because the medicine is paint and not really medicine, what are we going to do about it? What is that consumer going to do? Who is that consumer going to seek redress from? Surely we cannot expect the real drug company to stand up and stand behind their product. How are they going to get to Europe and who are they going to sue there? How are they going to find these people to be adequately and fairly compensated for these injuries and deaths that are surely going to come into this?

Because of this, I do have concern, even though as I said before I voted for this last year, and I would urge my colleagues to oppose this amendment this year.

Mr. GUTKNECHT. Mr. Chairman, I yield 2 1/2 minutes to the gentlewoman from Missouri (Mrs. EMERSON).

Mrs. EMERSON. Mr. Chairman, I rise in support of the Gutknecht amendment. Let me say as one of the Members of the subcommittee who tried to shepherd through last year's reimportation bill, I find it incredulous that every single person who has spoken today against the Sanders amendment or the Gutknecht amendment is again.

Now, of course, there was not a recorded vote on the amendment of the gentleman from Minnesota (Mr. GUTKNECHT) but there was the amendment of the gentleman from Vermont (Mr. SANDERS), or rather the amendment of the gentleman from New York (Mr. CROWLEY) which was identical to the amendment of the gentleman from Vermont (Mr. SANDERS), and every person who was in favor of it is opposed at this time and that is interesting, because I understand PHRMA, the trade association for the pharmaceutical companies, has spent millions of dollars this week advertising against this.

Needless to say, this is a very critical issue. I have constituents who have to go to Canada to get drugs for their children, one of whom has a very severe form of epilepsy. This woman is a single mom and not able to afford to buy this drug in the United States because in Canada, of course, it is only a third of what it costs here in the United States.

The Gutknecht amendment simply allows the reimportation of American-manufactured drugs, in approved, safe FDA facilities, to be brought back here without punishment. I think that it is very important in a nonelection year to be in favor of lower prescription drug costs.

I might also add that safety really is not an issue with regard to the Gutknecht amendment. It preserves all of the FDA's legal duty to approve all imports. And under the current law, FDA's mandate is to stop drugs that appear to be unapproved; and nothing in the Gutknecht amendment changes that. So I would certainly urge all of those people who supported this and other bills last year to vote for it again this year.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. WAXMAN), the author of the Hatch-Waxman Act.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the Gutknecht amendment. I am opposed to it because the
amendment is so vaguely drafted it can be interpreted as either ineffective or dangerous, but under no reading is it worth our time. I urge the Committee on Commerce to take up legislation to right this wrong, but the Gutknecht amendment does not fix the problem.

My reading of the amendment is that a drug must be FDA approved to be allowed to be imported under this amendment. Since under the law a drug cannot be FDA approved unless it is accompanied by appropriate labeling and since virtually no foreign drug will have this labeling, I believe that few, if any, drugs will be allowed to be imported under this amendment.

There is a different reading of the amendment that it would allow importation if the basic chemical substance has been approved by the FDA. If this is the case, the amendment is dangerous because it would allow drugs to be brought in without allowing FDA to ensure that they are not adulterated not misbranded and are indeed the right dosages and strengths. Moreover, all the consumer labeling that we have worked so hard to assure will be missing.

Under this reading, once FDA approves a drug in theory it may not ensure that it is safe and effective in practice. So that is the choice. Is the amendment ineffective or bad? Either way, I oppose it and urge all of my colleagues to vote against it.

Mr. STUPAK. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I thank the gentleman from Texas (Mr. BONILLA) for yielding me this time.

Mr. Chairman, on this amendment, which I oppose, I wish to strongly agree with all of those who have argued that pharmaceuticals are too high, and that drug companies discriminate against U.S. citizens in their pricing policies. I would urge the Committee on Commerce to take up legislation to right this wrong, but the Gutknecht amendment does not fix the problem.

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Ranking Minority Member, House of Represent-
atives Appropriation bill, and in follow-up to
July 5, 2001, regarding Representative Gil
States. This is in response to your letter of
Thank you for your continued interest in the
to the presentation of this report.

For these reasons, we respectfully oppose
the foregoing amendments to H.R. 2390.
Thank you for your attention to this matter.
If we may offer additional assistance, we
trust that you will not hesitate to call upon
us.
The Office of Management and Budget has
advised us that there is no objection from the
standpoint of the Administration’s program
to the presentation of this report.
Sincerely,
WILLIAM B. SIMPKINS,
Acting Administrator.

DEPARTMENT OF HEALTH AND HUMAN
SERVICE
Hon. W. J. “Billy” Tauzin,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.
Hon. John Dingell,
Ranking Minority Member, House of Represent-
atives, Washington, DC.

Dear Mr. Chairman and Mr. Dingell:
Thank you for your continued interest in the
safety of medicines available in the United
States. This is in response to your letter of
July 5, 2001, regarding Representative Gil
Gutknecht’s proposed amendment to the FY
2002 Agriculture, Rural Development, Food
and Drug Administration and Related Agen-
cies Appropriation bill, and in follow-up to
questions raised by Committee staff.
As you know, the amendment offered by Mr. Gutknecht would prohibit the Food and
Drug Administration (FDA or the Agency)
from using appropriated funds to enforce sec-
tion 801 of the Food, Drug, Cosmetic
(FD&C) Act to prevent the importation of
personally controlled prescription drugs
from a country other than the United States
if it is determined that the drug is approved
under current law.

1. Section 801 of the FD&C Act requires
the FDA to take certain actions when the drug
is determined to be unsafe or when the drug is
a prescription drug that is approved under
current law.

2. The Gutknecht Amendment would also
require the FDA to determine whether a
country a prescription drug is being im-
ported is a country referred to in section 804(f)
of the FD&C Act.

As you know, under current law, FDA can
send a warning notice if it first makes a de-
termination that the imported drug appears
to be adulterated, misbranded, or in violation
of the FD&C Act. The amendment could be
construed to allow FDA to continue sending
‘‘warning letters’’ to individuals not in the
business of importing prescription drugs,
whether or not a foreign country is listed in
section 804(f).

No, currently FDA does not have the re-
sponsibility to determine the country from
which the drug was imported in order to have
the duty to make such a determination.

Let us not be fooled by the real
thing. Let us make sure it is the real
ting and not a counterfeit. Reject this
measure.

Mr. GUTKNECHT. Mr. Chairman, I
yield myself such time as I may con-

WILLIAM K. HUBBARD,
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Mr. GUTKNECHT. Mr. Chairman, I
yield myself such time as I may con-

WILLIAM K. HUBBARD,
Senior Associate Commissioner for
Policy, Planning, and Legislation.
Mr. Chairman, in terms of those pictures, I just want to point out that those happened years ago and are not happening today. Most importantly, I believe I am correct, those drugs were actually purchased on shelves in the United States. These are not drugs being brought in by Americans going to other places.

Mr. Chairman, I yield 1 minute to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I thank the gentleman from Minnesota (Mr. GUTKNECHT) for yielding me the time.

Mr. Chairman, whether the idea comes from a Republican or an Independent or a Democrat, who is trying to lower the outrageously high cost of prescription drugs in this country, there is no question that the pharmaceutical industry is being brought in by Americans going to other places.

These are not drugs that we think that the FDA cannot stop a drug if it appears to be in compliance, even if it is not so good. In fact, as some have suggested this afternoon, it is outright fraud, what we are talking about. We are saying control this, but let us give American consumers the savings.

Secondly, the amendment makes a number of references to the requirements that these incoming drugs appear to not violate certain FDA rules and are not controlled substances. The problem with this approach is one cannot tell whether or not they are, in fact, safe drugs. On the Committee on Energy and Commerce, we saw some drugs that looked perfectly fine and they were made out of yellow paint. So one cannot tell upon inspection whether or not they are a controlled substance or whether or not they are legitimate.

Third and most importantly, this amendment directly affects section 801 of the Food, Drug and Cosmetic Act. This section is the safety section which provides the U.S. Customs Service and FDA the ability to process and examine foreign shipments of drugs to prevent potentially tainted, adulterated, or counterfeit drugs from being delivered to unsuspecting customers.

I want to also talk about safety, because is it safe not to take your Lipitor, is it safe not to take your Zyrtect? This is the issue that seniors and everyday Americans are faced with, not taking their drugs because it is too expensive to.

We appropriated $23 million to the FDA. We are not bypassing them. We are saying control this, but let us give American consumers the savings.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I rise in support of the Gutknecht amendment. I practiced medicine for 15 years, internal medicine. I treated diabetes, heart disease. I wrote a lot of prescriptions, 100 to 200 prescriptions a day.

Most of the criticisms that have been raised by this amendment I think can be worked through and solved. What this really boils down to is there are millions of senior citizens in the United States who cannot afford their prescription drugs, and, for many of them, going to Canada or doing a mail order arrangement is a very nice solution to the cost problems.

To say that this is so dangerous, to me, I think, is a little bit of a red herring. In terms of the appearance language, as I understand it, that is the standard in the law as it currently exists. The gentleman from Minnesota (Mr. GUTKNECHT) was just following the current standard.

This amendment will help a lot of people. The majority of seniors have a prescription plan that is paid for by their previous employer, so this is not
going to affect them. But, for those in need, and I used to take care of those people, this can be very, very helpful.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, we all want to do whatever we can do to lower the prescription drug costs for patients, and the sponsors of this amendment obviously intend to do just that. My friend the gentleman from Minnesota (Mr. GUTKNECHT), that is what he is after. But there is more to this than just lowering the cost. The corresponding cost to public safety under this amendment is simply unacceptable.

Under this amendment, overseas scam artists can counterfeit a label, claiming their product is a brand name, and we ban the FDA from even investigating? Would you vote to ban the FDA from investigating medications prescribed in this country? Even when they suspect exactly what is happening, the FDA is banned from investigating.

Mr. Chairman, I, too, wrote a lot of prescriptions as a practicing dentist for 25 years before I came here. I can tell you, America’s health providers must know beyond any doubt that the medicines that they give their patients are what they say on the label.

Now, I know that some medications can come in, and it does save some people some money. But I do not want it imported through the port of Savannah to be spread out through my State, not knowing what is in that medication.

Mr. GUTKNECHT. Mr. Chairman, I yield 1 minute to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Chairman, I would like to thank the gentleman for introducing this amendment today, which is similar to his amendment which was passed with broad support last year during the consideration of the agriculture appropriations bill.

Living in a border State, many of my constituents are burdened with large prescription bills and travel to Canada to purchase their medication. This is a hard trip for these people who are driving for up to two hours because of the high cost of prescription drugs in this country.

Most of my constituents who board buses to Canada are elderly and in need of medication to manage chronic conditions. They rely on these medications to keep them out of costly and unnecessary hospital care. This amendment enables Americans to obtain their medications from Canada through personal reimportation.

We must ensure that all of our constituents have access to these more affordable prescription drugs. Certainly reimportation is not a panacea, it is not the answer to this problem in itself, but it is a step, and it is a step, an important step, in the right direction, and important to the constituents that we represent.

Mr. Chairman, I urge my colleagues to support the Gutknecht amendment.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Chairman, there are some concerns that have been raised here by the DEA. They sent a letter to the gentleman from Louisiana (Chairman TAUZIN) and the ranking member, the gentleman from Michigan (Mr. DINGELL), dated July 11, 2001, which I will refer to and have placed in the record.

When you look at the actual language, two of the concerns that they raise in the debate here today is this issue of appearance.

Under the present law, the FDA can stop drugs at the border if they appear not to be approved. That is sensible and workable. But the new Gutknecht amendment shifts the burden. The Gutknecht amendment says the FDA cannot stop a drug if it appears to be in compliance. If it appears to be in compliance.

Then it goes even one step further. It says you cannot prevent an individual who is not in the business of importing a prescription drug. This is going to be a safe haven for defense lawyers. They are going to love this. They are going to attack a lot of cases.

Let me refer here to the DEA. DEA says, you know, this will create an undue burden on law enforcement to require the government to prove that someone is in the business of importing prescription drugs. This is going to be a safe haven for defense lawyers. They are going to love this. They are going to attack a lot of cases.

One of the proposed amendments would prohibit the FDA from using any of its appropriated funds to prevent a person “who is not in the business of importing prescription drugs” from importing from certain specified countries “FDA-approved” prescription drugs that are not controlled substances. This proposal would be in conflict with the Controlled Substances Act (CSA), which is DEA’s governing statute. The basic foundation of the CSA is the “closed” system of distribution of controlled substances under which all persons in the legitimate distribution chain (manufacturers, wholesalers, and retailers) must be registered with DEA and maintain strict accounting for all transactions. This regulatory scheme, administered by DEA, is designed to prevent diversion of controlled substances into illicit channels. However, even with no control over the distribution chain and prevention of diversion where American consumers purchase their drugs abroad. Somewhat similar to the law that the FDA, or the FDCA, cannot be effectuated where American consumers purchase their drugs abroad. Among the ways that the FDCA protects the American public is by requiring good manufacturing practices, proper labeling, and sales handling to prevent adulteration. There is no way to ensure such protections to American consumers if they are allowed to purchase drugs from foreign sellers without FDA oversight.

We recognize that the proposed amendment states that it does not apply to controlled substances. However, despite this wording, the proposed amendment would provide a potential loophole that could be exploited by traffickers in controlled substances. Every day, prescription drugs, including controlled substances, are illegally shipped into the United States by mail or private courier. The controlled substances in this fashion do not label their packages as containing controlled substances. Under the proposed amendment, drug traffickers could be looking to traffickers in controlled substances into the United States marked “FDA-approved noncontrolled substance” and the FDA would be powerless to take any investigative action against the United States Customs Service (USCS) or DEA in intercepting these illegal shipments.
An additional concern with the proposal is the risk of "an individual drug being in the business of importing prescription drugs." This terminology is vague, impractical, and inconsistent with that used historically in drug laws. The FDCA and the CSA have always used the concept of "registration." Under the FDCA, only those manufacturers registered with the FDA may import prescription drugs. Under the CSA, persons must be registered with DEA to import controlled substances. Moreover, it would be an undue burden on law enforcement to force drug traffickers to require the government to prove that someone is "in the business of importing prescription drugs before even commencing an investigation." The volume of prescription drugs simply claim they are "not in the business of importing prescription drugs" in order to stifle investigation of potential criminal activity.

As with the proposed amendment described above, another proposal would likely be exploited by drug traffickers. The FDCA would prevent the FDA from enforcing section 801(d)(1) of the FDCA (21 USC 381(d)(1)), which prohibits the reimportation into the United States of prescription drugs, except by the manufacturer of the drug. Under this proposal, a drug trafficker could stymie legitimate efforts by the FDA to prevent illegal drug shipments into the United States simply by attaching a deceptive label to the shipment (e.g., by labeling a shipment of controlled substances as containing "FDA-approved, reimported prescription drugs").

DEA, the FDA, and the USCSs are currently facing enormous challenges on many fronts with respect to prescription drug importation and smuggling. Information obtained from the USCSs indicates that there is an increased volume of prescription drugs being imported through the mail as a result of the Internet. Although the CSA clearly prohibits importation of controlled substances in this manner, the FDA and USCSs must inspect each package to ascertain the contents. Identifying a drug by its appearance and labeling is not an easy task. From a practical standpoint, we cannot examine every drug product and accurately determine the identity of such drugs or the degree of risk they pose to the individual who will use them. This concern is true since these drugs are often intentionally mislabeled. Shipments from countries identified in the section 906(f) of the FDCA have been the source of a large amount of controlled substances that have been illegally imported. Additionally, the USCSs inspectors on the southern and northern borders must determine whether each traveler entering the United States with a drug is complying with the FDCA and the CSA. By preventing the FDA from enforcing section 801(d)(1) of the FDCA regarding the importation of drugs, these amendments could be a windfall for criminals, giving them a new way to hide their activities behind a new restriction on law enforcement.

For these reasons, we respectfully oppose the foregoing amendments to H.R. 2230. That said, attention to this matter. If we may be of additional assistance, we trust that you will not hesitate to call upon us.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

WILLIAM B. SIMPKINS,
Acting Administrator.
Mr. Chairman, it could not have been said better than by the gentleman from Michigan (Mr. DINGELL), the ranking member of the Committee on Energy and Commerce: “I wrote this provision because we had counterfeiting years ago. If we change this provision, we will have counterfeiting in the future.”

Defeat this amendment. Stand up for the safety of our pharmaceuticals in this country.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in opposition to the Gutknecht amendment.

Like the Sanders amendment, this amendment would expose our constituents to potentially unsafe and harmful drugs. We all want to do more to help our seniors with access to affordable medicines but exposing them to potentially unsafe medicines as a way to do so is unacceptable.

As Members of the authorizing committee will rightfully argue, any proposed changes to the consumer safety standards in our country—a system that now ensures our medicines are the safest in the world—should only be done after thorough investigation and consideration.

To date, that investigation has shown that the Customs Service and the FDA are already overwhelmed at the border and at international mail facilities with drugs being shipped in for personal use and only a small portion of those shipments are currently investigated for their safety. In fact, our health and safety experts are recommending that we strengthen protections against these imported mail order drugs, not weaken them.

And if you won’t heed the warnings of the experts, listen to the people who rely on us to keep their medicines safe. The ALS, Lou Gehrig’s Association wrote with their concern.

This amendment would deprive the FDA, pharmacies and thus, our patients and families of the confidence we now have that our medicines are safe, have been properly stored, and are not counterfeit.

The Gutknecht amendment would only compound the safety risk to our constituents of counterfeit and unsafe medicines. I urge opposition to the amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GUTKNECHT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT) will be postponed.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KUCINICH:

At the end of title VII, insert after the last section (preceding any short title) the following section:

Sec. 7. One of the funds made available in this Act for the Food and Drug Administration may be used for the approval or process of approval, under section 512 of the Federal Food, Drug, and Cosmetic Act, of an application for an animal drug for creating transgenic salmon or any other transgenic fish.

The CHAIRMAN. Pursuant to the order from the House of Representatives, June 28, 2001, the gentleman from Ohio (Mr. KUCINICH) and a Member opposed each will control 15 minutes.

The CHAIRMAN. The gentleman from Ohio (Mr. KUCINICH) will be recognized.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

I offer this amendment today to ensure the livelihood of commercial fishers and protect our oceans, lakes and streams. This amendment is a reasonable and moderate safeguard. It will delay FDA approval of genetically engineered fish for 1 year.

This amendment is necessary because commercial fishers and environmentalists have raised concerns that GE fish may pose ecological risks that have not been carefully considered by Federal marine agencies. This amendment corrects this situation by providing a 1-year moratorium, giving Congress the opportunity to investigate and authorize an agency with appropriate population clear authority to regulate the environmental impacts of genetically engineered fish.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, I recognize that there are legitimate concerns for the safety of genetically engineered animals, including those contained in these imported mail order drugs, not weakens them.

And if you won’t heed the warnings of the experts, listen to the people who rely on us to keep their medicines safe. TheALS, Lou Gehrig’s Association wrote with their concern.

This amendment would deprive the FDA, pharmacies and thus, our patients and families of the confidence we now have that our medicines are safe, have been properly stored, and are not counterfeit.

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The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GUTKNECHT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT) will be postponed.
I oppose this amendment because it does not give the FDA, the experts in this field, the power to make informed decisions about the safety of transgenic fish. Congress does not possess the depth of scientific knowledge needed to determine the safety of transgenic fish. We should go forward with the review. There is also already a comprehensive regulatory process at FDA's Center for Veterinary Medicine to evaluate any risk associated with transgenic species.

Now, the fundamental flaw also in the Kucinich amendment is that it is not restricted just to transgenic salmon, but applies more broadly to transgenic fish. For example, the amendment would severely hamper ongoing research efforts, including catfish research. Catfish is the Nation's largest commercially farmed fish, generating over $500 million in revenue to farms covering over 190,000 acres in 13 States and is extremely important to my home State of Mississippi. Also, research on transgenic catfish is targeted to the development of disease-resistant stocks and novel veterinary medicine. This research is vital because catfish farmers can identify disease and, once identified, can remove the single greatest barrier to improved farm production and human health.

Mr. Chairman, U.S. agriculture producers and consumers have benefited greatly from advances in transgenic technology and in plant sciences. These new tools allow farmers to produce better products, while reducing chemical use, which provides a tremendous benefit to our environment. In addition, biotechnology holds the keys to eliminating world hunger and wiping out global poverty. While this technology has not been used widely in animal production, for results similar to those that we have seen within the realm of plant science is evident.

Let me just close real quick by saying, oppose the Kucinich amendment. Stand for sound science. Do not stick our heads in the mud. This is a great technology that will make species stronger, healthier and better.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

For the record, this amendment does not restrict any research funding. Now, in case my colleagues did not hear that, this amendment does not restrict any research funding. It only restricts FDA funding related to their approval of the fish, but they do not do research. Any research funding comes from other USDA research accounts, and that is not impacted by this amendment.

Mr. Chairman, I yield 4 minutes to the gentleman from Oregon. Mr. DeFazio, whose work on this amendment I appreciate.

Mr. DeFazio. Mr. Chairman, let us just get this straight one more time: no impact on research. Companies that are investing in research are free to continue to research. They are free to continue to research if they like.

But what we want is a full scientific analysis of the potential impact of the release of these transgenic fish into the environment. That is what we are talking about. The FDA has no qualification in the area of environmental science. They admit it. They have deemed, under their authority, that transgenic fish are new drugs. Therefore, they have the authority to pass on the viability of a new drug and the safety of a new drug; but the drug that they are approving is a living fish, a fish that will grow at many times the rate of its natural cousins; and it will outcompete them for food, outcompete them for mating activity, and ultimately lower the viability of the species. The agencies, the FDA, the experts in this area, have not evaluated the environmental impacts.

They say, "Do not worry, they will not be able to mate." Then the same companies that are manufacturing these transgenic fish admit that, "Actually, our process is not quite foolproof, some will mate." But do not worry about it, do not worry about it, we do not think there will be a problem.

The companies go on to say that they have not evaluated the potential impact on native fish stocks. They have not evaluated the environmental impacts. But they say, "Do not worry, the FDA has approved it."

The FDA has approved transgenic fish as a new drug, not as a living creature to be released into the environment to interbreed with existing species. This is extraordinary.

The agency that should have jurisdiction perhaps would be the National Marine Fisheries Service. They know about fish. Maybe it would be the Environmental Protection Agency. They know a little bit about the environment perhaps would be the National Marine Fisheries Service, not the Food and Drug Administration.

That is all we are asking for here. It is a simple request: Bring in an agency that knows something about fish, not the people at the FDA. Find one person at the FDA who has a degree in marine biology and I will buy dinner. There are not any out there. They do not know a darned thing about this issue or the potential impacts on the environment and other species of fish.

So this is a very, very prudent and conservative amendment. I urge Members to adopt it.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I thank the gentleman for yielding time to me. I rise reluctantly to oppose this amendment today, because of my respect for the gentleman from Ohio (Mr. KUCINICH), a good friend of mine. But I think his amendment that would cut off funding for the FDA to go through the approval process or issue the final approval is bad policy.

I do not believe the anti-biotech position is supported by the facts. Even the Washington Post in this Monday's editorial entitled "Food Fight" called efforts to ban biotech murderous nonsense.

"Is this technology safe? No test has suggested that genetically-engineered crops harm human health. On the other hand, a lack of plentiful, cheap food harms human health enormously. Half the children in South Asia and one-third in sub-Saharan Africa are malnourished today. Among other consequences, these children suffer iodine deficiency disorder, which causes mental retardation, and vitamin A deficiency, which causes blindness.

"Some anti-genetic activists say the poor will not be able to afford or benefit from these new genetic products."

They say also that the so-called "green
revolution’, which was supposed to conquer hunger and in their view did not. “The green revolution, which involved improving seeds and fertilizers and pesticides, actually more than doubled cereal production in South Asia between 1970 and 1995. Despite enormous population growth during that period, it reduced the malnutrition rate in the world from 40 percent to 23 percent.”

So what the green revolution began, the gene revolution can continue. Today’s amendment would stop the approval process or the approval. I think that is a mistake. I urge my colleagues to oppose the amendment.

Mr. KUCINICH. Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho (Mr. Simpson).

Mr. SIMPSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have heard several times on the floor that this does not stop pending research, all it does is stop funding for final approval by the FDA of that research. We might as well stop funding for research, because who is going to put money into the research if there is no provision for final approval for use of that research once it is done?

The FDA has the legal authority to regulate products derived from transgenic animals. Although significant public and private research to develop commercially useful transgenic fish is ongoing, none have completed the FDA process at this time. Products regulated as new animal drugs in the United States are subject to rigorous premarket requirements to determine effects on consumer food, animal, and environmental safety. This process includes targeting animal safety, safety to the environment, and safety for consumers who eat foods derived from genetically-engineered animals.

The Center for Veterinary Medicine intends to use various approaches, including a contract with the National Academy of Sciences, to identify further environmental safety issues associated with the investigation and commercial use of transgenic animals.

Mr. Chairman, we will cooperate closely with other Federal and State agencies that have related authorities, such as the Fish and Wildlife Service and the National Marine Fisheries Service, in the case of transgenic Atlantic salmon. Last year, the U.S. National Academy of Sciences concluded that the regulatory system for biotech foods is appropriate and effective.

These are some of the reasons why this amendment is strongly opposed by a coalition of agricultural interests, including the American Farm Bureau Federation, the American Soybean Association, the Grocery Manufacturers of America, the National Corn Growers Association, the National Cotton Council, the National Fruit Processors Association, and many, many more.

Mr. Chairman, nothing in the gentleman’s amendment stops research. But what it does is it says let us take a pause for thought here with the FDA. Let us take a look as a Congress to investigate and authorize the appropriate agency with environmental expertise and clear authority to regulate the impacts of these genetically-engineered fish, wherever that might be.

I fully support the amendment and urge adoption of this amendment.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. Brady).

Mr. BRADY of Texas. Mr. Chairman, there is a reason America has the highest standards and the safest foods in the world, safer than Europe, more nutrition than Asia, using less pesticides and preserving more of the environment than any other Nation in the world. The reason is that time and again America has refused to inject politics into our food safety process.

However, that is what this amendment does. It contaminates our scientifically sound food safety process with politics. There is no scientific reason for the moratorium. The FDA already requires all food applicants, whether they are scientifically improved or not, to meet their highest safety standards, not just for human food consumption but for animal welfare and environmental safety.

This amendment not only does not contribute to food safety, it actually harms it, because it says no matter how beneficial, no matter how strong the science, no matter how strong the science, this amendment stops research. But we cannot even consider it. This does discourage research into aquaculture breakthroughs which help us develop fish stocks that are healthier, more abundant, and more immune to disease.

That is important not just to farm catfish, not because we have decimated the world’s fishing, but it helps to save the 30 percent of fish killed needlessly each year because of illness. If fish are healthy, the food is going to be healthy.

Finally, this amendment feeds the European hysteria, and feeds upon normal people who have not thought about the progress and benefits of biotechnology, too. The fact of the matter is that we produce more food on less land, more environmentally safe food with less pesticides in America and around the world because of biotechnology.

At Texas A&M, which I represent, we work with the Medical Center in Houston to develop plants and vegetables that have cancer-fighting oxidants. As we said here today, scientists have rice that will address the vitamin A deficiency which could help prevent 500,000...
children each year from going blind in this world.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to point out, there seems to be some misunderstanding about the purpose of this amendment. It is not a ban. It is a 1-year moratorium to begin to study the effects on the environment, on consumers.

I also want to point out that something the Washington Post cited on May 19, 2001, basically supporting the approach of the gentleman from Oregon (Mr. DeFazio).

Mr. Chairman, the Post points out that the FDA has classified what they call genetic enhancement, these bigger fish, animals, Now, I follow this. The FDA says it is a drug for animals. That technically means, according to the Post, the main task of its review will not be to look at the effects of the fish on the environment or fish on the consumers, but to study the effect of the growth hormone on the fish. That is all the FDA does.

So here we have people advocating the right of fish to have growth hormones, and saying that that is more important than the right of people to be defended against possible adverse human health consequences, or the right that we have and the responsibility we have to protect our environment.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Ms. McCARTHY).

Ms. McCARTHY of Missouri. Mr. Chairman. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise, very respectful of the gentleman offering the amendment, to oppose the amendment offered today.

While I, too, have concerns for the safety of our food that has been genetically engineered, we need to continue the FDA’s oversight and expertise in this area. Allowing the FDA to prohibit their review process has very broad policy implications.

The risks associated with transgenic fish, and specifically salmon, are overstated. Claims that transgenic salmon will create genetic pollution are unfounded because only sterile all-female stock would be commercialized, virtually eliminating any risk of cross-breeding with wild salmon.

Legislating the approval process of FDA has far-reaching implications which could negatively impact future innovations to improve our food supply and our health.

Mr. DOOLITTLE. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I rise in opposition to this amendment; and want to approach this from really just a broad and general perspective. If we look over the next 25 years, the world’s population is going to increase by 2.5 billion. This 2.5 billion increase in population is going to be occurring primarily in the developing countries of the world. When we look at the tremendous demand for food, and in particular for protein, in order to ensure that these people are going to have adequate nutrition, we have to be ensuring that we are investing in new science and research that is going to ensure that we have the capacity to produce these food products.
My concern with the amendment that we are considering today is, one, that we will circumvent our science-based regulatory process. I am concerned that it will set the process back, that it will ensure that we can have politics that can intercede all too often that will preclude our ability to ensure that we can see progress in the development of these new technologies.

One of my colleagues earlier today in this debate mentioned we have half as many fish in the ocean today as we did some few decades ago. A lot of this is due to overfishing and fishing that was occurring because of the demand to provide an adequate food source for a lot of people today. When we are looking at the potential for this technology, the technology that can be advanced through transgenic fish, this is something that in many ways could also most relieve some of this pressure on our natural fisheries by ensuring that we can continue to see progress in the commercial production of food and fish products.

I think this is another argument for us to ensure that we are again continuing this science-based process. Some of the concerns that my colleagues raise I think are adequate. We ought to ensure we are using the most appropriate science. But FDA today is required, when they are considering the approval of these new transgenic products, to have a dialogue, to be consulting with EPA, with U.S. Fish and Wildlife, and the National Marine Fisheries Service and NOAA, as well as USDA.

Furthermore, it is this amendment that would preclude that continued research and investigation through those bodies that have the scientific expertise. In fact, this amendment would set back our ability to fully understand the science and that threat that transgenic fish might pose for human consumption as well as the threat it might potentially pose to the environment.

Once FDA is confident that, through their investigation and the scientific process, that there is not a significant or marginal threat to both consumers as well as the environment, before anyone can even get a permit to produce transgenic animals for salmon, they would have to go through a permitting process at both the Federal and the State level; that they will have to be dealing once again with EPA and other agencies, the National Marine Fisheries Service and U.S. Fish and Wildlife and EPA, which will be mandatory. So we have another safeguard there to ensure we will have adequate protections to the environment to ensure that we will not see any negative impacts.

In closing, I just ask my colleagues to respect the process. One of my colleagues earlier said that this is an amendment to protect the ability to use hormones in fish. Nothing could be further from the truth. Opposing this amendment is to protect a science-based process, to protect a process that will enable us to reach out to the best scientists in the country that we have available to ensure that we will have adequate protections. And when we go through that process, we also then will have the promise to still have the promise that we can see the increase in food production, in this case, in the production of fish, that can meet the protein and nutritional needs of hundreds of thousands if not billions of people that are going to be populating this Earth.

I ask my colleagues to vote "no" on this amendment.

Mr. KIND. Mr. Chairman, I want to thank you for the opportunity to speak on behalf of this amendment and urge my colleagues to support an amendment which would preserve funding for the American Heritage Rivers Initiative. I also want to extend my gratitude to my colleagues for introducing this important amendment.

The Heritage Rivers Initiative is entirely voluntary and locally-driven. This program is composed of local river pilots who work for a federal agency. These pilots help communities locate the resources they need to improve water quality, reduce flood losses, and promote environmental and riverfront development along some of the nation’s significant waterways, including the Upper Mississippi River.

This program has been extremely successful in the designated areas along the Upper Mississippi River that include 58 communities in Illinois, Iowa, Minnesota and Missouri. Along the Upper Mississippi River, the American Heritage Rivers Initiative has been instrumental in bringing communities together to link existing trails and greenways, establish and improve interpretive centers, restore habitat and promote riverfront revitalization. I fully recognize the incredible potential of biotechnology. FDA’s current regulatory process ensures that the products of biotechnology are safe to grow and eat.

Today, for example, disease is the biggest impediment to improved production of farm-raised catfish. This amendment would seriously undermine research that could improve these yields and reduce losses from disease. Quick-growing biotech salmon could reduce the pressure on wild fish stocks that are used for feed. Salmon farmers also use only sterile, all-female stock to prevent cross-breeding with wild populations.

Quick-growing biotech salmon could reduce the pressure on wild fish stocks that are used for feed. Salmon farmers also use only sterile, all-female stock to prevent cross-breeding with wild populations. The gentlemen’s amendment would throw out all of the research and capital that were used to develop these new varieties and that is needed to move toward more sustainable fish production and harvesting.

FDA’s policy on biotechnology has been in place for nearly ten years and has allowed the safe introduction of wholesome and safe foods. Incidentally, FDA’s policy applies to all foods, not just those produced using biotechnology.

The gentleman’s amendment implies that biofarms are inherently different and more risky than foods produced using traditional techniques such as cross breeding. There is no scientific evidence to justify this assertion.

Rather than incite unfounded, ideologically-driven fears of this technology, we should recognize the incredible potential of biotechnology. Biotechnology will help alleviate hunger in the developing world, promote more environmentally-friendly and sustainable farming practices, reduce pressures on arable land, and create new markets for farmers.

Mr. Chairman, make no mistake: this is a measure aimed at stopping aquacultural biotechnology. FDA’s current regulatory process should not be short circuited. I urge my colleagues to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KUCINICH). The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KUCINICH. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. KUCINICH) will be postponed.

AMENDMENT NO. 5 OFFERED BY MRS. CLAYTON

Mrs. CLAYTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mrs. CLAYTON: At the end of the bill (before the short title), insert the following new section:

SEC. 738. The amounts otherwise provided by this Act are hereby made available for "AGRICULTURAL PROGRAMS—AGRICULTURAL BUILDINGS AND FACILITIES AND RENTAL PAYMENTS".

12994 CONGRESSIONAL RECORD—HOUSE July 11, 2001
by reducing the amount made available for “AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES” (and the amount specified under such heading for competitive research grants (7 U.S.C. 450i(b)), by reducing the amount made available for “AGRICULTURAL PROGRAMS—FARM SERVICE AGENCY—SALARIES AND EXPENSES”, and by increasing the amount made available for “AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES” (and the amount specified under such heading for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee University), by increasing the amount made available for “AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES” (and the amount specified under such heading for payment of grants to land-grant colleges and universities (7 U.S.C. 4281)) to Tuskegee University (7 U.S.C. 3232)), and by increasing the amount made available for “AGRICULTURAL PROGRAMS—OUTREACH FOR SPECIALLY DISADVANTAGED FARMERS”, by $5,521,000, $10,000,000, and $7,007,000, respectively.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentlewoman from North Carolina (Mrs. CLAYTON) and a Member opposed of her party will control 10 minutes.

The Chair recognizes the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have agreed to present my amendment with the understanding that the chairman is going to work with us during conference, and then I will withdraw it. But he has graciously allowed us to get the argument into the RECORD.

This amendment is an en bloc amendment and has three phases to it. The first part is to indeed allow for justification for the outreach to small and disadvantaged farmers. The reason why we need these extra resources for small and disadvantaged farmers is because small farmers, all farmers are having difficulty, but small farmers and disadvantaged farmers and minority farmers are especially having difficulty.

We are all aware of the issue around farmers not being able to get credit, farmers not being able to get the technical assistance, farmers not being able to keep up with the new technology. Well, providing monies to what we call the capacity building will allow us to do that. So we are asking for an increase to indeed have those resources.

The second part of this amendment would include the research. Now, I understand that many people have problems with the issue that I am suggesting the money should be coming from. But the issue we want for our colleagues to understand on this is that the research and extension for the 1890 institutions has been woefully underfunded. I brought this chart so it could be put in as part of the RECORD. Indeed, this is the competitive grant in the 1999 fiscal year, where we could find the records. All of the seventeen 1890 colleges got 5/10 of 1 percent of the money.

Now, why is this an issue that we want to bring to the attention of my colleagues? Well, most of the small farmers and disadvantaged farmers are more concentrated where the 1890 institutions are. And to the extent that they are not allowed to provide the research to add to the understanding of the research in those areas it would be indeed an error.

The third part of this amendment was the whole issue of capacity building. The capacity building of the grant would allow the opportunity to provide monies for graduate students, for professors, and those who would have the opportunity to build up the capacity of these universities. Now, I understand that this is not as palatable, as being too expensive. Is it too expensive to make these 1890 universities, some 17 of them, as capable as any other university? It adds to the capacity of the American rural structure. It adds to the capacity of the research that we are providing new people about the understanding of our food and our fiber.

So I would ask my colleagues as we move forward to support this.

Mr. Chairman, I am glad to be joined by one of the cosponsors of this amendment. Her particular interest was the research, but she is interested in all parts of the en bloc amendment.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentlewoman from North Carolina for allowing me the opportunity to work with her. I also thank the leadership of this committee and the ranking member for their leadership and their concern.

This is not a new attempt. This is an initiative that we worked on with the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies and the authorization committee last year dealing with the 1890 land grant colleges. I am on the Committee on Science, and I know the value of R&D. I also know the value of the history of farmers as well as those farmers in the African community.

But generally speaking, the history of the land grant colleges were around the rural communities in particular. They came out of the soil, if you will. In fact, many of the colleges still have very large agricultural programs now and teach agricultural science, such as Prairie View A & M.

It is interesting we are not in this amendment asking, if you will, to take over the percentages and the dollars given to other colleges, in particular the 1862 land grant. But what we are asking for is that the research dollars to the 1890 land grant is less than 1 percent. It is .5. So the opportunity for innovative research that can help in nutrition, that can help in agricultural science as it relates to the research done with farm animals, if you will, and if an urbanite can suggest that particular type of research, soil research, environmental research, coming from these kinds of campuses, dealing with small farmers is an enormous asset to what is a very important part of our economy, and that is farming and food and agriculture.

So I would simply ask and join the gentlewoman from North Carolina in asking for our amendment to be supported. There are many colleges that can benefit in enhancing the opportunity for these colleges. In my State it is Prairie View A & M, but there are many, many colleges that can benefit by this research. It is, again, not to take away, it is to enhance.

I would hope that we would want to enhance the opportunities for research among these particular colleges. I ask for support of this amendment.

Mr. BONILLA. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) is recognized for 10 minutes.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I understand clearly that we are to work on this in the weeks ahead and the months ahead to try to address the concerns of the gentlewoman from North Carolina and would like to inquire if the gentlewoman from North Carolina is still interested in withdrawing this amendment.

Mrs. CLAYTON. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentlewoman from North Carolina.

Mrs. CLAYTON. Mr. Chairman, I do, but I do have another speaker, if the gentleman will allow me to do that.

Mr. BONILLA. Mr. Chairman, I reserve the balance of my time.

Mrs. CLAYTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR), the ranking member on the Subcommittee on Agriculture of the Committee on Appropriations.

Ms. KAPTUR. Mr. Chairman, I thank the gentlewoman from North Carolina (Mrs. CLAYTON) for yielding time to me.

Mr. Chairman, I wanted to publicly acknowledge the incredible work that the gentlewoman from North Carolina (Mrs. CLAYTON) has done in proposing this amendment along with the gentlewoman from Texas (Ms. JACKSON-LEE). Were it not for their vision and leadership last year, we would not have had any increase to these accounts.
Without question these colleges and institutes have such an enormous impact in our country, but also can be pivotal institutions for advancement in other countries. I envision the day when these additional dollars will be able to link these institutions to even some of the most underdeveloped areas of Africa. There, I think, cooperative research projects could benefit both nations, the farmers of both nations, the people of both nations.

I also want to thank both the gentlewomen from North Carolina (Mrs. CLAYTON) and the gentlewoman from Texas (Ms. JACKSON-LEE) for taking a hard look at the full potential of these historically black colleges and universities and the Tuskegee Institute and the needs of our smaller African American farmers.

In supporting this amendment, I am reminded of my travels to one State where there were significant civil rights suits against the U.S. Department of Agriculture. It was unbelievable to me that loans were not being made to very worthy endeavors by minority farmers for food processing. We run into this age-old problem of discrimination even by some of the local loan committees that still exist across this country.

I think that these universities and the Tuskegee Institute and these colleges can help lead America forward in a very important way. They can be of special assistance because of the trust with which they and their researchers are held by the very communities that we want to assist.

Mr. Chairman, I would have to say to these two gentlewomen—who really cannot be viewed as only gentle for some of what they have to address in serving at the national level and dealing with the issues that we contend with—that they are leading America forward in this new millennium in a way that is so vitally necessary. They certainly have my support in their intentions to increase funding in these categories.

Mr. Chairman, I know the gentlewoman wishes to withdraw the amendment at some point, but hopefully as we move toward the Senate, we will be able to take my colleague’s excellent recommendations and enact them into law through conference.

Mrs. CLAYTON. Mr. Chairman, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me thank the ranking member for the sensitivity and enormity of her leadership in feeding the world.

I wanted to restate something that is crucial: The kind of partnerships that can be built between the historically black colleges and developing nations in terms of nutrition and agriculture science and opportunities to enhance their ability to provide food for themselves, which is a great problem in developing nations.

I thank the gentlewoman from Ohio (Ms. KAPUR) for her leadership. I thank the gentlewoman from North Carolina (Mrs. CLAYTON).

Ms. KAPUR. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentlewoman from Ohio.

Ms. KAPUR. Mr. Chairman, certainly we know in most of those places it is women who are raising most of the food and feeding their villages. We know that the historically black colleges and Tuskegee Institute will be especially sensitive to that. Without a doubt their reach can be worldwide.

Mrs. CLAYTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank all of those who are sensitive to this issue; but I want to raise the issue of the contribution that small family farmers and minority farmers are making to the vitality of the agricultural community. And to the extent we help them, and 2501 is that outreach program, it is administered by nonprofit groups and 1890 colleges, and that is why it is essential to get sufficient funds for it.

The research that the gentlewoman from Texas (Ms. JACKSON-LEE) emphasized so strongly, already there is a connection between the developing countries. Tuskegee is doing biotechnology in Nigeria. There is a program, Farmers to Africa, Farmers to Caribbean. 1890 is taking sustainable agricultural know-how to these small, struggling countries to transfer the knowledge we have. So Americans are doing well and good at the same time.

Finally, the capacity-building of the 1890 colleges is sustained to add to the credibility and the strength of our higher education system. Research is an important part of agriculture, and to that extent we want to strengthen all of the land grant colleges, and this allows us to strengthen the 1890 land grant college.

Mr. Chairman, I thank the chairman for his willingness to work with us as we go forward in the conference committee.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. BACA

Mr. BACA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BACA:

Page 74, after line 21, insert the following new section:

SEC. 741. The amount otherwise provided by this Act in title I under the heading “Agricultural Programs—Cooperative State Research, Education, and Extension Service—Research and Education Activities” for an education grants program for Hispanic-serving Institutions (7 U.S.C. 4231) is hereby increased by $16,508,000.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from California (Mr. BACA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. BACA). Mr. BACA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of my amendment to increase funding for USDA grants for Hispanic-serving institutions for agricultural research. Hispanic-serving institutions, or HSIs, are the backbone of Hispanic college education. These schools have great research capabilities and have much to offer, but because they do not have a land grant or are not necessarily historical, they sometimes do not receive all of the resources they deserve.

I salute the efforts of the chairman, the gentleman from Texas (Mr. BONILLA), on behalf of the Hispanic-serving institutions on his work towards allowing HSIs to gain a foothold into agricultural research grants. Yet I am certain that the gentleman from Texas (Mr. BONILLA) would agree with me that these schools merit more funding, especially to increase the growth and development of Hispanics in our institutions.

Mr. Chairman, 41 percent of all USDA research project proposals for HSIs are funded. Forty-one percent is a remarkable success rate for proposal acceptance. We obviously have a great resource here that we are not using nearly enough, and we need to tap into that.

In addition, I would like to ask Secretary Veneman and the administration to understand that these institutions are important to the Congressional Hispanic Caucus, and we will work and fight for more resources.

FY 2000 HIGHER EDUCATION HISPANIC-SERVING INSTITUTIONS EDUCATION GRANTS PROGRAM TOTAL FUNDS AWARDED TO STATES AND LEAD INSTITUTIONS

<table>
<thead>
<tr>
<th>State and lead institution</th>
<th>Awards</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>$299,933</td>
</tr>
<tr>
<td>Northwell Community College</td>
<td>$299,933</td>
</tr>
<tr>
<td>California State University—San Bernardino</td>
<td>150,000</td>
</tr>
<tr>
<td>West Community College</td>
<td>300,000</td>
</tr>
<tr>
<td>New Mexico</td>
<td></td>
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<tr>
<td>New Mexico State University</td>
<td></td>
</tr>
<tr>
<td>Loma Vocational Technical Institute</td>
<td>150,000</td>
</tr>
<tr>
<td>Puerto Rico: University of Puerto Rico</td>
<td>146,770</td>
</tr>
<tr>
<td>Texas</td>
<td></td>
</tr>
<tr>
<td>Texas A&amp;M University—Corpus Christi</td>
<td>149,974</td>
</tr>
<tr>
<td>Palo Alto University</td>
<td>299,995</td>
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<tr>
<td>St. Edwards University</td>
<td>298,875</td>
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<tr>
<td>University of Texas at Brownsville</td>
<td>263,604</td>
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<tr>
<td>Houston Community College</td>
<td></td>
</tr>
<tr>
<td>Texas A&amp;M University—Corpus Christi</td>
<td>361,313</td>
</tr>
<tr>
<td>Texas A&amp;M University—Angleton</td>
<td>55,064</td>
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</tbody>
</table>
Mr. BONILLA. Mr. Chairman, will the gentleman yield?  Mr. BACA. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I want to commend the work of the gentleman from California (Mr. BACA) on this very important issue on Hispanic-serving institutions, and I want to also express my gratitude for his acknowledging what this subcommittee has done; and also what has been done historically on the behalf of the Health and Human Services and Education over the last few years in a bipartisan way to take care of many of the problems that exist at many institutions in terms of funding.

Mr. Chairman, as I discussed with the gentleman before, we are willing to work to see if there is a possibility at all to try to increase this number down the road. We do not know if that is going to be possible, but we certainly will make every effort. We have given increases in this bill over the last 2 years as well, and we are doing all we can; and we certainly will continue to do that.

Mr. BACA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the gentleman from California (Mr. BACA) for his leadership in bringing this issue to the attention of our subcommittee. The gentleman from California is particularly well suited to sensitizing the Congress for the extra attention that needs to be put to identifying those institutions serving higher numbers of Hispanic populations, and to help to place those in a more competitive position with larger and more established institutions that tend to have first call at the U.S. Department of Agriculture, even in their research protocols.

Mr. Chairman, I assure the gentleman that he will have my full support in identifying ways to move funding to those institutions to reach a broader array of the American public, and, as with some of the other institutions we were talking about a little bit earlier, particularly those serving African American populations, to look also toward a global role for those institutions because of their inherent bilingual capabilities and the historic ties that exist, certainly with Latin America and other places.

So we do not have a narrow view of only one State or even our own country, but we have this tremendous resource in our own country if we but see it and enhance it.

Mr. Chairman, I thank the gentleman for coming to us and for being the leader in this Congress and for bringing this issue to our attention. California could not have sent a more capable representative, and the gentleman certainly has my pledge to work with him as we move toward conference to see if we cannot do better in this new millennium than perhaps some of those who served here in the past.

Mr. BACA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentlewoman for her comments. We all realize that it is important to support institutions such as the HSIs, and I appreciate the lead that the gentleman from Texas (Mr. BONILLA) has taken in the past years ensuring funding, and I look forward to working with him in the future in conference committee to increase funding for this wonderful grant program.

Mr. Chairman, I understand that my amendment is subject to a point of order. I concede to that point of order, and I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Sequential votes postponed in committee of the whole

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 20 offered by the gentleman from Vermont (Mr. SANDERS); amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT); amendment No. 13 offered by the gentleman from Ohio (Mr. KAPTUR).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

Amendment No. 20 offered by Mr. SANDERS

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 20 offered by the gentleman from Vermont (Mr. SANDERS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment. The Clerk redesignated the amendment.

Recorded vote

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 159, noes 257, not voting 7, as follows:

[Roll No. 236]

Ayer—159
Abercrombie  Ackerman  Andrews  Baird
Ackerman  Allen  Bass  Bailey
Baldacci  Baldwin  Barrett  Bereuter
Bishop  Blagojevich  Bonior  Boswell
Brady (PA)  Brown (OH)  Burton  Capito
Carson (IN)  Carson (OK)  Chambers  Chabot
Clay  Clement  Condit  Conyers
Costello  Cramer  Crowley  Cummings
Davis (IL)  DeFazio  Delmont  DeLauro
Dempsey  Emerson  Engel  Ferguson
Fiester  Filner  Frank  Gephardt
Gibbons  Gilchrest  Goodlatte  Greene (TX)
Gutierrez  Gutknecht  Hall (OH)  Hastings (FL)
Hastings (WA)  Hinchey  Hinshaw  Hooley
Horn  Hunter  Israel  Jackson (IL)
Jackson-Lee  Johnson (TX)  Johnson (NY)  Kaptur
Kildee  King (WI)  Kirk  Kleczka
Kolbe  Kucinich  LaFalce  Lang
Lantos  Langevin  Larsen  (CT)  Leach
Lee  Lessig  Lewis (GA)  Liberatore
Linder  Lingle  Lofgren  Long
Lopez  Lowey  Lucas (FL)  Lucas (OH)
Luetkemeyer  Lynn  McNulty  Meeks (NY)
Miller, George  Mineta  Mollohan  Moran (KS)
Nadler  Napolitano  Neal  Nethercutt
Newman  Oberstar  Olver  Ortiz
Otter  Owens  Pallone  Pastore
Payne  Peterson (MN)  Petri  Platts
Pomeroy  Wu  Rahall  Saha
Rangel  Reclamation  Reid  Reyes
Richardson  Rogers  Rohrabacher  Rohm
Royce  Sander  Sandlin  Sawyer
Schererer  Schaffer  Schakowsky  Schiff
Scott  Sensenbrenner  Serrano  Shadegg
Shays  Shows  Skelton  Slaughter
Smith (MI)  Snyder  Solis  Speier
Spratt  Stark  Stenholm  Strickland
Torsella  Taylor (MI)  Thune  Thurman
Thurmond  Tiahrt  Tienney  Turner
Udall (NM)  Waters  Watson (CA)  Westmoreland
Westmoreland  Williams  Wilson  Woolsey
Womack  Wu  Wynn

Akeredolu  Akin  Armey  Bachus
Bachus  Barlow  Ballenger  Barcia
Bartlett  Barton  Base  Becerra
Bentzen  Berkley  Berman  Biggert
Bilirakis  Blemmasener  Blumenauer  Bono
Boehmer  Bonner  Bonilla  Bono
Borski  Brown  Boyd  Brady (TX)
Brown (FL)  Brown (SC)  Bryant
Burh  Buyer  Callahan  Carter
Camp  Canseco  Cantor  Cardin
Chablis  Clayhills  Clyburn
Coles  Collins  Combust  Cooksey
Crane  Crenshaw  Culhane  Culerson
Cunningham  Davis (CA)  Davis (FL)  Davis, Joe Ann
Davis, Tom  Deal  DeGette  DeLauro
DeLay  DeMint  DeMoss  Deutch
DeWitt  Diaz-Balart  Dicks  Dooley
Doggett  Doyle  Dreier  Duncan
Duncan  Dunn  Edwards  Ehlers
Eshoo  Ehrlich  English  Enzi
Estes  Everett  Farr  Foxx
Foster  Foxx  Franks  Ford
Fossella  Foyle  Frelinghuysen  Furse
Furguson  Fletcher  Flaherty  Fletcher
Flaherty  Hutchison  Hyde  Inslee

AYES—257

Ackerman  Baker  Baldwin  Barrett
Bereuter  Bishop  Blagojevich  Bonior
Boswell  Brady (PA)  Brown (OH)  Burton
Capito  Carte  Carson (IN)  Carson (OK)
Chabot  Clay  Clement  Condit
Conyers  Costello  Cramer  Crowley
Cumings  Davis (IL)  DeFazio  Delmont
DeLauro  Dempsey  Emerson  Engel
Fiester  Filner  Frank  Gephardt
Gibbons  Gilchrest  Goodlatte  Greene (TX)
Gutierrez  Gutknecht  Hall (OH)  Hastings (FL)
Hastings (WA)  Hinchey  Hinshaw  Hooley
Horn  Hunter  Israel  Jackson (IL)
Jackson-Lee  Johnson (TX)  Johnson (NY)  Kaptur
Kildee  King (WI)  Kirk  Kleczka
Kolbe  Kucinich  LaFalce  Lang
Lantos  Langevin  Larsen (CT)  Leach
Lee  Lessig  Lewis (GA)  Liberatore
Linder  Lingle  Lofgren  Long
Lopez  Lowey  Lucas (FL)  Lucas (OH)
Luetkemeyer  Lynn  McNulty  Meeks (NY)
Miller, George  Mineta  Mollohan  Moran (KS)
Nadler  Napolitano  Neal  Nethercutt
Newman  Oberstar  Olver  Ortiz
Otter  Owens  Pallone  Pastore
Payne  Peterson (MN)  Petri  Platts
Pomeroy  Wu  Rahall  Saha
Rangel  Reclamation  Reid  Reyes
Richardson  Rogers  Rohrabacher  Rohm
Royce  Sander  Sandlin  Sawyer
Schererer  Schaffer  Schakowsky  Schiff
Scott  Sensenbrenner  Serrano  Shadegg
Shays  Shows  Skelton  Slaughter
Smith (MI)  Snyder  Solis  Speier
Spratt  Stark  Stenholm  Strickland
Torsella  Taylor (MI)  Thune  Thurman
Thurmond  Tiahrt  Tienney  Turner
Udall (NM)  Waters  Watson (CA)  Westmoreland
Westmoreland  Williams  Wilson  Woolsey
Womack  Wu  Wynn

NOES—267

Akeredolu  Akin  Armey  Bachus
Bachus  Barlow  Ballenger  Barcia
Bartlett  Barton  Base  Becerra
Bentzen  Berkley  Berman  Biggert
Bilirakis  Blemmasener  Blumenauer  Bono
Boehmer  Bonner  Bonilla  Bono
Borski  Brown  Boyd  Brady (TX)
Brown (FL)  Brown (SC)  Bryant
Burh  Buyer  Callahan  Carter
Camp  Canseco  Cantor  Cardin
Chablis  Clayhills  Clyburn
Coles  Collins  Combust  Cooksey
Crane  Crenshaw  Culhane  Culerson
Cunningham  Davis (CA)  Davis (FL)  Davis, Joe Ann
Davis, Tom  Deal  DeGette  DeLauro
DeLay  DeMint  DeMoss  Deutch
DeWitt  Diaz-Balart  Dicks  Dooley
Doggett  Doyle  Dreier  Duncan
Duncan  Dunn  Edwards  Ehlers
Eshoo  Ehrlich  English  Enzi
Estes  Everett  Farr  Foxx
Foster  Foxx  Franks  Ford
Fossella  Foyle  Frelinghuysen  Furse
Furguson  Fletcher  Flaherty  Fletcher
Flaherty  Hutchison  Hyde  Inslee

July 11, 2001

CONGRESSIONAL RECORD—HOUSE

FY 2000 HIGHER EDUCATION HISPANIC-SERVING INSTITUTIONS EDUCATION GRANTS PROGRAM TOTAL FUNDS AWARDED TO STATES AND LEAD INSTITUTIONS—Continued

State and lead institution  Awards

Total .................................................. 2,738,774
The Chairperson. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

**ANNOUNCEMENT OFFERED BY MR. GUTENBERG**

The Chairperson. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota (Mr. Gut-
CONGRESSIONAL RECORD—HOUSE

12999

July 11, 2001

Stated against:
Mr. LEWIS of California. Mr. Chairman, on rolcall No. 217, I was unavoidably detained. Had I been present I would have voted "no."

AMENDMENT NO. 13 OFFERED BY MR. KUCINICH

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. KUCINICH) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The pending business was stated.

Mr. BONILLA. Mr. Chairman, I recognize the gentleman from Texas.

Mr. BLUMENAUER. Mr. Chairman, I rise to a point of order.

Mr. LEWIS of California. Mr. Chairman, on 1532

The result of the vote was announced as above recorded.

Stated against:
Mr. LEWIS of California. Mr. Chairman, on rolcall No. 218, I was unavoidably detained. Had I been present I would have voted "no."

AMENDMENT OFFERED BY MR. BLUMENAUER

Mr. BLUMENAUER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BLUMENAUER:
Insert before the short title at the end the following new section:

SEC. 1. Effective three months after the date of the enactment of this Act, none of the funds appropriated or otherwise made available in this Act may be used to pay the salaries or expenses of personnel of the Department of Agriculture to make price support available (in the form of loans, direct payments to producers, or other subsidies) with respect to an agricultural commodity in the absence of a report to Congress by the Secretary of Agriculture that (1) fully specifies the amount of Federal funds being used to provide such price support and (2) describes the full effect of import quotas and tariffs imposed by the United States to protect such commodity.

Mr. BONILLA. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Oregon (Mr. BLUMENAUER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I yield myself such time as I may consume.

I rise to offer an amendment that would direct the Department of Agriculture to submit a report to Congress that details the full amount of Federal funds being used to provide price support and describes the full effects of quotas and tariffs imposed on our Government protecting commodities.

Mr. Chairman, we have a strange patchwork of policies that date back two-thirds of a century to the Depression Era, back to a time when there were 6 million family farmers, when 25 percent of our population lived on the farms. Today, we have a crazy patchwork of programs that have serious environmental impacts, which is why this amendment has been endorsed by Friends of the Earth and the Environmental Working Group, but it also has distorting impacts as far as the economy is concerned. It is estimated that worldwide, there are over $150 billion in extra costs that are added; and for the United States consumer, it is the equivalent of a 3 percent food sales tax, and the most regressive because of these impacts this has on the poor who spend more, $18 billion a year.

We deserve, Mr. Chairman, the opportunity to see the big picture before we move forward with other elements that deal with agriculture, that deal with international trade.
Mr. Chairman, I yield 1 1/2 minutes to the gentleman from Florida (Mr. MILLER) to speak to a specific example of the impacts that we are concerned about.

Mr. MILLER of Florida. Mr. Chairman, I rise in support of this amendment, and I thank the gentleman for introducing it.

All we are asking for is transparency, and let me use the illustration of the sugar program that was passed in 1996, when we were told, no cost to the American taxpayer. Well, let us look at the facts. Let us look at the facts. First of all, GAO says it cost $1.9 billion for the American consumer. The American consumer is the American taxpayer, so it cost $1.9 billion. Last year, the Federal Government had to buy $430 million worth of sugar, and it does not add any use for it. It is having to store it. We are spending $20 million a year to store all of this sugar that we have no use for, and yet we were told that it had no cost. The price of sugar in the United States is more than double what it is elsewhere around the world, as if the Federal Government were a major purchaser of sugar, whether it is in VA hospitals or schools and such.

In addition, under the environmental issue, sugar is a major contributor to the pollution of the Everglades. We are going to spend $8 billion to clean up the Everglades, and we are going to pay a lot of that cost because the sugar program is causing the problem.

So these agriculture programs that say, oh, it does not cost the Government anything, we do not know what it costs us. It has direct costs and it has indirect costs, and all this amendment says is let us have transparency, and let us figure out what it really costs.

Mr. SCARBOROUGH, Mr. Chairman, I appreciate the gentleman from Oregon bringing this important amendment to the floor.

It is also important to remember that in 1996, this Congress brought the Freedom to Farm Act to this floor. The proposed plan was to phase out farm subsidies in 7 years by spending $36 billion on subsidies. Well, 7 years later we have spent over $80 billion instead of $34 billion, and that has not even been enough for subsidy supporters. In emergency funding for agriculture alone, Congress has spent an additional $38 billion. That means we either made a very bad guess back in 1996, or we are dealing with very bad public policy.

Today we find that the Freedom to Farm Act that was supposed to free American subsidies while freeing American taxpayers from price supports, has actually backfired; and now, Congress once again is paying two, three, even four times the amount of subsidies that we pledged to the American people in 1996.

Congress passed welfare reforms for struggling single parents; and now Congress needs to pass similar reforms for the American farmer. Americans should not continue paying people for not planting their crops.

The Freedom to Farm Act failed because Congressional courage failed all American taxpayers. We need to look at these misguided policies again, and stop subsidy payments that continue to cost American taxpayers billions of dollars.

Mr. BLUMENAUER. Mr. Chairman, I yield myself such time as I may consume.

I would hope that we on this floor of both parties, people of disparate philosophical orientations, could agree on one thing: the American public deserves to know the big picture, how much it costs, who is paying, and the impacts of these programs so that we can make the appropriate decisions for agriculture, for the environment, and sound economic policy.

I understand there may be some question as to the acceptability of this amendment, that it may be subject to a point of order and I respect that, and I will be willing to withdraw my amendment. But I hope that we can work with the members of this subcommittee to be able to work to make sure that we have the information available to protect the environment, to provide sound agricultural policy, and be able to deal with our trade responsibilities in the international arena.

Mr. Chairman, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BONILLA. Is the gentleman going to withdraw his amendment?

Mr. BLUMENAUER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

Mr. Chairman. The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TRAFICANT

Sect. ______. No funds appropriated or otherwise made available under this Act shall be made available to any person or entity that has been convicted of violating the Act of March 3, 1933 (41 U.S.C. 18a–10c; popularly known as the “Buy American Act”).

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Ohio (Mr. TRAFICANT) and a Member opposed each with control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

I would like the appropriators, if they would, to listen to my brief remarks, and the other Members. We just celebrated a great holiday, the independence of the United States of America; and right down there on the Mall when the national symphony was performing in celebration of our great democracy and republic, vendors were handing out souvenir small plastic American flags that were made in China. The national symphony is performing, people are in Washington to celebrate this great holiday, and the vendors are distributing small flags that I will send over; I do not have them with me. This is ridiculous.

Mr. Chairman, this is a very simple amendment. It gets right to the point. Anybody that has violated our Buy American laws will not be eligible to get money under the bill.

I would ask that it be approved, as it has been to other bills.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. BONILLA), the distinguished chairman in his first term, and I commend him for his work.

Mr. BONILLA. Mr. Chairman, I thank the gentleman for yielding me this time. I want to commend the gentleman for offering this amendment. We support the amendment and would hope that we could move to a vote quickly on this amendment.

Mr. TRAFICANT. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Ms. KAPTUR), my distinguished colleague.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for proposing this Buy American amendment as well as many other bills that he has been successful in achieving this added language. I would not only like to support the gentleman on this effort, but to work with him to assure that both the letter and spirit of the law, as the gentleman has been able to pass here regarding Buy American, are working in every program of our government, let me point out, for example, the Department of Defense’s purchase of food commodities, should be oriented toward U.S. farmers, U.S. produced commodities, not food brokers that might acquire their product from foreign sources.

Mr. Chairman, I just want to commend the gentleman and say I support the Buy American Act, and congratulations to the gentleman for bringing this Buy American amendment to America’s attention.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentlewoman’s comments. One of the reasons for the technicalities is that they say the Buy
We are basing our farm programs on antiquated crop history that was established from 1986 to 1991. This amendment纠正s that those other farmers that today are growing that corn, that rice, that cotton, the soybeans, that corn, will still be eligible for the Federal Government price support program.

It is a matter of fairness, and I say to the gentleman from Iowa (Mr. LATHAM), the deputy chairman, that the Senate has indicated they are interested in putting this in the Senate version of their agricultural appropriation bill. It is important that we, as quickly as possible, tell the American farmers, that otherwise might not be eligible for this kind of support help, that we intend to pass this amendment.

We had it in the chairmen's mark of the appropriation bill supplemental. That bill was changed with the Stenholm substitute. This amendment needs to be accomplished. I would ask the leadership in their efforts, when we go to conference, if this is in the Senate bill, can we move ahead on this amendment?

Mr. LATHAM. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. Mr. Chairman, I appreciate very much the gentleman from Michigan's interest in this matter.

I understand there is strong bipartisan support to remedy this inequity in our farm program laws. I support the gentleman's efforts to accomplish this.

I am sorry that, because of the legislative nature of this amendment, the bill before us today is not the appropriate vehicle for this provision. However, I look forward to working with the gentleman in the future on this problem, and if the provision is in the Senate bill, we will consider this correction in our conference committee. I thank the gentleman for his efforts.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I rise to bring to the body's attention an amendment I have prepared that concerns a matter of fairness and equity to American farmers. Very simply, my amendment would maintain the number of farmers eligible for the price support program that we have in the Federal Government.

We have a price support program that provides that if market prices fall below a certain level for these programs' crops, someone is eligible for an LDP, a loan deficiency payment, or a commodity nonrecourse loan.

Under the provisions of the law, though, technically, only those individuals that were enrolled in farm programs and designated their program crop acreage back in the late 1980s are eligible for this kind of support.

So what we did last year is allow every American farmer, those cattle and livestock farmers, those dairy farmers that did not have program crops, and repeat them back in the 1980s, to be eligible for that same kind of federal price support as those individual crop farmers that had program crops.

at the inception of the base acreage allotments, but later shifted acreage from another use into program crop production. For instance, if a corn/soybean farmer that also grazes some land enrolled in program acreage decides to shift that grazed acreage into corn/soybean production, his new cropping acreage would not be eligible for the Loan Deficiency Payment.

This problem was recognized last year and LDP eligibility was expanded to include farmers not enrolled in program acreage—language included in Crop Insurance legislation. However, this provision was only for crop year 2000, and another legislative remedy is needed for crop year 2001.

My amendment, which I have also introduced as a stand-alone bill, H.R. 2089, would do just that. The idea of LDP eligibility equity has garnered strong bipartisan support within the Ag Committee, and was included in Chairmen SIMPSON's and CHESTERS' 2001 Crop Year Economic Assistance Act that was voted on earlier this week (H.R. 2213), but was narrowly eliminated along with all other fiscal year 2002 spending that was included in the mark.

The Congressional Budget Office estimates that approximately 98.6 percent of program crop production is eligible for LDP payments. While that number is significantly high and captures most commodity producers, it is still unfair for the other 1.4 percent to be ineligible simply because those farmers are not enrolled in farm program base acreage. It is important that we enact this provision and eliminate this loophole that places some farmers at a competitive disadvantage. I urge members to vote for passage of this amendment so that we may correct this problem.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The amendment of the gentleman from Michigan (Mr. SMITH) is withdrawn.

AMENDMENT NO. 30 OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 30 offered by Mr. Smith of Michigan.

Add before the short title at the end the following new section:

SEC. . None of the funds appropriated or otherwise made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who permit the payment limitation specified in section 10012 of the Food Security Act of 1985 (7 U.S.C. 1938a(a)(2)) to be exceeded in any manner (whether through payments in excess of such limitation, permitting repayment of
marketing loans at a lower rate, the issuance of certificates redeemable for commodities, or forfeiture of a loan commodity when the payment limitation level is reached), except, in the case of a husband and wife, the total amount of the payments specified in section 1901(b) of that Act that they may receive during the 2001 crop year may not exceed $150,000.

Mr. LATHAM. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. A point of order is reserved.

Pursuant to the order of the House of Thursday, July 26, 2001, the gentleman from Michigan (Mr. SMITH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am disappointed in this amendment because earlier I had an indication from the Parliamentarian that this would be in order. We added some language that apparently is now going over the line in terms of legislating in an appropriation bill.

But let me just emphasize the importance of policy as we consider this amendment. The question before this body is should the huge, large agricultural farm corporations get the most benefit from Federal agricultural programs? This amendment reinstates the $75,000 limit for payments.

Our agriculture programs, ever since we started these programs in the 1990s, have tended to benefit the large, and very large farmers, so in part the large farmers have bought out the small farmers because they have had the advantage in farm program payments.

My amendment, reinstates the $75,000 payment limitation on loan deficiency payments and it makes it a real $75,000 limitation on these producers. At the same time, and I would call this to the attention of the ranking member and chairman, at the same time, this amendment allows spouses of these farmers to be considered an equal partner in the farm operation, in other words, be eligible for the $75,000 payment limitation.

What we do now is make those spouses jump through, if you will, bureaucratic hoops to become qualified. We require such action as requiring the spouse to borrow money in their own name, put it into the farm operation, and then they can be eligible as a separate partner.

This amendment says that married couples would have the $150,000 payment limitation.

Let me go little further on what this amendment really does. Historically, net losses from loan deficiency payments have been capped at $75,000 per producer, but this limit was doubled in the bill that went through on special orders a couple of weeks ago.

The increased payments to producers over the current $75,000 limit are estimated to be over $350 million. The huge giant farmers are taking $350 million over and above the $75,000 limitation. This benefits only the very largest farmers.

The average farm size in the U.S. is about 420 acres, but one would have to raise 4,000 acres of corn at current prices to exceed or to go over the $75,000 limitation. There are many large farm operations that exceed 20,000 acres, so they are taking all of this extra money in and, in effect, taking it away from the family farmer.

Amazingly, this flawed system has allowed payments over $1 million to go to some of these farmers. Farmers that receive these large subsidies, and the grain traders that profit from expanded production, oppose this amendment. I think it is so important that we consider this kind of policy in terms of focusing the benefits on the small- and moderate-sized family farm operations.

This amendment accomplishes several things. It gives the spouse of a farmer the same kind of considerations as a partner. It provides that we hold to the $75,000 payment limitation, at a time when we are considering being frugal in our spending so that we do not start reaching into the Medicare and Social Security trust fund. It says, let us save that $350 million that is spent on those huge farmers by locking in the limit that would also apply to the nonrecourse loan and the forfeiture provisions or the commodity certificates that are offered to that farmer if they exceed the limitation.

Mr. Chairman, I would urge this body to consider the kind of agricultural farm policy that we want for the future of American agriculture.

Mr. Chairman, I have an amendment concerning payment limitations for marketing loan deficiency payments (LDPs) to farmers, as well as limits on benefits received through the USDA commodity certificate program and nonrecourse loan forfeitures. This amendment would cap payments to individual farmers from these programs at $75,000.

Mr. Chairman, few people are aware that many of our farm commodity programs, for all of their good intentions, are set up to disburse payments with little regard to farm size. Often in our rush to provide support for struggling farmers we overlook just where that support is going.

The limit on price support payments to farmers was increased when we passed H.R. 2213, the 2001 Crop Year Economic Assistance Act on June 28th. Historically, net benefits from loan deficiency payments and marketing loan gains have been capped at $75,000 per farmer. However, H.R. 2213, which passed under the suspension calendar and was not subject to amendment, doubled the benefit cap to $150,000. Even this limitation is exceeded when USDA authorizes a commodity certificate program to pay farmers that reach the payment limit.

The increased costs to government by doubling the benefit cap from the current $75,000 limit is estimated at over $50 million. Furthermore, additional payments to large producers received through the commodity certificate program exceeded over $350 million in crop year 2000 alone.

A Congressional Research Service report on commodity certificates stated that, “while purported to discourage commodity forfeitures, certificates effectively serve to circumvent the payment limitation.” Amazingly, this flawed system allowed a single farmer to receive $1,201,677 in commodity support payments in 1999.

My amendment would simply restore a $75,000 limit on price support payments to individual farmers—including benefits via commodity certificates and loan forfeitures, but increase the limit to $150,000 for husband and wife farming operations. Currently spouses have to jump through several bureaucratic hoops to qualify.

With increased spending a concern, along with the fact that the additional benefits from the “certificate” program go to huge farm operations, I urge your consideration of my amendment. Boosting farm program payment limitations disproportionately skews federal agricultural support to the largest of producers, while doing nothing to alleviate the difficulties faced by small and medium-sized farmers. Let’s do more to focus benefits on small and moderate size family farm operations.

Mr. Chairman, I yield back the balance of my time.

Mr. Chairman. Does the gentleman from Iowa (Mr. LATHAM) insist on his point of order?

Mr. LATHAM. Mr. Chairman, I continue to reserve my point of order. If there are no other speakers, I would make a point of order.

The CHAIRMAN. Is the gentleman withdrawing the amendment?

Mr. SMITH of Michigan. I am not withdrawing the amendment. I question the point of order. It does not legislate, if I may speak.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. LATHAM).

POINT OF ORDER

Mr. LATHAM. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill, and therefore violates clause 2 of rule XXI.

The rule states, in pertinent part, “An amendment to a general appropriation bill shall not be in order if changing existing law.” The amendment imposes additional duties, and I ask for a ruling from the Chair.

Mr. SMITH of Michigan. Mr. Chairman, I would like to speak on the point of order.

The CHAIRMAN. The gentleman from Michigan (Mr. SMITH) is recognized.
Mr. SMITH of Michigan. Mr. Chairman, hoping the Chair is open to discussions and debate on this issue, I would call to the Chairman’s attention to the fact that we simply say in this amendment, “None of the funds appropriated or otherwise made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture” to accomplish these certain purposes.

This type of amendment has been put in former appropriation bills, so I would like a more detailed explanation from the Chair if he rules this amendment out of order.

The CHAIRMAN. The Chair is prepared to rule.

The Chair finds that this amendment in the last phrase includes language imposing a new duty. The amendment therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained and the amendment is not in order.

AMENDMENT OFFERED BY MR. STUPAK
Mr. STUPAK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STUPAK:
At the end of the bill, insert after the last section (preceding the short title) the following new section:
Sec. 1600. For an additional amount for the Secretary of Agriculture to carry out section 311 of the Older Americans Act of 1965, and the amount otherwise provided by this Act for “Agriculture Buildings and Facilities and Rental Payments” is hereby reduced by $10,000,000.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Michigan (Mr. STUPAK) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased for the second year in a row to offer this important bipartisan amendment with the gentleman from New York (Mr. BOEHLERT). Unfortunately, the gentleman from New York cannot be here as he is on his way down to the White House, but we have his full support for this amendment.

Our amendment adds $10 million to USDA’s nutrition program for elderly meal programs, known as senior citizen meals and Meals on Wheels. This amendment offsets this additional spending by $10 million from the agriculture building and facilities and rental payments.

Our amendment has the support of the Meals on Wheels Association of Michigan, the National Association of Nutritional and Aging Services Program, the TREA Senior Citizens League, the National Council on the Aging, and the National Association of Area Agencies on Aging.

I am sure all of us have met and spoken with seniors in our districts. I am sure they have told us how much they depend on the senior meals they receive, be it Meals on Wheels or Meals at their senior centers.

Senior meal providers receive funding for the meals they distribute to seniors under the Older Americans Act through several avenues: first, through private donations; second, through the Department of Health and Human Services; and third, through the U.S. Department of Agriculture meal reimbursements.

Let me explain why a funding increase for USDA’s nutrition program for the elderly program is so important. Unlike funding from the U.S. Department of Health and Human Services, HHS, which is distributed to the States based on population, the USDA reimbursement to States is according to the amount of meals served at each senior center. The money they receive is actually based on meals served at the senior center.

Our amendment is the best way to ensure that proper distribution of these funds are going to the centers where they prepare the meals.

Why do we need more money? Why are we back for a second year in a row? Why does this amendment go above the President’s request? As our chart indicates here, if we take a look at this chart, according to the Administration on Aging, 233 million meals were served in 2000, but the agency admits that this year the estimates will be 291 million. That is a 15 percent increase over last year.

Even though we increased the funding last year for the meals, it is not going to keep up with the dramatic rise in demand we see for senior meals. So the President’s budget request, and the good work by the committee, it was good work, would be short of what we need just to cover our basic costs.

What our amendment does, the Stupak-Boehlert amendment will allow this important funding to reflect the inflation and the increase in demand for these meals. We can help senior meal providers so that desperately need assistance in these times of high gas prices, high cost of meals and the increasing number of seniors who have come to depend on these meals, even in these good economic times.

I offer this amendment because of conversations I had last year with one such meal provider and about the plight of his agency. Bill Dubord and Sally Kidd of the Community Action Agency in Escanaba, Michigan, in my northern Michigan District, told me that their agency every year is having a tougher and tougher time keeping its head above water to provide senior meals.

I am sure all of us have heard similar stories as we travel about senior centers. According to a recent study, there are now an average of 85 people on waiting lists for home-delivered meal services, and are on the waiting list for an average of 2.6 months.

The bottom line is, our senior meal providers need more money to provide the meals. Increased funding will give them more money to provide more meals, and are on the waiting list for an average of 2.6 months.

When my colleagues are casting their votes, I hope they will think of the seniors they have met back home and the senior providers they have spoken with. Cast a vote for them and support this Stupak-Boehlert amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LATHAM. Mr. Chairman, I just congratulate the gentleman on the amendment. I rise to simply state that I am not opposed to his amendment.

The CHAIRMAN. The gentleman seeks unanimous consent to seek the time in opposition even though the gentleman is not in opposition?

Mr. LATHAM. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 10 minutes.

Mr. LATHAM. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, I am not opposed to his amendment. I just congratulate the gentleman on the amendment. I rise to simply state that I am not opposed to his amendment. The amendment is not in order. The amendment is not in order.

Mr. LATHAM. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 6 minutes.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding me this time on this important amendment to increase funding for the elderly food program and to take funds that may be available from rental payments that USDA does not have to make because it no longer is occupying certain facilities.

Without question, across our country the costs of even paying utility bills are rising significantly for seniors. Electric bills, gas bills in the Midwest, for example, have just risen at astronomical rates. And any way we can find to help seniors make it through this year and next I think are worthy of consideration. This is certainly one
He has been of great assistance to us, was called away to the White House. Boehlert) wanted to be here but he would like to once again point out that the subcommittee and the ranking member, to thank the committee and the myself the balance of my time, in clos-

ability to do in this country. gentleman's proposed expansion, and I counts, can find the funds to cover the that the USDA, within its various ac-

practically, that the senior has are with the per-

nacies. Congregate meal sites give participating seniors the opportunity to socialize with mem-

aries. The Nutrition Program not only feeds seniors in need but also allows those seniors to remain connected to their commu-

tries. Congregate meal sites give participating seniors the opportunity to socialize with mem-

I urge my colleagues to vote for the Stupak-Boehlert amendment. Vote to support our na-

son's seniors. Mr. STUPAK. Mr. Chairman, I yield back the balance of my time. The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. STUPAK). The amendment was agreed to.

AMENDMENT NO. 25 OFFERED BY MR. WEINER Mr. WEINER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 25 offered by Mr. WEINER: Insert before the short title the following:

S. 13004

CONGRESSIONAL RECORD—HOUSE July 11, 2001

of those at the very basic level of de-

cent nutrition.

We know that in many of our senior feeding programs, in fact, the programs are oversubscribed. I have been sur-

prised in my own district on related programs, such as the Seniors Farmers' Market Nutrition Program, where sen-

iors are allowed to use food coupons to purchase fruits, vegetables, herbs and so forth, the enrollment in the program is just growing exponentially because people are pinching every penny be-

cause of other expenditures that they have had.

So I think we really have to look carefully at any ways we can move food to the seniors' tables, and these particular meals programs operated through our area offices on aging are eminently successful across the coun-

try. I know many programs have been initiated in my own district and I have watched seniors being asked to contribute money in little envelopes to help pay for these meals at these senior centers to offset rising costs when they have very little to give.

So I would say to the gentleman that I think he has a very worthy amend-

ment this year. He was successful in leading our country last year with a similar amendment to increase funding for the program, and the number of meals, according to the charts that he has provided, have gone up. So it has been successful.

Certainly no person in America, no senior in this country should go with-

out decent nutrition. We know that the poorest people in our country are women over the age of 85, and many of them are too weak sometimes to even get to the senior centers, so we have home-delivered meals being taken across our country in various neighbor-

hoods. Sometimes the only contact that that senior has are with the per-

son who delivers the noon meal.

So I want to thank the gentleman from Michigan (Mr. STUPAK), whose district actually spans the entire northern region of Michigan, who un-

derstands the problems of rural isola-
tion of people in poverty and thank him for leading us all. And I am sure that the USDA, within its various ac-
counts, can find the funds to cover the gent-

tleman's proposed expansion, and I just want to compliment the gen-
tleman for doing what is right, what is moral, and what we have the eminent capability to do in this country.

Mr. Chairman, I ask our colleagues to support the Stupak amendment.

Mr. STUPAK. Mr. Chairman, I yield myself the balance of my time, in clos-

ing, to thank the committee and the subcommittee and the ranking member for their support of this amendment. I would like to point out that the gentleman from New York (Mr. BOEHLERT) wanted to be here but he was called away to the White House. He has been of great assistance to us, not only in drafting and working this amendment, but in addressing the con-
cerns of seniors throughout this coun-

try. We thought the debate on this bill would go a little longer and we could do our amendment later when he got back from the White House. Unfortunately, he could not be here, but I wanted to recognize his efforts as well as that of the committee in helping us bring forth this amendment.

Mr. BOEHLERT. Mr. Chairman, I rise in strong support for the Stupak-Boehlert amend-
mendment to increase funding for the USDA’s Nutri-
tion Program for the Elderly by $10 million. This vital program helps provide over 3 million senior citizens with nutritionally sound meals in their homes through the meal-on-wheels programs, or in senior centers, churches, and, in my district a few fire halls through the con-
gregate meals program.

I would venture a guess that almost every single Member of this House has visited a congregate meal site or volunteered to ride along with a meal-on-wheels program. I want to remind everyone that these programs are important to us all and that the need is quite real. Participants in this program are disproportionately poor. 33% of con-
gregate meal participants and 50% of home delivered meal participants have incomes below the poverty level. A majority of meal-on-

wheels participants live alone and have twice as many physical impairments as the average elderly person. The Nutrition Program not only feeds seniors in need but also allows those seniors to remain connected to their commu-
nities.

I urge my colleagues to vote for the Stupak-Boehlert amendment.

I would like to thank the gentlewoman from California (Ms. ROYCE) and the gentleman from Wisconsin (Mr. RYAN), who are also joining me in of-

fering this amendment.

I stand as an urban member, someone who represents Brooklyn and Queens, the garden spot of the five boroughs perhaps, but not exactly a bastion of agriculture. But I am someone who strongly supports farm bills when they are offered. I have never voted against one and plan to vote for this one with enthusiasm. But just as during the 1980s and a period thereafter, as we have sought to make government pro-

grams more efficient and many social and urban programs were made more efficient by the actions of this body, we have an opportunity today to end what is quite literally a fleecing of America. The wool and mohair program, which will cost in the area of some $20 million to the United States taxpayer next year, is a program that has been ended 
by this body and now revived by the President with the assistance of this bill. My amendment seeks to eliminate the subsidy.

First of all, let me explain that this is a program that has, I guess, the agricultural version of mission creep. It was started out in the 1930s and 1940s as an effort to protect the strategically needed resource, that is wool; to make sure that wool was available to be used in our military uniforms. Well, those of my colleagues who serve on the Committee on Armed Services recognize that since the 1950s or so it has been removed as a strategically necessary resource because we do not make uniforms out of wool any more. In fact, I have a uniform here that is made out of 100 percent cotton. And all of the uniforms are made out of either cotton or nylon.

So once that rationale was removed, then it became an emergency subsidy intended to get the industry over a hump that it faced in the early 1990s. When it was clear that the program was not as effective and perhaps a little more wasteful than some would want, this body ended the program in 1993. Now there is an effort to revivify it again under the rubric that we need to be able to deal with foreign competition and the only way to do it is with this subsidy.

The second thing about this subsidy is that it is not cheap. We have throughout the 1990s provided more than a billion dollars to this industry. Just last year it was in the neighborhood of $10 million. It is not really clear where next year’s number will end up, but it is somewhere in the range of $10 million, $15 million, or $20 million.

It is also very clear from our history with this program that it is not helping the family farmer. According to a study done in 1993, the average payment is some $44, though there are many who get much more than that. The top 1 percent who benefit from this program, including Mr. Sam Donaldson, gets in the neighborhood of $100,000 or more. So the idea this is something that is helping to augment the family farm is simply not borne out by the facts.

Fourth, as a matter of pure economics, this program is a failure. Wool has seen a price drop since the reinstitution of this programming from some 63 percent. Why are we seeing that? It is because most likely, in combining with the subsidy, we are doing nothing to control supply. So we are continuing to shear more and more animals, more and more stockpiles are building up, the supply keeps on growing and growing, and the price remains depressed. There is nothing in this program that does anything to change that behavior.

But perhaps the most damning economic line in this whole issue is that the price of mohair, which is about 20 percent of this program, has increased about 89 percent since 1995. If there was an impact, it is a negative impact; it is not putting forth forces and not this subsidy that is having an impact on the price and, therefore, the success of the farmers, it is that fact; that wool and mohair are bunched together in this program. And when the subsidy ended, they drop in price and one is seeing a dramatic increase in price. The program simply does not make sense from that perspective. If anything, if we are trying to drive up the price on some level, then at least mohair should be dropped from the program. The final irony is that there is a greater subsidy for mohair in this bill than there is for wool.

I would make one final point. There was a period of time between the time this program died and then like Frankenstein that it resurrected itself, and that was the year 1997 and 1998. And if we look at the statistics as to how the industry did in the last year we had the subsidy and then what it returned, the industry got worse, not better. There was a reduction in wool, in wool production, of about 11 percent. There was an 11 percent reduction in the profits to wool farmers in 1996. And then when the subsidy ended, they actually had smaller losses of only about 3 percent. The same is true in the mohair industry. Mohair prices and mohair jobs actually reduced when we had the subsidy and then came back slightly when we got rid of the subsidy.

I would ask my colleagues to consider very frankly why it is that we have these programs in general. All of us want to be able to support farm programs that operate in the urban centers, like many of the housing programs of the 1980s, it simply is not working, I believe it is incumbent on Members that have those interests at heart to try to weed out the waste. This is, the wool and mohair subsidy program, is simply a waste of taxpayer money.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield to the gentleman from Texas.
Mr. WEINER. If the gentleman will continue to yield, I guess the concern that some of us have that are concerned about this program, and to use the apple example, if we were to stand here in 1950 or 1945 and say, you know what, we need to defend the apple producers because the apple seeds are a vital resource, and then it turned out apple seeds were not that important; and then we come back and said it is the apple core that is very important; and then a few years later we killed the program because it is no longer worthy, I think the point I am trying to make is this is a program that has been tried, it has been offered several different justifications, it has failed by most economic sources I can look to, it has not been successful, and Congress did the right thing in pulling the plug on it.

I guess I would agree with the gentleman that the same standard should be used for the apple program or any other program, sir.

Mr. BONILLA. Well, let me again summarize it, and I do not want to put words in the gentleman’s mouth, but clearly the gentleman does not oppose a program for example in his State that is a big line item in this bill, but is yet trying to remove this program from this bill.

Let me point out some statistics, and perhaps the gentleman can identify with some hardships that exist currently for wool and mohair producers. Since 1993, 16,000 family farms and ranches have left the sheep industry. The U.S. breeding herd has dropped by over 20 percent. Lamb imports have increased by over 50 percent, and it is currently 20 percent of the domestic market. U.S. wool production has dropped to record lows, and imports have increased by 11 percent.

The Nation’s largest wool textile company filed for bankruptcy. Wool prices in 2000 were the lowest in 30 years.

We in Congress do the best we possibly can for whatever part of the agriculture industry that exists around the country that is suffering hardship. There is nothing more American and traditional in this country than to try to preserve family farms and ranches; and there are many, many programs in this bill that do just that, including the one I pointed out that was in the gentleman’s home State as well, which he supports.

All I am saying is whether we are talking about apples, corn, cotton, tobacco, wheat, soybeans or whatever, all of these are part of the American fabric. Wool and mohair producers are part of the American fabric that we do not want to see become extinct. So for that reason I stand in strong opposition to the amendment today.

As a nation, we can no longer afford to arbitrarily attack agriculture because it has the fewest voices representing it. Less than 2% of the American population is involved with agriculture, yet we feed and clothe all of America and most of the world.

What I find even more strange is that the amendment singles out a total of less than $40 million in much needed assistance to wool and mohair producers. Yet the sponsors have no problem with the rest of the $5.5 billion dollars that Congress just approved for corn, cotton, tobacco, wheat and soybean producers. If they did, I assume they would try to kill that relief as well.

Yet, those commodities have a much larger voice and support base in Congress so I guess we do not even bother the little guys. And they are small producers.

Twenty-one percent of the 12,825 payments went to sheep ranchers in the Navajo Nation. I’m sure the gentleman would not even begin to insinuate that the Navajo people are wealthy enough not to need relief. This amendment would hit them harder than any other group of individuals.

Mr. Chairman . . ., many of the statistics the gentleman is using do not even relate to the emergency payments they are trying to stop. They refer to the old wool program which ended in 1995.

Mr. Chairman . . ., I urge all of my colleagues to oppose this amendment, it’s the wrong amendment, the wrong time and the wrong place. Oppose this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WEINER. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. ROYCE).

Mr. ROYCE, Mr. Chairman, I think the Congress has been a little sheepish when it comes to reducing wasteful programs especially during times when we have had a Federal surplus.

I would just make the point that Congress did end the wool and mohair subsidy. It was phased out in 1994. I think that was a good thing. Subsequent to that taxpayers did save about $200 million a year. That was good.

However, like a wolf in sheep’s clothing, this subsidy came back in the fiscal 1999 omnibus appropriations bill and again in the fiscal 2000 agriculture appropriations bill. Now wool and mohair producers have become eligible to receive these payments again.

I do oppose the subsidy for apple producers. I think that is another rotten apple in this agriculture measure that is before us. But let me make the observation that while in the old program farmers were paid a subsidy for the wool and mohair they sold, in this new program, if I understand it right, the way it works now is the farmers do not need to attempt to sell their goods necessarily. The Agricultural Department will pay farmers by the pound just to produce mohair. Under the new program not only can farmers make money without selling their crop, they can make money without trying to market it, if I read it correctly.

In 1999, taxpayers provided wool and mohair farmers, I believe, 10.3 million in subsidy. As explained, the original concept of this had to do with our national security. It had to do with the fact that military uniforms were wool. But the reality is that in 1959 they changed to synthetic fabrics and cotton. That is the situation today.

I just think it is time to end this waste of taxpayers’ dollars. I think it is time to shear the wool and mohair subsidy and stop the fleecing of tax dollars.

Mr. WEINER. Mr. Chairman, I reserve the balance of my time.

Mr. WEINER. Mr. Chairman . . ., I urge all of my colleagues to oppose this amendment, it’s the wrong amendment, the wrong time and the wrong place. Oppose this amendment.

This amendment goes against every principle of trying to help people in agriculture help themselves. We do not want to be dependent on the Federal Government; but until this government gets a handle on energy costs, on import problems, and understands that, unless this government steps forward and solves many of the problems that are creating the crisis in the Federal
Mr. BONILLA. Mr. Chairman, what is the time remaining?

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) has 13 minutes remaining. The gentleman from New York (Mr. WEINER) has 9½ minutes remaining, and the gentleman from Texas as the chairman of the subcommittee has the right to close.

Mr. BONILLA. Mr. Chairman, we only have one additional speaker, so I reserve the balance of my time.

Mr. WEINER. Mr. Chairman, I yield myself such time as I may consume.

First of all, let me address some of the points that have come up by the very distinguished chairman about the inconsistency in his mind of my supporting a program that is in New York. Well, I also support programs that are in Mississippi, Montana and North Carolina and all across this country because I support the bill. I think it is a good bill.

Mr. Chairman, I would ask both the chairman and members of the committee and all of my colleagues, if we had a program that was in place under various guises since 1938, and still we were seeing that the marketplace was not responding to the subsidy, that we were still hemorrhaging market share, and still losing the jobs and had fewer and fewer heads of sheep that were being lost, why would you deem it to be a successful program?

Can anyone argue by any measure that it is a successful program? Is it successful for the average farmer that will get $44? The gentleman from Montana said we need to keep it in place because of the strength of the dollar or because of trade disputes. We will add those to the list of justifications and reasons that have been growing since 1938.

Let me reiterate the statistics of this. 1993 we had a subsidy. There was a 5.2 percent reduction in wool production. 1994 we had a subsidy, 11 percent loss. 1995 we had a subsidy, 8 percent loss. 1996 we had a subsidy, 11 percent loss. If we did not have a subsidy, we only had a 3 percent loss.

Perhaps there was something about the marketplace in 1997, perhaps it was the Democratic Presidency, but the fact of the matter is there seems to be no correlation between the subsidy and the success of the program.

Mr. Chairman, I think it is reasonable for Members of Congress who support ag programs to say this one is a bust. It is not working. I think we have to make those distinctions both in agriculture programs, and I would say this to my most fervent colleague in the urban areas, we have to make those determinations with urban areas as well. If a colleague from an urban area said to me to continue the subsidy for mass transit for all of those coal-powered subways, I would say there are no coal-powered subways.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, what is the time remaining?

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) has 13 minutes remaining. The gentleman from New York (Mr. WEINER) has 9½ minutes remaining, and the gentleman from Texas as the chairman of the subcommittee has the right to close.

Mr. BONILLA. Mr. Chairman, we only have one additional speaker, so I reserve the balance of my time.

Mr. CHAIRMAN. Mr. BONILLA, Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not have a great deal to add on the importance of preserving what I believe will turn out to be on the final vote on this bill a continuation of the very strong urban-rural coalition that exists in this House. I and many of my colleagues are going to be supporting the agriculture bill with enthusiasm. We recognize the matrix that exists between farm programs that are miles away from our communities and the importance that they play to our economies and our communities.

All of that being said, it should never be a substitute for us making wise decisions about what programs work and what programs do not work. In 1993, this body took several steps to reduce the size of government to make things more efficient.

In 1993, after years of being hammered on television shows which were frequently unfair about a fleecing of America, we finally decided to see what we could do about ending this program. The program ended; and, unfortunately, there continued to be a decline in the production of wool and mohair in this country. That decline slowed, and since then we have had an increase in mohair prices.

There has been an 88 percent increase since 1995, yet we continue the subsidy. The subsidy for mohair is 40 cents, as opposed to a 20-cent subsidy for wool, despite the fact that we say we are trying to help the family farmer. Many more people are producing wool. They are in a much more dire situation, yet they get half the subsidy of those who produce mohair.

We still have the terrible imbalance that exists in this program between the average farmer who gets $44 and the top 1 percent that get over $100,000 each.

Mr. Chairman, I stand shoulder to shoulder with the chairman, who has done a terrific job on this bill, in saying that there are many areas that we have to step in and provide assistance to. But if we are standing here in 38 years, God willing, or 50 years, God willing, and we are debating the apple program, the tobacco program or the corn program, or any of the programs that may or may not be in this bill, and if we are still having the same problems as we had from 50 years ago, I believe my colleagues first to say we should eliminate that program.

Mr. Chairman, I urge Members to eliminate the wool and mohair subsidy, save our constituents 10 to 15 to $20 million; and even more important, end a program that has long since proven itself to be ineffective. More importantly than that, show that we understand and have the ability to separate a program that truly does work from those that do not.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Idaho (Mr. SIMPSON).

Mr. SIMPSON. Mr. Chairman, we will have a funny program. It helps if one knows the facts; it really helps if one understands the facts. But if one neither knows nor understands the facts, it causes a great deal of confusion.

Mr. Chairman, let me talk about the “Dear Colleague” letter that went out. It says this subsidy began during World War II and the Korean War, and obviously it is no longer necessary because the military does not need this wool anymore. This is not the original program for the military in World War II. This is an economic disaster, market loss assistance program, which was put into place.

Our agricultural producers that raise sheep and mohair are suffering the same economic consequences as everybody else is in the agricultural industry: and to pick them out and say we are not going to help them, we are not going to have an assistance program for them and we are going to for everybody else is wrong. This is not the old program put into place during the war.

Mr. Chairman, the other part of the “Dear Colleague” says, “The average farmer received $44 for this subsidy. The largest factory farms, representing 1 percent of all growers, received 25 percent of the subsidy.” That is blatantly not true. There are no facts which support that. To support this, the largest producer would have to raise 62,000 sheep. There are no producers that large.

Mr. BONILLA. Mr. Chairman, I yield myself the balance of my time.

If I can just address the remarks of the previous speaker who was not here earlier, that is exactly my point, that the program that we had since 1938 has evolved so many times; yet we continue to find another justification for it. We say, well, it was because we needed the uniforms; well, now we need an emergency in the 1990s; well, now it is to compete with foreign competitors; well, now it is to make up for the loss in the strength of the dollar. The fact remains that that is the definition of a program that ain’t working.

If you have a program since 1938, if you keep changing the name and changing the justification and still the facts remain the same, that the decline in the industry domestically has been unfettered by these programs. In fact, I earlier read a statistic that I will repeat for the gentleman, that the year
that the program went out of effect for 2 years, the industry did better. It did better. The losses were smaller in 1997 than they were in 1996 in both wool and mohair.

If you want to find a program that works, you say, here is what the subsidy did. I defy anyone in this Chamber to point me a success story from this program. Tell me one year that this program has been in effect that there is a single farmer that got $44 on the average, a single farmer that said, oh, I got my 44 bucks.

Mr. SIMPSON. Mr. Chairman, will the gentleman yield?

Mr. WEINER. I yield to the gentleman from Idaho.

Mr. SIMPSON. Mr. Chairman, I would like to know where he got the average of $44 per farmer, because we cannot find anywhere where that information comes from. In fact, it comes to about $800 per farmer from our information. And the information that he suggests that 1 percent of those sheep producers got 25 percent of the payments is just blatantly false.

Mr. WEINER. I will be glad, reclaiming my time, to give the gentleman the source for that. That was the 1993 National Performance Review performed by the office of Vice President Gore, which was the rationale for a bill that came to this floor providing for greater efficiency in government that ended this program.

Mr. SIMPSON. So these are decade-old figures that he is quoting to us, 8 years, from 1993?

Mr. WEINER. I have been quoting numbers out the yinyang today, but which one is the gentleman referring to?

Mr. SIMPSON. Any ones that he understands.

Mr. WEINER. That should narrow it down.

No, anything after 1993 obviously did not come from that study. Anything after 1993 came from the Agricultural Statistical Service, sir.

Mr. SIMPSON. That is interesting because they did not have any information for us.

Mr. WEINER. I will be glad to provide it for the gentleman. But one thing, and I would yield to anyone, since I have a couple of moments left, anyone that can point to a year the subsidy was in place that it did anything to reverse the trend. The trend has been consistent right along. The only time there has been a blip in the trend was 1997 and 1998 when the program was phased out momentarily. Then reduced. They did not gain, but the losses were reduced.

So the argument for a program is not simply that I came up with a new rationale for it. I could do that for any program. The argument has to be, here is how, and we have not seen any demonstration that it has worked.

Mr. Chairman, I yield back the balance of my time.

Mr. BONILLA. Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. STENHOLM), the ranking member on the Committee on Agriculture, a hero to agriculture, and someone who is going to tie all this up in a little package for us at the conclusion of this debate.

The CHAIRMAN. The gentleman from Texas is recognized for 12 minutes.

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding me this time.

In light of the last exchange, I am often reminded but never more so than this afternoon on this amendment of the late Will Rogers’ quote when he said, “It ain’t people’s ignorance that bothers me so much, it’s them knowing so much that ain’t so is the problem.”

That is what it is about this amendment. The gentleman from New York and the gentleman from California are still attacking a program that was eliminated in 1994. They keep referring and all of these letters that we get about how wool and mohair is still here, the wool and mohair program like it is still here. It was eliminated in 1994.

Even the money the gentleman is talking about for striking is not even in the bill we are discussing today. It is in the emergency bill that passed the House Committee on Agriculture and this body to provide assistance to wool and mohair producers.

Now, this gentleman stood on this floor in 1994 and opposed the elimination of the wool and mohair program because we believed it would do damage to an industry that we did not believe was ready to be eliminated because of unfair foreign competition. We lost. I lost. The gentleman from New York is the one that, as he said, won that amendment. We predicted the demise of the wool and mohair industry. And, guess what? Here in 2001, we have 25,000 less wool producers in the United States. They are gone. The gentleman from New York said there is no supply reduction. I would guarantee you there has been a supply reduction. Production has gone down in the United States; 25,000 producers are gone. We have eliminated 70 percent of the mohair producers. They are gone, thanks to the philosophy of the gentleman from New York.

Now, we might say, Well, that is the way it should be. Well, in April of 1999, the United States International Trade Commission determined that the domestic lamb industry suffered from extremely low prices and a flood of imports which constitutes a substantial cause of threat of serious injury to the domestic lamb industry.

In July of 1999 because of the commission’s findings, President Clinton issued Presidential Proclamation 7208 establishing a tariff rate quota on lamb meat for a 3-year adjustment period. The 3-year adjustment period was established so the domestic sheep industry could recover from unfair trade. Unfair trade.

We have accomplished what this body wanted to accomplish with the elimination of the wool and mohair program. It is gone. Now what some of us are interested in doing is trying to assist those wool and mohair producers that believe that they can compete in the international marketplace if their government would stand shoulder to shoulder with them as just this year the European Union will spend $2 billion, that is with a B, subsidizing their wool industry.

Now, I would ask anyone in this body that represents any interest, whether it be agricultural, airplanes, anything that you are manufacturing in this country, if your competitor is spending $2 billion a year, why is that excessive? What is it that we are doing that has brought this amendment to the floor today to suggest that by trying to stand with an industry that is trying to survive in the marketplace, we are doing that now, not with subsidies. The old program cost $200 million a year. We are providing $16.9 million, exactly like we are doing for apples, for cotton, for wheat. That is all that is being done. Not in this bill, but in some other bill. Since 1999, depressed wool prices. In 1995 wool was selling for $1 a pound. Today it is 33 cents a pound. That is in constant dollars. Real dollars. Yet you stand on the floor today and say there has been no market reaction, that somehow we are doing something that is unfairly subsidizing the wool producers? Come on.

We have a letter from the American Textile Manufacturers Institute saying, “Please do not be misled into thinking that the money for wool and mohair producers is actually a continuation or revival of funding provided by the Wool Act which Congress eliminated in the 1990s.”

That is the truth. The gentleman from New York and the gentleman from California have taken some other individuals who have no knowledge whatsoever of the industry and have suggested that somehow we are putting the wool and mohair back into place. And that is not the case. And, at another time, in another place, is saying to those wool and mohair producers who have survived the elimination of the Wool and Mohair Act that we want to stand shoulder to shoulder with you and we want to give you a little assistance, and it is a little little assistance, and we are struggling now in the Committee on Agriculture to come up with a program that will hopefully give them the opportunity to compete in the marketplace. The gentleman from New York’s rhetoric has suggested; but his facts are so far off base that I know the gentleman did not mean to misstate to this House
what he has stated over and over again today. But I believe he has been misled.

Mr. WEINER. Mr. Chairman, I...
In the last 10 years, America’s taxpayers basically paid out $1.5 billion for this particular subsidy. I think the American people would agree that their money would be better spent if this was relegated back to the private sector.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. SIMPSON). Does the gentleman from Texas (Mr. BONILLA) claim the time in opposition?

Mr. BONILLA. Mr. Chairman, yes. The CHAIRMAN pro tempore. The gentleman from Texas (Mr. BONILLA) is recognized for 5 minutes.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the gentleman from Texas (Mr. BONILLA) for yielding me this time.

Mr. Chairman, I rise in opposition to the Royce amendment. I think that the proof is in the pudding, and the pudding is in the trade accounts of the United States, which show that in spite of an unbelievably large trade deficit in almost every other sector, in the agricultural arena we have been able to keep our nose above water barely, because we have exported more than we have imported. With dropping prices for product and so forth, we have managed to double some exports. In specialty areas, whether we are talking about fish or packaged juices, we have been able to keep moving product outside this country. That takes effort.

The Market Access Program helps.

With changes made in prior farm bills, we have limited those who can apply for assistance in order to move product into the international market; but we would not want to stand on this floor and oppose a program that has helped America maintain positive trade accounts in agriculture internationally when every other single account in petroleum and imported oil products, in manufactured goods, in electrical equipment, no matter where one goes in the trade accounts, the United States has historic trade deficits but for agriculture. Though the going is getting rougher in international waters in terms of trade, my goodness this would be the last program one would want to eliminate in terms of helping both farmers in this country move product and in maintaining and turning around that yawning trade deficit which is a very serious underbelly inside this economy. So I rise in opposition to the Royce amendment.

Mr. ROYCE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Chairman, I thank the gentleman from California (Mr. ROYCE) for yielding me this time.

Mr. Chairman, I rise in strong support of the Royce amendment, and I commend the gentleman from California (Mr. ROYCE) for his hard work on this issue.

Mr. Chairman, this is one of the most egregious examples of taxpayer subsidized corporate welfare, the MAP program. Hardworking taxpayers should not have to subsidize the advertising costs of America’s private corporations. Yet that is exactly what the MAP program does. Since 1986, the Federal Government has extracted nearly $2 billion from the pockets of American taxpayers and handed it over to multimillion dollar corporations and cooperatives to subsidize their marketing programs in foreign countries.

When Congress, back in 1996, in the farm bill required MAP funds to be limited to farmer cooperatives and trade associations, proponents argued that the funds could only be used to help small businesses and farmers. In fact, much of the funding went to large trade associations made up of some of the largest and most profitable corporations.

Mr. Chairman, Congress should end the practice of wasting tax dollars on special-interest spending programs and unfairly take money from hard working families to help profitable private companies pad their bottom line. MAP is a massive corporate welfare program that we should eliminate today.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Chairman, I would say to my colleagues, wake up, wake up and smell the coffee. How do we know the coffee is brewing? How do we know that there are French and Italian wines at the market? The answer is because these countries that grow these products also advertise these products.

They want us to buy agriculture in other countries. That is why we see oranges from South America being advertised in the United States, coffee from Columbia, wine from France and Italy and so on; and yet when it comes to our own agriculture, the most abundant agriculture in the world, where we grow more than we can consume and where we actually grow products for other countries, we should not be allowed to be on a competitive field where everybody has a fair chance by small matching money that the private sector has to put up and match by the Federal Government?

The Federal Government spends $3.187 billion on advertising and recruiting for the military. Our States advertise for tourism. Let us also advertise for agriculture.

Mr. ROYCE. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I appreciate the opportunity to speak once again on the MAP program. One of the arguments that was made by my colleague from California is that, well, other countries are in a position that they can do this advertising and it has been burdensome to them. The fact of the matter is that our consumer marketplace encourages that type of advertisement to go on of our products that are here made domestically in the United States, irrespective of what is being done in Chile or what is going on in France. I do not believe that the United States taxpayer should be subsidizing these advertising programs because, in fact, what winds up happening is that much of this advertising, I would argue all of it that is subsidized by the MAP program, would go on anyway because of the decisions made by the industry; that it is in their interest to encourage this type of development.

If the MAP program is another example of a program where I do not see it very easy for us to point to demonstrated areas where the advertising has led to any more farmers, any more ranchers, any more production or sales. I am firmly of the belief, and perhaps I am wrong on an economic level, that if the U.S. Government leaves this field it would quickly be occupied.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. Mr. Chairman, I thank the gentleman from Texas (Mr. BONILLA) for yielding me this time.

Mr. Chairman, I rise in strong opposition to this amendment. I would just like to make a couple of points. Number one, these funds are not available to large international corporations. These funds are matched by people like the corn growers, the beef producers, the pork producers, people who care about their product and want to promote their product; that we can expand our exports for the American farmers.

There is a prohibition from these corporations who are making corporate welfare out of this. These programs are absolutely essential, for the future in agriculture so that we can add value to American agriculture, so that we can go out into the world marketplace and talk about the quality and the supply of good American food products.

If anything, Mr. Chairman, we should be increasing these funds. We should be proud of what we stand for in agriculture. We should stand up and say to our American farmers that they do have the best products in the world and we want to go tell the world about it. That is what we need to do to protect this program. It is not large enough as it is.

Mr. ROYCE. Mr. Chairman, I yield myself the remainder of my time.
attributed to the Market Access Program would have occurred whether MAP existed or not. The private sector, I would also point out, knows better to whom to advertise and how to advertise and can do it more efficiently. I think that government hand-outs merely replace money that would be spent by private companies on their own advertising.

The last point I would like to make is MAP, in some cases, uses tax money derived from the competitors of these MAP recipients. So I would urge adoption.

Mr. BOYD. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. BONILLA), a member of the subcommittee.

Mr. BONILLA. Mr. Chairman, I thank the gentleman from Texas (Mr. BOYD) for yielding me this time.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from California (Mr. ROYCE). Mr. Chairman, as we continue to open our borders and expand trade, we continue to put our own small producers at a disadvantage because of the increased pressure from other countries that are heavily subsidizing.

This is one program, one program, that is really working well to enable some of our smaller producers and processors to gain access in the foreign market.

Now, the gentleman from California talked about the GAO study but I want to say, Mr. Chairman, the GAO study did not go to Florida where we have used the program very successfully in the citrus and grapefruit industry. We do a 100 percent match of the Federal funds and since the inception of this program we have increased the grapefruit exports from $40 million to $190 million.

I strongly suggest that we vote down this amendment.

Mr. BONILLA. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, there seems to be an annual debate on this amendment so I will make my remarks brief. We are going to rehash what the benefits of this are very quickly.

I want to point out the positive aspects of the Market Access Program. Each year $80 million is spent out of the Commodity Credit Corporation on MAP to help initiate and expand sales of U.S. agricultural, fish, and forest products overseas. Rural American farmers and ranchers, as the primary suppliers of commodities, benefit from MAP. The entire amount of the credit is used to increase the competitiveness of the country's exports from the program's employment and economic effects from expanded agricultural exports markets.

In 2000, agricultural exports totalled nearly $51 billion and that generated almost three-quarters of a million jobs. About half a million jobs out of that total were also related to other areas like processing, packaging, storing and financing of exports.

Mr. Chairman, agricultural exports are expected to increase by another $2 billion this year, 53 billion. More than 1 million Americans now have jobs that depend on U.S. agricultural exports. This program goes a long way toward making sure that we have these export markets. I strongly oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROYCE).

The question was taken; and the results appeared to have it. Mr. ROYCE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. ROYCE) will be postponed.

AMENDMENT NO. 11 OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. KAPTUR:
Add before the short title at the end the following new section:

Sect. Sec.

Provided that the entire amount shall be available only to the Secretary of Agriculture to carry out and support (utilizing existing authorities of the Secretary and subject to the terms and conditions applicable to those authorities) research, technical assistance, loan, and grant programs regarding the development of biofuels (including biodiesel, biodiesel and other forms of biomass-derived fuels), the production of such biofuels, the establishment of farmer-held reserves of fuel stocks and demonstration projects regarding such biofuels, as part of a Biofuels and Biomass Energy Independence effort and to augment the President's National Energy Policy: Provided, That the entire amount shall be available only to the extent an official budget request for $300,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

Mr. BONILLA. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. A point of order is reserved.

Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Ohio (Ms. KAPTUR) and a Member opposed each and will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wanted to especially thank my dear colleagues, the gentleman from Maryland (Mr. HOYER) and the gentleman from Illinois (Mr. DAVIS), for reserving time this afternoon and checking in as this debate ensued on the floor in order to be able to join me in this debate.

Let me say that our amendment proposes that as a part of our national energy strategy that biofuels and bioenergy be more than an afterthought but, in fact, be a central pillar of helping America reach a renewable energy future.

If you look at America's trade accounts, our chief strategic vulnerability relates to imported fuels. We are willing to go to war, to send our young men and women to war, for oil, but we are not willing to invest the dollars here at home to propel ourselves into a more energy self-sufficient future.

When the President of the United States and new Vice President produced a national energy report with solutions for the future, there was one solution: Not a single recommendation relates to renewables and the use of biofuels, what we can take off of our fields and forests, in order to have ethanol, biodiesel, and other such fuels made a part of America's energy future.

We declare an emergency, we set aside $500 million, and we say that biofuels are as important as natural gas, they are as important as petroleum, they are as important as any other fuel, whether it is windmills or turbines or whatever, in order to put America on a sound energy footing. We want to make sure that our message is heard loudly and clearly.

Mr. Chairman, I yield 1½ minutes to the gentleman from Maryland (Mr. HOYER), who has experience in this area, and again I express gratitude for his coming to the floor.

Mr. HOYER. Mr. Chairman, I thank the gentlewoman for her amendment, and I thank her for her comments and her hard work on this committee and on so many other areas. She has touched on a critically important issue to our country.

Mr. Chairman, I rise in support of the gentlewoman's amendment to provide half a billion dollars in emergency spending on biodiesel, ethanol and biomass research and development.

Mr. Chairman, since 1999, the Beltsville Agricultural Research Center, which is located in my district, has been conducting a pilot project using biodiesel. At BARC they use 80 percent diesel and 20 percent soybean oil mix. Their test results found that using biodiesel reduces carbon dioxide emissions 16 percent; particulate matter, which is a major component of smog, 22 percent; and sulfur emissions, 20 percent.

Equally important to the environmental benefits of these fuels is the fact that their use, as has been so well articulated by the gentlewoman from...
Ohio, lessens our dependence on foreign oil and opens up new markets for our farmers. So, from every perspective, this is a very positive direction for our country to move, and I thank the gentlewoman for her leadership.

Ms. KAPTUR. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois (Mr. DAVIS), who has waited all afternoon in order to make these comments. I thank the gentleman sincerely.

Mr. DAVIS of Illinois. Mr. Chairman, I rise in strong support of the Kaptur amendment.

To say that we have an energy crisis is an understatement, but the State of Illinois stands ready to help find a solution. The State of Illinois is a major producer of corn, which, when used in the development of ethanol, makes good sense. This amendment makes good economic sense, environmental sense and common sense.

Ethanol is an additive which, when used in gasoline, produces cleaner and more efficient energy. To help this country to become more energy-efficient, we can and should employ greater use of ethanol. Ethanol makes us more energy-efficient, more self-reliant and environmentally protected. It is a good amendment, Mr. Chairman, and I urge its adoption.

Mr. Chairman, I thank the gentlewoman from Ohio for introducing this amendment.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in closing this afternoon, let me say that oil ministers of the Middle East should not be put in charge of setting energy prices in the United States of America. We should have that control inside of our border.

This amendment would merely reallocate one half of one hundredth of the nearly $70 billion that we send to the Middle East oil ministers every year for petroleum imported here, and replace it with investments we make in ourselves for the future. It gives the Secretary of Agriculture very flexible authority in order to spend those dollars in order to make agriculture an equal pillar along with other old fossil fuels.

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) insist on his point of order?

Mr. BONILLA. Mr. Chairman, I continue to reserve the point of order.

Mr. Chairman, I would like to inquire if the gentlewoman is going to withdraw her amendment?

Ms. KAPTUR. Mr. Chairman, if the gentleman will yield, I would say to the chairman of our subcommittee, very reluctantly, very, very, very reluctantly, very, very, very reluctantly, I am going to be forced, because of the rules, to withdraw my amendment to put America on a more renewable energy future. But I would hope that our words today have been heard at the U.S. Department of Agriculture.

I appreciate the chairman for his indulgence, and I would hope that wisdom will prevail in the days and months ahead.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. KAPTUR: At the end of title VII, insert after the last section (preceding any short title) the following section:

SEC. 7. Of the amounts appropriated in this Act in the item relating to “DEPARTMENT OF HEALTH AND HUMAN SERVICES—FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES,” the amount appropriated in the second undesignated paragraph of such item (relating to section 804 of the Federal, Food, Drug, and Cosmetic Act) is transferred and made available as an additional appropriation under the first undesignated paragraph of such item.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentlewoman from Ohio (Ms. KAPTUR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have witnessed a great debate today about the importation and reimportation of prescription drugs. Yesterday Secretary Thompson finally rendered his decision regarding the fate of the reimportation provision attached to the fiscal year 2001 agriculture appropriation bill. My amendment takes the $2.95 million designated in this bill for costs associated with the reimportation provision and would transfer these funds back to the Food and Drug Administration general account.

Clearly, in the wake of the Secretary’s decision, the Agency no longer needs the funds for the purposes of reimportation, and my amendment would simply keep those funds within the Agency so they are not penalized to be used for program priorities at the Agency’s discretion within such accounts as the prevention of BSE, TSE, mad cow disease and hoof and mouth disease, many of the challenges that are facing our country today.

Given its tremendous responsibilities and challenges, FDA needs every resource available to keep our food and drug supply safe. I encourage the membership to vote yes to keep these funds within the Agency.

Mr. BONILLA. Mr. Chairman, I rise in strong support of this amendment, and ask unanimous consent to control the time in opposition.

The CHAIRMAN. Without objection, the gentleman will be recognized for 5 minutes.

There was no objection.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the chairman very much. It has been a pleasure to work with the gentleman on this bill. We are proceeding expeditiously, in view of the large number of amendments. I am deeply grateful for the gentleman’s support.

Mr. Chairman, I yield back the balance of my time.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the chairman for his indulgence and I would hope that wisdom will prevail in the days and months ahead.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio (Ms. KAPTUR).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Brown of Ohio: At the end of title VII, insert after the last section (preceding any short title) the following section:

Sec. 7. Of the amounts appropriated in this Act for carrying out the responsibilities of the Food and Drug Administration with respect to abbreviated applications for the approval of new drugs under section 505(j) of the Federal Food, Drug, and Cosmetic Act, $1,000,000 is available for the purpose of carrying out section 314.53(b) of title 21, Code of Federal Regulations, in addition to any other allocation for carrying out such section 314.53(b) made from amounts appropriated in this Act for the Food and Drug Administration.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Ohio (Mr. BROWN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR).

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to start with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment would do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate with what the Brown-Emerson amendment does not do: It does not legislate
on patents that are directly related to a brand-name drug as approved by FDA. The “drug as approved by FDA” is important.

If a generic drug company is sued for potentially infringing on these type of patents, FDA automatically suspends approval of the generic for 30 months. Because the drug industry knows that FDA does not actually enforce its regulations, I repeat, because the drug industry knows that FDA does not actually enforce these regulations and weed out patents that under no circumstances should trigger that 30-month delay, drug companies therefore are conjuring up patents that by no stretch of the imagination fit any FDA criteria, just to trigger the 30-month delay, just to enjoy 30 months more of profits, patents on unapproved formulations of the same or on unapproved uses of the drugs, patents on the shape of the pills, patents on the grooves in the pills, patents even on the bottle holding the pills. Each of these patents, when challenged, triggers the 30-month delay.

These totally unnecessary delays cost consumers billions of dollars in lost savings, while the brand-name companies reap those same billions in additional profits.

Seven years ago CBO estimated that generics save consumers $8 billion to $10 billion per year. Utilization and prices have both increased dramatically since 1994. So have the potential savings associated with generic drugs.

Take Prilosec, for example. Prilosec generates $283 million per month in sales. Astra Zeneca has filed several unapproved use patents on Prilosec, each of which could trigger a 30-month delay in generic competition, even though under FDA regulations only patented and approved uses of a brand name should trigger the 30-month delay.

Remember, generics save consumers, save employer-sponsored plans, save all levels of government 40 to 80 percent over the brand-name price. After a few years, the price differential sometimes grows to 90 percent. Over the next 10 years, brand-name drugs with sales topping $40 billion annually will reach the end of their patent life. If we do not do something to prevent drug companies from gaming the system to extend the life of their lock on the market to make their profits, we are perpetuating needlessly inflated drug prices. I do not want to do that to the consumers in my district.

Our amendment equips FDA to enforce its regulations and at least prevent the most blatant abuses of its 30-month delay provision and stop the gaming of the patent system by the brand-name drug manufacturers.

It permits the Agency to use up to $1 million to get its act together to enforce its laws, to stop brand-name drug companies from walking all over the Agency, and, more importantly, walking all over the public.

We have an opportunity today to help our constituents without changing a word of the existing FDA statute. I urge my colleagues to take advantage of that opportunity and vote for the Brown-Emerson amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BONILLA. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) is recognized for 10 minutes.

Mr. BONILLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in lukewarm opposition to this amendment. This concept sounds like a good one, and possibly it could prevent blatant, patent abuses. This amendment does not open the door for FDA to exercise its existing authority to prevent blatant patent abuses under the Hatch-Waxman Act.

As many people may know, since the passage of Hatch-Waxman, brand-name pharmaceutical companies have really become quite proficient in manipulating the law to keep generic alternatives from reaching the market. I do not think that the authors of this legislation would want that to be happening today.

Just, for example, one of the brand industry’s favorite and most frequently used methods to delay generic competition is to make insignificant changes to their products and secure new patents just as the patent on the original product is set to expire. Under current law, once such new patents are granted by the Patent Office, no matter how frivolous or invalid they may be, the generic drug is prohibited from going to market for 30 months. In one instance a brand-name company triggered the 30-month prohibited delay by patenting the color of the bottle, the color of the bottle in which the pharmaceuticals are typically dispensed. In another example, a brand company was able to delay generic competition by claiming the generic version infringed on the brand patent because, like the brand, the generic pill had two grooves in it.

These types of delay tactics cost our constituents billions of dollars every year. For example, Bristol-Myers Squibb listed a frivolous patent with the FDA on the eve of its patent expiration for the drug BuSpar. After months of delay, a Federal court ruled that the patent was improperly listed and ordered Bristol to delist its patent with the FDA. So the cost to consumers for this 5-month delay was $57 million.

The situation is getting so out of hand that on May 16 of this year, the Department of Trade and Development sent a citizens’ petition to the FDA questioning the possible improper or untimely listing of patents by brand-name drug companies.
Mr. Chairman, our amendment is very simple. It would reallocate already-appropriated funds from the amount of $1 million to the FDA’s generic drug office. The money would allow the FDA to use its authority to review and prevent the abuse of patent listings by drug companies who want to extend the patent laws of their blockbuster drugs. This amendment does not add any additional money, no additional money. All it does is reallocate already-appropriated money.

Let us all make sure that the FDA devotes the resources necessary to prevent the exploitation of patent listings, because each 30-month delay of generic drugs costs consumers billions of dollars in lost savings.

Mr. Chairman, numerous pharmaceutical companies have listed patents for unapproved uses and inappropriate forms of the drug. I am not going to get into all the examples, but this adds up to billions of dollars lost in consumer savings. We need to pass this amendment.

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would ask my colleagues to vote “no” on the Brown amendment.

Mr. ALLEN. Mr. Chairman, I yield the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The amendment was agreed to.

Amendment No. 4 offered by Mr. ALLEN:

At the end of title VII, insert after the last section (preceding any short title) the following section:

SEC. 7. None of the amounts made available in this Act for the Food and Drug Administration may be expended to approve any application for a new drug submitted by an entity that does not, before completion of the approval process, provide to the Secretary of Health and Human Services a written statement specifying the total cost of research, with respect to such drug, by stage of drug development, including a separate statement specifying the portion paid with Federal funds and the portion paid with State funds.

Mr. BONILLA. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. A point of order is reserved.

Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Maine (Mr. ALLEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maine (Mr. ALLEN) for 5 minutes.

Mr. ALLEN. Mr. Chairman, I yield myself such time as I may consume.

I rise to offer an amendment with the gentleman from Ohio (Mr. BROWN) to provide American taxpayers with information about our collective investment in the research and development of new drugs. The Food and Drug Administration should not approve, in our opinion, a new drug application unless the total cost of the research and development of that drug is available to the public. We are particularly interested in knowing how much money the taxpayers have contributed.

The pharmaceutical industry claims that efforts to make drugs affordable for seniors would reduce the industry’s ability to conduct research and to develop new drugs. I disagree. This industry is the most profitable in the country. Their profits last year were more than $27 billion. The manufacturers will always be able to attract capital in order to do R&D.

The industry asserts that they have a right to charge high prices to those least able to afford it because of the $500 million, more or less, that they claim it takes to launch a new drug.

What the industry consistently fails to disclose is that new drugs are usually the result of a partnership with the public. A good portion of our Nation’s pharmaceutical research is conducted by publicly-funded entities. We deserve to know how much.

The pharmaceutical industry says we do not deserve to know. They say this amendment is unjustified. I say there is no justification for the way America’s seniors are currently treated.

Seniors pay taxes which are used to fund research, but the product of that research, which saves lives, is too expensive for many of them to afford.

The DRUG MANUFACTURERS say no other industry has to disclose R&D figures. But no other industry gouges the needy as they do, or operates in such a shroud of secrecy.

We are not asking that the FDA make an approval decision based on the R&D data. We are simply asking that trade secrets be made public. We are simply asking the FDA to inquire about the data on the cost of R&D and to make it available.

The industry has attacked this amendment. They say only assume they know their arguments about their R&D expenses will be undermined if the public is told how much of the cost of the development of new drugs is actually paid by the public.

We know that the taxpayer contribution to the development of innovative medicines is significant. NIH estimates that taxpayer-funded research, combined with private foundation-funded research, accounts for about 50 percent of all medical research in this country. Now we need to know the details, just how much public and private funding is involved in the development of new drugs.

We do not want to slow the approval of new drugs. But there are too many patients who cannot afford the drugs, even if they are approved by the FDA. Proving a drug safe and effective can take years. Providing the cost of development should be easy. A memo to the FDA would do the job. I assure the Members that the pharmaceutical industry is capable of tracking expenditures in their development of new drugs.

We know that the approval process is not biased against generic drugs. The Pharmaceutical Research and Manufacturers of America’s seniors are currently treated.

Seniors pay taxes which are used to fund research, but the product of that research, which saves lives, is too expensive for many of them to afford.

The CHAIRMAN. The question is on the amendment offered by Mr. ALLEN.

Mr. ALLEN. I yield the balance of our time to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman for yielding time to me.

Prescription drug companies consistently depend on one argument and one argument only, to defend charging U.S. consumers two and three and four times higher prices in the U.S. than they do in other developed countries.

The one argument they use to justify grossly inflated drug prices is that those prices are necessary to sustain R&D. Yet, we know that American taxpayers pay for a portion of all the R&D that is done in the drug industry development in this country.

It is an insult for the industry to ask American taxpayers to willingly pay the highest price in the world when they will not tell us what they spend when they are the most profitable industry in America, when they spend more money lobbying this institution than anybody else. They pay back American taxpayers by charging us more than anybody in the world.

I ask support for the Allen amendment.

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) insist upon his point of order?

Mr. BONILLA. Mr. Chairman, I make a point of order against the amendment. It proposes to change existing law and constitutes legislation in an appropriations bill, and therefore violates clause 2 of rule XII of the House.

The CHAIRMAN. The rules state, in pertinent part, “An amendment to a general appropriations bill shall not be in order if changing existing law.” The amendment imposes additional duties. I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from Maine (Mr. ALLEN) wish to speak on the point of order?

Mr. ALLEN. I simply await the ruling of the Chair.

The CHAIRMAN. The Chair is prepared to rule.

The Chair finds this amendment imposes additional duties not required by
Mr. OLVER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Pursuant to the order of the House of Thursday, June 28, 2001, the gentleman from Massachusetts (Mr. OLVER) and a Member opposed each will control 30 minutes.

Mr. OLVER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, for the most part, this bill is an excellent bill.

Mr. OLVER. Mr. Chairman, will the gentleman yield?

Mr. Chairman, I yield to the gentleman from Texas.

Mr. Chairman, Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, just to inform the gentleman, we are just delighted to accept this amendment. If the gentleman would like to offer any more debate against the language in the bill, we are just delighted to accept the amendment and move it forward.

Mr. OLVER. Mr. Chairman, I thank the gentleman for his acceptance of the amendment. We do have several speakers who wish to speak on it.

Mr. Chairman, this is an excellent bill. I simply respect the outstanding work of the chairman of the subcommittee, the gentleman from Texas (Mr. BONILLA), and the ranking member, the gentlewoman from Ohio (Ms. KAPTUR), but I rise to strike section 726, an anti-environmental rider which is meant to prevent any and all action to address the climate change caused by global warming.

Mr. Chairman, section 726 is equivalent to burying our heads in the sand, and hot sand, at that. Regardless of the fate of the Kyoto Protocol, there is overwhelming, peer-reviewed, sound scientific evidence for global warming. The National Academy of Sciences has very recently reaffirmed that fact.

Placing a gag order on Federal agencies can only stifle our ability to address what will be the most critical environmental issue of the 21st century at a time when carefully considered but comprehensive action is needed.

This oil rider dates back to the Clinton administration, which I believe, with good reason, that President Clinton would have asked to implement Kyoto. But President Bush has made it clear that he has no intention of implementing the Kyoto Protocol. He has declared the Kyoto Protocol dead, dead. So, at the very least, the rider, I am delighted and gratifying it out, it shows a lack of trust in the President's intentions and in the President's word, which I am sure the majority does not mean to do.

So why has the rider appeared? Because it has been used to badger agencies and demand repeated explanations of environmental activities. The Inspector General was recently forced to investigate alleged violations by the EPA, the Department of Energy, and the State Department, and found no instances of violations. It is the President of the United States who will not implement Kyoto, who runs the executive departments.

This rider jeopardizes the executive agency work on every issue related to climate change, which the U.S. is obligated to address as part of the United Nations Framework Convention on Climate Change. Remember, the U.N. Framework Convention on Climate Change was ratified by then President George Herbert Walker Bush in September of 1992, was ratified by the Senate in October of 1992, and took force in 1994.

It states that, and I quote, "The parties to the convention are to implement policies with the aim of returning to their 1990 levels of anthropogenic emissions of carbon dioxide and other greenhouse gases." Mr. Chairman, the consequences of global warming will not be mild. If we do not begin to act soon, it may be too late to preserve our coastlines and our agriculture. The American public wants this Congress and this administration to find a way to address global warming.

How we do that is not the subject of today's debate. This vote has nothing to do with implementing or even liking the Kyoto Protocol. But a yes vote to remove this ill-conceived and unneeded rider allows our agencies to search for ways and measures authorized by the already-ratified U.N. framework to begin addressing greenhouse gases.

I urge a yes vote on the Olver-Gilchrest amendment.

Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. BOEHLERT), the distinguished chairman of the Committee on Science, who is showing every day great leadership on this issue of climate change.

Mr. BOEHLERT. Mr. Chairman, I will spare my colleagues all the arguments against the language in the bill and in support of the Olver-Gilchrest language.

But in the spirit of the subcommittee chairman, who has acknowledged his willingness to applaud that action, because I think for years now the language this amendment would strike has been used to hound Federal agencies that try to address climate change. It was used to harass agencies who sent government officials to international climate change meetings, and it has been used in attempts to thwart voluntary agreements, voluntary agreements, with industries that offered to cut their greenhouse gas emissions.

Yet, both President Bushes, 41 and 43, acknowledged that climate change is a serious problem. In fact, President George Herbert Walker Bush even signed an international agreement to reduce U.S. emissions of greenhouse gases, and that treaty was ratified by the U.S. Senate.

Despite its misgivings about the Kyoto Protocol, this administration too has acknowledged the seriousness of climate change. As many know, after receiving last month the report requested from the National Academy of Sciences, a report that underscored yet again the scientific consensus that exists on climate change, President Bush pledged that the U.S. will take a leadership role to address it.

I, for one, want to help him do that. I want the U.S. to take the lead on dealing with climate change responsibility, and the obstructionist language in this bill does not help do that.

So I want to commend the gentleman from Massachusetts (Mr. OLVER) and I want to commend the gentleman from Maryland (Mr. GILCHREST) for their steadfast support of reasonableness as we shape public policy, and I want to extend to the subcommittee chairman, the gentleman from Texas (Mr. BONILLA), my appreciation for his cooperation.

Mr. Chairman, I rise today, in support of the Olver-Gilchrest amendment, but frankly, I'm disappointed that we have to have this debate at all. I'm disappointed that the language that we are attempting to strike has been included in the Agriculture Appropriations Bill in the first place, because today the scientific consensus on global climate change is stronger than ever.

Mr. Chairman, the opponents of this amendment will tell you that the language included in this bill—the language the amendment would strike—simply prevents the Administration from implementing the international agreement, known as the Kyoto Protocol, to reduce greenhouse gases and curb global climate change.

The opponents say that the Administration should not implement the Kyoto Protocol because it is fatally flawed and unrealistic. They say the Administration shouldn't implement the Protocol because it would exempt developing countries from requirements to reduce their greenhouse gas emissions.

They say the Administration shouldn't implement the Kyoto Protocol. Period.

Well guess who agrees with them entirely? The Administration.

So if this Administration isn't even remotely thinking about implementing the Kyoto Protocol, what is the language this amendment would strike really about?
It is not about the Kyoto Protocol. It is not about fears the Administration will sneakily conduct "back-door" implementation. It is really about preventing any serious progress at all on the serious environmental problem of global climate change. The truth is that this amendment is really about who is for dealing with climate change responsibly, and who is not.

For years now, the language this amendment would strike has been used to hound federal agencies that tried to address climate change. It was used to harass agencies who sent government officials to international climate change meetings. And it has been used in attempts to thwart voluntary agreements—voluntary agreements—with industries that offered to cut their greenhouse gas emissions.

Yet, both Presidents Bush have acknowledged that climate change is a serious problem. In fact, George H.W. Bush even signed an international Senate agreement that pledged that the U.S. will take a leadership role in the global climate change problem of global climate change. The truth is the Bush administration had a number of scientists from the National Academy of Science review and come back and tell the Bush administration the answers to those two questions. Does man have the capacity to change the atmosphere, thus changing the climate?

To read just a couple of sentences from this report commissioned by the Bush administration from the National Academy of Sciences. "Greenhouse gases are accumulating in Earth's atmosphere as a result of human activities, causing surface air temperatures and subsurface ocean temperatures to rise. Temperatures are, in fact, rising. Human-induced warming and associated sea level rises are expected to continue through the next century." That is throughout the 21st century.

Can we change the atmosphere? If we look at this chart produced by the National Oceanic and Atmospheric Administration, we can see from 1860 to the year 2000 the acceleration of the accumulation of carbon dioxide in the atmosphere. This is from our Federal Government, commissioned by the Bush administration. We can change the atmosphere by increasing the greenhouse gas of carbon dioxide, thereby increasing warming. This chart, produced by NASA, shows since 1860 the level of increase in warming which affects the climate, and it is dramatic during the industrial age.

So the questions are: Can we affect our atmosphere? Can we change climate? The answer to those two questions is yes, and now it is time for us to do something about it.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent that the time be extended in opposition, though I am not opposed to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas (Mr. BONILLA) is recognized for 30 minutes.

Mr. BONILLA. Mr. Chairman, I yield back the balance of my time.

Mr. OLVER. Mr. Chairman, I yield myself such time as I may consume to thank the gentleman for his acceptance, and I thank him for yielding back his time. I do have two people who wish to make very short statements.

Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me this time for his leadership on this issue. I stand in strong support of this amendment, which will ensure that we move forward to combat global warming.

Global climate change is underway. Denying the existence of global warming will not make it go away nor can
the United States afford to deny its role. Just last week I had the opportunity to talk to European leaders about the need to act now and believe me, they have grave concerns about our re-trenchment. Our country must bear its share of this burden.

Now, President Bush recently asked the National Academy of Sciences to revisit the issue. They concluded greenhouse gases are accumulating in the Earth's atmosphere as a result of human activities. Temperatures are in fact rising. Their report goes on to say the national policy decisions made now and in the long-term future will influence the extent of any damage suffered by vulnerable human populations and ecosystems later in this century.

Voluntary reductions, which the President advocates, are not sufficient. I urge adoption of this amendment. We need to send a clear message that this Congress is committed to protecting our environment, protecting the public health and ensuring our future.

Mr. OLVER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Missouri (Ms. McCARTHY).

Ms. McCARTHY of Missouri. Mr. Chairman, I rise in support of the Olver-Gilchrest amendment to strike the Kyoto rider language.

The President has already indicated that he has no intention of implementing the Kyoto Protocol. The because the U.S. must stay engaged at the table to encourage progress on this critical issue. However, it makes this rider unnecessary.

Science has confirmed the existence of global climate change is real. The effects of this have significant implications for agriculture in our nation and around the world. The mix of crop and livestock production is influenced by climatic conditions and water availability. Increases in climate variability already make adaptation by farmers more difficult. In my state of Missouri, agriculture is a $4 billion annual industry, one-half of which comes from livestock, especially cattle. The major crops in my state are corn, soybeans, and hay. Corn and soybean yields could fall by as much as 22% or rise by as much as 6%, depending on the climate variability resulting from global climate change.

As a result of global warming, we expect to see more frequent anomalies in our weather, with more frequent severe storms, droughts. Clearly these volatile weather patterns can have a highly negative impact on our ability to farm and protect and secure families and property.

We might also expect to see more pests in our plants and food stream. We may see more insects, as a result of global warming. Again, this could have a potentially significant adverse effect on plants and crops by destroying our nation's precious resources and jeopardizing human health.

This morning, Deborah Clark from the University of Missouri-St. Louis, at a National Academy of Sciences forum, spoke about the ability of plants to photosynthesize, thus reducing their ability to capture carbon.

Our Nation's strategy to address climate change can produce a reliable supply of diverse fuels that minimize greenhouse gases and secure our leadership in energy technology to benefit our consumers and to export around the world.

We must make the necessary investments in emerging technologies which will allow the United States to gain the edge in developing and marketing new products and lead to job creation. If we fail to act, we will lose the edge to other nations, Japan and Germany who are committed to this course of action.

A decade of progress has occurred since former President Bush signed the original climate treaty in Rio in 1992. This rider makes it difficult for federal agencies to work on any issues related to climate change, which the U.S. is obligated to address as part of the Rio agreement.

I urge others to join with me in voting in favor of this amendment, because whether or not the Kyoto protocol moves forward, we have an obligation to maintain our global leadership role in developing new technologies that will enable us to reduce emissions of greenhouse gases and promote the agricultural economy. The rider is unnecessary and I urge my colleagues to support the Olver/Gilchrest amendment.

Mr. OLVER. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in allowing a brief comment.

America is a polluter dealing with greenhouse gases and it is appropriate for us to exercise some leadership. The gentleman from Maryland (Mr. GILCHREST) has, I think, identified why in fact it is a problem, the single greatest environmental threat that we face. Unfortunately, this administration has been slow to acknowledge the problem, and sadly slower to embrace American leadership, which is needed in a global sense.

I am pleased with the gentleman's willingness to accept the amendment. I hope that it portends greater things in the course of this session where Congress can provide some leadership on this critical environmental level; that we can be promoting a bipartisan commonsense approach to reduce the greenhouse gases, and to encourage American industry and individuals to all play their role.

I think this is an important first step, and I appreciate the learning that the committee has been exerting.

Mr. OLVER. Mr. Chairman, I yield myself such time as I may consume and thank very much the chairman of the subcommittee for his indulgence, even after he had agreed to accept the amendment. We appreciate that very much.

Mr. SMITH of Michigan. Mr. Chairman, I am in opposition to implementing the Kyoto Protocol.

Under the Kyoto Protocol, by 2008 to 2012 the U.S. would be required to slash emissions of greenhouse gases to seven percent below the 1990 level—a level last achieved in 1979. Based on projections of the future growth in U.S. energy use, this would require a real cut in emissions of over 30 percent. In the meantime, major greenhouse-gas emitters, such as China, India, Mexico, and Brazil, would be able to continue business as usual.

In July 1997, before the Kyoto Protocol was signed, the Senate passed on a vote of 95 to 0 the Byrd-Hagel resolution, which states that the U.S. should not sign any treaty that (1) requires cuts in greenhouse gases, and (2) would result in serious economic harm.

This commonsense resolution set the absolute minimum criteria for Senate ratification of any climate treaty. The Clinton Administration never committed the Kyoto Protocol to the Senate for ratification because it knew that it would be dead on arrival.

In a breath of fresh air, President Bush said succinctly, "I will not accept a plan that will harm our economy and hurt American workers." In stating the obvious and pulling the plug on this flawed treaty, the President has spared us from a U.N. boondoggle that would harm American workers, consumers, and businesses.

The proponents of this amendment argue that, because the Administration does not support the Kyoto Protocol, the language in the bill is superfluous. Further, they argue that striking the language will send a positive message to the international community that the U.S. is willing to play a leadership role in climate change. We are a leader in the world on reducing and sequestering harmful emissions. Annually we spend nearly $2 billion on climate change research, more than the rest of the world combined. There are many things about the climate system we still do not understand. That is why we need to continue this research and increase our knowledge of climate variability and the potential human impact of greenhouse gas emissions.

Current computer models predicting warming over the next century may prove to be no more reliable than the five-day weather forecast. But even assuming that these models are right, achieving the emission goals in the treaty would reduce projected warming by less than one-tenth of a degree by 2050. So we still have time to do the necessary research to fill in the gaps and get it right instead of lurching ahead with a treaty that would cost too much and do nothing to solve the problem it is intended to solve.

The Administration also has said that it will be working to develop new technologies, market-based incentives, and other approaches to increase energy efficiency and reduce greenhouse emissions. I fully support these approaches, which make much more sense than the command-and-control dictates that would flow from the Kyoto process.
CONGRESSIONAL RECORD—HOUSE

A recorded vote was ordered.
The vote was taken by electronic device, and there were—aye 155, noes 272, not voting 6, as follows:

Ms. KAPTUR. I thank the Chair very much.

Ms. KAPTUR. Mr. Chairman, for all the Members who are watching from their offices, then, in terms of the order of the votes, it would then be?

Ms. KAPTUR. Mr. Chairman, I think that third amendment was accepted; voice vote.

Ms. KAPTUR. The Members who are watching from their offices, then, in terms of the order of the votes, it would then be?

The CHAIRMAN. The amendment offered by the gentleman from North Carolina (Mr. ROYCE); the amendment offered by the gentleman from California (Mr. WEINER); the amendment offered by the gentleman from Ohio (Mr. BROWN).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

PARNARIAMENTAL INQUIRY

Ms. KAPTUR. Parliamentary inquiry, Mr. Chairman. We were just presented a list of potential amendments for consideration by the full membership, and I wonder if the Chair would again repeat which amendments the Members will be asked to vote on and the order that they will be presented.

The CHAIRMAN. The amendments on which further proceedings were postponed will be voted on in the following order: the amendment offered by the gentleman from California (Mr. WEINER); the amendment offered by the gentleman from California (Mr. ROYCE); the amendment offered by the gentleman from Ohio (Mr. BROWN). Ms. KAPTUR. Mr. Chairman, I believe that third amendment was accepted; voice vote.

Ms. KAPTUR. Mr. Chairman, for all the Members who are watching from their offices, then, in terms of the order of the votes, it would then be?

The CHAIRMAN. The amendment offered by the gentleman from New York (Mr. WEINER) will be first, followed by the amendment offered by the gentleman from California (Mr. ROYCE).

Ms. KAPTUR. Then we will move to final passage?

The CHAIRMAN. That is correct.

Ms. KAPTUR. I thank the Chair very much.

AMENDMENT NO. 25 OFFERED BY MR. WEINER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. WEINER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesiginate the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.
on which the Chair has postponed further proceedings.  

AMENDMENT NO. 19 OFFERED BY MR. ROYCE

The CHAIRMAN. The pending business was the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. ROYCE) on which further proceedings were postponed and on which the noes prevailed by voice vote.  

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 85, noes 341, not voting 7, as follows:

**AYES—85**

[A full list of the Ayes is provided, followed by a list of the Nays and Not Voting.]
Mr. WALDEN of Oregon. Mr. Speaker, on roll call No. 221, I was unavoidably detained. Had I been present I would have voted "aye."
He was remembered at his funeral service for what speaker after speaker called his “legacy of justice.” Stanley Mosk was the only Democrat on the State High Court and a very progressive member. He died in San Francisco.

He was my neighbor and he was my friend. Our colleague, the gentleman from California (Mr. Schiff), will be speaking more specifically about Stanley Mosk’s contribution to the law in California and our country. I want to speak briefly about him personally.

Stanley Mosk was a genius. He was a great tennis player. He took great pride in that. He might have wanted that to be first. He was a great family person. Of course, that did come first. He was a person of such great intellect that his decisions when he wrote them were the subject of great admiration and study by law students and admired by those who followed the law. He will be greatly missed in San Francisco, where the supreme court resides in California.

He was the first person elected statewide in California, when he ran for office many years ago, the first person of the Jewish religion ever elected. Once and for all, he settled that issue. Because of Stanley Mosk, Jewish candidates know that their religion is not a factor in elections in this great State. Indeed, if they were a factor at all, it is a plus.

With that, Mr. Speaker, I want to mention further that it is said of him that many people learned much about pain and much about joy from him.

Stanley Mosk did not want to retire. He went home, he was with his family, but he planned to retire in the fall. So, if I am hesitant about this, it is with great sorrow that I tell our colleagues that Stanley was vigorous to the end. Of course, his great and powerful intellect, benefiting all of us to the end.

His plan was to retire in the fall. That was not in the cards for him. God took him sooner. But I want his family to know that many of us in the Congress mourn his passing, and I hope it is a comfort to them that so many people share their grief, but also their great pride in California Justice Stanley Mosk.

PLIGHT OF PUBLIC HOSPITAL SYSTEMS IN NATION

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this evening I would like to talk about the plight of the public hospital systems in this Nation, and use as an example my own public hospital system, the Harris County Hospital District.

First of all, let me applaud the district for being such a vital part of our community, both in times of need and in times of tragedy. In particular over the last couple of weeks, it is the Harris County Hospital District that has stood up under the burden of Tropical Storm Allison. When any number of our private hospitals were closed, the Harris County Hospital District had its doors open. The Trauma Center, the Emergency Center, was available for those who were in need. Now this hospital district is in need, and we need to rally around it to support it.

First of all, there is an enormous nursing shortage, as we well know, throughout this Nation. We must find ways to enhance and grow nurses, as well as provide opportunities for existing nurses who are immigrants to come in and provide assistance.

Furthermore, we must address the funding issue that plagues the Harris County Hospital District as it relates to the formula utilized for Medicaid dollars in this Congress. I hope that my colleagues agree with me in the fact that I will be approaching, along with Members of the United States Senate, can help us assist in obtaining additional funding, at least providing some minimal relief to the Harris County Hospital District, but addressing the need across the Nation for our public hospital systems. I applaud them and thank them for their service to the health needs of America.

TRIBUTE TO THE LATE JUSTICE STANLEY MOSK

(Mr. FARR of California asked and was given permission to address the House for 5 minutes and to revise and extend his remarks.)

Mr. FARR of California. Mr. Speaker, I rise tonight to speak on the memorial of Justice Stanley Mosk. Many of you know that Justice Stanley Mosk, Californian, born in San Francisco, where Stanley Mosk died, that he was a giant among supreme court Justices in the United States. He left a legacy of justice in California, having served on the supreme court in that State for 37 years.

I knew him as a lawyer. My father was in the State legislature and was very close to the Mosk family and to the Pat Brown family. Governor Pat Brown appointed him to the bench.

The tragedy of his loss is that one of the greatest legal minds of this century served in all of that time when California was emerging as a State, growing to be the incredible nation-state that it is, and the California Supreme Court rose to, I think, in respect probably the highest among all State supreme courts in the United States. Stanley Mosk led that drive. It is a great tragedy that we lost him before we could totally record all of his memories, but his legacy will live on in the history of California. He was one of the men that matched our mountains.
He established the Attorney General's Civil Rights Division and fought to force the Professional Golfers Association to rescind its bylaws denying access to minority golfers.

Governor Pat Brown appointed Mosk to the California Supreme Court in 1964. I note with pride that the late Senator Sam Ervin of North Carolina, on the floor of Congress on August 5, 1964, referred to Mosk as “one of the finest constitutional lawyers in the United States.” While on the court, Justice Mosk authored decisions that presaged decisions later reached by the U.S. Supreme Court. Mosk, as a superior court judge in 1947, overturned a restrictive covenant that had prevented African Americans and other minorities from moving into particular neighborhoods a year before the United States Supreme Court voided such covenants. He wrote a 1978 decision barring prosecutors from using preemptory challenges to eliminate minority or female jurors in criminal cases, a trailblazing ruling that later became Federal constitutional law when the U.S. Supreme Court reached the same conclusion 8 years later.

Mosk, as commentators have noted, was consistent in upholding the rights of individuals. He detested quotas and led the court majority in striking down admission formulas used by the medical school at the University of California at Davis. “Originated as a means of exclusion of racial and religious minorities, a quota becomes no less offensive when it serves to exclude a racial majority,” he wrote. Personally opposed to the death penalty, Mosk nonetheless upheld the law in capital cases.

As the Sacramento Bee columnist Peter Schrag eloquently noted, Justice Mosk exhibited a “combination of judicial creativity and practical sense that produced a string of imaginative legal departures.” Among those imaginative legal departures, as Schrag notes, are decisions that handicapped parents could not be stereotyped and automatically ruled unfit to raise their children; that victims of a pharmaceutical drug who could not identify the specific maker of the pharmaceutical product they consumed could collect damages from all manufacturers in proportion to their market share when injured; and upholding State law requiring private owners of tidelands to permit public access.

As the Sacramento Bee recently editorialized, “Mosk’s greatest contribution to the law and rights was pioneering the theory of ‘independent state grounds.’ The rights of the people were lodged not just in the Bill of Rights and transitory interpretations of the majority, but in the law. Mosk argued, ‘They were embedded as well in State Constitutions, which sometimes offered greater protection to individuals than the minimum required by the Federal courts. The doctrine, widely adopted by State courts around the country, is the source of many of the court’s major decisions.”

Justice Mosk is survived by his wife, Kaygey Kash Mosk; his son, Richard; and his grandson, Matthew Mosk, in attendance in the House gallery here tonight. To them, I want to extend my sincere condolences and, as the gentlewoman from California (Ms. Pelosi) indicated, all of our sincere pride in the work of that great man. As the Sacramento Bee editorialized so appropriately, Justice Mosk was “California’s brightest beacon of liberty.” While his life has ended, his legacy shines brightly for all Californians and for our great Nation.

CRISIS IN KLAMATH RIVER BASIN

The SPEAKER pro tempore (Mr. OSBORNE). Under a previous order of the House, the gentleman from Oregon (Mr. WALDEN) is recognized for 5 minutes.

Mr. WALDEN of Oregon. Mr. Speaker, I rise tonight to again talk about the saga of the Klamath Basin and the farmers who have lived there and tilled the ground and fed the Nation.

As my colleagues know, Mr. Speaker, on April 6, they cut off the water. They said, no water for the farmers this year; the suckerdish would prevail. Mr. Speaker, word is finally getting out about this crisis. There have been stories in The New York Times, and today in the Washington Post there is a story. It has been on Fox News and other networks, CNN and others, who are beginning to cover this story and the tragedy that is occurring at ground zero of the Endangered Species Act debate.

Today, in the Washington Post, Michael Kelly, a columnist, writes, “The Endangered Species Act has worked as intended, but it has been exploited by environmental groups whose agenda is to force humans out of lands they wish to see returned to a prehuman state. Never has this been made more naked, brutally clear than in the battle of Klamath Falls.”

Mr. Speaker, I want to read today from a couple of letters I have received from constituents. These folks, Bill and Ethel Rust wrote, “We have not written sooner as shock and disbelief have kept us almost immobilized and so sick at heart. My husband is 76 years old and a Navy veteran of World War II, having lost a brother in this war. We have been ranchers our entire life and depend on this for our livelihood. We are still in shock that our own government has taken this away from us. We recently retired to a small 75-acre alfalfa ranch that was just perfect for us to handle at our age, and you have just destroyed it. Without water, our alfalfa is dying. What are we to do to replace this income? Is the suckerfish more important to you than us? Having raised nine children to be hard workers and contributors to our society, are we now to apply for welfare or live off our children?

“We have sold our cattle. We are in the process of selling our horses. After a lifetime of getting up in the morning to care for our livestock and ranch chores, what would you suggest we do with our mornings? What reason do you give us to get out of bed? “We need the help of our government. Will we get that?”

Mr. Speaker, this is typical of hundreds, if not thousands of letters I have received from the people of Klamath Falls.

Mr. Speaker, as my colleagues know, this House, prior to the July 4 recess, passed $20 million in aide to the farmers and ranchers of Klamath Basin, and the Senate has now approved that. It will be in conference next week, and I hope it should be on the President’s desk.

Mr. Speaker, today I had the opportunity to speak with President Bush personally about the crisis in the Klamath Basin and he offered his help and urged me to continue to contact and work with Secretaries Norton and Veneman. So later this afternoon, I spoke with Secretary Veneman, Agriculture Secretary, about the problem. Because, Mr. Speaker, the word is getting out, and now the help must get in.

Good people are being urged to do bad things, as frustration levels rise in the Klamath Basin. Twenty million dollars, Mr. Speaker, that will be available to these farmers and ranchers in the Klamath Basin rather than later if the U.S. Department of Agriculture acts expeditiously to get these funds that we have approved in this Congress into the hands of farmers whose fields are drying out.

The land, instead of green, is parched and brown. Wind is stirring up the dust. The costs continue. Mortgages have to be paid. Equipment payments have to be met. Bankers are knocking on the door. People are scared. Their livelihoods are at stake.

We need also to work with USDA to get feed and water for livestock. Literally, a crisis is at the doorstep. We also need in the long term, which has to be shorter, rather than longer, to improve water quality, but moreover, improve water quantity; to get biological opinions for next year’s operations plan that are above question that have been blind peer-reviewed so we know the science is valid but, moreover, the conclusions are sound, so that we can open the gates legally and get water into the fields and the farms for the people of the Klamath Basin.

Mr. Speaker, we have a crisis on our hands, a crisis that is getting worse,
not better, as people's frustration levels rise, not fall. They need our help, Mr. Speaker. They need help in changing the Endangered Species Act. They need help financially; but most of all, they need the water they were promised so that next year they can plant the crops like they have for the past 85 years.

Mr. Speaker, I want to thank my colleagues in the Oregon congressional delegation, members of both parties, for working with me on this issue, for helping secure the $20 million. It is a start, but it is not the end. It must be distributed rapidly and not parcelled out over the months. We need to act.

It took an overnight to cut off the water; it cannot take months to get relief to these same people.

Mr. Speaker, these people who settled on this land and were invited there by this Federal Government with the promise of land and water if they would simply homestead the land and produce food for the country. People who were invited to this area were the very people who fought for our freedom in a far-off land. Veterans of America's Armed Forces were given priority. It is our turn now, Mr. Speaker, to step up and take care of those people.

PROBLEMS IN AMERICAN AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, today we passed an appropriations bill for agriculture. Let me first spend a second giving my impressions of the predicament that American agriculture is now facing.

On a level playing field, American agriculture could compete favorably with most any other country in the world on most any of the commodities that we produce. Part of the challenge in our Federal agricultural policy is the fact that other countries subsidize their farmers much more than we subsidize our farmers in this country. Hence, those large farmers, with the additional advantage of Government programs, ended up trying to buy out the smaller farms and became even larger. If there is some merit in having a Federal agricultural policy that helps the traditional family farm survive without giving, then it is going to be a situation that gives an additional advantage to the huge, large farmers.

Some farmers in the loan program, the price support program for commodities that we have as part of our Federal farm policy, still continue to favor large farmers. The average farm size in the United States is about 420 acres. To exceed the current limits in law of not more than $75,000 per farmer in this loan, minimum price protection policy that we have, we see a lot of farmers now that have gone way over the average of 420 acres. We have 20, 30, 40, 50, 60, 70, 80,000 acre farms.

Because we have no limit on the price support of those farmers, then some of these farms are taking in $1 million, or some of these farms are taking in $1 million-plus in farm payments.

As we face the predicament of trying to be as frugal and as well-managed as we can on the available resources in this country, we need to look at the kind of policy that does not continue to favor those large farmers, and putting a real limit on how much taxpayers should be paying to any farmer should be part of that consideration.

I am disappointed that my amendment today was ruled out of order, but it is an issue as we start developing new farm legislation that we have to deal with in terms of assuring not only that we have the kind of agricultural production in this country that is not going to put us at a security disadvantage, and I use the comparison of oil.

In concluding, Mr. Speaker, we are now dependent almost 40 percent on imported energy from petroleum products. We have seen the power of OPEC in raising their prices and making us pay the higher price.

That same thing could happen to agriculture, so the decisions we make in agricultural policy are extremely important. Favoring the traditional family farm and not favoring the huge farm corporations must be part of our agricultural agenda.

SMALL BUSINESS REFINERS' COMPLIANCE WITH THE HIGHWAY DIESEL FUEL SULFUR CONTROL REQUIREMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HORN) is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, at the beginning of this year, on January 18, 2001, the Environmental Protection Agency, EPA, implemented heavy-duty engine and vehicle standards and highway diesel fuel sulfur control requirements.

I strongly supported the final rule by the EPA as a necessary tool to reduce pollution. Under this new regulation, oil refiners must meet rigorous new standards to reduce the sulfur content of the highway diesel fuel from its current level of 500 parts per million to 15 parts per million by June, 2006. The diesel rule goes a long way in reducing the amount of pollution in our air.

Small business refiners produce a full slate of petroleum products, including everything from gasoline to diesel to jet fuel to asphalt, lube oil, and specialty petroleum products.

Today, among the 124 refineries operating in the United States, approximately 25 percent are small independent refiners. These small business refiners contribute to the Nation's energy supply by manufacturing specific products such as grade 80 aviation fuel, JP4 jet fuel, and off-road diesel fuel.

In order for oil refineries to comply with the new rule, the Environmental Protection Agency estimated capital costs at an average of $14 million per refinery. This is a relatively small cost for major multinational oil companies, but for smaller refiners this is a very high capital cost that is virtually impossible to undertake without substantial assistance.

Small business refiners presented information in support of this position to EPA during the rule-making process. In fact, EPA said that small business refiners would likely experience a significant and disproportionate financial hardship in reaching the objectives of the diesel fuel sulfur rule.

There is currently no provision that helps small business refiners meet the objectives of the rule. That is why I am introducing a tax incentive proposal that would provide the specific targeted assistance that small refiners need to achieve better air quality and provide complete compliance with EPA's rule.

A qualified small business refiner, defined as refiners with fewer than 1,500
employees and less than a total capacity of 155,000 barrels a day, will be eligible to receive Federal assistance of up to 35 percent of the costs necessary, through tax credits, to comply with the highway diesel fuel sulfur control requirements of the EPA. Without such a provision, many small refineries would be unable to comply with the EPA rule and could be forced out of the market. Individually, each small refiner represents a small share of the national petroleum marketplace. Cumulatively, however, the impact is substantial. Small business refineries produce about 4 percent of the Nation’s diesel fuel, and in some regions, provide over half.

Small business refineries also fill a critical national security function. For example, in 1998 and in 1999, small business refineries provided almost 20 percent of the jet fuel used by the U.S. military bases. Small business refineries’ pricing competition pressures the larger integrated companies to lower prices for their fuel. Without that competitive pressure, consumers will certainly pay higher prices for the same products.

Over the past decade, approximately 25 United States refineries have shut down. Without assistance in complying with the EPA rule, we may lose another 25 percent of U.S. refineries.

This legislation is critical, not because small business refineries do not want to comply with the EPA rule due to differences in environmental policy, but because it will help keep small business refineries as an integral part of the industry and on the way to cleaner production and full compliance with all environmental regulations.

SENIOR MANAGED CARE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

Mr. GREEN of Texas. Mr. Speaker, I rise tonight to encourage our House leadership to bring the Patients’ Bill of Rights to the floor as soon as possible, hopefully next week.

The Senate took historic steps before the July 4 recess to pass a bipartisan, meaningful Patients’ Bill of Rights. The McCain-Kennedy compromise legislation includes strong patient protections that will ensure high quality health care for millions of Americans with private health insurance coverage.

These protections include:

- Access. Patients will be able to go directly to specialists. Women have the right to go to their OB-GYNs, and children directly to their pediatricians. Communication. The Senate bill eliminates gag clauses which prohibit doctors from discussing all the treatment options, even those not covered by the plan, with their patients.

Emergency room care for patients who reasonably believe that they are suffering from an emergency medical condition do not have to drive by an emergency hospital to go to the one that is on their list.

- Internal-external appeals, which ensures that patients have access to timely and appropriate health care. And probably the most important is accountability if an HMO’s denial or delay of treatment causes a person’s injury or death.

- Many critics of this legislation say it would result in an onslaught of frivolous and expensive litigation, but this compromise bill also included many provisions to prevent such lawsuits from taking place.

For example, the legislation requires patients to exhaust all their appeal procedures before they utilize their health plan. By requiring that patients utilize an independent review panel, the bill makes sure that medical decisions are made in the best interests of medical practice in a timely manner.

In my home State of Texas, we have been using independent review organizations, or IROs, as we call them, to resolve HMO and patient coverage disputes since 1997, 4 years. These IROs are made up of experienced physicians who have the capability and the authority to resolve disputes for cases involving medical judgment.

These provisions have been successful not only because they protect patients, but also because they protect the insurers. Plans that comply with the independent review organization’s decision cannot be held liable for punitive damages if they do go to court.

This plan has worked well. Since 1997, more than 1,000 patients and physicians have had decisions of HMO plans. The independence of this process is demonstrated by its fairly even split. Of this about 1,000 appeals, in only 55 percent of these cases did the IRO fully or partially reverse the decision of that HMO.

- The Senate legislation protects employers from unnecessary litigation.

Let me go back to the independent review organizations. Fifty-five percent of the time, these IROs found that there was something wrong with the HMO’s decision. I would hope that our medical decisions have a better percentage than to flip a coin, so in 55 percent of the cases in Texas, either partially or totally the HMO was reversed by the independent review organization.

- The bill goes so far because it protects employers against any liability unless they are directly participating in the decision on a claim for benefits which result in personal injury or death.

- The bill specifically lists a number of areas that are not considered direct participation. In other words, as an employer, one could select the health plan, choose benefits to be covered under the plan, buy a Cadillac plan or a Chevrolet plan, and the employer would not be sued for that, or for advocating with the health plan on behalf of the beneficiary for coverage.

I know in my own experience as a small business, oftentimes my biggest problem was advocating for our employees with our health insurance plan to say it should be covered. The only case where an employer would be liable would be if they choose to make medical decisions which harm or kill a patient. If the employer acts like a doctor, then the McCain-Kennedy bill hold them responsible like a doctor.

Mr. Speaker, I mentioned earlier, we have had many of these same provisions in Texas law now for 4 years. Yet, we have not seen a barrage of frivolous lawsuits, nor have insurance premiums risen at a faster rate than anywhere else in the Nation.

Mr. Speaker, the Dingell-Ganske bill being the House is very similar to the McCain-Kennedy bill, which is very similar to a law that we have had on the books in Texas for 4 years. It contains many of the same compromise provisions, which at the same time ensure that these protections can be enforced.

It is time that the House followed suit and passed a real, meaningful, strong, bipartisan Patients’ Bill of Rights. I urge the leadership not to delay in bringing the Dingell-Ganske bill to the floor for a vote.

GENERAL LEAVE

Ms. WATSON of California. Mr. Speaker, I ask unanimous consent that Members have 5 days to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

THE LEGACY OF CALIFORNIA STATE SUPREME COURT JUSTICE STANLEY MOSK

Ms. WATSON of California. Mr. Speaker, today I stand before this august body to pay tribute to a superb colleague, friend, and fighter for justice, the late Honorable California State Supreme Court Justice Stanley Mosk.

As a State Supreme Court Justice, Stanley Mosk fought repeatedly for civil rights and individual liberties. He constantly strove for fairness for all Californians. Judge Mosk did not view his judicial task as a job, but as a mission for humanity. Judge Mosk understood the pain of racism.
It was during his election to statewide office that his faith was made an issue. Judge Mosk, as a Los Angeles Superior Court judge, threw out a racially restrictive real estate covenant that prevented a black family from moving into a white neighborhood. A year later, the U.S. Supreme Court voided such covenants.

It was Judge Mosk’s ability to relate to the pain caused by racism that allowed him to approach legal decisions with a touch of humanity and fairness. Even before his career as a judge, Mosk had the ability to tell the difference between right and wrong. As a State Attorney General in the late 1950s and early 1960s, he established the office's civil rights division, and helped to persuade the Professional Golfer’s Association to drop its whites-only clause.

In 1978, Justice Mosk again led the U.S. Supreme Court in groundbreaking decisions. In that year, he ruled for a ban on racial discrimination in jury selections. The U.S. Supreme Court waited eight years before making the same ruling.

Justice Mosk promoted civil rights from an early stage in his career. While serving as the California State Attorney General in the late 1950s and early 1960s, Justice Mosk established the office’s civil rights division. He also successfully fought against the Professional Golf Association’s bylaws that denied access to minority golfers. Justice Mosk went further than that—actually contacting each state’s attorney general on this matter, to ensure that no state would provide the PGA with a place to hide. Charlie Sifford, the African-American golfer whose cause Justice Mosk took up, sent a note to the Mosk family after hearing of Justice Mosk’s death.

Judge Mosk, a longtime Democrat and self-described liberal, was appointed to the State’s highest court in 1964 and served until his death, a 37-year tenure that made him the State’s longest-serving Justice. During that time, he wrote 1,500 opinions.

Judge Mosk often produced opinions separate from the court majority. He opposed the death penalty, but also showed flexibility and a knack for anticipating political currents. His decisions continued to reflect his quest for fairness and the desire to correct existing wrongs.

In 1972, Judge Mosk’s ruling extended to private developers a law requiring a study of each major project’s likely environmental impact and ways to avoid the harm.

In 1978, Judge Mosk ruled to ban racial discrimination in jury selections. He rendered this decision 8 years before the U.S. Supreme Court made the same decision. In light of his judicial decisions and opinions, Judge Stanley Mosk remained a champion for fairness and humanity.

In 1978, Justice Mosk became a judge of the Superior Court in Los Angeles. After serving in the Coast Guard during the early days of World War II, Judge Mosk left the Superior Court bench and enlisted in the army as a private. He served until the end of the war and then returned to the court.

In 1958, Mosk was elected Attorney General of California with more than a million vote margin over his opponent, the largest majority of any contest in America that year. He was overwhelmingly re-elected in 1962.

He was the first person of the Jewish faith to be elected to a statewide office after a campaign in which his religion was made an issue.

Justice Mosk served the state of California until the day before he died, and with his death, the state of California lost what many considered to be a true champion of justice. Justice Mosk was not only his well deserved title, but was also characteristic of his personal mission—to find fairness in a world filled with injustice. As a devoted liberal, his eloquence and principles shined through his work on the court. Among his many great contributions he will be remembered for pioneering the theory of "independent state grounds." This is the source of many of the state's privacy rulings and has given states the chance to become agents of legal change.

Mr. Speaker, I am proud to stand here today to honor Justice Stanley Mosk, a glorious man who has left an indelible impression on our state and our country. Through his body of accomplishments his passion for justice shall live beyond his tenure on earth. His family, friends, colleagues, and the state of California will miss him dearly.

Mr. BERMAN. Mr. Speaker, I rise today to honor Justice Stanley Mosk, who died last month after serving 37 years on the California Supreme Court. He was California’s longest serving Justice, a highly respected, even revered judge who delivered almost 1,700 opinions in his remarkable career. He was repeatedly honored for his contributions to the caliber of our judiciary and the quality of justice meted out by our courts in California. He was a distinguished lawyer, a renowned author and an outstanding jurist.

I have had the honor of knowing Justice Mosk and his family for many years and he was one of the people who had a profound influence on my political life. He was a tremendously impressive individual who embodied a unique combination of political savvy and legal scholarship with an abiding commitment to justice.

From 1939 to 1942 he served as executive secretary and legal adviser to the Governor of California, and for the 16 years from 1943 to 1959 he was a judge of the Superior Court in Los Angeles. After serving in the Coast Guard Temporary Reserve during the early days of World War II, Judge Mosk left the Superior Court bench and enlisted in the army as a private. He served until the end of the war and then returned to the court.

In 1958, Mosk was elected Attorney General of California with more than a million vote margin over his opponent, the largest majority of any contest in America that year. He was overwhelmingly re-elected in 1962.

He was the first person of the Jewish faith to be elected to a statewide office after a campaign in which his religion was made an issue.
He was appointed to the state's high court in 1964 by then-Governor Pat Brown. Justice Mosk loved being on the court and hated the thought of retirement, but fearing that his age was slowing him down, he had reluctantly decided to step down this year. He died the day he planned to submit his resignation letter to Governor Davis.

Justice Mosk fought doggedly for civil rights and individual liberties. He threw out restrictive real estate covenants that kept black families out of white neighborhoods and opened professional golf to nonwhites. He barred prosecutors from removing jurors on racial grounds. He declared that handicapped parents could not be stereotyped and automatically disqualified from raising their own children.

He was revered for his independence as well as his intelligence, his dedication to equal justice and his wisdom and common sense.

In another column, I have written down the top priorities Justice Mosk believed in: (1) Freedom of speech and the press, (2) Due process and individual rights, and (3) Justice. He can be no better eulogized than by this short list, which he honored throughout his brilliant career. I ask my colleagues to join me today in paying tribute to Justice Stanley Mosk, a legal giant of California.

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**COUNTRY-OF-ORIGIN LABELING FOR FARM-RAISED FISH**

The SPEAKER pro tempore (Mr. OSBORNE). Under a previous order of the House, the gentleman from Arkansas (Mr. Ross) is recognized for 5 minutes.

Mr. ROSS. Mr. Speaker, the farm-raised catfish industry is an important part of the economy in my congressional district that covers the southern third of Arkansas. In fact, Arkansas is third in catfish sales in the Nation, behind only Mississippi and Alabama, with nearly $66 million, or 13 percent, of the total U.S. sales.

I recently met with catfish farmers in southeast Arkansas, and I can tell my colleagues that catfish producers in my district are upset that so-called catfish are being dumped into our markets from Vietnam and sold as farm-raised catfish. The truth is that it is not farm raised, and I am not even sure it is catfish. Last year, imports of Vietnamese catfish totaled 7 million pounds, more than triple the 2 million pounds imported in 1999 and more than 12 times the 575,000 pounds imported in 1998.

In Vietnam, these so-called catfish, also known as basa, can be produced at a much lower cost, due to cheap labor and less stringent environmental regulations. In fact, many of these fish are grown in floating cages in the Mekong River, exposing the fish to pollutants and other conditions. They are then dumped into American markets and often marketed as farm-raised catfish.

Many catfish producers believe that these imports have taken away as much as 10 percent of our markets here at home. It is really quite simple. Farmers do not mind competition, but they do mind when the competition is unfair and untruthful. This is why today my colleagues, including the gentleman from Arkansas (Mr. BERRY), the gentleman from Mississippi (Mr. SHOWS), and the gentleman from Mississippi (Mr. PICKERING) introduced, along with me, a bipartisan bill, H.R. 2439, the Ross-Berry-Pickering bill, that would amend the Agricultural Marketing Act of 1946 to require retailers to inform consumers of the country of origin of the fish that they sell.

Under the bill, all fish would be covered. Each retailer would be required to notify the consumer at the final point of sale of the country of origin of the fish. One of the provisions would only be designated as being from the United States if it is from a farm-raised fish that is exclusively born, raised, and processed in the United States.

When our consumers go into the store to buy catfish, they deserve to know what they are getting is actually farm raised and catfish. By letting consumers know where the product is coming from, this bill will encourage the people in Arkansas and all across America to buy catfish grown by our farm families, not fish grown in a polluted river in another country.

I urge my colleagues to join me in protecting consumers and to support a level playing field for America's farm-raised fish producers by supporting this measure.

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**TRIBUTE TO THE LATE JUDGE STANLEY MOSK**

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

Mr. WAXMAN. Mr. Speaker, I am pleased to join my California congressional colleagues in honoring the memory of Justice Stanley Mosk and the great legacy he left the people of California and our Nation.

Justice Mosk was in public service for sixty years. He was a trial judge on the Superior Court of Los Angeles. He served as the Attorney General for the State of California. He was the longest serving member in California State’s Supreme Court 151-year history. He served on the court for 37 years under five chief justices until his death on June 19, 2001 at the age of 88.

My colleagues who have preceded me have spoken very eloquently about Judge Mosk’s contributions to our Nation. I want to take a moment to speak about Mosk’s personal influence on me as a Jewish American. Today, we take for granted that individuals of different racial and ethnic ancestry serve in public office. Last year, when Senator Joe Lieberman ran on the national ticket for vice president, he was the first Jewish American to do so, but his religious and ethnic background did not cause a strong reaction in most Americans. He was judged as an individual on his abilities, his political beliefs, and his record.

In the late 1950’s, Stanley Mosk was the first Jewish American to run for statewide office in California, and his candidacy caused some concern and trepidation in the Jewish community. American Jews were very active in politics, and they made great public service contributions, but there was enormous hesitancy in running for public office and assuming such a visible a position. Today, those of us who are Jewish and from California feel an enormous amount of pride in Justice Mosk because he was one of the premier constitutional lawyers in our Nation and he met the highest standards for public officials.

As a trailblazer in the Jewish community, Stanley Mosk never forgot that he helped pave the way for Jews and other minority Americans who faced professional and social hurdles. He was an unflagging champion of civil rights and individual liberties. He was also a shining inspiration to all of us who followed. When I ran for a seat in the House of Representatives more than twenty-five years ago, I was the first Jewish American from Southern California to be elected to Congress, and the first in the State in forty years. It is tribute to our Nation that Jewish Americans today represent not only districts with large Jewish populations, but those with small Jewish constituencies as well.

Stanley Mosk was mentor to a whole generation of Jewish activists. He will be affectionately remembered and sorely missed.

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**ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE**

The SPEAKER pro tempore. The Chair would remind Members not to refer to individual Senators.

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**AMERICA’S ENERGY POLICY**

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, the gentleman from Oregon (Mr. DeFAZIO) is recognized for 60 minutes as the designee of the minority leader.

Mr. DeFAZIO. Mr. Speaker, this evening I rise, hopefully to be joined by others, to discuss the energy situation in the United States of America. It was James Watt, when President Bush unveiled the national energy policy, so full of words in this blue book, who said, “Well, they just took out my work of 20 years ago.” This is James Watt, mind you, not exactly an enlightened individual when it comes to present-
day energy policy. He said, "They just dusted off my work of 20 years ago. It is really good in search of a 20th century energy policy for the 21st century?"

Well, after I read through it, upon hearing Mr. Watt's comments, I would observe it a little differently. I would say this is not James Watt's energy policy of 1980. This is actually our father's energy policy. It is much more 1960s energy policy. It is Dick Cheney's energy policy, and it reflects a bygone era of limitless frontiers, dig, drill, and burn. It is not and does not offer America a new sustainable and more affordable energy path to the next century.

So we will be talking about that a bit tonight, about electricity, electric deregulation, and other subjects. But before I go there, I would like to recognize the gentlewoman from California who introduced important legislation today in the area of our future energy supply to talk a bit about her proposal.

Ms. WOOLSEY. Mr. Speaker, I want to thank the Chairman of the Energy and Commerce Committee for organizing this special order tonight because the timing is absolutely perfect. We have just returned from the July 4 district work period and House committees are gearing up to tackle energy policy.

Since passing the national Energy Policy Act in 1972, Congress has generally ignored energy issues, but energy problems in California and higher prices for natural gas and oil throughout the country have brought energy back to the top of our Nation's agenda. We are finally beginning to realize that the debate over the nation's energy policy will probably be, if not the, one of the most important issues addressed in this Congress.

The energy shortage we are experiencing in California is a signal to be heeded by the rest of the country. The signal is that the Congress must raise the stakes in search of a sensible energy policy because, obviously, what we are doing is not enough. I am here tonight to remind my colleagues that as Congress and the administration work to forge a long-term energy policy, it is absolutely imperative we make a true commitment to renewable energy sources, to efficiency, and to conservation in order to prevent a future energy crisis and to protect our environment.

As the ranking Democrat on the Subcommittee on Energy on the Committee on Science, I am working to do just that. In fact, as the gentleman from Oregon (Mr. DeFazio) mentioned, earlier today I introduced the National Renewable Energy and Energy Efficiency Act of 2001. It is to be used as a blueprint for renewable energy sources and energy efficiency measures. It is to ensure that we make renewable energy sources a more important part of national energy policy we put in place in this country.

We can no longer afford to make large investments in outdated energy technologies, like fossil fuels, coal, and nuclear. Increasing our reliance on 20th century technology is not in the best interest of the 21st century, and it is certainly not an answer to our energy future. Instead, with the energy challenges we are experiencing across the country, it is more important than ever that we take this opportunity to craft a more responsible policy. By leveling the playing field for renewables and efficiency measures, we can and must ensure that our national security becomes more safe and secure through diverse energy sources.

Of course, we cannot expect renewable energy to meet all of our energy needs right away. I wish we could, but we cannot. We can make it a Federal priority to give renewables a more prominent role among energy sources. Unfortunately, Federal investment in renewables and energy efficiency has declined over the last 20 years. That is why CREEEA, my bill, aims not only to reverse that harmful funding trend, but also to set a goal for our Nation that at least 20 percent of the energy generated in the United States be produced from nonhydropower renewable energy sources by the year 2020.

CREEEA calls for new investments in renewable energy and energy efficiency research and development, as well as competitive grants to help bring green technologies to market. In the bill, regulatory provisions will eliminate barriers to development to put renewables on par with traditional energy sources.

Aside from energy efficiency provisions for schools, homes and vehicles, CREEEA also calls on the Federal Government and the Architect of the Capitol to set an example here in Washington by adopting renewable energy standards and improved energy efficiency measures. After all, the Federal Government must do our part, its part, to use more clean, renewable and efficient energy resources and technologies.

CREEEA also offers tax incentives to both individuals and corporations for increased investments in renewable technologies and for embracing energy efficiency products, buildings and technologies. With smart, aggressive policies, we will encourage the development of green industries.

Mr. Speaker, putting a priority on forward-thinking domestic options like renewable energy and energy efficiency is in the best interest of the 21st century, and it is certainly not an answer to our energy future. Instead, with the energy challenges we are experiencing across the country, it is more important than ever that we take this opportunity to craft a more responsible policy. By leveling the playing field for renewables and efficiency measures, we can and must ensure that our national security becomes more safe and secure through diverse energy sources.

Mr. DEFAZIO. Mr. Speaker, I thank the gentlewoman for her comments.

Mr. Speaker, it is important that we look toward the future and not toward the past for the energy supply for the United States of America. We can both have energy sources that are more gentle on the environment and deal with the problem of global warming, and are more stable and more affordable for the people of our Nation so we will no longer be held hostage to OPEC and other cartels around the world who basically blackmail us from time to time in jacking up the price of oil and extorting from American consumers.

I think her legislation is a very, very important addition to getting something that looks forward instead of back, and I thank the gentlewoman for her contribution.

Mr. Speaker, today we had Secretary Norton come before the Committee on Resources to update us on where they are on the President's national energy policy. In reading her testimony, I was interested to see that she said despite the comments of the Vice President, Secretary Norton of about 6 weeks ago where she said conservation and renewables, that might be a personal virtue, but it is nothing for a national energy policy to be based upon.

Despite the fact that over the last 20 years this Nation has gained 4 times as much energy from efforts in conservation and renewables than from new energy development based on fossil fuels, nuclear and other traditional sources, 4 times as much, the Vice President says that might be a personal virtue, but we cannot base policy on it.

Mr. Speaker, there seems to have been a backlash, and the administration seems to have been very quickly backpedaling on the energy of Vice President Cheney. In fact, today Secretary Norton said, remember, the President's energy policy, this blue book written by Vice President Cheney, 50 percent of that is based on conservation renewables and other sustainable energy sources. I said, Madam Secretary, that is an extraordinary statement. I said, tell me, 50 percent of what in this book, 50 percent of the projected new energy supply? When I look in the back, I see that they are projecting 28 percent of our energy over the next 50 years might come from sustainable renewable sources and conservation, so it was not 50 percent of the new energy. They are projecting 93.2 percent will come from conventional fossil fuels and nuclear power. I said, I am a bit puzzled. Is it 50 percent of the investment? I said, I remember the President's budget dramatically slashed investment in conservation renewables and sustainable energy sources, things that could make the United States of America energy independent.

She said it is 50 percent of the words in this proposal were on conservation,
So we are what we are getting here in this blue book and not a forward-thinking energy policy. The administration again staunchly defended going into ANWR, despite the fact that they admitted that no one has come anywhere near fully exploring the potential of the National Petroleum Reserve, which was just let out for leasing last year by the Clinton administration just before they left office, and the potential finds and the already discovered finds in the former National Petroleum Reserve, it will no longer be a reserve for national security purposes, will be diverted into the existing pipeline system and may well exceed the current and of that system for some time to come.

She admitted, as has every other administration witness, if there was recoverable energy at economic values in the Alaskan National Wildlife Refuge, they want to see if it is possible to get that it gets drilled; but they do not expect that a drop of that oil will flow for 10 years. Not a drop. So it is not addressing our immediate concerns.

Beyond that, I said, Madam Secretary, if it is such a crisis that we have to go into the last pristine area in the United States of America to explore for oil, does the administration think that oil should be kept here at home in the United States of America, as the law provided until 1996 when the Republicans took over Congress, and at the behest of the oil companies lifted the ban on the export of oil from Alaska?

She said she would have to get back to me on that. She certainly intended that the oil produced in Alaska should principally benefit the people of the United States of America, but she would not go so far to say that oil ought to be kept home, processed in the United States and used by the citizens of our country; but she will get back to me on that. I pointed out that President Bush could do that tomorrow by Executive Order. There is authority in the law for President Bush, if he believes that there is an energy crisis and a shortage, and that is what is driving up the prices, he could tomorrow with a simple stroke of his pen rescind the authority for those oil companies to export our oil from Alaska.

Mr. Speaker, that would be a concrete step that could be taken, and certainly sending a message to the American people, and also sending a message to OPEC, which is we are not going to take this. We are not going to let them jack up prices over there and extort our consumers in the short run while hopefully this Congress acts to adopt a more forward-thinking energy policy for the future based on new technologies so we can break our dependence on the oil cartels in the long term. In the short term, we do not want to have consumers extorted and bankrupted by the oil cartels.

Let us send them a strong message. We could do that by the President saying he is going to keep the Alaska oil home. We could do that in a number of other ways to show that we, in fact, in the United States are not going to be patsies, but this administration has chosen so far not to do that.

Mr. Speaker, there are so many subjects to be covered in this area, this is just sort of a beginning. I see the gentleman from Oregon (Mr. BLUMENAUER) has joined me, and I wonder if he might like to address some of these subjects.

Mr. BLUMENAUER. Mr. Speaker, I thank the gentleman for yielding.

I do appreciate our taking the time this evening with the professional detail the other side of some of these questions because it is indeed complex. It is indeed important.

As the gentleman pointed out, there are a wide range of interests that are coalitions and we are going to come up a lot. Conservatives, liberals, people from the East and the West, even some of our friends from California step back, and they are looking at what has been advanced by the administration with skepticism and in some cases wonder.

I personally just returned from the Arctic Wildlife Refuge. It is an area that I have not visited before in previous trips to Alaska, and I have heard people on the floor make some assertions. I wanted to take the time to see for myself, to put in context the reports that we are given, the information that comes forward. I must say that I do not pretend to be an expert based on my hiking, camping, exploring the wilderness, flying over some of the vast stretches, talking to Alaskans of a variety of different perspectives, including spending time in the Prudhoe Bay area with representatives of the petroleum industry.

Mr. Speaker, I must say having visited some of the BP operations, having Fourth of July in the snow, roasting hot dogs as part of their Fourth of July celebration on a man-made island on the Arctic Ocean, I came away impressed with the professionalism and dedication of the men and women working in the industry. But I also came away struck with the rather wide range of the area that is already available for oil exploration, the billions of cubic feet of natural gas that are being pumped down back into the ground that are available for energy purposes, and, if the circumstances and costs are right, that would be available to us.

I was struck by the magnitude of the Alaska pipeline, which is now 25 years old. I have a certain personal relationship to this. My father worked on the pipeline until the day he died. I had some input from him about the challenges based on his experiences there. But it is aging.

Just yesterday we saw in the Wall Street Journal a front-page article that the State of Alaska, covering the inspections of people in this area for this vast infrastructure which pumps more oil in 3 days than is pumped from the entire State of Indiana in a year, and it has approximately one-half the inspectors, only five people inspecting this vast infrastructure which is aging and subjected, despite the professionalism and dedication of the employees and, I think, the good intentions of the industry, I take it at face value, but there is not much that inspires my confidence when I think of the volume of it. Then when I consider what was there in the Arctic Wildlife Refuge, this amazing vista, the tussock bogs and the drumlin field for miles and hike for hours and be completely unaware of how far you had gone, seeing hundreds of caribou in a relatively small area, and in the course of 3 days had seen thousands of them, and had some sensitivity to how fragile that area is and how fragile it is in terms of the habits, in terms of the calving cycle of this vast caribou.

I did see some caribou around Prudhoe Bay that we see in some of the pictures, but I had an appreciation for the vast fragility of the tundra; small willows that are 10, 20, 30 years old that are only inches high and thinking about what would happen if there were problems there. I came away with a profound sense that the American public is right. The Arctic Wildlife Refuge is absolutely the last place we should be exploring for oil, not the first.

The gentleman referenced the much-debated comment from our Vice President dismissing the notion that conservation may be a virtue, but it should not be the basis for a rational national energy policy. I think the American public, and I certainly agree, conclude that he has it 180 percent wrong. You cannot have a rational national energy policy without beginning with the notion of conservation and wiser use of our energy resources. And it does not have to drive the American public back to the Stone Age. Our friends in Japan have been able to manufacture a hybrid vehicle that will get 60, 70 miles per gallon. There is a 6-month waiting list for American consumers. Yet the American Government in the 5 years I have been in Congress, we have been prohibited from even studying extending the vehicle miles for the CAFE standards and having more fuel-efficient automobiles.

It has been represented to me that the average American family gets the abysmal mileage that they get now and the potential for bringing it up to the overall fleet average would be the difference for the typical SUV, the gap...
here is the equivalent of leaving your refrigerator running with the door open for 6 years. This is not technology that is beyond us.

We hear people making rash claims that we have to have the administration’s proposal of building a power plant a week and the attendant economic, environmental cost, and they will throw out arguments like, Well, we haven’t had a nuclear plant licensed in this country in 20 years. Well, they are right, we have not had a nuclear plant licensed in this country in 20 years, but what they do not tell you is that we have not had an application for licensing in more than 20 years. Industry has recognized that it is not a good investment. And for the administration to put forward half-representations, arguing for the need, rather than going to the plant a week and ignore simple, commonsense steps to improve energy conservation, I think completely misses the target.

Again, the last things and I will turn this over back to the gentleman. I know that there are others that wish to join the gentleman from Oregon (Mr. DeFazio), and the last thing I want to do is disrupt his train of thought too much. As dean of the Oregon delegation, I have too much respect for his rhetorical and intellectual capacity to do that, but if he will permit me to make two other observations.

Number one, it seems to me that we can take steps, and we may hear from some of our friends in California who have had some energy difficulties which they are working their way through, we may be hearing about that this evening, but the simple, expedient step of having roof colors, and you do not have to go all the way to having a green roof, but just having a reflective color, can cut the energy requirements for air conditioning one-third. Having concrete instead of asphalt can lower the temperatures of our cities 2 degrees, the heat island effect that we are seeing in major metropolitan areas. Not only will those roads last longer, but that will save energy.

Last but not least, it seems to me that if in fact we have several trillion dollars that we do not need to invest in energy. Government services over the next 10 years, which as we note as each day goes by it looks as though we do not quite have the resources that were represented to us; a better use of this, rather than some of the tax reductions for people who need help the least, would be to provide tax credits and incentives for our citizens, particularly low- and moderate-income citizens, to be able to afford more fuel-efficient air conditioners, heating, other appliances which again would save huge amounts of money for not having to invest in energy production, would save the cost of energy for these individuals, and would be a shot in the arm for American industry. I think these are more appropriate approaches, rather than discounting energy conservation and simply building an energy plant a week.

I appreciate the opportunity to join the gentleman this evening. I appreciate his leadership and look forward to further discussion.

Mr. DeFazio. Just taking up what the gentleman was talking about, tax credits for Americans, for consumers, to help them meet their needs at home or at work or purchase more energy-efficient transportation, to create a market for that and help our people, that unfortunately did not make the cut in the blue book here. But what did make the cut, for instance, is royalty relief.

For those poor suffering oil companies, we have got to have some royalty relief. I am certain that they will too pass those lowered costs on to the consumers. The estimate is that the Bush energy plan would lower royalties by $7.4 billion over 2 years. That is money that should flow to the Federal Treasury and stay in the United States of America because of the extraction in our coastal areas and inland areas of oil and gas, would be reduced by $7.4 billion under the proposal of the Bush administration.

Now, of course, these are the same companies that just last year entered into a plea bargain in a criminal case for defrauding the taxpayers of royalty revenues and entering into an unprecedented $443 million civil settlement with the Justice Department. But, of course, that was the Clinton Justice Department, and I do not think the Bush Justice Department is going to be pursuing too many defrauded American taxpayers’ royalty claims. In fact, no, they are not about it: Hey, let’s just forgive the royalties altogether. This is the basis for an energy policy.

Certainly we do not need to forgive the royalties to get these people to explore or pump oil. Let us look at the profits. Last year, ExxonMobil profits, $15.9 billion, a 1-year, 102 percent increase. Chevron, $5.1 billion, a 150 percent, 1-year increase. Texaco, $2.5 billion, 116 percent, 1 year. Conoco, $1.9 billion, 155 percent. Phillips Petroleum even bought Atlantic, you can see them down the list. These people need relief? They need encouragement from the taxpayers? They need subsidies from the taxpayers to explore for oil and gas? I do not think so. In fact they should be giving money back to the taxpayers because they are fleecing the taxpayers to show those sorts of profit increases in one year.

So the gentleman is exactly right with his orientation of where we should be investing or forgiving revenue for the Federal Government, should be oriented toward small businesses and consumers and others who want to invest in energy-efficient measures, not those who want to go out and extract yet more oil and gas from sensitive areas in our coastal plain, our national monuments and elsewhere.

From there, I believe we would be well served to get into the area of electricity. Most recently in the western United States, the most extraordinary manifestation of an energy crisis that we have seen has been the rolling blackouts and brownouts in California, the fact that the total electricity energy bill in California went from $7 billion 2 years ago to $27 billion last year and is projected to go to over $50 billion this year. The fact that we have found out that even in the Pacific Northwest, we are paying higher average wholesale prices but thankfully thus far have been buffered by our Bonneville Power Administration and our own energy policy. We are paying higher average wholesale prices but thankfully thus far have been buffered by our Bonneville Power Administration and our own energy policy.

Number one, it seems to me that we do not need to forgive these people the increase in 1 year in the price, there is a justified increase? Is this such a short-term view and such a ridiculous view of an economy that you can justify increases of up to, well, if you went from $30 an hour average megawatt 2 years ago to the high price that has been charged up over $3,000 a megawatt, a 1,000 percent increase in 1 year in the price, there is a real question. There is no one who is more expert on that than the gentleman from San Diego, who comes from ground zero in terms of the electricity energy crisis, market manipulation and price gouging in the western United States. I yield to the gentleman to educate us a bit on what has been going on down in his district.

Mr. Filner. I thank the gentleman from Oregon for yielding, and I thank him for his leadership. I recall over the last few years the gentleman from Oregon talking about the problems with deregulation. Very few of our colleagues listened. But now we are witnessing them, and he was right. And California has been the greatest example of that. He mentioned rolling blackouts. He mentioned manipulated markets.

Let me tell you what happened one day in January of this year. We suffered several hours of rolling blackouts in San Diego. That had, just a few hours, a tremendous impact. Companies in production lost millions of dollars of production. People who could not deal with the traffic lights off, we had near fatal accidents. People stuck in elevators. The largest company sending people home and not getting a paycheck. At that time, at a time of the rolling blackout, with all these disruptions, the biggest generator in San Diego County was not in operation. It was shut down, not due to any maintenance; it was just taken out of service.

Now, we have examples of that all through the last year where production
was down, not for maintenance, not for any environmental reason but to bolster the price, because in a controlled market you withhold supplies, you can increase the price. What occurred in San Diego at what we call the South Bay Power Plant in my district operated by the Duke Energy Corporation, they took generators out of service, not only during the blackout but many times during the year.

We just recently had five former employees of that plant who worked there for a total of 100 years. These are not newcomers. They know what is going on in that plant. They testified under oath to a State Senate committee that not only were these generators down not because there was any real lack of need for them, we were in a rolling blackout, but purely related to the price. DEFAZIO: I think the key point and one of my principal objections to deregulation was that it severed the relationship between a utility and the consumer. Historically in this country from the very beginning, utilities had a duty to serve. Their highest duty was to keep the lights on. They maintained a buffer over and above their demand or their anticipated demand. They were required to do that. They were required to, except in times of catastrophe, provide as nearly as possible 100 percent reliability.

Mr. DEFAZIO. And they made a healthy profit doing that. Mr. DEFAZIO. They certainly did. They always were favored by investors. They had no problem raising money. It was an industry that was known as a good place to put your money for a reliable and very healthy rate of return.

Now, what happened as the gentleman just pointed out with Duke and with all the others, they are not exception, is that they no longer had under deregulation a duty to serve their customers. Their only duty is to serve their stockholders and the people on Wall Street. If they can make more money by blacking you out, shutting you down, closing other businesses for lack of power, it is their duty, their fiduciary responsibility as their board of directors sees it to do that. That is why they tied their floor traders to the plant operators.

It is absolutely outrageous to think that that is what the system has come to.

Mr. FILNER. They made almost a billion dollars doing that in the course of the year. By the way, just to emphasize the gentleman's point of the cut in relationship to the community, the five employees I mentioned lived in our area were community members, paid taxes, had their kids go to school. They were let go. Apparently, Duke did not want people tied to the community working in their own plant.

There is insult to injury. I would say to the gentleman from Oregon (Mr. DEFAZIO) that in this case I just told him about, the plant was being ramped up and down for profit, which stole a billion dollars out of our economy, is a public plant, a public interest. The law, the San Diego Unified Port District bought that plant and leased it to Duke and leased it for very, very, let us say, favorable terms. The terms under which they leased the plant they thought they would recoup their investment in 5.7 years. They got it back in 3 months. That shows what the prices were that they charged.

They leased this plant from the public so they are stealing from the people who own this plant. They have violated the lease terms that they were under. They were supposed to operate that plant in a prudent manner. It is a prima facie case that they had not and these employees testified that they had not.

I think the Port District, a public agency in San Diego, ought to take that lease, take back the plant, operate it in the public interest. They produce power there for three or four cents a kilowatt. As the gentleman pointed out earlier, a thousand percent increase in the price they were charging us up to $1.00 a kilowatt. So here we have the most obscene price gouging.

Duke, by the way, was the one that charged that. $1,000 a megawatt, or $4.00 a kilowatt, hour and they did it out of a public plant. I think San Diego consumers ought to demand that that plant be taken back. It is our plant. Let us show that we can produce the electricity at a reasonable rate and still protect our environment. So this is a case study of enormous greed, and I think San Diegans understand that they have been gouged and they are ready, in fact, to embark with a municipal utility district, take over plants such as the one I mentioned, the South Bay Power Plant, and begin to get out of the control of this energy cartel.

Let me just conclude this part by saying, the gentleman made the point earlier about how we need renewables. He made the point earlier about how we need conservation. Everybody in California, as I am sure in Oregon, is dealing with the other. We are going to do that. Only the Federal Government can deal with the wholesale prices. Only the Federal Government can regulate that. Our President has chosen not to be involved. Our vice president has refused to listen. The Federal Energy Regulatory Commission has taken some baby steps in this direction, but the Congress should impose what is called cost-based rates on wholesale electricity prices and refund all the criminal overcharges since last summer when this started. Then we can begin to talk about a national energy policy, and as the gentleman pointed out, the President's plans say nothing about this area.

Mr. DEFAZIO. Unfortunately, the President's plans do say something about this, but it says what we should do is spread retail deregulation nationwide. We are going to take the model of California and we are going to impose it on the rest of the States of the United States of America.

Now, if there was some place we could turn to and say, well, look, look how great deregulation has worked, well, first off the model was Great Britain. They are still trying to fix the problems they created with deregulation. Their prices are 70 percent higher than the average in the United States. They suffer a much higher percentage of blackouts, brownouts. They have extraordinary complaints about service. That is the model on which the 1992 deregulation was written.

Maybe we have done better in the States. Let us turn to some of the pioneers in the United States. Montana is one. There they have an industry, which was deregulated, as were the rates in Montana, go up by 1,000 percent because Pennsylvania Power and Light bought all of the generation in Montana, which is a State that can produce 150 percent of its needs and they can make more money by exporting that power, some of it to the gentleman, and charging extraordinary prices for it. So that has not worked out real well in Montana.

Rhode Island, another pioneer, prices are up 60 percent. The list goes on and on and on. Everywhere that we have seen energy deregulation, with the promise of competition, lower prices, better service, we have seen higher prices, worse service and now rolling blackouts and brownouts. Guess what? I have never had an Oregonian come up to me and say, Congressman, I am tired of this utility that provides me electricity day in and day out at a reasonable price; I want a chance to choose my energy provider. But those phone calls at 5:00 at night from AT&T and MCI and all the others, offering me stuff that I cannot quite fathom and does not ever really seem to work out
quite the way they promised it but every once in awhile they send me a $15 check. If I change from one to the other, my face has come to me and said I want to impose that system on my electricity. I want to guess whether my electricity, my lights, are going to go on or off, what my bill is going to be. No, they do not want that. Americans want reliable, affordable electricity and they are not getting it under this system.

Now some people are doing very well. We have mentioned a few. The gentleman mentioned Duke Energy. Their profits were $1.8 billion last year. That is a 100 percent 1-year increase. That was before they got into this really overt manipulation described by the employees to drive the prices even higher. So we can expect that they will do even more in the future.

El Paso Natural Gas, of course, is now under investigation for having withheld gas from the pipeline. Somehow gas provided in Texas shipped to California, which is a little closer to Texas than New York City, was sold at four times the price in California than it was sold in New York City and somehow they did not use a very significant portion of the pipeline capacity, which contributed to the run-up in the price. They had a $2 billion profit, a 301 percent 1-year increase. Not bad, and of course, they share the wealth. Now do they share it with the consumers? Well, no, not exactly. But they do share the wealth.

A number of these companies have very generously shared the wealth with their CEOs. For instance, with Enron, who I mentioned earlier, who had a $979 million, nearly a billion in profits last year, the CEO netted $123 million all by himself. That is the ridiculous thing that the CEOs have. Kind of income that the CEOs have, well, then they might be able to get away with it. But I developed this document, lots of people, They said, well, name some. He said, well. They said, Ken Lay of Enron? And they said, was that the only person? He said, no, I met with lots of people, but he will not tell us who the other lotizes are.

He did admit that he met with Ken Lay of Enron, the same Ken Lay of Enron who called the chair of the Federal Energy Regulatory Commission, who is no friend of consumers, Mr. Hebert of Louisiana, who has refused to act to rein in prices, but he even called him to say that what he was doing was not enough for his company as chair of the Federal Energy Regulatory Commission and if he would do what Mr. Lay wanted, well, then they might be able to assure him that he could continue to be chairman.

Mr. Hebert, again no friend of consumers, was outraged. He went to the press about this and said I cannot believe that this gentleman called me. Well, this is who is writing the energy policy of this country.

Mr. FILNER. Some of our colleagues do watch us as we make these statements and talk about the situation in the West, and they say stop your whining. It is your own damn fault. If you did not have these environmental whackos in California and Oregon who stopped the building of power plants, you would not be in this situation.

Now I would like to hear what the gentleman says to them, but I say that is the ridiculous argument. Number one, I said that there was the situation in the West that chose not to build power plants because they had calculated that they had a surplus. They miscalculated that, but that was a decision made in their economic interest, they thought, not because of any environmental regulations.

I am going to soon announce in San Diego the building of a new power plant.
He is going to show that you can follow every environmental regulation that is there to protect us, every permitting policy, build a plant in a rather quick amount of time, and charge what would be the price under previously relaxed rules, say nickel a kilowatt, as opposed to the 40 cents, $1 or even $4 we have been charged. He is going to put a lie to the notion that it was environmental wackos who caused this.

We are going to have a plant in San Diego that is environmentally sound and produces electricity in a reliable fashion and at moderate price, at a price we can afford in San Diego. When we have control, I hope the City of San Diego and the city of San Diego will own that power plant. That will give us one-third of our needs and give us tremendous leverage over the whole system.

But I am sick of hearing that somehow we caused this thing because we were trying to protect the environment. I know the gentleman has heard the same arguments. I think we have to answer these directly and show that what we are proposing makes more sense to solve this issue.

Mr. DeFAZIO. In fact, I would quote from a spokesman for Reliant Energy on January 25 from the Los Angeles Times. He stated that “claims that air quality restrictions were holding back output were absolutely false.”

Similarly, in May in the New York Times, “Industry executives have been pressing to get relief from environmental laws, most notably the Clean Air Act and land use restrictions, but such regulations are viewed by many executives as nuisances.” Of course, they do not live there and breathe the air there, “rather than barriers to meeting demand. This is borne out by the ongoing surge in construction of transmission lines and power plants that has occurred without any easing of environmental regulations, despite the best efforts of the Bush Administration.”

So, this is a falsehood that was initially and early widely perpetuated across the West that this was a self-inflicted trauma. Of course, that was before we had the numbers to show that all these plants were off line and driving up the price. In fact, California was about 30 percent below its maximum production a number of times when the lights went out. The winter is your low demand period. That is when you usually export energy. Yet the prices were sky high and you were experiencing rolling blackouts and brown outs. This was not the fault of environmental restrictions, it was the fault of greedy companies. The interesting thing is they have been reined in a little bit. As the gentleman and I know, we tried to get the Federal Energy Regulatory Commission for months to act. Their own staff had found that these prices violated the law, they were not just and reasonable. That was a staff finding by the Federal Energy Regulatory Commission.

But Mr. Hebert, as Chairman, refused to take action and do anything about that, refused to do further investigations beyond one whitewash investigation saying there was no manipulation of the market. We now have a GAO report saying there is no way they could have reached that conclusion. They do not have sober, unvarnished to reach beyond all that conclusion. Yet he refused, stonewalled, it was called a sit down strike at FERC. I attended one meeting where he said he would pray for us, but that was all he could do.

Mr. FILNER. I think this administration has a faith-based energy policy. They not only pray for us to do something, they pray to the market where there is no market.

Mr. DeFAZIO. Well, that is exactly it, worshipping the market where there is no market. But, finally, and strangely, after the Senate changed hands from Republican to Democrat and two committees subpoenaed in the Federal Energy Regulatory Commission and their staff to come in under oath and testify about what was going on in western energy markets, somehow 2 days before they were supposed to testify in the United States Senate under the new Democrat control, FERC held an emergency meeting and imposed some minimal price caps.

Now, this is something they refused steadfastly to do for the first 6 months of the Bush Administration. But, suddenly, just because of a little tiny bit of scrutiny, let alone real scrutiny, let alone real regulation, let alone enforcement of the law, investigation by the Justice Department for price fixing, market manipulation, price gouging and all of the other things we know is going on, you cannot take the price of an essential commodity and drive it from $7 billion for the same amount of energy to $27 billion in one year, have profits increase by 300 percent, and then drive it the next year up by another 100 percent, without there being collusion and manipulation in that marketplace. Yet the watchdogs, the toothless, sleeping watchdogs at FERC, led by Mr. Hebert of Louisiana, are just like, oh, we are not quite sure what is going on.

In fact, I had some FERC people into my office last week and we talked about there is a new area coming. They are going to game transmission right now. Right now they are just gaming generation, but they figured out a new, bigger, more lucrative potential game for the future, and it is called transmission.

Mr. FILNER. The gentleman said it earlier, that Enron and the President were trying to get a national system which this could then more readily control. But I would like to also underline what the gentleman just said both manipulation of the market to increase the prices and also the incredible suffering in California and the West.

Not only does that market control give them the ability to fix the prices, but, tragically, for the future it allows them to pick and choose which energy sources will be studied and given development, and they have chosen, because they cannot control it, not to allow research and development into solar, into photovoltaic solar cells, from Reliant Energy sources beyond one whitewash investigation saying there was no manipulation of the market. We now have a GAO report saying there is no way they could have reached that conclusion. They do not have sober, unvarnished to reach beyond all that conclusion. Yet he refused, stonewalled, it was called a sit down strike at FERC. I attended one meeting where he said he would pray for us, but that was all he could do.

Mr. FILNER. This Congress ought to be looking not only at, as the President, new production and et cetera of the fossil fuels, but the structure, the economic structure of the energy industry, which not only has fixed the prices, but has foreclosed or attempted to foreclose part of our future by not allowing the research and development that we so desperately need in these other areas.

Mr. DeFAZIO. If the gentleman will remember back 20 years, back in 1980 the United States of America through our labs, Federal labs in Golden, Colorado, was the world leader in photovoltaics, an endless source of energy coming from the sun, that could replace the fossil fuel use for quality electric, if we could get the price of photovoltaics down.

The Reagan Administration said that research and all of the proprietary work that had been done to the ARCO Corporation, and then the ARCO Corporation sold it to Siemens of Germany, and now the Germans are the world leaders in photovoltaics based on research paid for by U.S. taxpayers, and some day we will probably be buying photovoltaic gear cells from the Germans, like we are having to buy oil from the OPEC cartel.

These future supplies of renewable and sustainable energy are going to be more important to us, and for the United States of America, for the President of the United States to slash investment, which he did in his budget, in these sorts of research, is cutting the legs out from underneath the American consumers, the American people and American business and industry, to make us a sustainable and affordable energy future.

We need to be investing more in fuel cells, more in photovoltaics, more in...
Mr. FILNER. Amen.

Mr. DeFAZIO. Our time is about expired. I do not think really I can end on a much more eloquent note than the gentleman just made, which is that there is sort of two paths that can be chosen for the American people at this point in time. One is a sustainable, reliable, inexpensive energy for the future, and the other is more of what is going on today, crisis after crisis, higher prices, price gouging, manipulation, and being held hostage by the OPEC cartel and the other traditional proponents of the energy industry.

I would like to choose a new path for the 21st century. So far the administration is choosing the 1850 path.

Mr. FILNER. Amen.

THE PRESIDENT'S PLAN FOR ENERGY

The SPEAKER pro tempore (Mr. OSBORNE). Under the Speaker's announced policy of January 3, 2001, the gentleman from California (Mr. RADANOVICH) is recognized for 60 minutes as the designee of the majority leader.

Mr. RADANOVICH. Mr. Speaker, I appreciate the privilege to come on this floor and talk about the President's plan for energy and for the future of the United States of America.

I wanted to make a couple of points in response to the speech of the previous hour regarding the situation in California. I am from California. I represent Fresno, California, and the central part of the state, where we too are at ground zero of the California energy crisis.

There were a couple of statements made earlier which spoke ill of deregulation and used California as an example of that, and I would like to clarify that in California there was never really a deregulation plan. It was half a deregulation plan.

In California's deregulation plan, the rates and the charges that the utilities were able to charge consumers were frozen. They were frozen rates and were not allowed to be increased, whereas the wholesale rates, or those rates that utilities had to go out and purchase energy for, were unlimited and put on the spot market, so that they would change minute by minute, hour by hour, every 24 hours, which made them very susceptible to high price spikes and such.

That was the problem in California, the problem that the price increases could not be passed on as signals to the consumer to start conserving was what created the energy crisis in California.

It was half of a deregulation plan, and under such a situation, it could have been easily corrected, up to a year ago. In May of the year 2000, when evidence started showing in San Diego and other parts of the state, that prices were going through the roof, the Governor of California, who I believe was more concerned about providing leadership in a crisis than, frankly, his own reelection prospects and obtaining the presidency, had he acted earlier and imposed or allowed the PUC, the State PUC, to impose a 20 to 25 percent rate increase, not like the 48 percent rate increase that was passed because he waited so long, I think, people would have been able to begin conserving and he would have been able to get a lot of those utilities off the spot market and into some long-term contracts that made sense, and we would never have faced a $20 billion hit to the State of California.

The minimum damage that could have been done would likely have been around $500 million to $1 billion.

It was due to lack of leadership in California that created the energy crisis, and it was lack of leadership from the Governor and the State of California that the problem got to the point where we have got poor leadership on this issue in the State of California.

If California really wants to get out of their energy crisis, they only need to do a couple of things. I would say three things.

First, the Governor has to stop buying power. I think the Governor has been taking on this responsibility for about 6 months now, and, since then, he has been purchasing energy up to seven times more than what the utilities are able to charge for and get back.

That is an upside down equation that leads to billions and billions of dollars worth of debt that the utilities, after $9 billion in debt, could not manage. So the State has started incurring those losses, and still do.

Today, California's Department of Water Resources, under the eye of the governor, is purchasing power right now 3 to 7 times more than what utilities are able to get from it. Now, granted, those prices are starting to come down, because a rate increase of 48 percent was imposed by the governor a year after he could have done it and averted this whole problem, has come into effect, and people are starting to conserve, and the future prices of energy are beginning to come down.

The only thing that would have happened a year ago and did not happen until now. My own utility bill that I just got from my residence in California right now is about 4 times more than average of it. I think people in general are experiencing a doubling to tripling of their retail rates because of this. A 20 to 25 percent rate increase early on, with decisive leadership from the governor, would have prevented this entire thing and, instead, in waiting so long and in purchasing energy at such convoluted prices, he has led California into this crisis and we are still in the middle of it.

Mr. Speaker, in addition to that, the governor has entered into long-term contracts that do not start for about another year, but the average of those long-term contract prices range from about, again, 3 to 7 times more than what the utilities are able to charge for. I had a company in my office the other day that talked about the inability of the governor to sit down with all those that are involved in the energy crisis in California; that would be the utilities, that would be the marketers, that would be the sellers, that would be the buyers, everyone who cares about California and who has a business stake in California, not only in the short term, but in the long term, and to sit down and work through this process, really resulted in nothing.

In fact, the prices, in fact, did not start until at least 8 months after the crisis began. Had the governor gotten people into his room, he would have been able to negotiate things.
Mr. Speaker, I am grateful that the gentleman from California, who just spoke, pointed out that for 8 years we have just kind of been Moses in the desert wandering, trying to find out where we are going on this thing. I think Mr. Richardson, who is the Secretary of Energy, made an interesting statement when he said something to the effect that for 8 years we had not had a policy, and now it is about time that we started putting one together. So for 8 years we have kind of wandered around wondering where we were going. In
fact, if we did anything, we ruined a lot of areas because of monuments that were not thought out and things along that which are not going to be there.

Vice President Cheney was given the assignment to work on the energy program and did a very commendable job. I read it very carefully and, in my opinion, if there is one word that would explain what the present administration has come up with, it is the word "realistic." They came up with a realistic program on how to face some of these things.

Now, I enjoy hearing my colleagues talk about all of these wonderful things that are going to happen and how it is going to come together, but when we get right down to it, in all honesty, what is "going to happen" is not there. We cannot drive into a gas station and go to this station and get just the energy pump because there is nothing there yet. As we look at which we get our energy, 2 percent comes from alternative areas such as wind and solar and things such as that, and I definitely feel [that] we could do the technology and advance it as far and as rapidly as we can. However, it is not there right now.

I would like to use the illustration of a gentleman that came into my office about 5 or 6 years ago and he started telling me about all of the interesting things that have occurred in transportation. He said, years ago, we used to use horses and then we went to cars and most people went on buses or trains, and it was really a big deal when the 2 trains came together in Promontory, Utah, in my district, incidentally, and every May we celebrate the idea of driving the golden spike. Gosh, we could get on a train and instead of doing 4 miles an hour on a horse, we could breeze across the country in a train. That was a wonderful thing. People really thought it was a Utopian idea. Then came along airplanes and, of course, now we do not see too many people travel on trains, most of us go by air.

Well, he made an interesting statement. He said, I am working on a program, and, he said, I think it will be there, where you walk into a thing like a phone booth and you punch in San Francisco and zap, you end up down in the matter of a blink of an eye, and have shown that they can do that airplane, we still have to drive our cars, we still have to heat our homes, we still have to light our homes. So what is going to get us back to what the Vice President was talking about? We are talking about a realistic program to get us out of this energy problem that we are in.

That is why this bill was introduced today in the Committee on Energy and Commerce today, so we could take care of these things.

I was interested, in listening to the former speakers. When I was listening to them, I thought back to that gentleman who came in and talked to me about this wonderful idea.

Gosh, I know there is a lot of energy from the sun. I agree with the gentleman from Oregon. It is too bad we cannot capture it and make it all work right now. If someone would step up to the plate and say, here is the technology that we have, and doggone it, we are going to do this right now, I commend them, and I hope they come up with something good.

But right now, the plan that we have introduced in both of these committees is around this word "realistic," and realistically, where are we getting our energy? Our energy is basically coming from fossil fuels. Also, it is coming from other areas. We do get some out of water. We do get some out of various sources of energy. But right now, the one that they have come up with takes care of that.

I notice the one gentleman from California talked about the idea that it was not California’s problem, it was the problem of these big energy guys who would not build these things. Well, no disrespect to our good friend from California, and especially my friend, the gentleman from California (Mr. RADANOVICH), but let us look at what California has put in the way of restrictions compared to other areas.

California has made it so difficult to build a nuclear plant, a coal-fired plant, especially a coal-fired plant, a gas-fired plant, that it makes it totally impossible to do it.

A lot of these people come and say there are too many regulations, too many hoops to go through, and therefore, we do not want to do it.

Mr. RADANOVICH. If I may weigh in a little, too, California used to have three nuclear facilities. We only have one, now. A few years ago, the Rancho Seco Nuclear Power Plant, which was in the Sacramento area, the voters in the area voted to shut the thing down, so they not only discouraged new ones, they actually went after existing power-generating facilities.

So if it is true, unfortunately, the view that we could have increased population and not increase energy capacity. That is not realistic, but I think that is the view that the gentleman so well expounded. That alternative energy is great, I think it needs to be expanded, but it is not realistic to think that it is ever going to meet a significant portion of our energy needs. It is just another way of saying that we do not want to develop our own energy resources.

Mr. HANSEN. That is sad, in a way. Because if America is willing to say, all right, we do not want to drive our cars, heat our homes, do not want power or air conditioning, we will just go back to the Stone Age, so to speak, then let us all stand around and say, gee, this is wonderful. Look at this beautiful environment.

But America is not going to do that. America is a forward, progressive country, always looking for that edge of the envelope where we can get ahead. Gosh, will that not be nice when we do develop these things. I hope it is in our lifetime where we can see these things come about, and we will have the energy pollution and that type of thing.

But I hasten to say that a lot of these things are much better. We just talked about nuclear. They are very, very safe. It is kind of sad, but a lot of politicians like to get up and talk about how terrible it is, we are all going to die because we have that. A lot of people do not realize that we have not built these new nuclear plants, but we have gone from 12 percent of nuclear dependency up to 20 percent just through efficiency.

I think really, I would say to my friend, the gentleman from California, that the thing we have to realize is that we are now 57 percent dependent on foreign sources, 57 percent, according to testimony today in the committee from the Department of the Interior.

It was not too long ago. In fact I think right at the time of President Clinton’s administration, where we were about in the thirties. So we have really gone in a hurry to get ourselves up to this amount.

What does America want to do? Where are we getting that 57 percent? Some of it is from our friends from Venezuela, some of those areas. But let us just have the American public look at this. That is, do we want to depend on those we can least depend upon? Do we want to depend upon Iraq, with a man like Saddam Hussein having his hand on the spigot of the oil we get? Do we want to depend on Iran? Do we want to depend on Libya? Do we want to depend on countries that we can hardly depend on who are sworn enemies to us, who many of them practice terrorism on us? Do we want to depend on those people?

People say, OPEC surely does not have the range of this thing. Who are we kidding? They can make this go up and down in the matter of a blink of an eye, and have shown that they can do that.
What was so bad about the idea of looking at other sources? Now, a real great actor who considers himself a great environmentalist, who has probably done more to foul it up than anybody I know, wrote a letter to the administration criticizing them for going to ANWR, and made the statement in his letter, well, we are only getting 6 months' worth out of that.

Come on, let us think about that a while. Where do we get this? Does it all come out of one big spigot? Of course not. We get some from Texas, some from Indiana, some from Utah, some from Venezuela, some from California, some from Saudi Arabia, some out of Alaska, we get some offshore, so it is an aggregate.

If we just took one of those, we could say that about any source there is, that and to tackle the problem, they can go look at this thing at ANWR up on the North Slope of Alaska. What do we have up there? It is east of Prudhoe Bay. The last time I was there and heard these people talk about it, they used a lot of figures. One that jumps out at me was 1 million barrels a day for 100 years. That would be about 11 percent of what we are getting.

Then I debated one of our Senators. He said, there is no infrastructure. Where has he been? It is only 74 miles over to the Ayleska pipeline. That is a lot better than we have in the West in a lot of different instances where they could pipe it to the Ayleska pipeline, down to Valdez, and we could use that source.

Today in testimony it went on ad nauseum, and Secretary Norton did a very fine job in explaining the position of the administration about fouling up ANWR. The gentleman from Alaska (Mr. YOUNG) was there, and very admirably talked about what ANWR is. Frankly, as we look at it, that is 19,600,000 acres. That is the size of South Carolina. If we look at that, we will say, how much are we going to use? The figure now is about 2,000 acres, but it could even be 10,000, but they said 2,000 today. Figure the percentages in that. That is an infinitesimal drop in the bucket.

Also, they talked about the technology, where they can use that small area, and to tackle the problem, they can go to the oil areas, and we would never even know it was there.

The gentleman from Massachusetts said, yes, that is all right, who would be against that? But how do we get it out of there? Do we fly it out, balloon it out? He made light of the idea. He said no, what we do is put in oil lines. That is true, but they are not going all the way out? He made light of the idea. He said no, what we do is put in oil lines. It amazes me that some people will stand on this floor and other areas and criticize the use of hydropower. What is better than that?

I was talking to a gentleman. He said, let us all go to wind. Maybe that is good, I do not know, but I have gone through some of those areas with wind. Maybe they are doing it. But here are these beautiful green acres, and they are all filled up with propellers spinning around. I do not know if that is better. It bothers me maybe as much as an oil rig would. The Audubon Society points out they do not like all the birds going through and getting creamed by those things.

Let us just say to my friend, the gentleman from California, that the bill we have introduced today is a good mix, a good step forward. Four committees of Congress are going to have to be involved, the Committee on Energy and Commerce, the Committee on Resources, the Committee on Ways and Means, and the Committee on Science, to determine if we can come up with a package.

I would just ask the people in America, let us get off this political nonsense. Let us not try to make political hay on this. Let us say we have a President, and we do not care if he is a Democrat or Republican, but this Republican President has decided he wants to cure a problem before it gets disastrous. Let us get behind him and get this done.

The cheap political points some people make on this do not make much sense to me. It makes more sense to say, all right, everyone is going to have to bend a little bit.

In my 42 years as an elected official, the thing that bothers me the most is the person who sees a beautiful piece of legislation, but boy, he cannot go along with it because it has two sentences in it that bother him. If he cannot get them changed, put it on a scale of one to ten, and if it is a 9 or 10, why does he not go with it?

Years ago, I took my young family down to the Grand Canyon. We were standing on one of those beautiful points on the North Rim and looking at one of these seven wonders of the world. It boggles your mind. It is awesome.

My one little son, about 6, he says "Hey, Dad, what about that ugly worm down there?" I said, "Paul, what is the matter with you? Here is the beautiful canyon, and this is the thing that you are worried about?" He said, "Dad, look at the worm." I looked at the worm. I could not get Paul off the idea of that little worm.

Then for somebody say this is a great bill, but it only goes 90 percent, I cannot go for it, for heaven's sakes, if it is 90 percent, go for it. Give it some thought.

Maybe this bill will have something in it that will have something that the gentleman does not like or I do not like, but right now it is the Grand Canyon. Let us not look at the worm.

Mr. RADANOVICH. Mr. Speaker, I thank the gentleman from Utah for that, and for all his work on the Committee on Resources regarding the national energy policy.

Mr. Speaker, there are a couple of things that the previous speakers were speaking about that stick in my craw. I just have to address them.

One was regarding the issue of price-gouging. There was a lot of talk about price spikes and all these out-of-State generators that were making incredibly large fortunes.

FERC did a study. They came back, or at least the judge that is trying to resolve the dispute between all those involved in the California energy crisis, he came back with the numbers. The out-of-State generators, out-of-State of California, made up or earned about 10 percent of those monies that are alleged to be overcharged during these last 6 months. The other 90 percent went to in-State-qualified facilities and also public utilities, like SMUD, the Sacramento Metropolitan Utility District, and in L.A., the similar utility district in California.

Ninety percent of that number that is alleged to be price-gouged went to utilities within the State of California. So we had just better get our numbers right, and better yet, they had better stop doing the blame game and get to solving the problem in California.

There is another thing that was talked about. That is the price caps, the issue of price caps in California, keeping the price down. The FERC did react by providing what they call a 7-24 monitoring system, where 7 days a week, 24 hours a day they will monitor prices, rather than just doing it during
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Mr. Speaker, I yield to the gentleman from California for yielding to me, Mr. Speaker. I am very pleased to join him and the gentleman from Utah (Mr. Hansen) in a discussion of the Republican energy plan, which is progressing nicely through the House of Representatives. That is, we will be able to enact it fairly soon.

I will be taking a totally different tack in discussing this. This is because of my background as a professor, a nuclear physicist, and also because I have done a fair amount of research on energy over the years. So I am going to deal with the long-term view, but also talk about some basic facts of energy.

Part of the reason is that I listened to the previous hour of debate here in which the other party seemed to be implying that the Republicans do not know anything about energy or energy policy. Well, we have just heard from two speakers on the Republican side who know a great deal about energy policy, first about the situation in California, and secondly, about extraction of resources.

I am going to talk about it from the standpoint of basic science and what we can learn from that and what we can and cannot do and how that impacts us in the future. I am also going to take a rather long-term view on some of these issues because we have to think long term on this.

I do have to say that dealing with energy and public policy has been very frustrating to me because when I was first elected to the Michigan legislature and worked in both the House and the Senate, I tried to work on developing a solid energy policy for the State of Michigan. I couldn't get anyone interested in the public or the legislature because we did not have a crisis at that point. Even I decided I could better spend my time elsewhere.

When I came to the Congress, I tried to do the same, and again no interest. Once the crisis hits, and by a crisis I mean the price of gas at the pump going up and the price of utility bills going up, suddenly everyone is interested then. I am a little concerned now that the price of gas at the pump is going up and they may lose interest again. But regardless of what they say or do, we must have a good energy policy, and I hope that will emerge from my comments.

In the study of energy, one of the first things we encounter is the three laws of thermodynamics. Now, thermodynamics, that very word, means heat going into motion. And that was extremely important about 150 years ago when the laws of thermodynamics were developed because that helped us build steam engines, and not only just build steam engines but helped to build efficient steam engines that led to the industrial revolution in terms of steam engines to do work in the factories and also steam engines to move trains across continents.

The laws of thermodynamics, and I do not want to get into a lot of detail, the first one we can ignore, it is very elementary, just dealing with temperature. The second law of conservation of energy, which simply says that in a closed system, energy can be neither created nor destroyed but can change form, from one form to another.

Well, what are the forms of energy? There are many, but I will just mention a few. First of all, let me explain that I am going to deal with the long-term view. And so when we apply a force through a distance, we do work. And so when we apply a force through a distance, we do work. And when I pull on it, I have to exert a force. Exert a force through a distance, I am doing work on it. I am imparting energy to this. It is stored as potential energy in this rubber band; or at the molecular level it is stored in the molecular stretching of the bonds within the molecules and between the molecules. When I stop exerting the force, it pulls my hands back in. That energy was stored there and it was used to pull my hands back together. But we lost some in the process.

As I said, in a closed system we do not lose energy, but we have lost some to heat, that is because this is a closed system, and that helps to warm the room. In fact, we could easily make a heat machine out of this if we wanted to use it for a heating system. Very inefficient, but we could have one that would just simply stretch rubber bands and the heat generated would be built in being able to heat a substantial space.

The third law of thermodynamics is even more important than the second, even though the second is extremely important. The third one is the statement that entropy and any reaction, any transfer of energy, always increases. Now, I am not going to get into entropy here. It is a very complex concept. But it basically means every time we transfer from one form of energy to another, the quality of the energy degrades. That means it is less useful. It cannot do as much work.

Remember, energy represents the ability to do work, and that is why it is so important to us. We went, as human beings, from the nomadic existence to an agricultural existence, or the agricultural age, where we first learned how to tame nonhuman energy to do work. In other words, animal energy. Before that, humans had to do everything. They tried agriculture and it just did not work that well. There were various agricultural communities, but they all had trouble and many of them failed. Once we had animal energy to use, they learned how to harness domestic animals to do the work, the plowing, et cetera, and agriculture flourished and continued to grow and increase for years.

The next big change was when we learned how to use nonanimal energy, that is the industrial age, where we built steam engines and other machines that allowed us to do more work. And the better the quality of the distance, the more work we can do with it. But as I said, the third law of thermodynamics says every time we use energy, it degrades to a lower level. It is not able to do as much work.
In a modern power plant, we burn natural gas or burn coal, and that produces heat, which we either use to generate power or operate a turbine. Out of that we get waste heat. We use cooling towers to get rid of it, but we could heat a lot of homes or greenhouses with that if we chose to. But we cannot get much more work out of it. Eventually, what we have done radiates out into space.

Now, those are very important concepts because what we have to remember about energy is it is our most basic natural resource simply because we cannot use any of our other natural resources without using energy. If we decide we want to dig a mine in Utah, for example, and extract some materials, and there is a huge copper mine in Utah, as I recall, that takes a lot of energy and extra time. We have to get the mill where it is extracted and smelted, rolled, then transferred to a fabric factory, fabricated, and finally transferred to the consumer. Every single step of the way takes energy, and that is why energy is our most basic natural resource. But it is also our only nonrecyclable resource. The copper that is pulled out of that mine, we can use it, and when we are finished with it in a product, we can recycle it and put it in a different product. But energy cannot be recycled. Once we use it, it is gone.

Now, all of these principles make it very important for us to develop an energy policy that recognizes this, and I believe that the energy policy that Mr. Bush has presented recognizes these issues and begins us on the road for a very long-term plan. There are many different ways of obtaining energy. We have talked tonight about retrieving energy from fossil fuels, primarily oil and natural gas. Another fossil fuel is coal, and that is very useful to us. These involve burning these fossil fuels, because they are combustible, and extracting the heat energy from them and converting that into electrical energy or into energy of motion or things of that sort.

We also know of other ways of using energy. We have Einstein's famous equation, $E=mc^2$ squared, which means that mass can be converted into energy and vice versa. But if we can learn how to convert mass into energy, we get huge amounts of energy out of small amounts of mass. And that is what we have with nuclear power and nuclear weapons. It is just amazing when we consider that the bomb that exploded in Hiroshima had just basically a handful of enriched uranium, of which only a part was converted into energy but was sufficient to destroy a major city; or that a nuclear reactor, rather than a bomb, can generate huge amounts of power for a long time out of small amounts of fuel.

We also have another means of nuclear energy, and that is fusion, where we combine hydrogen nuclei or Lithium nuclei and extract energy that way, because we lose some mass in the process. And someday, it will be a very good source of energy, but it is a number of years away. But, again, we have to do the planning, because we cannot recycle energy, and someday we will have to make sure we run out of the traditional sources.

Now, there are other things we can do. People talk about conserving energy. I do not really like to use that term, even though I support it. But I think it is much better to talk about efficiency of use of energy. Because conservation, I find, gives the image of people freezing in the dark. If we are heating our homes and we want to conserve, we turn the thermostat down, burn the lights out, and freeze in the dark.

In fact, I remember once I was at an event during the first energy crisis we know about, in 1973, and one of the speakers got up and he was very proud because they turned the heat down to 55 degrees. This is in Michigan, where I live. And they turned most of the lights out, and he told his teenage daughters that they were not allowed to use hair dryers. They just had to let their hair dry naturally, and so forth. And he went on and on about conservatism.

I asked him afterwards what kind of house he lived in. He said, well, we have a cement block house. I said do you realize that for a small amount of money you could insulate that concrete block house and still live comfortably with the same fuel bills? He did not realize that. He did not realize, for example, that concrete is not a good insulator. In fact, one-inch of Styrofoam has the same insulating power as four feet of concrete. In other words, by putting just one-inch of Styrofoam around his house, he would have saved as much as having a four foot concrete wall. And if they added a little more insulation, they would have been very comfortable.

That is what I mean about using energy efficiently. It is not a matter of using less, it is a matter of using it efficiently. And everyone, I believe, supports efficient use of resources. That is how businesses make more money, by being more efficient in their use of their material resources, human resources and machinery. So I think it is very important that we try to be as efficient as possible in our use of energy.

We also have to look at alternative ways of using energy. As an example, hydrogen. I think one of the better developments in automobiles that is coming along the path is the use of fuel cells, which we all will be able to use hydrogen, combine it with the oxygen in the atmosphere, and with almost no pollution produce electricity to drive an electric motor. Now, this is not easy technology, but we know it works because we used it on space vehicles, we have used it on the shuttle and other transportation purposes, and we have trial automobiles which use fuel cells. Right now they are still expensive because they are experimental. But someday, when we get the design down and manufacture them in bulk, I am hoping they will be able all as a good source of energy. We can either use gasoline in them or some other fossil fuel and preform it, as they say, so that we extract the hydrogen from it and run the hydrogen through the fuel cell and get our power that way.

Even better would be if we developed a hydrogen economy, where we develop hydrogen out of our fossil fuel resources, or by electrolyzing water, $H_2O$, remember, and separating it into hydrogen and oxygen, and that way we could, using electrical energy from nuclear plants or other plants, generate hydrogen and pipe it around, sell it at hydrogen stations instead of gasoline stations, and power our automobiles that way.

The Hybrid, incidentally, is an interesting way of improving mileage, and again using the energy more efficiently. A couple of manufacturers are doing that now. I expect a few more will be developed. But I regard that as an interim. It is slightly more efficient but not as good as the fuel cell is going to be.

We have to look at other possibilities for alternative sources of energy. Solar energy is tremendously promising in terms of its potential. We get as much energy on this earth from the sun per day as we expend from all our other energy sources for quite a number of years. Huge amounts of energy from the sun hitting the earth. The problem has been, the quality is very, very low quality, very hard to use. But we are making progress in photovoltaic cells, and I expect in not too many years we will find new homes built with solar shingles on the roof, shingles that will generate electricity and help heat the hot water in the House, help heat and cool the house, provide electricity for cooking, for the clothes dryer, and things of this sort, and with some electronics can actually provide high enough quality electricity to run TVs, VCRs, and a number of things.

So that is I think a promising alternative that is coming down the pike. I would estimate probably 10 years from now that will be economical. It is not going to be economically feasible to take our existing shingles off and put these others on. That would be costly. But as part of a new building or as part of a required replacement of shingles, it will become economically feasible.

We have others. Wind as power, of course, has potential. It is not a stable source of energy. We need an energy
storage device or supplementary energy. The same of course is true for solar, but it again depends where one lives. The usual promise, particularly for less developed countries. That, incidentally, is one of reasons and the main reason I was opposed to the Kyoto protocol.

I think President Bush was exactly right in saying that it is dead because it only put restrictions on the developed nations, not to developing nations. If we do not have some restriction on them or at least tell them at a certain date they have to meet these requirements just as we do, we will soon find all of them putting in highly polluting coal burning plants that produce a lot of CO₂ greenhouse gases, a lot of pollutants. Then when we say, there is too much production. There needs to be a cutback. They will say, look, we have all these investments now and all of these marvelous plants. We cannot cut back now.

I think if we have an international agreement. If we ever reach one that places restrictions on us, it also has to place restrictions on less developed countries because then they will make investments in alternative sources of energy such as solar, which is certainly the best answer in many places such as Africa and parts of Asia, rather than building these power plants which will create more problems.

So I have talked about a whole range of different issues tonight, and I did not get into the specifics of some of our current problems. But I am simply saying that the plan that the Republicans are developing is a good launching pad for the things that I have been talking about that we have to move towards in the future. It contains the seeds of a long term national energy policy and certainly include the good short term energy policy that we need right now to address the problems of prices at the gas pump and the crisis in California.

One last thought on that. We have to not only consider energy issues as we have talked about now, but we also have to consider the international relations or foreign policy aspects of it. We are 70 percent dependent right now on oil from other countries. As I said earlier, our country is our most basic natural resource.

We are at the mercy of other countries because if they cut off our supply for whatever reason, political or war or whatever, we are at their mercy because our industry cannot operate without energy and we cannot produce enough internally instantaneously. That is why it is very important, as the energy plan of President Bush points out, that we must establish our independent fuel sources in many countries. We have to develop our own sources. We have to develop alternative sources so we can truly be energy independent and not depend on the good will of individuals who may not feel very kindly toward us at various times. Mr. RADANOVIĆ, Mr. Speaker, in closing, I would like to point out that the lessons that are being learned in California do not have to be learned in the United States to get a decent energy policy. Even though California is second only to Rhode Island in energy conservation, we have had 28 stage one power emergencies, 63 stage two power emergencies and 38 stage three power emergencies.

The way it happens is when electricity begins to run out, that is a stage one alert. When it gets worse, that is a stage three alert and from there we enter into rolling blackouts.

We are having to suffer through that because they have not been keen on making sure that California has had adequate energy supply and we will create that. We will become a great State or continue to be the great State that we are. But I do not want the country to go through the same problems that California is because of an unrealistic expectation out of energy and where the supply needs to go.

California is getting real real fast. I think the rest of the country needs to learn to get real about where our energy supplies need to come from. That is why I applaud the leadership in the House and also the President of the United States for putting this energy plan together, a realistic one that also includes alternative fuels, energies and conservation and puts them in their proper perspective.

ROLE OF THE FEDERAL GOVERNMENT IN AGRICULTURE AND EDUCATION

The SPEAKER pro tempore (Mr. KEINS). Under the Speaker's announced policy of January 3, 2001, the gentleman from New York (Mr. OWENS) is recognized for 50 minutes.

Mr. OWENS. Mr. Speaker, today we concluded the appropriations debate and passed an agricultural appropriations bill for $74.6 billion. I think that it passed with a minimum amount of discussion and controversy.

I think we had an overwhelming vote from all the members. I voted for it myself, even though in the past I have been wary of agricultural bills that have large amounts of subsidies for farmers for crops that no longer need subsidies. But that is not a point that I want to expand on. I want to say that we have passed a bill for $74.6 billion, the Federal Government's involvement in agriculture, and the farmers of the United States are less than 2 percent of the population.

We take good care of our farmers and they give us good return. We are the best fed Nation in the world, but we certainly take very good care of them. Any people among those farmers and that particular group that continues to subsidize the government or complaining about big government, telling government to get off their back, et cetera, it is hypocritical because the government is very much involved in producing the best agricultural system in the world. It is a monument to the achievement of government and education. The Morrell Act which created the land grant colleges in all of the States set off a process which created agricultural engineering and science, an approach to implementing new theories rapidly, the county agents, and a number of different innovations that still survive to this day. There are still committees in every county that relate to the Department of Agriculture.

The system has been very productive. The system is, however, a system that we oversee as the Federal Government, and it is fed and kept alive by the Federal Government. Most people do not know it, but the Department of Government in Washington which has the second largest number of employees, second only to the Pentagon, is the Department of Agriculture, although we now have less than 2 percent of the population which are actually farmers, bodies who can be called farmers.

Mr. Speaker, we take good care of agriculture and as a result, we get good return. There are 53 million children in the public schools of the Nation. That is far more than 2 percent of the population. If we want to put the same kind of investment into education, we would reap greater and greater returns, I assure my colleagues, on education. As I said before, the productivity of our agriculture system is directly related to the fact that we use a large part of the education in agricultural production very early in the life of the Nation. Land grant colleges were not established to teach theology or philosophy. They were established to bring a new approach to teaching engineering, agriculture and biology in all kinds of things that were very practical and productive. So the great system for feeding America which feeds a large part of the world is based on a step taken by the United States Government in the area of education. One of our monumental achievements in the area of education was the Morrell Act which established the land grant colleges in all of the States of the United States.

The Morrell Act, of course, was inspired by Thomas Jefferson's genius when he created the University of Virginia, a State-based university. He took the first step and Morrell followed through, and every single State benefited from the same vision, an extension of the vision of Thomas Jefferson.

We need the same kind of vision as we look at the 53 million children that
are in our public schools. We need to understand that a large part of what we have been able to accomplish as a Nation is based on the fact that we have subscribed from the early days to the philosophy of universal education.

The Federal Government has not played the first role, but the Federal Government certainly has never interfered with the States, and every State accepted the responsibility. It is the ethic of the American people which lead to the creation in the constitution of every State the responsibility for education.

The Federal Government discovered in World War I and World War II that it had to go beyond that in terms of the development of its youth population, its scientists and technicians, and so it began to play a greater role in higher education. We recognize the necessity for that. We recognize the necessity for the Federal Government to have a major role in terms of funding. We actually only fund about 7 percent of the total education budget for the Nation. It is the State and local governments that fund the rest of the education budget, but we are involved.

We recognize the necessity for that involvement and I think every State education official and local education official, and certainly teachers and principals throughout the Nation, will indicate that since the Federal Government got involved to the present there have been improvements.

The Federal Government’s role in education has been a very positive role, a role that we can be proud of. I am here today to remind you that in the era of Lyndon Johnson and the great society where he established the first Federal support for elementary and secondary education, the Federal government has been a partner. We are not just to look back. We do not just want to talk about the good old days, the past. We want to talk about a role that we can be proud of. I am here today to sort of remind us that we have seen the change that has been of a shadow boxing approach to the funding process to have the conferences consider moving from $175 million just for charter schools to a larger amount which would deal with school construction, all schools, not just charter schools but all schools that need it.

We have passed a bill here in the House of Representatives, Leave No Child Behind, the President’s bill, and I am pleased with the fact that Leave No Child Behind is inadequate in so many ways. It is inadequate because it has no money, not a single penny, for school construction. The Leave No Child Behind legislation that passed the House of Representatives did not allow a single penny for school construction. There is some hope because the other body did place $175 million in the budget for charter school construction, then it is certain in order to expand that school construction money to move it to encompass more than just charter schools, and I certainly will be intending to offer an amendment to that effect when the bill comes back to us. I think that the other body had a set of authorizing figures, the amounts for authorization, in a number of areas that are higher than the authorization figures in the House of Representatives bill. So there is hope there that in the conferencing process, we can move in the direction of the amounts of money that have been established by the other body and be able to deal with some of the inadequacies that are left.

I think the important thing is the public should realize that education is on the agenda at all, the fact that it was one of the first items that had need. It is very interesting, in an era where there is a lot of talk about education, there is a lot of discussion, and then when the authorizing and the appropriation process takes place, there is minimum effort. In the Leave No Child Behind legislation, we do not have maximum effort, we have minimum effort. It is important for the public to have in the House of Representatives and the other body. The dilemma is this. We have authorized in the House and in the other body, does not allow for the implementation of the most important provisions of the Leave No Child Behind legislation.

For example, one very important piece, Title I. Title I has been the major instrument for granting and providing public assistance, Federal assistance to education agencies across the country. It is about $8 billion. Title I in the Leave No Child Behind legislation is for the next 5 years beginning with increments which will go into effect this year. So in this year’s budget, there has to be the first increment for the movement of Title I forward. And in a 5-year period, it will reach $17.2 billion, according to the authorization. It is the ethical obligation to have all of the powers that be, the White House, both parties agreed on this, and then to have the authorization sitting there without an appropriation to back it up. There is no room in the budget at this point.

So it is going to have to be negotiated through some extraordinary effort. We are going to have to break the budget or greatly shift some items around in order to accommodate the authorized amount. We certainly want to make certain that the priorities are such that this authorized amount will be honored. The one thing that may be honored. In order to do this, we cannot leave it to the processes here in Washington. The same processes that have generated this movement forward, however small it may be, and I am not pleased with the fact that Leave No Child Behind is inadequate in so many ways. It is inadequate because it has no money, not a single penny, for school construction. The Leave No Child Behind legislation that passed the House of Representatives did not allow a single penny for school construction.

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$1.2 billion that the previous administration had appropriated for emergency school construction across the board, not just charter schools but all schools that had need.

So we have work to do. There are inadequacies and some of those inadequacies cannot be addressed in the appropriation process. That fact that the authorization. But some of the inadequacies can be addressed. The one that I have just given as an example can be addressed. And since there is $175 million in the budget for charter school construction, then it is certain in order to expand that school construction money to move it to encompass more than just charter schools, and I certainly will be intending to offer an amendment to that effect when the bill comes back to us. If we were to move from $175 million just for charter schools to a larger amount which would deal with school construction, all schools, not just charter schools but all schools that need it.

There are many other items that they can deal with also because they are in the authorization language and we can move in that respect. I think that the other body had a set of authorizing figures, the amounts for authorization, in a number of areas that are higher than the authorization figures in the House of Representatives bill. So there is hope there that in the conferencing process, we can move in the direction of the amounts of money that have been established by the other body and be able to deal with some of the inadequacies that are left.

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Let us continue to talk in terms of
cion. Let us keep the debate going,
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percentage of the bill for edu-
cation should be paid by the Federal

All taxes, all revenue comes from the
local area, anyhow. All politics is
local, all revenue is local. The money
we print in Washington is symbolic, it
is symbolic of the taxes that are flowed in
here from the States and the local-
ities. So give it back to them in ways
which promote the item that the
American public has indicated is the
number one item. They would like to
see more involvement of the Federal
government. Let us keep the debate going,
let us continue to talk in terms of
what is needed, instead of merely set-
tling for the parameters that have been
established by the Leave No Child Be-
hind legislation.
I want to take the opportunity today
to talk about two groups, two state-
ments of vision that have come to my
office very recently. One is a book that
is written by Dwight Allen who is an
education professor at Old Dominion
University and who is now in school with
Cosby. Most people do not know that
Bill Cosby has a Ph.D. in education and
that he has always been interested in
schools and in children. Cosby wrote
several books on children and families
that were best sellers some years ago.
This book is a combination with an
education professor friend of his. The
title of the book is ‘American Schools,
the $100 Billion Challenge.’ The $100
billion does not refer to $100 billion
over the next 10 years. Mr. Spatschak, it
refers to $100 billion per year that
ought to be added to the Federal effort
in education. It is interesting that they
would think in those terms, when a
second presentation by the Children's
Defense Fund, the Act to Leave No
Child Behind as a bill that was intro-
duced in the Senate, S. 940, and in the
House as H.R. 990. Senator Chris-
topher Dodd of Connecticut is the
sponsor in the Senate and the gen-
tleman from California (Mr. GEORGE
Middle, a Democratic Democrat on the
Committee on Education and the
Workforce in the House is the spon-
or. They are talking about $100 bil-
ion, also. It is very interesting. What
can we make of this and should I waste
time with utopian proposals for the
Federal involvement in education?
Frankly, I do not believe they are uto-
opian.
Because we operate within the pa-
rameters of political practicality, I
have no objection to the effect of levels of funding as high as
proposed in these two documents, but
they make sense. Their proposals make
sense. Their proposals talk about mov-
ing away from incremental, nickel-
and-dime approaches to reform and let
us go beyond the limits of necessity on
a scale that is necessary to move us forward. What has America
got to lose by having a greater Federal
investment in education? And what
does it have to gain? I think that the
gains in investment in education are
tremendously geometric. The gains are
fantastic in terms of what you invest and
the educated population that you get as a result, what they produce.
What are we producing in America
now? We are way ahead of the rest of
the world. Agriculture is just an old-
fashioned basic example. We got way
ahead of the world by investing heavily
in education in agriculture. We are way
ahead of the world right now in terms
of education in the sciences. We have
doubled and tripled in many of our uni-
versities as a result of the GI bill, a
Federal bill that paid the bill, paid the
expenses for men, veterans, to become
educated. What came out of that?
Large numbers of men who would never
have gone to college, who would never
have become technicians or never have
become scientists, they entered the
workforce and entered our economy at
a time when automation was taking
place. The great jump forward, the
great leap forward after World War II
was automation in our plants. We had
the technicians and the mechanics and
the people to do that because of this
tremendous investment that this Na-
ation made in education.

It is not people back and really
thoroughly examined what we have
done. The institutional memory of the
American citizens in terms of what we
have done in education and what we
have reaped as a result is not there
automatically. You have to talk about
it. But we got a great boost. The fact
that we are ahead in computer science is
not by accident. We filled our univer-

ities and the great expansion that
took place in education following the
GI bill, once the GI bill recipients were
doctors. There is a profession that
that was publicly financed found its enroll-
ment still going up, because through
that experience, they expanded greatly,
and they made it possible to have lower
tuition and more and more young peo-
ple go to college and become profi-
cations the Federal Government has
acted with broad and thorough funding
powers to boost education.
The GI bill. When the men who
fought in World War II came back,
every single one of them was given the
right to an education financed by the
Federal Government, from A to Z.
There are some who went to barber
school, some who went to business
school. Many went into our univer-
sities. Our universities had never had
such an enrollment. Enrollment was
doubled and tripled in many of our uni-
versities as a result of the GI bill, a
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TEACHING AND NURSING. ALL THOSE BARRIERS HAVE FALLEN NOW AND WE HAVE A TERRIBLE SHORTAGE OF TEACHERS RIGHT NOW. SO JUST WHEN I TALK ABOUT A GREAT GEOMETRICAL INCREASE IN THE BENEFITS THAT YOU GET FROM HAVING AN EDUCATED POPULATION, I MEAN MORE THAN JUST REPLACEMENT OF THE SUPPLY OF PROFESSIONAL PEOPLE WHO ARE EDUCATED. BUT I KNOW WHAT YOU ARE THINKING. WHEN I TALK ABOUT A GREAT GEOMETRICAL INCREASE IN THE BENEFITS, YOU ARE THINKING ABOUT PROFESSIONS THAT WE HAVE NOT EVEN CONCEIVED YET THAT ARE JUST SHAPING UP. THE PEOPLE IN THE AREA OF GENETICS, LARGE NUMBERS OF PEOPLE IN THE FIELD OF GENETICS, WHO WERE NOT THERE 10 YEARS AGO, IT IS AN EXPLODING FIELD. PEOPLE IN BIOTECHNOLOGY, ON AND ON IT GOES IN TERMS OF THE KINDS OF RESEARCH THAT IF YOU HAVE THE PERSONNEL, IF YOU HAVE THE PEOPLE WHO HAVE THE SCIENTIFIC KNOW-HOW, THEN YOU CAN MOVE MUCH MORE RAPIDLY TO UNEARTH NEW DISCOVERIES IN SCIENCE. WHETHER YOU ARE TALKING ABOUT DISCOVERIES IN BIOTECHNOLOGY AND MICROBIOLOGY, IN PHYSICS, ALL KINDS OF DISCOVERIES, DISCOVERIES THAT CAN BE MADE, TAKEN INTO SYSTEMS REASONABLELY PROPORTIONAL TO THE NUMBER OF PEOPLE WHO ARE EDUCATED. ALL OF THE FORWARD MOTION IN TERMS OF TECHNOLOGY AND SCIENCE CAN ALSO MOVE FORWARD WITHOUT THE COSTS BEING SO GREAT. THE GREATER THE SUPPLY OF PROFESSIONALS AND TECHNICIANS, THE LESS THE COSTS. WE HAVE SOME HIGH COST SCIENTISTS AND SOME HIGH COST SCIENTIFIC PROJECTS BECAUSE THERE ARE TOO FEW SCIENTISTS AVAILABLE IN THE AREA OF COMPUTER TECHNOLOGY, IT IS KIND OF A RECESSION, A CORRECTION, THEY SAY, IN THE DOT COM INDUSTRY. COMPUTER SPECIALISTS WERE IN HIGH DEMAND. INFORMATION TECHNOLOGY PERSONNEL, IN HIGH DEMAND AND I THINK THIS IS ONLY A BLIP ON THE SCREEN, THAT PRETTY SOON THE DEMAND FOR INFORMATION TECHNOLOGY PERSONNEL WILL BE AS GREAT AS IT WAS BEFORE. SO AN INVESTMENT IN EDUCATION PAYS OFF GEOMETRICALLY. IF WE ADD DOLLARS MORE PER YEAR ON EDUCATION FOR THE NEXT 10 YEARS, IT WILL GIVE THIS SOCIETY BENEFITS WHICH ARE WORTH FAR MORE THAN WE INVEST. IF YOU HAVE TO STATE EVERYTHING IN TERMS OF DOLLAR VALUE, TRILLIONS AND TRILLIONS OF DOLLARS WOULD BE REALIZED BECAUSE WE WOULD DEVELOP, WE KNOW THAT THERE ARE SECRETS OUT THERE WAITING TO BE UNLOCKED IN BIOTECHNOLOGY ALONE, THAT IF YOU PUT MORE PEOPLE TO WORK THERE IS A CORRELATION BETWEEN THE NUMBER OF PEOPLE YOU PUT TO WORK AND THE BENEFITS THAT YOU WOULD ACHIEVE. THE SAME THING IS TRUE IN CERTAIN AREAS OF DIGITALIZATION, COMPUTERIZATION AND THOSE AREAS. THEY REAP BENEFITS, WHAT THEY CALL IN ECONOMIC TERMS PRODUCTIVITY. ACTUALLY PRODUCTS ARE INCREASED, AND ONE OF THE DOWNSIDES OF THE GREAT INCREASE IN PRODUCTIVITY IS THAT IT PUTS OUT OF WORK A LOT OF PEOPLE WHO DID MUNDANE TASKS BUT AT THE SAME TIME IT CREATES A NEED FOR A DIFFERENT KIND OF PERSONNEL WITH MUCH MORE KNOW-HOW.

WE WANT TO HAVE THE PERSONNEL WITH THE KNOW-HOW AVAILABLE TO TAKE THE JOBS. SO OUR INVESTMENT IN EDUCATION HAS A DUAL EFFECT OF MOVING US FORWARD TO AN ERA WHERE MORE WILL BE UNLOCKED AND WE WILL HAVE A DUAL EFFECT. NEW MEDICAL BENEFITS, NEW WAYS TO DECREASE THE ENERGY EMPLOYED TO PRODUCE ITEMS AND ALL OTHER SO-CALLED SEEMINGLY UNSOLVABLE PROBLEMS, PROBLEMS THAT CANNOT BE SOLVED NOW, SOME OF THEM CANNOT BE SOLVED. YOU CAN SOLVE THEM IF YOU GET MORE PERSONNEL, IF YOU GET MORE TRAINED PEOPLE. THE TRAINING PROCESS, THE EDUCATION PROCESS FROM THE FIRST GRADE TO GRADUATE SCHOOL AND BEYOND GRADUATE SCHOOL, IS SUCH THAT YOU ARE ONLY GOING TO PRODUCE A CERTAIN NUMBER OF GENIUSES, BUT YOU CAN REST ASSURED IF YOU PUT A CERTAIN NUMBER OF PEOPLE THROUGH THAT PROCESS THERE WILL BE GENIUSES DISCOVERED. THE WORLD IS NOT RUN BY GENIUSES. GENIUSES ARE REGULAR PEOPLE WHO SOMETIMES WORK WITH PARTNERS WITH THEM, OTHER SCIENTISTS AND THEORETICIANS, AND THE THEORETICIANS AND SCIENTISTS HAVE TO HAVE TECHNICIANS TO WORK WITH THEM. THE TECHNICIANS HAVE TO HAVE MECHANICS. ALL UP AND DOWN THE LINE OF THE FUNNEL YOU WILL HAVE DEVELOPED PEOPLE BREAKING OUT IN THEIR OWN CAPACITY.

IF YOU GIVE THEM THE OPPORTUNITY, THEY WILL DEVELOP TO THEIR FULLEST CAPACITY, WHICH MEANS THAT EVERYBODY WILL BE IMPROVED AND EVERYBODY WILL BE ABLE TO MAKE A CONTRIBUTION THAT THEY COULD NOT MAKE IF THEY DID NOT HAVE THE EDUCATION.

WE SHOULD NOT HOLD BACK AND HESITATE AS MOST OF OUR POLITICAL LEADERS ARE. THE GOVERNORS AND THE MAYORS AND THE PEOPLE WHO ARE IN CHARGE CONTINUALLY BECOME AN OBSTACLE IN THE FORWARD MOVEMENT OF THE APPROPRIATION OF THE ADEQUATE SUMS OF MONEY FOR EDUCATION. THEY ARE THE ONES WHO PREFER TO TALK ABOUT EDUCATION WITHOUT REALLY IMPROVING EDUCATION.

WE HAVE A PROBLEM IN NEW YORK CITY WITH THE RECEIPT OF STATE AID OVER THE YEARS HAVING BEEN CLEARLY UNFAIR. THEY HAVE NOT GIVEN THE CITY PUPILS THE SAME KIND OF SUPPORT FROM THE STATE THAT THE OTHER PUPILS HAVE GOTTEN OUTSIDE OF NEW YORK CITY. A COURT SUIT WAS MOUNTED AND A JUDGE CAME TO THE CONCLUSION THAT YES, IT IS TRUE. THE STATE HAS NOT BEEN APPROPRIATELY FINANCING THE SCHOOLS IN THE CITY AND THE STATE SHOULD TAKE CORRECTIVE ACTION. THE GOVERNOR OF THE STATE HAS APPEALED THAT DECISION, AND ONE OF THE THINGS HE SAID IN HIS APPEAL IS QUITE FRIGHTENING. THE FIRM THAT WAS HIRED BY THE STATE OF NEW YORK, WHICH IS THE FIRM THAT HAS BEEN USED IN A LOT OF SCHOOL SEGREGATION CASES IN THE SOUTH, THAT FIRM HAS BASED ITS DEFENSE, ITS APPEAL ON THE FOLLOWING THEORY: THAT CITY STUDENTS FAILED IN SCHOOL BECAUSE OF THEIR POVERTY. NO AMOUNT OF MONEY, WHETHER TO RAISE TEACHERS' SALARIES TO BUILD MORE SCHOOLS OR TO INSTALL SCIENCE LABS, WOULD MAKE A DIFFERENCE. THAT IS WHAT THE STATES ATTORNEYS ARE SAYING, THAT POVERTY IS THE CAUSE OF THE FAILURE OF THE
school system; the inability of the children to learn is due to their poverty. Now, we know that whether there would be a revolution if the governor had dared to say due to their race, due to their ethnicity or due to their religion. That would be clearly discrimination. Clearly, he would get a reaction from right across about that kind of approach. But it is a hidden statement. Most of the poor children in New York City are minority children, either Hispanic or children of African descent and they are being told in this defense that the governor has put up that poverty is a problem.

It is not the lack of funding. I do not want to go into that too far. I just want to point out that it is a frightening notion. If you move in that direction and do not challenge that kind of theory, the problem is that in 10 years you would end up with a clear statement by policymakers in the State that poverty does not own any children universal education because if they are too poor to learn then we should not invest the money trying to make them learn. The implications of assuming that poverty blocks learning, poverty dooms the school system, the implications are devastating and we hope to deal with that argument right away.

I got something from one of my constituents about a new proposal about reparations. There is a young man who has caused a stir by putting out a pamphlet about reparations, makes a statement about 10 reasons why reparations for blacks is a bad idea for blacks and it is a racist idea also. Reparations become sudden. It is not only a bad idea and something that we should not talk about but it is also a racist notion for any group to say we may be owed reparations. I can see 10 years from now if you let the governor go unchallenged, poverty dooms the school system, the implications are devastating and we hope to deal with that argument right away.

Before we move to more theoretical kinds of considerations of accountability and testing and blaming the teachers, let us put the basics in place. The basics are not there, however. These people who talk about $100 billion per year are on track because instead of proposing utopian ideas, Dwight Allen and Bill Cosby are proposing ideas that make a lot of sense. Senator CHRISTOPHER DODD and the gentleman from California (Mr. GEORGE MILLER) in the Act to Leave No Child Behind, S. 940, H.R. 1990, are making some sound proposals. I point out that the Act to Leave No Child Behind is not just an education bill. This is about children. It goes beyond education, to health, environment, nutrition, housing. This is about a program for children. In terms of the dollar figures, they come out at the same point in trying to promote proposals, but nothing proposed here is outlandish, outrageous, utopian. It is all very sound and very on target.

But we have lost sight of that. In the deliberation of the education bill, I offered a motion to instruct which was related to construction. Now, because of the atmosphere, we are tempted to compromise and to try to win votes by watering down the original amendment that I had made. We came all the way down from an amendment that I made which would have appropriated $10 billion a year over a 10 year period for school construction, to $1.2 billion, the amount equal to the amount appropriated by the outgoing Clinton Administration for school repairs, mostly emergency repairs.

So even though the need clearly is up at the present time, at least $10 billion a year just for school construction, and that is based on several studies that have been conducted by the General Accounting Office and conducted by the National Education Association showing that you needed about $320 billion. The National Education Association study, if you combined school construction and repair with new technology, you need $320 billion. New York State had the highest need of about $44 billion in order to bring the schools up to par to a level where they could serve the present population appropriately.

So my estimates and my figures on school construction were not pulled out of the air. They were already a compromise. But on the floor here I offered a motion to instruct which was watered down to $1.2 billion per year. Of course, that failed. It got a party line vote, and we failed to pass it. But it was a far cry from the need.

We have to do that. As people who are trying to compromise and get something done, we have to sacrifice our vision of what the need is. But I do not want the people out there who have had the common sense all these years to keep the pressure on elected officials. Here is a proposal. We do not need $1.2 billion for school construction, we need $10 billion a year for school construction. We need the kind of figures that are stated in this book, American Schools, the $100 Billion Challenge.

I am going to read a few examples from this $100 billion challenge which Bill Cosby and Professor Dwight Allen put forth. I am going to read these, as I said before, not as a politician, an elected official offering these as suggestions that I intend to put in legislation tomorrow, but as mind-stretching exercises.

Let us stretch our minds and try to look at education from the point of view of these experts. They are both Ph.D.s in education, they are both very concerned about it, but they are outside looking into the governmental process, and some of the conclusions they come to would be instructive. We did not hear from these people in hearings before we passed the Leave No Child Behind legislation. Nobody was interested in hearing these kinds of statements.

But here is a vision that is worth consideration by all that really care about education. In the section $100 billion for teachers, a summary of the listing, they start out with $6 billion for regular in-service training on the Internet for all teachers.

Now, we have pages and pages of discussion of teacher training and teacher improvement, but I do not think any one of our legislative proposals dealt with anything of this nature, certainly not with that kind of potential. Developing and presenting new exercises. I said before, not as a politician, an elected official offering these as suggestions that I intend to put in legislation tomorrow, but as mind-stretching exercises.

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Let us stretch our minds and try to look at education from the point of view of these experts. They are both Ph.D.s in education, they are both very concerned about it, but they are outside looking into the governmental process, and some of the conclusions they come to would be instructive. We did not hear from these people in hearings before we passed the Leave No Child Behind legislation. Nobody was interested in hearing these kinds of statements.

But here is a vision that is worth consideration by all that really care about education. In the section $100 billion for teachers, a summary of the listing, they start out with $6 billion for regular in-service training on the Internet for all teachers.

Now, we have pages and pages of discussion of teacher training and teacher improvement, but I do not think any one of our legislative proposals dealt with anything of this nature, certainly not with that kind of potential. Developing and presenting new exercises. I said before, not as a politician, an elected official offering these as suggestions that I intend to put in legislation tomorrow, but as mind-stretching exercises.

Before we move to more theoretical kinds of considerations of accountability and testing and blaming the teachers, let us put the basics in place. The basics are not there, however. These people who talk about $100 billion per year are on track because instead of proposing utopian ideas, Dwight Allen and Bill Cosby are proposing ideas that make a lot of sense. Senator CHRISTOPHER DODD and the gentleman from California (Mr. GEORGE MILLER) in the Act to Leave No Child Behind, S. 940, H.R. 1990, are making some sound proposals. I point out that the Act to Leave No Child Behind is not just an education bill. This is about children. It goes beyond education, to health, environment, nutrition, housing. This is about a program for children. In terms of the dollar figures, they come out at the same point in trying to promote proposals, but nothing proposed here is outlandish, outrageous, utopian. It is all very sound and very on target.

But we have lost sight of that. In the deliberation of the education bill, I offered a motion to instruct which was related to construction. Now, because of the atmosphere, we are tempted to compromise and to try to win votes by watering down the original amendment that I had made. We came all the way down from an amendment that I made which would have appropriated $10 billion a year over a 10 year period for school construction, to $1.2 billion, the amount equal to the amount appropriated by the outgoing Clinton Administration for school repairs, mostly emergency repairs.

So even though the need clearly is up at the present time, at least $10 billion a year just for school construction, and that is based on several studies that have been conducted by the General Accounting Office and conducted by the National Education Association showing that you needed about $320 billion. The National Education Association study, if you combined school construction and repair with new technology, you need $320 billion. New York State had the highest need of about $44 billion in order to bring the schools up to par to a level where they could serve the present population appropriately.

So my estimates and my figures on school construction were not pulled out of the air. They were already a compromise. But on the floor here I offered a motion to instruct which was watered down to $1.2 billion per year. Of course, that failed. It got a party line vote, and we failed to pass it. But it was a far cry from the need.

We have to do that. As people who are trying to compromise and get something done, we have to sacrifice our vision of what the need is. But I do not want the people out there who have
master teacher mentors for each teacher in training and for beginning teachers. There would be several concomitant benefits of paying master teachers $2,000 to $5,000 stipends each year. This is above their salary. First of all, well-trained mentors would provide better supervision and guidance for new teachers, and if the mentors are well paid, they will be encouraged to provide more and more and better assistance and they will stay in the school system, instead of moving on to higher paying jobs elsewhere.

Another item, $5 billion, $5 billion, this is one I have never seen before, for a corps of $100,000 classroom teachers. Listen closely, $5 billion for a core of $100,000 classroom teachers. Pay 5 percent of all teachers, pay 5 percent of all teachers, an added $50,000 per year to attract, $50,000 per year for each, of the highest college and university graduates as master teachers.

In other words, you get master teachers who would be making up to $100,000 a year. Pay 5 percent of all teachers $100,000 a year. We need to break the mold of a single salary schedule for all teachers. Just as the dream of a NBA million dollar contract does energize sandlot and school basketball all over the Nation, realistic aspiration of $100,000 stipends per year for even a small percentage of teachers would energize applicants at all levels and increase the recruitment pool. We are a Nation that responds to financial incentives.

Another item, $10 billion, $10 billion, for teaching assistance and other support staff for teachers. Now, I would wholeheartedly endorse this one as being practical, being necessary, and we ought to write it into our legislation right away. Teaching assistance and other staff for all teachers.

Build the concept of a teacher and his or her staff with clerical and technical support in the classroom, including teaching assistants and interns. Teachers are now required to do it all. Teachers are self-contained in their classrooms. Sporadically they may have teaching assistants or some volunteer support. If we are to make the most efficient use of our most valuable resource in education, well-trained teachers, we must begin to provide them the support that is routine for all other professionals. I think we ought to stress that. Real professionals, every other professional, whether you are talking about lawyers or doctors or engineers, they have staff; they have staff assistants, they have people at various levels of support. Teachers deserve the same kind of support, and you would actually have a more efficient and more effective classroom, a more effective use of your highest price personnel, if you were to have each teacher being seen as part of a unit, where they are the head of the unit, directing the unit, but they are not weighted down with a lot of tasks that are not professional, not productive and do not involve learning. So I would endorse that proposal as being a very practical one and one we should have moved on long ago.

We talk a lot of technology in the classroom and about the use of technology in the classroom, computers in the classroom. I do not think teachers should have to learn how to make computers do new things in terms of their curriculum and opening the eyes of youngsters with more creative approaches to teaching. They should not have to do all that and also learn how to fix the machine when it breaks.

When computers are on the blink, they should not have to be the ones to fix them, the servicing of the computers, the purchasing of any equipment. There is a whole array of things that teachers should not have to do, and if you had that built in a system, that taken care of by a unit, you would have more people staying in teaching instead of resigning and retiring as quickly as they can.

Another item they have here in the Cosby-Allen proposals is a $1 billion item, challenge grants for teacher initiatives for educational reform. Teachers should be encouraged to examine their own practices and to try new initiatives. A series of challenge grants should be established, with teachers from other states making a judgment about the priorities of which initiatives to fund.

The whole debate on education and the production of the Leave No Child Behind Act in both Houses of the Congress, the people who were consulted least were the teachers. We talk a lot about what teachers should do, we have left out the most important ingredient, and that is the input, the advice and consultation of the teaching profession and the teachers themselves.

So this $1 billion challenge grant would recognize that teachers have initiatives and teachers are sometimes the best teachers of other teachers. Teachers should be encouraged to examine their own practices and to try new initiatives.

Another item, $6 billion for 6 years of pre-service training for teachers. Provide $10,000 per year for 6 years of universal teacher training for 100,000 teachers each year. There is a wide consensus that we need to attract a share of the brightest student to the profession of teaching. They propose 6 years of funding, an incentive to increase the time of training profession and to raise the standards of the teaching profession generally.

There are all sorts of variations possible. For example, funding can be in the form of loans that include a year of funding forgiven for every year as a teacher. We have had those proposals offered in terms of forgiving loans, but we have not had any proposals that talked about $10,000 per year in order to take students to get a 6 year education.

Another item, $3 billion, one-year internship for teachers after professional training. These are items which coincide with some practical proposals that have been made in legislation already. $1 billion for higher salaries for more teacher educators. Increasing salaries of $10,000 teacher educators by $25,000 to $75,000 per year. Again, the same principle, to attract the brightest graduates into teaching and to stay in the profession.

Another $1 billion is proposed for the development of teacher training materials. Then technology, $15 billion proposed for technology for all schools, the purchase maintenance and replacement. And on and on it goes, into a budget which concludes with $100 billion per year for education, American schools.

Again, I have been talking about a vision offered by Bill Cosby and Dwight Allen. Dwight Allen is a noted Professor of Education Reform at Old Dominion University, and Bill Cosby has a Ph.D. in education and has been interested in education for a number of years and has written several books on children and families.

In conclusion, I have offered these two visions which are outside the usual discussion that takes place here on the Hill. But just so they come at a time when there is a great need to keep the dialogue going.

We cannot sit still and wait until the conference committee acts. We should not sit still and wait until the final negotiation takes place, probably at the end of September. We need to keep the pressure on. The public needs to remind each one of us in the Congress that they have made education a priority, and making education a priority, there is a need to have resources behind the rhetoric.

The dilemma we face is that we have two bills that have passed, one in the other body and one here in the Congress, and both have authorization figures much higher than any provisions that have been made in the budget. We need to solve that dilemma in a positive way. We need to have the pressure applied from those who care about education to make the appropriations figures that can measure up to the authorization figures as a one first positive step.

At least the Leave No Child Behind legislation should not be hypocritical,
it should do what it says it is going to do in the authorization bill. That is the first step. The other steps require the kind of vision to get down that is included in these two visions, one from the book written by Bill Cosby and Dwight Allen, and the other from the Leave No Child Behind legislation which deals with more than just education, but it is sponsored really with the backing of the Children’s Defense Fund.

We are going to hear more about this as we go toward September. The important thing is that we should understand that the door is not closed, and the final decision has not been made. There is room for an appropriation which measures up to the authorization and all of us should dedicate ourselves to the proposition that we will fight to have the appropriation measure up to the authorization for education.

**NIGHTSIDE CHAT**

The SPEAKER pro tempore (Mr. KENNS). Under the Speaker’s announced policy of January 3, 2001, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

**HONORING OUR FALLEN FIREFIGHTERS**

Mr. MCINNIS. Mr. Speaker, I would like to take a few moments of my Special Order to address a very sad situation that occurred yesterday in Winthrop, Washington. As my colleagues know, this time of year is the time of year in our Nation across the Nation that we face horrible forest fires. Most of the time, we are able to conquer those fires through the able leadership of the Forest Service, the BLM, our professional fire departments, our volunteer fire departments and volunteers across the country. But every once in a while the fire gets the best of us, as it did in Storm King Mountain in Glenwood Springs, Colorado, the town that I was born and raised in.

I was in Storm King at the time of the incident and I remember the situation very well. I remember the horrible tragedies and the tears of the young children and the widows and the mothers and the fathers and all the families and the friends and the shock of that community. We had hoped that Storm King Mountain in Glenwood Springs, that the incident would never repeat itself, but we knew at some point in time that it would, because it is almost like part of a fate of fighting fires. Over a period of time, we are going to have casualties. It is a war of its own, really. We think about it, thinking about a fire that is unpredictable, in some cases; some cases it is predictable, an enemy that has no discrimination as far as who it picks to destroy. We see it destroy animals, we see it destroy mountains.

We know that basically, it is a force that can erupt, just like the force erupted yesterday. Yesterday we had a fire of about 5 acres and we had what we call the blowup. The thing that scares anybody dealing with fires, the worst condition that we can have are the conditions that accumulate in the incident called fire blowup. That means we have low humidity, we have very dry timber, and we have a wind that is unexpected that comes in. This fire which burns 5 acres over some period of time exploded from 5 acres to 2,005 acres in a matter of moments. These firefighters that lost their lives yesterday, 4 of them, had no chance. By the way, I understand we lost an additional firefighter who was a pilot on a slurry bomber at another fire; not this fire, but at another fire somewhere in the northwest as well.

So my words of honor this evening are for all 5 of those firefighters. But I am only knowledgeable of the incident of the 4 firefighters who lost their lives yesterday. I would like to mention their names. Tom Craven, Tom was 30 years old. He was from Ellensburg, Washington. Karen L. Fitzpatrick. Karen was 18 years old, of Yakima. Devon A Weaver. Devon was 21 years old of Yakima. Jessica L. Johnson. Jessica was 19, of Yakima.

Tom, Karen, Jessica and Devon 2 days ago were alive. Two days ago, when our country called upon them to respond to a fire, they did so without hesitation. Now, despite the young age and, in fact, this was one of the first fires, or not the first fire for one of those individuals, despite the age, they received training. And at some point, one has to fight their first fire. At some point, one has to pick up actual field experience.

Almost every firefighter we have had in the history of this country gets through those first few fires. In fact, almost all of our firefighters are able to retire, or at least leave it without a fatality. But that was not meant to be the case for these 4 young people. We lost a lot of spirit. We lost a lot of youth. Two days ago, we did not have families in mourning, we had families who were excited that their children, in most cases, and I am sure in this case, were doing what they dreamed of doing for a long time, and that is going out and taking on fire, and going out and helping our country in a time of need. Going out and literally saving communities, saving animals, saving vegetation, saving our mountains. We have seen it. We have seen it throughout our country, what these people do.

I said it before, Storm King Mountain in Glenwood Springs, Colorado, about 7 years ago.

So my comments tonight are intended to be in honor of these 4 firefighters. In fact, I expand that beyond those 4 firefighters to the fifth firefighter who I understand lost their life in Idaho, so all firefighters across the Nation. To those firefighters who today cannot of course hear these words because they are camped out on the side of a mountain fighting a fire somewhere in Colorado fighting a fire in Oregon or Washington out there in California. These are gutsy people, and they carry out a mission that takes a lot of risk. They know the risk. They go into it with full knowledge. But I guess if one is a young spirit, one always goes into it thinking. I can overcome, I can get by it, but they did not get by it, and we should recognize them for the hero status that is properly bestowed upon them.

I can say to the families of these 4 deceased, our Nation, the United States of America, owes your family a great deal of gratitude, that we consider these lost firefighters heroes, the way the word “hero” should be used, not for some celebrity figure, but for a figure to me that is much more of a hero than any movie star or sports figure could ever be, and that is these 4 young people who gave their lives yesterday for the United States of America.

**ENERGY CRISIS IN CALIFORNIA**

Mr. Speaker, I would like to move on to my topic discussion. As usual, as my colleagues know, we have had preceding speakers here on the floor, and it was interesting when I listened to my good friend, the respected gentleman from California (Mr. FILNER) and the respected gentleman from California (Mr. DEFAZIO). Both, most of the time, seem to be fairly knowledgeable on the subjects that they address, but I have disagreements with the statements that they made this evening. I was surprised that the gentlemen from California, when they talked about the energy shortage that they have had in California, as has become typical with some of the people out of California, blame everybody else; blame everybody else.

If we listen to the gentlemen from California this evening, or if we listen to the gentleman from the northwest, one would think that everybody in this Nation is to blame for the shortage, the energy crisis that they have experienced in California, that the blackouts in California have nothing to do with the political leadership of the State of California. That the energy blackouts in the State of California have nothing to do with the fact that they have not been able to build a power generation plant in California for years and years and years. The fact that they have an energy crisis in California has nothing to do with the attitude of some people out there in that State that say, do not build in my State, do not build in my backyard. We do not need electrical generation plants. We do not need gas
transmission lines in our State. Let the other States generate it and we will buy it from them.

It was interesting to hear that the gentleman in the northwest is blaming what he calls the greedy companies. Well, I have seen plenty of greed in my life, and perhaps that is one of the contributing factors, but do not continue to run away from the fact that it was poor policy in California. I say California versus the northwest, because in the northwest it was not necessarily poor policy. In the northwest, they have a minor problem. The Columbia River is going dry. They have had a drought. They did not get the rain or the moisture that they expected, so they were not able to generate the hydropower which, by the way, is very clean power, a very clean way to generate energy. So the northwest is a little unique.

But let me focus in on California. They did not have a river go dry on them. What happened out there is that they refused to accept the responsibility. Politically the political leaders in California, to look to the future, to have a vision for the future, to know that they have to provide energy for their constituents.

Now, I also heard the gentleman say, whacko environmentalists, that those who have criticized the State of California say it is because of whacko environmentalists. Well, there are some whacko environmentalists, there are some whacko developers. But putting that aside, the fact is that California has got a lot of balanced, reasonable environmentalists who understand the fact that they need clean generation of power. But the leadership in California, whether it is at the local level or the State level or the governor's level, have not allowed it to occur. They kind of brought it upon themselves.

Mr. Speaker, I know that the gentleman from California says he was tired of hearing people say, California brought it upon themselves. Well, let me say how interesting it is that it was of 50 States, California stands alone. Do they in California not think that the political leaders in California had a little something to do with the problems that they are facing out there?

Now, my colleague mentioned, well, several of his colleagues have said, the heck with California, that is their problem, let them suffer. That is not the attitude of this Congressman. I think California is a very important State in our Nation. I do not think we can just walk away from California. But it is awful frustrating for those of us who want to help the State of California to see that there are those in California who are too stubborn or too lazy to want to do anything that they will not even pull themselves up by their own bootstraps, that some in California will not provide self-help. That is what the problem is. We cannot walk away from California. This is a nation. This is a nation of 50 States. We are like brothers and sisters. We are tied together. It is a good union of being tied together.

But the fact is, when somebody is not pulling their load, we have to be frank about it and say, you are not pulling your load. It is like pulling a wagon up a hill. If we have somebody that is supposed to be pulling and they continually jump in the back and ride the wagon and you say to them, hey, Johnny, you got to get out of the wagon, you got to help pull it. Johnny gets out and says well, the whole reason I have to get out of this wagon is because the rest of you are not pulling hard enough. That is exactly what California is saying and that is exactly what some of us say from California, especially the gentleman who spoke earlier, and that is a good analogy. We have said to the gentleman from California, look, we are not going to let the wagon go, we still have to get that wagon up the hill, but you have to get out of the wagon and help pull the wagon up the hill. Do not just sit there and complain about how abused you are because the rest of us asked you to get out of the wagon to help us pull the wagon up the hill. Get out of the wagon, get off your duff and help the rest of us.

Mr. Speaker, ever since I was young my folks took us camping. My district is the Rocky Mountains of Colorado, born and raised, multi-generations in Colorado. My folks had a little rule. That is, if you went camping with them and you wanted to enjoy the campfire in the early mornings when it was quite chilly, as we know it gets, my district is the highest in the Nation, so it gets cool there in the mornings, or cold. So if you want to enjoy the camp fire, guess what you got to do? You got to help gather the firewood.

In California, it is the same thing. If you want to have enough energy, not just for this generation, but for future generations, you got to help gather the firewood. You got to help build electrical generation facilities. You have to plan natural gas transmission lines in your State. You have to be serious about conservation. To California's credit, let me say that this energy problem that we have, conservation can make a big dent in it, and California does deserve credit. In the last couple of months, the citizens of California have been responsive to conservation issues, although I am concerned that as this energy problem begins to resolve itself, people will put conservation along the side. I think in this Nation, all of us, every American, needs to adopt conservation on a permanent adoption basis.

Conservation is important. But California, do not expect the rest of us not to be frustrated if they are not going to help themselves get out of this mess. Do not continue to blame the President. But if you want to sound like heroes, that, "We want the Governor out there, did for some period of time. When he found out that was not working, he blamed the greedy companies down in California. Then he threatened to seize the companies, like it was some type of socialistic government that we operate in this country. Everything except themselves they have blamed for this crisis.

I am saying to the leaders and I am saying to the Governor of the State of California and I am saying to my good colleagues here on the floor from California who are taking these issues up about how badly treated California is, we want to help, but they have to help, too. Simply going up and saying, 'In 2 weeks, out in San Diego and cut the ribbon for a power generation company, now pat me on the back, and by the way, you are responsible for our power crisis,' that does not cut it, California. We want to help, but they have to help themselves.

How do they help themselves? The entire Nation can help itself with conservation and alternative fuels, those things. But alternative fuels really are something of the future. Today if we took all of the alternative energy in the world, all of the alternative energy in the world, and we put it all into the United States of America, we are talking about 3 percent of our power needs, 3 percent of our energy needs.

So clearly, alternative energy is going to be what the generation behind myself, my children's generation, my three kids and their generation, they are going to be primarily dependent on that like we are dependent on fossil fuels for our generation, and the two generations preceding us were dependent upon it.

That is going to be important. But in the meantime, what do we do for the current generation? We have to do a couple of things. California has to allow generation facilities to be built on a reasonable basis.

The gentleman from California, as supported by the gentleman from Oregon, seemed to suggest that we set aside, or people on both sides of the aisle say that going to show is that we set aside their environmental regulations and safeguards and build generation facilities wherever we want. They want to sound like heroes, that, "We are not going to let these environmental regulations be set aside. Why should we destroy our environment, like everybody outside of California wants us to do?"

That is absurd on its face. We can build generation facilities that are balanced. We can have a Gray Donut facilities that have an acceptable impact on the environment. I am not asking, and I do not think many of my colleagues, are asking for the State of California
to drop all of their environmental laws. I do not know anybody in here who really is calling the mainstream environmental community in California wackos. I do not think they are wackos at all, and that is a direct quote from the gentleman from California who had spoken previously, about an hour ago. What is not a wacko to see California is, hey, there is a balance with the environmental regulation. There is a balance with the zoning. They are going to have to have a power line in somebody’s backyard in order for everybody’s backyard to enjoy power. They have to be reasonable.

It is unreasonable for California to be the only State in the last 10, 15, 20 years that has not allowed an electrical generation power facility to be built in their State. California is not a little odd that they are one out of 50? Is it not a little odd that they are now the one out of 50 that is suffering the crisis out there?

The rest of the country is not in an energy crisis. Now, we have gotten a very clear warning, no doubt about it, but we are not in an energy crisis. Why? Because the other States have taken a more reasonable approach than has the political leadership of the State of California.

I am telling the Members, in my opinion, the Governor of California has taken absolutely the wrong direction on how to solve the problem. First of all, about 2 or 3 or 4 weeks ago, maybe 5 weeks ago, at the height of the market, the Governor finally decides he is going to sign long-term contracts, so he has bound the people of California into long-term contracts at the highest possible prices, so it has been seen in any number of years for electrical power. So if they think they are going to get rate relief in California, citizens of California, through my colleagues here, they are going to get rate relief.

The second thing is, the Governor of California has tried to say to the people, let us put on price caps. In other words, they say, let us artificially lower the price of the power. Let us not have them pay what the power actually costs to produce, the price that allows for some margin for reinvestment for the next generation, but let us subsidize the power price by either selling bonds, which is what the Governor of California has done, he has invested in billions, by billions of dollars future generations to pay for this generation’s power.

If I was talking to the Governor, I would say that is the wrong approach. First of all, this generation ought to pay for this generation’s power. Furthermore, this generation has an obligation to exercise some type of leadership, some type of responsibility, some type of vision for the next generation. We need to start planning for their energy needs.

California should be left alone. California, if it were a country of its own, would be the sixth most powerful country in the world. California has a lot of American citizens. It is a big part of our Union. It would be a deep, deep mistake for anybody on this House floor to turn their back and walk away from California.

But it is a mistake for anybody on this floor to look at our colleagues from the State of California and say, quit blaming everybody else, Governor. Quit blaming everybody else, newspaper editorialists out there. Accept some of the blame. Consider and accept the fact that they have to have self-help, and let us move forward as a team.

That is my message to California: We want to help them pull the wagon up the hill, but they need to help us pull the wagon. For 10 or 15 years they have given a free ride by riding in the back of the wagon. Now all of a sudden it is time for them to come up and help the rest of us. When they do, they are going to find out, just like I found out when we gathered firewood at the campsite we get to sit by the campfire. But if they are not going to help gather firewood when they have the capability to gather firewood, then they should not sit by the campfire and enjoy the benefits of that fire.

Let me talk just for a moment about conservation, because while we are on energy, I think it is important that we discuss conservation.

I had a fascinating thing happen to me not long ago. I was talking to a young person. I would guess the person was 23, 24 years old, and seemed to me to be very, very bright, very capable. I got to talking, as I often do with that generation, and saying, what are you going to do? What is your career orientation?

This particular individual said to me, well, my orientation, my career, is how do we get energy out of the ocean. How do we get energy out of movement? How do we get energy out of the ocean? How do we get energy out of movement?

Every time there is movement, as those who have studied physics and so on know, every time there is movement, there is energy.

In this particular thing, she said, I think there is energy in movement. How do we harness it? How do we harness it in a way that generates energy? How do we harness it in a way that we can utilize it for energy needs? It was not long after I visited with this young person that I ran into a gentleman. He was in the energy field. I was telling him about it. He reached in his pocket and he said, let me show you what she is talking about. I have one right here. See this?

This gentleman said, just imagine if we could put this in the ocean, where we have natural, continuous movement, we could generate electricity. I thought that little thing right there was fascinating. I thought that is what is the ticket for the future. That is what our generation has an obligation to try and help the future generation, encourage that generation, and then the generations that are not yet born to become dependent upon, to be more creative than using fossil fuels.

But at the same time, we as a generation have an obligation to accept the responsibility that fossil fuels are what we primarily depend upon right now.

I heard my colleagues earlier criticizing the Bush administration about the energy policy. Ironically, I would mention that the Clinton administration and Clinton and Gore had no energy policy for 8 years, had no vision into the future about what to do in regard to energy. The only one who has come up recently, stepping forward, stepping out of the line to take a leadership role, has been President Bush.

I notice that they criticize right off the bat the fact that, in his budget, has cut some funds for some research. Let me tell the Members, this is an old-time Washington, D.C. trick. Every program in the Federal budget has a firetruck. It is either for the children or it is for the future or it is alternative energy.

Why does every program have a good name to it? Because it is hard to cut it. It is hard to take money out of it. Once we create a program back in Washington, D.C., we can pretty well be assured that program has a life, a long life of being able to use taxpayer dollars.

The first thing that happens back here with the special interests, and special interests that go the entire band of interests, these special interest groups, the first thing they do when they get a program, and this includes Federal agencies, the first thing they do when they get a program put into place is to put a protective shield around it, in case somebody ever comes and says, look, what is the bottom line? Tell me, what are we doing for accountability? Tell me what the results are. Oh, we would like to do an audit to see if you are doing what you said you are going to do. What kind of results have you given us for this money?
Then they can immediately deploy their weapons, the weapons of special interest. This is to say, how dare you ask a question of whether we fund it in the first place, or ask a question of whether money is being spent efficiently on the school lunch program? You must want children to starve! It is the same kind of thing we are seeing here. We have research programs that we have funded for years, year after year after year on energy, and the bottom line is the results are not there. They are not there. The minute we go up to them, as the President has done, and said, look, we are going to have to not take the money away and use it for some other purposes, use it for highways or something, we are going to put this money and put it into research we think is going to make a difference, the first thing we do is run to the local or national media and say, my gosh, the President is proposing that we cut research. How terrible, in an energy crisis. This is a President who only wants oil drilling. He wants to cut our research. At best, at best that is a misleading statement. That is giving them the benefit, here. In fact, most of these programs, when we go after accountability, they are well-designed to do whatever is necessary to protect that program and keep that program alive.

Let me talk for a moment about the energy policy of this country. I mentioned earlier that President Clinton, the former President and the Vice President, they had no energy policy. We need an energy policy. What happened in California, what happened in the Northwest, now, the Northwest was primarily because of the Columbia River, but what happened in the Northwest was a warning shot to all 50 States. It was a warning shot saying to us, hey, one of these days we are going to face a real energy crisis. One of these days, we had better be prepared for it, because we are not going to get a second chance. We have to be prepared with energy alternatives.

What do we need to do that? We need to have some kind of energy policy. That is exactly what the President has done. Now, Members may not agree with the policy. Members may not agree with the policy, but whether you agree with the policy, I think every person in this country should agree with the fact that we need a policy.

Now, it is debate on this House floor, it is debate that really should start in the kitchen of every household of this Nation, as to what kind of energy policy should this country have; what kind of components should we put together so that our Nation as a unified group of 50 States has a policy that will get us through future energy crises, that will allow us the kind of vision, leadership, and responsibility that is necessary for future generations, that will allow us to propel our economy and keep it strong, that will allow us to do all of these things that energy allows us to do? Let us look at some of the elements that I think are important for an energy policy. First of all, there is discussion and debate. What President Bush has done is a favor to all of us by stepping forward and putting an energy policy on the table.

And by saying we ought to put conservation on the table, and we ought to put alternative energy on the table, we have to talk about supply. We have to talk about exploration. Put it on the table. We have to talk about what areas of the country should or should not be explored for other kinds of energy recovery. At least the discussion has begun.

Now, that does not mean that we have to adopt everything they have put on the table. That is not what it means. But what it does mean is that we have an opportunity now to start to put this policy together. So discussion is an important benefit of what the President's energy policy has put forward.

Now, let us talk about some of the other elements that are obviously very important for any energy policy. First of all, we have to ask what is it that every American could do? What could every American out there do to help our Nation on an energy policy, to help our Nation through these energy problems, to help our Nation assure future generations that an energy crisis is not going to be something they have to worry about?

The first thing every American can do, every American that is capable of moving and thinking, is conservation. Even simple conservation. Now, there is a lot of conservation that can take place in our Nation without research. Let me give you a couple of examples. Turn off the lights when we leave the room. Now, that sounds kind of simplistic. Sounds like, gosh, that is so basic, of course we turn off the lights. But what difference does it make if I walk out of the room over here and I have the lights off for 2 minutes? I am going to be back there in 2 minutes anyway. Imagine the difference if every American that is using lights right now as I speak shut off their lights for 2 minutes. How much energy would we save? How much conservation is that? It is significant.

And let us put that together with a little less idling of our cars; maybe turning our air conditioning a little lower, at 70 degrees instead of having it set at 68 degrees; maybe in the winter have the heat set at 68 degrees instead of 75 degrees; maybe just simply checking our ceiling fans to make sure they are turning in a clockwise direction or motion so that they draw the cool air up and help cool our homes; maybe going to our car owner's manual and determining that we only need to change the oil of the engine of our car every 6,000 miles instead of every 3,000 miles, as the people out there that market oil products are trying to get us to do. There are a lot of ways that average Americans, every American, can help conserve energy, and that is a very critical part of an energy package. I think it is important for all of us to assume that we have an obligation to help with that. All of us have that obligation. But that is only a part of the energy package that we need for this country. What other element should be in that energy package? Well, of course, alternative energy.

As I mentioned, I was fascinated by this little device, this device that I saw it, whether it is wind power, which seizes energy from motion. That simple motion turns this little light on. That motion, through the physics and all the other engineering, we need to have that. We need to have research. But to have research for alternative energy, we need to be able to have accountability from the people that give this money to. We need to know that our research is at least moving us in the right direction. We need to know that the people doing this research have oversight. Because we do have an obligation not just to throw money at anybody that says I have an idea for future alternative energy, so give me money, Federal taxpayers.

There are a lot of scams that take place out there, and most of the people getting scammed in this country are taxpayers. And most of the scamming is done by special interest groups who know how to give a program a great name and then take gobs and gobs of money. If I say research is very important, it has to be research that makes something. It has to be research that is going to come up with a result or at least move us towards the path of a result.

So we know we need to have conservation. We know we need to have research for alternative fuels. We also need to face the fact, as I said earlier in my comments, that if we took all of the alternative energy in the world, all of it, and we put it all around the world and directed all of it to the United States of America, it would only supply 3 percent of our needs.

So we need to face the fact that as we put this energy policy on the table and we are crafting what a future energy policy should look like, we need to face the fact that we are going to have to decide where we want to drill for oil. We have to come up with additional fossil fuel until that point in time that we have conserved and reached alternative energies so that we
can lessen our dependence on fossil fuels. If we do not do that, the demand for fossil fuels will still exist.

So how do we fill that gap? I will show my colleagues on this chart right here, this is oil field production. This is the oil that we are now bringing out at the 1990–2000 growth rates. It is flat. It is actually not flat, as we can see from the angle of my pointer. It actually is declining. Our oil production is declining. Yet if we look at the red line to my left, we will see a line that is labeled oil consumption, and we see that that is going at an angle up and the oil production, field production, is at an angle going down. That means we have a projected shortfall. That is the blue.

How do we make up the difference? How can we possibly have oil consumption here when we have energy production down here? Does not make sense, does it? Well, it does. Because what fills that blue spot on this chart, what goes in there and fills that big hole is foreign oil. Foreign oil. Our dependence on foreign oil.

Remember the other energy crises? Many are too young to remember, but the energy crisis in the early 1970s is when we were 40 or 30 percent dependent on foreign oil. Today we are over 50 percent dependent on foreign oil. This gap right here is becoming larger and larger and larger. We need to begin to close oil consumption through conservation, and we need to bring up our energy resources through not just alternative energy but also through our own resources so that we become less dependent on countries like Iraq and so on.

So in my opinion an energy policy needs to be put together by this Congress. And we would certainly ask our President. We do not have to agree with all the elements of an energy policy, but certainly everybody in these chambers should commend the President for at least stepping forward and saying, number one, we need an energy policy, which is a dramatic change from what we have had over the last 8 years under the previous administration; and, number two, we need to put an energy policy together that makes sense on a number of different fronts: Conservation, alternative fuels, re-search, and further exploration of fossil fuels.

Now, there are some other areas that an energy policy needs to be put together by this Congress. And we would certainly ask our President. We do not have to agree with all the elements of an energy policy, but certainly everybody in these chambers should commend the President for at least stepping forward and saying, number one, we need an energy policy, which is a dramatic change from what we have had over the last 8 years under the previous administration; and, number two, we need to put an energy policy together that makes sense on a number of different fronts: Conservation, alternative fuels, re-search, and further exploration of fossil fuels.

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As many of my colleagues know, this is one of my favorite charts. Why? Take a look at this. This chart shows the population on the eastern part of the United States and there are distinctions there. There are differences between the eastern United States and the western United States. Let me just point out a couple of them.

First of all, water. The State of Colorado, and my district is this color, the poster here to the left. My district is about 64,000 square miles. My district is larger than the entire State of Florida. This is the highest point in the United States right here. As a result, we have water and lots of snow. Our State provides water, just the Colorado River, which goes like this, that river alone provides drinking water for 25 million people. But that water comes from snow melt. Colorado, this State in the center of the United States, has no water. It is the only State in the lower 48, Colorado, that has no free flowing water that comes into State for its use. The only State out of the lower 48. When one takes a look at water in the West, you have the western United States, a chunk about like this, that is over half of the United States, yet that area that I have just pointed out that I have the pointer on, while it consists of over half the land of the United States, it only has 14 percent of the water in the United States. We do not have much rainfall in the West. In the East, people sue each other to shove water, make sure that water is diverted over to their neighbor's property.

In the West, out in the West, life is written in water. Water is like blood in the West. We are an arid region. I had not seen a heavy rain until I came East. Our rain in Colorado is cold and does last a long time. Once in awhile we get some heavy storms, but generally we do not get much rain. We depend very heavily in the West on water storage because for about 6 to 8 weeks, we get all of the water we could possibly ask for generally, and that is in the spring runoff as the high snows begin to melt and come down. But the rest of the year we do not have that kind of water. Even that 6 weeks, it is not on a consistent basis. Some years we have more snow, and some years we have less snow.

So in the West, we are dependent on water storage. In the West we have Hoover Dam with Lake Mead and we have the Glen Canyon Dam with Lake Powell that provides 80 percent of our water storage. Our water storage is necessary to get us from year to year. It is not nearly as critical in the East as it is in the West. In fact, primarily a lot of your water storage facilities in the East are flood control. You have got much water.

Our water storage facilities in the West are also flood control, but primarily utilized to store these waters. That is the difference between the East and the West. Let me tell you another difference between the East and the West, and that is public lands. Follow my pointer over here to the left. In the early days of our country, our population really was on the East Coast like this up in this area. And our Nation began to acquire through the Louisiana Purchase and the Missouri buys and things like that large chunks of land out here. In the East our political leaders decided as we grow this great Nation of ours, we have to figure out how to get ahold of this land and put people out on this land. You see back then, simply having a title, having a piece of paper that said you owned the land, it did not mean a hoot.

What you needed to do if you wanted to own the land is you needed to possess it probably with a six shooter on your side. That is where the old saying came from, "Possession is nine-tenths of the law."

So they came up with a problem, how do we influence people to move to the West? West being just Kentucky, out here in the Virginias. How do we get them to move west? Somebody came up with the idea, "Let's use the Homestead Act." So they came up with a problem, how do we influence people to move to the West? West being just Kentucky, out here in the Virginias. How do we get them to move west? Somebody came up with the idea, "Let's use the Homestead Act." So they came up with a problem, how do we influence people to move to the West? West being just Kentucky, out here in the Virginias. How do we get them to move west? Somebody came up with the idea, "Let's do what we did in 1776." What did they do in 1776? We all remember that. What did they do in 1776? Believe it or not, the government decided that instead of just giving land to deserters, or people who will defect, soldiers who will defect from the British army. As a reward we'll give them land if they will be defectors. So let's deploy the same type of strategy, not for defectors but since land seemed to work pretty well then, let's give away land. Let's tell people that if they move to the West, we will give them 160 acres. We'll call it the Homestead Act.

Here is kind of a demonstration of it. Here is kind of a demonstration of it. In 1862, this is later on, because for a while, we could not get the Homestead Act because the North and the South were constantly fighting because they did not want too much of a population in one area that might go slavery or might be opposed to slavery. But in 1862 the U.S. Congress passed the first of many homestead laws that opened settlement of the West. The law provided that anyone was entitled, either the head of a family, 21 years old or a veteran of 14 days of active service in the U.S. Armed Forces, and who was a citizen or had filled a declaration intending to become a citizen could acquire a tract of land in public domain not occupied by the United States or by state or federal owned lands in all the States except the original 13, Maine, Vermont, West Virginia, Kentucky, Tennessee and Texas. The land was often desolate without trees, wood or adequate water. As a reward we'll give them land if they will be defectors. So let's deploy the same type of strategy, not for defectors but since land seemed to work pretty well then, let's give away land. Let's tell people that if they move to the West, we will give them 160 acres. We'll call it the Homestead Act.

Third Congressional District of Colorado. This is the highest point in the United States right here. As a result, we have got too much water. In fact, primarily we are flood control, but primarily utilized to store these waters. That is the difference between the East and the West as it is in the West. In fact, primarily a lot of your water storage facilities in the East are flood control. You have got much water. Our water storage facilities in the West are also flood control, but primarily utilized to store these waters.

Well, there happened to be a problem. As people began to come out here, they took up the efforts of homesteading and they settled. They're either turning back and going back into the main part of the United States or they're trying to go up and around and come out here on the coast of California where you see this large white patch, but they are not settling in this area. That set off alarm bells in Washington.

Remember what I said. In order for us to grow this Nation, we had to have people in possession. So this great Nation of ours that owned these large, public lands, owners as I said here but nobody was on them to defend them. Nobody was possessing them. So in Washington, the alarm bells went off. We have got to get people into these lands. Somebody said, well, 160 acres in eastern Colorado or Nebraska of Kansas or out here in Missouri, 160 acres is enough to support a family.

They said, well, in the mountains, at those high elevations, in a lot of cases, 160 acres, it won't even feed a cow. What do we do? Somebody says, I'll tell you what we do. Let's give the people 3,000 acres. Let's give them several thousand acres, compared to the 160 acres where the ground is much more fertile and where you can support a family.

Somebody else said, we can't do that politically. There's no way that we can give individuals thousands of acres each. Somebody else came up with an idea and they said, you know what we are going to do, just for formality, let's go ahead and keep the title to all this land in the Federal Government, let's just allow the people to use the land. That is where the concept of public lands came from, and that is where the concept of multiple use came from and that is where the sign that I grew up with, when I would go into the forest or Federal lands and, by the way, in my district almost every community in my district is completely surrounded by public lands, when we went on those public lands, there was a large sign there. "You are now entering the Roosevelt National Forest, a land of many uses." A land of many uses. That is just what I have here to the left of my chart.

What has happened is of late, we have organizations like the National Sierra Club who would like to take down the water storage project at Lake Powell which consists of about 40 percent of our water storage in the West. We have groups like Earth First that are coming out and trying to educate people out here in the East that in the West all this land, the reason it was never put into private ownership was so that
it could be conserved for all future generations and not to be used by the people in the West and really we ought to get rid of the concept of multiple use.

What they do not tell you is there were some lands, like right up there, the great Yellowstone National Park, Teton National Park, fabulous areas. Everybody should go see those areas. Those were set aside specifically as national parks and so on. But this land out here was never intended to be a land with a no trespassing sign on it. It was thought to be a land that could support life, a land of which the people could have multiple uses, whether it was recreation, whether as we know today protection of the environment, whether it was farming or skiing or having a highway or having a power line or having your home or being able to go fishing, or just watch, be a wildlife watcher. That is a big difference between the East and the West.

In the East they do not know what public land is in a lot of States. In the East not a lot of people understand the issues and the differences between water in the East and water in the West. In the East if you are going to build a power line or something like that, you go to your county planning board. Here in the West, our planning board is right back here in Washington, D.C. So you can see why the people of the West get a little sensitive when people in the East start dictating the terms of which the people in the West must live under.

And so my purpose here tonight, after my discussion last night, was not an attack on the East obviously, but to help my dear colleagues from the East, so that you can talk to your constituents and say, you know, life in the West really is different. I mean, they are Americans, we are one country, but we need to take into consideration the fact that in the West, they deal with much different geographic differences, or elevations even, than we do in the East. And as you begin to look at those things, as you begin to hear our side of the story in the West, a lot of you things, as you begin to look at those differences and the differences between the East and the West really is different. I mean, they need to take into consideration the different public lands and private lands. We need to take into consideration the different water issues of the West, compared with the water issues of the East. We need to take into consideration the fact that in the West, they deal with much different geographic differences, or elevations even, than we do in the East.

And as you begin to look at those things, as you begin to hear our side of the story in the West, a lot of you things, as you begin to say, wow, I did not realize that. I did not know that. Gosh, that map that you showed us this evening really does show something that we ought to think about, something we ought to consider when we make legislation off this fine floor of the House of Representatives.

So my purpose again to reiterate tonight is simply to demonstrate that there are differences that we must consider when we have legislation dealing with everything from water to public lands.

Mr. Speaker, let me very quickly end my remarks as I started my remarks, and, that is, I wish to honor this evening four firefighters who lost their lives yesterday in service to their communities. Those firefighters were Tom L. Craven, 30 years old, of Ellensburg; Karen L. Fitzpatrick, 18 years old, of Yakima; Devin A. Weaver, Devin was 21 years old, of Yakima; and Jessica L. Johnson, who was 19 years old, of Yakima.

If some of you colleagues have just come in towards the end of my remarks, let me tell you that 2 days ago, these four young people were called to service to fight a fire, a fire that started at five acres and within minutes moved to 2,500 acres. From five to 2,500. These firefighters and some of the others that managed to survive on that fire experienced the horror every firefighter has, the bad dream that every firefighter has, and that is called a blowout. These four people fit the classification of the definition of the word hero as we see it in our dictionary, as we feel it in our mind, as we think about it in our emotions.

In my concluding remarks tonight, I would ask that this body and every citizen in America, all your constituents, extend their sympathies and their prayers to the families of these firefighters who lost their young loved ones, and also, it also gives us a little time for consideration. The next time you see a fireman, whether it is a volunteer fireman, professional fireman, a police officer, an EMT or just the local volunteer from the community that helps us take on the battle of fires which we face every summer, pat them on the back, tell them thanks, tell them we care about them.

But tonight, colleagues, before you go to sleep, if you say prayers, and I do, if you say prayers, say just a little prayer for those firefighters who gave their lives in the last 24 hours as the duty of their Nation called.

They answered that call. They fulfilled their duty and they are now part of history. I ask for your consideration and your prayers.

RECESS

The SPEAKER pro tempore (Mr. KOEHLER) Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 31 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DEERE) at 1 o'clock and 23 minutes a.m.
CONGRESSIONAL RECORD—HOUSE

July 11, 2001

Mr. HORN, for 5 minutes, today.

Mr. WELDON of Florida, for 5 minutes, today. (The following Member (at his own request) to revise and extend his remarks and include extraneous material):

Mr. WAXMAN, for 5 minutes, today.

ADJOURNMENT

Mr. REYNOLDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o’clock and 25 minutes a.m.), the House adjourned until Thursday, July 12, 2001, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:

2817. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen-

2818. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen-

2819. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department’s final rule—Application

2820. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen-

2821. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department’s final rule—Availability

2822. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department’s final rule—Availability

2823. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department’s final rule—Availability

2824. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department’s final rule—Availability

2825. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department’s final rule—Availability

2826. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department’s final rule—Availability

2827. A letter from the Head, Regulations and Legislation Branch, Administrative Law Division, Department of the Navy, transmitting the Department’s final rule—Availability

2828. A letter from the Secretary, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2829. A letter from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2830. A letter from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2831. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen-

2832. A letter from the Acting Director, Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2833. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen-

2834. A letter from the Acting Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule—Approval and Promotion of Implementation Plans; Georgia: Approval of Revisions to Georgia State Implementation Plan (GA–47; GA–52; GA–55; 200111; FRL–7031–1) received July 4, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2835. A letter from the Assistant Secretary for Budget and Administration, Department of State, transmitting annual report covered by section 655 of the Foreign Assistance Act of 1961, pursuant to Public Law 104–164, section 655 (15 U.S.C. 168a–3) to the Committee on International Relations.

2836. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2837. A letter from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2838. A letter from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2839. A letter from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2840. A letter from the Acting Director, Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2841. A letter from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

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CONGRESSIONAL RECORD—HOUSE

July 11, 2001

13054

301312013-1160-65; I.D. 064101A (RIN: 0641- A02) received July 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2845. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Department’s final rule—Safe Zone: Fisheries of the Northeastern United States: Spiny Dogfish Fishery; Commercial Quota Harvest for Period 1 [Docket No. 010319071-1103-02; I.D. 061501C] received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2846. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration’s final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Bycatch Rate Standards for the Second Half of 2001 [I.D. 053101F] received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2847. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Safety Zone: Fireworks Display, Hyannis, MA [CGD01-01-090] (RIN: 2115-AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2848. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Safety Zone: Festa Italiana 2001, Milwaukee Harbor, Wisconsin [CG09-01-043] (RIN: 2115-AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2849. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Safety Zone: Cleveland, OH [CG09-01-033] (RIN: 2115-AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2850. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Safety Zone: Kewaunee Annual Trout Festival, Kewaunee Harbor, Lake Michigan, WI [CGD09-01-045] (RIN: 2115-AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2851. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Safe Zone: Lake Erie, Huron, OH [CGD09-01-057] (RIN: 2115-AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2852. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Safe Zone: Milwaukee Harbor, Milwaukee, WI [CGD09-01-059] (RIN: 2115-AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2853. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Safe Zone: Lake Erie, Huron, OH [CGD09-01-062] (RIN: 2115-AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2854. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Safety Zone: Muskegon, Lake, Muskegon, MI [CGD09-01-008] (RIN: 2115-AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2855. A letter from the Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Safety Zone: Northern Great Lakes Offshore Grand Prix, Lake Erie and Cleveland Harbor, Cleveland, OH [CGD09-01-033] (RIN: 2115-AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2856. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Safety Zone: Swampspect July 2nd Fireworks, Swampspect, Massachusetts [CGD1-01-089] (RIN: 2115-AA97) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2857. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Davidbridge Operating Regulation; Sabine Lake Texas [CGD39-01-031] received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2858. A letter from the General Counsel, Department of Transportation, transmitting the Department’s final rule—Disaster Assistance; Debris Removal [RIN: 3067-AD68] received July 7, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

By Mr. BOEHLERT: Committee on Science, H.R. 100. A bill to establish and expand programs relating to science, mathematics, engineering, and technology education, and for other purposes; with an amendment (Rept. 107-133 Pt. 1). (July 12 (legislative day of July 11), 2001)

By Mr. REYNOLDS: Committee on Rules. House Resolution 189. Resolution providing for consideration of the bill (H.R. 2356) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform (Rept. 107-135). Referred to the House Calendar. (July 12 (legislative day of July 11), 2001)

By Mr. LINDER: Committee on Rules. House Resolution 188. Resolution providing for consideration of the bill (H.J. Res. 36) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States (Rept. 107-136). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Education and the Workforce discharged further consideration H.R. 100 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

Pursuant to clause 2 of rule XII the Committee on Education and the Workforce discharged further consideration. H.R. 1858 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 100. Referral to the Committee on Education and the Workforce extended for a period ending not later than July 11, 2001.

H.R. 1858. Referral to the Committee on Education and the Workforce extended for a period ending not later than July 11, 2001.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BURTON of Indiana (for himself and Mrs. MORELLA): H.R. 2845. A bill to provide that Federal employees may retain for personal use promotional items received as a result of travel taken in the course of employment; to the Committee on Government Reform.

By Mr. CANNON (for himself, Mr. BISHOP, Mr. WHITFIELD, Mr. RADANO-VICH, Mr. LEWIS of Kentucky, Mr. HUTCHINSON, Mr. GOODE, Mr. SHIMKUS, Mr. PICKERING, Mr. McHugh, Mr. SAXTON, Mr. JENKINS, Mr. GREEN of Georgia, Mr. HO'S, Mr. KELLER, Mr. PUTNAM, Mr. GRAM, and Mr. Sweeney): H.R. 2457. A bill to amend the Immigration and Nationality Act to impose a limitation on the wage that the Secretary of Labor may require an employer to pay an alien who is an H-2A nonimmigrant agricultural worker; to the Committee on the Judiciary.

By Mr. TURNER (for himself, Ms. HARMAN, Mr. SANDLIN, Mrs. McCARTHY of New York, Mrs. TAUSCHER, Mr. SCHUPP, Mr. MORA of Virginia, Mrs. CAPPS, Mr. DOOLEY of California, Mr. MCINTYRE, Mr. KIND, Mr. CRAMER, Mr. TANNER, Mr. STEENHOLM, Mr. THOMPSON of California, Mr. FOUNT, Mr. MOORE, Mr. CARSON of Oklahoma, Mr. ROSS, Mr. DAVIS of Florida, Mr. SMITH of Washington, Mr. ESCH, Mr. EBERHOLD, Mr. BOWEY, Mr. BROWIAM, Mr. BENTSEN, Mr. EDWARDS, Mr. WU, Ms. HOOLEY of Oregon, Mr. MILL, Mr. LAMMON, Mr. FRICK of North Carolina, Mr. DOGGETT, Mr. HOLT, Mr. LARSON of Connecticut, Mrs. THURMAN, and Mr. GREEN of Texas): H.R. 2458. A bill to enhance the management and promotion of electronic government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing requirements of measures that require using Internet-based information technology to enhance citizen access
congressional record—house

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to government information and services, and for other purposes; to the Committee on Government Reform.

by Mr. Kucinich (for himself, Mr. Conyers, Mr. Lewis of Georgia, Mr. Hinchey, Mr. Balcar, Ms. Lee, Mr. Ewing, Mrs. Wolf, Mrs. Maloney of New York, Mr. Udall of Colorado, Mr. Brown of Ohio, Ms. Solis, Mr. Parker of California, Mrs. Jones of Ohio, Mr. Stark, Ms. McKinney, Mr. Jackson of Illinois, Mr. Payne, Mr. Sanders, Ms. Jackson-Lee of Texas, Mr. Filner, Mr. Davis of Illinois, Ms. Velázquez, Mr. DeFazio, Mr. Gutiérrez, Mr. Honda, Ms. Owens, Mr. Evans, Ms. Schakowsky, Mr. Towns, Ms. Carson of Indiana, Mr. Serrano, Mr. Baird, Mr. Holt, Mr. McGovern, Ms. Waters, and Mr. Scott). H.R. 2459. A bill to establish a Department of Peace; to the Committee on Government Reform, and in addition to the Committees on International Relations, the Judiciary, and Government Reform. H.R. 2460. A bill to direct the Office of Energy and the Environment of the Department of Energy and of the Office of Air and Radiation of the Environmental Protection Agency, and for other purposes; to the Committee on Science.

by Mr. Boehner:

H.R. 2460. A bill to authorize appropriations for environmental research and development, identification of energy for development, and demonstration, and commercial application of energy technology programs, projects, and activities of the Department of Energy of the Office of Air and Radiation of the Environmental Protection Agency, and for other purposes; to the Committee on Science.

by Mr. Brady of Pennsylvania:

H.R. 2462. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion from gross income for that portion of a governmental pension received by an individual which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year; to the Committee on Ways and Means.

by Mr. Brady of Texas:

H.R. 2463. A bill to provide limits on contingency fees in health care liability actions; to the Committee on the Judiciary.

H.R. 2464. A bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for contributions to candidates for Federal office; to the Committee on Ways and Means.

by Mr. Bryant (for himself and Mr. Hilliard): H.R. 2465. A bill to amend the Appalachian Regional Development Act of 1965 to add Hickman, Lawrence, Lewis, Perry, and Wayne Counties, Tennessee, to the Appalachian Regional Commission on Transportation and Infrastructure.

by Mr. Coble (for himself, Mr. Ehrlich, Mr. Goss, Mr. Bair of Georgia, Mr. Collins, Mr. Hensley, Mrs. CUHLEN, Mr. Culherson, Mr. Otter, Mr. Tierney, Mrs. Biggers, Mr. Hilliard, and Mr. Bachus): H.R. 2466. A bill to amend the avalanche control act (P.L. 89-954), United States Code, to permit an individual to operate a commercial motor vehicle solely with

in the borders of a State if the individual meets certain minimum standards as prescribed by the State, and for other purposes; to the Committee on Transportation and Infrastructure.

by Mr. Coble:

H.R. 2467. A bill to suspend temporarily the duty on [3,3′-Bianthra(1,8-c-diazapine)-6,6′(1H,1′-dione)-1,1′-diethyl]-1H-benzo[d]imidazole; to the Committee on Ways and Means.

by Mr. Coble:

H.R. 2468. A bill to extend the suspension of duty on 3-amino-2(oxalato-ethyl) sulfonyl)benzenemethanone-3-carboxaldehyde, to the Committee on Ways and Means.

by Mr. Coble:

H.R. 2469. A bill to extend the suspension of duty on MUB 738 INT to the Committee on Ways and Means.

by Mr. Coble:

H.R. 2470. A bill to extend the suspension of duty on 5-amino-N(2-hydroxyethyl)-2,3xyleneisulfonamide; to the Committee on Ways and Means.

by Mr. Coble:

H.R. 2471. A bill to extend the suspension of duty on 2-amino-5-nitrothiazole; to the Committee on Ways and Means.

by Ms. Jackson:

H.R. 2472. A bill to protect children from unsolicited e-mail smut containing sexually oriented advertisements offensive to minors; to the Committee on Science, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

by Mr. Kildee of Michigan:

H.R. 2473. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for election for Federal office, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

by Mr. Rohrabacher:

H.R. 2474. A bill to amend the Immigration and Nationality Act to specify that imprisonment for reentering the United States after removal subsequent to a conviction for a felony shall be a sentence of a felony for a second offense in a manner that makes the second offense less serious than the original felony; to the Committee on the Judiciary.

by Mr. Rohrabacher:

H.R. 2475. A bill to provide for the distribution to coastal States and counties of revenues collected under the Outer Continental Shelf Lands Act; to the Committee on Resources.

by Mr. Sanders (for himself, Mr. McGovern, Mr. Allen, Mr. Baldacci, Mr. Bishop, Mr. Blagojevich, Mr. Boucher, Mr. Conyers, Mr. Crowley, Mr. DeFazio, Mr. Delahunt, Mr. Evans, Mr. Filner, Mr. Ford, Mr. Frank, Mr. Hinchey, Mr. Lantos, Ms. Lee, Ms. McCarthy of Missouri, Ms. McNulty, Mr. Millender-McDonald, Mr. Ms. McCarthy of New York, Mrs. Mink of Hawaii, Mrs. Napolitano, Mr. Oliver, Mr. Owens, Mr. Pascrell, Mr. Payne, Ms. Schakowsky, Mr. Slaughter, Mr. Waxman, and Mr. Weiner):

H.R. 2476. A bill to amend the Higher Education Act of 1965 to increase the funds available for the provision of student financial assistance, and for other purposes; to the Committee on Education and the Workforce.

by Ms. Waters:

H.R. 2477. An amendment to title 49, United States Code, to prohibit the expansion of the passenger or cargo capacity of any airport that is located in a county with a population of more than 9,000 and that has the capacity to serve 8,000,000 more air passengers annually; to the Committee on Transportation and Infrastructure.

by Ms. Woolsey (for herself, Mr. Flener, Mr. Sanders, Ms. McKinney, Mr. Horfield, Mr. Thompson of Mississippi, Mr. Payne, Mr. Baird, Mr. Baca, Mr. Baldacci, Mr. Rivers, Mr. Blumenauer, Mr. Lantos, Mrs. Mink of Hawaii, Mr. Wu, Mr. Honda, and Mr. Udall of Colorado):

H.R. 2478. A bill to establish a balanced energy program for the United States that unlocks the potential of renewable energy and energy efficiency, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Science, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

by Mr. Young of Alaska:

H.R. 2479. A bill to ratify an agreement between The Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for land interests on Adak Island, and for other purposes; to the Committee on Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

by Ms. Walden of Oregon:

H. Res. 187. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

additional sponsors

under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. Culver, Mr. Norwood, and Mr. Wicker.

H.R. 13: Mr. Rohrabacher.

H.R. 17: Mr. Kucinich and Mr. Owens.

H.R. 31: Mr. Bishop.

H.R. 91: Mr. Schaffer.

H.R. 116: Ms. Solis, Mr. Crowley, Mr. Clay, Mr. Hoyn, Ms. Schakowsky, and Mr. Horfield.

H.R. 150: Mr. Green of Wisconsin.

H.R. 169: Mrs. Mink of Hawaii.

H.R. 218: Mr. Davis of Illinois and Mr. Hall of Ohio.

H.R. 303: Mr. Jackson of Illinois and Mr. Lantos.

H.R. 325: Mr. Blumenauer and Mr. Skelton.

H.R. 368: Mr. Pence.

H.R. 369: Mr. Pence.

H.R. 469: Ms. Watson.

H.R. 510: Mr. Bishop.

H.R. 526: Mr. Ortiz, Mr. Spratt, Mr. Gutierrez, and Mr. Borski.

H.R. 600: Mr. Ross and Mr. Reyes.

H.R. 612: Mr. Hillardary and Mr. Costello.

H.R. 635: Mr. Kucinich.

H.R. 664: Mr. Thompson of Mississippi, Mr. Shows, Ms. Watson, and Ms. Millender-McDonald.

H.R. 678: Mr. Baird.

H.R. 690: Mr. Biondi.
CONGRESSIONAL RECORD—HOUSE

July 11, 2001

H.R. 716: Mr. Rothman.
H.R. 717: Mr. Deutsch.
H.R. 721: Mr. Larsen of Washington, Mr. Quinn, Mr. Edwards, and Ms. Berkley.
H.R. 776: Mr. Pelosi.
H.R. 781: Mr. Cramer and Mr. Wynn.
H.R. 817: Mr. Hoefelf, Mr. Brown of Ohio, Ms. Boyce of Ohio, Mr. Dicks, and Mr. Weldon of Florida.
H.R. 839: Mr. Owens.
H.R. 862: Mr. Manzullo.
H.R. 958: Ms. McCarthy of New York, Mr. Thune, Mr. Davis of Illinois, Mr. LaHood, and Ms. Eshoo.
H.R. 902: Mr. McIntyre.
H.R. 917: Ms. Solis.
H.R. 918: Mr. Cardin, Mr. Weiner, and Mrs. Napolitano.
H.R. 933: Mr. Watt of North Carolina.
H.R. 950: Mr. Goodlatte.
H.R. 951: Mr. Rush, Mrs. Bozek, Mr. Scott, Mr. McDermott, Mr. Meehan, Ms. McKinney, Mr. Taylor of North Carolina, Mr. Owens, and Mr. Etheridge.
H.R. 968: Mr. Turner, Mr. Reyes, and Mr. Kehoe.
H.R. 975: Mr. Watt of North Carolina.
H.R. 1007: Mr. Horn, Mrs. Tauscher, Ms. Schakowsky, Ms. McCollum, Mr. Rush, Mr. Hall of Ohio, Mr. Weiner, and Mr. Calvert.
H.R. 1010: Mr. Peterson of Illinois, Mr. Clyburn, Mr. Stark, and Mr. Farr of California.
H.R. 1032: Ms. Pelosi, Mr. Sanders, and Mr. McDermott.
H.R. 1038: Mr. Delahunt.
H.R. 1073: Mr. Thompson of California, Mr. Deal of Georgia, Mr. McDermott, Mr. Hefley, Mr. Moore, Mr. Ortiz, and Ms. Watson.
H.R. 1086: Mr. DeFazio.
H.R. 1097: Mr. Allen.
H.R. 1110: Mr. Chambliss.
H.R. 1111: Mr. Rush, Ms. Lofgren, Mr. Horn, Mr. Smith of Washington, and Mr. Cardin.
H.R. 1136: Mr. Calvert, Mrs. Thurman, Mr. Wexler, Mr. Nussle, Mr. Schiff, and Mr. Sandlin.
H.R. 1146: Mr. Hefley and Mr. Sessions.
H.R. 1155: Mr. Rush, Mr. McDermott, Mr. Markey, Mr. Kaptur, Mr. Davis of Illinois, Ms. Eddie Bernice Johnson of Texas, Mrs. Meek of Florida, and Mr. Toomey.
H.R. 1171: Mr. Kennedy of Minnesota.
H.R. 1194: Mr. Coyne, Mr. LoBiondo, Mr. Waxman, and Mr. Kucinich.
H.R. 1263: Mr. Latham.
H.R. 1266: Mr. Issa.
H.R. 1273: Mr. Spence, Ms. Hart, Mr. Ryun of Kansas, and Mr. Goodlatte.
H.R. 1296: Mr. Tierney.
H.R. 1269: Mr. Mitchell, Mr. Ryun of Kansas, Mr. Paschke, and Ms. Eddie Bernice Johnson of Texas.
H.R. 1298: Mr. Neal of Massachusetts and Mr. Matsui.
H.R. 1314: Mr. Baird.
H.R. 1336: Mr. Kucinich and Ms. Lee.
H.R. 1377: Mr. Norwood, Mr. Scarborough, Mr. LaTourette, Mr. Larson, Mr. Gilchrest, Ms. Jenkins, and Mr. Bryant.
H.R. 1401: Mr. English, Mr. Gilchrest, Mr. LaHood, Ms. Roybal-Allard, and Mr. Peterson of Pennsylvania.
H.R. 1403: Mr. DeFazio, Ms. Norton, Ms. McCollum, Mr. Brown of Ohio, Mr. Brady of Pennsylvania, Ms. Schakowsky, and Mr. McDermott.
H.R. 1427: Ms. Jackson-Lee of Texas.
H.R. 1433: Ms. McCollum and Mr. George Miller of California.
H.R. 1435: Mrs. McCarthy of New York, Mr. Fost, Mr. Jefferson, Mr. Paleologuas, Mr. Bonior, Mr. Hoyer, Mr. Bacon, Ms. Bucak, Ms. McKinney and Mr. Honda.
H.R. 2172: Ms. Eshoo, Mr. Towns, Mr. Langevin, and Mr. Wu.
H.R. 2206: Mr. Bonior.
H.R. 2207: Mr. Meeks of Florida and Mrs. Tauscher.
H.R. 2221: Mr. McGovern, Mr. Filner, Mr. Rush, Mr. Nadler, and Mr. George Miller of California.
H.R. 2249: Mr. Isakson and Mr. Manzullo.
H.R. 2283: Mr. Udall of New Mexico, Mr. Rodriguez, Mr. Brady of Pennsylvania and Ms. Woolsey.
H.R. 2288: Ms. Schakowsky and Mr. Price of North Carolina.
H.R. 2348: Mr. Dicks, Mr. Kildee, Mr. Baird, Ms. Lofgren, and Mr. Rodriguez.
H.R. 2349: Ms. DeLauro and Ms. Lofgren.
H.R. 2355: Ms. Woolsey and Mr. LaHood.
H.R. 2359: Mr. Pelosi.
H.R. 2360: Mr. McKinney, Ms. Lofgren, and Mr. English.
H.R. 2373: Mr. Neal of Massachusetts, Ms. Rivers, and Mr. Sабо.
H.R. 2377: Mr. Hastings of Florida.
H.R. 2379: Mr. McGovern, Mr. Gutierrez, Mr.wynn, Mr. Fost, Mr. Rangel, and Mrs. Jones of Ohio.
H.R. 2390: Mr. Sam Johnson of Texas and Mr. Lewis of Kentucky.
H.R. 2413: Mr. Kucinich and Ms. Woolsey.
H.R. 2417: Mr. Watkins and Mr. Herger.
H.R. 2423: Mr. Moran of Kansas.
H.R. 2436: Mr. Peterson of Pennsylvania.
H.R. 2452: Ms. Eshoo.
H.R. 2456: Mr. Brady of Pennsylvania.
H.R. 2457: Mr. Baker, Mr. Combest, and Mr. Hefley.
H.R. 2508: Mr. Jones.
H.R. 2687: Mr. Barrett and Mr. Gilchrest.
H.R. 2697: Mr. Green of Wisconsin.
H.R. 2703: Mr. Conyers.
H.R. 2722: Mr. Tiberi, Mr. Cummings, Mr. LaTourette, Mr. Levin, Mr. Capuano, Ms. Woolsey, Ms. Napolitano, Mr. Neal of Massachusetts, Mr. Green of Wisconsin, Mr. Gutierrez, Ms. Eshoo, and Ms. Waters.
H.R. 2749: Mr. Holden, Mr. Gutierrez, and Mr. Terry.
H.R. 2771: Mr. McNulty.
H.R. 2773: Ms. Kilpatrick, Mr. Sабо, Ms. Schakowsky, Mr. Rangel, Mr. McDermott, Mr. Harman, Mrs. Jones of Ohio, Mr. Wynn, Ms. Blagoejivich, Ms. Baldwin, Mr. Brady of Pennsylvania, Mr. Langevin, and Ms. Lofgren.
H.R. 2776: Mr. Hoyer, Mr. Sanders, Mr. Shimkus, Mr. Jenkins, Mr. Moran of Kansas, Mr. Etheridge, and Mr. Kucinich.
H.R. 2779: Mr. Quinn.
H.R. 2783: Mr. Quinn.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2330 Offered By: Mr. Baca

Amendment No. 31: Page 74, after line 21, insert the following new section:

SEC. 74. The amount otherwise provided by this Act in titles V, VI, and VII under the headline "AGRICULTURAL PROGRAMS—COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES" for an education grants program for Hispanic-serving Institutions (7 U.S.C. 2431) is hereby increased by $16,508,000.
H.R. 2356

OFFERED BY: MR. BENTSEN

AMENDMENT NO. 1: Amend section 308(a)(1) to read as follows:

(1) in subparagraph (A), by striking "$1,000" and inserting "$2,000"; and

H.R. 2356

OFFERED BY: MR. BENTSEN

AMENDMENT NO. 2: Strike subsections (a) and (b) of section 308 and insert the following:

(a) INCREASE IN LIMITS ON INDIVIDUAL CONTRIBUTIONS TO NATIONAL PARTIES.—Section 315(a)(1)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(B)) is amended by striking "$20,000" and inserting "$25,000".

(b) AGGREGATE INDIVIDUAL LIMIT.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)), as amended by section 102(b), is amended by striking "$30,000" and inserting "$25,000".

H.R. 2356

OFFERED BY: MR. TERRY

AMENDMENT NO. 3: Amend section 308 to read as follows:

SEC. 308. INCREASE IN CONTRIBUTION LIMITS.

(a) INCREASE IN INDIVIDUAL AND POLITICAL COMMITTEE CONTRIBUTION LIMITS.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "$1,000" and inserting "$3,000";

(B) in subparagraph (B), by striking "$20,000" and inserting "$60,000";

(C) in subparagraph (C), by striking "$5,000" and inserting "$15,000"; and

(2) in paragraph (3) (as amended by section 102(b))—

(A) by striking "$30,000" and inserting "$75,000"; and

(B) by striking the second sentence.

(b) INCREASE IN MULTICANDIDATE LIMITS.—Section 315(a)(2) of such Act (2 U.S.C. 441a(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "$5,000" and inserting "$7,500"; and

(B) by inserting "except as provided in subparagraph (D)," before "to any candidate";

(2) in subparagraph (B)—

(A) by striking "$15,000" and inserting "$30,000"; and

(B) by striking "or" at the end;

(3) in subparagraph (C), by striking "$5,000" and inserting "$7,500; or"; and

(4) by adding at the end the following:

"(D) in the case of a national committee of a political party, to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $15,000.";

(c) INDEXING.—Section 315(c) of such Act (2 U.S.C. 441a(c)) is amended—

(1) in paragraph (1)—

(A) by striking the second and third sentences;

(B) by inserting "(A)" before "At the beginning"; and

(C) by adding at the end the following:

"(B) Except as provided in subparagraph (C), in any calendar year after 2002—

"(i) a limitation established by subsection (a), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A); and

"(ii) each amount so increased shall remain in effect for the calendar year.

"(C) In the case of limitations under subsection (a), each amount increased under subparagraph (B) shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election."; and

(2) in paragraph (2)(B), by striking "means the calendar year 1974" and inserting "means—

"(i) for purposes of subsections (b) and (d), calendar year 1974; and

"(ii) for purposes of subsections (a) and (h), calendar year 2001".

(d) INCREASE IN SENATE CANDIDATE CONTRIBUTION LIMITS FOR NATIONAL PARTY COMMITTEES AND SENATORIAL CAMPAIGN COMMITTEES.—Section 315(h) of such Act (2 U.S.C. 441a(h)) is amended by striking "$17,500" and inserting "$90,000".

(e) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to calendar years beginning after December 31, 2001.

(2) the amendments made by subsection (c) shall apply to calendar years after December 31, 2002.

"(i) a limitation established by subsection (a), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A); and

"(ii) each amount so increased shall remain in effect for the calendar year.

"(C) In the case of limitations under subsection (a), each amount increased under subparagraph (B) shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election."; and

(2) in paragraph (2)(B), by striking "means the calendar year 1974" and inserting "means—

"(i) for purposes of subsections (b) and (d), calendar year 1974; and

"(ii) for purposes of subsections (a) and (h), calendar year 2001".

(d) INCREASE IN SENATE CANDIDATE CONTRIBUTION LIMITS FOR NATIONAL PARTY COMMITTEES AND SENATORIAL CAMPAIGN COMMITTEES.—Section 315(h) of such Act (2 U.S.C. 441a(h)) is amended by striking "$17,500" and inserting "$90,000".

(e) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to calendar years beginning after December 31, 2001.

(2) the amendments made by subsection (c) shall apply to calendar years after December 31, 2002.
INDIA, RUSSIA AGREE ON $10 BILLION IN DEFENSE CONTRACTS

HON. DAN BURTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. BURTON of Indiana. Mr. Speaker, on June 4, the Information Times reported that India and Russia have signed $10 billion worth of defense contracts. This is not good for American interests in the world or for the cause of freedom.

Much has been written lately about the Indian Government’s desire to improve its relations with the United States. However, we must not forget that India just recently voted to oust the United States plan from the UN Human Rights Commission. It supported a Chinese bid to table our resolution condemning Chinese human-rights violations. In May 1999, according to the Indian Express, Defense Minister George Fernandes convened a meeting with the ambassadors to India from Cuba, Communist China, Libya, Yugoslavia, and Russia to construct a security alliance “to stop the U.S.” India was an ally of the former Soviet Union and publicly supported its invasion of Afghanistan.

Mr. Speaker, America’s national interests are best served by seeing new allies in south Asia. The best way to achieve that is to support the legitimate aspirations for freedom of the occupied and oppressed nations of South Asia such as Khalistan, Kashmir, Nagalim, and several others by means of a free and fair plebiscite under international supervision on the question of independence. Until India allows that democratic vote and permits all the minorities and every citizen to exercise their rights freely, we should cut off all aid to India. That should focus their attention on practicing democratic principles, not on grabbing every available military technology in pursuit of hegemony in South Asia. These are the best measures we can take to support the cause of freedom in the Indian subcontinent.

Mr. Speaker, I would like to place the Information Times article of June 4 into the RECORD.

India, Russia Sign About 10 Billion Dollars Defense Contracts

Russia, 4 June 2001 (VOA): India and Russia have signed defense contracts worth some $10 billion as the two countries seek to increase their military cooperation.

The signing came during a visit to Russia by Indian Foreign Minister Jaswant Singh. Singh arrived in Moscow late Sunday for a series of meetings with Russian officials that will also focus on the United States’ proposal for a national missile defense system.

Russia opposes the plan, while India has indicated it is open to the idea.

Among the agreements already concluded are major Indian purchases of Russian Su-30MKI fighter jets and T-90 tanks.

Russian Deputy Prime Minister Ilya Klebanov says the two countries will sign an agreement later this year to jointly develop a military transport aircraft and a next-generation fighter plane. Klebanov says contracts for the sale of a Soviet-era aircraft carrier to India will be signed later this year.

India has traditionally been one of the largest customers for Russian weapons.

RECOGNITION OF THE VETERANS OF WORLD WAR II

HON. MICHAEL FERGUSON
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. FERGUSON. Mr. Speaker, in recent years there has been an increased movement to recognize veterans of World War II. Despite improved awareness, there are many veterans whose heroic efforts to preserve this great country are still overlooked. Accordingly, we must continue to take greater strides to demonstrate the appreciation and gratitude these loyal Americans deserve for the sacrifices they made.

During World War II, tens of thousands of U.S. POWs were captured and either killed under unspeakable conditions or forced into slave labor for Japanese companies. After the United States surrendered its forces on the Bataan Peninsula, Philippines in early 1942, the infamous 60-mile Bataan Death March claimed the lives of hundreds of Americans. In fact, more than 14,000 American POWs perished from disease, starvation, injury, brutality or execution at an appalling 40 percent death rate that proved it was more deadly to be a prisoner of the Japanese than to fight in battle. The prisoners who survived the Bataan Death March were joined by other American prisoners who were taken at Corregidor and throughout the Pacific—Guam, Wake Island, and survivors of the sinking of the U.S.S. Houston.

Many words used to describe the conditions these American prisoners faced cannot do justice to the pain and suffering that they experienced. Upon arrival in Japan and Japanese-occupied territories such as Manchuria, they were sent to work as slaves for some of Japan’s richest companies, like Mitsubishi and Nippon Steel—companies that remain wealthy and powerful today.

The U.S. played an instrumental role in the discussions between German companies and their victims during the Holocaust litigation, and it is now time that our government extend the same gesture of gratitude and support for the POW veterans of World War II. As such, I am proud to voice my strong support for H.R. 1198, the “Justice for United States Prisoners of War Act of 2001”, introduced by Representatives Darla Rohrabacher (R-CA) and Michael Honda (D-CA).

I applaud Representatives Rohrabacher and Honda for their leadership in bringing these Japanese companies to justice on behalf of the well-deserving veterans who suffered and lost their lives. The bipartisan legislation will rightfully allow American POWs to sue Japanese companies in U.S. state or federal court for losses and injuries sustained during the time they were imprisoned and forced into slave labor. Moreover, the bill also provides that if Japan enters into peace settlement terms with another country more beneficial to that country than to the United States, those additional benefits will also be extended to the United States.

I believe our POWs, who have given years of their lives to serve the cruel interests of our wartime enemies should at least be allowed the opportunity to have their grievances redressed in an international court of law. As a nation, which has thrived because of the sacrifices of these brave men, we must do everything in our power to recognize and repay their courageous efforts.

We owe it to these POWs—both the survivors and those killed in action—who made immeasurable sacrifices for the brighter future of this great nation. We owe it to their families, who also made sacrifices by losing precious days, weeks and months with loved ones who were off serving, preserving the peace and freedom we have in this country today.

CONSECRATION OF FATHER JACOB ANGADIATH

HON. J. DENNIS HASTERT
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. HASTERT. Mr. Speaker, today, I would like to congratulate Father Jacob Angadiath, who will head up the newly created diocese in Chicago to serve Syro-Malabar Catholics in the United States and Canada. The consecration of Father Angadiath as bishop of the diocese will take place on July 1st.

Earlier this year, Pope John Paul II created the new diocese to serve the Syro-Malabarrians of North America. The Syro-Malabar Archiepiscopal Church is an Eastern Catholic Church with more than 3 million faithful, and they trace their roots to St. Thomas the apostle, who brought the Gospel to South ern India. Though the vast majority of Syro-Malabarrians live in India, about 75,000 live in North America, including about 7,000 in Chicago.

The creation of the new St. Thomas Syro-Malabar Catholic diocese of Chicago is truly a recognition by Pope John Paul II of this faithful community, which refers to itself as “oriental in worship, Indian in culture and Christian in religion.” It is the first Syro-Malabar diocese outside of India.

● This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
I want to again congratulate Father Angadiath, and wish him the best of luck as he takes on his new responsibilities as bishop. The St. Thomas Syro-Malabar Catholic diocese will provide a spiritual home for the Syro-Malabar Catholics outside of India, and it will be a wonderful addition to Chicago's many other religious communities.

CONGRATULATING STEVE SAMUELIAN

HON. GEORGE RADANOVICH
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Steve Samuelian for being presented with the Chair’s Award from the United Way of Fresno County (UWFC). The Chair’s Award is selected by the Chair of the Board of Directors of the UWFC, and is awarded to the board member who has demonstrated outstanding service to community improvement.

The main goal of the United Way is to maximize financial resources in order to build a healthier community while improving the quality of life. Steve’s exemplary service to the UWFC has helped advance the mission, values, and goals of the United Way. In addition to his work on the Board of Directors, Steve recruited and chaired the Leadership Giving Committee of the United Way of Fresno County. The Leadership Giving Committee is the group that recruits and handles major donors to the United Way of Fresno County. The amount of contributions to this committee has doubled under Steve’s guidance.

Steve serves on the Board of Directors of the Clovis District Chamber of Commerce and participates in the National Education Association’s Read Across America Program. He is also a member of the Resource Development Committee for the Fresno Leadership Foundation. In addition, Steve is actively involved in the Armenian-American community, and serves on the Board of Advisors for the Armenian Studies Program at California State University, Fresno.

Mr. Speaker, I want to congratulate Steve Samuelian for earning the United Way of Fresno County Chair’s Award. I urge my colleagues to join me in recognizing Steve Samuelian’s contributions and dedication to the community.

TRIBUTE TO COLONEL TIMOTHY M. DANIEL

HON. IKE SKELETON
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. SKELETON. Mr. Speaker, let me take this means to congratulate and pay tribute to Colonel Timothy M. Daniel, who recently retired from the United States Army Corps of Engineers where he served as Chief, Commander's Planning Group. He has distinguished himself, the Army, and our nation with dedicated service.

EXTENSIONS OF REMARKS

Colonel Daniel, originally from Wyoming, enlisted as a soldier in 1970. Following his tour of duty as a construction surveyor and instructor, he returned to the University of Wyoming where he graduated in 1975. He accepted a ROTC commission and reentered active duty in July 1975.

Colonel Daniel is a graduate of the engineer officer basic and advanced courses, Command and General Staff College. He holds a bachelor’s degree in International Relations. A master’s degree in Public Administration and attended Harvard University’s John F. Kennedy School of Government as a fellow in their national security program.

Prior to his assignment as Chief, Commander’s Planning Group, United States Army Corps of Engineers, he served as the Garrison Commander of the United States Army Garrison, Fort Leonard Wood, Missouri. His other commands include the 35th Engineer Battalion and company command at the United States Army Engineer Center, serving again at Fort Leonard Wood, Missouri.

Other assignments of Colonel Daniel include Long Range Planner, Strategic Plans and Policy Division, Office of the Chief of Staff for Operations and Plans at Headquarters, Department of the Army; Area Engineer for Israel; executive officer, 14th Combat Engineer Battalion, TRADOC Liaison Officer to the French Corps of Engineers, Angers, France; and Group Engineer, United States Army Artillery Group, Cakmakli, Turkey.

Mr. Speaker, Colonel Daniel has dutifully served our nation. As he prepares to spend more time with his wife Carol and his children, Thomas and Kelly, I know the members of the House will join me in expressing appreciation for his years of service.

IN HONOR OF ARTHUR MAYER, JR. WHO HAS BEEN ELECTED NATIONAL PRESIDENT OF THE BENEFICENT AND PROTECTIVE ORDER OF ELKS

HON. ROBERT MENENDEZ
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Arthur Mayer, Jr., who formally became President of the Benevolent and Protective Orders of Elks on Saturday, July 7, 2001. Mr. Mayer assumed his presidency at the 133rd Elks National Convention in Philadelphia, Pennsylvania.

Arthur Mayer, Jr. is a native of Bergenfield, New Jersey and has been an active member of the Bergenfield Elks Lodge #1477 for the past 35 years. In 1978, he was appointed District Deputy Grand Exalted Ruler for the Northeast District of New Jersey. He also served as President of the New Jersey Elks Association from 1985 to 1986. As President of the New Jersey Elks Association, he managed and supervised over 120 lodges throughout New Jersey.

The Benevolent and Protective Order of Elks of the United States of America is one of the largest fraternal organizations in the country. Currently, over 1.2 million men and women serve as members of this prestigious association. In the organization’s 132-year history, it has disbursed over $2 billion in goods and services for projects and civil programs that assist armed service veterans and students in over 2,000 communities nationwide.

As a result of his hard work and diligent efforts, Arthur Mayer, Jr. has helped improve the lives of thousands of families across the country.

Today, I ask my colleagues to join me in honoring Arthur Mayer, Jr. for his commitment to helping others and for his years of distinguished service at the Benevolent and Protective Order of Elks of the United States of America.

INTRODUCTION OF THE “QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR PROTECTION ACT OF 2001”

HON. ROB SIMMONS
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. SIMMONS. Mr. Speaker, I rise today with my colleague from Massachusetts, RICHARD NEAL, to introduce the “Quinebaug and Shetucket Rivers Valley National Heritage Corridor Protection Act of 2001.”

The bill would provide for the implementation of a management plan for the Corridor to protect resources critical to maintaining and interpreting the distinctive character of the Quinebaug and Shetucket Rivers Valley National Heritage Corridor.

Created by Congress in 1999, the Quinebaug-Shetucket Rivers Valley National Heritage Corridor (QSHC) encompasses about 695,000 acres in northeastern Connecticut and south-central Massachusetts.

Called “the Last Green Valley” in the sprawling metropolitan Boston-to-Washington, D.C. corridor, the QSHC has successfully assisted in the development and implementation of integrated cultural, historical, and recreational land resource management programs that has and will continue to retain, enhance and interpret these significant features. But much more needs to be done, which is why Mr. NEAL and I introduced this legislation.

The QSHC will embark on two very significant projects. The Green Valley Institute is an expansion of the successful natural resource education program that will serve as a key educational tool for the scores of volunteers who work on the municipal boards, committees and commissions making those important decisions regarding land use and natural resource conservation. The program will also provide much needed information in estate planning, forestland management, and technical assistance in GIS training and other important technology. The Green Valley Institute may be the single most important program that the QSHC can provide its 35 towns.

The other significant project is the planning and consideration of the Gateway Center proposed for I–395 in Thompson, Connecticut. Many entities in northeast Connecticut and south-central Massachusetts are looking to the
RECOGNIZING MISS ARKANSAS 2001  JESSIE WARD  

HON. MIKE ROSS  
OF ARKANSAS  
IN THE HOUSE OF REPRESENTATIVES  
Tuesday, July 10, 2001

Mr. ROSS. Mr. Speaker, it is with honor and great pride that I wish to recognize and congratulate the new Miss Arkansas 2001 Jessie Ward, who was crowned Saturday, June 16th, in Hot Springs, Arkansas. Jessie is a native of my hometown of Prescott, and I have watched her grow up since she was a little girl.

Jessie has always been a caring, talented, and hard-working young lady.

At her first press conference following her crowning as the new Miss Arkansas, Jessie said that during the competition she wanted to be different—to stand out, if you will—while remaining true to herself. I think it’s safe to say she succeeded. In the talent competition, she performed an energetic tap-dance routine to the world famous pop singer, Michael Jackson. Her performance earned her preliminary talent winner honors as well as the coveted $1,000 Coleman Dairy Talent Scholarship.

During an on-stage interview, Jessie explained to the crowd that she enjoys not only bass fishing with her father, but also a rather unique hobby, taxidermy. In her words, she said, “to me, taxidermy is an art form, and everyone needs a little art in their life.”

In addition to her hobby, Jessie is also co-authoring a book with her mother, Karen Ward, on perseverance, which is something I think we could all use a lesson on from time to time.

Jessie’s platform as a contestant, and now as Miss Arkansas, is School Violence Prevention Awareness, and she has spent the past three years traveling through Arkansas and Texas to promote this message. In her program, she stresses the importance of recognizing warning signs and being aware of safe reactions to potentially violent situations. Just recently, she has developed a scholarship program to reward graduating senior each year who exhibits dedication to his or her school and community.

Jessie is affiliated with the National Center for the Prevention of School Violence, and her goal, she says, is to rally the state and national governments for funding of preventative programs and to reach at least two schools in every school district in Arkansas with her school violence prevention message.

I know this is an issue that she cares very deeply about, and I want to applaud her for her interest and leadership in helping to make our schools and communities safer.

Jessie is currently completing undergraduate degrees in biology and radio, television, and film at the University of Arkansas at Little Rock. She plans to attend medical school and begin working in rural medicine—something that is very important to south Arkansas. She eventually hopes to establish herself as a medical correspondent in the national broadcast arena.

Again, I say to Jessie, “Congratulations. We’re proud of you, and we wish you all the best.”

HONORING WAIN JOHNSON  
OF CALIFORNIA  
IN THE HOUSE OF REPRESENTATIVES  
Tuesday, July 10, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor the retirement of Wain Johnson after his twenty years faithful dedication to Mariposa County. Mr. Johnson’s agricultural vision revised and shaped Mariposa County’s grape growing industry.

In March of 1981, Wain began working as the University of California Farm Advisor for Mariposa County. Wain is a past President of the Mariposa Wine Grape Growers Association. His impact on the grape growing industry, in Mariposa County has been great. Wain’s dream was for the county to become a premier grape growing and winemaking region. He helped Mariposa County realize this dream by educating the County’s grape growers, providing classes and seminars in viticulture to local farmers.

Mr. Speaker, I am pleased to pay tribute to Wain Johnson for his service to the people of Mariposa County. I urge my colleagues to join me in wishing him a long and happy retirement.

PERSONAL EXPLANATION  

HON. DENNIS MOORE  
OF KANSAS  
IN THE HOUSE OF REPRESENTATIVES  
Tuesday, July 10, 2001

Mr. MOORE. Mr. Speaker, on June 25, 2001, I inadvertently failed to record my vote on vote No. 4187, H. Res. 99. This motion to suspend the rules adopted a resolution that would urge the Administration to allow Hezbollah to allow Red Cross staff to visit four Israelis abducted by that group in Lebanon last year. I strongly support this resolution and intended to vote “aye.”

RECOGNITION OF FORT CHADBOURNE, COKE COUNTY, TEXAS  
HON. CHARLES W. STENHOLM  
OF TEXAS  
IN THE HOUSE OF REPRESENTATIVES  
Tuesday, July 10, 2001

Mr. STENHOLM. Mr. Speaker, I rise today to recognize Fort Chadbourne, which is located in Coke County, Texas. I commend local citizens, including Garland and Lana Richards, along with many others who have worked to preserve this important part of Texas history.

A part of the Texas Fort Trails, Fort Chadbourne was established in 1852 as one of eight frontier posts set up to provide settlers protection while venturing into the Indian Territory. It also provided a stage stop for the Butterfield Overland Mail Route. The Fort, which is listed in the National Registry of Historic Places, is open to the public for the first time in 120 years.

The Fort Chadbourne Foundation, established in 1999 to preserve and protect the Fort, is currently in the process of stabilizing the Fort ruins and also plans to restore four buildings. In addition, the Foundation has raised more than $1,000,000 and is pursuing funding through the Statewide Transportation Enhancement Program in order to establish a visitors center and museum. The center will enable visitors to learn the history of the Fort and the area.

I wish to include in the RECORD an excellent article by Preston Lewis, a free-lance writer based in San Angelo, that appeared in Sunday’s edition of The Dallas Morning News.

I know that many of my colleagues join me in recognizing the important historic preservation work at Fort Chadbourne.

[From The Dallas Morning News, July 8, 2001]

PIECES OF THE PAST, FORT CHADBOURNE  
PRESTON LEWIS  
PRESEVATION WORK IS COUPLE’S MISSION  
Tuesday, July 10, 2001

FORT CHADBOURNE, Texas—Fort until college did Garland Richards truly realize that not everyone grew up with a genuine frontier fort in the back yard.

Today the 49-year-old, sixth-generation Coke County rancher is opening up his back yard so that all of Texas can share his fascination with the ruins that provided his imagination such a captivating playground during his youth.

Mr. Richards’ mission—or possibly his obsession—is to preserve the history of Fort Chadbourne and to stop the deterioration of the remaining structures. Ultimately, he and his wife, Lana, hope to build a visitors center where travelers on U.S. Highway 277 between San Angelo and Abilene can stop for a break and a history lesson.

“Fort Chadbourne has been good to our family,” Mr. Richards said. “It’s been home. It’s been shelter under the storms and a place where you could keep your saddles dry. The historical value of Fort Chadbourne, which I took for granted for so many years, belongs not just to our family but to everyone.”

Through his personal research of books and of original source materials in Texas repositories and the National Archives, Mr. Richards estimates that about 6,000 soldiers were stationed at the fort during its brief life.
addition to those and the various other men and women who worked on the Fort Chadbourne fort site, a number of forts have been saved from being lost to history. Forts such as Fort Concho, a key fort in the American Civil War, have been preserved and restored to their former glory. Fort Chadbourne, which was established in 1867, was the site of a fort that served as a critical supply depot for the Union Army during the Civil War. Today, the site has been transformed into a historic park, where visitors can learn about the history of the fort and the soldiers who served there.

Mr. Richards has been a tireless advocate for the preservation of Fort Chadbourne. He has dedicated his life to preserving the fort's history and ensuring that it is available for future generations to visit and learn from. His efforts have been recognized by numerous awards and accolades, including the Presidential Volunteer Service Award and the National Park Service Award. Mr. Richards has said that he does not expect to receive any recognition for his work, but he is driven by a desire to see the fort preserved and protected for future generations.

Mr. Richards has been a key figure in the effort to preserve Fort Chadbourne. He has worked tirelessly to secure funding for the project, and he has been a key figure in the planning and construction of the stabilization project. His dedication to the project has been unwavering, and he has been a source of inspiration for those who have worked with him on the project.

Today, Fort Chadbourne is a symbol of the resilience of the human spirit. Despite the challenges that faced the soldiers who served there, they persevered and continued to serve their country. Mr. Richards has been an inspiration to those who have worked on the project, and his dedication to preserving the fort's history is a testament to the lasting impact that he has had on the community.

Mr. Richards has been a true pioneer in the field of historic preservation. His work at Fort Chadbourne is a testament to the power of one person to effect change in the world. His dedication to preserving the fort's history is a source of hope for those who are working to preserve other historic sites across the country. Mr. Richards has shown that even in the face of adversity, it is possible to overcome challenges and achieve great things.
Marrero was credited for cutting back a rash of car thefts that plagued our city in the mid-1990s.

To her friends and family, Marrero will be remembered as a caring person who was always ready to lend a helping hand. In the words of one neighbor, Lois Marrero was “the kind of person you could count on.”

For those of us who never had the privilege of getting to know Officer Marrero, it is our duty to remember Lois for the ultimate sacrifice that she made to keep our community safe. This terrible tragedy reminds us that law enforcement officers put their lives on the line every day to protect us and our families, friends and neighbors. In honoring Lois Marrero, we show our gratitude to the entire law enforcement community.

So today, on behalf of the citizens of Tampa Bay, who came together this week in an outpouring of sympathy, prayers and tributes, I thank Officer Marrero and Tampa’s Police Department for their commitment to our neighborhoods and I send our deepest sympathies to Lois’ family, friends and colleagues for this great loss.

TRIBUTE TO DR. RICHARD W. McDOWELL
HON. JOE KNOLLENBERG
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. KNOLLENBERG. Mr. Speaker, today I pay tribute to Dr. Richard W. McDowell, the longest-serving President in Schoolcraft College’s history. He will be retiring on June 30, 2001. Dr. McDowell has been a great asset to his students, and served the Michigan educational community with diligence and excellence. In addition to his tenure as president, he has served on numerous educational and commerce boards, including the Livonia Chamber of Commerce, American Association of Community Colleges, and Council of North Central Two-year Colleges.

After completing his tenure as vice-president and acting-president at two community colleges in Pittsburgh and Florida respectively, Richard McDowell joined Schoolcraft College in 1981, and helped guide the college through a 20-year period of academic growth and brilliance. On this end, he achieved high standards in increasing staff development, employee recognition, and provided the necessary direction to establishing the Business Development Center that has generated a billion dollars in grants to various local companies.

The increased funds have enabled Schoolcraft College to be expanded considerably, which has made for a livelier and richer educational environment for students. On May 16th, 2001 the college broke ground on a $27 million facility that will house a state-of-the-art information technology center, and it’s culinary arts department, which is recognized nationally.

Through his dedication and hard work to Schoolcraft College and the Michigan educational community, Dr. McDowell is a prime example of the kind of people that we need running the affairs of colleges and universities dedicated to providing the best environment and education possible to our students. I congratulate Richard on his fine achievements and wish nothing but the best in his future endeavors.

A TRIBUTE TO KELLY AIR FORCE BASE
HON. CIRIO D. RODRIGUEZ
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. RODRIGUEZ. Mr. Speaker, on Friday, July 13, 2001, after 85 years the flag will be brought down for the final time at Kelly Air Force Base in San Antonio, Texas. In recognition of this momentous occasion I offer the following tribute of Kelly AFB and its lasting legacy to the United States Air Force, the nation, and the San Antonio community.

Seventy-four years after Travis, Crockett and Bowie manned the battlements at the Alamo, a different kind of warrior made his appearance over the South Texas City of San Antonio. He rode on wings of wood and fabric. In January 1910, on orders from Major General James Allen, Chief of the Army Signal Corps, Lieutenant Benjamin Foulois established a flying field at Fort Sam Houston, Texas. Foulois arrived at the Fort with a Wright flyer, the only airplane in the service. In April 1911, three young Army officers joined Foulois fresh from Glenn Curtiss’ Flying School at San Diego. Among them was a thirty-year-old lieutenant from London, England, George Edward Maurice Kelly. Kelly immigrated to America, enlisted in the United States Army and eventually received his citizenship and gained a commission. Volunteering for duty in the Air Service, he trained briefly with Curtis and then joined Foulois at San Antonio. Lieutenant Kelly’s aviation career would be short lived. On May 10, 1911, he crashed his Curtis Type-4 Pusher into the brush near Fort Sam Houston’s Drill Field. Lieutenant Kelly became the first American military aviator to die in the crash of a military aircraft. Six years later, one of the nation’s premier flying fields would bear the name of this brave young aviator.

Lieutenant Kelly’s death caused the Commander at Fort Sam Houston to call a halt to flying at the Post. Aviation didn’t return to the Alamo City until November 1915, when the First Aero Squadron arrived from Fort Sill, Oklahoma. It did not stay long. In March 1916, the Mexican Revolutionary leader, Pancho Villa, attacked Columbus, New Mexico, and the First Aero Squadron, commanded by Foulois, joined a punitive expedition commanded by General John J. Pershing. Within months all its few aircraft were grounded. With World War I raging in Europe, it was clear that American military aviation needed to expand. Foulois, now a major, was called upon to form new squadrons and find a training site. In November 1916, he returned once again to San Antonio. Lacking space to expand at Fort Sam Houston, Foulois looked for another site for an aviation camp, choosing a 700-acre track of land southwest of San Antonio. The land was leased in January 1917. What was once cotton, cabbage, mesquite and cactus, was over-run with men and machinery for a landing field. On April 5th 1917, the first four planes slid out of the sky to land at the new field. The United States entered World War I the next day. Named Kelly Field in July, the new field was seen training aviators, mechanics, and support personnel for duty in France. Within 18 months, Kelly was the largest aviation training, classification and reception center in the United States. With the end of the war to end all wars, Kelly Field was consumed by the lethargy that follows most armed conflicts. The United States adopted an isolationist attitude and military aviation lapsed into a period of near hibernation. Aircraft that had been built for war were now turned to barnstorming and amusement. Throughout the nation aviation camps and depots were closing, but at Kelly Field the pressure was relentless. For a time, all the active flying groups were stationed at Kelly. Then in 1922, the Air Service restructured its training program, making Kelly home to the Air Service Advanced Flying School. For the next two decades, Kelly would become famous as the alma mater of the Air Corps. In these years, some of aviation’s greatest names pressed the rudder pedals of Kelly trainers. Early graduates of the Advanced Flying School include “lone eagle” Charles Lindbergh; General Curtis LeMay, cigar chomping advocate of strategic air power; and future Air Force Chiefs of Staff Hoyt S. Vandenburg, Thomas D. White, John McConnell and George S. Brown.

With the acquisition of more land west of Frio City Road in 1917, Kelly Field was divided into two areas, Kelly Number 1 and Kelly Number 2. While Kelly Number 2 was busy turning out dashing aviators, Kelly Number 1, renamed Duncan Field in 1925, was engaged in a less glamorous task of aviation supply and maintenance. This humble stepchild trained out of necessity would eventually thrive and go on to become an Air Force logistical giant. By 1935, most world powers were struggling to free themselves from the grip of worldwide depression. In Germany, Adolf Hitler had seized the reins of power. On the other side of the globe, Japan was running rampant through Manchuria. The clouds of depression were clearing, but clouds of war were rapidly taking their place. Aircrew training at Kelly was stepped up; courses were conducted in nearly every form of military aviation including attack, pursuit, observation and bombardment. Paved runways and permanent facilities sprouted throughout the installation. When Japanese bombs rained on Pearl Harbor on December 7th, 1941, Kelly Field was ready to take its place as a major cog in America’s war machine. Midway through World War II, Kelly’s logistical role came to the forefront. Pilot training moved to Randolph and other new airfields while an organization known as the San Antonio Air Service Command sought to repair and supply the nation’s aerial fighting force. In two short years, the small force expanded from 1,000 to over 20,000. Many were women, Kelly Katies, the Kelly equivalent of Rosie the Riveter. Peace came in August 1945. Kelly Katy went home. The base paused, caught its breath, and then
C–5 was a Kelly management responsibility. In January 1948, the field became Kelly Air Force Base. Within a year, the base would once more respond to an international challenge. The Russian bear was putting paw prints all over Eastern Europe. When the Soviets attempted to slam the door on West Berlin, allied airpower came to its rescue. Kelly engine maintenance shops operated night and day. Pratt and Whitney R2000 engines rolled off the production lines destined for installation on C–54 aircraft flying the Berlin Airlift. The Russian bear hug on Berlin was broken after 11-months of Soviet pernicious efforts by crews, aircraft and dedicated support by San Antonio Air Materiel Area workers. Less than a year later, the outbreak of the Korean War dropped the temperature of Cold War even further. Kelly personnel labored around the clock to prepare B–9 bombers and Mustang fighters for service on the outposts, looking up the sky at night and became famous as San Antonio’s “Great White Way”. Nuclear deterrent was the “watch word” and Kelly’s people worked in support of the intercontinental B–36 bomber, the first capable of flying anywhere in the world, dropping its nuclear payload and returning home. Its Pratt and Whitney R4360 engines monopolized Kelly’s overhauls for decades. The city was proud of its prowess in maintenance and was called “the Boeing of the East”.

Even before the end of the Cold War, America’s military services saw their budgets grow smaller, and by the early 1990s, people expected to see a “peace dividend” to help reduce the budget deficit and pay for soaring costs of social services. Continuing efforts to cut defense spending by relocating some missions and tasks to other locations were called “legions of logistical magic.”Engines were surged to support NATO’s efforts to end brutal ethnic cleansing in Kosovo.

The dream to keep all of the Cen-
Although the flag came down on the San Antonio Air Logistics Center on July 13, 2001, it was not the end of its story. Kelly Field—Kelly Forever!—is a place where people from all backgrounds came together to roll up their sleeves and work for a united cause—our country’s freedom. For 85 years Kelly AFB made major contributions to the military strength of the United States and the prosperity of the Alamo City. Generations of Hispanic families were employed at Kelly throughout its history, and today many of the city business leaders and even congressional members have their roots as Kelly families.

For decades the men and women of Kelly AFB dedicated their hearts and lives to the service of their country. From its beginnings as a farmer’s cotton field in 1916, Kelly became the largest recruit and aviation training camp in the United States during World War I. In the interwar years, Kelly served as the Alma Mata of the Air Corps while its neighbor Duncan Field provided repair and supply support for America’s small air arm. Following World War I, Kelly became one of the country’s largest logistical supermarkets, supporting the Air Force around the globe. During the most recent conflicts of JUST CAUSE, DESERT SHIELD/DESERT STORM, and Kosovo, the Kelly employees had the greatest logistical support of all the ALCS, shipping more components, more engines, and more munitions. From the beginning of the Kelly Field to the end of the San Antonio Air Logistics Center, the logistical impact and support of Kelly and its employees were vital for the United States to be successful in completing the mission. Today, Kelly transitions again, becoming KellyUSA, an industrial, commercial park for the 21st century. But, through this tradition of service remains and will continue to be—Kelly Forever!

EXTENSIONS OF REMARKS

July 11, 2001

HONORING EDWARD PAELTZ

HON. JOHN SHIMKUS
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Mr. SHIMKUS. Mr. Speaker, I rise today to honor Mr. Edward Paeltz of Godfrey, Illinois. Mr. Paeltz is a veteran of World War II and was recently awarded the “General William C. Westmoreland Award” from the National Society of the Sons of the American Revolution for his distinguished service to veterans.

Since World War II, Mr. Paeltz has spent countless hours helping veterans in need of care. With the help of his wife, Nancy, he frequently visits veterans in hospitals, nursing homes, and veteran homes throughout Illinois. During the Christmas season, he brings them cookies and candy and go to see their families. In addition, Mr. Paeltz helps transport veterans from the Veterans Hospital in Marion, Illinois, to a lodge and retreat center in Carbondale so they can participate in recreational activities.

Edward Paeltz is a former commander of Alton American Legion Post 126. He recently fulfilled his dream by designing and organizing the construction of a Veterans’ Memorial in Alton, Illinois, to honor the veterans of all branches of the armed forces. Mr. Paeltz is an inspiration to us all.

A TRIBUTE TO HERB OBERMAN

HON. HILDA L. SOLIS
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 10, 2001

Ms. SOLIS. Mr. Speaker, I rise today to recognize the retirement of Mr. Herb Oberman, who will step down from his job as a Los Angeles County social worker on July 12, 2001. Mr. Oberman is a dedicated public servant, and has served the people of Los Angeles County for the past 35 years.

Herb has proven that he truly cares about protecting children’s rights. He received his Master’s Degree of Social Work from the University of California Los Angeles in 1966 and spent seven years dedicating himself as a Children’s Service Worker in the Foster Care Program. In 1973, he participated in the formation of Community Service Centers.

Herb has served on the board of directors of several social service organizations. He is the past president of the Santa Clarita Valley Girls and Boys Club and served on the board of directors of the Los Angeles Regional Foodbank between 1973-1993.

Herb Oberman’s contributions have received recognition for his programs, which include the Los Angeles Efficiency and Productivity Program administration of the Los Angeles Citizens Assistance Campaign; the Ford Foundation’s “Innovations in State and Local Government” award in 1986 for his administration of the Los Angeles Regional Foodbank; and the Parents Fair Share Project, a national demonstration project which helps noncustodial parents find employment and pay.

As Herb moves on to new pursuits, I would like to thank him for his remarkable work. I ask my colleagues to join me in honoring his hard work and extraordinary contributions and wish him luck on his retirement.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

SPEECH OF
HON. TOM UDALL
OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 27, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

Mr. UDALL of New Mexico. Mr. Chairman, I would like to explain my position on the Kucinich amendment that would reduce funding for the National Ignition Facility at Lawrence Livermore National Laboratory and move some of the NIF money into the non-proliferation programs of the national Nuclear Security Administration. There is clearly a need to avoid the damage that would occur to our nonproliferation programs if funding is not increased. The President made a mistake in his budget when he made deep cuts in the nonproliferation programs. The cuts make little sense in a world where many nations have the capability and desire to develop weapons of mass destruction including nuclear, chemical and biological weapons, and therefore increase our capability to monitor developments around the globe in this area.

The President’s budget already cuts the NIF programs. I support that cut given the troubling history of this program. I am very concerned about the recent report findings, which concluded that not only will NIF cost at least $1 billion more than planned and take six years longer than expected to begin operations, but also that the program poses a serious number of unresolved technical problems.

Moreover, because of the critical nature of the GAO findings, the agency reportedly is doing a follow-up report, which it intends to submit to Congress.

Mr. Speaker, furthermore, in an article in the Albuquerque Tribune, the Director of the Dental Laboratory, Mr. Paul Robinson, criticized NIF suggesting there be a reduction in the construction of a Veterans’ Memorial in Alton, Illinois, to honor the veterans of all branches of the armed forces. Mr. Paeltz is an inspiration to us all.

PROJECT VOTE SMART

HON. HENRY J. HYDE
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. HYDE. Mr. Speaker, I was recently informed of the efforts of an organization called Project Vote Smart—a group of dedicated individuals who work tirelessly in a non-partisan fashion to develop dependable facts about various national and state issues affecting all Americans while encouraging eligible citizens to vote. I am pleased for his programs and share some background information about the organization, which I hope my colleagues will find interesting and beneficial.

PROJECT VOTE SMART

A few years ago a handful of people, a mixture of young energetic students and retired
leaders from fields in politics, academia and various undertakings, held a meeting about the increasing use of media and technology by campaigns to manipulate information, and the citizen's diminishing access to dependable, abundant information on issues and political candidates.

That meeting gave birth to Project Vote Smart (PVS), a small 501(c)(3) now engulfed in its own success. In the beginning the idea seemed simple: use young people from throughout the country to collect millions of documented facts about issues, candidates and other information about politics; index the information and then categorize it so that citizens could easily access the information through local libraries, toll-free hot lines, the internet and published reports.

Specifically, the Project is in a national library of factual information on over 40,000 candidates and incumbents in public office at all presidential, congressional, gubernatorial, state legislative seats, county, and local candidates and incumbents. They are researching maximum background information about any organization that does—it is supported entirely by philanthropic foundations and the individual contributions of over 45,000 members. Election year programs are sponsored over 4,000 public libraries and hundreds of national and local news organizations. National leaders are allowed to join the foundation board without a political opposite—founding board members are national leaders from fields in politics, academia and the arts; index the information and then categorize it so that citizens could easily access the information through local libraries, toll-free hot lines, the internet and published reports.

The finalists of the LeGrand Smith Congressional Scholarship Program are being honored for showing that same generosity of spirit, understanding of depth, intelligence, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan. They are young men and women of character, ambition, and initiative, who have already learned well the value of hard work, discipline, and commitment.

These exceptional students have consistently displayed their dedication, intelligence, and concern throughout their high school experience. They are people who stand out among their peers by achieving an academic record of achievements and the disciplined manner in which they meet challenges. While they have already accomplished a great deal, these young people possess unlimited potential, for they have learned the keys to success in any endeavor. I am proud to join with their many admirers in extending our highest praise and congratulations to the finalists of the 2001 LeGrand Smith Congressional Scholarship Program.

TRIBUTE TO 2001 LEGRAND SMITH SCHOLARSHIP FINALISTS

HON. NICK SMITH OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is a sincere pleasure to recognize the finalists of the 2001 LeGrand Smith Scholarship Program. This special honor is an appropriate tribute to the academic accomplishment, demonstration of leadership and responsibility, and commitment to social involvement displayed by these remarkable young adults. We all have reason to celebrate their success, for it is in their promising and capable hands that our future rests:

Brian Anderson of Lansing, Michigan; Nicole Bell of Tecumseh, Michigan; Leah Brady, of Battle Creek, Michigan; Jeremy Connin of Jackson, Michigan; Troy Elliott of Pittsford, Michigan; Calby Garrison, of Onsted, Michigan; Aaron Heinen of Battle Creek, Michigan; Sarah Holliday of Hillsdale, Michigan; Stephanie Lallemend of Battle Creek, Michigan; Tabbetha McLain of Quincy, Michigan; Molly Miller of Marshall, Michigan; Jessica Muterspaugh of Spring Arbor, Michigan; Teresa O'Connor of Saginaw, Michigan; Adam Shissler of Jackson, Michigan; Anna Vanderstell of Charlotte, Michigan; and Randi Wignet of Reading, Michigan.

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HONORING THE RETIREMENT OF SERGEANT RON PACKARD, OFFICER JOE REIS AND OFFICER JOHN NYIKES OF THE UNION CITY POLICE DEPARTMENT

HON. FORTNEY PETE STARK OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. STARK. Mr. Speaker, on July 14, 2001, the Union City Police Department on November 1, 1968. His first assignment was undercover at a local high school, posing as a student. During the day, he attended classes with the intention of identifying sales and distribution of illegal drugs on campus. In the evenings, he completed class homework assignments and police reports. Sergeant Packard progressed in his career and was promoted as the Court Liaison Officer with the New Haven Unified School District.

Officer John Nyikes began his career in law enforcement as a Detroit Police Officer for eight years where he was awarded a meritorious citation. He was hired by the Union City Police Department on July 2, 1980. While assigned Patrol duties with the Department, Officer Nyikes worked as a Field Training Officer and was responsible for training new police officers in Union City. Officer Nyikes was transferred from the Patrol Division to the Investigative Division where he supervised a number of detectives, including Traffic Investigations and Property. Sergeant Packard was instrumental in developing a Recruit Training Officer for ten years. He was responsible for training new Police Officers in Union City and assisted in developing a Recruit Training Manual for the Department. Officer Nyikes continued his enthusiasm for teaching by becoming the instructor of "Introduction of Administration of Justice" at James Logan High School for five years. In addition, Officer Nyikes was one of the Department's Firearms Instructors for nineteen years and was assigned as the Court Liaison Officer with the District Attorney's Office for four years. For the past eight years, Officer Nyikes has served on an assignment he considers the most rewarding, as a D.A.R.E. officer working with the New Haven Unified School District.

I am honored to join the colleagues of Sergeant Packard and Officers Reis and Nyikes in commending them for their many years of dedicated and exemplary service to law enforcement. They have left their indelible mark of excellence on the Union City Police Department.

PAYING TRIBUTE TO LANSING, MI, FOR "HIGH GROWTH" STATUS

HON. MIKE ROGERS OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the City of Lansing, Michigan, for having been named one of the top five cities in its population category for high-growth companies. The National Commission on Entrepreneurship released a study on High Growth Companies this week. This study was the first of its kind and examined entrepreneurial companies in communities across the country.

Surprisingly to some, but not to the people of Michigan, the report found that the bulk of high-growth companies in the past ten years are not in "high tech" areas, but are instead found in the industrial sectors of America.

High-Growth status is achieved by few companies. It is given only to those that have attained a 15% employment growth per year for 5 years or 100% employment growth over 5 years.

Among the communities recognized for High-Growth is the City of Lansing, Michigan, located in the 8th Congressional District, in the heart of Michigan and the greater Mid-west. Since 1996, the city of Lansing has generated
EXTENSIONS OF REMARKS
TRIBUTE TO THE 18TH ANNUAL FREMONT FESTIVAL OF THE ARTS

HON. FORTNEY PETE STARK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001
Mr. STARK. Mr. Speaker, I would like to pay tribute to the 18th Annual Fremont Festival of the Arts sponsored by the Fremont Chamber of Commerce. The two-day Festival, to be held on July 28 and 29, 2001, is expected to attract over 450,000 attendees and has become a model of success for the modern festival. This single event provides some $400,000 in contributions to non-profits for the betterment of communities in Fremont, California.

Over 780 artists, 35 culinary selections and 20 bands will be featured at the Festival. Three thousand volunteers give willingly of their time to contribute to the Festival’s success. It takes generous and concerned individuals, such as the volunteers, to reach out and make a difference, ensuring promise and opportunity for this and future generations. It also takes the support of business sponsors and patrons to ensure the success of the Festival.

The Festival typifies the spirit of community service, which is alive and thriving in Fremont. I am proud to salute the efforts of this year’s Festival Chairman, David M. O’Hara, the organizers, the volunteers, the sponsors and the patrons of the Fremont Festival of the Arts for their generous and untiring efforts to ensure continued success.

Mr. Speaker, I urge my colleagues in the U.S. House of Representatives to join me in congratulating the Fremont Board of Water and Light and to extend to its board of directors and staff our admiration for their service in the interest of the nation, the State of Michigan, and their own community. We wish them well in their future endeavors.

PAYING TRIBUTE TO THE LAN-SING BOARD OF WATER & LIGHT

HON. MIKE ROGERS
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001
Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the proactive efforts of the Lansing Board of Water and Light in Lansing, Michigan, to develop a program aimed at using environmentally friendly energy to generate the electricity it provides in the Lansing metropolitan area.

The Board of Water and Light has launched a Green Wise Electric Power program that encourages customers to voluntarily pay an additional minimal fee to cover the added cost of purchasing electricity from “clean” sources. The program allows the municipal utility to buy some or all of its electricity from clean, renewable sources such as wind, water and biomass generation. While the cost of cleaner electricity may be higher than that provided through conventional sources such as coal or natural gas, the environmental advantages make this a highly worthy program.

As America struggles to meet its environmental challenges, the Lansing Board of Water and Light has shown extraordinary vision and commitment to protecting our precious resources while continuing to meet the electric power needs of its customers. They are working hard to achieve that balance between environment and economy which is essential for the future of every community across the nation.

I urge my colleagues in the U.S. House of Representatives to join me in congratulating the Lansing Board of Water and Light and to extend to its board of directors and staff our admiration for their service in the interest of the nation, the State of Michigan, and their own community. We wish them well in their future endeavors.
Tribute to Kristin Anderson of Brooklyn, Michigan

LeGrand Smith Scholarship Winner

Hon. Nick Smith of Michigan

In the House of Representatives

Wednesday, July 11, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Kristin Anderson, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation’s future.

As a winner of the LeGrand Smith Congressional Scholarship, Kristin is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Kristin is an exceptional student at Columbia Central High School and possesses an impressive high school record. Kristin has received numerous awards for her excellence in academics, as well as her involvement in soccer and volleyball. She is active in student government, serving as President of the National Honor Society and Secretary of the student body. Kristin’s volunteer efforts include helping to organize a local coat drive and working with the Toys for Tots Program.

There are too many admirers in extending my highest praise and congratulations to Kristin Anderson for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

In Honor of the Late Justice Stanley Mosk

Hon. Nancy Pelosi of California

In the House of Representatives

Wednesday, July 11, 2001

Ms. PELOSI. Mr. Speaker, I rise to pay my final respects to former California Supreme Court Justice Stanley Mosk. It is with great sadness and deep respect that I share with my colleagues the following words on the life of Justice Stanley Mosk.

Justice Mosk was born in San Antonio, Texas, graduated from the University of Chicago Law School, and in 1933 he moved to California. Justice Mosk served for his country during WWII before returning to his family and career as a judge of the Superior Court in Los Angeles. Justice Mosk was elected Attorney General in 1958 with an overwhelming million vote majority—the largest of any election that year. During his six years as the Chief Law Officer of the State of California he argued before the United States Supreme Court in the Arizona v. California water case and other landmark cases before the California Supreme Court. In 1961 Justice Mosk was credited with persuading the Professional Golf Association to admit African American golfers. In 1964 Justice Mosk was appointed to the California Supreme Court by Governor Pat Brown.

Justice Mosk was an astute, independent thinker whose tenure as a California Supreme Court Justice was both brilliant and controversial. As Mosk’s former colleague California Chief Justice Ronald George stated correctly, “Stanley Mosk was giant in the law.” He revealed that status by writing nearly 1,500 opinions, serving for 37 years, the longest tenure of any California Supreme Court Justice. Stanley Mosk continued his tireless efforts until his last day. Each year in the last decade, Justice Mosk authored more opinions than any other Supreme Court Justice. Although widely considered a liberal, he chose not to abide to any limitations on his opinions. On several occasions, Justice Mosk’s decisions stunned the legal and political community.

As Justice Mosk traveled extensively, he observed the South-West Africa case at the World Court, on behalf of the State Department. He lectured throughout Africa thereafter. Justice Mosk traveled to the Netherlands in 1970 to participate in summer sessions of The Hague Academy of International Law at the Peace Palace. Justice Mosk lectured at Universities throughout the United States as well. Justice Mosk was valued and respected by his colleagues. He will be remembered as a passionate proponent of the will of the law. Justice Mosk was one of the most influential figures in shaping California law and his death brings a void to the bench that will not easily be filled. Justice Mosk was confirmed for a new twelve-year term in November of 1998. Sadly, he was not able to fulfill the wishes of the California people. The death of Justice Stanley Mosk is a tremendous loss to the California Supreme Court, to California, and to America’s judicial system. My thoughts and prayers are with Justice Mosk’s wife Kaygey, and his son Richard. We will all miss him greatly.

Richard Henry Lee “Dick” Kopper, 1948-2001, a Journalist, a Press Secretary and a Friend is Remembered

Hon. ZACH WAMP of Tennessee

In the House of Representatives

Wednesday, July 11, 2001

Mr. WAMP. Mr. Speaker, on Monday, July 2, 2001 in the historical federal courthouse where a consummate young reporter named Dick Kopper gained his reputation for accuracy, integrity and style, many of his friends and admirers gathered for his memorial service. They laughed and cried together in his honor and memory.

Prominent citizens from law, government, journalism and academia came to remember the unique life and times of a brilliant journalist, press secretary, friend and associate who loved life and who was loved by all that came to know him well. They remembered a man of unfailing honesty, of incurable curiosity and a keen sense of humor.

For more than 6 years, Dick Kopper served as my Press Secretary, but he was much, much more than that. He was a valuable resource. If I needed to find a quotation from Sir Winston Churchill or President Ronald Reagan—I would simply ask Dick. If I needed sound policy advice on a difficult decision pending before the House—I would ask Dick. Even if I needed to know where a semicolon went instead of a simple comma—I would always ask Dick. His institutional knowledge consistently amazed me.

As I said at the memorial service, if you knew Dick you would know that he loved Episcopal High School, The University of the South, The Chattanooga Times and it’s reporters, the Republican Party and this great nation. He read, he wrote and he ran (3 miles or so) virtually every day. He also loved to tell stories, do impersonations and he especially loved to talk politics.

Before joining my Washington staff in 1995, Dick was a reporter for The Chattanooga Times for 23 years. During the time that he covered the federal courts, many of his colleagues fondly remember Dick making his way throughout the courthouse—extremely tight lipped—so as not to let on to his latest story.

Dick’s extensive political knowledge was also useful in the successful 1994 campaign of Senator Fred Thompson—where he served as the Tennessee Press Secretary.

Even at the end, Dick was courageous and unselfish. He knew that his illness was serious but he downplayed its effect on his life. Before going into the hospital, he worked every day and insisted to many people that if the doctors hadn’t told him that he was sick, he would not have asked to know. Dick was a professional in every sense of the word. Dick’s spirit was inspiring and his grace was impeccable.

He was indeed, a unique (and some might say eccentric) person, but in my opinion the world needs more folks like Dick Kopper . . . colorful and full of joy. I will miss my good friend.

In Honor of Dr. Dorothy Irene Height

Hon. Steny H. Hoyer of Maryland

In the House of Representatives

Wednesday, July 11, 2001

Mr. HOYER. Mr. Speaker, on July 17, the University System of Maryland Board of Regents will honor civil rights pioneer Dorothy Irene Height with the sixth annual USM Regents’ Frederick Douglass Award.
Dr. Height, chair and president emerita of the National Council of Negro Women (NCNW) in Washington, D.C., is a legendary figure in the civil rights movement. In 1989, President Reagan acknowledged her achievements by presenting her with the Citizens Medal Award. In 1993, the NAACP awarded her its prestigious Spingarn Medal. That was followed by the Presidential Medal of Freedom Award, bestowed by President Clinton in 1994. Last August, a feature story on Dr. Height in the Cincinnati Enquirer declared that every president since Eisenhower has called on her for advice. In their book, The African American Century, Comel West and Henry Louis Gates, Jr., cited her as one of the 100 most influential African-Americans of the 20th century.

Dr. Height was born in Richmond, Virginia, in 1912, but grew up near Pittsburgh in a household where volunteerism prevailed. In those days, many black southerners were migrating north to jobs in the steel mills. Height’s mother and father, a nurse and building contractor respectively, helped those families settle in, thus instilling in her a sense of responsibility and integrity. Dr. Height earned both bachelor’s and master’s degrees in educational psychology from New York University in four years and graduated in 1933—the height of the Depression. She then turned her attention to social work in New York City, later working for the Young Women’s Christian Association (YWCA). During those years, she also was active in community service and religion, and eventually became one of the first leaders of the United Christian Youth Movement.

From her position in the church and at the YWCA in Harlem, she spanned caps between the city’s impoverished ethnic groups and the government, spotlighting the plight of unemployed domestic workers for national figures such as Eleanor Roosevelt and Langston Hughes.

Dr. Height’s successes did not escape notice by the leadership of the NCNW. In 1937, she was approached to conduct committee work for the organization, an affiliation of civic, education, labor, community, church, and professional institutions headquartered in Washington. By 1957, she was its president. Under the guidance of educator and NCNW founder Mary McLeod Bethune, she organized voter registration drives in the South, testified repeatedly before Congress on social issues, and worked tirelessly on the more mundane tasks of the civil rights movement, such as jobs programs. She also was an international leader in the burgeoning field of humanitarianism, working closely with Martin Luther King, Jr., Roy Wilkins, and a host of other legendary leaders.

Dr. Height, who has been called the “grande dame” of the civil rights movement, has served in the leadership of dozens of organizations devoted to social change, most notably as president of Delta Sigma Theta sorority from 1947 to 1956. In 1986, she founded and organized the Black Family Reunion Celebration, a national coming together of African American families designed to promote historic strengths and traditional values.

The Frederick Douglass Award will be presented to Dr. Height at Westminster Hall, in Baltimore, adjacent to the University of Maryland School of Law. Those in attendance will include Maryland Governor Parris N. Glendenning, USM Board of Regents Chairman Nathan A. Chapman, Leronia A. Josey, member of the USM Board of Regents, Thelma T. Daley, past national president of Delta Sigma Theta sorority, and USM Chancellors Donald N. Langenberg, Frederick Douglass IV, professor at Morgan State University and a direct descendant of Douglass, will provide a dramatic reading of the latter’s work. David J. Ramsay, president of the University of Maryland, Baltimore, will welcome the audience.

The Frederick Douglass Award was established in 1995 by the USM Board of Regents to honor individuals “who have displayed an extraordinary and active commitment to the ideals of freedom, equality, justice, and opportunity exemplified in the life of Frederick Douglass.” Previous recipients include the Honorable Parren J. Mitchell, a member of Congress for the 7th District of Maryland since 1996; Benjamin Quarles, scholar at Morgan State University (1997, posthumously); Samuel Lacy, Jr., sportswriter for the Baltimore Afro-American (1998); the Hon. Kweisi Mfume, president of the National Association for the Advancement of Colored People (1999); and Beatrice “Bea” Gaddy, advocate for the poor and homeless and a member of the Baltimore City Council (2000).

Statesman, publisher and abolitionist Frederick Douglass was the leading spokesman of American blacks in the 1800s. Born a slave in 1817 in Tuckahoe, MD, he devoted his life to the abolition of slavery and the fight for black rights. Douglass’s name at birth was Frederick Augustus Washington Bailey, but he changed it when he fled from his master in Baltimore in 1838. He ended up in New Bedford, Mass., where he attempted to ply his trade as a ship caulker, but settled for collecting garbage and digging cellars. In 1841, at a meeting of the Massachusetts Antislavery Society, Douglass delivered a lecture on freedom that so impressed the audience that they asked him to talk publicly about his experiences as a slave. He then began a series of protests against segregation, and published his autobiography, Narrative of the Life of Frederick Douglass, in 1845.

Mr. Speaker, I know the Members of the House take great pride in joining me in congratulating Dr. Dorothy Irene Height on this very special day for her lifelong work. She is truly deserving of the Frederick Douglass Award and I rise to congratulate her on this esteemed award.

TRIBUTE TO JENNIFER ARVER OF BRONSON, MICHIGAN, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. SMITH of Michigan. Mr. Speaker, I rise today to congratulate The New Detroit Science Center on its grand opening. I am pleased to say that The New Detroit Science Center will be partnering with Marshall Field’s in its grand opening festivities which will be attended by Governor and Mrs. John Engler on July 28. The celebration, “Marshall Field’s Wonder of Wonder at The New Detroit Science Center—32 Hours of Exploration,” will kick off at 10 AM on July 28 and continue around the clock until 6 PM on July 29.

The Detroit Science Center was founded by Detroit businessman and philanthropist Dexter Ferry nearly 30 years ago. In 1998, plans were made to transform the Detroit Science Center into a leading center for science education. The Center broke ground on its expansion and renovation in 1999. The New Detroit Science Center will serve as a vehicle to educate our children and their families in the areas of science and technology. Detroit is known as a technological hub, and this new Center will involve our children and expose them to the resources that are available.

This Center will serve as a tremendous resource for teachers, children, and families across the State of Michigan. Its exciting programs, which include an IMAX theater, five hands-on laboratories, the DaimlerChrysler Science Stage and Sparks Theater, the Ford Learning Center, and the Digital Dome Planetarium, will create an interest in science, engineering, and technology. The New Detroit
Mr. Speaker, it is an honor to pay tribute to the Mr. Elio Rodoni for his contributions to the farming community and the 15th Congressional District. I commend and congratulate him on this important occasion.

EXTENSIONS OF REMARKS

HON. ADAM H. PUTNAM OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. PUTNAM. Mr. Speaker, I was absent the week of June 25, 2001, attending to my wife Melissa during the birth of our first child, Abigail Anna Putnam. Had I been present this is how I would have voted on the following roll call votes.

June 25, 2001:
On Roll Call 186—I would have voted Yea in support of H. Res. 160 calling on the Government of the People's Republic of China to immediately and unconditionally release Li Shaomin and all other American scholars of Chinese ancestry being held in detention, and calling on the President of the United States to continue working on behalf of Li Shaomin and the other detained scholars for their release.

On Roll Call 187—I would have voted Yea in support of H. Res. 99 expressing the sense of the House of Representatives that Lebanon, Syria, and Iran should call upon Hezbollah to allow representatives of the International Committee of the Red Cross to visit four abducted Israelis, Adi Avitan, Binyamin Avraham, Omar Souad, and Elchanan Tannenbaum, presently held by Hezbollah forces in Lebanon.

On Roll Call 188—I would have voted Yea in support of H. Con. Res. 161 honoring the 19 United States servicemen who died in the terrorist bombing of the Khoobar Towers in Saudi Arabia on June 25, 1996.

June 26, 2001:
On Roll Call 189—I would have voted Yea on Approving the Journal.

On Roll Call 190—I would have voted Yea on the motion to consider H. Res. 178.

On Roll Call 191—I would have voted Yea on agreeing to H. Res. 179 providing for the consideration of H.R. 2299, Transportation and Related Agencies Appropriations Act for FY 2002.

On Roll Call 192—I would have voted Yea on agreeing to H. Res. 166 recognizing disaster relief Assistance Provided to Houston, TX after Tropical Storm Allison.

On Roll Call 193—I would have voted Yea on the Sabo amendment to H.R. 2299.

On Roll Call 194—I would have voted Yea in support of H.R. 2299, the Transportation and Related Agencies Appropriations Act for FY 2002.

On Roll Call 195—I would have voted Yea on approving the appeal of the Journal.

On Roll Call 196—I would have voted Yea on agreeing to H. Res. 180, providing for consideration of H.R. 2311; Energy and Water Development Appropriations Act for FY 2002.

On Roll Call 197—I would have voted Yea on H. Res. 172 providing for consideration of H.R. 2330; Agriculture Appropriations Act for FY 2002.

On Roll Call 198—I would have voted Yea on the Davis amendment to H.R. 2311.

On Roll Call 199—I would have voted Yea on the final passage of H.R. 2311, the Energy and Water Development Appropriations Act for FY 2002.

On Roll Call 200—I would have voted Nay on the Hinchey amendment to H.R. 2311.

On Roll Call 201—I would have voted Nay on the Berkley amendment to H.R. 2311.

On Roll Call 202—I would have voted Nay on the Bonior amendment to H.R. 2311.

On Roll Call 204—I would have voted Nay on the Brown of Ohio amendment to H.R. 2311.

On Roll Call 205—I would have voted Yea on the Davis amendment to H.R. 2311.

On Roll Call 206—I would have voted Yea on the Engel amendment to H.R. 2330.

HONORING WAYNE SCOTT ON HIS RETIREMENT AS EXECUTIVE DIRECTOR OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE

HON. JIM TURNER
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. TURNER. Mr. Speaker, I rise to pay tribute and to express the thanks of Texans to our friend Wayne Scott on the occasion of his retirement as Executive Director of the Texas Department of Criminal Justice. His leadership of the fastest growing agency in the State of Texas during years of difficult transitions have earned him the respect and admiration of all Texans.

Wayne began his professional journey in 1972 as a correctional officer at the Huntsville unit of the Texas Department of Corrections. While working there, Wayne Scott received his Bachelor of Business Administration from Sam Houston State University in 1973. Making his way into the system, he became warden of the facility in 1984. In the following years, Wayne served as regional director, deputy director for operations, and institutional division director. In 1996, Wayne Scott was promoted to Executive Director of the Texas Department of Criminal Justice, the largest agency in the state of Texas. It can be said that Wayne began at the bottom of the ladder and climbed to the top through a firm commitment to hard work, a willingness to make the tough decisions, and a constant pursuit of the highest ethical standards for both himself and the department.

With the responsibility of more than 40,000 employees and more than 150,000 felony offenders, Wayne Scott has been recognized by his fellow criminal justice professionals in the American Correctional Association, the Southern States Correctional Association, and the
Association of State Correctional Administrators as an outstanding correctional administrator.

Under Wayne's leadership, the Texas Department of Criminal Justice confinement facilities were accredited by the American Correctional Association. The agency also received Awards of Excellence in community service for its partnership with Habitat for Humanity, and for the nation's largest correctional employee training facility, the Edmundo Mireles Criminal Justice Training Academy. While Executive Director, Wayne developed the Advisory Council on Ethics in order to aid the agency in the awareness of ethical issues and assure the execution of ethical behavior.

Not only has Wayne Scott been a hard working administrator, but he has also been a leader in innovations for rehabilitation of prison inmates. In 1996, he started the Inner Change Freedom Initiative, which was the first faith-based pre-release program in a penal institution in the United States. Also, under Scott's leadership, the Texas Department of Criminal Justice has worked to modify the agency's mission statement to assure justice for victims.

Wayne Scott has served the State of Texas for more than 28 years in the criminal justice field. His leadership in the fastest period of growth in the Texas Department of Criminal Justice have made him well-known in the field of criminal justice not just in Texas, but across the country. The Texas Department of Criminal Justice—and indeed, the entire state of Texas—has been the beneficiary of his service, dedication, and leadership over the last three decades.

TRIBUTE TO EMILY STACK OF HILLSDALE, MICHIGAN, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Emily Stack, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Emily is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Emily Stack is an exceptional student at Lenawee Christian High School and possesses an impressive high school record. Emily has received numerous awards for her academic achievement, as well as receiving state recognition for her excellent oratory skills. She is active in student government, serving as President of her class for two years. Emily has volunteered her time to various community service projects, such as Big Brothers Big Sisters and Project Build.

EXTENSIONS OF REMARKS

Therefore, I am proud to join with my many admirers in extending my highest praise and congratulations to Emily Stack, for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

IN TRIBUTE TO PERSIS "PERKY" HORNOR HYDE

HON. SAM FARR
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. FARR of California. Mr. Speaker, I rise today to honor Persis "Perky" Homer Hyde who passed away on June 20, 2000 of breast cancer. During her lifetime, Mrs. Hyde was an active community member and a dedicated mother and wife. She is survived by her husband of 52 years, Harold "Hal" Hyde, four children, one brother, and three grandchildren.

Mrs. Hyde, a 50-year resident of Watsonville, was born in San Francisco on October 2, 1924. She received her education at the University of California at Berkeley, and later became a devoted mother and active community volunteer. She was a leader and board member of many local nonprofit, church, and civic groups which include, but are not limited to, the Girl Scouts, the Santa Cruz Symphony Guild, the Cabrillo College Foundation, and the Pajaro Arts Council. Although she devoted much time and effort to numerous organizations, one of her most cherished causes was the Cabrillo Advancement Program. Mrs. Hyde, and her husband, offered $1000 scholarships to local county schools to encourage kids to stay in school.

During her lifetime, Mrs. Hyde was honored with various awards commemorating her service to the community. In 1977, the Watsonville Chamber of Commerce named her Woman of the Year, and in 2000, Mrs. Hyde was honored by the Watsonville Soroptimists Club with the Women of Distinction Award. Most recently, the United Methodist Church honored Mrs. Hyde for her dedication and continuous service. Although service in local organizations and her family took up much of her time, she still managed to travel, which she enjoyed and often encouraged her children to do; her travels took her to Sweden, Germany, Africa, and South America.

Mr. Speaker, I applaud Mrs. Hyde's achievements and accomplishments. The service of local members of this community are an asset to this nation and I commend Mrs. Hyde for her lifelong dedication to her community and her family. Mrs. Hyde's service is admirable and her character and dedication have made lasting impacts on our community and the people with whom she has worked. I join the County of Santa Cruz, and friends and family in honoring this truly commendable woman and all of her lifelong achievements.

A TRIBUTE TO CAROLINE R. JONES, A WOMAN OF MANY FIRSTS

HON. EDOPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. TOWNS. Mr. Speaker, I rise in honor of Caroline R. Jones for her tremendous contributions during her shortened life.

Born and raised in Benton Harbor, Michigan, as Caroline Richardson, the eldest daughter in a family of ten children, she graduated from the University of Michigan with a degree in English and science.

Caroline traveled to New York City in 1963 to look for teaching positions. She ended up taking a job as a secretary at J. Walter Thompson, at the time the world's largest advertising firm. She soon started career paths after she was moved to the creative department. It was there that she was selected for a junior copywriter program. With this selection, Caroline became the first African American trained as a copywriter in the firm's 140 years history.

Caroline's success did not end at J. Walter Thompson. She worked at a number of leading general market and black-owned agencies as both a copywriter and as a creative director. Caroline later became the first black woman elected vice president of a major advertising firm. Caroline also helped to found the Black Creative Group as well as Mingo Jones Advertising, where she served as executive vice president as well as creative director. During her time at Mingo-Jones, Jones created the "We Do Chicken Right" campaign for Kentucky Fried Chicken.

Jones started her own firm in the 1980s, Creative Resources Management, as well as many shops under her name. She was also the successful television and radio host of two programs, "In the Black: Keys to Success" and "Focus on the Black Woman."

Mr. Speaker, Caroline Richardson Jones devoted her life to eliminating the barriers of sex and racial discrimination in the advertising arena. Only 59 at her death on June 28 from cancer, she will always be remembered for her tireless efforts in promoting the agenda of Annual Legislative Weekend sponsored by the Congressional Black Caucus. As such, she and her family are more than worthy of receiving our recognition today. I hope that all of my colleagues will join me in remembering and honoring the life of this remarkable woman.

TRIBUTE TO THE 12TH GREAT DOMINICAN PARADE AND CARNIVAL OF THE BRONX

HON. JOSE´ E. SERRANO
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. SERRANO. Mr. Speaker, once again it is an honor for me to recognize the Great Dominican Parade and Festival of the Bronx on its twelfth year of celebrating Dominican culture in my South Bronx Congressional District.
This year’s festivities will take place on July 15, 2001. Under its Founder and President, Felipe Febles the parade has grown in size and splendor. It now brings together an increasing number of participants from all five New York City boroughs and beyond. I also would like to recognize all the people who, under the leadership of Director Rosa Ayala, are making sure that this year’s events will be successful as in the past.

On Sunday, July 15, thousands of members and friends of the Dominican community will march from Mt. Eden and 172nd Street to East 161st Street and the Grand Concourse in celebration of their Dominican heritage and their achievements in this nation. Among other accomplishments, Dominicans have been instrumental in transforming New York City into a great bilingual city. Moreover, the parade has served as a national landmark in which people from all ethnic groups unite to commemorate our Nation’s glorious immigrant history.

Mr. Speaker, the Board of Directors of the Dominican Parade of the Bronx has chosen me to be their “International Godfather” and I have gladly and humbly accepted that honor. As one who has participated in the parade in the past, I can attest that the excitement it generates brings the entire City together. It is a celebration and an affirmation of life. It feels wonderful to enable so many people to have this experience—one that will change the lives of many of them.

The event will feature a wide variety of entertainment for all age groups. This year’s festival includes the performance of Merengue and Salsa bands, crafts exhibitions, and food typical of the Dominican Republic.

Mr. Speaker, it is with enthusiasm that I ask my colleagues to join me in paying tribute to this wonderful celebration of Dominican culture, which has brought much pride to the Bronx community.

IN RECOGNITION OF MT. ROSE CHURCH OF GOD IN CHRIST

HON. KEN BENTSEN
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. BENTSEN. Mr. Speaker, I rise today to recognize the 11th Annual Founder’s Day celebration of the Mt. Rose Church of God In Christ and the ground breaking ceremony of their new facility.

The Mt. Rose Church of God was founded in 1944 and is located in Barrett Station, Texas. Though located in Barrett Station, the ministry performed at Mt. Rose Church of God In Christ is felt throughout the greater Houston area. The goal of Mt. Rose Church of God In Christ is to create “The City of Refuge.” A place where the vision of salvation, deliverance, Christian maturity, and support are shared; a place where the doors are always open to new hardships.

The prayerful and Spirit-filled members of Mt. Rose Church of God In Christ have come to the aid of the community in need time and time again. Through their compassionate offerings, these leaders have enhanced the lives of the entire community. Their actions provide a flicker of hope to individuals who were otherwise in despair.

Mr. Speaker, I commend the members of Mt. Rose Church of God In Christ and in particular Pastor Elder Ron Eagleton, whose passionate and dedicated leadership has borne the commitment to service that is so much a part of this congregation.

The 11th Annual Founder’s Day Celebration on Sunday, July 15, 2001, is especially significant because it also marks the ground breaking of the new 43,000 square foot facility to be completed next year. The new sanctuary will seat 1,100 people and the facility will house the more than 20 ministries of Mt. Rose Church of God In Christ. In addition, it will also include a gymnasium for recreational activities.

Mr. Speaker, as Mt. Rose Church of God In Christ continues to grow in size and members, their message of hope and love to the community of Harris County. Their work sets an example for the entire community to follow.

MEDICARE EDUCATION AND REGULATORY FAIRNESS ACT OF 2001

HON. DANNY K. DAVIS
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. DAVIS of Illinois. Mr. Speaker, I’d like to preface my comments by saying that Medicare is a wonderful program. Since the enactment of Medicare in 1965, seniors and disabled individuals have had better access to physicians and more access to life-saving treatments. And in comparison to managed care, Medicare is also extremely cost-effective.

It’s an under-appreciated fact that Medicare is administered for just two cents on the dollar, while managed care is typically administered at a rate twelve times greater, twenty times greater.

Still, it’s absolutely amazing how much bureaucratic red tape you can generate for two cents on the dollar. This is 500 sheets of paper. If you write double-sided, it’s 1000 pages. Now, if you imagine 110 of these stacks piled on top of each other, you begin to have an idea of how complicated Medicare is. 110,000 pages of regulations—that’s over three times the length of the U.S. tax code.

Every month, physicians receive pages upon pages from their Medicare carriers describing ever-changing policies and regulations. Keeping track of everything is frankly impossible. Yet, if a physician doesn’t follow one of the rules, no matter how unintentionally, he or she can be subjected to the draconian process of a Medicare audit. Currently, when carriers identify an alleged physician billing error, they can “extrapolate” the single identified error to the physician’s other claims. This would be like the IRS identifying an error on your most recent tax return, and then assuming that you made that error on every tax return you ever filed.

The “Medicare Education and Regulated Fairness Act of 2001” is a common-sense piece of legislation that addresses this injustice, as well as many others. This act will guarantee that physicians receive the same due process that we guarantee all our citizens. If this alone were the only virtue of this bill, it would still be worth passing. But there is a larger significance here that extends beyond physicians, and it can be summarized with a simple equation: Less time spent on paperwork means more time spent on patient care. Therefore, as much as physicians will benefit from this legislation, let us always keep in mind that the true beneficiaries are the patients.

Mr. BURTON. Mr. Speaker, I rise today to introduce a bill that would assist federal departments and agencies in their efforts to recruit and retain employees. This bill would allow federal civilian employees to keep frequent flyer miles and other promotional benefits they receive while traveling on official government business.

The existing law, enacted in 1994, intended to save the government money. However, the law has been difficult to implement because the airlines regard frequent flyer miles as belonging to the individual traveler and are generally unwilling to create separate official and personal frequent flyer accounts for the same individual. Overall, the burdens and costs of administering this program have limited its benefits to the government.

Mr. BURTON. Mr. Speaker, today I am introducing a bill that would assist federal departments and agencies in their efforts to recruit and retain employees. This bill would allow federal civilian employees to keep frequent flyer miles and other promotional benefits they receive while traveling on official government business.

The private sector commonly allows its employees to keep the frequent flyer miles they receive while on business travel, giving private companies, including government contractors, a competitive edge over federal agencies in attracting and retaining skilled employees. Changing this policy would help level the playing field.

However, in order for federal employees to keep these benefits, the bill would require that they be obtained under the same terms as provided to the general public and must be at no additional cost to the government. Frequent flyer miles that are accrued during employees’ official travel will also help compensate employees for the sacrifices and frustrations often associated with air travel. Similar to private-sector employees, federal employees must often travel on their personal time to meet work schedules.

This is just one small step to help counteract the effects of the expected retirements in the federal workforce in the coming years, and it would help the government compete for top-quality employees.

I urge my colleagues to cosponsor this legislation.
HONORING THE CITY OF TRINIDAD

BY RESISTING LAYOFFS, SMALL MANUFACTURERS HELP PROTECT ECONOMY
(By Clare Anthey)

IRWIN, PA.—Extrude Hone Corp. is one of the reasons that the bottom hasn’t fallen out of the U.S. economy.

Quietly, but profitably, the company is going about its business: making machines that use a special abrasive putty to smooth out rough edges on aircraft engines, fuel-in-jection nozzles and heart valves. By itself, Extrude Hone, which has a work force of less than 200 locally and 400 worldwide, hardly registers beyond its rural hometown near Pittsburgh and the large community of its customers. But its broader significance lies in the fact that it’s far from alone.

Extrude Hone is just one of about 4,000 manufacturers in this southwest corner of Pennsylvania, nearly all with fewer than 500 workers. As a group, they employ about 170,000 people, and their payrolls total $7.1 billion annually. Most are too small to show up on Wall Street’s radar screen. But these stealth manufacturers, principally durable-goods makers, have had a slight impact on the nation’s economy, and many of them are showing surprising strength.

LAYOFFS VS. HIRING

Though there have been some recent signs of a pickup, the durable-goods sector, which produces big-ticket items designed for repeated use, has borne the brunt of the manufacturing slump that began in the second half of 2000. Many of the sector’s publicly traded giants, such as General Electric Co., Eaton Corp. and International Paper Co., have responded by announcing major layoffs. But despite all that, about 60% of southwest Pennsylvania’s durable-goods manufacturers plan to add workers this quarter, according to a recent survey by staffing agency Manpower Inc.

Why? Larry Rhoades, Extrude Hone’s chief executive, can cite several reasons. So can Kurt Lesker III, whose family-owned company makes vacuum systems, or Robert Moscardini of U.S. Tool & Die Inc., who has nearly tripled his work force to 110 people since 1994 and whose board wants him to increase it to as many as 500.

All three businesses have been understaffed in recent years and have had to invest heavily in recruiting and training. Mr. Moscardini figures U.S. Tool & Die spent 3,000 hours training workers last year, even paying an outside welding company to help it in the effort. “You figure every hour is worth $60 to $100,” he says. “That’s a big investment. You don’t just let those people go.”

EIGHT GREAT YEARS

Nor are many small to midsize manufacturers elsewhere in the nation rushing to cut back. Though some have no choice but to lay off employees, even many of those who have managed to maintain staffs believe they are better off. In that sense, the companies have been able to hold on to their workers, both out of loyalty to their communities and employees and out of fear that they will be left without much-needed talent when the economy recovers. And, unlike many larger companies, they have relatively few employees who are also employees, have remained relatively upbeat, despite the current slowdown.

“During good times you conduct yourself so you can comfortably sustain not-so-good times like now,” Mr. Rhoades says. And, he adds, don’t have Wall Street calling me asking, ‘What have you done for me this week?’

Here in southwest Pennsylvania, industrial stalwarts such as U.S. Steel Corp., Alcoa Inc. and Westinghouse Electric Corp. drove the economy, spawning thousands of smaller operations that were formed solely to supply and serve them. Many of those operations dried up over the decades as Westinghouse left town and steel’s presence here shrank. The small manufacturers that have survived this downturn have done so in step.

Extrude Hone is one of them. Mr. Rhoades’s father started the business 35 years ago in the back of a tire shop. The company’s purpose was to polish rough edges and holes in metal parts. Though that sounds like a minor adjustment, such fine-tuning can greatly enhance a product’s performance. Having a smooth hole, rather than a jagged one, in a fuel-injection system, for example, even when the hole is only twice the diameter of a hair, can increase the efficiency of fuel by 20%. That means improved fuel economy and lower emissions. When it comes to heart valves and knee joints, the difference means better blood flow and less chance of contamination, training.

The fact that Extrude Hone is growing makes it an anomaly among the nation’s machine-tool producers, whose overall sales have slumped since the late 1980s. In a recent speech before a business group in Birmingham, England, where the decline of heavy industry has paralleled that of Pittsburgh’s, Mr. Rhoades shared his company’s survival strategy with the audience, and knew how his manufacturing business had weathered the U.S. steel industry’s diminished local presence.

The fact, Mr. Rhoades said, was exploiting the advantages inherent in being a small manufacturer. Having relatively few employees, he said, helps his company to remain flexible and stay close to its customers and employees. Making things more economically, precisely or consistently isn’t
A few years ago, Mr. Ross got together with some other area manufacturers to discuss the problem. With the help of Duquesne University in Pittsburgh and a local foundation, they developed a training program aimed at people who had planned to go to college and indicated an interest in a career but had ended up in dead-end jobs. So far, Lesker has hired about 15 graduates of the program, which is called Manufacturing 2000, including Dan McKenzie.

MORE EARNING POWER

Mr. McKenzie, 27, had just finished a stint with the Marine Corps and was working in a pizza shop. He saw the program’s ad for free training and jumped on it. Now, he works for Lesker as a machinist and has taken some college courses toward an industrial-engineering degree. As a result, Mr. McKenzie, who made $5.80 an hour delivering pizza, has raised his hourly pay about 40%. "We don’t have the resources to train and recruit that larger companies have," says Lesker’s Mr. Ross. Once it gets people, the company is loath to lose them.

Moreover, the average age of machinists, welders and tool grinders is 43, and welders have received $9 an hour increase substantially. The average annual wage in the manufacturing sector here is $42,000. The sector, which employs about 15% of the region’s workers, accounts for 20% of the region’s wages. According to Barry Macias, of Duquesne’s Institute for Economic Transformation.

Local companies paid $1,250 for each Manufacturing 2000 graduate and considered it a bargain. "We don’t have the resources to train and recruit that larger companies have," says Lesker’s Mr. Ross. Once it gets people, the company is loath to lose them.

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his selfless service to America and to his 50 combat flights. These are distinctions one earns for going above and beyond the call of duty.

I am proud to honor Fritz with this Congressional Tribute as he is truly an American hero who exemplifies the spirit of patriotism. He is one individual who added to the collective effort to perpetuate peace and reconciliation following World War II. I commend his notable service and his efforts on the behalf of this country and wish him all of the best in the years to come.

EUROPEAN UNION OPPOSES BEIJING’S OLYMPIC BID—CONGRESS REMAINS SILENT

HON. TOM LANTOS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. LANTOS. Mr. Speaker, on July 5th the 626-member European Parliament meeting in Strasbourg, France, adopted a resolution opposing China’s bid to host the 2008 Summer Olympics. In finding that China “clearly fails to uphold universal human, civil and political rights, including freedom of religion,” the European Parliament urges that the International Olympic Committee (IOC) “reconsider Beijing’s candidacy,” only when China has made “fundamental change in their policy on human rights, and the promotion of democracy and the rule of law.”

Last March, with an overwhelming bipartisan vote, the House Committee on International Relations expressed itself against China holding the Olympics by approving H. Con. Res. 73. Now the 626 Members of the European Parliament have voted and approved a similar resolution, yet we in the U.S. House of Representatives have not been given the opportunity to speak as a whole on this critical moral issue. I implore the Speaker and the Majority Leader—stop bottling up this legislation.

Mr. Speaker, I ask that the entire text of the resolution concerning Beijing’s application to host the 2008 Olympic Games, as adopted by the European Parliament on July 5th, be placed in the CONGRESSIONAL RECORD. I urge my colleagues to review this resolution and consider our obligation to join our European colleagues in speaking out against China’s Olympic bid in the few hours that remain before the IOC vote on Friday in Moscow. Religion is persecuted, political freedom does not exist, media freedom does not exist, our airplane is forced down, our servicemen and women are held in captivity for 11 days; yet this body is not allowed to vote on whether the Olympics should be held in Beijing.

EUROPEAN PARLIAMENT RESOLUTION ON BEIJING’S BID TO HOST THE 2008 OLYMPIC GAMES

The European Parliament resolution on Beijing’s bid to host the 2008 Olympic Games, as adopted by the European Parliament on July 5th, is placed in the CONGRESSIONAL RECORD. I urge my colleagues to review this resolution and consider our obligation to join our European colleagues in speaking out against China’s Olympic bid in the few hours that remain before the IOC vote.

CAMPAIGN FINANCE REFORM

HON. JERRY MORAN
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. MORAN of Kansas. Mr. Speaker, the House this week begins debate on campaign finance reform. This debate is important for a number of reasons. We need to end the practice of unlimited soft money contributions from corporations and labor unions, improve disclosure requirements so that ordinary citizens know who is paying for campaigns. Most importantly, we need to restore people’s confidence that their elected officials are looking out for their interests.

In previous debates on campaign finance reform, I have supported a ban of soft money. These unregulated, unlimited contributions have cast a shadow of impropriety over electioneering efforts by both political parties. Soft money circumvents current campaign finance laws which prohibit corporate contributions to federal campaigns and limit how much an individual can contribute. Banning soft money would eliminate the largest source of questionable campaign money in elections and would help repair Congress’s tarnished public image. Another key principle of campaign finance reform is improved disclosure. Voters have a right to know who is contributing to campaigns, how much and when. They also have a right to know who is paying for advertising and other political activities on behalf of or in opposition to candidates. Armed with this information, voters are more than capable of judging who is representing them and who is representing special interest contributors. Reform legislation should strengthen disclosure requirements and improve electronic access to campaign finance information.

While I strongly support reforming our campaign finance laws, I do not support taxpayer financing of federal elections. Nor do I support proposals that infringe on the free speech rights of individuals or groups. The freedom to support or oppose candidates is fundamental to the American system of government. Public financing forces citizens to support with their taxes candidates they oppose. Reform is improved disclosure. Voters have a right to know who is contributing to campaigns, how much and when. They also have a right to know who is paying for advertising and other political activities on behalf of or in opposition to candidates. Armed with this information, voters are more than capable of judging who is representing them and who is representing special interest contributors. Reform legislation should strengthen disclosure requirements and improve electronic access to campaign finance information.

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EXTENSIONS OF REMARKS

on all the people of south Asia. We can do this by maintaining the existing sanctions against India, by stopping our aid to India until it stops funding the terrorists that are the cornerstone of real democracies, and by supporting self-determination for the peoples of South Asia in the form of a fair and free plebiscite on their political status. By these measures, we can help bring freedom, security, stability, and prosperity to the subcontinent and bring America new allies and new influence in this dangerous region.

HONORING NANCY MACCONELL
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor a great wife, mother, sister, aunt, grandmother, great grandmother and friend. Eighty years ago this Saturday, July 14th, Nancy Leigh MacConell, was born in Globe, Arizona, eldest daughter of Elijah and Alta Phillips.

Nancy is also a treasure to one and all. She has brought great joy to all her family including her beloved sisters Joan and Sidney and her late husband Michele MacConell, Jr.

Nancy is the mother of three; Suzanne Du Pree, Michele King and Michael, the grand- mother of ten and the great grandmother of thirteen. And all firmly believe she has the patience of Job and is the greatest mom there ever was.

I rise today to celebrate and honor Nancy MacConell’s 80th birthday and wish her as much and love and joy in the next 80.

SUPPORTING A COMMEMORATIVE STAMP FOR THE HONORABLE ADAM CLAYTON POWELL, JR.

HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. RANGEL. Mr. Speaker, I rise to urge my colleagues to support House Concurrent Resolution 182, which recommends a long overdue commemorative stamp for a lawmaker, civil rights advocate and American statesman whose achievements continue to resonate. Congressman Adam Clayton Powell, Jr. remains one of the greatest and most effective legislators in the history of the U.S. Congress. When he was first elected to Congress in 1945, he was one of only two African-American members, and became the first of his race to chair the powerful Committee on Education and Labor from 1961 to 1967.

As Chairman, he spearheaded the legislation that authorized the Medicare, Medicaid, Head Start and school lunch programs, increased the minimum wage and established student loan programs. Congressman Powell also pushed through the landmark Civil Rights Act of 1964, finally codifying his famous “Powell Amendment”; a rider that would deny federal dollars to institutions that practice racial discrimination, which he had introduced repeatedly for years.

Congressman Powell was a pioneer among lawmakers whose legacy continues to inspire countless generations of Americans of all backgrounds, colors, creeds and religions to take part in this grand experiment we call “representative government”.

I respectfully urge my colleagues to join me and cosponsor H. Con. Res. 182 to celebrate a lawmaker whose accomplishments are among the greatest examples of perseverance and triumph in our democratic system.

IN RECOGNITION OF EDUCATOR LARRY RATTO
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 11, 2001

Mr. STARK. Mr. Speaker, I would like to pay tribute to a legendary educator in my congressional district who retired on June 30, 2001 after an illustrious thirty-six year career filled with memorable contributions to the Hayward, California school district.

A native of Alameda, California, Larry began his career in 1965, when he worked as a history/government teacher and counselor at Mt. Eden High School. Four years later, he became an administrator at Tennyson High School where he took the reins and lead with vigor and creativity.

He stood on hot coals more than once for a good five to ten minutes during pep talks to student leaders at their annual weekend retreat.

Many recall the time in 1970 when Larry rode a galloping horse between the Tennyson High School buildings to chase down a truant student—a legendary story that people still talk about three decades later.

In 1971, Larry became vice principal at Hayward High School and five years later he was named as principal of Sunset High School until it closed in 1990. He returned to the 1,900-student Hayward High School as principal, the last position he held before his retirement.

“You got to have some pizzazz,” Larry said, while wrapping up his final days as a public school administrator. “You are competing with the MTV culture.” Larry describes his career as “fun.” He said, “There were days when it was not fun and hours that I thought, ‘Why am I doing this?’”

Having once considered being a lawyer, Larry enjoyed the excitement of a high school principal’s life, that every day was different. He is proud of Hayward High School and its wide class offerings and plethora of extracurricular student activities.

Parents, teachers, students, administrators and community leaders express great admiration for Larry Ratto’s three decades of outstanding leadership in education as well as his exemplary involvement in community activities.

I ask my colleagues to join me in paying tribute to this colorful, legendary educator, and community leader.
IN HONOR OF THE REOPENING OF THE LESBIAN, GAY, BISEXUAL & TRANSGENDER COMMUNITY CENTER

HON. JERROLD NADLER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. NADLER. Mr. Speaker, I rise today to recognize the reopening of the newly rennovated and recently renamed Lesbian, Gay, Bisexual & Transgender Community Center located in New York City. The stated mission of the Center is to provide a home for the birth, nurtue and celebration of lesbian, gay, bisexual, and transgender organizations, institutions and culture. For nearly two decades the Center has successfully fulfilled that mission by providing groups and individuals a safe space in which to achieve their fullest potential. The newly renovated space at 208 West 13th Street in Manhattan, will be a permanent home for the local LGBT community, fostering creativity, compassion, and activism.

The Lesbian, Gay, Bisexual & Transgender Community Center has long been a beacon of hope for many in the community, serving thousands upon thousands of residents from all walks of life and from every corner of the world. The Center is not only a host to a wide variety of civic, athletic, health, and cultural groups, but also provides an array of its own programming. Programs such as Project Connect, CenterBridge, Center Kids, the Pat Parker/Vito Russo Center Library, and the National Museum and Archive of Lesbian and Gay History add to the expansive fabric that binds New York’s LGBT Community.

Mr. Speaker, I salute The Lesbian, Gay, Bisexual & Transgender Community Center in its ongoing effort to better enrich the LGBT Community and society as a whole. I am eminently proud to represent such a living landmark. I urge my colleagues to join me in wishing them well and all the hope for the future in their new spectacular facility.

EXTENSIONS OF REMARKS

HON. DON YOUNG
OF ALASKA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. YOUNG of Alaska. Mr. Speaker, I rise today to introduce legislation which will facilitate and promote the successful commercial reuse of the former Naval Air Facility on Adak Island, Alaska. At the same time, this legislation will allow the Aleut people of Alaska to reclaim the island and to make use of its modern developments and important location.

The legislation I introduce today ratifies an agreement between The Aleut Corporation, an Alaska Native Regional Corporation, the Department of the Interior, and the Department of the Navy. “The Agreement Concerning the Conveyance of Property at the Adak Naval Complex, Adak,” Alaska was signed last September and is the result of more than four years of discussions and negotiations among the three parties.

The bill and the Agreement also further the conservation of important wildlife habitat. A portion of Adak is within the Aleutian Islands subunit of the Alaska Maritime National Wildlife Refuge. The Agreement facilitates the Department of the Interior’s continued management and protection of the Refuge lands on Adak and even adds some of the Navy lands to the Refuge. Moreover, in exchange for the developed Navy lands, which are not suitable for the Refuge, but are commercially useful, The Aleut Corporation will convey environmentally sensitive lands it holds elsewhere in the Refuge to the Department of the Interior.

For many years the Navy was an important constituent in Alaska’s Aleutian Chain. Its presence was first established during World War II with the selection and development of the island because of its combination of ability to support a major airfield and its natural and protected deep water port. The Navy’s presence there contributed greatly to the defense of our Pacific coast during World War II and throughout the Cold War. Through the Navy’s presence, Adak became the largest development in the Aleutians as well as Alaska’s sixth largest community. With the end of The Cold War our defense needs changed, however, and Adak was selected for closure during the last base closure round.

Those very same features that made Adak strategically important for defense purposes also make it important for commercial purposes. Adak is a natural stepping stone to Asia and is at the crossroads of air and sea trade between North America, Europe, and Asia. With the ability to use Adak commercially, the Aleut people, through The Aleut Corporation can establish it as an important intercontinental location with enterprise enough to provide year round jobs for the Aleut people. These goals are consistent with the promises and the Alaska Native Claims Settlement Act, the legislation that created the corporation.

This rebirth of Adak is already well underway. The Aleut people assumed responsibility for the operation of the Island from the Navy last October and there are a number of new commercial enterprises and endeavors. At the same time a new community has begun to take shape. Just last month the new City of Adak was established as a result of a public referendum and is in the process of taking over responsibility for the many public facilities.

The Agreement resolves a number of important issues related to the transfer of this former military base and the establishment of the new community on Adak, including responsibility for environmental remediation, institutional controls, indemnification, required public access, and reservation of lands for government use.

This legislation furthers our country’s objectives of conversion of closed defense facilities into successful commercial reuse, it benefits the Aleut people and restores them to their ancestral lands and it benefits the National Wildlife Refuge System. I believe everyone will agree that such legislation is important and worthy of our support.

PRESCRIPTION DRUG BENEFIT

HON. BETTY McCOLLUM
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Ms. McCOLLUM. Mr. Speaker, it is far past the time for us to address the intolerable discrimination in drug pricing and provide a comprehensive prescription drug benefit now. These drug re-importation amendments fail to address the real issue of the lack of affordable prescription drugs and in turn provide no real relief.

Seniors should be able to buy American prescription drugs for the same price in Rochester as you can in Rio, in Mankato as you
Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the 125th anniversary of the Village of Baldwin, Illinois.

The Village of Baldwin originally was settled about one mile north of it's present location. The early settlers were the Henderson, Allen and Preston families. In 1874, the Mobile and Ohio Railroad built a railroad line at it's present location. Later, a grain elevator was built along the railroad and the village started to develop. In 1876, villagers circulated a petition requesting the official incorporation of the Village of Baldwin. On July 12, 1876, at a special term of the County Court, this petition was presented to Presiding Judge John H. Lindsey and County Clerk, Miss Mary McIntyre. The petition, signed by fifty legal voters, requested that the organization of the Village of Baldwin located in the County of Randolph be approved. County Judge Lindsey approved the petition and ordered an election be held on Tuesday July 11, 1876 at the office of RH Preston Esq., for the purposes of voting for or against the organization of the Village under the general laws of the State of Illinois. William L. Wilson and James C. Holbrook, Justices of the Peace of Randolph County, canvassed the election returns, finding that all votes cast were unanimously for the organization of the Village. Judge Lindsey ordered that on August 8, 1876 at the office of RH Preston Esq., an election be held for six Village trustees and one Village Clerk. The first Village Board that was elected then was S.H. Johnson, J.E. Davis, W.T. Thompson, James R. Holden, W.M. Wilson and S.B. Adams. The elected Village Clerk was S.D. Lindsey. On August 11, 1876, the Board of Trustees held it's first meeting. S.B. Adams was chosen as the President of the Board and W.S. Johns was appointed Village Constable and S.D. Lindsey was appointed Village Treasurer.

The Village of Baldwin prospered as a small trading Village throughout the years. The main business being a grain elevator, of which there has been one in Baldwin since it's incorporation. At present, the elevator is owned and operated by Gateway FS. In 1932, Highway 154 was built through Baldwin to provide all-weather transportation to neighboring towns and communities. In September of 1940, the Mobile and Ohio Railroad was purchased by the Gulf, Mobile and Northern Railroad and renamed to the Gulf, Mobile and Ohio. Later it merged with the Illinois Central Railroad and today it is part of the Canadian National System. Passenger and freight service was provided on the railroad until October 1958, when passenger service was discontinued in the 1980’s. The present rail system supplies services to the Baldwin Power plant, Fairmont Minerals, the Kaskaskia Regional Port District and Gateway FS.

In the Village of Baldwin the educational system consisted of a three-year high school, a public grade school and a Lutheran grade school. The high school was discontinued in the mid 1940’s and the school district became part of the Red Bud School District. In 1959, the public grade and children were sent to Red Bud schools. The Lutheran grade school also closed in the mid 1970’s and children attend either Prairie or Red Bud. Baldwin is also the home to many churches. Both the St. John’s Lutheran Church and the Baldwin Community Presbyterian Church have organizations to promote the welfare of their members. The Village also has many civic organizations which include the American Legion Nicholas Lauffer Post 619, the Baldwin Athletic Club, the Baldwin Community Auctioneer. In 1964, the Village installed both water and sewer systems. The water plant received severe damage from the 1993 flood and the plant needed to be moved out of the flood plain. After deliberation by the Board, it was determined that the Village became part of the newly formed rural water system. In early last year, the Village water system became part of the Eggleston system which pur- chases water from the City of Sparta. The Village sanitary sewer system was upgraded in 1987 and with federal and state assistance, their water system is about to be improved.

In 1999, the old school building, which previously served as the Village Hall, was razed. With assistance from local political leaders, funds were made available for a new Community Center. Both State Senator David Luechtefeld and State Representative Dan Reitz helped to secure the new Center. This center, when completed, will be used for all community functions and also serve as a meeting room for the Village Board. Offices for the Village President and Village Clerk will also be included in this facility. Today, the Village of Baldwin is presided over by Jeffrey S. Rowold, Village President, Wesley G. Steinhorn-Village Clerk, Eileen Mehring-Village Treasurer, Craig Hartman, James Mueller, Darrell Mueth, Barry Schoenbeck and Cheryl Sellers all Village Trustees.

Mr. Speaker, I ask my colleagues to join me in honoring the 125th Anniversary of the Village of Baldwin and to salute it’s past, present and future residents.
operation of trucks may be a small but necessary part of an individual’s job. We imposed our will on thousands of small businesses not involved in long-haul trucking and somehow expected them to adjust to any circumstance that might arise. Under these conditions, I believe it should be within a state’s discretion to determine what kind of commercial vehicle licensure and testing is required for commerce solely within its borders.

I again want to emphasize that it would be entirely up to each state whether it chooses to reassume authority over licensing and testing of intrastate drivers. A state that chooses to exercise this option would in no way diminish the role of the CDL in the long-haul trucking industry. Additionally, this legislation effectively exercises this option would in no way diminish the role of the CDL in the long-haul trucking industry. Additionally, this legislation effectively precludes two or more states from using this option as the basis for an interstate compact. I am confident that those states taking advantage of this option will develop testing standards that meet or exceed the minimum level of safety decreed by the federal program. After all, the primary mission of all state DOTs is to ensure the safety of those travelling on their roads. This legislation is extremely important to our nation’s small businesses, and I urge the House to adopt this measure.

RECOGNIZING THE CONTRIBUTIONS OF FUJIFILM TO THE SMITHSONIAN INSTITUTION

HON. LINDSEY O. GRAHAM
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. GRAHAM. Mr. Speaker, I rise today to congratulate Fujifilm for recently receiving the Smithsonian Institution’s 2001 Corporate Leadership Award for its role as lead sponsor of Mei Xiang and Tian Tian, the new giant panda pair at the Smithsonian’s National Zoo. The award recognizes the gift made on behalf of Fujifilm’s 8,000 U.S. associates at 47 separate facilities.

Additionally, I would like to commend Fujifilm for the significant contribution that organization has made to the Smithsonian’s National Zoo in donating $7.8 million, the largest donation in the Zoo’s distinguished history. Fujifilm’s generous gift and lead sponsorship of the project to bring a new giant panda pair to the Zoo and to construct the Fujifilm Giant Panda Conservation Habitat which will serve as the new, permanent home for the pandas. Mei Xiang and Tian Tian have quickly become national treasures. Their arrival at the Zoo, as well as the extensive giant panda education and research activities, initiated through their sponsorship, have been beneficial to the visiting public. Fujifilm hopes that its involvement will create a gateway that will help people better understand the broader issues of species conservation worldwide. Additionally, many items from Fujifilm’s wide range of state-of-the-art imaging, data storage and information products will be used by Zoo researchers as they conduct their projects in the study of the giant pandas.

Mr. Speaker, I urge my colleagues to join me in lauding the outstanding corporate citizenship of Fujifilm and its leadership in conservation efforts. Additionally, I would hope that the members of this body will join me in thanking Fujifilm’s 8,000 U.S. associates for their valuable gift to the National Zoo, its visitors, and its researchers.

PERSONAL EXPLANATION

HON. MARK R. KENNEDY
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

Mr. KENNEDY of Minnesota. Mr. Speaker, on rollover Nos. 211, 212 and 213 I was unavoidably detained by airline delays. Had I been present, I would have voted “yea” on each rollover.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur. As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 12, 2001 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

JULY 13

9:30 a.m.

Energy and Natural Resources


SD–366

10 a.m.

Judiciary

To hold hearings on executive branch nominations.

SD–226

2:30 p.m.

Judiciary

Immigration Subcommittee

To hold hearings on S. 121, to establish an Office of Children’s Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children.

SD–226

JULY 16

1 p.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine security risks for the E-consumer.

SR–253

JULY 17

9:30 a.m.

Energy and Natural Resources


SD–366


SD–366


SD–366


SD–366


SD–366


SD–366


SD–366


SD–366

Future Years Defense Program, focusing on active and reserve military and civilian personnel programs.

Energy and Natural Resources
To hold hearings on proposals related to energy and scientific research, development, technology deployment, education, and training, including Sections 107, 114, 115, 607, Title II, and Subtitle B of Title IV of S. 388, the National Energy Security Act of 2001; Titles VIII, XI, and Division E of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 111, 121, 122, 123, 125, 127, 204, 205, Title IV and Title V of S. 472, the Nuclear Energy Electricity Supply Assurance Act of 2001; S. 90, the Department of Energy Nanoscale Science and Engineering Research Act; S. 193, the Department of Energy Advanced Scientific Computing Act; S. 242, the Department of Energy University Nuclear Science and Engineering Act; S. 259, the National Laboratories Partnership Improvement Act of 2001; and S. 636, a bill to direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the Sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

Indian Affairs
To hold oversight hearings on tribal good governance practices and economic development.

Judiciary
To hold hearings to examine reforming the Federal Bureau of Investigation management reform issues.

Health, Education, Labor, and Pensions
Shared by different committees.

Governmental Affairs
Investigations Subcommittee
To hold hearings to examine past and current U.S. efforts to convince offshore tax havens to cooperate with U.S. efforts to stop tax evasion, the role of the Organization of Economic Cooperation and Development tax haven project in light of U.S. objectives, and the current status of U.S. support for the project, in particular for the core element requiring information exchange.

Energy and Natural Resources
To hold hearings on proposals related to removing barriers to distributed generation, renewable energy and other advanced technologies in electricity generation and transmission, including Sections 301 and Title VI of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 110, 111, 112, 710, and 711 of S. 388, the National Energy Security Act of 2001; S. 933, the Combined Heat and Power Advancement Act of 2001; hydroelectric relicensing procedures of the Federal Energy Regulatory Commission, including Title VII of S. 386, Title VII of S. 597; and S. 71, the Hydroelectric Licensing Process Improvement Act of 2001.

Governmental Affairs
Intelligence
To hold closed hearings on intelligence matters.

Energy and Natural Resources
To hold hearings on proposals related to global climate change and measures to mitigate greenhouse gas emissions, including S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; S. 388, the National Energy Security Act of 2001; and S. 820, the Forest Resources for the Environment and the Economy Act.

Veterans' Affairs
To hold hearings to examine prescription drug issues in the Department of Veterans' Affairs.

Indian Affairs
To hold oversight hearings on the implementation of the Indian Gaming Regulatory Act.

Indian Affairs
To hold oversight hearings on the implementation of the Indian Health Care Improvement Act.

Veterans' Affairs
To hold hearings on the implementation of the Indian Health Care Improvement Act.

Indian Affairs
To hold hearings on S. 212, to amend the Indian Health Care Improvement Act to revise and extend such Act.
HOUSE OF REPRESENTATIVES—Thursday, July 12, 2001

The House met at 10 a.m.

Rabbi Solomon Schiff, Director, Greater Miami Jewish Federation, Miami, Florida, offered the following prayer:

Heavenly Creator, we ask for Thy blessings upon the Members of this sanctified chamber who have accepted the sacred responsibility to serve with partiality to none and compassion to all. May their deliberations be guided by wisdom, purpose, and dedication.

Bless, we pray, our Nation. Thou has created this land as a haven of hope for the tired, the poor, the huddled masses yearning to breathe free. From the raw elements of justice, liberty, and equality, Thou has created here Heaven on Earth. May we ever remain worthy of this precious gift.

May this Nation serve as an inspiring beacon, whose light will dispel the darkness of despair and will guide the ship of mankind safely home to the port of peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day’s proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker’s approval of the Journal.

The SPEAKER. The question is on the Chair’s approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Nevada (Mr. GIBBONS) come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment H. Con. Res. 174, Concurrent resolution authorizing the Rotunda of the Capitol to be used on July 26, 2001, for a ceremony to present Congressional Gold Medals to the original 29 Navajo Code Talkers.

WELCOMING RABBI SOLOMON SCHIFF, DIRECTOR, GREATER MIAMI JEWISH FEDERATION, MIAMI, FLORIDA

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I am so very pleased to introduce my congressional constituent, Rabbi Solomon Schiff, of the Greater Miami Jewish Federation, who led us in our opening prayer today.

I am proud to have a spiritual leader from Miami chosen for this special opportunity, and I thank Rabbi Schiff for sharing his compassionate prayer of hope and peace with our colleagues.

Within the south Florida community, Rabbi Schiff is well-known for his many acts of kindness and charity. In addition to his many duties, he finds time to serve as a member of the Governor’s Commission on Aging with Dignity, as well as the People United to Lead the Struggle for Equality, an African American clergy group.

Rabbi Schiff is currently the executive vice president of the Rabbinical Association of Greater Miami, a position he has held since 1964. He is the longest-serving executive of any board of rabbis.

Additionally, he has served as the President of the Florida Chaplains Association and the South Florida Chaplains Association, and was recently elected as President of the National Association of Jewish Chaplains.

Rabbi Schiff is married to the former Shirley Miller, and they have three sons, Elliott, Jeffrey and Steven, as well as seven grandchildren.

Rabbi Schiff is an exemplary man of faith, and all of us in south Florida share tremendous pride that he is here with us today.

Welcome, Solomon Schiff, the rabbi of our community.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaTOURETTE). The Chair will entertain 10 one-minute speeches per side.

SUPPORT ENERGY SECURITY ACT TO MEET ENERGY NEEDS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, due to recent current events, I do not think anyone can deny nor can anyone argue that this country needs more energy. Every estimate I have seen points to a sharp rise in our Nation’s energy demands over the next 20 years. The demand for electricity, for example, is expected to rise 45 percent, according to the DOE, and the demand for natural gas will be even greater. It is expected to rise 62 percent by the year 2020.

Now, everyone knows that conservation can take the edge off that demand, and, in fact, the Republican energy package offers a framework for energy conservation that we have long needed. But, as Californians know quite well, even the best conservation efforts will not solve this problem. They are experiencing about a 15 percent gain in that demand due to conservation. That still leaves us about 40 to 50 percent short, and, without new energy supplies, more businesses, more hospitals, and more homes are going to go dark unnecessarily. We need to produce more energy.

Therefore, I encourage my colleagues to support H.R. 2436 the Energy Security Act, which provides a multifaceted energy package.

ALLOW UP OR DOWN VOTE ON CAMPAIGN FINANCE REFORM

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, today was the day that we were supposed to debate at long last campaign finance reform. The public understands that if we are to pass campaign finance reform, it will be embodied in the principles of McCain-Feingold or Shays-Meehan. But, unfortunately, the Committee on Rules is recommending a rule that will make it extremely difficult, if not impossible, for this body to have an up-or-down vote on the McCain-Feingold/
Shays-Meehan campaign finance reform proposal.

That is not right. Those of us who favor reform, unfortunately, will have to oppose this rule so that we can, in fact, have an honest debate and vote up or down campaign finance reform.

IMPLEMENT PRESIDENT'S ENERGY PLAN

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, in the last few weeks we have seen gas prices go up and down, and I think we all hope they keep coming down. Energy prices are still too high, supply is not meeting demand, and we are still expecting rolling blackouts in California, and we could still see gas prices as high as $2 a gallon.

This is the time for leadership. We need real solutions. The President has taken the initiative and is working hard to implement his 105-point plan to increase supply and correct the market, but some politicians just cannot resist the temptation to politicize this for personal gain. They are telling people that there is a quick fix and pointing fingers at anyone who says there is not.

But we cannot just put price caps on energy. If anything, that will make the problem worse, by removing any incentive to increase production. We need to remove impediments to production so supply can go up and prices can come down.

The last two economic recessions were preceded by similar energy crunches. Hopefully we can still avert a recession, but only if we stop playing games and implement the President’s energy plan.

RETURN GOVERNMENT BACK TO THE PEOPLE

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, it is most unfortunate that the Committee on Rules of this House is thwarting the will of the Members of this House and of the American people to clean up our campaign finance system in this country.

For all too long we have seen the flow of special interest money into the coffers of politicians on both sides of the aisle, in the House and the Senate and the White House, and we have seen the effect of this flow of money. It is now corroding the very pillars of our democracy. It is undermining the foundations of our deliberations in the House and the Senate and at the White House. It means that the people’s business does not get done on a fair and level playing field. It means that there is special access for those who can give huge amounts of money, but there is very little access for those who simply have their voice.

This is not about the first amendment; this is about whether or not this House, this Congress, this Presidency, will return the Government of the United States back to the people and take it away from those who have no end to the amount of money that they can contribute to Members of Congress or the President, those who have so often distorted the debate about the real needs of the American people at this time in our history.

INFLUENCE PEDDLING OF SO-CALLED REFORMERS

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to the words of my friend from California, and I just find it ironic; he hails from a State that once championed the free speech movement at Berkeley, and today on this floor, with a rule that will allow to come to the floor amendments that doctor the so-called campaign reform bill, we will have a chance to see just how corrupting a process can be.

Talk about dirty money, Mr. Speaker. Take a look at the influence-peddling of the so-called reformers.

The simplest way to handle this would be to heed the words of Mr. Justice Brandeis who said that sunlight is the best disinfectant. Yes, it is going to be very enlightening, and I find it fascinating that my friends on the left suddenly now find it unfair to completely debate this important issue. Curiouser and curiouser, said Alice. Today the American people will find out just how corrupt and curious the process has become.

SUCCER FISH DESTROYING LIVELIHOOD OF OREGON FARMERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the endangered sucker fish is living up to its reputation, sucking the livelihood from 1,400 farmers in Oregon. That is right. This protected bottom feeder now has more rights than farmers out there. If that is not enough to fry your mackerel, this region has now been without irrigated water since April, turning 200,000 acres of farmland into near desert.

Beam me up. Stop this sucker fish crusade. Free these farmers.

I yield back the fact that this sucker fish sucks.

THE PROMISE OF STEM CELLS

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, I rise today in strong support of the NIH guidelines for stem cell research. We must look to the promise of stem cell research. The NIH guidelines will enable scientists to proceed with this revolutionary medical breakthrough.

Pluripotent stem cells have the ability to develop into nearly any cell in the human body. This research initiative gives hope to millions of Americans. Stem cells offer hope to patients suffering from diabetes, Parkinson’s disease, cancer and AIDS.

In addition, the research offers hope to those suffering from spinal cord injuries, neurological disorders, sickle cell anemia and muscular dystrophy. Stem cells could also help determine the cause of many birth defects.

Mr. Speaker, millions of Americans are depending on stem cell research to help rid them of painful diseases. Millions of Americans continue to wait as our Government delays in considering this critical form of research. We have a genuine bipartisan opportunity to apply innovative research to take real steps in treating and eliminating a wide range of diseases. The NIH guidelines will help us do that.

MOMENT OF TRUTH FOR CAMPAIGN FINANCE REFORM

(Mr. ISRAEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISRAEL. Mr. Speaker, I rise as a very proud cosponsor of the Bipartisan Campaign Finance Reform Act. It was one of the first bills that I cosponsored in this House because it puts people first.

Earlier this week, I had the privilege of standing with our colleagues, Senators MCCAIN and FEINGOLD and the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN), at the birthdayplace of one of America’s truly great reformers, President Teddy Roosevelt. We stood together in a bipartisan call for campaign finance reform, united in an urgency to restore faith in our democracy.

In his day, President Roosevelt said this: “One of the fundamental necessities in a representative government such as ours is to make certain that the men to whom they delegate their power shall serve the people by whom they are elected and not the special interests.”

Mr. Speaker, today is literally the moment of truth in this House on campaign finance reform. We can keep our

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promises for reform, or we can pretend to keep our promises. The only true reform is known by McCain-Feingold and Shays-Meehan. Let us pass that today.

OPPOSE THE RESTRICTIONS ON FREE SPEECH IN SHAYS-MEEHAN MEASURE

(Mr. CANTOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANTOR. Mr. Speaker, this body is on the verge of a very important vote today, a vote that at its essence is really a vote on whether or not to uphold the constitutional right Americans have to free speech.

The restrictions in the Shays-Meehan bill are an affront to the Jeffersonian values of our country and its rule of law. Individuals, organizations, and businesses in our great land should be able to support the viewpoint and the party of their choice and not be forced to contribute to the candidates of their opponents. The restrictions on how citizens are allowed to participate in our electoral process, we begin to undermine the basis of our Government by the people, a government to which citizens must be able to contribute freely. I urge my colleagues to remember the most essential reform is to ensure that everyone in America has the right to decide how to contribute to our system of democracy.

SUPPORT REAL CAMPAIGN FINANCE REFORM

(Mrs. DAVIS of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I rise today in support of real campaign finance reform.

Why is this so critical? Why is it so important to us today? There is far too much special interest money in our political democracy. Special interests are drowning out the voice of the American people, and they are sick of it.

In my race in San Diego, and in the neighboring 49th district, we are never able to debate the outrageous price discrimination against our seniors on their pharmaceuticals. When we are unable to consider critical issues of public policy, on what is never discussed. But it is also particularly evident in the silence on critical issues of public policy, on what is never discussed.

One of the reasons why I ran for Congress was to work to help restore the public's trust in our elected leaders. The Shays-Meehan bill is the first good step in cleaning up our campaign finance system. By eliminating soft money, Americans' confidence in our electoral system will be restored.

Mr. Speaker, this bill helps to control the amount of money contributed in campaigns, but we need to go further. We must take control of how much money is spent on elections. I will work to take the next step on campaign finance reform by limiting the hundreds of millions of dollars spent on our elections. However, we must begin now. We must begin today. Mr. Speaker, I urge my colleagues to support Shays-Meehan and begin the process.

DEFEND CERTAIN AMENDMENTS TO CAMPAIGN FINANCE REFORM BILL

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, today we have a very important issue before us: campaign finance reform. I want to talk about two amendments that are going to be coming up before us. One is known as the Linder-Schrock amendment, and it bans the use of funds that unions and corporations would give to communicate with their members and stockholders. How ridiculous.

In California we had a similar proposition, and it failed miserably; and that proposition was known as Prop 226. I am glad to say that the residents and those that voted in that election defeated it overwhelmingly. Let us make sure that we defeat that amendment here also.

Another amendment that I believe is egregious would also restrict and limit legal immigrants from making contributions to Federal candidates. Again, we are limiting their ability to vote. The变态 amendment that is known as the Bereuter-Wicker amendment, which would preclude individuals from communicating with people and ideas that they support.

If this is truly America, then we have to stand up for all legal immigrants that are tax-paying, that serve our country, that are playing by the rules, and that are maybe one step away of becoming citizens. Let us do the right thing and defeat these two amendments.

OPPOSE THE RULE ON CAMPAIGN FINANCE REFORM

(Mr. SHERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHERMAN. Mr. Speaker, I am anxious, we are all anxious, to begin campaign finance reform and to begin it by making our rules more fair. Unfortunately, we need to oppose the rule that is coming before this House this morning. It is a rule that tells the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) that they cannot present their bill to this House in the form that they want to present it. Instead, the manager's amendment is chopped up into 12 pieces.

This is unprecedented. This is unfair. This is not reform. This is not the way this House should conduct its business. A vote on Shays-Meehan should be a vote on the bill that the authors would support. Instead, the authors would like us to vote on, not an old draft like us to vote on, not an old draft policy, on what is never discussed. But it is also particularly evident in the silence on critical issues of public policy, on what is never discussed. When we are unable to consider critical issues of public health because of the power of the tobacco industry; when we are never able to debate the outrageous price discrimination against our seniors on their pharmaceuticals...
because of the millions of dollars that the pharmaceutical companies contribute and the multiple issues never considered that impact our children, who make no campaign contribution.

Today we have an opportunity to consider a very modest, a very incomplete and imperfect answer to this troubling predicament through bipartisan legislation. This legislation represents our best hope to begin to correct this outrage and restore our democracy.

PASS MEANINGFUL CAMPAIGN FINANCE REFORM

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, the time has come to pass meaningful campaign finance reform. What it will do, what the bipartisan Shays-Meehan Campaign Reform Act will do is to take the soft money out of politics, take the special interest money out of politics. It will help us to restore the integrity to our political system. It will help us today to restore the confidence for the American public needs to have in people who serve in public life, restore their confidence in our government that, in fact, we can act on behalf of the interests of the people that we represent and not the interests of the moneyed interests in this country.

That is what this bill is about. It is a bipartisan bill. It is authored by the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN). This bill has passed twice in this House before, and we should take today that opportunity to make it a law.

THE JOURNAL

The SPEAKER pro tempore (Mr. LATOURrette). Pursuant to clause 8 of rule XX, the pending business is the motion to adjourn, the question was taken, and the result of the vote was announced as above recorded.

Mr. THOMPSON of California changed his vote from “yea” to “nay.” So the Journal was approved. The result of the vote was announced as above recorded.

MOTION TO ADJOURN

Mr. McNULTY, Mr. Speaker, I move that the House do now adjourn. The SPEAKER pro tempore (Mr. LATOURrette). The question is on the motion to adjourn offered by the gentleman from New York (Mr. McNULTY).
Mr. McNULTY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—aye 7, noes 42, not voting 14, as follows:

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The question was taken; and the RECORDED VOTE was ordered.

Not voting 14, as follows:

Mr. McNULTY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—aye 7, noes 42, not voting 14, as follows:

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<td>Speaker pro tempore announced that the conference asked by the Senate amendment, and agree to the Senate amendment, and agree to the conference asked by the Senate.</td>
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<td>The SPEAKER pro tempore. The APPOINTMENT OF CONFEREES ON H.R. 2216, 2001 SUPPLEMENTAL APPROPRIATIONS ACT was announced as above recorded.</td>
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So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

**APPOINTMENT OF CONFEREES ON H.R. 2216, 2001 SUPPLEMENTAL APPROPRIATIONS ACT**

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2216) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes, with a Senate amendment thereto, disagree with the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The APPOINTMENT OF CONFEREES ON H.R. 2216, 2001 SUPPLEMENTAL APPROPRIATIONS ACT was announced as above recorded.

The SPEAKER pro tempore. The APPOINTMENT OF CONFEREES ON H.R. 2216, 2001 SUPPLEMENTAL APPROPRIATIONS ACT was announced as above recorded.

**SPEAKER pro tempore.** Is there objection to the request of the gentleman from Florida?

Mr. OBEY. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

**MOTION OFFERED BY MR. YOUNG OF FLORIDA**

Mr. YOUNG of Florida. Mr. Speaker, pursuant to clause 1 of rule XXII and by direction of the Committee on Appropriations, I offer a motion.

The Clerk reads as follows:

Mr. YOUNG of Florida moves that the bill (H.R. 2216) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes, with a Senate amendment thereto, be taken from the Speaker's table, that the House disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The Gentleman from Florida (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I might consume.

Mr. YOUNG of Florida. Mr. Speaker, the motion to go to conference is basically a routine motion. We need to get to conference on this supplemental. We have military operations, training activities, we have readiness issues ready to close down if we do not provide the additional money that is needed. Much of the money that has been used already from the fourth quarter accounts of the military have gone to pay for things like higher fuel costs, like all of us will have to do at the fueling pumps, to pay for medical expenses that have already been incurred but have not been paid. They need to be paid.

There are other items included in this conference, and this time is extremely important. I suggest that we should get on with moving this bill into the conference so that we won't be sitting down with our counterparts in the other body, have the conference, and have a supplemental bill ready to report back to the House early next week.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. Of course I yield to the gentleman from Wisconsin. Mr. OBEY, Mr. Speaker, does the gentleman intend to yield to this side of the aisle any time?

Mr. YOUNG of Florida. Mr. Speaker, I was not going to until the gentleman asked. I would be more than happy to yield to the gentleman. Would he like to name a specific amount of time?

Mr. OBEY. Mr. Speaker, it depends on how much time the gentleman intends to take. Normally it is an hour, but it can be less than that.

Mr. YOUNG of Florida. Mr. Speaker, actually I am ready to vote, but I would yield to the gentleman 10 minutes.

Mr. OBEY. Mr. Speaker, could we make it 20 minutes on this side?
Mr. YOUNG of Florida. Mr. Speaker, I yield 20 minutes to the gentleman from Wisconsin (Mr. OBEY), and I would advise him that I do not intend to use much more time on this. The issue is so important that we need to get to it.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. OBEY) for 20 minutes to control debate.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are caught up in two issues here this morning. One is, of course, the issue before us, the question of the proper disposition of the motion to go to conference on the supplemental appropriations. But we are also, in debating that issue, caught up in the larger question this morning of what happens to legislation. How do we fight this battle this day as we move into the subject that will dominate debate for the rest of the day, campaign finance legislation.

This has been the reasonable expectation of reformers on both sides of the aisle, I believe, that the two competing propositions would be allowed to face each other in a stand-up, fair fight. Shays-Meehan on one side of the issue and the Ney-Wynn proposition on the other side of the issue. Instead, the Committee on Rules has not allowed that to happen. What they have done is report a rule which will require campaign finance legislation to be debated under very strange circumstances. It will not allow Shays-Meehan to present their package as a coherent whole. It requires some 12 amendments to be voted on separately. I would say that that is not the way to shop for a car. It is not the way you buy cars, and that is not the way we ought to legislate. We ought to have a fair fight between the two principal propositions that we will be asked to choose between today. But instead we are not going to be given a fair fight, because apparently the people who designed these rules think the only way they can win the debate is to stack the deck. I think that is unfortunate because apparently the people who designed these propositions think the only way they can win the debate is to stack the deck. I think that is unfortunate because it is an abuse of the process, but it is not the first time we have seen that around here.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

I listened with interest to the gentleman’s discussion. I checked my schedule, the card that I carry to tell me where I am supposed to be all day long. I thought we were here talking about a supplemental appropriations bill for national defense and for other health issues and other emergency disaster issues. I did not realize that this motion had anything at all to do with campaign finance reform. That is because it does not. Absolutely nothing. And I will tell you what I think that means. I did not think it was a tax bill. I thought it was a tax bill. But I will tell you what I think that means. I did not think it was a tax bill. It is a tax bill. That is what it is. That is the hope of the people who designed this rule on campaign finance that this motion would go through these kind of machinations and this kind of manipulation and these kind of contortions in order to block the incredibly tepid reform represented by Shays-Meehan, I would hate to see what they would do to block our inclusive reform of campaign finance legislation.

Let me also say a bit about the motion before us. I do not, when the time comes, expect to vote against the motion to go to conference; but I will ask for a rollcall vote on it. I want to express some concerns about what we ought to do on that proposition.

We are being asked to go to conference on a bill which everyone understands is totally inadequate even by administration standards. The administration has told us in the words of the FEMA director, Mr. Albaugh, and also in the words of Mr. Daniels, the OMB director, that they will probably need this money for hurricane relief, and they are appropriately appropriated for FEMA. Yet the House bill for the supplemental actually rescinds existing appropriations for FEMA. That makes no sense whatsoever.

Secondly, the administration is planning to spend $30 million on a political mailing to tell people that they are going to get a tax cut check, and they already know they are going to get a tax cut check. Meanwhile, the Congress is refusing to appropriate the money necessary to the victims of radiation poisoning, a claim which has already been clearly established and an entitlement which has already been clearly established. So they are willing to spend money on this political mailing, but they are not willing to deliver these payments to people who are sick and dying who have been literally fired by their own government. I do not think that makes much sense.

Thirdly, even though the Congress has decided to go to conference, the administration has asked us to provide funding to protect public health and to protect the health of our farm stock from the twin problems of mad cow disease and foot and mouth disease, this Congress has chosen not to appropriate funds requested by the administration for those items. When the proper time comes, I will have a motion instructing conference to accept those three changes in the House bill. But for now I want I want to make clear that this additional step that has been requested because of the anger that is felt I think on the part of people on both sides of the aisle about the stacked deck that has been provided to us in the rule on campaign finance.

This House ought to be able to debate these two issues straight up and not be hampered by indirect and manipulation. The name of the game is clear. It is the hope of the people who designed this rule on campaign finance that they can pick off one or more of these 12 separate fix-up amendments to Shays-Meehan and in the process prevent people from voting on the entire comprehensive, coherent package.

That is indeed unfortunate. I think it is an abuse of the process, but it is not the first time we have seen that around here.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

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July 12, 2001

Mr. YOUNG of Florida. Mr. Speaker, I yield 20 minutes to the gentleman from Wisconsin (Mr. OBEY), and I would advise him that I do not intend to use much more time on this. The issue is so important that we need to get to it.
Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, let me reiterate one thing that the gentleman from Florida spoke about. There is a problem called "hold harmless" in title I education funds, to where the States that are losing population maintain a certain level, but those States that are gaining children that are impoverished do not get additional dollars. I worked with a Senator in the other body from California, we brought it to conference; and we decided to fund both until we can find resolution to that. Guess what? There was not enough money to do that. So those children that are the poorest of the poor in title I funds, this supplemental takes care of it. That is one of the reasons this is so important.

Secondly, we met with Secretary Rumsfeld this morning. While all the 12 appropriations bills have been going up, if you have got a baseline, up to a level like this, Defense with all of the deployment, we have had, the cost is down here in the cellar. Even this supplemental will only bring us up to a level here. It will not even bring us back up to the baseline.

Secretary Rumsfeld said that one of the most important things that will happen if we do not get this besides all of the ships and things and the repairs and the training that stops, our TDY personnel, that is temporary duty orders, and our permanent moves, right now it is the summertime when our military folks’ kids are out of session, and they are trying to get their families moved in to their next base so that they can enroll their children into the schools. If we do not hurry up and do this, that is going to be delayed; and all of those, the disruption of not having your child entered into a school is going to be affected. So we strongly support this amount in this supplemental. It is critical. We should have done it before we left for our Fourth of July break, and now it is even more critical.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, my good friend from Florida has indicated what is in this bill. There is no argument about what is in this bill. I intend to vote to go to conference. The problem is what is not in this bill. It does not contain the roughly $1 billion that we have been given indications from the administration itself that in the end we will need to meet our obligations in dealing with the disasters cited by the gentleman from Florida, including the huge disaster in Houston and several in other States, including my own. It does not contain the money that the administration is demanding to protect this country from foot and mouth disease and from mad cow disease. And it does not contain the money that is needed to pay the victims of radiation poisoning who are entitled to that money. We will have a motion to instruct asking that those things be added. We should do that.

With respect to the other point made by the gentleman, I fully grant that this issue does not involve campaign finance. But when what I believe to be a majority of this House, composed of people on both sides of the aisle, when that House majority has been denied the opportunity by the Committee on Rules that runs this House, when they have been denied the opportunity to vote on the package that they believe ought to pass for campaign finance reform, except in pleemeeal fashion, then there are only so many tools available for that majority to protest what is going on. That is why we are having this additional debate this morning. I regret it takes up the time, but not nearly as much as I regret what the Committee on Rules did to what I believe is the majority will of this House.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. Hoosoy), who is a member of the Defense Appropriations Subcommittee and chairman of the Subcommittee on Military Construction.

Mr. HOSSON. Mr. Speaker, I normally would not rise to get into this debate, but I just got back from visiting our troops in Korea. They need our help. I just got back from Italy visiting our troops. They need our help. I visited my base at home. They need our help.

I think, with all due respect to the gentleman from Wisconsin, I like the gentleman from Wisconsin and we are friends, but I think to use our servicepeople and involve them in a disagreement over a political matter in this House, I cannot stand idly by and not speak that I think that is inappropriate. Our people in the field need to train, they need care, they need help. To allow them to become part of a partisan battle I think is inappropriate.

We voted on this. We should pass this. We should get this help. I just came back from the Defense Department. They need a lot more help, because we have undervalued the Defense Department. They admit they have waste, they admit they have problems, and they are trying to change them. I think that we should get on with that and not bring other debates into a situation where our troops and their lives and their training and their families on these PCS changes and everything else is affected. It is not appropriate.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would point out it is the majority in this House that held this supplemental up for 4 months. This debate does not have one whit to do with whether our military personnel will get the funds they need, or whether our neighbors will get the help they need, or whether the victims of radiation poisoning who are entitled to that money will get that money.

To suggest that aid to them will be delayed by 1 day is absurd, preposterous, nonsense. Everybody on both sides of the aisle is going to be for that aid. What we want to see in addition is other obligations of the government also met to American citizens, including the American citizens who were literally killed by their own government through the use of nuclear testing and other problems associated with conducting nuclear tests. That has nothing whatsoever to do with whether our military personnel will get the funds they need. Of course they will.

I challenge the gentleman to name one person involved in this bill on either side of the aisle who is opposed to that money. He cannot because there are not any.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am curious where the figure of 4 months comes from, where they held this bill up for 4 months. We passed this bill on the June 20, which was about 2 weeks after we got the request from the White House. The House expedited consideration of this measure, brought it to the floor; and we passed this bill.

The problem has been that the other body did not take it up right away, and they just passed it a few days ago. So I do not know where the gentleman got the idea that we delayed it for 4 months, because we did not delay it at all.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I would be happy to tell the gentleman. The White House itself announced they were not going to send down the request for the supplemental until after the tax bill was finished because they did not want to upset the apple cart on their tax bill.

The last time I looked, the White House was in Republican hands, as is the majority of this House.

Mr. YOUNG of Florida. I just wanted to make sure that the gentleman was not saying that the House delayed this bill, because the House did not delay this bill.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. No, I am not saying that. I am merely saying that the administration itself delayed the request for over 2 months until they could get their precious tax gift to rich people out of the Congress.
Mr. Young of Florida. Mr. Speaker, I would yield to the gentleman if he would answer this question: Will the gentleman agree then that the House actually did expedite the bill once we got the request?

Mr. O'NEY. Absolutely. No problem with the timing. I have a lot of problems with the timing of the White House on this one.

Mr. Young of Florida. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. O'NEY) for that response.

Mr. Speaker, I am not sure what this argument is about today, because everybody knows we have to go to conference on this bill. Now when we bring the conference report back or during the conference itself, there will be some negotiations and there will be some discussions. There may be some things added and some things taken away, but the truth of the matter is, we sent this bill to the Senate at $6.5 billion, the amount that was agreed upon by the House and the Senate. The Senate leadership said that they would not go above $6.5 billion. Their bill is a little different than ours, but that is also not unusual. That is why we go to conference, to work out those differences.

So I am not sure what this argument is all about. In the beginning, it sounded like it was about campaign finance reform, but I do not think that is the case. We need to get this bill into conference, Mr. Speaker, so I am going to ask for a very strong yea vote so that we can continue the process.

Mr. Speaker, I reserve the balance of my time.

Mr. O'NEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York (Ms. Maloney).

Ms. Maloney of New York. Mr. Speaker, I rise in support of the supplemental but in opposition to the rule for the Shays-Meehan bill. What we needed was a fair fight, an up or down vote on the Shays-Meehan, a quality, balanced, bipartisan finance bill, that a majority of this House has supported twice and that has already passed the Senate.

We needed a fair rule. But what did we get? We got a minefield. We got Shays-Meehan shattered, fragmented, broken into 14 separate parts that needs to be reassembled in separate votes into that fragile flower called consensus. After the minefield, more poison pill votes. Apparently the leadership felt they could not win on the merits so they had to manipulate the process to shortchange the American people once again. Campaign finance reform, the balance of this bill, that a majority of this House has supported.

As a result of Tropical Storm Allison, the damage that we have seen in the last of our state is real and it is pressing now and October 1. The need for money in this fund is real and it is pressing and we should not be reducing or cutting any funding from FEMA.

Already this year there will be 27 major disaster declarations across our country, including the devastating funds in my hometown of Houston and across southern Texas, southeastern Texas, Louisiana, and even up into Philadelphia from Tropical Storm Allison. The damages from this declaration alone are estimated to be $5 billion. Traditionally, FEMA pays about half of this amount in damage assistance so we are talking about $2.5 billion.

Since FEMA’s disaster budget is only $1.6 billion total, we need to make sure that funding is increased and not decreased. There is still a lot of time left in this fiscal year, and I would expect we have made more progress on the disaster declarations and thus need more funding for disaster relief.

To date, FEMA has had $85,000 disaster relief applications in the Houston area from Tropical Storm Allison. Of the over 25,000 cases that FEMA inspected, 67,000 of those inspections are completed and 3,500 were completely destroyed. Over 10,000 suffered major damage and 33,000, almost 34,000, have minor damage, totaling 47,999 affected properties.

Of the more than $500 million initially allocated for this disaster by FEMA, $343 million, or 84 percent of these funds, have already been committed; and we are not even 2 months after the disaster. That is, they either have been or will be sent out to those in need of assistance.

That $343 million is already more than the $389 million that we cut in the last supplemental that passed this House. Remember, this is just one disaster with $5 billion in damages. Twenty-six other parts of our country have suffered disasters of varying degrees. That is why I would hope the House and the Senate would act and restore the $389 million as the first step, and we need to make sure that we provide FEMA the money not just for my own constituents but also for all the people in our country who have experienced disasters.

Mr. Young of Florida. Mr. Speaker, I continue to reserve the balance of my time.
money; and, in fact, they added a million dollars as a place holder to look at additional funds. The director of the Office of Management and Budget, Mr. Daniels, told our committee, the Committee on the Budget, the other day, that he told the Senate Committee on the Budget subsequently that he did not believe that FEMA will need additional money in the current fiscal year.

Now as I said, in the past, when we debated this, when the committee on the House side chose to rescind the $399 million, Tropical Storm Allison had not yet occurred, and had the committee marked up the bill a week later after Tropical Storm Allison, I strongly believe that they would not have chosen to rescind it because they could not have foreseen the disaster that was going to occur.

This was a 500-year event, meaning that it has a half of a percent of a chance of happening in any given year, but it did occur.

So I would hope that the House will adopt the motion of the gentleman from Wisconsin (Mr. OBEY) to instruct, that the House, when it goes to conference with the Senate on this otherwise very important bill, will recede to the Senate's position, restore the $389 million; and I would hope, even more to the point, that the House and the Senate conference will go further and add the billion dollars that is estimated because it is going to be far greater than that. But we know we will have other disasters, and we will have to respond because it is an essential function of the government. And Congress should not be standing in the way of that.

Mr. OBEY. Mr. Speaker, I yield my self the balance of my time.

Mr. Speaker, very briefly, when the vote comes, I will join my friend, the gentleman from Wisconsin, and ask the people to vote yes on a later motion that we will make to add three items to this proposition. We will simply be asking the House to approve three Senate actions that would eliminate the rescission for FEMA, that would fund the administration request for mad cow disease and for hoof and mouth disease, and to fund the claims for radiation victims, many of whom are sick or dying and some of whom have already died.

Mr. Speaker, I yield back the balance of my time.

Mr. OBEY of Florida. Mr. Speaker, I yield myself the balance of my time. Mr. Speaker, I just want to say that I am happy to hear the gentleman from Wisconsin (Mr. OBEY) say that he will vote for this motion. I hope that everybody will vote for this motion so we can get to the business of the conference.

I would point out that the gentleman from Wisconsin will be an important member of that conference committee and will have every opportunity to make the suggestions that he has; and I am satisfied that he would be very influential in that conference committee, as he always is. But we need to vote. I do not know if the gentleman is going to ask for a rollcall vote or not, but we need to get on with the conference. I would like to get the conference work done before the House adjourns for the weekend.

Mr. OBEY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2216, as well as on any motion to go to conference on H.R. 2216, and that I may include tabular and extraneous material.

Mr. Speaker, very briefly, when the gentleman from Wisconsin (Mr. OBEY) says that he will ask for a rollcall vote on a later motion that we will make to add three items to this proposition, I would point out that the gentleman is going to ask for a rollcall vote on a later motion that we will make to add three items to this proposition. We will simply be asking the House to approve three Senate actions that would eliminate the rescission for FEMA, that would fund the administration request for mad cow disease and for hoof and mouth disease, and to fund the claims for radiation victims, many of whom are sick or dying and some of whom have already died.

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Mr. Speaker, I yield back the balance of my time.
Last night we passed the agriculture appropriations bill with 95 percent support in this House. We had similar majorities on other appropriation bills, transportation bill, the energy and water bill, the interior bill. And it seems to me that that kind of consensus we have been able to develop on each of those bills is good for both parties. It has been good for the House, it has been good for the country. It helps us to get our work done, and it helps us to build a foundation for cooperation on other items. I think it has been a very positive thing and something we have not seen enough of in this House in recent years.

However, the legislation which the majority is asking us to pass today in this bill does not represent that type of cooperation which supported this bipartisan legislation. It has been handed down from on high. I think it is severely constrained by a narrow, partisan, ideological judgment about how we spend our money and how we meet the country's needs, and I think the current situation illustrates clearly how misguided that judgment is.

There are a few people on the other side of the aisle and people in the White House who have taken the position that once Congress has passed a budget plan, we have to put together our bills through the year, and that we cannot address any other needs beyond those anticipated in the original plan. It does not matter how much circumstances change; it apparently does not matter what the magnitude of natural disasters are that strike; it does not matter, I suppose, if we decide to go to war. If we have only a few months left in the fiscal year and a hurricane strikes, we can wait until October 1 to provide assistance, or we can fire IRS agents or close down some other badly needed program in order to find the money to pay for that disaster assistance. That, in essence, is the point of view that is controlling the consideration of this bill.

Now, some people are having difficulty understanding the term "faith-based initiative." I think an example might be our disaster assistance program. We are praying that we do not have any more storms. We are trying to preclude acts of God from getting in the way of our budget process. I think that is an arrogant way for human beings to go about legislating, but so be it; that apparently is the mindset around here.

Mr. Speaker, I would point out, and this chart demonstrates one example, which shows what happened to one highway after the reign of terror in June of 2001. Currently, we are trying to cope with that huge gulf storm. Damage in a single county in Texas was estimated to be $4.8 billion.

The director of FEMA called me and told me that he thought that it could be possible that they would need significant additional money above the amount already appropriated by this Congress. And based on the Houston Chronicle, OMB director Daniels stated, and I quote, that "It is highly likely" that FEMA's budget will need another boost this year.

What is going to happen with this bill? OMB told my office last night they are not planning to make a request. They are hoping to slide by on existing funds. If everything goes right and if God decides that the weather is not going to operate the way it normally does, we may just make it through. But if we have a normal year and we have a couple of hurricanes after we leave here in August, what then? We are not going to have the money to respond to those disasters.

Yet, are we not planning to do then? Are we going to go down to Texas and deobligate money that we have initially provided? I would hope not. But whatever happens, without additional funding, we will not be providing normalcy to people who are affected by those storms.

Why is that? The reason is that all of the needs facing the Federal Government apparently must be met within a $6.5 billion package. Why is that? That is because that number was picked out by Congress last December when we were trying to get out of here in time for Christmas.

Does that number have any relationship to the current projected surplus outside of Social Security and Medicare? No, it does not. Did we know at the time how much rising fuel costs would affect steaming costs for the Navy or training exercises in the Air Force? No, we did not. Did we know how much those costs would deplete spare parts inventories of aircraft, tank, and ships? No, we did not.

Did we know we were going to face major electricity blackouts in most of the western United States? No, we did not. Did we know we were going to have a severe storm hit the Gulf coast in the month of June? No, we did not. Did we know that a tornado with 250 mile-an-hour winds was going to hit a town in my own congressional district.

We did not know any of those things. Yet, we are planning to do then? Are we not planning to do then? Are we not planning to ask for them, rather than to pretend that this problem does not exist.

In my view, we are playing a stupid numbers game with the lives of people

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Mr. STARK changed his vote from "nay" to "yea."

The motion was agreed to.

The Clerk read as follows:

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) and the gentleman from Florida (Mr. MADOW) each will be recognized for 30 minutes.

Mr. Speaker, I think more than a few Members of this House and a lot of people outside of this institution have been pleasantly surprised at the relative unity this House has had on a bipartisan basis on appropriation bills this year.

Mr. Speaker, I think more than a few Members of this House and a lot of people outside of this institution have been pleasantly surprised at the relative unity this House has had on a bipartisan basis on appropriation bills this year.
So there was a very large vote in the House for the bill as the committee wrote it as modified by three amendments that were agreed to in the House during the debate on that bill. I appreciate the fact that we can work together. I think, before this is over, we will end up having worked together and produced a good conference report.

Secondly, I am going to ask that we instruct the conferees to recede to the Senate and accept the money needed to process the checks that are owed to victims of radiation exposure. Some of those people are extremely ill. Some have already died.

These are people who were exposed, in many instances unknowingly, to radiation as a result of the development, testing, and transportation of radioactive material by the Federal Government. In other words, those people were fried by their own government. It seems to me that a government that can spend $30 million on a political mailing to tell people that they are going to get a tax cut is a government that should not be simultaneously denying already-earned benefits to people who are dying and need that money now, not after they are in the grave.

I would also point out that the administration itself sent a letter commending the Senate "for not including the provision in the House-passed version of the bill that would have rescinded $389 million in disaster relief funding for FEMA."

I would urge Members to listen to the administration on this item, and listen to us on the other two items, do what we know we are going to have to do, and instruct the conferees to accept these three items.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

I would like to start by saying I appreciate the gentleman’s comments about the bipartisan way we have been dealing with appropriation bills. He is right. We have worked together very well. We have had some differences, but that is not unexpected nor unusual for the bill we are talking about now, the supplemental appropriations bill.

He mentioned the agriculture bill passing with about 90 percent aye votes. The truth of the matter is that the bill we are now discussing passed the House with 80 percent of the vote. So there was a very large vote in the House for the bill as the committee wrote it as modified by three amendments that were agreed to in the House during the debate on that bill.

I was asking the gentleman to yield, but he was very busy with his statement and he did not yield. I was going to ask the gentleman, a question. He talked about the FEMA rescission in the House bill, and we did talk about that at length when we debated the bill on the floor on June 20. The fact is that this Congress, under the Republican majority or the Democratic majority, never ignored the needs of our communities when it came to disasters. Whatever funds were needed, we made them available. I do not think that is a concern.

I was going to ask the gentleman if he would be willing to amend his motion to recommit just to include the issue of FEMA. We would be happy to accept it if he would amend it. But we do not want to have our hands tied going into conference. We need the ability to negotiate with the other body, which is the same ability that the other body has to negotiate with us. I think a conference report that I think at least 80 percent of the House would agree with.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. If the gentleman would like me to respond, and I thank the gentleman for yielding, let me simply say I appreciate the gentleman’s suggestion. I think that demonstrates that even he understands that we need to reject what the House originally did with respect to FEMA.

But I would say that I cannot accept the gentleman’s offer because I think there is no rational reason whatsoever for the House not to do what the Senate has already done and to provide the money that we badly need in the agricultural area, and to provide the money that we know we have a moral obligation to provide to the victims of radiation poisoning. I thank the gentleman.

Mr. YOUNG of Florida. Reclaiming my time, Mr. Speaker, I would suggest to the gentleman that we do not do
Mr. YOUNG of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BONILLA), the distinguished chairman of the Subcommittee on Agriculture, Rural Development, and Related Agencies.

Mr. BONILLA. Mr. Speaker, I thank the gentleman for yielding me this time; and I rise in opposition to the motion to instruct. My friend from Ohio was just making some points about how we all want to work on stopping any threat from entering our borders and threatening livestock or people in this country from any problem that currently exists overseas. We are in total agreement on wanting to do all we can to stop this from entering our country in any way whatsoever. However, the solution that is being proposed in this motion to instruct is unnecessary because in fact there is a system in place already that can be accessed by the Secretary of Agriculture on a moment’s notice if something were to occur in this country.

We have gone over this over and over again as we have moved separately on our agriculture appropriations bill in pointing this out clearly, and we even asked and reviewed with the Secretary that the money she could access would amount to $30 billion. We are talking about an amount here of $35 million that, when compared to that $30 billion, is a drop in the bucket in terms of what would be necessary to fight whatever threat may enter our borders.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

I would simply point out, Mr. Speaker, the administration has asked for the FEMA money. The Congress is responding to it. The gentleman says this money for agriculture was pulled out of the air. This is the administration request that we are simply trying to comply with.

Thirdly, the radiation item is an item which is owed people who are doing their very best in the action of their own government. I think it will be very difficult for Members to explain their opposition to any one of these three items.
Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend the gentleman from Wisconsin (Mr. OBEY) and the gentlewoman from Ohio (Mrs. UDALL) for including in this motion language that would instruct con- ferees to accept the Senate provision to provide $35 million for USDA's Animal and Plant Health Inspection Service, as requested by the Bush administration, to protect American agriculture from serious animal diseases like foot and mouth disease and mad cow dis- ease.

Unless we take steps now to protect ourselves, an outbreak of these diseases could be absolutely catastrophic for our State. North Carolina is a good example of that. One estimate says that if foot and mouth disea- se were to break out in certain counties in eastern North Carolina, with concentrated hog operations, within a 20-mile perimeter we would have to destroy more animals than were destroyed in all of the country of England.

Our Governor, Mike Easley, and agri- culture commissioner Meg Scott Phipps have worked hard on a preven- tion effort, but the States need help from the Federal Government. Now, earlier this year Secretary Veneman did authorize the use of $32 million in APHIS funding for foot and mouth and mad cow disease border inspection ac- tivities. During our debate on the Com- mittee on Appropriations, we were ad- vised that this and other funds avail- able from the Commodity Credit Cor- poration were sufficient; that USDA had adequate resources to address for- eign animal disease. That, of course, was not accurate. And I am amaz- ed to hear the subcommittee chairman re- peating that argument this morning.

The President, 8 weeks after Sec- retary Veneman made those funds available, requested $35 million in sup-plemental funding for APHIS. I have confirmed with the Agriculture Depart- ment just this morning that we still need this $35 million in supplemental funding and that without it the Agri- culture Department does not have ade- quate resources to protect the United States against foreign animal diseases. It is amazing to me, it totally escapes me, how we would not want to prepare ourselves for what could be an absolu- tely devastating outbreak.

We have to do all we can to protect this country against the threat of for- eign animal diseases. We should honor the administration's well-justified re- quest and accept the position of the Senate and provide $35 million for the Agri- culture Department. So I urge adoption of the motion to instruct.

Mr. YOUNG of Florida. Mr. Speaker, I reserve the balance of my time until

the gentleman is ready to close, as he has the right to do in this particular case, as I have no further requests at this time.

Mr. OBEY. Mr. Speaker, if I could in- quire of the gentleman. The last time we were in this situation the gen- tleman did not use a lot of his time and I reserve the remainder. If you, at the end, would like to make a closing statement, with several speakers. Is the gen- tleman indicating that he has no addi- tional speakers except himself?

Mr. YOUNG of Florida. No, I just thought I would save a little time. I might have a few closing remarks for our side prior to the gentleman closing.

Mr. OBEY. Mr. Speaker, may I in- quire as to how much time remains on both sides?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Florida (Mr. YOUNG) has 22 minutes rema- ining and the gentleman from Wis- consin (Mr. OBEY) has 15 minutes rema- ining.

Mr. YOUNG of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY of Wisconsin. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico.

Mr. UDALL of New Mexico. Mr. Speaker, I thank the gentleman for yielding me this time. This is an excellent motion to instruct, and I reserve the remainder. I think this is an excellent motion to instruct, and one of the things this motion does is seek to remedy a long overdue injus- tice.

U.S. Citizens who went to work in uranium mines and downwinders who lived below atomic bomb explosions have suffered severely at the hands of the United States Government. Gov- ernment doctors knew they were in danger. The Atomic Energy Commis- sion knew they were in danger. But no- body told them, when they were working in the mines, the mines were dirty and the downwinders were in danger. Nobody told the people living down- wind that they were in danger.

These victims had to go to court to try to seek justice. And they lost in the courts, and the courts came back and said, this situation cries out for justice. Finally, in 1990, the U.S. Con- gress acted and corrected that injustice and said compensation should be paid and a national apology be given to these individuals. Very few occasions in our Nation's industry has that oc- curred.

Many of these victims are Navajo In- dians who live in the remotest part of the country. They knew nothing of the dangers, and they are entitled to this compensation. But guess what, my col- leagues, the government is out of money. The government account is empty, and we are issuing IOUs to those people. We are issuing IOUs to el- derly Navajo widows who have large families, IOUs to people that are living and have lung cancer and are waiting for this payment, many waiting for 25 years. There are 438 IOUs totaling $31 million.
Mr. YOUNG of Florida. Mr. Speaker, I intend to use just a few minutes prior to this gentleman closing on his motion. Other than that, I have no further speakers.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to congratulate the gentleman for submitting this motion to instruct that includes doing the right thing. The Senate recognized it is the right thing to provide this funding for victims of exposure to radiation.

It is interesting. We have a problem in our country where people tend to sometimes lose faith in their government. Here in Congress we stood up. I was not here at the time, but Congress stood up years ago and said, the government did something wrong and we are going to admit responsibility for doing something wrong in terms of appropriately exposing people to radiation and so we are going to compensate these people. But at this point, it looks like Congress was talking a good game; but they are not backing it up with the actual funds.

I have met so many people who have these letters in hand, these promises that someday we are going to give you this money. These are people that went through the process of filing a claim, filling out all the forms, going through their history, and the government then said, yes, you do qualify, but, gee, we do not have any money. That is just not acceptable.

I challenge anyone in this body to look over the victims in the eye and say, well, we do not have enough money for you. We are going to spend $35 million to send a letter to everyone telling them they are going to get a tax rebate, but we do not have enough money to send a letter to everyone who is sick and dying from cancers caused by this Government. These actions have affected people in my State and in my own family.

It is time for Congress to stand up and do what is right and fund this. I encourage everyone to support this motion to instruct.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding me this time; and I thank him for this motion.

I stand in strong support of this motion, particularly the portion that gives a certain amount, $35 million, to APHIS. We wish we did not have to call for this emergency, but all of us are keenly aware of the outbreak in England in February of 2001. I can tell my colleagues that it affects all of the United States, but it has a particularly devastating potential effect for the State of North Carolina.

Mr. Speaker, I also would like to enter into the RECORD a letter from our Governor to President Bush. It is a letter to the President of a letter to the President from the commissioner of agriculture as well as the President pro tempore and our Speaker of the House.

STATE OF NORTH CAROLINA,
OFFICE OF THE GOVERNOR,

HON. GEORGE W. BUSH,
President of the United States, The White House, Washington, DC.

HON. ANN VENEMAN,
Secretary of Agriculture, U.S. Department of Agriculture, Washington, DC.

DEAR PRESIDENT BUSH AND SECRETARY VENEMAN: As you are aware, since being confirmed in England on February 19, 2001, Foot and Mouth Disease (FMD) has been extremely active in many sections of the world, culminating in the catastrophic events that have occurred in the United Kingdom and parts of Western Europe over the past 18 months.

Introducing this virus into the United States remains to be seen, but we do know that it would bring catastrophic consequences to our livestock industry with direct and indirect financial losses in the billions of dollars. Of particular concern here in North Carolina is our extensive swine industry (10 million animals), as well as our precious beef and dairy cattle commodities (960,000 head). We have been working diligently over the past month strengthening our safety net minimizing the risk of the introduction of the disease into our state and country.

Because FMD is a foreign animal disease, the USDA has primary jurisdiction over the prevention and eradication of this disease. Through the efforts of our State Veterinarian in the North Carolina Department of Agriculture and Consumer Services, as well as the efforts of members of our General Assembly, we are strengthening the procedures we have in place to prevent this foreign disease from entering our country.

As the efforts of the Georgia Department of Agriculture have held several telephone conferences with the NASDA to discuss the eradication efforts that they have in place and to develop a plan to protect our state. The USDA, APHIS should be urged to do the following:

1. To promptly conduct a full risk assessment, particularly identifying the most likely methods of entry of FMD into the U.S., and implement risk management plans of action based upon the identified or perceived risks.

2. To immediately ban all used farm equipment and supplies (including harness and tack) from FMD countries until further notice. Future action would depend upon the outcome of the USDA, APHIS risk assessment and risk management plan.

3. To work with appropriate federal agencies to immediately install effective sanitary footbaths at the point of entry for all international conveyances (by air, sea, land) and complete complete sanitization and decontamination of all cargo. It should be mandatory that all passengers pass through the footbath upon disembarkation.

4. To conduct a thorough and complete compliance review of the disposal of international garbage from foreign conveyances (by air, sea, land) and complete complete sanitization and decontamination of all cargo.

5. To work with appropriate federal agencies to ensure that all foreign conveyances (by air, sea, and land) are appropriately decontaminated.

6. To immediately enter into active discussions with FEMA officials with the intent of proactively developing a national Emergency Support Function (ESF) for animal industries by USDA being the primary responsible agency. The ESF should address both natural disaster and animal health emergency of national importance. In addition to technical advice and assistance should be provided to states to develop regional compacts among state emergency management agencies.

7. To review the FMD diagnostic capabilities at the Foreign Animal Disease Diagnostic Laboratory on Plum Island and develop a plan of action to enhance its capabilities to an appropriate level. Such plan of action should include supportive Congress to allow FMD testing at certified state laboratories.

8. To notify the AVIC and State Veterinarians in the state of destination in advance of imported animals/animal products.

9. To thoroughly review the manufacturing and distribution capabilities of FMD vaccine and the impact of its use in an FMD eradication program.

10. To work with appropriate federal agencies to ensure full surveillance and decontamination of international parcel post packages.

11. To consider the benefits of restricting the importation of any grooming, training, or riding equipment/supplies for imported equine, with the exception of a halter and lead rope.

12. To notify NASDA of the results of above, including needed resources, in order to develop partnerships to fully implement risk management plans.

13. To ensure that funds are available for indemnification to the producer as provided by federal law.

Many of these suggestions were developed by the Georgia Department of Agriculture and forwarded to the National Association of State Departments of Agriculture (NASDA). The State Commissioners and Directors of Agriculture have held several telephone conferences regarding our situation and have expressed similar concerns.

We must be extremely diligent in our efforts to prevent the introduction of this disease into the United States. The assistance in this will be greatly appreciated. With kindest regards, we remain very truly yours,

MICHAEL F. EASLEY,
Governor.

MRS. SCOTT PHEPPS,
Commissioner of Agriculture.

SENIOR MARC BANSTEIN,
President Pro Tempore.

REPRESENTATIVE JAMES B. BLACK,
Speaker of the House.

Mr. Speaker, let me just quote from this.

To the north Carolina delegation. He called to our attention that North Carolina would be affected greatly. I will not enter into the RECORD because it will not come out right, but if indeed there was an outbreak, we can see that poultry, dairy and indeed all the livestock would be immediately impacted. Within 5 to 15 miles, we will have a devastation on our hands unseen before in the
United States. So they are calling not only because they need to have staff, they also are putting more resources of their own.

I entered into the supplemental bill an amendment in the Committee on Agriculture, when we considered the agricultural supplement, to put $50 million. They could not do it within the amount of money they had. This gives the House the opportunity independently to do this. I would think we would want to do that. We would not want to have the outbreak.

Let us do the right thing and prevent the outbreak by giving sufficient money that the staff can be equipped to handle such a devastation.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. HINCHEN). Mr. YOUNG of Florida. Mr. Speaker, I want to pay tribute to the chairman of the Appropriations on Agriculture and the purposeful way in which the appropriation process has proceeded under his leadership. But it is also true that this motion to instruct draws our attention to some very serious deficiencies in the budgetary process which are becoming more obvious with the passage of every day.

The White House today tells us that the anticipated budget surplus of $200 billion for the year is down very very substantially, by more than $30 billion, more than 15 percent.

It is very likely that if disaster strikes from natural causes or if we have an invasion of foreign animal disease strike our shores, that we will respond appropriately with the necessary funds. But the question arises where are those funds going to come from if we do not budget for them in the first instance.

Increasingly one is driven to conclude that the answer to that question is going to be from places like the Medicare Trust Fund initially and perhaps even the Social Security Trust Fund if that becomes necessary. That is why this motion to instruct is very appropriate. Every Member of this House ought to give it their very careful consideration.

We are not being honest in the way we are dealing with the people’s money here.

Mr. YOUNG of Florida. Mr. Speaker, I yield whatever time he might use to pass it.

The gentleman from Texas (Mr. BONILLA), the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and related agencies.

Mr. BONILLA. Mr. Speaker, sometimes I wonder when we listen to debate in this Chamber if we are not made up of a lot of Chicken Littles with concerns about the money that is put in here for APHIS and trying to prevent the diseases from coming over here. They are not here.

There is absolutely no threat at this point domestically to any of us, humans, plants, animals, because our systems work. We are working every day in a bipartisan way to make sure that we remain safe from these threats that have devastated other countries.

Can anybody guarantee that nothing is going to happen? Of course not. That is why this is a good thing. It is good to talk to the Secretary and communicate with everyone involved who could possibly have a role in preventing these diseases from entering our country to make sure we are doing everything we can.

Even though there was a request by the administration in this area, we reviewed that with the Secretary of Agriculture over and over again, specifically to find out if she could access this multibillion-dollar fund if, in fact, something happened.

There is also a plan in place that looking a step further, assuming that the sky does fall and Chicken Little is finally right, there would be an indemnity program for livestock if something were to occur. Of course, we can not predict, and all we can do is do all we can to be prepared.

Mr. Speaker, at this point I believe in a bipartisan way in this House we should feel comfortable that we are doing everything we can and say over and over again, oh, my goodness, we have to pour more money in for inspectors and so forth, it is not prudent. You cannot live by the fact that something terrible may happen every day. Let us be optimistic and look at the positives in the bill. We should feel good about that.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Texas.

Mr. YOUNG of Florida. Mr. Speaker, did the gentleman say there is already a multibillion-dollar fund available for this purpose?

Mr. BONILLA. Mr. Speaker, the gentleman is correct, there is $30 billion that the Secretary of Agriculture could access if one of these threats entered our country domestically.

Mr. YOUNG of Florida. If the gentleman would continue to yield, that money is available.

Mr. BONILLA. Mr. Speaker, the Secretary could access that, that is correct. If the Secretary or we in this room agreed in a bipartisan way that it was not enough, we could come back and deal with that at the appropriate time.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for that very revealing information.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member for the motion to instruct and the time to respond to a crucial provision, and thus insist that no provision to rescind funds from the FEMA Disaster Relief Fund be included in the conference report.

We might think this is a benign instruction, but as we move this supplemental to the floor, many of us have to rise and oppose the rescinding of $329 million, as well as attempting to add more dollars, as the Senate had informed us that FEMA at that time, rather than a billion dollars that was discussed on this floor in their coffers, only had about $178 million.

Mr. Speaker, we are devastated in Houston by Tropical Storm Allison. In my community and the surrounding area alone, 5,000 homes were destroyed. The University of Houston is suffering about $100 million and growing worth of damage; the Medical Center, $2.2 billion and growing; St. Joseph’s Hospital, $60 million; Texas Southern University, another institution of learning, also with damages that are not covered by flood insurance; and many, many people in my community who have not yet filed their FEMA application.

Mr. Speaker, we need more resources. Tropical Storm Allison dumped 36 inches. It was an unpredictable storm. Many people lost their lives, and this is a vital instruction to be able to provide the necessary funds to help those who are still recovering.

Mr. Speaker, I support the motion to instruct.

Mr. YOUNG of Florida. Mr. Speaker, is the gentleman ready to close?

Mr. OBEY. Mr. Speaker, I have only one remaining speaker, me.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I repeat something that I said at the beginning of the debate in opposition to the motion to instruct. On the issue of FEMA, this Congress never ignored the issues of our communities when it came to natural disasters, and I hope that we will never will.

Discussing this floor in to the gentleman from Wisconsin (Mr. OBEY) early in the debate, if he would amend his motion just to deal with FEMA, we would be prepared to accept it, but we are not prepared to accept a motion to instruct that really ties our hands when we go to negotiate with the other body.

One of my colleagues on the other side mentioned Social Security and
Medicare. The only way we would use any money set aside for Social Security and Medicare is if those monies are not control their appetite for spending have their way. We are doing the best we can to hold the line on spending so we do not use any monies from Social Security and Medicare funds. I understand that there are demands for more spending, on not only this issue, but every issue that comes before us. But we have to constrain our appetites for spending by the Federal Government.

An example of what I am talking about, several of my colleagues talked about $389 outstanding payments, worth $31 million, on point number 3 on the motion to instruct. Well, if that is the case, why would we have to go to $84 million if all we need is the $31 million? I use that as an example. We need to work out these figures, work out these disagreements, and come together on them.

All in all, before I yield back my time, and before the gentleman from Wisconsin (Mr. OBEY) closes on his motion, this motion is asking us on the conference committee to cave in to our brothers and sisters in the Senate before we ever go to conference. That is not why we go to conference. We go to conference to work out the differences. If our ability to negotiate is taken away, then the product we bring back may or may not be an acceptable product.

Mr. Speaker, let us dispose of this motion to instruct now. Let us go to conference, do the best we can to represent the interests of the House of Representatives, and bring back a conference report that is really needed. It is late. This supplemental appropriations needs to get passed and sent to the President. Let us get to our job. Let us be fiscally conservative. Let us bring back a conference report on the supplemental that 80 percent or more of the House can agree to.

Mr. Speaker, I yield back the balance of my time.

Mr. Speaker, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are asking the House of Representatives today to approve three items which are supported by the Republican administration.

Number one, FEMA. The Director of the Federal Emergency Management Administration tells us we are going to need more money. The OMB Director is quoted in print as saying we will need more money for disaster assistance. Yet this House, without this motion, will be supporting a proposition that cuts from existing funds $389 million for disaster assistance. This issue is not about spending more money, it is about telling the truth about what our spending programs are.

Secondly, the administration has asked for the money to protect us from foot-and-mouth disease and from mad cow disease. The gentleman from Texas said our system works well. “Do not worry, no worry.” Well, I would ask my colleague to recognize what the administration itself has said. “Given the various foreign animal disease outbreaks in other parts of the world this year, USDA has been conducting a top-to-bottom review of its core programs to ensure we have the necessary resources to protect America’s agriculture from devastating animal diseases. These additional funds will help strengthen these important programs. FMD is a highly contagious and economically devastating disease. It is one of the animal diseases that livestock owners dread most because it spreads widely and rapidly, and because it has grave economic consequences.”

The way to save money is to spend it on prevention. You do not wait until the epidemic hits and then try to do something. It is too late. We already have had to destroy virtually every citrus tree in Florida in case of citrus canker from a blight that was not supposed to come into the United States, either. I would say caution ought to be the watchword here.

Lastly, the gentleman says we do not need the $62 million to pay the victims of radiation poisoning. These are people who are dying, at least in part, because of the action of their own government, and they did not know that they were being exposed to danger. I would point out that the Justice Department itself says that we need $92 million this year: not $31 million, $81 million.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I was just going by what the speakers on the gentleman’s side said, that it was $31 million that they needed.

Mr. OBEY. With all due respect, I would prefer to go by what we know. We are told by the Republican Justice Department, not us, that we need $81 million. In each of the three cases, what we are asking you to do is to put in what your own administration has said we will need to spend.

This is not about spending levels. It is about truth-in-budgeting. It is about fessing up to what we actually will have to spend in the end. There is no point in hiding from ourselves what the actual costs of these items will be. Every single one of these items has been requested by the administration. Every single one of these items is in the national interest. Every single one of these dollars will have to be spent in the end. We might as well be honest and face up to it now.

Mr. BENTSEN. Mr. Speaker, I rise today to urge my colleagues to support a motion to instruct conference to eliminate the $389 million rescission from FEMA’s Disaster Relief Fund included in the House version that was not included in the Senate version. I went to the Rules Committee and came to this floor in mid-June, not about spending more money, it is not about politics, let us look at the arithmetic. The fund currently has only $583 billion in contingency appropriations which OMB expects to be released soon. The fund also has over $200 million in normal appropriated funds, leaving the Disaster Relief Fund with roughly $800 million. The original funds that the recision had targeted has been spent. The money the House Appropriations Committee thought was available for a recision is now subjected to the unpredictable burden of tropical storm Allison. So far, 85,000 Texans have filed for assistance and FEMA has disbursed well over $300 million, and many sources close to the recovery operation are predicting that federal obligations for recovery will reach $2 billion in Texas alone.

I would like to relate the recent development since we debated this issue in mid-June. The Senate’s version of the bill eliminates the recision and includes an extra $1 million as a placeholder for additional funds. OMB’s latest statements say that more, certainly not less, money will be needed in the Disaster Relief Fund this year. Let me stress this again: the Bush administration says it is “highly likely” to request emergency supplemental funds for the Disaster Relief Fund in 2001. I hope this is so, as a very fiscally conservative administration will convince my colleagues that I was only reacting to nonpartisan arithmetic—there simply was not going to be enough Disaster Relief Fund moneys to pay for repairs in Texas, Louisiana, Mississippi, Florida, and Pennsylvania. The administration recognized the situation back in June, and I am confident that the House Appropriations Committee is well aware of the Disaster Relief Fund situation now. I ask them, in light of the well-publicized financial situation of the fund, to join me in support of this Motion to Instruct Conference.

Damage from tropical storm Allison has been appraised at $4.88 billion in Harris County (Houston), TX. I have heard from the hospitals and medical schools of the Texas Medical Center that damage assessments are $2 billion to state-of-the-art, non-profit health care facilities, 25–30 percent of which is estimated to be covered by insurance. Add this to the fact that over 50,000 Texans in Harris County alone are either in temporary housing or working to make their homes livable again. Given the incredible extent of the damage resulting from tropical storm Allison, the administration is predicting that additional funds will be needed in fiscal year 2001 in addition to the rescission which I urgently hope will be restored.
The vote was taken by electronic device, and there were—yeas 205, nays 219, not voting 9, as follows:

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<tr>
<th>Yeas</th>
<th>Nays</th>
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The Appropriations chairman indicated during the debate on the Democrats’ motion to instruct conferees on the supplemental that if it attempted to tie the hands of appropriators as we go to conference. This procedure is a party line vote and has no practical effect on Houston.

We can, should, and will continue to meet our commitment to fiscal responsibility.

Similarly, we can, should, and will continue to put people before politics.

Mr. OBEY. I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LA TOURETTE). Without objection, the previous question is ordered on the motion. There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.
CONGRESSIONAL RECORD—HOUSE 13097

Mr. MCNULTY. Mr. Speaker, I move that the House do now adjourn.

The question was taken; and the House resolved itself into the Committee of the Whole House on the state of the Union for the purpose of considering H.R. 2356, Bipartisan Campaign Reform Act of 2001, as agreed to by the Senate.

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 188 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 188

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule X, declare the House resolved into the Committee of the Whole House on the state of the Union for the purpose of consideration of the bill (H.R. 2356) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as ordered printed in the report except those printed in the report of the Committee on Rules accompanying this resolution the Speaker may, pursuant to clause 2(b) of rule X, declare the House resolved into the Committee of the Whole for its immediate consideration.

Mr. DINGELL and Mr. KIRK changed their vote from "aye" to "no."

So the motion to adjourn was rejected. The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF H.R. 2356, BIPARTISAN CAMPAIGN REFORM ACT OF 2001

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Mr. DINGELL and Mr. KIRK changed their vote from "aye" to "no."

So the motion to adjourn was rejected. The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LA Tourette). The gentleman from

Mr. CONGRESSIONAL RECORD—HOUSE 13097

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Mr. DINGELL and Mr. KIRK changed their vote from "aye" to "no."

So the motion to adjourn was rejected. The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LA Tourette). The gentleman from
New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), the ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 188 is a fair, structured rule that provides for the consideration of H.R. 2356, the Bipartisan Campaign Reform Act of 2001. I would like to point out that this is not an unorthodox rule; rather, this rule is what is known as "regular order."

The rule provides for 1 hour of general debate to be equally divided between the chairman and the ranking minority member of the Committee on House Administration. The rule makes in order 20 amendments that were printed in the report accompanying the resolution. In addition to the full consideration of these amendments, the rule makes in order two substitutes, one offered by the gentleman from California (Mr. DOOLITTLE), which is debatable for 30 minutes, and the other offered by the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. WYNN), which is debatable for 60 minutes.

The rule waives all points of order against consideration of the bill, as well as all points of order against the amendments.

After passage of H.R. 2356, the rule provides that it shall be in order to consider in the House Senate 27. It waives all points of order against the Senate bill and against its consideration.

The rule makes in order a motion to strike all after the enacting clause of the Senate bill and insert in lieu thereof of provisions of H.R. 2356 as passed by the House. Furthermore, the rule waives all points of order against the motion to strike and insert. Additionally, the rule provides that if the motion to strike and insert is adopted and the Senate bill, as amended, is passed, it shall be in order to move that the House insist on its amendment and request a conference with the Senate thereon.

Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, before we begin what is certain to be a very passionate debate, I would first like to commend the gentleman from Illinois (Mr. HASTERT), the Speaker of the House, on his efforts to bring this issue before us today. The Speaker pledged a fair, open, and time-limited debate on both the bill and its amendment. I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Republican leadership has brought us a rule that is the height of cynical political maneuvering, and the rule itself is, quite frankly, one of the most stupid proposals I have seen in my 23 years in this institution.

I want to look at the cynical maneuvering, first. We all know that the Republican leadership wants to defeat
Shays-Meehan. There are, of course, Democrats who have some reservations about Shays-Meehan, and their Democratic colleagues believe in fundamental fairness, and that Shays-Meehan should have a clean, legitimate shot on the floor.

The Republican leadership has written a rule that everyone knows may well lose. If we assume that this rule is about cynicism, then what the Republican leadership has done is to present a rule to the House that they know will fail, and then they will refuse to reconvene the Committee on Rules to draft another rule.

They will refuse to schedule campaign finance reform for debate and simply explain it away by saying campaign finance reform is dead because the House refused to pass a rule to bring it up. This is, of course, the equivalent of killing your parents and then throwing yourself on the mercy of the court because you are an orphan.

What is the objective of this rule? Is the objective to lose? Experience is a repeat of a rule that the then Democratic leadership fashioned in 1981 during the debate on the first Reagan budget. In 1981, the Democratic leadership refused to give the Republican alternative, the now infamous Gramm-Latta substitute, a straight up-or-down vote. Rather, the Democratic leadership broke Gramm-Latta into pieces, requiring a series of votes on its provisions, thinking that that was the way to kill it.

Well, surprise, that rule was rejected by the House. Let me repeat, the House rejected that rule as fundamentally unfair to the minority. Now, 20 years later, the Republican leadership has concocted a rule that divides Shays-Meehan into 13 separate amendments.

Sound familiar? Maybe not, because no one in the current Republican leadership was in Congress in 1981. But I find it hard to believe they and their staff can be totally ignorant of history, and that they all have to know that there is a very good chance this rule will be defeated.

Mr. Speaker, one might have to conclude that this is a cynical way to go about achieving their real objective, which is, of course, to kill Shays-Meehan.

Let us look at how incredibly dumb this rule is. It seems to have been written in such a way as to help the strategic objective of killing Shays-Meehan. I would suggest the way this rule is written that it might have the exact opposite effect.

There is a number of Members on both sides of the aisle who have legitimate and sincere concerns about Shays-Meehan. In the event this rule actually passes, the heavy-handed and cynical maneuvering on the part of the Republican leadership may well drive some of the proponents of Shays-Meehan right into the Shays-Meehan camp.

If that is the case, then the Republican leadership will have orchestrated their own defeat, the proverbial snatching of defeat from the jaws of victory.

There are legitimate issues involved in a discussion of the merits of the two main alternatives, Shays-Meehan and Ney-Wynn. I, for one, am concerned that the absolute prohibition in Shays-Meehan on the right of Members of Congress to raise Federal funds for State and local political parties to conduct voter registration and get-out-the-vote activities will weaken the political process and neuter Members of Congress. Members will not be able to play a meaningful role in voter turnout efforts in their home districts, and will become largely irrelevant to their own political parties.

The Ney-Wynn bill does not contain this provision, and it is important for Members to think very carefully about this issue if we get to the point where we might actually vote on the legislation.

However, because of this incredibly dumb rule and the cynical maneuvering on the part of the Republican leadership, we may never get to that point. On the other hand, if this rule is, by some chance, passed, the debate on this issue will be in such a highly charged atmosphere that it may well be impossible to have a rational discussion on the fundamental issues involved. This will be a sad day for the democratic process in this institution and in this country.

Mr. Speaker, this rule should be defeated. The Republican leadership needs to be ashamed into bringing back a new rule that is fair to the House, fair to the proponents of both bills, and fair to the American people.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I have not been in Congress for 22 years, like the gentleman from Texas, but I do know the difference between right and wrong. I think the gentleman from Texas (Mr. Frost) knows the difference between right and wrong.

What I want to emphasize about this rule is that this is an honest up-or-down vote. Yesterday in the Committee on Rules the gentleman from Connecticut (Mr. SHAYS) asked for his bill, and got what he asked for. He received it. That was this bill. We did not gut the bill. We are not putting any amendments against the bill. He gets his bill exactly the way that he said in the Committee on Rules he wanted it. He gets all 12 or 13 amendments.

Where do we come from in Texas, you vote for what you are for and you vote against what you do not like. The fact of the matter is that this is an honest attempt to give our colleagues, who is a Republican, the gentleman from Connecticut (Mr. SHAYS), exactly what he asked for in the Committee on Rules.

We are not hiding anything. We are not making it more difficult. We are simply giving him exactly what he wanted. I have lots of legislation on which I would love to have the same kind of courtesy that we are extending to our colleague.

The fact of the matter is that in the Committee on Rules, it was the Democrats who sit on the Committee on Rules that did the beating up of the gentleman from Connecticut (Mr. SHAYS), that did the beating up of Shays-Meehan. They said that it had virtually no reason to be on the floor of the House of Representatives. It has no reason to take the time that we are spending on it.

The Republican leadership, not only the gentleman from Illinois (Speaker HASTERT) and the gentlemen from Texas, Mr. ARMLEY and Mr. DELAY, but also the gentleman from California (Mr. DREIER), have taken the time to schedule this vote to give the gentleman from Connecticut (Mr. SHAYS) exactly what he asked for yesterday, and to make sure we have a full debate. I think it is not only fair and honest, but it is the right thing to do for our colleagues.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank my colleague for yielding time to me.

I am the ranking member of the Committee on House Administration. As such, I participated in the markup of these two pieces of legislation, the Shays-Meehan legislation, which has in the past had 252 votes each time it was offered for passage on the floor of this House, and the Ney-Wynn bill, which is a good bill.

Mr. Speaker, I beg to differ with my friend, the gentleman from Texas (Mr. SESSIONS). At the markup, which was held on June 28, it was my understanding, and I believe the understanding of the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN), that the gentleman from Ohio (Mr. NEY), the gentleman from Connecticut (Mr. SHAYS), and the gentleman from Massachusetts (Mr. MEEHAN) would have the opportunity, between June 28 and yesterday, to perfect their legislation, to present that perfected legislation to the Committee on Rules, and to have those pieces of legislation, if they wanted, to come to the floor for consideration with such further amendments as others might have.

Mr. Speaker, I believe that was our understanding. I tell my friend, the gentleman from Texas, as a result, I did not offer any amendment. The gentleman from Ohio (Mr. NEY) nor any other Member offered any amendments. Why? Because it was the understanding of all 10 of us, in my opinion,
That was not done. What the gentleman suggests is a fair process is to divide up into 14 different sections the perfections of the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) sought, and therefore try to fight each one of those 14 different times.

I frankly think that is not fair. Why is it not fair? Because, as the gentleman from Texas, the ranking member of the Committee on Rules, has put forward, it is a rule which does not comport with what the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) want to offer as their base bill.

Mr. REYNOLDS. Mr. Speaker, on the substance of this, the American public in my opinion is very concerned about the amount of money in politics. Rightly or wrongly, and I cast aspersions on no one, I righteously or wrongly, the American public believes that the gargantuan amounts of money that flow into Washington, into State Capitals, into local county seats as political contributions, hard or soft money, and that is a somewhat esoteric distinction that the public does not make, but it is an important one, because one is limited and one is not, they believe this is an important issue. They want to see it considered on its merits, not by procedural dissection, which is essentially what has occurred here.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there seems to be a little bit of blurry history or rewriting history. I certainly was not here in 1981, as my colleague, the gentleman from Texas (Mr. SESSIONS) was not, either. But as I recall, there was a minority substitute to a majority bill, not the rule affected, that the leadership of that committee and the majority had a victorious day. In those days, the Republicans were the minority.

But when we look at today, I have been here today in both the Committee on House Administration and on the Committee on Rules. It was my understanding that on Wednesday evening, at the insistence of the sponsor of Shays-Meehan that we hold a markup before the July district work period, that was scheduled for Thursday before we left.

On Wednesday at 8 p.m. it was agreed upon by both the gentleman from Ohio (Mr. Ney), who had to produce his bill, and the gentleman from Connecticut (Mr. SHAYS) that he would produce his bill, and at 8 o’clock we would have the bill so the House, the entire House, 435 Members, would have the opportunity to learn what was in both bills.

That was because the Shays-Meehan bill that I knew as a State legislator watching the debate of this great body is now so much different than it was back then.

I am a fan of the 1957 T-Bird. It changed so much in the sixties, when I owned my first T-Bird, and the seventies, in the eighties, and in the nineties, so the T-Bird today that is made reference to no longer looks like the 1957 Thunderbird. So you would have to be clarifying exactly what year of Thunderbird were referring to if you were an admiral.

In Shays-Meehan, this bill before us today is nothing like the Shays-Meehan bill that was constructed years ago and has been debated in this House in previous years. It is substantially different.

On the Committee on Rules, I have the opportunity to see managers’ technical amendments on a frequent occasion. This bill, when we look at what happened when the Committee on Rules, we granted every single request, 12, of the Shays-Meehan bill. Whether they were technical or they were absolute critical changes that were made in the bill that would not be classified a manager’s amendment, we gave it to the Shays-Meehan request.

Just as the Speaker said today, this week, we will have the debate on Shays-Meehan and any other amendments on campaign finance reform. It is here today. So the bill introduced by the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) reported by the Committee on House Administration will be debated in its entirety. As a matter of fact, they filed after the deadline, 4 1/2 hours late, these 12 amendments, which were actually put in the rule so they could be debated today in its entirety.

However, when we begin to look at special privileges for any Members, that becomes a political concept of what the Committee on Rules is, in fairness. The gentleman from Connecticut (Mr. SHAYS) said he wanted to divide this up and allow examination of these substantive changes was the right and fair thing to do. So for all of us who have worked so hard to get this bill here today, for everyone who has done so much, no matter where you stand on it, do not kill this rule. Today is the day. Have we not waited long enough?

There is nothing unfair about this rule. And if it is defeated, I hope that this country understands who defeated it.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. HASTINGS), a member of the committee.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman for yielding me this time. It will be very clear that it will be the Republican majority that defeats the rule, if it does go down.

Mr. Speaker, I rise today to oppose this silly rule. This rule provides the American people with a limited opportunity to debate this important issue. It is a rule that was written by the Republican leadership that fears the will
of the American people to have an open and honest debate on campaign finance reform.

If we are to maintain this institution's reputation as a representative body, then it is imperative that the American people have an opportunity to freely debate this issue here on the floor of the House. It appears the gentleman from New York (Mr. REYNOLDS) does not understand that when this bill is chopped up like it is, it will not have an up or a down vote, which I assure my colleagues, he is not in favor of.

Mr. Speaker, I have another problem with today's debate. I want to know why we are even talking about campaign finance reform before we are talking about election reform. I would think that after last year's travesty of an election, in which it was discovered that 80 percent of America that had wide rights to vote stripped from them, Congress would have acted by now.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in support of the rule as well as in strong support of the need for a paycheck protection provision to the campaign finance reform bill, and I will tell my colleagues why.

Banning soft money to the parties does not take the money out of politics, it only takes the money out of the parties. For example, currently a union such as the AFL-CIO can give $1 million to the Democratic party. The Democratic party will then turn around and run attack ads against Republicans like me that say, "Call Rick Keller and ask him why he is a bad guy." And in the soft money to the party, we will see the exact same TV attack ad on the air. The only difference will be the little disclaimer at the bottom of the screen which will now say, "Paid for by AFL-CIO," as opposed to, "Paid for by the Democratic party."

Any attempts to ban these ads 60 days before an election is blatantly unconstitutional. That is why to be fair and balanced we must also couple the ban on soft money with a paycheck protection provision to the campaign finance reform bill, and I will tell my colleagues why.

I urge my colleagues to support genuine reform; that they not be afraid of the financial process. Restore integrity to our political process, restore America's faith in its political process. Defeat this rule. Support a clean vote on campaign finance reform.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I have the unofficial comments made by my colleague, the gentleman from Connecticut (Mr. SHAYS), last night in the Committee on Rules, which I would like to just share with the House as we look at the rule, the debate of the rule, with the balance of the time we have left.

The gentleman from Connecticut (Mr. SHAYS) said: "I just want people to have a fair and open debate on this process. Even if it disadvantage us if we have 200 amendments to go after our bill, I have always believed that the debate is healthy. I have always taken the position that we could be the substitute or the base bill, as long as ultimately you amend whatever is the base bill.

"Obviously, if you take up the Ney bill and he takes us down, we lost. And then you amend the Ney bill. If we survive, then we amend our bill. I have always taken the basic view.

"A vote for the Ney bill is a vote against our bill. And if he is the base bill and we replace him, then we amend our bill. I have always made that assumption."

"This manager's amendment, as I referred to it, I reluctantly call it the manager's amendment, it sounds ostentatious. I am not sure I feel like a manager. But this is an amendment that gets our bill in a form that we are most comfortable defending. And so obviously we like it. Some people have said you might like to divide them up into pieces; however, you decide."

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, what we are talking about generally is about technicalities, though there is a manager's amendment that we should have been able to offer and, in fact, we will be able to offer, because this rule is going down if we do not get an up or down vote on campaign finance reform.

But what this really is about are technicalities designed to kill a bill to end this soft money abuse. The United States Senate, in a historic vote, voted for a bill we have been working to pass in conference with the other body. We have negotiated over a period of time and had a final product at 12 o'clock midnight on Tuesday. The Committee on Rules did not meet until Wednesday, sometime around 3 o'clock. We should have had the opportunity to present to the committee and have an up or down vote on the bill that we agreed to. But technicalities were being used to try to defeat campaign finance reform.

There is a strong feel across America these unlimited amounts of money have to be curtailed. We cannot get a patient's bill of rights passed in this body because of the influence of soft money. We cannot get Medicare prescription drug coverage for seniors because $15.7 million in soft money are gumming up the works. It becomes difficult to get legislation passed to protect our environment when continually soft money has played a role in killing that legislation.

So my colleagues can talk all the technicalities that they want. The fact of the matter is, my colleagues will either give us an en bloc amendment or defeat the bill. The American people want a vote on Shays-Meehan, and they want that bill to be similar enough to the bill passed in the other body so that we can avoid a conference committee, where legislation to reform our campaign finance laws have historically died, where the Patient's Bill of Rights died, where reasonable gun safety measures to protect America's children have died.
We want to avoid that conference committee. So we have preconferred this bill in an effort to build on the progress that was made in the other body, in an effort to work with Members in a bipartisan way in this body, Republican Members who are willing to take on this issue in a leadership role and a bulk of the Democratic party, to see to it we end this abuse of the other money system. It is inexorable to continue to fund political campaigns through unlimited amounts of money.

I believe tonight, as soon as my colleagues acquiesce on this rule, we will be ready to begin that historic debate.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume to comment that I am glad my colleague, the gentleman from Massachusetts (Mr. GERRY), addressed the group in the House today, because he was not at the Committee on Rules to present his case before us as we deliberated over the rule.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. ARMLEY), the majority leader.

Mr. ARMLEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this has been a very difficult couple of days. I have been working with the gentleman from Connecticut (Mr. SHAYS) on this matter for some time ago. Two weeks ago the gentleman from Connecticut, speaking on behalf of himself and his cosponsors, came to me and requested that they be given a fair shake on this, that they get a chance to have their bill heard and have it heard in a timely fashion. We have worked on that. Today is the time that the gentleman from Connecticut and others have agreed to.

The gentleman from Connecticut came to me and said, I do not want anybody to rewrite the rule against me. I want to make sure it is a fair competition between my bill, which over 2 weeks ago he informed me was written. In fact, the gentleman came to me and exercised his frustration and impatience that the bill that the committee would put up was not yet written when his was already written and ready to go, and would I protect his bill so that he could have a straight up and down bill, as his bill was, and was written and was ready to go at least 2 weeks ago. We assured him that that would happen.

He subsequently came back and said I want my bill as a base bill, not the committee’s mark on as the base bill and have mine as a substitute. I want mine as the base bill, and let the committee’s be a substitute. We agreed. We wanted to be fair. We gave him that special consideration. So his bill is the base bill.

And, now, in the last few days, he has come before us and he said I want to amend my bill, and I have a demand that I have my amendment in the way I would like it. And he said, I have 14 different things I would like to do with this bill: 14 different amendments to this bill. Six of the 14 are provisions to strike all together provisions in his bill that was ready to go 2 weeks ago. Six provisions to strike.

Now, what does he want to strike? Are those provisions? I think we ought to talk about it. Three of those were to clarify provisions that he had in his bill, that was ready to go 2 weeks ago. Let us go with it. But now we need time, in this 11th hour, to clarify. What are those three clarifications? What do they mean?

I think we ought to know about that. Here is one, for example. What does this mean? It says he has one amendment that would increase the aggregate limit on individual contributions to $35,000 per cycle, including not more than $37,500 to any one candidate, and reserving $20,000 per cycle for the national party committees.

Is that soft money, or is that hard money? What individuals are we talking about? I think we ought to talk about that amendment.

Our complaint is that I do not get these 14 amendments. Incidentally, I might mention, Mr. Speaker, 145 amendments were submitted to the Committee on Rules. The Committee on Rules accepted 20 amendments. Fourteen of the 20 amendments that were accepted were amendments of the gentleman from Connecticut (Mr. SHAYS). Here is a fellow who has gotten his bill that just 2 weeks ago was ready to go as the base bill, and now he needs 14 amendments.

When was the last time we saw anybody in this House come to the House with their bill and need 14 amendments to their own bill, 14 separate amendments to their bill? Also, if I do not get them, I am not being treated fair. I am a little concerned about that concept of fairness. Fourteen of the 20 were given to the author of the bill himself, to amend his own bill, that just 2 weeks ago was ready to go as the base bill, and now he needs 14 amendments.

What we have is a person who got the bill on the floor when he wanted it on the floor, got the bill that he wrote that was ready to go as the base bill ahead of consideration of the committee’s bill, who has been given the opportunity to have 14 out of the 20 amendments made available to amend his own bill on the floor, who is now complaining that we are not being fair with this Committee on Rules.

What more could the Rules Committee have done? Who else got that much consideration on any bill at any time? It is not fair.

Then further, not being satisfied to just complain that the Committee on Rules is an unfair committee of our colleagues, we have an attack on the Speaker himself from the New York Times.

The New York Times that knows very well their institutional influence over elections will be enhanced by the Shays-Meehan version of the bill more so than the committee mark. The New York Times says the Speaker balkanizes a bill he opposes against the sponsors’ wishes, and he calls it an arrogant abuse of power.

The Speaker has put the bill that was ready to go 2 weeks ago through the Rules Committee on the floor as a base bill. The Speaker has said we are going to allow 20 people to offer 20 amendments to that bill in a timely, orderly fashion. Fourteen of the 20 amendments are given to the author of the bill himself, Mr. Speaker, let me spare myself this embarrassment. I pledge to you right now, should at any time ever in the future of my service in the Congress of the United States I have the honor and the privilege of having the Committee on Rules make my bill in order as the bill, should have the committee’s bill, I will not embarrass myself by asking for 16 amendments to rewrite my bill, and further insist that the 16 amendments be made together as one lump sum amendment, not to be examined, not to be dissected, not to be understood, not to be debated, but just an ad hoc rewrite at the moment on the floor.

I will try to the very best of my ability, when I say my bill is ready to go, to be satisfied, to have my bill ready to go and not need to amend it with 16 amendments.

To further save myself the embarrassment, Mr. Speaker, I pledge right now that should at any time ever in the future of my life as a legislator I have a Committee on Rules that is generous enough to give me, out of 145 requests, 14 of the 20 requests that are honored as amendments to my own bill, I will save myself the indignity of protesting the unfairness of it all.

Let me say to the New York Times, give me a break. What more do they want in the name of fairness?

Here is the deal. We have those people in the Senate, who have decided that their bill does not need to be subjected to a normal legislative process, which is to be conferred with a similar bill from the House, that which happens with virtually every piece of legislation ever legislated in the history of this body, a normal conference process, that believes that they will be cheated if they do not get their exact Senate bill passed in the House.

That is unreasonable, uninformd and arrogant. To say that I am being subjected to unfairness when I am asked to go through a normal legislative process is arrogant.
Mr. Speaker, this Committee on Rules is a decent, honorable committee. They have been fair and just. They have been considerate. The Speaker is a decent, honorable man, who has bent over backwards to be generous to the advocates of the Shays-Meehan bill. He does not deserve this kind of diatribe. I regret there are people in our body who are so small and just.

Mr. FORD. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Tennessee.

Mr. FORD. Mr. Speaker, am I correct that the gentleman from Texas, speaking on behalf of the Speaker, is in support of Shays-Meehan; or is the gentleman against Shays-Meehan?

Mr. ARMEY. Mr. Speaker, I am in support of responsible campaign finance reform that does respect the first amendment rights of the American people and does not trespass against freedom of speech; and I am not confident that Shays-Meehan is done as well as the committee mark. But I do believe they care about our Constitution, and they care about the campaign process.

Mr. Speaker, my constituents and people all over this Nation want campaign finance reform like the Shays-Meehan bill that will take big money out of the process. And like all people, they want young people in particular to feel that they belong to the process, that they want to be involved, that they are proud to be voters, that they are proud to be part of the democratic process.

The people I represent in Marin and Sonoma Counties know that our democracy depends on getting everybody involved in our electoral system. We must defeat this bill so we can start over.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROEMER).

Mr. ROEMER. Mr. Speaker, today we have an extremely important vote for this body, a vote that counts instead of a vote that can be passed off and characterized as it does not make a difference.

Today papers all across the country screamed that the Republican Party raises record amounts of money, and the party committee raises record amounts of money. All this big money hurts the little person. It hurts the little person’s voice to be able to participate in this election process.

Mr. Speaker, I would hope that we would defeat this rule as written because this rule not only dissects and bisects the Shays-Meehan language that should have been a manager’s amendment to perfect this bill, but it is an unfair rule. Republicans and Democrats should bring this rule down so we can get legitimate debate on the other matters.

Mr. Speaker, the House centrist coalition of five Democrats and five Republicans strongly supports Shays-Meehan; I hope we vote for that bill at the end of the day.

Mr. REYNOLDS. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. HORN).

Mr. HORN. Mr. Speaker, if we are serious about campaign finance reform, this is our one chance. Some of the party leaders in both parties do not want reform, and I think we have seen examples of it during this debate. They do not want reform. They would be lighted for us to turn down the rule. That is exactly what they are waiting for.

Mr. Speaker, I have been a longtime helper with Shays-Meehan, and the money providers who work for each party is what some of these party people are simply working on.

Vote for the rule. It is the one chance we have to make real reform happen. Those who do not vote for this rule will play right into the hands of those who want no reform. I urge my colleagues to vote for this rule.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I stand in strong opposition to this rule. In fact, it amazes me that we would even consider such a convoluted attempt to sabotage true campaign finance reform.

Mr. Speaker, I represent a district that has an 83 to 85 percent voter turn-out. So my colleagues know that the people I work for care very much about our Nation, our Constitution, and they care about the campaign process.

Mr. Speaker, my constituents and people all over this Nation want campaign finance reform like the Shays-Meehan bill that will take big money out of the process. And like all people, they want young people in particular to feel that they belong to the process, that they want to be involved, that they are proud to be voters, that they are proud to be part of the democratic process.

The people I represent in Marin and Sonoma Counties know that our democracy depends on getting everybody involved in our electoral system. We must defeat this bill so we can start over.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CAPPS).

Mrs. CAPPS. Mr. Speaker, when I first came to this House in a special election 3 years ago, my first official act after being sworn in was to sign on to the Shays-Meehan bill. It was one of the proudest moments of my career. Today is one of the darkest days I have ever experienced in this Chamber.

Mr. Speaker, this rule, passed in the dead of night, is unfair. It is undemocratic. It is a cynical parliamentary ploy aimed at stopping a straight up-or-down vote on the Shays-Meehan bill as a whole.

The American people will not stand for this. They want to see democracy restored. They want us to reform a campaign finance system that is awash in unregulated soft money and dominated by special interests.

Mr. Speaker, let us defeat this rule and have a fair and honest debate on the merits of the Shays-Meehan bill.

By defeating the rule we can reassure all Americans that our cherished democracy is not for sale.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. ESHEL).

Ms. ESHEL. Mr. Speaker, rarely are there times that one vote can fundamentally turn the tide of political history. I think today is such a moment. Our generation of political leadership can shape a new future, a future which will be free from the influence of unregulated and unlimited contributions.

Mr. Speaker, I think that we must make it a relic of the past where every issue we consider and every issue we ignore, from health care reform to energy policy, is determined by the clout of one special interest or another, and where our elections become more a marionette than a Legislature.

Mr. Speaker, is it any wonder that less than half of the people of our Nation turn out on election days? Weak substitutes allowing soft money and third-party advertising to continue will only foster a disconnect between the people and those who represent them.

I do not like the push to raise the limits for hard dollars because I think this debate is about limiting the influence of money and politics and not increasing it. But this issue is larger than what my concerns are. We should go back to what our Founders both dreamed about and built when they founded the greatest democracy in the history of the world. We should reform the system. We should defeat this rule, and we should adopt real, meaningful campaign finance reform.
(Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS), went before the committee somehow or another surprised him.

This is the same United States Congress that kept us here until 4 in the morning to vote on a $3.1 trillion budget, in the wee hours of the morning; the same United States Congress that kept us here until 7 in the morning to vote on a budget. Shame on you, Mr. Leader. Thank you, New York Times.

We ought to be thankful that Shays-Meehan will eventually get an up or down vote and will eventually ban soft money. Mr. Leader, bring the ball back. Let the rest of us play. You have a bad bill, but America wants meaningful campaign finance reform.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. I thank the gentleman for yielding me this time.

Mr. Speaker, every person in this body takes an oath of office to protect and defend the Constitution of the United States from all enemies, foreign and domestic. There is no greater enemy to our Constitution, indeed to our democracy, than the role of money in the political process today. Those of us who take this oath of office to serve in Congress serve in Washington, D.C., a city that was built on a swamp. Two centuries later, it is back to being a swamp as political swamp.

Today, we have the opportunity to drain the swamp and change the political landscape of political fund-raising in our country. We have an opportunity to empower the people. How many people have been turned off by the political process because of the role of big money? How many people fear that the Speaker’s gavel is an auctioneer’s gavel, not the gavel of the people? How many people decide not to run for office because of role money plays?

Today, we have an opportunity to send a message to the American people that their role in the political process is important, in supporting candidates or in being candidates. We have an opportunity to clean up our act. And indeed we have a responsibility to do so.

I have great confidence that if we pass the Shays-Meehan bill and when we pass the Shays-Meehan bill, we will clear the way for a new way in America in terms of political involvement. We have the creativity, we have the experience, we have the issues, we have the interest on the part of the American people which will be reawakened to involve them more fully in a government of the people, by the people, and for the people.

I urge my colleagues to take advantage of this historic opportunity and support Shays-Meehan.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman very much for yielding me this time. My applause is to Shays-Meehan and to Ney and Wynn for engaging us in a debate of the role money plays?

I am embarrassed. I am embarrassed that we would take the Shays-Meehan legislative initiative as we would take any other and totally impede it so that a reasonable debate could not be had up or down on this legislative initiative.

I am reminded of the telling of such an act some years ago when we were in the majority and we decided to play politics with a budget bill. It was wrong and we lost on the rule. So I stand here today saying, I am disappointed that the amendments that I had that this empowerment, ensuring that ethnic and racial minorities would be empowered to do voter registration and outreach were denied. But I am more embarrassed and I am outraged that we would not give the Shays-Meehan legislation an up or down vote. Let us decide to give us this long list of fingers, so confusion will abound and the Founding Fathers’ belief in democracy will be extinguished.

We need to defeat this rule so that we can have a fair and democratic process to debate this like our Founding Fathers and I know our Mothers would have wanted us to do.

Mr. Speaker, I rise in opposition to the rule. The purpose of campaign finance reform is to make federal election financing fair and balanced for all candidates. This is something we all agree with, regardless of party. I find it extremely troubling that the Rules Committee would report out a structured rule designed to limit and confuse meaningful debate on H.R. 2356, the “Bipartisan Campaign Finance Act of 2001.”

Mr. Speaker, this rule is simply not in the spirit of bipartisan cooperation. Campaign Finance reform is an important issue for the future health of our country. Every person in America will be affected by the debate we hold today. It is a travesty of good government to prohibit an up or down vote on this piece of legislation. By limiting debate on H.R. 2356 to a technical discussion of individual portions of the bill, the Rules Committee has made it virtually impossible to debate the magnitude of the decision we make here today.

Mr. Speaker, I am also disappointed in the committee’s decision to offer a narrow slate of poison pill amendments for debate. I offered three debates in the spirit of inclusion and good government. The first might have helped this legislation to avoid a constitutional challenge by allowing constituent groups the right to speak with their elected leaders. The second might have allowed for more detailed information on campaign finance reform by tracking its effect on all communities in the United States. The third would have committed this body toward fair and equal participation for all in elections. Rather than consider these proposals, the leadership has stifled considerable debate by reporting a rule designed to push their agenda through without regard to the will of the American people once again.

Mr. Speaker, the United States has reached a crucial point in its history. We could have discussed meaningful amendments that would protect the voices of all Americans. The Rules Committee should have paid attention to both the ancient and recent history of this Nation. Equal access to the right to vote has been a constant struggle within the United States, and until we take seriously the right of every citizen to participate in the political process by developing a campaign finance structure that promotes election reform for all Americans, this country will suffer.

I am disappointed. The American people will be, too. I oppose this rule.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, today we are talking about an issue that over 250 Members of this House have voted for twice and passed in the past. A similar bill already passed the Senate in April. The leadership of this House promised supporters of campaign finance reform a straight up or down vote on Shays-Meehan, a bill so similar to the Senate version that a conference committee was not required, and we know that the conference committee has been the graveyard for campaign finance reform. I guess the leadership felt they could not win on the merits, so they had to manipulate the process to shortchange the American people once again.

Let us show the American people that our government is not for sale. Let us show the American people that we support elections, not auctions to the highest bidder. Let us vote against this undemocratic rule. Let us bring it down so that we can bring Shays-Meehan to the floor for an up or down vote and send it to the Senate so a conference committee is not required, the President can sign it, and we can finally pass meaningful reform.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Speaker, I rise against this rule, and I raise my voice in support of a straight up or down vote on Shays-Meehan.

The Supreme Court of the United States has laid out very clearly for all of us the role that Congress can play in regulating elections in this country. They have told us that Congress can prohibit the use of corporate treasury funds and union dues money in Federal elections. They have told us that we may limit contributions to candidates, parties and political committees; that we can pass laws that eliminate actual corruption and the appearance of corruption in the operation of the Federal Government; that we can require disclosure of the source and size of certain
kinds of spending and most contributions; and that we can regulate coordinated expenditures to thwart attempts to corrupt the existing election law. That is what the Supreme Court has already said.

Shays-Meehan does no more than what the Supreme Court has already endorsed, and it does no more than what is right. I urge Members to vote against this rule and support Shays-Meehan.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in opposition to the rule, a rule that in effect takes Shays-Meehan and cuts it into 14 little pieces, a rule that says to the supporters of Shays-Meehan, if you vote for it once, we are going to put you to the test of voting for it 14 times.

Why is this being offered over the opposition of both Shays and Meehan? Very simply for this reason, the opposition of Shays and Meehan cannot defeat Shays-Meehan in an up or down vote. The only way they can defeat this legislation is if they can obfuscate; if they can make it ambiguous, unclear; if they can conceal to the American people whether they are really for it or against it.

The American people not only have the right to an up or down vote to end soft money and its corrupting influence on the political process, they have the right to the accountability that comes with a clear and unequivocal vote up or down on campaign finance reform. That is what is being denied with this rule. That is why we must reject this rule, so that the American people can have a clear and unequivocal vote for or against campaign finance reform.

I urge a “no” vote.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, to my colleagues, I stand in opposition to this rule. As a second-term Member of Congress, legislation was quite new to me in my first term. What I am seeing happening today is the inability of a legislator with good intention to offer a campaign finance reform bill who after having had a chance to speak with his or her colleagues, saying, Well, maybe that’s a good idea. Maybe I should suggest an amendment or a change. Yes, there are 14. There probably could be 25 amendments that would be offered by colleagues to try and make this a better bill.

I must say very truthfully, I am still torn about how we do campaign finance reform. I support campaign finance reform because I know it is good for all the people of our country. How we get to it seems to be a difficult question. And I say to Mr. Leader and to others here on the floor, let us take some time. The Senate dedicated 2 weeks. Why do we only get 1 day?

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

This is kind of an extraordinary situation we now find ourselves in on the floor. I would like to reiterate something I said at the beginning of this debate. This is a very peculiar result. The Republican leadership has crafted such an unfair and unusual rule that it may have the exact opposite effect of what the Republican leadership intended. They are trying to defeat Shays-Meehan, but they have written such a terrible rule that they may in fact drive some of the opponents of Shays-Meehan into the Shays-Meehan camp. It is a very interesting result.

Mr. Speaker, I yield the balance of my time to the gentleman from Missouri (Mr. GEHRARDT), the Democratic leader.

Mr. GEHRARDT. Mr. Speaker, I hope we can still have a rule today that is fair and seen as fair by Members on both sides of the aisle. This issue is a bipartisan issue. If you want to defeat Shays-Meehan, but you have written such a terrible rule that you may actually defeat Shays-Meehan, you cannot defeat Shays-Meehan, but they have written such a terrible rule that may in fact drive some of the opponents of Shays-Meehan into the Shays-Meehan camp. It is a very interesting result.

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Mr. FROST. Mr. Speaker, continuing to reserve my right to object, I would ask a question, if I may, and I see that the chairman of the Committee on Rules is on his feet. I would ask the chairman, is it the intention of the majority side to seek a change in the rule at this point to amend the rule at this point?

Mr. DREIER. Mr. Speaker, will the gentleman yield under his reservation?

Mr. FROST. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend, the gentleman from Texas (Mr. FROST) for yielding.

Mr. Speaker, let me say it is obvious that we are very much, in a bipartisan way, want to move ahead with campaign finance reform. My friend and I discussed this late last night in the Committee on Rules, and we fashioned a rule and it is quite possible that we could, as we have discussed with the side of the gentleman, propose a modification to the rule. As we work on that unanimous consent request which has just been presented by the gentleman from New York (Mr. REYNOLDS), it is so that we might continue an interesting discussion on the issue of campaign finance reform and, during that time, ensure that we have a package put into place that will allow us to proceed with a fair and vigorous debate throughout the rest of the afternoon and evening.

Mr. FROST. Mr. Speaker, further reserving the right to object, I would ask the gentleman, is this discussion about changes in the rule only occurring on your side of the aisle or are there any Members on our side of the aisle who are being consulted about potential changes in the rule?

Mr. DREIER. Mr. Speaker, at this juncture, I will say that I know that there are consultations that have gone on in a bipartisan way.

Mr. REYNOLDS. I think there are conversations going on everywhere.

The SPEAKER pro tempore. The time is controlled by the gentleman from Texas (Mr. FROST) under his reservation of objection.

Mr. FROST. Mr. Speaker, I yield to the gentleman from Maryland (Mr. HOYER), the ranking member of the Committee on Rules.

Mr. HOYER. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me this time.

Mr. REYNOLDS. Mr. Speaker, I move for a call of the House.

The SPEAKER pro tempore. Without objection, a call of the House is ordered.

Mr. HOYER. Mr. Speaker, I do not believe the gentleman had the floor. He did not have the floor.

Mr. FROST. Mr. Speaker, I believe that I had the floor. I do not believe the other gentleman is recognized.

The SPEAKER pro tempore. Does the gentleman from New York (Mr. REYNOLDS) withdraw his unanimous consent request?

Mr. REYNOLDS. Mr. Speaker, I withdraw my unanimous consent request.

CALL OF THE HOUSE

Mr. REYNOLDS. Mr. Speaker, I move a call of the House.

The call was taken by electronic device, and the following Members responded to their names:

{[Roll No. 227]}

Mr. REYNOLDS. Mr. Speaker, I move a call of the House. The call was taken by electronic device, and the following Members responded to their names:

{[Roll No. 227]}

The SPEAKER pro tempore. Does the gentleman from New York (Mr. REYNOLDS) withdraw his unanimous consent request?

Mr. REYNOLDS. Mr. Speaker, I withdraw my unanimous consent request.

The call was taken by electronic device, and the following Members responded to their names:

{[Roll No. 227]}

The SPEAKER pro tempore (Mr. COBLE). The call of the House is dispensed with. Shays-Meehan, along with the 14 executive sessions and votes, are dispensed with.

July 12, 2001

The SPEAKER pro tempore (Mr. LATOURETTE). On this rollcall, 422 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

PROVIDING FOR CONSIDERATION OF H.R. 2356, BIPARTISAN CAMPAIGN REFORM ACT OF 2001

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) has 1 minute remaining on debate on the rule.

Mr. REYNOLDS. Mr. Speaker, I yield myself to the balance of my time.

Mr. Speaker, the time is here. We are going to have a vote on this rule. This is a fair rule. It allows for full debate on Shays-Meehan, along with the 14
changes the gentleman from Connecticut (Mr. SHAYS) and the gentle-
men from Massachusetts (Mr. MEEHAN) to their own bills. It pro-
vides an opportunity for an amend-
ment of the Ney-Wynn bill, the DoO-
little bill and the Linder bill, along
with numerous other amendments of
Members who appeared before the Com-
mmittee on Unfinished Business.

It is a fair rule, one that allows for
a full, balanced debate on this very im-
portant legislation. This will bring
about, once and for all, a great debate,
a debate that the entire House can par-
cipate in. The rule that is provided be-
fore us, if it is voted up, we have the
debate; if it is voted down, it is for
those who opposed it to live for an-
other day to demagogue it, rather than
take on it.

Mr. UDALL of New Mexico. Mr. Speaker,
the 2000 presidential election may well be
remembered for “hanging chads” and other evi-
dence of the imperfections in our electoral
system. The right to vote is our most precious
freedom. We cannot afford to have a repeat of
last fall’s election process.

The 2000 presidential election, therefore,
should direct our attention once again to the
need for campaign and electoral reform. Both
political parties are motivated to address the
issue in this 107th session of the Congress. I
have already cosponsored legislation to pro-
vide states with the tools they need to ensure
uniformity and improve voter accuracy and ac-
cess. We must be careful, however, not to let
our efforts to achieve voting reform mask the
critical problem with our electoral process—the
uncontrolled and pernicious influence of big
money on the outcome of our elections. So,
today, I rise in strong support of the Shays-
Meehan legislation, which will help fix many
of our system’s problems.

It is time for Congress to enact campaign fi-
nance reform because quite frankly, Mr. Speaker,
such a federal campaign finance system is
broken. Last year, both parties spent un-
pardoned amounts in soft money for a new
record in the campaigns for control of the
White House and Congress.

New Mexicans—like all Americans—are jus-
tifiedly appalled by the fact that the amount of
money spent in elections has increased expon-
tentially with no end in sight. The Democratic
and Republican national party committees
raised a record $463 million in soft money from
January 1, 1999 through December 31, 2000,
according to a Common Cause analysis
released in February. The amount raised dur-
ing this past election cycle was nearly double
the $235.9 million raised during the 1995–
1996 election cycle. We must take action now.

In the 106th Congress, and again in the
107th, I was elected by my colleagues to take
a leadership role on the issue of campaign fi-
nance reform in the House of Representatives.
In September 1999, I helped floor manage
the House’s passage of the Shays-Meehan legis-
lation which would have closed some of the
worst campaign finance laws. However, this bill
never became law because of the opposition of a single Senator.

In spite of this setback, a bipartisan group,
led by JOHN MCAIN and RUSSELL FEINGOLD,
have passed their legislation in the other body.
It is my hope that, this year, the House will fol-
low suit, and pass meaningful campaign fi-
nance reform legislation and that the President
will sign it into law.

Current law authorizes contributions by indi-
viduals of up to $1,000 per candidate per elec-
tion and up to $5,000 per Political Action
Committee (PAC) per election. Corporations
and unions are prohibited from making any
contributions to candidates or their campaigns.

Nevertheless, individuals, unions, and cor-
porations give contributions of hundreds of
thousands of dollars, indeed, millions to cam-
paigns as so-called “soft” money to the polit-
cal parties themselves. The soft money loophole
is based on the fiction that a contribution to
the Democratic party or the Republican
party is different in reality from a contribution to
the party’s candidates. It is fiction because
parties spend most of the contributions on tele-
vision campaigns and those campaigns have
one goal—electing candidates. Banning un-
regulated, unlimited contributions to parties is
the core of campaign finance reform.

Campaign finance reform is vital to every
other piece of legislation that Congress con-
siders. From the need for a patient bill of
rights to the acute need for a com-
prehensive national energy policy, to the need
for a Medicare prescription drug benefit to
education reform, the people’s voices should be
heard and not drowned out by big money.

Vested interests have too often been able to
exert influence in Congress and White House
through the soft money loophole.

Mr. Speaker, campaign finance reform is the
most important step Congress can take to re-
store citizens’ belief in our democratic proc-
cess. What better motivation for reform than the
egregious excesses of the 2000 election—
both in voter access and in campaign con-
tributions? We must act before the 2002 elec-
tion, before the abuses of the electoral proc-
ess have so distorted the democratic ideal that
we are no longer truly a “government of
the people, by the people and for the people.”

I urge my colleagues to vote for this bill.
The time is now for real campaign finance re-
form. Passage of the Shays-Meehan legisla-
tion is the only true way to achieve that goal.

Mr. BALDACCI. Mr. Speaker, I am outraged by the unprecedented rule that has been de-
veloped for consideration of the Shays-Mee-
han campaign finance reform legislation. I
have never before seen a rule that divides a
Manager’s Amendment into 14 separate provi-
sions and requires each of them to be passed
individually. The Republican Leadership has
really outdone themselves this time in finding
new and creative ways to thwart the will of the
American people.

Since first being elected to office, I have
strongly supported meaningful campaign fi-
nance reform. I was so hopeful last year when
the House passed Shays-Meehan by an over-
whelming vote—only to see it die in the Sen-
ate.

This year, we were hopeful again. The Sen-
ate has passed McCain-Feingold. The House
Leadership was committed to allowing a vote on
Shays-Meehan.

But the Republican Leadership is still trying
to pull the rug from under reform again. The Republican Leadership’s rule is designed to
make it as difficult as possible for Shays-Mee-
han to pass in the form its sponsors rec-
ommend.

The Republican Rule is defeated, as I believe it should be, the Leadership should rest assured that
supporters of campaign finance reform will not
go quietly. The American people have said
and again that they want to see our cam-
paign finance system cleaned up in a mean-
ingful way. Defeating this rule will not defeat
this issue. We will be back, and Shays-Mee-
han will ultimately pass this body.

Americans have lost all confidence in the
campaign finance system. Rules like this may
cause them to lose all confidence in the U.S.
Congress. I urge my colleagues to defeat this
rule and to demand that Shays-Meehan be
brought back under a fair rule so that we can
do the will of the American people and start
the process of restoring the faith of the Amer-
ican people in their government.

Mr. REYNOLDS. Mr. Speaker, I yield back
the balance of my time, and I move the previous question on the res-
olution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the
Speaker pro tempore announced that
the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to
the vote on the ground that a quorum
is not present and make the point of
order that a quorum is not present.

The SPEAKER pro tempore. Evi-
dently a quorum is not present.

The Sergeant at Arms will notify ab-
sent Members.

The vote was taken by electronic de-
vice, and there were—yeas 203, nays
228, not voting 3, as follows:

[Roll No. 228]

YEAS—203

Aderholt                  Cubin                       Gutierrez
                        Crenshaw                    Hancock (MA)
                        Armes                       Hart
                        Baca                        Davis (CA)
                        Barr                        Davis (WA)
                        Ballenger                  DeLauro
                        Barr                        DeMint
                        Bartlett                   Diba-Bairat
                        Barton                     Doolittle
                        Berenger                   Dreier
                        Biggent                    Duncan
                        Bilirakis                   Dunn
                        Blunt                       Hoodstra
                        Bonner                      Ehlers
                        Bonilla                     Ehrlich
                        Bose                       Hostettler
                        Brady (TX)                  Hunter
                        Brown (SC)                  Issa
                        Bryant                      Flake
                        Burr                        Fletcher
                        Burton                     Foley
                        Butterfield                 Ford
                        Callahan                   Forsella
                        Calvert                     Frelinghuysen
                        Camp                       Johnson (IL)
                        Canter                     Johnson, Sam
                        Cappello                   Jones (NC)
                        Cannon                     Geaux
                        Cantwell                   Gekas
                        Capito                      Gibbons
                        Chabot                      Gilland
                        Chambliss                   Gillum
                        Coble                       Gilman
                        Collins                    Goode
                        Cotter                      Goodlatte
                        Coles                       Goodloe
                        Cooksey                    Gonzalez
                        Cox                         Granger
                        Crapo                       Graves
                        Green (WI)                  Gravel
                        Crenshaw                   Greenwood
                        Cruz                        Gravel
                        Cubin                      Gravel
                        Gutknecht

13107
LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, I rise to inquire of the gentleman from Missouri the schedule for the remainder of the week and for next week.

Mr. BLUNT, Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Missouri.

Mr. BLUNT. Mr. Speaker, I thank my friend, the gentleman from Michigan, for yielding.

We have now finished the legislative business for this week. We will have a pro forma session on Monday. On Tuesday, the House meets at 10 a.m. We have votes scheduled beginning as early as noon.

The flag-burning constitutional amendment will be on Tuesday; Commerce-State-Justice appropriations on Tuesday; then the Iran-Libya Sanctions Act.

Then the balance of the week we will finish Commerce-State-Justice; Foreign Operations appropriations; charitable choice; and hope to have a patients’ bill of rights on the floor the balance of the week next week.

Mr. BONIOR. Mr. Speaker, if I may inquire further of the gentleman, it is a pretty heavy schedule, the Patients’ Bill of Rights, charitable choice, as I understand it.

Mr. BLUNT. If the gentleman will continue to yield, we expected, of course, to have the campaign finance bill on the floor tonight. That bill will not be on the floor because of the defeat of the rule, and I think we will have to look at the vote today and the structure of that rule and see when and if that bill can come back to the floor.

Mr. BONIOR. So is the gentleman telling us that it may not come back to the floor of the House?

Mr. BLUNT. I am not saying that. I have not had time to calculate this. We really thought we were going to win this rule and vote on this tonight. We thought it was a fair rule, an equitable rule that clearly gave all options. Apparently, the majority did not think that, and I have no further information.

Mr. BONIOR. Let me ask the gentleman when he expects to bring the Patient’s Bill of Rights to the floor; at what point next week?

Mr. BLUNT. We do not know yet, but we are hopeful that that bill could be on the floor next week. We think it would be mid to late in the week. If we get it to the floor, but we are hoping that that is one of the things that will come to the floor next week. It is an important issue; needs to be debated and moved forward. We hope we can start and maybe complete that process next week.

Mr. BONIOR. And do we know under what procedure the Patient’s Bill of Rights may be brought to the floor next week?

Mr. BLUNT. I am unaware of any procedural decisions that have been made on that.

Mr. BONIOR. On the question of the faith-based initiatives, is that a probable, a maybe, or a most likely next week?

Mr. BLUNT. I think it is most likely that that bill will come out of the Committee on Ways and Means and floor next week.

Mr. BONIOR. And if I might ask one other question of my friend from Missouri, what other appropriation bills

Resolved, That the House, at its rising, adjourn until Tuesday, July 10, at 10 a.m.

Mr. LEWIS of California. Mr. Speaker, on rollcall No. 228, I was unavoidably detained. Had I been present I would have voted ‘‘yea.’’

Mr. LEWIS of California. Mr. Speaker, on rollcall No. 228, I was unavoidably detained. Had I been present I would have voted ‘‘yea.’’

Mr. BONIOR. Mr. Speaker, I rise to request of the gentleman from Missouri, what other appropriation bills may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Resolution 188.

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did the gentleman mention that may see the floor action?

Mr. BLUNT. I mentioned we would go to Committee on Appropriations next week, if we meet our schedule.

Mr. BONIOR. I thank my friend, and I encourage him to encourage the rest of the leadership on his side of the aisle to bring back a rule that reflects the vote we just had. The American people think desperately want us to address this campaign finance issue, they want to do it in a fair way, and I think the gentleman from Massachusetts and the gentleman from Connecticut deserve to have a fair shot at the bill that they want on the House floor.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. BARTON of Texas. I just wanted to announce, for members of the Subcommittee on Energy and Air Quality of the Committee on Energy and Commerce, that we are going to finish our markup this evening. Food will be provided on a bipartisan basis, so I would encourage all members of that subcommittee to come back to the markup, and I thank the gentleman for yielding.

ADJOURNMENT TO MONDAY, JULY 16, 2001

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m., on Monday, July 16, 2001.

The SPEAKER pro tempore (Mr. LATOURRETTE). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENDING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT FRIDAY, JULY 13, 2001, TO FILE PRIVILEGED REPORT ON DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight, July 13, 2001, to file a privileged report on a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 2002, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

CAMPAIGN FINANCE REFORM

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is confusing as to what just occurred. I just hope that we will have an opportunity to fully address what a good portion of this House wanted to do today, and that is to debate in front of the American people the whole question of ridding this system of special interests.

I, for one, want to discuss the empowerment of those who are least empowered, the involvement of the grass roots, the inclusion of every voter. And I had hoped that we would have written a rule that would have allowed the kind of formidable debate that would have addressed the question of making sure that democracy prevails in this Nation. I am equally disappointed that we have not given ourselves the opportunity to debate, as the Senate debated, for a period of time for the American voter to understand that we too believe that the best democracy is that of their vote, and that anything that we do today is based upon our representation of all of our citizens.

So I hope, as we end this week, that we will act upon the comments of the distinguished minority leader and that we will be able to review this and assess this for further consideration. We do need campaign finance reform.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of June 27, 2001, to file a privileged report on a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 2002, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. DOOLITTLE) is recognized for 5 minutes.

Mr. DOOLITTLE. Mr. Speaker, I just have some comments on the Shays-Meehan bill. This thing just died of the weight of opposition against it. I just want to read from a list of both conservative and liberal groups who oppose this legislation.

In fact, you could get a positive rating from both the NARL, the National Abortion Rights League, and from the National Right to Life Committee by voting against this terrible bill. And then you can also get the same positive rating from the U.S. Chamber of Commerce and from the AFL-CIO.

I would just like to read into the record all these groups, 81 groups, from information obtained from the Committee on House Administration, all the groups who are opposed to the big government's campaign regulation bill, known as Shays-Meehan.

We have the American Civil Rights Union; the Business-Industry PAC; the Center for Reclaiming America; the Christian Coalition; the Free Congress Foundation; Gun Owners Of America; the National Rifle Association; the National Right to Life Committee; the AFL-CIO; the Alliance for Justice; the American Civil Liberties Union; the Cato Institute; the Freedom Forum; the Libertarian Party; the National Association of Broadcasters; the National Association of Manufacturers; Associated Builders and Contractors; the U.S. Chamber of Commerce; Americans For Tax Reform; the United Auto Workers; the American Society for the Prevention of Cruelty to Animals; the Asian American Legal Defense and Education Fund; the Bazelon Center for Mental Health Law; the Business and Professional People for the Public Interest.

Again, just to remind you, Mr. Speaker, these are all the organizations opposed to the government campaign regulation known as Shays-Meehan.

The Center for Digital Democracy; the Center for Law and Social Policy; the Center for Law in the Public Interest; the Center for Science in the Public Interest; the Children's Defense Fund; the Community Law Center; the Consumers Union; the Disability Rights Education and Defense Fund; the Americus Foundation; EarthJustice Legal Defense Fund; Education Law Center; Employment Law Center; and Equal Rights Advocates.

Let me see, the James Madison Center for Free Speech; Gun Owners of America; Free Congress Foundation. Okay, we are at 41. Here are the other 40.

The Food Research and Action Center; the Harmon, Curran, Spielberg & Eisenberg firm; the Human Rights Campaign; Institute for Public Representation at Georgetown University Law Center; the Juvenile Law Center; the League of Conservation Voters Education Fund; the Legal
June 12, 2001

CONGRESSIONAL RECORD—HOUSE

H. ROHRABACHER (for 60 minutes as a designee of the majority leader).

FUNDING FOR FAITH-BASED INITIATIVES

The SPEAKER pro tempore (Mr. KELLER). Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, I stand here in support of faith-based entities who have long worked to address social ills. In fact, we just recently, earlier this week, paid a tribute to the efforts of these entities and encouraged private corporations to contribute to their worthwhile efforts.

This bill will also likely consider proposals aimed at providing government funding to faith-based entities. Charitable Choice, however, I have grave concerns with those proposals and believe that before adopting them, they merit serious examination to ensure they do not work to dilute our Nation’s constitutional principles and civil rights law.

First, are we prepared to modify our constitutional principle of separation of church and state to one promoting a church state? The First Amendment says Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. This clause was intended to erect a wall of separation between church and state. In essence, our Nation has been successful in preventing the church from controlling the state and the state from controlling the religion.

The current faith-based proposals threaten this very important principle. Which religious entities will qualify for the government funding? Will the more dominant or better financed faiths be awarded the grants? The government will be forced to choose one religion or denomination over the other. Once the entities accept government funding, then they must be held accountable for the use of these funds. As such, faith-based entities will open themselves up to government regulation. So we must ask ourselves, will groups forego the full expression of their religious beliefs, their independence and autonomy in exchange for money? Are we comfortable with our houses of worship becoming houses of investigation?

Further, while the proposals state that government funds should not be used for worship or proselytization, meaningful safeguards to prevent such action are not included in the provisions. The consequence is the possibility of using funds to promote certain religious beliefs or a beneficiary of social programs being subject to religious influence that is not welcome.

In addition to ensuring that faith-based initiatives do not threaten our Nation’s constitutional principles, we must also guarantee that our citizens will remain protected under our civil rights laws. Religious institutions are currently exempted from the ban on religious discrimination and employment provided under Title VII of the Civil Rights Act of 1964. As such, if faith-based proposals do not include a repeal of this exemption, these institutions will be able to engage in government-funded employment discrimination.

Allowing the exemption to be applied to hiring and staffing decisions by religious entities as they deliver critical services flies in the face of our Nation’s long-standing principle that Federal funds may not be used in a discriminatory fashion.

As I reflect on those who fought hard to secure civil rights for us all, and as one who has been a strong advocate myself, I cannot sit idly by and watch them be eroded. As such, I believe that any faith-based proposals must include a repeal of the Title VII exemption. Only when we review faith-based proposals, it is important to note that under current law religious entities can seek government funding by establishing a 501(c)(3) affiliate organization. Such religiously-affiliated organizations have successfully partnered with government and received government funding for years.

I urge my colleagues to carefully examine these issues. As we continue to support faith-based entities and their good works, we must remember our duty to also protect the very foundation of this Nation, our Constitution and our civil rights laws. Let us stand against discrimination and stand up for religious tolerance and freedom.

PAYING HOMAGE TO A SPECIAL GROUP OF VETERANS, SURVIVORS OF BATAAN AND CORREGIDOR

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes as a designee of the majority leader.

Mr. ROHRABACHER. Mr. Speaker, today I rise to pay homage to a very special group of American veterans. As Americans, these World War II survivors have sacrificed and have suffered for their country. But this special group is different.

This group that I would like to call attention to tonight are men who continue to fight for justice even though these many years have passed since the close of World War II. These are men who fought and paid an enormous price for our freedom and for the peace and safety of the world, yet today, I repeat, continue to struggle for justice to their own cause.

Instead of fighting the emperors of Japan which they fought during the second World War, these brave veterans are now forced to fight lawyers, the lawyers of Japanese and international business giants, companies like Mitsubishi, Matsui and Nippon Steel. Instead of battling in the jungles, instead of battling on the islands in the South Pacific, these veterans are battling in the courtroom.

Mr. Speaker, the greatest irony about what is happening today about the veterans of whom I speak, while they battled for our freedom in the second World War, and today, as they say, they are battling lawyers of some of the biggest Japanese companies, the greatest irony is that these American heroes have the United States Government not on their side, but on the side of their adversary. They find themselves arguing against representatives of their own government.

Let me make this clear. Some heroic veterans from World War II were trying
to find justice for their cause, men who put everything on the line and, as we will find out, were held hostage and prisoner of war by the Japanese. These men now in seeking justice for their cause are having to argue against their own government. Their own government is now engaged in a legal process to thwart their efforts.

This is the story of the American survivors of the Bataan Death March in Corregidor. These are some of the most heroic of America's defenders during the Second World War. When they were captured, they were forced to serve as slave labor for private war profiteering companies. Japanese companies during the Second World War. These men, these prisoners of war, these American heroes were deprived of food, medicine, and clean water. These large Japanese companies, whose own work force was away fighting the war in the Japanese uniform, these corporations used our POWs as work animals. These Japanese companies, knowing they were violating the international law, used our American soldiers, sailors, airmen and marines whom they had captured in the Philippines and other places around the Pacific, but mainly the Philippines, they used these people and often worked them to death. The standards they had to endure violated the most basic morality, decency and justice. It also violated international law.

Instead of righting wrongs and admitting that violations had been made and violations of law existed, like German companies have done since the end of World War II, and the German companies have tried to close that chapter by giving compensation and recognizing the violation of rights that took place by their companies to the people whom they wronged, the Japanese corporations have ignored the claims of these American heroes.

And why not? These large Japanese corporations ignore the pleas of American survivors for justice. Why not? After all, the United States State Department has sided with the Japanese and is working against our former POWs that were held by the Japanese during the Second World War. This is a travesty.

Mr. Speaker, if the American people knew what was going on, I am sure there would be a wave of protest and indignation that would sweep this country, a wave that would sweep right into the State Department and perhaps sweep out these individuals who are siding in a battle against America's most heroic defenders.

Dr. Lester Tenney, a survivor of the death march, a survivor of slave camps, says, “I feel as if I am once again being sacrificed by our government, abandoned not for the war effort, as in the past, but for the benefit of big Japanese corporations.”

Dr. Tenney is right. In the hours following the attack on Pearl Harbor, the Japanese attacked U.S. installations in the Philippines. A U.S. contingent there made up of our military forces retreated to the Bataan Peninsula and made their historic standing. They held off the Japanese military juggernaut while the United States had been crippled in Pearl Harbor, and gave us time to rally America, and gave us time to organize an offensive to take back the territory that the Japanese had taken.

Our defenders in Corregidor and on the Bataan Peninsula bought time for the whole United States, and they bought time at the greatest risk to their lives. Our government at that time was forced to make a heart-tearing decision, and that decision was that they were going to have to sacrifice our brave heroes in the Philippines. MacArthur was pulled out, and our troops were left behind. And they were sacrificed because the planners in Washington, D.C., knew full well that much of our strength in the Pacific had been destroyed at Pearl Harbor, and if we tried to save these brave heroes on the Bataan Peninsula, we would have risked so many other military personnel. If we lost that battle, the entire war would have been lost. The risk was so great that it was impossible for us to go to save them.

Yet these men and women, these brave defenders stood their ground and fought a heroic battle. As the song of the day went, their song, the battling bastards of Bataan, no mama, no papa, no Uncle Sam.

After the fall of Bataan, these men, these men were overwhelmed and American-Filipino troops were captured, they were forced to walk more than 60 miles to their places of captivity, to the prison camps and concentration camps in which they were held. That 60-mile march is known in history as the Bataan Death March. They were denied water, beaten; and during the march, hundreds of them, many of them fell, and many of them were bayoneted to death. Some of them were cut to pieces, at least a few beheaded by Japanese officers who were practicing with their samurai sword.

Let us remember at that time the Japanese culture reflected the view that any warrior who survived a battle was a failure and that any warrior who survived a battle, any warrior who survived a battle and surrendered was unfit to be considered a human being.

The Japanese treated our prisoners as less than human beings. They treated them as animals and they murdered them. Over 650 to 700 Americans died on that 60-mile march, the famous Bataan Death March. These were truly heroes, and their sacrifice inspired our Nation. The outrage that swept across our Nation gave us strength to fight against the Japanese militarist thrust in the Pacific and to stand up to the Nazis in Europe, because we saw the heroism of these men. And then after enduring this hell and taking out of sight of the American people, our prisoners of war that were being held by Japan there in the Philippines, many thousands of them were taken from these hell ships and sent off to the concentration camps in Europe.

Our POWs struggled to survive in the harshest conditions imaginable. These heroes were forced to toil beyond human endurance, in mines, in shipyards, in steel mills. Yes, they took the place of the Japanese men who were away serving in the Japanese military. This was in itself a violation of international law. But the jobs that these prisoners were given, these American heroes were given by the Japanese and the treatment they received was well beyond just a violation of international law; it was a crime against humanity.

These men worked the most dangerous jobs, the most terrible conditions, and were treated like animals. They were treated worse than animals. The Japanese would not have treated their animals as they treated our prisoners. Company employees would beat them and harangue them, they were starved and denied adequate medical care. They suffered from dysentery, scurvy, pellagra, malaria, diphtheria, pneumonia and other diseases. One of our prisoners had his leg amputated because it was crushed in a truck slide, and it was amputated by another American POW, the only doctor who happened to have survived this long, and that doctor amputated that leg without anesthetics. The rations that they were given were unfit for human consumption. Our POWs were reduced to skin and bone, looking very much like the prisoners in Auschwitz and in the concentration camps in Europe.

Today, while many of those survivors, of course, died during the war and after the war just from the complications, and today those who managed to survive over these many years have many health problems that relate directly to the conditions that they were kept in during the Second World War. When you hear the survivors tell their stories, it raises the hair right in the back of your neck and sends chills down your body.

Frank Bigelow, 78 years old, from Brookville, Florida, was taken prisoner at Corregidor. Mr. Bigelow was
shipped to Japan where he performed labor in coal mines owned and operated by Mitsubishi. Now this is a name that we have heard, Mr. Bigelow, Mr. Bigelow who had his leg amputated without anesthetic by a fellow POW. At the war’s end, though Mr. Bigelow was 6'4”, he weighed just 95 pounds when he was liberated.

Lester Tenney, 80 years old, of La Jolla, California, became a prisoner at the fall of Bataan in April of 1942. He survived the Bataan Death March and was transported to Japan aboard a hell ship. In Japan, he was sold by the Japanese Government to Mitsui and forced to labor for 12 hours a day, 28 days a month in the Mitsui coal mine.

"This reward I received for this hard labor was being beaten by civilian workers in the mine and constantly humiliated," said Dr. Tenney. These are just a couple of stories. The horrors that they suffered at the hands of these Japanese corporations, who were making a profit off the work they were doing for the war, the horrors that these men suffered could fill books; and let us in those books and in this recalling what happened not forget who it was who was doing this. These were Japanese corporations. Many of these same Japanese corporations still exist today.

The case of our POWs is clear. These facts cannot be denied. Their claims cannot be dismissed or just simply explained away. And that is why it makes it even more difficult for us to understand why our State Department refuses to assist these American heroes, these veterans of the Bataan Death March, these men who stood at a time when our country was in such great peril and endured the unspeakable for us, and now our State Department will not stand with them. In fact, it is standing against them.

It makes it hard to fathom when you think about this why the State Department is doing this when you consider that in Germany, in Nazi Germany, where so many people were wronged and we know about what happened in the concentration camps there and how horrible that was, the Germans have tried to compensate those people, especially German corporations, have tried to compensate those people who they wronged during the war. They have tried to close the book. That is what should happen.

But instead, on the other side of the world, our American heroes have been denied justice by these Japanese corporations. And while our government has encouraged the repayment by German corporations especially in the case of, for example, Swiss bankers who were ripping off the Holocaust survivors from the deposits that their families had made and the huge German insurance companies, while we have encouraged that and tried to side with the victims' cause, our State Department and our government are siding against our defenders who were captured by the Japanese and mistreated in a very similar way.

The lawyers for the State Department have agreed with the war profiteers, these Japanese corporations who made enormous profits in supplying Tokyo’s war efforts, and they have allied themselves against the American victims. Let me just say that their excuse for what they are doing is that they are claiming that the peace treaty that we signed with Japan bars our veterans from these claims. Let me note that that is nonsense. It is total nonsense. If any claims are barred, it is claims brought against the Government by American civilians. There is nothing in that treaty that bars our heroic POWs from suing the Japanese corporations that treated them like animals, that violated their human rights and committed war crimes in doing so.

The argument by our State Department is an argument in which our own government is bending over backwards to try to find an excuse for this great violation of rights of our greatest heroes; they are bending over backwards to try to find an excuse when, in fact, these people deserve us to be doing everything we possibly can to try to find the arguments on their side.

These people are not going to be with us for very long. These people might not be with us for another 10 years. They are dying off every day. They are older men. And our government is trying and doing its best to try to find arguments, to try to undercut their claims against the people who violated their rights, the Japanese corporations that treated them like slave labor during the war. We should be paying honor to these men and giving every everything we can to help them rather than put roadblocks in their way. The State Department should be ashamed of itself.

First, as the State Department has elsewhere conceded, the waiver of claims by U.S. private citizens against private companies of another country is not merely unprecedented in history, in the history of the United States, it is not recognized in international law and raises very serious constitutional and fifth amendment questions.

What are we talking about here is that there is no State Department waiver of the rights of private citizens who have violated their rights and they have a just claim. There is no right of our government to waive that, the rights of our citizens. Now, they maybe can waive the rights against a government, but they certainly cannot waive against a corporation that still exists.

By the way, let us remember this: a corporation is a legal entity. If that corporation made mistakes in the past and it is the same corporate entity, it has responsibility for what action of that corporation took in years past. I do not care if it was during the war or during peacetime. A Japanese corporation bears the same responsibility as an individual bears responsibility.

That is why you have corporations. They take upon themselves that legal responsibility.

A close look at the history of the 1951 treaty that we have that ended the war with Japan reveals that the negotiators considered treaty language which would have permitted POW lawsuits against Japanese companies, those same Japanese companies that had used them as slave labor. But that reference was deleted in the final draft after a demand by other Allied powers was made to that agreement, to that wording to the U.S. delegation.

Now, what does that mean? What is going on here is that we considered actually putting something in the treaty specifically prohibiting that. Well, the argument was that we can’t constitutionally prevent them from doing it, anyway, so why are we putting this in the treaty that could probably be a cause of concern for the Japanese?

And why were we so concerned about the Japanese in 1951? What was that all about? Well, 1951 was another era. And I am afraid that in 1942 when America had to abandon these heroes on the Bataan Peninsula and leave them to their fate and let them be captured and murdered and tortured and worked like slave labor by the Japanese, when we abandoned them to that fate, we abandoned them a second time. That was because we needed to ally ourselves with those victims, our own State Department and our government are siding with those victims, our own State Department siding with those victims, and we should be doing everything we can to help them rather than put roadblocks in their way.

Because at that time the world witnessed a Japan going towards communism, it would have shifted the balance of freedom and democracy in the world and the whole Cold War might have ended a different way. It might have caused the loss of millions of American lives if just that balance of power in Japan would have been shifted. So maybe we needed to bend over backwards to prevent the Japanese at that time, and I just say maybe.

□ 1830

There is no excuse like that today. The Cold War is over. We should not be bending over backwards today. If we do not move forward today to permit these American heroes to at least readdress their grievances and to receive some compensation and to find justice, if we do not act now, we are abandoning them for the third time.
They were abandoned in Bataan. They were abandoned after the war. Are we going to let them go again? Are we going to watch them slip away quietly without knowing how much the American people appreciated what they did for us? How will they know how much we appreciated it if we are turning our backs on this claim, this legitimate claim that Japanese corporations who worked as slave laborers while all around the world other peoples have been able to sue those corporations that violated their human rights during the Second World War and how other people, in fact, have been able to sue Japan and those corporations for what they did to them.

No, the only people left out will be the survivors of the Bataan Death March. This is an insult. It is absurd. It is insane, and it does not speak well of our State Department. It does not speak well of us if we let it happen, and we should not and we will not let that happen.

The treaty in 1951 also includes a clause which automatically and unconditionally extends to the allied powers any more favorable terms than that granted by Japan in any other war claims settlement. Japan has entered into war claims settlements with the Soviet Union, with Burma, Spain, Switzerland, Sweden, the Netherlands and others. These same rights that we are talking about, that we are asking for our own people, have already been granted to the people of other countries. Yet, the State Department in our country continues to work against our heroic Bataan Death March survivors' right to seek justice in the courts against the Japanese corporations that worked them during the war, even though other countries and other peoples have redressed the wrongs and the book has been closed on their cases.

On the public record to date, the State Department simply ignores these people's claims, these brave heroes' claims, or tries to obfuscate the facts. Several weeks ago, Fox News on the Fox News Sunday program, a news program on the weekend, it was probably more like 2 months ago now, Colin Powell, our Secretary of State, promised to review the State Department's erroneous and unyielding stand against that Japanese Embassy staff, and he said that it was unfair of us to compare the Japanese in World War II to the Germans and to the Nazis and that is just not the case. I told him, I said with all due respect, sir, the Japanese militarists of World War II, of which this gentleman's generation he was not part of that generation, committed the same type of atrocities and war crimes as did the Germans, and it is very comparable what the Japanese did to the Chinese people, to the Bataan Death March survivors of World War II, and especially in Asia, that is exactly the kind of a bill that Japan, for their own sake, need to make sure is paid.

The people of Japan are very interested in face. They are also a people who never fail to pay a just debt. This is a just debt. When people work in any capacity, they need to be paid. No Japanese employer, not Mitsubishi, not any of the heavy industry companies that we are talking about here today, not one of them would fail to pay a worker for a day's work. This is the only time in which these companies have gotten labor for which they have not yet paid.

I absolutely support the legislation of the gentleman. I commend him for something that has been long overdue for bringing it to the forefront. I am pleased to be one of the cosponsors; and I look forward to pushing this through the Congress to, in fact, remind the Japanese people that this is the only way they will put the war behind them is to pay the debts that they know they owe, have the corporations pay what they need to pay, with interest, and move on. That is what we do in a civilized society.

Japan is now one of the great nations of the civilized world, and we need them to free themselves of the burden of this past debt. I want to thank the gentleman for yielding, and I want to thank the gentleman once again for authorizing this bill with the gentleman from California (Mr. Honda). And I look forward to seeing it on the floor and enacted.

Mr. ROHRABACHER. Mr. Speaker, the gentleman from California (Mr. Honda) and myself have introduced a bill, the Just and Fair POWs Act of 2001. It is H.R. 1198, and there are over 100 of my colleagues now who have co-sponsored this bill which will grant our POWs from the Bataan Death March the right to sue those Japanese corporations that tortured them and killed them and worked them as animals during the war. Our legislation gives them the right to seek legal redress against those companies.

Mr. Speaker, I would at this time be happy to yield to my friend, the gentleman from California (Mr. Honda), for his remarks.

Mr. Speaker, Mr. Honda. And I am pleased to be one of the cosponsors; and I absolutely support the legislation of the gentleman. I commend him for something that has been long overdue.
times the point that corporations do have responsibility for their actions. Even though it happened a while ago, a corporation should still have legal responsibility for the actions in the past?

Mr. ISSA. Here in America, we have unlimited and permanent liability. There are cases on the American books where a lathe maker who made products in the 1980s had to pay for damages caused to a worker in the 1980s. That is not always considered fair, but corporations understand that one of the advantages they get for that pride of having a plaque that says 50 years or even 100 years in business is in fact that they have to have paid off all of their debts, including the ones that have not yet arisen.

That kind of obligation is understood here in America and very much understood in Japan. The gentleman from California (Mr. HONDA), during many Japanese friends. This in no way on numerous occasions. My family has Japanese at all.

certainly not anti-Japanese whatso-

teleman from California (Mr. HONDA), is

The co-author of this bill, the gen-

to do justice for these Japanese corporations who had used them as slave labor, and they were unable to find justice through the legal system because our own State Department was thwarting them.

My goal is not to humiliate the Japa-

ese or to make the Japanese feel bad, even though in the past they did bad things. The Japanese people did bad things in the distant past, and that was another generation. My goal is to do justice for Uncle Lou and those 5,400 American heroes who survived the Bataan Death March. That is what our goal is.

Before they pass away, let us give them justice. We need to pass H.R. 1198. We need to pass H.R. 1198. It needs to come to the floor for a vote, and we need to do justice by these men and give them a thank you, a thank you for what they did for our country.

Mr. Speaker, there is nothing that existed as a militaristic expansionist power in the Pacific, and they emerged

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Why am I the author of H.R. 1198?

Well, I can tell you, it is a very easy answer, but it requires a little story. I was married about 3½ years ago to the love of my life, who is now Rhonda Rohrabacher. Rhonda’s father, my wife’s father, passed away about 5 years ago of cancer, and at our wedding someone else had to give her away because her father had passed away.

You might say the grand old man of Rhonda’s family is a man named Uncle Lou. Now, Uncle Lou is a survivor of the Bataan Death March, who was taken by the Japanese to Manchuria and worked and lived in a slave labor camp, in a concentration camp in Man-

churia, until the closing days of the war when he was liberated, and Uncle Lou told me the stories, and I met with Uncle Lou’s friends who told me the stories of their ordeal.

These men, who are probably some of the most heroic people I have ever met, told me of the conditions they were kept in, and then they told me that they were unable to sue these Japanese corporations who had used them as slave labor, and they were unable to find justice through the legal system because our own State Department was thwarting them.

My goal is not to humiliate the Japa-

nese or to make the Japanese feel bad, even though in the past they did bad things. The Japanese people did bad things in the distant past, and that was another generation. My goal is to do justice for Uncle Lou and those 5,400 American heroes who survived the Ba-

teen Death March. That is what our goal is.

Before they pass away, let us give them justice. We need to pass H.R. 1198. We need to pass H.R. 1198. It needs to come to the floor for a vote, and we need to do justice by these men and give them a thank you, a thank you for what they did for our country.

Mr. Speaker, there is nothing that existed as a militaristic expansionist power in the Pacific, and they emerged
as a potential enemy of the United States because of that.

The Japanese, as I say, were the primary threat in Asia. They were a fanatic tyranny in the 1920s and 1930s. They were racist. They thought they were racially superior and had a right to dominate all of Asia. As I say, they were militaristic, they were beefing up their military, and they were expansionists. They were taking control of islands and fortifying them all over the Pacific as they built up their own military into an offensive power.

Last, which is an interesting comparison, they were also involved with trade with the United States. They were a wealthy power. They had a very strong economy and a high standard of living, and they depended a great deal on trade with the United States. In fact, the Japanese were the greatest threat to a lot of business with American corporations, and we provided them, at a great profit to these American corporations, I might add, we provided them with steel and oil and scrap metal, and, yes, even aerospace companies were involved with working with the Japanese. All of this, if it rings true a little bit when you think about the comparisons about what has been happening with the Communist Chinese, it is rather frightening.

Yes, there have been reports of, and we know now that some of America's aerospace corporations are actually cooperating with them, and one of our companies is actually trying to develop a manufacturing unit that would help them manufacture their equivalent of the B-17, a long-range bomber.

This is incredible now. What American corporation would do this at a time when the Japanese were the biggest human rights abuser in the world by far? They had been doing it in China and to the people that they had subjugated, and that were militaristic and a threat, and they were dictatorial, with no sight of liberalization? Why would we let American corporations guide American policy while that was going on?

That is with precisely what was going on then, and that is precisely what happened, and that is what is precisely happening today. The Communist Chinese are the greatest threat to peace and freedom in Asia today, and, in fact, I would say in the world today, because they are allied with the worst and most evil forces in the world, just as the Japanese militarists were during the 1920s and 1930s.

The Chinese Communists are a fanatic tyranny. Those ruthless individuals who control Communist China will let nothing get in their way or nothing threaten their power. They are a fanatic like the Japanese militarists of World War II and before that. If you watch the Chinese military marching along, one can only be reminded of the Japanese troops that marched in that very same arrogant fashion.

Yes, the Chinese who control Beijing today are racist. They believe that they have a superior race and that they have a right to dominate all of Asia. And, yes, of course, they are militaristic.

The worst part of their military expansion, however, is that the United States of America, in permitting the economic rules of engagement in which we interact with Communist China, is permitting the Communist Chinese to have an $80 billion annual trade surplus with the United States. With this $80 billion of hard currency, what is being done by the Communist Chinese? What is being done is they are building up their military. They are acquiring weapons systems that will enable them to dominate Americans by the millions in terms of their nuclear weapons capacity and their missile capacity. But they are also obtaining weapons that will permit them to sink American aircraft carriers and shoot down American airplanes and to kill American military personnel.

They are not only militaristic, however, they are also expansionists, just as the Japanese were expansionists. Take a look at what the Japanese claimed. They had a map of the coprosperity sphere. We have Chinese maps which show they, too, believe there is a coprosperity sphere, and guess who is in the center of it? And it is a far greater area of control that the Chinese have in mind than the Japanese.

The Chinese have in mind that they control the entire South China Sea, that they control all the way up to the shoreline of the Philippines and of Indonesia and of Vietnam and Southeast Asia. They have a right to control all of Tibet and the greater expanses of Asia and Southeast Asia, and they have a right to the great Siberian areas of Russia.

This is an expansionist power. These are people who are mad with power; just as the Japanese militarists were in the 1920s and 1930s. And just as the Japanese militarists were fortifying islands with their military weapons and their capabilities during the 1920s and 1930s, China is in the process of doing that now.

In the Spratly Islands, which are an island chain that are claimed by five different countries and are 600 miles away from China, but about 100 miles away from the Philippines, and also mainly claimed by the Philippines, the Chinese Communists are in the middle of an island grab, and what they are doing is sending their warships there, and they have already built fortifications.

Let me add that I, this Congressman, DANA ROHRABACHER, tried to visit the Spratly Islands. For years I tried to visit the Spratly Islands and was prevented from doing so by roadblocks that were put up by who? Who do you think put up those roadblocks so as a Member of Congress, as a Member of the Committee on International Relations, that I would not be able to see what the Communist Chinese were doing in the Spratly Islands? Who put up those roadblocks? My gosh, the same company that is preventing our POWs from suing the Japanese. It is called the United States State Department.

So when I finally got to the Spratly Islands on an old C-130, I might add, from the Philippine military, it was the only one that could fly. I managed to fly out in an old C-130. I had Skunk Baxter with me and a couple of staffers and some folks from the Government of the Philippines. The pilot did not even have a GPS. That is how poor the Philippines and the Chinese now have a GPS system in the only C-130 flying, and they had a Radio Shack GPS system.

But we made our way to the Spratly Islands. We came out of a cloud bank, and there were three huge Chinese military warships, and what we saw in the Spratly Islands is Chinese fortifying those islands with military fortifications. This is somebody else's country and somebody else's territory, and they are fortifying it, and they have Chinese warships in the lagoon. Those Chinese sailors were rushing towards their guns, and we did not know if they were going to try to shoot us down or what, and they did not, and we finally escaped that international incident.

Since that time, guess what has happened? We have let them get away with it. We have let them not only lay their claim, but actually build forts there.

Now what have they done? They have done the same thing in the South China Sea, in the Paracel Islands down off of Vietnam.

The Chinese have also, I might add, since that time begun to send their naval war vessels right up to the coast of the Philippines. A few weeks ago, Chinese war ships were within a short distance from the coast of the Philippines. This is an expansionist power. This is a power that threatens. This is the world's worst human rights abuser. As Japan was the world's worst human rights abuser in the 1920s and 1930s, the Chinese are the same with us today. They are expansionist, they are racist, they are militaristic. Yet we have a trade status with them that permits them an $80 billion surplus.

Now, why do we do this? Within the next couple of weeks, why will this body vote to give that kind of country normal trade relations with the United States? I repeat that: Normal Trade Relations. Should a communist dictatorship have normal trade relations? Should a fanatical tyranny that is racist, the world's worst human
Mr. Speaker, I believe in free trade. I am a Republican free-trader. But I believe in free trade between free people. If we try to do it the other way around, we are doing nothing but bolstering the regime in power in these dictatorial countries around the world.

How long ago was it? Just a few short weeks ago that 24 military American personnel that were being held hostage by this very same Communist Chinese Government. They, in fact, forced an American surveillance aircraft that was in international waters out of the air in an attempt to murder those 24 American service personnel. Instead, the pilot, and they are being imprisoned, lucky; and then they were held hostage for 11 days. That was not so long ago. And now, within a very short period of time, the elected Members of this body are going to vote by a majority to give Normal Trade Relations to that government. That does not make any sense.

Not only were they holding hostage our American military personnel, but we actually have several Americans who are being held right now as we speak, or at least legal residents of the United States, who are being held hostage or being held prisoner by the Chinese, and we are basically talking about giving Normal Trade Relations to a country that is holding Americans, or at least legal residents of our country, holding them illegally, committing torture.

There was a young lady and her daughter who came to our hearing of the Committee on International Relations. Her husband, who is a doctor, a Ph.D., is being held by the Communist Chinese, and her daughter and this lady were begging us: please, please, demand that they bring back my husband, and he is an academic. He is an academic.

The Communist Chinese today are doing what? They are murdering Falon Gong people. Falon Gong, by the way, is nothing more than a meditation cult. I mean, they meditate and they have their gongs, and they are being imprisoned by the tens of thousands and hundreds of them are being murdered in jail, hundreds of them. Many of these women, they are being tortured, not to mention Christians, of course, who, if you do not register like the Jews did with the Nazis, if you do not register, you get thrown in a gulag. What happens in China? What happens in China when you get thrown into the gulag? Yes, right back to World War II. Guess what? Their prisoners are worked like animals.

Mr. Speaker, I would suggest that we should not be granting Normal Trade Relations to a country like this. And when those prisoners are executed, and thousands of them are, China is the execution capital of the world, what does this ghoulish regime in China do? It sends doctors, their doctors out to harvest the organs from the bodies of the prisoners that they have just executed.

Mr. Speaker, I say it is time that we learn our lessons from history, not grant Normal Trade Relations with China, and to make sure we stand up for the rights of our own people and the freedom and dignity of our ex-POWs.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agreed to the following resolution:

S. Res. 130

Resolved, That the House of Representa-

tives be notified of the election of the Honor-

able Jeri Thomson as Secretary of the Sen-

ate.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 6 P.M., FRIDAY, JULY 13, 2001, TO FILE REPORT ON H.R. 7, COMMUNITY SOLUTIONS ACT OF 2001

Mr. PLATTS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until 6 p.m. on Friday, July 13, 2001, to file a report on the bill, H.R. 7.

The SPEAKER pro tempore (Mr. KELLER). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. PLATTS), as a freshman Member of this Chamber, and as one who has supported campaign finance reform and fought for campaign finance reform for close to 10 years, I need to express my great disappointment in the vote that occurred earlier today in which we defeated the rule on campaign finance reform legislation and, thus, have disallowed that legislation from coming forward.

Before I share exactly how I voted, though, I think it is important to share some of my history on this issue and how I live campaign finance reform and not just talk about it.

Over the last 9 1/2 years as a candidate first in the State House and now in Congress, I have never accepted political action committee money. I have limited the amount of money I have spent; I have limited the amount of my personal money I have spent. In fact, in my campaign for Congress a year ago, I limited my expenditures in the primary to less than $150,000; and I was outspent five to one by my opponent, three to one by another, two to one by a third opponent. We did grassroots campaigning; and thanks to the people of my district, we were successful. I ran in that fashion because I believe money is wrongly influencing the governing process, and I think it is time we do better by the people we are elected to represent.

Unfortunately, we did not get that opportunity today due to my strong support for campaign finance reform; in fact, in the June 30 reports of this year, I imagine I will probably pretty easily be the Member with the lowest amount, with $7,000, maybe $8,000 in my campaign treasury, compared to hundreds of thousands of dollars, because I am not interested in being a fund-raiser, I am interested in being a public servant. But despite that history, despite that I seek not just to preach about campaign finance reform but to try to practice campaign finance reform, citizens may be surprised to learn that I voted against the gentleman from Connecticut (Mr. SHAYS), the maker of the underlying bill that was to come before the House; I voted against the position of the distinguished Senator from Arizona who wanted a vote against the rule. I think it is important that we discuss why I voted that way, even as an adamant supporter of campaign finance reform.

I would contend that the defeat of the rule and, thus, the disallowance of the bill coming up for a vote is a huge step backwards. What we have done is send the bill back to committee where it may never come out of for the rest of the session; and under the best-case scenario under the rules of this House, it will at least be several months before we get another opportunity to bring it to the floor.

What was the alternative if we had supported the rule and brought it forward? Was it perfect? No. In fact, if I had my druthers, I would go one heck of a lot further than we were proposing to do in the underlying legislation and the amendments. But if we had allowed it to come forward, if we had approved the rule, we would have had the gentleman’s bill before this House, a very comprehensive campaign finance reform piece of legislation. We would have had 17 amendments before this House, 12 of which the gentleman from Connecticut (Mr. SHAYS) was preparing to offer. We would have had the opportunity for two substitute campaign finance reform bills to be discussed, debated, and openly voted on in this House. What did we get? Nothing. Not one vote. We got a rule denial that sent it back to committee, and we have lost tremendous ground.

The worst-case scenario that could have occurred if we had supported the rule, that we would move a piece of legislation forward either that was in
such good form and in such similar form as the Senate legislation, as the McCain-Feingold legislation, that the Senate would have concurred in it, and we would have taken a huge step to eliminating soft money, to reducing the influence of money on the process. Under the worst-case scenario, we move forward and come out with a bill that the Senate did not like, we go to conference. So we are in conference where we can hammer it out between the Senate and the House. Instead, we are still in a committee in the House, a long way from getting to a final piece of legislation.

What was the grounds for defeating the rule, those who voted against the rule. Why? What did they not like about the rule? It came down to this. This is important for the citizens of this Nation to understand. It came down to procedure over substance. It was not a question of whether each and every one of the gentleman’s amendments was going to get a vote. All 12 of them under the rule would get a vote. It is that he and others wanted them all to be voted as one, one lump sum, they had to take it or leave it, one lump sum. Do I not think that was a good approach? I think the 12 amendments was fair, was reasonable. Each and every amendment would have gotten a vote on the floor; it would have been openly discussed and debated. Instead, none of them came to the floor and the underlying bill did not.

Mr. Speaker, it is a sad day, I think. As one who has fought for this reform, and we got so close to getting a substantive vote, and instead, we are back in committee. All 228 members who voted against the rule, if they so strongly believe the rule was flawed, I would encourage each and every one of them and I would hope that each and every one of them will bring forward a discharge resolution with what they think we should do and that all 228 are on that discharge resolution.

Mr. Speaker, I urge that we as a House do campaign finance reform once and for all and do it right.

STATUS REPORT ON THE CURRENT LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2002 AND THE 5-YEAR PERIOD FY 2002 THROUGH FY 2006

Mr. NUSSLE. Mr. Speaker, to facilitate the application of sections 302 and 311 of the Congressional Budget Act and section 201 of the conference report accompanying H. Con. Res. 83, I am transmitting a status report on the current levels of on-budget spending and revenues. H. Con. Res. 83, for the fiscal year period of fiscal years 2002 through 2006. This status report is current through July 11, 2001.

The term “current level” refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President’s signature. The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set forth by H. Con. Res. 83. This comparison is needed to enforce section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution’s aggregate levels. The table does not show budget authority and outlays for years after fiscal year 2002 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority and outlays for discretionary action by each authorizing committee with the “section 302(a)” allocations made under H. Con. Res. 83 for fiscal year 2002 and fiscal years 2002 through 2006. “Discretionary action” refers to legislation enacted after the adoption of the budget resolution. This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) discretionary action allocation of new budget authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 2002 with the “section 302(b)” suballocations of discretionary budget authority and outlays among Appropriations subcommittees. The comparison is needed to enforce section 302(f) of the Budget Act because the point of order under that section equally applies to measures that would breach the applicable section 302(b) suballocation.

The fourth table gives the current level for 2003 of accounts identified for advance appropriations in the statement of managers accompanying H. Con. Res. 83. This list is needed to enforce section 201 of the budget resolution, which creates a point of order against appropriation bills that contain advance appropriations that are: (i) not identified in the statement of managers or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.

The fifth table compares discretionary appropriations to the levels provided by section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985. If at the end of a session discretionary spending in any category exceeds the limits set forth in section 251(c) (as adjusted pursuant to section 251(b)), a sequestration of amounts within that category is automatically triggered to bring spending within the established limits. As the determination of the need for a sequestration is based on the report of the President required by section 254, this table is provided for informational purposes only. The sixth and final table gives this same comparison relative to the revised section 251(c) limits envisioned by the budget resolution.
### DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2002—COMPARISON OF CURRENT LEVEL WITH APPROPRIATIONS SUBCOMMITTEE 302(b) SUBALLOCATIONS

#### (In millions of dollars)

<table>
<thead>
<tr>
<th>Appropriations Subcommittee</th>
<th>2002 BA Outlays</th>
<th>2002-2006 total BA Outlays</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>BA</td>
<td>OT</td>
</tr>
<tr>
<td>Agriculture, Rural Development</td>
<td>15,519</td>
<td>15,821</td>
</tr>
<tr>
<td>Commerce, Justice, State</td>
<td>18,541</td>
<td>19,360</td>
</tr>
<tr>
<td>National Defense</td>
<td>300,292</td>
<td>394,026</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>382</td>
<td>401</td>
</tr>
<tr>
<td>Energy &amp; Water Development</td>
<td>23,704</td>
<td>23,959</td>
</tr>
<tr>
<td>Foreign Operations</td>
<td>15,168</td>
<td>15,099</td>
</tr>
<tr>
<td>Interior</td>
<td>18,941</td>
<td>17,768</td>
</tr>
<tr>
<td>Labor, HUD &amp; Education</td>
<td>119,758</td>
<td>201,383</td>
</tr>
<tr>
<td>Legislative Branch</td>
<td>2,790</td>
<td>2,855</td>
</tr>
<tr>
<td>Military Construction</td>
<td>10,151</td>
<td>9,448</td>
</tr>
<tr>
<td>Transportation</td>
<td>14,893</td>
<td>15,840</td>
</tr>
<tr>
<td>Treasury-Postal Service</td>
<td>18,880</td>
<td>16,130</td>
</tr>
<tr>
<td>VA-HUD-Independent Agencies</td>
<td>84,159</td>
<td>88,177</td>
</tr>
<tr>
<td>Unassigned</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td>661,300</td>
<td>682,776</td>
</tr>
</tbody>
</table>

1 Does not include mass transit BA.

### Statement of FY2003 advance appropriations

under section 201 of H. Con. Res. 83, reflecting action completed as of July 11, 2001

#### (In millions of dollars)—Continued

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

#### (In millions of dollars)—Continued

<table>
<thead>
<tr>
<th>Budget authority</th>
<th>Labor, Health and Human Services, Education Sub-committee: Employment and Training Administration</th>
<th>Health Resources</th>
<th>Low Income Home Energy Assistance Program</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
COMPARISON OF CURRENT LEVEL TO DISCRETIONARY SPENDING LEVELS SET FORTH IN SECTION 251(c) OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985, REFLECTING ACTION COMPLETED AS OF JULY 11, 2001

(In millions of dollars)

<table>
<thead>
<tr>
<th>Category</th>
<th>Statutory cap</th>
<th>Current level</th>
<th>Proposed statutory cap</th>
<th>Current level</th>
<th>Current level over (+)/under (−) statutory cap</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Purpose</td>
<td></td>
<td></td>
<td>BA 486,945</td>
<td>32,783</td>
<td>−547,162</td>
</tr>
<tr>
<td>Defense 1</td>
<td></td>
<td></td>
<td>BA (−) 0</td>
<td>(−) 0</td>
<td>−26,999</td>
</tr>
<tr>
<td>Nondefense 2</td>
<td></td>
<td></td>
<td>OT 104,037</td>
<td>(−) 0</td>
<td>−104,037</td>
</tr>
<tr>
<td>Highway Category</td>
<td></td>
<td></td>
<td>BA (−) 0</td>
<td>(−) 0</td>
<td>−27,783</td>
</tr>
<tr>
<td>Mass Transit Category</td>
<td></td>
<td></td>
<td>OT 165,962</td>
<td>(−) 0</td>
<td>−8,057</td>
</tr>
<tr>
<td>Conservation Category</td>
<td></td>
<td></td>
<td>OT 1,760</td>
<td>0</td>
<td>1,760</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>OT 1,232</td>
<td>624</td>
<td>−608</td>
</tr>
</tbody>
</table>

1 Established by ONB Sequestration Preview Report for Fiscal Year 2002.
2 Defense and nondefense categories are advisory rather than statutory.
3 Not applicable.

COMPARISON OF CURRENT LEVEL TO DISCRETIONARY SPENDING LEVELS RECOMMENDED BY H. CON. RES. 83 REFLECTING ACTION COMPLETED AS OF JULY 11, 2001

(In millions of dollars)

<table>
<thead>
<tr>
<th>Category</th>
<th>Budget authority</th>
<th>Outlays</th>
<th>Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enacted in previous sessions:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenues</td>
<td>0</td>
<td>0</td>
<td>1,703,488</td>
</tr>
<tr>
<td>Appropriation legislation</td>
<td>0</td>
<td>280,919</td>
<td>0</td>
</tr>
<tr>
<td>Total previously enacted</td>
<td>642,750</td>
<td>893,630</td>
<td>1,703,488</td>
</tr>
</tbody>
</table>

FISCAL YEAR 2002 HOUSE CURRENT LEVEL REPORT AS OF JULY 11, 2001

(In millions of dollars)

<table>
<thead>
<tr>
<th>Category</th>
<th>Budget authority</th>
<th>Outlays</th>
<th>Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enacted this session:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>An act to provide reimbursement authority to the Secretary of the Interior from wildland fire management funds (P.L. 107-13)</td>
<td>0</td>
<td>−3</td>
<td>0</td>
</tr>
<tr>
<td>Fallen Hero Survivor Benefit Fairness Act of 2001 (P.L. 107-15)</td>
<td>0</td>
<td>0</td>
<td>−7</td>
</tr>
<tr>
<td>Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16)</td>
<td>6,425</td>
<td>6,425</td>
<td>−31,337</td>
</tr>
<tr>
<td>An act to clarify the authority of the Department of Housing and Urban Development with respect to the use of fees (P.L. 107-18)</td>
<td>8</td>
<td>9</td>
<td>8</td>
</tr>
</tbody>
</table>


Hon. Jim Nussle, Chairman, Committee on the Budget, House of Representatives, Washington, DC.

Dear Mr. Chairman: The enclosed report shows the effects of Congressional action on the fiscal year 2002 budget and is current through July 11, 2001. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 83, the Concurrent Resolution on the Budget for Fiscal Year 2002. The budget resolution figures incorporate revisions submitted by the Committee on the Budget to the House to reflect funding for emergency requirements. These revisions are required by section 314 of the Congressional Budget Act, as amended. This is my first letter for fiscal year 2002.

Since the beginning of the first session of the 107th Congress, the Congress has cleared four acts that changed budget authority, outlays, or revenues for 2002: an act to provide reimbursement authority to the Secretary of Agriculture and the Interior from wildland fire management funds (P.L. 107-13), the Fallen Hero Survivor Benefit Fairness Act of 2001 (P.L. 107-15), the Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16), an act to authorize funding for the National 4-H Program Centennial Initiative (P.L. 107-19). The effects of these new laws are identified in the enclosed table.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director)

Enclosure.
TOBACCO IS NUMBER ONE PUBLIC HEALTH CONCERN IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from New Mexico (Mr. Udall) is recognized for 60 minutes as the designee of the minority leader:

Mr. UDALL of New Mexico. Mr. Speaker, it is a real pleasure to be here this evening. Let me begin by talking a little bit this evening about tobacco issues, because I have been involved as a State attorney general on the issue of tobacco. I was involved in the massive piece of tobacco litigation that State attorneys general filed across the country in their respective States, and we also, as a result of that, had a settlement; and we learned a lot about tobacco, about tobacco companies, about tobacco companies targeting kids. It is something that is a pretty incredible story. It also says something about public health in America and where we should be headed.

This is our real purpose here tonight, is to talk about the public health side and to talk also about the side of the administration, this current administration, the Bush administration, carrying on a tobacco lawsuit, the Federal Government versus the tobacco companies; and we will also be talking about that.

First of all, let me talk a little bit about the public health problem when it comes to tobacco, because a lot of people do not understand the massive size of the public health problem that we have here in America when it comes to tobacco. Mr. Speaker, 435,000 people every year are killed by tobacco. These are tobacco-related deaths, and it is a huge number. When we hear the number, we all hear statistics and we wonder what they mean. Take all other causes of death out there, and let us just go through a few here, auto accidents, suicides, murders, deaths by infectious diseases, deaths from AIDS; think of any other chronic illnesses, heart disease. If we add a lot of these up and we total them, we still do not get to the number of deaths caused by tobacco.

So when we talk about the cause of death and talk about public health problems, we clearly have a huge one when it comes to tobacco; and it is one that I think is in a way demonstrated, and I am going to have another Member join me here and maybe others if they want to come down and talk about this; but it is demonstrated by a physician that I talked to, a cancer doctor in New Mexico. She is an oncologist. She told me this story. She said, I work in the cancer field. It is a very trying field to work in. She is very interested in tobacco and lung cancer and that whole relationship.

She said, "If tomorrow we could stop people smoking, one-third of my patients would go away immediately." So the people that she is treating today, if we stopped individuals from smoking, she would lose an entire third of her patients. She of course said that she sees every day all the pain and suffering that people go through. She said, "I would be happy to have that happen, to see that loss of patients." So when we are talking about cancer docs across the country taking a look at this, we can see the kind of impact it is having.

One of the other facts here that is very, very important is that tobacco companies have targeted our kids in America for addicting them to tobacco. I would just like to give some of the facts here.

People do not realize that the tobacco companies saw their markets going down about 10 or 15 years ago. They saw their markets going down. They saw the number of people shrinking. The older people were quitting. They did a lot of research. This is in their files. There were documents that we recovered from them as State attorneys general.

They discovered several things. They discovered first of all if they build their younger market, then they are able to increase their markets dramatically. That is what they did. They started targeting younger people to start smoking. It is documented. It is in there. It is something that is pretty astounding, when we think about it.

Listen to these figures. Almost 90 percent of the adult smokers began at or before the age of 18. So it is the young people that are starting, and they continue for their whole lives. Every day in America more than 3,000 kids become regular smokers. That is more than 1 million kids a year. Roughly one-third of them will eventually die from tobacco-related disease.

Fifteen and one-half million kids are exposed to secondhand smoke at home. More than 3 million of our children ages 12 to 17 are current smokers, and 900 million packs of cigarettes are consumed by our children a year. More than one-third of all these children who ever try smoking a cigarette become regular daily smokers before leaving high school.

That is what these tobacco companies knew all along. They knew if they got young people addicted, that they would stay addicted for a lifetime, and keep buying cigarettes, and their profits would keep going up. It is a horrible story to tell, but it is out there and it is documented. It is part of these tobacco lawsuits that the State attorneys general brought.

Now, who stepped in to do something about this? Very little was done at the Federal level in the 1990s. Did we see any other people stepping out to do something about it? Private individuals hired attorneys and went to court and tried to sue the tobacco companies.

The tobacco companies had never settled a case. They fought these cases all the way to the U.S. Supreme Court, if they had to, and they always defeated these poor little plaintiffs, many of whom had smoked for 30, 40, or 50 years, and then had contracted lung cancer.

But in the 1990s, there were a group of attorneys general, first led by Attorney General Mike Moore from Mississippi, who filed the first lawsuit down there in Mississippi. It grew over the years, and eventually we had 45 attorneys general join this lawsuit.

These lawsuits were pushed hard. They were fought hard. There was an
For a few years after the settlement, the tobacco companies tried to pass a bill and deal with the whole issue at the Federal level. At one press conference, Attorney General Ashcroft was saying “It would be a big-government travesty at its biggest to use the tragedy of tobacco as a smokescreen to cover the expansion of the nanny state." In other cases, Senator Ashcroft at the time said things like this was a frivolous lawsuit. He was the only one on the Senate Committee on Commerce that voted against reporting the tobacco settlement of the Nanny State.

So, basically, we have an individual that is in the Attorney General’s office. He is the lead negotiator on this case. He is somebody that can make the decision one way or another as to how this case is handled, what the strategy is to pursue in court, and whether and on what terms it should be settled. That is really the issue that is before us today.

We have been joined this evening by the gentleman from Colorado (Mr. Udall). I know that he has an interest also in tobacco and these public health problems that are out there. I yield to the gentleman from Colorado (Mr. Udall) to see if he is interested in talking a little bit about this current lawsuit and this current situation, and reflect on his views.

Mr. Udall of Colorado, Mr. Speaker, I thank my colleague, the gentleman from the State of New Mexico, for yielding to me and providing me with some time to talk about this very important issue tonight. I also wanted to applaud his efforts as attorney general of the State of New Mexico, and now as Member of the U.S. House of Representatives.

As I was listening to the gentleman, I was thinking about all of the viewers tonight who have children, and particularly daughters. I have an 11-year-old daughter, a soon to be 11-year-old daughter. She is a very important part of my life.

When I looked at the statistics that the gentleman has shared with us in general, and then broke them down into the statistics that apply to women and girls, I thought it was very striking. I want to share a few of those with the Members tonight, and then talk a little bit about the lawsuit situation, as well. It is stunning to think of some of these statistics and what they really mean.

Smoking prevalence is higher among women with 9 to 11 years of education than women with 13 to 15 years of education, and three times higher than women with 16 or more years of education. Smoking among girls and women has increased dramatically in the 1990s. From 1991 to 1999, smoking among high school girls increased from 27 percent to 34 percent.

A report published in the American Journal of Public Health shows that girls have an easier time buying cigarettes than boys, even at the youngest ages. Now come the tragic statistics. In 1997, nearly 165,000 women died of smoking-related diseases. Since the Surgeon General’s Report on Women and Smoking was released in 1980, more than two million women have died prematurely of smoking-related diseases.

As with men, smoking is related to heart disease and lung cancer, but women smokers also face increased risks of cervical cancer and osteoporosis. In the 1980s, lung cancer overtook breast cancer as the leading cause of cancer death in women. Since 1950, lung cancer mortality rates for women have increased 600 percent.

Cigarette smoking doubles the risk of coronary heart disease, and accounts for more than 80 percent of lung cancers in women. Women also have a much more difficult time when they want to quit smoking. They have lower cessation rates, and girls and women aged 12 to 24 are much more likely to report being able to cut down on smoking than men and boys of those same ages.

Females are significantly more likely than boys to report feeling dependent on cigarettes, and are more likely to report feeling sad, blue, or depressed during attempts to quit smoking.

I would remind the viewers that cigarette companies first began targeting women in the 1920s. Up to that point, smoking among women was not particularly socially acceptable, but they were savvy. They equated smoking with freedom and emancipation.

Women continue to be a target of the cigarette companies. Cigarette advertising and promotions use themes of empowerment and sophistication. The cigarette companies, and I think my colleague, the gentleman from New Mexico, touched on this, but they spent more than $3 billion on advertising and promotion in 1999, a 22 percent increase over the $6.7 billion spent in 1998. This is the largest increase in dollar terms since the Federal Trade Commission began tracking industry sales in advertising in 1970.

Clearly, this points out that we have a real public health challenge, and that it is one that we cannot turn our backs on. The gentleman from New Mexico talked a little bit about the history of the lawsuits brought by the States that was then taken up by the Federal Government.

I, too, want to express my concern that Attorney General Ashcroft, given his past skepticism about the tobacco settlement bill, and indeed, his work to stop the tobacco settlement bill, is now heading up these efforts at the Federal level. I, too, want to lend my voice to the calls for the Attorney General to establish a neutral and independent review board to provide oversight of any proceeds from the settlement.

I think such a review board could be composed of a bipartisan slate of attorneys general from the States who could act as neutral arbitrators. I would hope...
that the Attorney General would recuse himself, at a minimum, from the negotiation process.

This widespread use of tobacco is eating away at our society’s physical and financial health. We cannot bear, I think, to wait another day before we continue these efforts to point out the dangers of this real epidemic to our public health.

I have been pleased to join my colleagues, and at this point would yield back to him for further comments.

Mr. UDALL of New Mexico. I very much want to thank the gentleman from Colorado for those comments. I know that he and I and many others here in the House of Representatives are going to be monitoring this very closely and trying to make sure that Attorney General Ashcroft does what is in the public interest if he stays on the case. I think we both feel he should not be on the case.

Let me also talk a little bit about the gentleman’s comments about women. The women in America have had a tragic situation when it comes to their relationship with tobacco. The statistics are pretty astounding. And that is why when we do these tobacco settlements, one of the conditions that should be in there and one of the ways settlement monies can be used is to try to do everything we can to educate people about quitting, offering them cessation courses, doing counter-advertising.

One of the States that has done an incredible job is the State of California, which has put a tax on cigarettes and then taken that money and advertised and showed everybody that is out there the danger of tobacco, and they in particular target their advertising to young people and say this is going to be your future. They show them lungs that have been damaged. They show older individuals that have wrinkles all over their faces because of premature aging from smoking and try to let them know what kind of damage this is going to do. So it is important that we protect everybody, protect women, and that we come up with a variety of programs with these settlement monies to try to do that.

The gentleman’s comments on Attorney General Ashcroft, I think, are crucial. And over and over again we see the statements he made as a United States Senator before he got to be Attorney General. Listen to his statement on FDA authority over the tobacco industry. This was from a letter dated June 7, 2000. “I believe that the most effective way to combat nicotine addiction by people of all ages is not to allow the FDA to regulate the tobacco industry.”

Well, that is just the opposite of what we ought to be doing. President Clinton used FDA authority to get out there, to regulate, to say that you cannot target young people in this country, and the courts threw it out. So now when we have legislation where the FDA has no regulatory authority. I have authored a bill in the Congress that gives regulatory authority to the FDA. We have a number of sponsors on that, and I think that is a good solid piece of legislation.

Mr. UDALL of Colorado. If the gentleman will continue to yield.

Did now Attorney General Ashcroft, but then Senator Ashcroft, propose a different system or did he just suggest we throw open the gates and everybody have at it? I cannot imagine where we would be if we had that kind of system until this point, when after many years we have been able to gather information and data that suggested the Government’s activities, in regards to the qualities of nicotine and other substances.

It strikes me that this is a very illustrative comment, also one that causes me great concern. Mr. UDALL of New Mexico. The gentleman’s comment is correct, and when Senator Ashcroft made that statement he was specifically targeting FDA regulation. And really what he was saying, he was taking a very libertarian approach; just let anybody do whatever they want and let the private sector work. Let the tobacco companies get out there and advertise all they want and get our young people addicted. And he is saying the government should play no role. That, I think, is an irresponsible position.

Mr. UDALL of Colorado. If the gentleman will continue to yield, the Attorney General is welcome to his own opinions. That is what makes this country so great, the first amendment and all the other traditions we have in our law and in our culture that encourages people to speak out on their point of view. But I would suggest that that particular set of sentiments is not held by the American people; that we have decided as a country that tobacco should be regulated, just like we regulate alcohol and other controlled substances.

That again points out the need to create an unbiased and bipartisan group who would oversee the Federal Government’s efforts to get us out of this lawsuit. And this is not, incidentally, about Democrats or Republicans. There are people who have contracted these diseases and these problems in the 400,000 people the gentleman mentioned who are Republicans, Democrats, Libertarians, Green Party. I am sure there are even some anarchists in this group of people. This is not about partisan advantage, but this is about doing the right thing and representing the rights of what the American people reside I think on this issue, which is that there is more to be done.

Mr. UDALL of New Mexico. The gentleman is absolutely correct, and I cannot emphasize enough that the lawsuits that were brought by State attorneys general were brought by Democrats. An Republican, one of the great gentlemen known, in his home State of Colorado, Attorney General Gale Norton, who is now Secretary of the Interior, she brought a lawsuit in the State of Colorado against the tobacco companies. She was part of the master settlement. She, like everyone else, was very concerned about the situation with women, the targeting of young people and trying to addict them over a lifetime. So she was out there as a Republican, very active, and there were many other Republican attorneys general around the country that were involved. So this was a bipartisan effort.

Back to this issue of Attorney General Ashcroft being in charge of this lawsuit, is the Justice Department’s evidence we have laid out there, I cannot think of a worse individual to be in charge of the Nation’s lawsuit against the tobacco companies. It is really like putting the fox in charge of the hen house. This gentleman condemned these lawsuits. He fought the tobacco settlement. He was the only one in the committee. The vote in the committee was 19 to 1. He was the one in the committee. And now we have him as Attorney General and he is the head litigator.

One of the first things he did was to announce, well, I think we have a weak lawsuit; we better settle. That is no way to go into a lawsuit. It is no way to go into settlement negotiations. You have to get in there and be tough with these companies, as the State attorneys general were. He seems to be folding his tent before he has even started.

Once you raise the whole question of conflict of interest, it raises the question of an appearance problem, and it raises the whole issue of bias. And I think one of the individuals that said it the best was the person that wrote the editorial for The New York Times just a couple of weeks ago when they said “The Bush administration has shown a troubling propensity for putting the interests of industrial campaign backers before its duty to protect public health. The latest case in point is the Justice Department’s curious announcement that it will attempt to settle the huge tobacco lawsuit against the tobacco industry brought by the Clinton administration 2 years ago, explaining in part that it thinks the case is weak. Attorney General John Ashcroft, a major opponent of the lawsuit when he was in the Senate, included no funding for the suit in his budget. So in that sense this week’s action is no surprise. Mr. Bush’s spokesman explains that the President thinks society is ‘too litigious,’ and that it is preferable to ‘reach agreements,’ but abandoning the case is not the way to preserve leverage.”
Mr. UDALL of Colorado. If the gentleman will yield, that is so true. And in any contest you do not tell the other team what you have; but in the court or arrive at the golf course that you have a weakened game that day and your team is not really prepared to compete. And that is what lawsuits are. They are often the last resort option that you have; but in many cases in our society, the judicial system has proven to be an important place to play out further the debate that is necessary in our society.

I was interested to also hear the comments about the Attorney General saying there was not enough money to pursue the case. Well, the number I have heard is about $233 million. That is real money. But when we look at the cost of the lives and the cost that we have don’t illustrate Medicare and Medicaid and all of our private health systems, that is a small amount of money to invest in doing right in all the areas the gentleman has suggested.

I also find it interesting that perhaps it was suggested that there was not any money available to pursue these lawsuits. But the Attorney General himself is in charge of putting together his budget. So it is a bit like saying I do not have any money, even though I am in charge of how the money is allocated. How you spend money gives a sense of your priorities. This clearly is not a priority for the Attorney General and potentially, by extension, the President.

I think it is a priority for the American people. That is why we are here tonight to point out that there are thousands of American citizens who think this lawsuit ought to be pursued and that, in the end, this is not about lawsuits, it is not about money, it is not a money grab, it is about our children in particular and about the costs that tobacco use imposes on our society.

Mr. UDALL of New Mexico. I thank my colleague very much for those comments. And let me follow on one of the thoughts that came out of what the gentleman just said and this New York Times editorial I just talked about.

There was a paragraph in there that I thought was particularly interesting that I thought the gentleman mentioned last night. People may wonder why the Times said this. They said in the editorial, “the interests of industrial campaign backers before its duty to protect the public health.” They were accusing the Bush administration of showing a troubling propensity to put the interests of industrial campaign backers before the duty of public health.

So what are they talking about there? And I have been following this very closely because we all know when we run in campaigns and we are active and we are out there and doing fund-raising the, fund-raising can tell us a lot about actions and agenda and those kinds of things. We have just finished here tonight a discussion of campaign finance reform, and so if we look at the Center for Responsive Politics and what they have researched on money in the last election, 83 percent, 83 percent of the tobacco contributions went to the Republican Party.

So when they talk about following contributors, I think that is what they are talking about there. If we look at individual contributions, $90,000 went specifically to the Bush campaign, only $8,000 to the Gore campaign. So we are talking about another large amount in terms of differences. A large disparity.

So the bottom line here is that President Bush has got to get a new negotiator. I wrote what I considered a very congenial letter. The gentleman mentioned it in his comments, a congenial letter. But this is a problem, this is an appearance, a serious appearance problem. This gentleman has come to the job with a bias and you have to get a new negotiator to protect the public interest.

Now, I do not have anybody in mind, and I would not be presumptuous to tell the President who to pick as his negotiator. He clearly needs someone he can trust, and he ought to replace the current Attorney General and just have him step aside on this. But the other way, it seems to me, with this whole cloud that is out there over this settlement, to take care of this, is to involve the State attorneys general.

There is nobody in the Nation with more credibility on this issue than the State attorneys general. They sued the tobacco companies. They were the first ones to bring them to the table. They were the very first ones to get a settlement of tobacco companies. No other lawyer had ever done this before. The tobacco companies always used to wave their fingers at us and say, we fight to the end. If you file against us, we are going to fight it to the end and we have never paid a penny. Well, they paid $240 billion. So that is a pretty penny there, I will tell you.

Mr. UDALL of Colorado. Again asking my colleague to yield, I would note that the President certainly is a prominent member of the Federalism. It is this problem, this is a conflict, this has an appearance, a serious appearance problem. This gentleman has come to the job with a bias and you have to get a new negotiator to protect the public interest.

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way that this settlement was worked out, it will flow in over 25 years. We do not have all $1.2 billion at this time. We actually have to put it into trust funds, and they balloon up over time.

Mr. Speaker, let me talk about some of the proposals that were out there and then some of the issues that we are actually doing now, and maybe we can get into a discussion of that. First of all, the public health community came forward, many of these cancer doctors, the oncologists came forward, and the American Cancer Society and the American Lung Society, all of them came forward and said, we need to work on specifically how we spend these dollars.

They came up with what I thought were some very good recommendations. First of all, we could start a trust fund. One of the best recommendations, and I was very supportive of this, as was worked with my legislature, set up a trust fund and try to get the trust fund to the level that it was way up there in dollars so we could then use the principal rather than using the capital. If you took a lot of this money and put it into a trust fund, then there could be a perpetual flow of money to deal with the tobacco issues.

Mr. UDALL of Colorado. Mr. Speaker, so the gentleman is suggesting to treat it as an endowment for our children's future, and direct the return and the interest off the endowment into these efforts, and it would be a very conservative way to proceed, and that would ensure that those monies were there into perpetuity for use of citizens in the gentleman's home State?

Mr. UDALL of New Mexico. Mr. Speaker, the gentleman is correct. And what we were trying to do in recommending some kind of trust fund was to say these issues are not going away. The tobacco companies are advertising, and they are still out there. We prevented them from targeting kids, but they are still out there selling cigarettes. We know how many kids; 3,000 kids are starting smoking every day. The idea is get a trust fund, have those monies, the principal on your trust fund, work toward preventing that.

One of the most effective things that can be done is counteradvertising, and that is one of the recommendations that we were making. Go on television, and go out with billboards, and any information you can give to the public about the dangers of smoking and try to target it to specific audiences and have it be relevant to those audiences.

After somebody gets addicted, they start when they are young, one of the next issues is how do you get them off. There are cessation programs. There are a variety of programs to help people wean themselves from cigarettes; and that would also be funded. Give people a chance to get themselves off of tobacco.

The thing that is deplorable to me is that many of the States have not taken this approach, have not headed down this road. New Mexico is not completely down this road either. They have let it in so it flows into the general fund and spent on whatever comes up. Some States have taken the money and built roads.

Mr. Speaker, let me talk about some of the proposals that were out there and then what they are actually doing now. The tobacco companies are advertising, and they are still out there. We prescribed that they cannot be done solely as individuals. If you prescribed that you could be made that all of the money ought to be used in the way the gentleman has suggested, where the principal is taken, and it generates a return, and all that can be done over a period of time is done to not only begin to reduce smoking, but eventually reach a point where none of our children start smoking at an age before they really understand the consequences.

Mr. Speaker, if an adult wants to utilize tobacco at some point, that is his or her right to do that. But as the gentleman points out, the statistics are staggering as to how many children start. They then carry that habit and addiction on into their adult years.

I was noting, too, the Attorney General mentioned that he had a concern that it would be a big government travesty to use the tragedy of tobacco as a smoke screen to cover the expansion of the nanny state.

Mr. Speaker, I guess I would beg to differ with him, and I think many Americans would, that this is an appropriate place for government regulation. This is an appropriate place for all of us through our government to come together and make sure that our children are not exposed to the great dangers of tobacco.

Abraham Lincoln, the founder of the Republican Party, suggested that we do together through government what cannot be done solely as individuals.

It is clear that the power and the resources of the tobacco companies are enormous, and that the role that government can play in providing a counterbalance is crucial. Our free enterprise system provides for a lot of freedom and for small businesses and large entities to act responsibly. I think that is the purpose at the heart of the litigation that has been brought, and I think that is against why I share the concerns that the Justice Department needs to look for a broader-based approach. It needs to involve other entities besides the individual States in its pursuit of the important lawsuit that we have been discussing tonight.

Mr. UDALL of New Mexico. Mr. Speaker, if the gentleman would yield, there are two important points here. Number one, get a new negotiator. There are plenty of former Attorneys General, there are State attorneys general, there are people in the government. The President should have another negotiator in place.

Secondly, how do you give credibility to this whole process? The process right now has a big cloud over it. There are serious questions that have arisen. I think involving the States attorneys general, a group of attorneys general could come in, and it would cause headway towards a settlement now, in this a good settlement. Then they can visit privately with the administration. Also in the end they should be able to make public pronouncements about the validity of the lawsuit, the size of the settlement, what was extracted in the settlement. There is no group in this country that knows more about what should be in a settlement than State attorneys general.

I would hope that not only would he remove Attorney General Ashcroft from this, but he would also focus on some independent oversight by State attorneys general. I certainly believe that with the combination of those two items, that we would be able to have a good outcome here.

Mr. UDALL of Colorado. Mr. Speaker, if the gentleman would yield, I would appeal to all of our colleagues in the House, all 435 of us, to weigh in with the President and request that he consider what I thought was a very thoughtful request on the part of the gentleman from New Mexico, and I think other colleagues would join the gentleman if they knew the extent to which this is an important issue facing us.

Mr. Speaker, it is an opportunity. It is arguably a health care crisis, but it also presents us with a real opportunity. I hope colleagues who have been here and have listened to our special interest groups, and are also making their own pitch to the President that this is a worthy undertaking and one that will be remembered not just in the near future if we do it right, but will be remembered for decades to come; that we got ahold of this public health problem and that we did something about it when it was appropriate and when our kids are really what are at risk here.

So I want to commend the gentleman for being one the leadership in this important area, and for after 8 years as attorney general and now 3 years in this body is continuing the good work on behalf of our children.
Mr. UDALL of New Mexico. Mr. Speaker, I commend the gentleman from Colorado for his leadership on this issue and caring about our children in this country.

Mr. Speaker, I will say as we wrap up here that these are important issues to the American people.

**LEAVE OF ABSENCE**

By unanimous consent, leave of absence was granted to:

Ms. WATERS (at the request of Mr. GEPPARD) for July 10 on account of illness.

Mr. MOORE (at the request of Mr. GEPPARD) for today after 4:00 p.m. and the balance of the week on account of attending his son's wedding in Hungary.

**SPECIAL ORDERS GRANTED**

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HASTINGS of Florida) to revise and extend their remarks and include extraneous material):

Ms. NORTON, for 5 minutes, today.

Mr. FALLONE, for 5 minutes, today.

Ms. MILLIENDER-MCDONALD, for 5 minutes, today.

(The following Members (at the request of Mr. WICKER) to revise and extend their remarks and include extraneous material):

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. SIMMONS, for 5 minutes, July 18.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material):

Mr. DOOLITTLE, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. NUSSEL, for 5 minutes, today.

Mr. PLATTS, for 5 minutes, today.

**ADJOURNMENT**

Mr. UDALL of New Mexico. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock p.m.), under its previous order, the House adjourned until Monday, July 16, 2001, at 2 p.m.

**EXECUTIVE COMMUNICATIONS, ETC.**

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:


2861. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Notice of Final Funding Priorities for Fiscal Years (FY) 2001–2002 for two Rehabilitation Research Training Centers—received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2862. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Notice of Final Funding Priorities for Fiscal Years (FY) 2001–2002 for three Disability and Rehabilitation Research Projects—received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.


2864. A letter from the Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting the Department's final rule—Employee Retirement Income Security Act of 1974; Rules and Regulations for Administration and Enforcement [Claimant Review; RIN: 0435–AE41] received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2865. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, entered into by the United States, pursuant to 1 U.S.C. 112(b); to the Committee on International Relations.


2868. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Have Other Severe Disabilities (RIN: 2511–AF64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2869. A letter from the Secretary, Department of Housing and Urban Development, transmitting the Department's FY 2000 Performance and Accountability Report; to the Committee on Government Reform.

2870. A letter from the Acting Assistant Attorney General for Administration, Department of Justice, transmitting the Department's final rule—Privacy Act of 1974; Implementation—received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.


2872. A letter from the Under Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Visas: Documentation of Immigrants under the Immigration and Nationality Act, as amended—Diversity Visas—received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2873. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments [USCG–2001–9236] received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2874. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Raising the Threshold of Property Damage for Reports of Accidents Involving Recreational Vessels [USCG 1999–6094] (RIN: 2115–AP67) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2875. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Sustenance Management Regulations for Marine Events; Maryland Swim for Life, Chester River, Chestertown, Maryland (CGD06–01–031) (RIN: 2115–AE46) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2876. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; PatapSCO River, Baltimore, Maryland (CGD05–01–032) (RIN: 2115–AE46) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2877. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Northeast River, North East, Maryland (CGD46–01–430) (RIN: 2115–AE46) received July 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2881. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–800 Series Airplanes [Docket No. 2001–NM–354–AD; Amendment 39–12279; AD 2001–12–23] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

2882. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–700 Series Airplanes [Docket No. 2001–NM–193–AD; Amendment 39–12294; AD 2001–12–51] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

2883. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes [Docket No. 2001–NM–144–AD; Amendment 39–12253; AD 2001–11–10] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

2884. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; American Champion Aircraft Corporation 7, 8, and 11 Series Airplanes [Docket No. 2001–CE–121–AD; Amendment 39–12255; AD 2000–25–02 R1] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

2885. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter Agusta A109 Series Helicopters [Docket No. 2001–SW–08–AD; Amendment 39–12248; AD 2001–13–04] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

2886. A letter from the Director, Office of Regulations Management, Department of Veterans' Affairs, transmitting the Department's final rule—Airworthiness Directives; Eurocopter AS355 Helicopters [Docket No. 2001–SW–29–AD; Amendment 39–12290; AD 2001–13–05] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1); to the Committee on Transportation and Infrastructure.

2887. A letter from the Department of Agriculture, transmitting notification of the intention of the Departments of the Army and the Department of Agriculture, transmitting notification of the intention of the Departments of the Army and the Department of Agriculture to interchange jurisdiction of civil works and Forest Service lands at and near the State line of Missouri and Arkansas, as follows:

Mr. HYDE: Committee on International Relations. H. R. 2489. A bill to amend title X VIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in rural areas; referred to the Committee on Ways and Means, and in addition referred to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOSWELL (for himself, Mr. BARRETT, and Mr. OSBORNE):

H. R. 2485. A bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in rural areas; referred to the Committee on Ways and Means, and in addition referred to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAPUANO (for himself, Mr. FOLEY, Mr. TOWNS, Mr. WILDON of Florida, Mr. BURGER, and Mr. MCDERMOTT):

H. R. 2484. A bill to amend title XVIII of the Social Security Act to improve the provision of vision services under part B of the Medicare Program; referred to the Committee on Energy and Commerce, and in addition referred to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself, Mr. NEAL of Massachusetts, Mrs. JOHNSON, and others):

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LUCAS of Oklahoma:

H. R. 2480. A bill to reauthorize, improve, and expand conservation programs administered by the Department of Agriculture, to the Committee on Agriculture.

By Mr. YOUNG of Alaska (for himself, Mr. LOBIONDO, and Ms. BROWN of Florida):

H. R. 2481. A bill to improve maritime safety and the quality of life for Coast Guard personnel, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. WILHF (for himself, Mr. GEORGE MILLER of California, Mr. LANTOS, Mr. FILNER, Ms. SANCHEZ, Ms. ROYBAL-ALLARD, Mr. FAHR of California, Mr. FRANK, Mrs. NAPOLITANO, Mr. HONDA, and Ms. WATERS):

H. R. 2482. A bill to repeal the tuition-sensitivity trigger in the Pell Grant program and to expand qualifying expenses and income eligibility for the Hope Scholarship and Lifetime Learning Credits; referred to the Committee on Ways and Means, and in addition referred to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOSWELL (for himself, Mr. BARRETT, and Mr. OSBORNE):

H. R. 2483. A bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in rural areas; referred to the Committee on Ways and Means, and in addition referred to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAPUANO (for himself, Mr. FOLEY, Mr. TOWNS, Mr. WILDON of Florida, Mr. BURGER, and Mr. MCDERMOTT):

H. R. 2484. A bill to amend title XVIII of the Social Security Act to improve the provision of vision services under part B of the Medicare Program; referred to the Committee on Energy and Commerce, and in addition referred to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself, Mr. NEAL of Massachusetts, Mrs. JOHNSON, and others):
of Connecticut, Mr. Tanner, and Mr. Polka.

H.R. 2485. A bill to amend the Internal Revenue Code of 1986 to allow advanced applied technology equipment to be expensed and to reduce the depreciation recovery periods for certain real property; to the Committee on Ways and Means.

By Mr. Etheridge (for himself, Mr. Bordallo of Guam, Mr. Werner of Connecticut, Mr. Mann of Nebraska, Mr. Conyers, Mr. Polka, Mr. Alcee L. Hastings of Florida, Mr. Jackson-Lee of Texas, Mrs. Kennedy of Massachusetts, Mr. Sensenbrenner, Mrs. Christian of Minnesota, Mr. Lantos, Mr. Hoke, Mrs. Clay- lton, Mr. Cramer, and Mr. Diaz-Balart).

H.R. 2486. A bill to authorize the National Weather Service to conduct research and development, training, and outreach activities relating to tropical cyclone inland forecasting improvement, and for other purposes; to the Committee on Science.

By Mr. Gutiérrez.

H.R. 2487. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to encourage and support students who have contributed substantial public service to the Committee on Education and the Workforce.

By Mr. Hansen.

H.R. 2488. A bill to designate certain lands in the State of Utah as wilderness, and for other purposes; to the Committee on Resources.

By Ms. Hart (for herself, Ms. Millicent McDonald, Mr. Bilirakis, Mr. Owens, Mr. Lantos, Ms. Sanchez, Ms. Woolsey, Mrs. Tauscher, Mrs. Morella, Ms. Solis, Ms. Horsley, Mr. Burt of Florida, Mr. George Miller of California, Ms. Waters, Mr. Watkins, Mr. English, Mr. Platts, Mr. Greenwood, Mr. Payne, Mr. Harman, and Mr. Sanders).

H.R. 2489. A bill to provide effective training and education programs for displaced homemakers, single parents, and individuals entering nontraditional employment; to the Committee on Education and the Workforce.

By Mr. Kleczka (for himself and Mr. Spellman).

H.R. 2490. A bill to amend title XVIII of the Social Security Act to limit the hospital inpatient cost sharing that applies to services; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. Mckeeon.

H.R. 2491. A bill to establish a grant program to train law enforcement officers, and for other purposes; to the Committee on the Judiciary.

By Mr. Pence (for himself, Mr. Buyer, Mr. Hostettler, Mr. Schrock, Mr. Kirk, Mr. Kirk of Indiana, Mr. Kirk of Ohio, Mr. Hulpser, Mr. Gravely of Michigan, Mr. Keller, Mr. Rehberg, Mr. Culherson, and Mr. King).

H.R. 2492. A bill to authorize the President to posthumously advance the late Admiral Raymond Ames Spruance to the grade of Fleet Admiral of the United States Navy; to the Committee on Armed Services.

By Mr. Range.

H.R. 2493. A bill to repeal the requirements under the United States Housing Act of 1937 for residents of public housing to engage in economic self-sufficiency programs; to the Committee on Financial Services.

By Mr. Sokolow.

H.R. 2494. A bill to provide an additional 2.3 percent increase in the rates of military basic pay for members of the uniformed services above the pay increase proposed by the Department of Defense so as to ensure at least a minimum pay increase of 7.3 percent for each member; to the Committee on Armed Services.

By Mr. Stupak.

H.R. 2495. A bill to provide for and approve the settlement of certain land claims of the Six Nations of the Grand River, and the Sault Ste. Marie Tribe of Chippewa Indians; to the Committee on Resources.

By Mr. Udall of Colorado.

H.R. 2496. A bill to direct the Secretary of Energy to develop and implement a strategy to encourage and support students to undertake degrees in energy related fields; to the Committee on Energy and Commerce.

By Mr. Velázquez.

H.R. 2497. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to establish certain requirements for managed care plans; referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. Waters.

H.R. 2498. A bill to amend the Consumer Credit Protection Act to protect consumers from inadequate disclosures and certain abusive practices in rent-to-own transactions, and for other purposes; to the Committee on Financial Services.

By Mr. Wu.

H.R. 2499. A bill to terminate funding for the Fast Flux Test Facility at the Hanford Nuclear Reservation in Washington; referred to the Committee on Science, and in addition to the Committees on Energy and Commerce, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. Baca.

H. Res. 190. A resolution expressing the sense of the House of Representatives that the United Nations should immediately transfer to the Israeli Government an unedited and uncensored videotape that contains images which could provide material evidence for the investigation into the incident on October 7, 2000, when Hezbollah forces abducted 3 Israeli Defense Force soldiers, Adi Avitan, Binyamin Avraham, and Omer Samet; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 12: Mr. Nussle.

H.R. 17: Mr. Baca.

H.R. 94: Mr. Reyes.

H.R. 116: Mr. Meeks of New York.

H.R. 123: Mr. Hayworth, Mr. Nethercutt, Mr. Putnam, and Mr. Stenholm.

H.R. 162: Mr. Boucher.

H.R. 239: Mr. Schiff.

H.R. 265: Mrs. Meek of Florida, Mr. Davis of Illinois, and Mr. Filner.

H.R. 382: Mr. Baca.

H.R. 415: Mr. Sherman.

H.R. 435: Mr. Nussle.

H.R. 570: Mr. Meeks of New York.

H.R. 599: Mr. Bonilla.

H.R. 606: Mr. Olver.

H.R. 638: Mr. Reynolds.

H.R. 664: Mr. Borelli, Mr. Sherman, Mr. Meeks of New York, Mr. Rangel, Mr. Lewis of Georgia, Mr. Ford, Mr. Davis of Illinois, Mr. Naderle, Mr. Moran of Kansas, Mr. Wu, and Mr. Falinomaravides.

H.R. 684: Ms. Eddie Bernice Johnson of Texas and Mr. Schiff.

H.R. 714: Mr. Ehlers.

H.R. 777: Mr. Udall of Colorado.

H.R. 804: Mr. LaHood.

H.R. 817: Mr. Stark.

H.R. 823: Mr. Hilleary, Mrs. Thames, Ms. Jackson-Lee of Texas, Mr. Ortiz, Ms. Kucinich, Mr. Shimkus, and Mr. Hyde.

H.R. 831: Mr. Kenns, Mr. Spence, Mr. Pastor, Mr. Stupak, Mr. Bilirakis, Mr. Bald- win, Mr. Clement, Mr. Carson of Oklahoma, Mr. Gilman, Mr. Sessions, Mrs. Emerson, Mr. Lantos, Mr. Wamp, Ms. Lofgren, Mr. Nussle, Mr. Hinchey, Mr. Nethercutt, Mr. Wolf, Mr. Frost, Mr. Green of Texas, Mr. Pallone, Mrs. Maloney of New York, and Mr. Guttierrez.

H.R. 839: Mr. Meeks of New York.

H.R. 844: Mr. Greenwood.

H.R. 912: Mr. Kelly, Mr. Gillmor, Mr. LaTourette, Mr. Ehlich, Mr. Kingoda, and Mr. Stearns.

H.R. 951: Mr. Green of Wisconsin and Mr. Davis of Illinois.

H.R. 967: Mr. Baird and Mr. Walsh.

H.R. 972: Mr. Holt.

H.R. 984: Mr. Forbes.

H.R. 986: Mr. McHugh and Mr. Baird.

H.R. 1012: Mr. Gary G. Miller of Cali- fornia and Ms. Harman.

H.R. 1016: Mr. Rogers of Kentucky.

H.R. 1071: Ms. Davis of California, Ms. Jackson-Lee of Texas, Mr. Pallone, Mr. Delahunt, Mr. Payne, Mr. Jefferson, Mr. Allen, and Mr. Stupak.
The Senate met at 9 a.m. and was called to order by the Presiding Officer, the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

The Senate took the recumbent position.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, the width and depth and height of Your love is beyond our understanding but never beyond our acceptance. Out of love for us You offer Your faithfulness, guidance, and strength. Then You give us work to do to accomplish Your plans through us.

So bless the Senators and all of us privileged to work for and with Them with an acute awareness of our responsibility to You for what we do with the opportunities that You give us.

In response, we consecrate our lives and our work to You; endue them with Your enabling power. We will cooperate with You, seeking Your guidance and obeying You. And we will anticipate Your interventions to help us when we need You to inspire our thinking, strengthen our resolve, and assure success in our efforts for Your glory.

Today we ask Your special blessing for Jeri Thomson as she is sworn in as the Secretary of the Senate. Be with her, guide her, and direct her.

Now Lord, bring on the day; we are ready. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication from the Senate to the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

To the Senate:

Under the provisions of rule 1, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD, President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a 3-hour period for debate prior to the cloture vote on the motion to proceed to the consideration of H.R. 333, with 2 hours to be under the control of the Senator from Minnesota, Mr. WELLSTONE, and 1 hour to be equally divided under the control of the chairman and ranking member of the Judiciary Committee or their designees.

The clerk will report the motion. The legislative clerk read as follows: A motion to proceed to the bill (H.R. 333) to amend title 11, United States Code, and for other purposes, the ACLU, the Democrats, the Republicans, the Association of Business Professionals, the National Consumer League, the American Bankruptcy Institute, the American Bankruptcy Resources Institute, the National Association of Consumer Bankruptcy Attorneys. The motion is being viewed as a significant step forward in the battle against bankruptcy abuse and consumer protection.

The clerk will report the motion. The legislative clerk read as follows: A motion to proceed to the bill (H.R. 333) to amend title 11, United States Code, and for other purposes, the ACLU, the Democrats, the Republicans, the Association of Business Professionals, the National Consumer League, the American Bankruptcy Institute, the American Bankruptcy Resources Institute, the National Association of Consumer Bankruptcy Attorneys. The motion is being viewed as a significant step forward in the battle against bankruptcy abuse and consumer protection.

Mr. REID. Mr. President, as the Chair has announced, we are now going to resume consideration of the motion to proceed to the House Bankruptcy Reform Act. There are 3 hours of debate, divided as the chair has announced, prior to a cloture vote on the motion to proceed. Following consideration of this bankruptcy debate, under the previous consent order, the Senate will resume consideration of the International Bankruptcy Reform Act with a vote in relation to the Nelson of Florida amendment. So at 12 o'clock there will be one vote, and at approximately 12:20 there will be another.

The majority leader, Senator DASCHLE, has asked me to announce that he has every hope that we can complete this bill—and the two managers last night indicated they believed they were very close to being able to complete the bill—at a reasonable time early this afternoon or this evening. If we cannot, we will work into the evening. And if we cannot finish it then, we will have to come back tomorrow. There is a lot to do. We hope we can finish this tomorrow. There are many things that both the majority and minority would like to do tomorrow if we have the Interior bill out of the way.

Mr. President, at 11:30, as has been announced, the Senate will swear in the new Secretary of the Senate, Jeri Thomson, who has really dedicated her whole life to the U.S. Senate. I know for me it is a special occasion, as I am sure it is for anyone who knows Jeri. So I look forward to that and to a fruitful debate today.

The Senator from Minnesota is here. I did not see him in the Chamber earlier. He has his 2 hours.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair. Mr. President, if I could get the attention of the Senator from Alabama—

Does the Senator from Alabama—

—does the minority need the floor right now to do some things? If so, I will be pleased to wait; otherwise, I am ready to go.

Mr. President, if I could get the attention of the Senate. I ask unanimous consent that several pages I have of titles of editorials about the bankruptcy bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EDITORIALS AGAINST THE BANKRUPTCY BILL


This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

These are just kind of random samples:

- Bankruptcy Bill is anti-Family Measure,
- Intelligencer Journal (Lancaster, PA), April 3, 2001
- Bankruptcy Bill Too Forgetting of Lenders,
- Dayton Daily News, March 18, 2001
- Bankruptcy for Growth! No More,
- Nicholas Geyenopoulos, the Hartford Courant, March 21, 2001
- Not Every Person Who Files for Bankruptcy is a Deadbeat,
- Melinda Stubbee, the Herald Sun, March 20, 2001
- A Flawed Bankruptcy Bill,
- Add Balance to Proposed Law on Bankruptcy,
- the Morning Call (Allentown, PA), March 19, 2001
- New Bankruptcy Bill is Still the Wrong Answer,
- the News & Record, March 5, 2001
- Banking on Politics,
- the News Observer, March 7, 2001
- In Bankruptcy Bill, Money, Talks,
- the Oregonian, March 18, 2001
- Bankruptcy Bill Will Be Even More of a Headache,
- Jane Bryant Quinn, the Orlando Sentinel, April 1, 2001
- No Interest in Consumers,
- the Palm Beach Post, March 7, 2001
- Why Campaign Finance Reform? Look at Bankruptcy Bill,
- the Palm Beach Post; Bankruptcy Bill: This Reform Will Hurt Americans Who Are Struggling,
- Pittsburgh Post-Gazette; Bankruptcy Bill, So-Called Reforms Make Reckless Lending More Profitable,
- Sacramento Bee; Bankruptcy Bill Helps Guess Who? San Jose Mercury News; Bad Piece of Legislation,
- Buffalo News; Taking Care of Business,
- Bob Reich in the American Prospect, March 7, 2001
- Bad Timing on the Bankruptcy Bill,
- Robert Samuelson, The Washington Post, March 14, 2001; San Francisco Chronicle, March 15; A Debt Bill Bankruptcy of Decency,
- The Chicago Sun Times; Deeper Hole for Debtors,
- Los Angeles Times; Business Dictated Bankruptcy Law,
- New York Times; Congress, President Side with Banks, Not Consumers,
- The Atlanta Journal Constitution; Compounding Debt,
- The Boston Globe; A Bankruptcy Law? Businessweek; Bankruptcy Overall Hits Needy as Well as Greedy.
- The Miami Herald; Congress Pushing Usury,
- Bismarck Tribune; Hammering Bankrupt Consumers,
- Chatanooga Times Free Press; Down on Your Luck? Tough,
- The Chicago Sun Times.

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combined income of the debtor and the debtor’s spouse, even if they are separated, the spouse is not filing for bankruptcy, and the spouse is providing no support for her, for the debtor and her children.

In other words, a single mother who is being deprived of needed support from a well-off spouse is further harmed by this piece of legislation which will deem the full income of that spouse available to pay debts for determination of whether the safe harbor applies and means test applies. It makes no sense whatsoever, and it is incredibly harsh.

Over the past 2 years, any pretense that this piece of legislation is urgently needed has evaporated. Now proponents and opponents agree that nearly all the debtors resort to bankruptcy not to game the system but that it is a desperate measure of economic survival and that only a tiny minority of chapter 7 filers, as few as 3 percent, can afford any debt repayment, according to the American Bankruptcy Institute. Yet low- and moderate-income families, especially single-parent families, are those who need most the fresh start provided by bankruptcy protection. The bill will make it harder for them to get out from under the burden of crushing debt, and that is why I oppose it.

The second reason why I oppose this legislation is that the timing of this bill could not be worse. Basically people are not going to be able to file for chapter 7. Chapter 13 is going to be made more unworkable for many debtors. We had a situation where 4 years ago, when we first started this debate, the big banks and credit card companies were pushing so-called bankruptcy reform, to good economic times when the stock market was soaring. The unemployment rate was coming down. But given the economy we find ourselves with right now, given the fact that we no longer have the same boom economy, that people are now out of work or underemployed, that these are harder times, rushing this bill through seems completely divorced from reality.

What is the most cited reason for filing for bankruptcy? Job loss, and the unemployment rate is rising. What is the second most cited reason? Excessive medical bills, and the cost of health care is rising, as are the number of uninsured. At the same time, we are going to make it impossible for people to file for chapter 7 and rebuild their lives.

While the bill will be terrible for consumers and for regular working families even in the best of times, its effects will be all the more devastating now because we have a weakening economy. It boggles the mind that at a time when Americans are most economically vulnerable, when they are most in need of protection from financial disaster, we would eviscerate the major safety net in our society for the middle class, and that is precisely what this legislation will do. It is the height of insanity that we would be contemplating doing what we are doing given this economy.

It may be the case that the Congress and the President will ignore the plight of these families. Each one of them by themselves is not that powerful. Most folks assume this is never going to happen to us. Most people and most families never expect they are going to have to file for bankruptcy, but at least my colleagues should care about the effect on the economy.

This bill could be a disaster, but I do not want you to take my word for it. I want to quote some excerpts from a column by Robert Samuelson in the March 14 Washington Post. To put it delicately, Mr. Samuelson and I rarely agree on anything. In fact, he likes—I want to be intellectually honest about it—he likes the substance of the bankruptcy bill. All the more reason, I say to my colleagues, to pay attention to him. The title of the editorial is “Bad Timing on the Bankruptcy Bill.” He writes:

The bankruptcy bill about to pass Congress arrives at an awkward moment: the tail end of a prolonged boom in consumer borrowing. From 1995 to 2001 Americans increased their personal debts by about 50 percent to roughly $7.5 trillion—a figure including everything from home mortgages to student loans.

Now comes the bankruptcy bill, which would make it slightly harder for consumers to erase debts through bankruptcy. Although the bill is not especially harsh, it could very well worsen the economic downturn. I do not agree with part of his characterization. I am now focusing on his argument about the effect of the economy.

He concludes:

"The real pressures of high debt are now being compounded by scare psychology. "Drowning in Debt," says the cover story of the latest U.S. News & World Report. "Why you're in so deep—and how to get out before it's too late." The bankruptcy bill sends a similar message: Be prudent, don't overborrow. The message is now about four years too late. Now it may simply amplify the growing gloom. This is not a bad bill, but it certainly is badly timed.

There you have it, I say to my colleagues. Not an opponent but a supporter suggesting that now is not the time, that we could end up prolonging or actually worsening the downturn in the economy.

He is not the only one. A May 21 issue of Business Week had an article titled “Reform that Could Backfire.” The article begins:

"Just as bankruptcy reform seemed headed for certain passage, the economic omens point to a sharp rise in personal bankruptcies over the next few years. The likely results, says economist Mark Zandi of Economy.com, include pain for hard-pressed households, little if any gain for lenders, and, in the event of even a mild recession, major problems for the overall economy."

Again, this is not some leftwing rag; this is the magazine of note for corporate America—Business Week. If Business Week and PAUL WELSTONE are in agreement on an issue, then I ask you: How can we be wrong?

The article concludes:

"The drop in bankruptcies in recent years partly reflected the booming economy. Now, with sharply rising unemployment and slowing income gains, Zandi expects high household debt to take its toll. Especially at risk, he believes, are lower- and middle-class families, for whom debt repayment dictated by the pending bankruptcy reform would entail tremendous hardship. "If the economy becomes mired in recession or sluggish growth," he warns, "the loss of the spending power could significantly retard the recovery."

I ask my colleagues, I ask the majority leader—I am not in agreement with him—what is the rush? Why do you want to do this to families? Why do you want to do this to our economy? Why are you prepared to go to such ridiculous lengths to move this legislation?

Mr. President, I have received a note, I say to Senator SESSIONS, that he wants a few minutes before 9:30 a.m. I did not see it until just now. I will be pleased to yield to my colleague.

Mr. SESSIONS. I will be returning later.

Mr. WELSTONE. Whatever is best for the Senator from Alabama families.

Mr. SESSIONS. Somebody else is going to be replacing me. The Senator can go right ahead. I thank the Senator for his courtesy, as always.

Mr. WELSTONE. Mr. President, I do not really get this. One of the arguments being made is that what we are going to see is an increase in bankruptcies because of a slowing economy and high consumer debts that are overwhelming families and, therefore, we need to pass legislation to curb access to bankruptcy relief. Try that on for size.

For 2 years, while the good times were rolling, the proponents of this bill were citing the number of bankruptcy filings as a reason to pass the bill, although there actually was a dramatic drop in filings taking place. I never understood that argument.

Now they are turning around and saying we need to rush to do this because the economy is slowing down and many hard-working people, through no fault of their own, are going to find themselves in dire circumstances; therefore, we had better pass legislation that will curb their access to bankruptcy relief.

It is amazing: Increasing hard times, a lot of people finding themselves in increasingly dire circumstances, and now they want to make it harder for them to get a fresh start. The logic of this argument completely escapes me.
The point Mark Zandi makes in the Business Week article, as other economists have done, is that restricting access to credit and bankruptcy protection will not actually increase the number of filings and defaults because banks will be more willing to lend to marginal candidates. Indeed, it is no coincidence that the single largest surge in bankruptcy filings began immediately after the last major procreditor reforms were passed by Congress in 1984.

This is not a debate about winners and losers because we all lose if we erode the middle class in this country. We lose if we take away one of the critical underpinnings for middle-class people. Sure, in the short run big banks and credit card companies may pad their profits, but in the long run our families will be less secure and our entrepreneurs will become more risk adverse and less entrepreneurial.

The whole point of bankruptcy is to allow people to get a fresh start. Bankruptcy disproportionately affects the financially vulnerable, but it also disproportionately affects the risk takers, small businesspeople or entrepreneurs. Our bankruptcy system ensures that utter insolvent does not need to be a life sentence, but it can be an opportunity to start over, and that is what this bill erodes.

This is not a debate about reducing the high number of bankruptcies. No one can will a piece of legislation that can do that. Indeed, by rewarding—I make this argument—the reckless lending that got us here in the first place, we are going to see more consumers burdened with it.

It is amazing; there is hardly a word in this whole piece of legislation that calls for these credit card companies or lenders to be accountable as they continue to stuff out to our children and grandchildren every day of their every week. But this is perfect for them because they don’t have to worry any longer. They get a blank check from the Government. No, this is a debate about punishing failure—whether self-inflicted—and sometimes it is—or uncontrolled or unexpected. This is a debate about punishing failure.

If there is one thing this country has learned, it is that punishing failure doesn’t work. You need to correct mistakes. You need to prevent abuse. But you also need to lift people up when they have stumbled, not beat them down. This piece of legislation beats them down.

Both the House and Senate bills basically give a free ride to the banks and credit card companies, that deserve much of the credit—you would not want to know it from this legislation—for the high number of bankruptcy filings because of the risk standards. Even the Senate bill does very little to address this issue.

There are some minor disclosure provisions in the Senate bill. But even these don’t go nearly as far as they should. Lenders should not be rewarded for reckless lending. Where is the balance in this legislation? Two are holding debtors accountable, why don’t we hold lenders accountable as well? I know the answer. These financial interests have hijacked this legislative process. As high-cost debt and credit cards and retail charge cards and financing plans for consumer goods have skyrocketed in recent years, so have the bankruptcies. As the credit card industry has begun to aggressively court the poor and vulnerable, is anybody surprised that bankruptcies have risen?

Credit card companies brazenly dangling literally billions of dollars of credit card offers to high-debt families every year, and they are not asked to be accountable. They encourage credit card holders to build toward their card balances, guaranteeing that a few hundred dollars in clothing or food will take years to pay off. The length to which the companies go to keep customers in debt is absolutely ridiculous, and they get away with murder in this legislation. After all, debt involves a borrower and a lender. Poor choices or irresponsible behavior by either party can make the transition go sour.

So who responsible has the industry been? It depends on how you look at it. On the one hand, consumer lending is unbelievably profitable, with high-cost credit card lending the most profitable of all, except for perhaps the even higher costs on payday loans. We don’t go after any of these unsavory characters. So I guess by the standard of the bottom line, they are doing a great job.

This industry is thriving. These credit card companies are making huge profits.

On the other hand, if your definition of responsibility is promoting fiscal health among families, educating them on the judicious use of credit, ensuring that borrowers do not go beyond their means, then it is hard to imagine how the financial services industry could not be a bigger deadbeat. The financial services industry is the big deadbeat.

The problem is that it is the heavy hitter, the big giver, and it has so much money that it dominates the politics in the House of Representatives and the Senate. That is part of what this is about.

Theresa Sullivan, Elizabeth Warren, and Jay Westerbrook wrote a book called “Fragile Middle Class.” I recommend it to everybody. They write:

Many attribute the sharp rise in consumer debt—and the corresponding rise in consumer bankruptcy—to lowered credit standards, with credit card issuers aggressively pursuing families already carrying extraordinary debt burdens on incomes too low to make more than minimum repayments. The extraordinary profitability of consumer debt repayment to financial service providers of the increasingly high risk-high profit business of consumer lending in a saturated market, making the link between the rise in credit card debt and the rise in consumer bankruptcy unmistakable.

Credit card companies perpetuate high interest indebtedness by requiring—and there is not a Senator who can argue against this practice—low minimum payments and, in some cases, canceling the cards of customers who pay off their balance every month. Using a typical monthly payment rate on a credit card, it would take 34 years to pay off a $2,500 loan. Total payments would exceed 900 percent of their original principal. That is really what this is all about. A recent move by the credit card industry to make the minimum monthly payment only 2 percent of the balance rather than 4 percent further exacerbates the problem of some uneducated debtors.

These lenders routinely offer “teaser” interest rates for as little as 2 months, and they engage in “risk-based” pricing which allows them to raise credit card interest rates based on credit changes unrelated to the borrower’s account. It is just unbelievable what they get away with.

Even more ironic is the same time that the consumer credit industry is pushing a bankruptcy bill that requires credit counseling for debtors, the Consumer Federation of America found that many prominent creditors have slashed the portion of debt repayments they shared with credit counseling agencies—in some cases by more than half. This may force some of these agencies to cut programs and serve even fewer debtors.

Well, Mr. President, I am sorry. I am glad there aren’t a lot of Senators on the floor because it is hard to say this because you feel as if you are engaging in personal attacking. I don’t mean it to be that way. I can’t say enough about the hypocrisy of this legislation—not of individual Senators but the essence of this legislation to me is incredible to me the way in which these banks and credit card companies have rigged this system, and we have this harsh piece of legislation in increasingly difficult economic times that is going to make it impossible for many families to rebuild their lives. The vast majority find themselves in these horrible circumstances because of medical bills, having lost their jobs, or divorce.

Do you know what. This legislation doesn’t do anything about the egregious greed, the exploitive practice of this industry. All of us who have children know what they send out in the mail every day.

So the question is: PAUL, if the bill is as bad as you say, how come it has so much support? This is a lonely fight. We are in the Senate opposition. I don’t mean it in a self-righteous way, and it doesn’t make us closer to God or the angels. I don’t understand why the bill is going through.
The bill has a lot of support in the Congress, and some of those who are supporting it, such as Senator Sasser and others, are worthy Senators. We have an honest disagreement. The President says he supports it. But the fact of the matter is—and I am not talking about a specific Senator; I don’t know that but I do know that is not what it is really about. At the institutional level, I believe the reason this legislation has so much support—I will repeat that—at the institutional level, I believe the reason this legislation has so much support is that it is a tribute to the power and the clout of the financial services industry in Washington.

Let’s call it what it is. Might makes right. It is the financial might of the credit card companies and the big banks that are big spenders, heavy hitters, and investors in both political parties. It doesn’t mean individual Senators support this legislation for that reason. I can’t make that argument. People have different viewpoints. But if I look at it institutionally, I can look at the amount of money those folks deliver, their lobbying coalition, and the ways in which they march on Washington every day, and I can’t help but say that is part of what this is about.

Why has the Congress chosen to come down so hard on ordinary working people down on their luck? How is it that this bill is so skewed against the interests and in favor of big banks and credit card companies? These editorials in a lot of newspapers that say the Congress—the House and Senate—comes down on the side of binge banks, not consumers, are right. Well, may be it is too skewed against those families don’t have million-dollar lobbyists representing them before the Congress. They don’t give hundreds of thousands of dollars in soft money to the Democratic and Republican Parties. They don’t spend their days hanging outside the Chamber to bend a Member’s ear. Unfortunately, it looks as if the industry got to us first. The truth is that, outside of this building, the support for this bill is a pitance. I mean the truth of the matter is that if you go outside this building, support for this bill is very narrow. The support has deep pockets. Apparently the Congress responds to deep pockets—not apparently: It is every day. Everybody knows that. People know it in Nebraska; they know it in Alabama; they know it in Minnesota.

We can agree or disagree about this legislation, the views under the table is important and why we have. They say when it comes to our concerns about ourselves and our families, our concerns are of little concern in Washington. Part of that is the mix of money in politics. That is why the vote in the House is important and why everybody should know that McCain-Feingold and Meehan-Shays is just a step. Lord, we will have to do much more.

I am trying to win on a cloture vote on which I will get beat badly. Outside of this building, and I will stake my reputation—outside this building there is no support for this, or very little. People are not running up to us in coffee shops in Nebraska and saying, please pass that bankruptcy bill because, God, that is the most important thing you can do that will help us.

People are talking about health care costs, childcare costs, good education for their children, a fair price for family farmers, how we can keep our small businesses going, the cost of higher education, the cost of prescription drugs, concern people will not have a pension, what happens when you are 75 or 80, in poor health, and you have to go to the poorhouse before you get help in a nursing home or home-based care and receive medical assistance. That is what people talk about. They don’t say, please pass a bankruptcy bill so when we get into trouble, no fault of our own, because of medical bills or we lose our jobs, we will not be able to rebuild our lives. There isn’t any support for this legislation outside this building. The deep pocket folks got to the Congress first, as they usually do.

There is opposition. You can know something about a bill by who the enemies are. Labor unions oppose the bill. Consumer groups oppose the bill. Women and children’s groups all oppose the bill. Civil rights organizations all oppose the bill. Many members of the religious community oppose the bill. Indeed, it is a fairly broad coalition that opposes this. Behind them are millions of working families who have nothing to gain and everything to lose from this legislation. That is why I have been blocking this bill for over 2 years.

I come from the State of Minnesota. We had a great Senator and Vice President, Hubert Humphrey. He once said that the test of a society or the test of a government is how we treat people in the dawn of life, the children, in the twilight of their lives, the elderly, in the shadow of their lives, people who are poor, people who are struggling with an illness, people struggling with a disability. By this standard, this bill is a miserable failure. There is no doubt in my mind this is a bad bill. It punishes the vulnerable and rewards the big banks and credit card companies for their own poor practices. For all I know this legislation will only get worse in conference. I hope that is not the case but it is my fear.

Earlier I used the word “injustice” to describe this bill. That is exactly right. It would be a bitter irony if creditors voted down a bankruptcy reform bill because we are not adding to the economic pain that too many American families are already feeling. Let’s not prolong the pain.

I urge the Senate to change the course. If I lose on this vote, then we will have to have another cloture vote, which will be next week, and there will be more discussion. From there, we will see.

I ask unanimous consent a number of editorials from newspapers all across our country be printed in the Record. There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Mar. 2, 2001]

DEEPER HOLE FOR DEBTORS

The bankruptcy reform legislation President Clinton vetoed last year because it was unfair to consumers is being rushed through Congress again. This time, if passed, President Bush is sure to sign it into law. That would be a great victory for banks, paid for by consumers in financial trouble.

Banks and credit card companies pushing for the reform claim that current law is too lenient on those who file for bankruptcy only to avoid paying bills. There are admittedly abuses—3% of bankruptcies are filed by debtors who are trying to escape their creditors—but this legislation is too harsh on the genuinely distressed 97%. The House approved its version of the measure Thursday, but there is a chance it will be amended or defeated in the evenly divided Senate next week.

Credit card companies could hardly ask for a better law. They would have to take no responsibility for every bankruptcy petition or court ruling, even to those with poor credit records. The companies know that some of that debt will go sour and they account for it in the higher interest rates they charge. The bankruptcy bill deals them a few more aces, making it harder for debtors to get out from under.

Lenders, who spent millions of dollars lobbying for the legislation, argue that the current law allows too many consumer to walk away from debt. But a recent study by the independent American Bankruptcy Institute shows that in 97 out of 100 bankruptcies, the debtors, facing either catastrophic medical bills or loss of income, have hit bottom and cannot repay. Nearly 90% have no assets and owe, on average, $36,000. They are either renters or live in homes worth less than $100,000. The cars they drive are, on average, eight years old, and seven out of 10 don’t earn enough money to cover their living expenses.

The new law would close the door to many consumers filing under Chapter 7, which does not require repayment, and force them into Chapter 13, where they can lose homes and cars. Even in Chapter 7, creditors can force borrowers to repay some money.

Sen. Paul Wellstone (D-Minn.) is leading the battle against the unfair legislation, and he has the support of both California senators. He will need the backing of all Senate Democrats and a Republican or two next week when he takes his fight to the Senate floor.
A BAD BANKRUPTCY BILL

One of the low points in life is about to drop even lower. After soaking up record amounts of special-interest money, Washington is preparing a one-sided overhaul of bankruptcy laws designed to help the credit industry and further punish debtors.

Last year, then-President Clinton wisely vetoed a near-identical plan. The bill, The Bankruptcy Reform Act of 2001, revises historic bankruptcy rules that aim to erase uncollectible debts and let consumers and businesses start over.

But with the new administration, the revived measure has easily passed the House and is due for a Senate vote this week. President Bush has indicated he will sign the legislation.

It’s hard to know what’s worse about this plan: the ingredients making it harder to wipe out debts or the lavish campaign contributions that shadow the bill.

Bankruptcy filings have grown during the last decade, although the numbers declined last year to 1.3 million cases. Most applicants seeking the protection of Chapter 7, a category that allows unsecured debts—generally credit cards—to be canceled, while car and house payments remain.

The bill would push many more people to file for bankruptcy under Chapter 13, which would impose a 3- to 5-year repayment period for credit-card debt and allow creditors to go after cars and homes in some cases. The concept of bankruptcy as a fresh start will be ended.

The bill’s supporters talk of personal responsibility, abuse of bankruptcy laws by deadbeats and millionaires who pour assets into mansions to shield money from bill collectors. But the House bill would child support, alimony or other court-ordered payments. The credit card companies would have as much incentive to pressure debtors to repay even when they aren’t legally obliged to do so.

This time around, senators from both parties are preparing amendments that might fix some of these abuses. The credit card industry, on the other hand, will be issuing reminders of the size of its campaign contributions. Experience shows that it will take presidential leadership to tip the scales against the lobbyists. Let’s hope Mr. Bush delivers it.

[From the San Francisco Chronicle, Mar. 15, 2001]

CONGRESSIONAL RECORD—SENATE July 12, 2001

[From the Atlanta Journal-Constitution, Mar. 18, 2001]

A BUSINESS-DICTATED BANKRUPTCY LAW

Business interests generously supported Republican candidates in the last election and are now reaping the rewards. President Bush and congressional leaders have moved to rescind new Labor Department ergonomics rules aimed at fostering a safer workplace, largely because business leaders feared the cost on lenders, which in turn may be passed on to honest borrowers in the form of higher interest rates.

The legislation makes it harder for debtors to wipe out their debts they could repay. To the extent the bill accomplishes that, it’s a good thing. But it also makes it much more difficult for many of us who have moved to resind the country from filing under Chapter 7 and partially repay all their debts. The bill is being sold as necessary to prevent irresponsible high-rollers from escaping debts they could repay. To the extent the bill accomplishes that, it’s a good thing. But it also makes it much more difficult for many of us who have moved to resind the country from filing under Chapter 7 and partially repay all their debts.

CONGRESS, PRESIDENT SIDE WITH BANKS, NOT CONSUMERS

Consumer confidence is slipping lower as 401(k) balances shrink amid a Wall Street cycle of overvaluation and devaluation of America’s future. The number of consumers who think they have enough money to retire in comfort is at an all-time low. The personal savings rate is down to 1.3 million cases. Most applicants seeking the protection of Chapter 7, a category that allows unsecured debts—generally credit cards—to be canceled, while car and house payments remain.

But with the new administration, the revived measure has easily passed the House and is due for a Senate vote this week. President Bush has indicated he will sign the legislation.

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This time around, senators from both parties are preparing amendments that might fix some of these abuses. The credit card industry, on the other hand, will be issuing reminders of the size of its campaign contributions. Experience shows that it will take presidential leadership to tip the scales against the lobbyists. Let’s hope Mr. Bush delivers it.

[From the New York Times, Mar. 16, 2001]
The bill is good business for the credit companies. They’ll see even higher profits, about 5 percent per cent next year. For companies like MBNA, which would see about $75 million extra, that’s a whopping return on last year’s investment in electoral campaigning.

Meanwhile, the blizzard of credit card solicitations continues to blow. There probably is no way to put a number on it, but senators, who should stop credit companies from bombarding even the most bankruptcy-vulnerable consumers with solicitations for easy, high-interest debt, evidently couldn’t even amend a bill to place limits on credit cards granted to minors without parental approval.

The best check on those lenders’ practices is the potential for losses when they give credit cards to consumers with bad credit history.

And we’re sure to see a slew of people do just that in the coming year, who write off this bill, as the economic shakeout continues. For most Americans who are only dimly aware of this legislation, the awakening will be rude indeed.

[From the Boston Globe]

COMPELLING DEBT

If the credit-card companies really wanted to do their job, they wouldn’t be filing the mailboxes of America with ever-more enticing pitches for new credit cards. Instead, they have teamed up with the banks to push a new bill that harshly penalizes families that end up in bankruptcy. Most do so because their jobs, sought by medical bills, or go through a divorce.

Senator Edward Kennedy calls the bill the “turkey of all turkeys.” Laid-off workers will have even worse names for it if it is enacted and the economic slowdown puts more employees on the street.

Kennedy and other senators get their chance this week to amend legislation that swept through the House on a 396–108 vote and has already been approved by the Senate Judiciary Committee. President Clinton vetoed the bill last year, but President George W. Bush has said he would sign it.

The bill’s major shortcomings is that it makes it too difficult for families drowning in debt to get under Chapter 7 bankruptcy, which lets them wipe out credit-card debt and other unsecured loans. Instead, they would be forced into Chapter 13, which requires sometimes onerous repayments. An especially objectionable provision would force parents and children to fight credit-card companies to get their hands on alimony or child support from debtors going through bankruptcy.

Supporters of the bill, many of them recipients of campaign contributions from credit-card companies and banks, in the past election, say it is aimed at the profligate rich who try to walk away from their obligations.

In fact, a 1999 study by federal judges found that the median income of debtors seeking bankruptcy protection was $21,500. Another study, done at Harvard, showed that in 1999 no fewer than 40 percent of all bankruptcies were due to unpaid medical bills. In fact, a 1999 study by federal judges found that the median income of debtors seeking bankruptcy protection was $21,500.

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Mr. WELSTONE. While I have the floor, I ask unanimous consent that my following remarks be included as part of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I am asking unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Madam President, I appreciate the opportunity to make some remarks about our bankruptcy bill that is now back before the Senate again. It is a bill that has been fought over, debated, improved, refined, changed and, I think, gained greater and greater support as we have proceeded.

I know there are some people who remain very emotionally in objection to it, but when analyzed carefully and the provisions in it examined, there is no doubt whatsoever in my mind that this bill is a major step forward for bankruptcy procedure in America.

Let me say what bankruptcy is and what it is not and what the bill is about. Bankruptcy occurs when an individual in America may be being sued and they can’t pay their debt. The bill collectors are calling and their income just won’t pay their debts. So they can go and file a Federal bankruptcy court for relief under the bankruptcy laws. They can file under chapter 13, which says to the court, basically, I believe I can pay my debt back, but I can’t live and be sued, have creditors calling me at home and that sort of thing. But I will take a portion of my money and invest in a risky stock—and who hasn’t lately?—I’m not entitled to get my money back.

And that’s what consumers are to credit card companies—inventories. They’re banking on our ability to repay them. So if they want safeguards, they should be willing to give up something in return. How about a solicitation tax? For every solicitation by phone or mail, the institution must pay a tax. The money could be used to educate consumers about the dangers of overextending their credit.

I’m sure the two chambers, which are about to reconcile their versions of the bill, can come up with additional ideas, some hopefully even more disastrous to the credit card lobby than a solicitation tax.

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then I will be able to recover and get back on my feet.

That does a lot. In some States it is very small. In some States only 5 percent of the individuals file under chapter 13. Other States, it is much higher. In my State of Alabama, where chapter 13 originated, the number is almost 80 percent—in some parts of the districts that file under chapter 13. They find it has great advantages. They are able to keep their automobile, for example. They are able to keep their home, keep more of their goods and services. It allows them to stretch out payments, to reduce the interest rates. Normally, the interest rates drop down to zero or whatever, and then they pay it off on a regular basis. It stops the harassment that comes about it and legitimate to make trying to collect the money the individual owes to them.

That is a good system. Too few people utilize chapter 13. It has some good advantages for themselves, not just for the people they are paying off. It has real advantages for them.

The other process which is more widely used is to file under chapter 7. You are in debt. You go down to the bankruptcy court and it wipes out all your debts. The debts are wiped out. Then the person is able to start afresh and not owe anybody. That is the common thing. It is the traditional great American value. It is referred to in the Constitution that the United States shall establish uniform laws for bankruptcy.

It has always been thought of as something we would do in the Federal Government. Bankruptcy laws are handled in Federal courts, and, therefore, to improve them, unlike most collection process, most criminal processes that are in State courts, these are in a separate Federal court.

It is important, since the last 1978 bill that passed, that Congress study what has been happening with bankruptcy and see what we can do to improve it. That is what has occurred here. It is not unexpected that people who are dealing in bankruptcy every day and see how the system works would be people who would have some concerns about it and be able to make suggestions about how to improve it.

First and foremost, it ought to be a high value of America that those who incur debt should pay it back if they can. We do not need to get to a point in this society when people can borrow money from someone, promising to pay them back, and just not do so for light or insignificant reasons.

Let me mention the bankruptcy filing issue. We have had a tremendous number of filings. In 1980, 2 years after the new bankruptcy act passed, there were just 287,000 bankruptcy filings. By 1999, 19 years later, the bankruptcy filings had jumped to 1.3 million a year, a 347-percent increase. How did that happen? There are a lot of reasons for it. I suggest that the major factor for it is when you turn on your television at night on a cable station, or pick up your shoppers guide, there are advertisements and there are even billboards with lawyers saying: If you have got the debt problem, we will wipe them out. People call them. The lawyers don’t get paid unless they take you to court and file for bankruptcy. So there is an incentive there to do that.

I want to mention something. In this 1998–99 period, we were in a very strong economy. Yet we reached the highest point of filings in history. This chart is a little bit out of date. It shows a drop in 1990. Around 2000, it has gone back up. But the numbers are up higher—maybe 3, 4 times what they were 20 years ago. We know we have a problem. Everybody knows that. I believe we can do something good for America.

Let me say this. In the debate, we had a number of votes on this matter and had strong support each time. It is bizarre to me—and I came here in 1997—how hard it is to get a piece of legislation passed. The procedural posture of this bill is interesting. In 2001, the House passed a bankruptcy bill, and all of these are fundamentally similar to what we have today. It passed in the House 306–118. It passed the Senate 97–1. In 1999, it came back, and I think we recessed or something and we never got it to the President to have him sign it into law.

In 1999, it passed 313–108. In 2000, it passed the Senate 63–14. In the House, in 2000, it passed by a voice vote. It passed in the Senate 70–28 in 2000. In the year 2001, we came back again and the House passed it 306–108, and the Senate passed it 83–15. It still hasn’t become law. How did this happen? At any rate, we are going to a point where we are going to make this happen. We have discussed and debated these issues, and we are excited now that we can perhaps see an end to this and have some real reform.

Let me mention one thing the bill does, which I think is significant. The bill provides that before you can go into bankruptcy court, you must at least inquire with a credit counseling agency, if there is one available in the community. The bankruptcy judge can certify if there is not one and would excuse this requirement. But most communities—virtually all of them—have a credit counseling agency. That agency is a voluntary group you can go to and discuss your debt situation and whether or not you have a chance to work your way out of it. They are very good with families. They bring in the mother, father, and sometimes the children, and they sit around the table and they discuss what is going on in the family’s budget.

They call up this washing machine company that you have a debt with, or the bank, or the credit card company, and they say: We are a credit counseling company and we are licensed. They usually do it really. If you will reduce the required payments, reduce your interest, we will commit to you to work with them and see that you get paid so much a month, and in a year, 2 years, 3 years, we will have paid it off. They may even ask them to reduce the amount owed. They may owe you $5,000 and there is no way they can pay that. They might say: They are thinking about bankruptcy. If you will agree to reduce your debt to $3,000, I believe they will pay you all of that.

Sometimes these people do that. Sometimes they work out a budget and they teach the family how to get out of debt and get on their feet and start their lives again. That is a very good thing. You can’t ask the bankruptcy bar don’t do that. When people go to them in response to their ads on television, they go in and talk to them and they say: You have enough debt; we ought to file chapter 7 and wipe this debt out.

So the debt is wiped out, but nothing has been done to deal with the problem in that family that may have caused the debt to begin with. Sometimes there is a gambling addiction, a drug or alcohol problem, and sometimes there are illnesses and problems that may be this credit counseling agency can help them get help for. Our bill says before you can file for bankruptcy, you have to at least talk to a credit counseling agency and see if they might have a plan for the debtor that might be better than simply filing bankruptcy.

I think a lot of people would choose that option. I don’t know how many. It may be 2 percent or it may be 10 percent. But if they know about that option, they will find something good for them to do. We should consider that.

Now, my friend from Minnesota is very aggressive about this bill. He is emotional about this bill. He says two different things. He says, well, only 3 percent of the people will qualify for this thing, so the bill should not pass. Then he says that everybody is going to have their bankruptcy protections eliminated and it is a harsh bill.

Let me talk about the core matter within the bill. The core part of the bill says if you make above median income in America—which is around $45,000 for a family of four—and you are able to pay back a certain percentage of the debt that you owe, you ought not to go into chapter 7 and wipe out all those debts. You ought to be required to go into chapter 13 and pay back the portion of those debts that you can—but under the court’s protection, so nobody will be hounding you for debts and you can’t receive phone calls and you are protected from harassment, but you pay the debt back. It is our view that if you can pay some of your debt, you should do that.
I think that is just and fair. I don’t think the Federal bankruptcy law was ever conceived to create a situation in which a person can simply, routinely go in and file and wipe out all their debts, even though they can pay them back.

We have story after story of doctors and lawyers making $100,000-plus per year going in and wiping out all their debts and keeping right on with the salary they were making. I don’t believe that is justice. I don’t believe that is right. I believe we have a right and a responsibility to say if you can pay back some of that debt, you should do that.

How many people will be covered by that? I don’t know. Maybe 10 percent, or less probably. But 90 percent of the people, because they will be making below median income, will be able to file in bankruptcy just like they do today with very little change. So this catches only what I would say are the abuses. Senator WELLSTONE said it is 3 percent. Maybe it is only 3 percent who make above median income. If so, only they will be affected. Even then, if your debts are large enough, you will be able to stay in chapter 7 and wipe them out if the court finds you can’t pay them. But if you are making $150,000 and you owe your neighbors and the bank and the hospital a total of $150,000, most people would say you pay these down in some fashion. But why should a person making that kind of income just wipe them all out? This would say you would go to the court and you have to submit a plan. The court will put you into chapter 13, and the court may say you have to be able to pay half of those bills, and you will pay them out on a monthly basis over 3, 4, 5 years, and nobody can sue you, nobody can call you at night and harass you. They will have a chance to make the payment on the debt. You simply have to set aside a certain amount of your money. You can’t throw it all away and wipe out debts that you owe.

It is true that a lot of people go into bankruptcy because of medical debt, hospital debt, and things of that nature. They didn’t have insurance and they owe a lot of money for debts. Well, hospitals are not evil people. They are good institutions. Presumably, they supplied a need that they thought was necessary. Hospitals are not evil people. I am sure if you go to these hospitals, they will provide vital timely information to the custodial parent so that he or she can request help from the State child support enforcement agency if they desire. What does all this mean? Jonathon Burris, of the California Family Support Council, put it in an open letter to Congress. The provisions included in this bill are “a veritable wish list of provisions which substantially enhances our efforts to enforce support debts when a debtor has other creditors who are also seeking participation in the distribution of the assets of a debtor’s bankrupt estate.”

In addition, Philip Strauss of the district attorney’s Family Support Bureau—and most district attorneys around the country—are their obligations collecting child support on behalf of indigent spouses and children—wrote to the Judiciary Committee to express his unqualified support for this bill. He notes that he has been in the business of collecting child support for 27 years. He knows what he is talking about. Mr. Strauss notes that the National Child Support Enforcement Association, the National District Attorneys Association, and the Western Interstate Child Support Enforcement Council support his views and support this bill.

I think that should put to rest any allegation that somehow we are abusing children in this legislation, that somehow it is harsh and not actually beneficial to them.

When a parent who is not paying child support and makes above-median income is forced into chapter 13 for 5 years, they are under a Federal judge’s watch and order that entire time. During that 5 years, they have to send their money for child support or they can be held in contempt of court by the bankruptcy judge or have their bankruptcy benefits all thrown out. That to me is a benefit for families and children that is little understood.
There has been a lot of talk about credit cards. Remember, our bill focuses on how to process bankruptcy cases in bankruptcy courts. What kinds of notices that go on credit cards, how they declare their interest, what kinds of rules should cover them is a banking matter that is covered by an entirely different committee of this Congress, the Banking Committee.

The chairman of the Banking Committee has agreed to allow some provisions to be put in this bill, but he asserts his prerogative and the Banking Committee's prerogative, and has done so, to handle any major reform of credit card laws.

That is not what we are about in this legislation. This is bankruptcy court reform. It is not to reform all problems of credit in America, although we have some ideas I sure we will make progress on them.

I inquire, Madam President, about the time.

The PRESIDING OFFICER. The Senate has 34 minutes remaining.

Mr. SESSIONS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Madam President, we are about to vote on the cloture motion to proceed to the bankruptcy bill. I strongly urge my colleagues to vote for cloture.

I would like to say at the outset that I am pleased Senator Daschle has decided to move forward with the bankruptcy bill. It's only fair that we go through the regular order on bankruptcy, which is to take up the House passed version, substitute that with the Senate-passed bill, and then proceed to conference to resolve differences between the two bills. The Senate bill, S. 420, went through proper procedure—in the 107th Congress, the Judiciary Committee held a hearing and markup of the bill, and then there was extended debate and amendments on the floor. In March, S. 420 passed out of the Senate by a vote of 83 to 15.

But, to tell you the truth, a bankruptcy bill should have been signed into law last year. We’ve been working on bankruptcy legislation for three Congresses now. The bill has passed both houses several times. Last year, the bill was unfortunately pocket vetoed by President Clinton at the very last minute. The main reason we don’t have a bill enacted into law is because of the determined efforts of certain Senators to delay and obstruct the process, even though a large bipartisan majority of the Congress supports bankruptcy reform. Certain Senators have made a point of impeding progress on this important reform measure ever since the way. They’ve done this because left-wing interest groups think that bankruptcy should be easy. But the majority of us here in Congress don’t think that should be the case.

The bill reforms the bankruptcy system to require repayment of debts by individuals who have the ability to pay their bills, by reestablishing personal responsibility in a bankruptcy system that is now all too often being used as a financial tool for deadbeats. It is clear that the bill reinjects an individual’s personal responsibility in regard to his or her financial situation, while at the same time protecting the right of debtors to a financial fresh start when they are in a situation where they cannot repay their debts or have fallen on hard times through no fault of their own. I repeat, the bill does not eliminate bankruptcy as a recourse for people who come on hard times. In fact, the bill clearly indicates that if there is a change in the circumstances of a debtor, that will be taken into account. And that includes the loss of a job or unexpected medical expenses.

Furthermore, the bill strengthens protections for child support and alimony payments by making family support obligations a first priority in bankruptcy, up from number seven. What could help women and children more than moving family support obligations to the first priority in bankruptcy? We can’t move them higher than number one, we’ve put women and children at the top. The bill makes staying current on child support a condition of discharge—debt discharge in bankruptcy is made conditional upon full payment of past due child support and alimony. So the bill makes payment of child support arrearages a condition of plan confirmation. In addition, the bill gives parents and state child support agencies notice when a debtor who owes child support or alimony files for bankruptcy.

The bill requires bankruptcy trustees to notify child support creditors of their right to use state child support enforcement agencies to collect outstanding amounts due. I think that these provisions will help ensure that women and children are up front when there is a bankruptcy.

The bill does a lot more to help reform the bankruptcy system. For example, the bill makes permanent chapter 12 bankruptcy for family farmers and lessens the capital gains tax burden on farmers who declare bankruptcy. As you know, we just extended chapter 12 for a few more months. It’s high time that Congress get down to business and make chapter 12 permanent. I know that this is an important provision for many Senators out in farm country.

In addition, the bill creates new protections for patients when hospitals and nursing homes declare bankruptcy. This was the subject of a hearing that I held in the Aging Committee when I chaired that committee. And the bankruptcy bill will provide a “patient’s bill of rights” to the elderly residents of bankrupt nursing homes.

Finally, the bill requires that credit card companies provide key information about how much people owe and how long it will take to pay off their credit card debt by only making a minimum payment. To help do that, the bankruptcy bill provides a toll-free number to call where individuals can get information on the length of time it will take to pay off their own credit card balances if they make minimum payments.

The bill prohibits deceptive advertising of low introductory rates, and provides for penalties on creditors who refuse to renegotiate reasonable payment schedules outside of bankruptcy. The bill strengthens enforcement and penalties against abusive creditors for predatory debt collection practices. And the bill includes credit counseling programs to help avoid and break the cycle of indebtedness. So, the bankruptcy bill that the Senate passed actually contains some of the most proconsumer provisions we’ve seen directed toward the credit industry in years.

The reality is that a large majority of the Senate voted for this bill. It’s clear to me that the majority of Senators want a bankruptcy bill to pass. We’ve worked on bankruptcy legislation for three Congresses now, and it is time for us to get down to the business of getting this bill over the goal line once and for all.

We already had an overwhelming vote on the Senate bill—83 to 15 votes. So I’m urging my colleagues to vote for cloture.

Madam President, since I do not see other people ready to speak, I suggest the absence of a quorum. I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The Senate bill, H.R. 833, passed the Senate by a vote of 83-15. We’ve made a point of impeding progress on this important reform measure every step of the way. They’ve done this because left-wing interest groups think that bankruptcy should be easy. But the majority of us here in Congress don’t think that should be the case.

The bill reforms the bankruptcy system to require repayment of debts by individuals who have the ability to pay their bills, by reestablishing personal responsibility in a bankruptcy system that is now all too often being used as a financial tool for deadbeats. It is clear that the bill reinjects an individual’s personal responsibility in regard to his or her financial situation, while at the same time protecting the right of debtors to a financial fresh start when they are in a situation where they cannot repay their debts or have fallen on hard times through no fault of their own. I repeat, the bill does not eliminate bankruptcy as a recourse for people who come on hard times. In fact, the bill clearly indicates that if there is a change in the circumstances of a debtor, that will be taken into account. And that includes the loss of a job or unexpected medical expenses.

Furthermore, the bill strengthens protections for child support and alimony payments by making family support obligations a first priority in bankruptcy, up from number seven. What could help women and children more than moving family support obligations to the first priority in bankruptcy? We can’t move them higher than number one, we’ve put women and children at the top. The bill makes staying current on child support a condition of discharge—debt discharge in bankruptcy is made conditional upon full payment of past due child support and alimony. So the bill makes payment of child support arrearages a condition of plan confirmation. In addition, the bill gives parents and state child support agencies notice when a debtor who owes child support or alimony files for bankruptcy.

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The reality is that a large majority of the Senate voted for this bill. It’s clear to me that the majority of Senators want a bankruptcy bill to pass. We’ve worked on bankruptcy legislation for three Congresses now, and it is time for us to get down to the business of getting this bill over the goal line once and for all.

We already had an overwhelming vote on the Senate bill—83 to 15 votes. So I’m urging my colleagues to vote for cloture.

Madam President, since I do not see other people ready to speak, I suggest the absence of a quorum. I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Utah.

Mr. HATCH. Madam President, I am pleased to be here today to support the motion to proceed to H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001. As my colleagues may remember, the Senate passed this legislation, S. 420, passed this Chamber in a bipartisan vote of 83-15 on March 15. Additionally, the conference report to last year’s bill, H.R. 833, passed the Senate by a
similarly wide margin just last December, but was pocket-vetoed by President Clinton at the very end of the legislative session.

Today, we are beginning what I hope will be the final leg of a legislative marathon, a leg I hope we can complete soon. This bill has passed both bodies in the 106th, 108th, and now the 107th Congress. It is time to wrap up this debate, reach consensus and present a good bill to the President for his signature so American consumers can reap the benefits.

I would like to briefly recount the legislative history of S. 420 during this Congress. S. 220, the Bankruptcy Reform Act of 2001 was introduced by Senator GRASSLEY in January and contained the same language as last year's conference report. That bill was given a hearing and amended in mark-up by the Judiciary Committee, Senator LEAHY, to include a discharge in bankruptcy. That bill was given by a consumer to a business debtor or by adding new privacy protections to the bankruptcy code and by creating a consumer privacy ombudsman to appear before the bankruptcy court.

Now, I am the first to acknowledge that there are things I would like to see changed in the bill, but I recognize that we all have cooperated and compromised in order to enact this legislation. It provides for protection of educational and other domestic support obligations and introductory rates for credit cards. It also protects consumers from unscrupulous creditors with new penalties for creditors who refuse to negotiate reasonable payment schedules outside of bankruptcy.

This bankruptcy reform act also requires credit counseling to help people avoid the cycle of indebtedness. It provides for protection of educational savings accounts, and gives equal protection to retirement savings in bankruptcy.

The legislation would also put a stop to letting deadbeat parents use bankruptcy to avoid paying child support. It will also put the lawyers ahead of children who rely on child support. It gives child support and other domestic support obligations first priority status. I am proud to have worked with Senators TORRICELLI and DODD on these important reforms. I am also proud to have cosponsored Senator CLINTON's amendment that further improved these provisions.

Current bankruptcy law simply is not adequate, and frankly I was outraged to learn of the many ways deadbeat parents are manipulating and abusing the current bankruptcy system in order to get out of paying their domestic support obligations. The bill is a tremendous improvement for children and families and over current law. That is why we have such overwhelming support for this legislation from the child support professionals across the country—the very people who go after deadbeats to get children the support they need. In fact, this bill includes a key provision that makes the full payment of past due child support and alimony a condition of getting a discharge in bankruptcy.

I also am pleased to have worked with the chairman of the Judiciary Committee, Senator LEAHY, to include for the first time, privacy protections in bankruptcy. That language protects personally identifiable information given by a consumer to a business debtor or by adding new privacy protections to the bankruptcy code and by creating a consumer privacy ombudsman to appear before the bankruptcy court.

Now, I am the first to acknowledge that there are things I would like to see changed in the bill, but I recognize that we all have cooperated and compromised in order to enact this legislation. It provides new consumer protections, helps children in need of child support, and makes other necessary reforms to a system that is open to abuse.

I want to emphasize emphatically that his legislation does not make it more difficult for people to file for bankruptcy, but it does eliminate some of the opportunities for abuse that exist under the current system. Our current system allows certain people with the ability to pay to continue to abuse the system at the expense of everyone else. People with high incomes can run up massive debts, and then use bankruptcy to get out of honoring them. In the meantime, we are paying for the unscrupulous who abuse the system. In fact, it has been estimated that every American family pays as much as $550 a year in a hidden tax for these abusers. The bankruptcy reform legislation will help eliminate this hidden tax by implementing a means test to make wealthy people who can repay their debts honor them. I support we could call this a tax cut for the responsible person.

There are numerous examples of people who take advantage of loopholes today at the expense of everyone else. A few months ago, I heard from the president of a credit union in Wisconsin, who told me about a young couple who wanted a "clean financial slate" before they got married. What did they do? They ran up their credit card purchases. One of them prepaid on a car loan with the credit union to have the other cosigner released. Then, although they were both employed full time, they filed for bankruptcy to wipe out all their debt. The credit union—and its members—had to eat the $3,000 in credit card debt and another couple of hundred dollars on the car.

Bankruptcy relief was never meant to allow this kind of abuse. Hard-working Americans, including the millions of consumers nationwide who have been victimized by abusers of the current bankruptcy system long enough.

Bankruptcy abuse also hurts our nation's small businesses. Without reforms from this bill, losses from bankruptcy abuse will continue to break the backs of the Nation's small businesses and retailers, which work with slim profit margins and have even smaller margins for error.

Make no mistake: Misrepresentations about this legislation are still running rampant by those who oppose any meaningful bankruptcy reform. Yet despite the allegations of opponents of reform, the poor are not affected by the bankruptcy reform.

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does is force people to go into chapter 13. Therefore, the benefit doesn’t affect low-income people, contrary to what I have heard in Chicago.

The means test is only 9 pages out of a 200-page bill. If the means test was all this bill consisted of, then this bill would have passed 2 years ago or 21/2 years ago.

The bankruptcy bill purports to target abuses of the bankruptcy code by wealthy scofflaws and deadbeats who make up, by the way, 3 percent of all the filers, according to the American Bankruptcy Institute. Yet hundreds of thousands of Americans file for bankruptcy every year, not gaming the system—I need to say it more times—but because they are overwhelmed with medical bills.

Unfortunately, there are at least 15 provisions in S. 420 that make it harder to get a fresh start, regardless of whether the debtor is a scofflaw or a person who must file because they are made insolvent because of their medical debt or because they have lost their jobs or because of a divorce in the family and they are now a single parent with children. These measures not only include but also are in addition to the means test. If the means test was the whole piece of legislation, it would be quite a different story.

Neither the means test nor the safe harbor in the bill apply to the vast majority of new burdens that are placed on debtors.

Under S. 420, debtors will face these hurdles to filing regardless of their circumstances.

An analysis in the Wall Street Journal last week put it this way. These are not my words:

“The bill is full of hassle-creating provisions, some reasonable, and some prone to abuse by aggressive creditors trying to get paid at the expense of others. In a thicket of complexity, Congress is losing sight of the goal of making sure that most debtors pay their bills while offering a fresh start to those who honestly can’t.”

That is the Wall Street Journal analysis.

This amendment will preserve the fresh start for those debtors who honestly can’t make it because they are drowning in medical debt.

My colleague from Alabama said this is a bankruptcy bill. It only deals with the bankruptcy code and bankruptcy court reform, including banking measures targeted at credit card companies that Senator WELLSTONE suggested is inappropriate.

Why is it inappropriate? If the point of this legislation is to reduce bankruptcy, then it would seem to me that we might want to take a look at the big banks and credit cards that have been pushing for their legislation. They are the only ones pushing for this legislation. You are hard pressed to find a bankruptcy judge that supports this legislation. You are hard pressed to find a bankruptcy law professor, a bankruptcy expert of any kind, anywhere, any place in the U.S.A. that backs this bill. This bill was written for the lobby. It is crystal clear.

That is why this piece of legislation doesn’t hold them accountable. It has basically been written for them.

It is ridiculous on its face that this legislation makes possible behavior of the credit card companies from the high number of bankruptcies. All of the evidence points to the fact that lenders and their poor practices are a big part of the problem. It is outrageous that we don’t confront them. There isn’t a parent in this country that is not well aware of the ways in which these credit card companies are constantly pushing these loans onto our children or onto our grandchildren. Everybody knows we are bombarded with it all the time.

Both the House and Senate bills basically give a free ride to banks and credit card companies that deserve much of the blame for the high number of bankruptcies because of their loose credit standards, and Congress has not done very little to address this issue. There is a minor disclosure provision, and that is it. It is pathetic. Lenders should not be rewarded for reckless lending.

Where is the blame? If we are holding the debtors accountable, why aren’t we holding the lenders accountable?

Again, I want to make the argument one more time. I think we know the answer. This legislation has the support of a lot of people, and the President says he supports it. As a matter of fact, there are going to be precious few votes against cloture.

I am going to come back out here next week again and try to delay this bill. I am trying to tell you, it is just testimony to the power and the clout of the financial service industry in Washington. Let’s call it what it is. This legislation is a tribute to the power and the clout of the financial service industry. It is a tribute to the power and the clout of the Senate. It is a tribute to the power and the clout of the Senate Chamber to bend a Member’s ear. I think what happened is that is the microcosm of the political situation we are in today.

Now we are heading into difficult times. We are heading into hard economic times. More people are losing their jobs and medical costs are going up. We are going to make it hard for people to rebuild their lives. We are going to make it hard for people to rebuild their financial lives.

This piece of legislation is too one-sided. Why is it one-sided? It is to the one toll you, it is just testimony to the power of this industry. I do not do any damage to the truth when I say that when I am in a coffee shop in Minnesota, I do not—I repeat this again—have people running up to me saying: Please, Senator WELLSTONE, pass that bankruptcy reform bill because we think you ought to go after all the deadbeats and all the people cheating, although we have no evidence to support that you have a lot of cheaters—not when 50 percent of the people who file it do so because of medical bills, with more and more people losing their jobs, and, as I say, the most dramatic rise is among single adult women who head households.

People do not come up to me and say: Please, do that. They want to talk about the health care costs going up. They want to talk about the fair price, if they are farming. They want to talk about the struggle to find a good job that pays a good wage so they can support their families. They want to talk about the costs of higher education. They want to talk about
about their concern that they will not have a pension. That is what they want to talk about.

What in the world is the Senate doing making this a priority? The folks with the clout, with the power, and with the money got here first. I think that is what this is all about. I am going to continue to oppose this legislation about.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ELECTING JERI THOMSON AS SECRETARY OF THE SENATE

Mr. DASCHLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 129) electing Jeri Thomson as Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

The resolution (S. Res. 129) reads as follows:

S. Res. 129

Resolved, That Jeri Thomson be, and she is hereby, elected Secretary of the Senate, effective July 12, 2001.

ADMINISTRATION OF OATH TO THE SECRETARY OF THE SENATE

The PRESIDENT pro tempore. The Secretary-elect will present herself to the podium for the taking of the oath.

The Honorable Jeri Thomson, escorted by the Honorable Tom Daschle and the Honorable Trent Lott, advanced to the desk of the President pro tempore; the oath prescribed by law was administered to her by the President pro tempore.

[Applause, Senators rising.]

NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF JERI THOMSON AS SECRETARY OF THE SENATE

Mr. DASCHLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 130) notifying the House of Representatives of the election of a Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

The resolution (S. Res. 130) reads as follows:

S. Res. 130

Resolved, That the House of Representatives be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.

NOTIFICATION TO THE PRESIDENT

Mr. DASCHLE. Mr. President, I send a third resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 131) notifying the President of the United States of the election of a Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

The resolution (S. Res. 131) reads as follows:

S. Res. 131

Resolved, That the President of the United States be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.

Mr. DASCHLE. Mr. President, I might take a moment to speak on behalf of what I know is the entire Senate body but in particular the Democratic caucus in congratulating Jeri Thomson. She has been a professional’s professional for the last 30 years.

She has served, as most of our colleagues know, as the Executive Assistant/Democratic Representative in the Office of the U.S. Senate Sergeant at Arms. Her responsibilities included managing all institutional issues for the Senate leader and all Democratic Senators. She had the responsibilities for all the plans and the implementation of the issues conferences and other events for the Democratic caucus and managed all aspects of participation by Democratic Senators in the national party conventions.

But that is just the latest in a series of responsibilities that she has had that go back now almost three decades.

She was the Assistant Secretary of the U.S. Senate from 1989 to 1995. She served as the Chief Operating Officer of the Secretary of the Senate, managing 12 departments with approximately 250 staff members. Her responsibilities at that time included budgeting, policy and program development, and implementation of human resources management. The administrative reform and modernization programs were under her responsibility as well.

Prior to serving in that capacity, she was a senior staff member to Senator John Tunney; special assistant to the Sergeant at Arms; and the Deputy Director of the Democratic Congressional Campaign Committee.

Jeri received her bachelor of arts from the University of Washington. She was Kodak fellow at Harvard University’s program for senior managers in government. She was selected as one of the 100 top data processors in government, industry, and academia for her work in automating the legislative processes and procedures in the Senate in 1995.

That is her resume. What you don’t know in reading the resume is what kind of person she is. I know of no more dedicated person in the Halls of Congress than Jeri Thomson. I know of no one I have had a greater joy working with than Jeri Thomson. I know of no one who loves this institution more than Jeri Thomson. I know of no one who has greater respect among our colleagues in the Senate than Jeri Thomson.

It should come as no surprise that Jeri Thomson is now our Secretary of the Senate. I commend her for all she has done. I thank her for what she has now agreed to do. I wish her well as she begins this very important new responsibility.

I might add that her family, David James and two daughters, Kaftin and Kristin, and mother Louise are all here to help celebrate this momentous occasion. We welcome Jeri’s family. We thank them for being a part of this celebration and we wish them and Jeri well as they begin.

I yield the floor.

The PRESIDENT pro tempore. The Republican leader.

Mr. LOTTT. Mr. President, I certainly join the distinguished Democratic leader in congratulating Jeri Thomson on her selection and election to be the Secretary of the Senate. I know that Senator DASCHLE, as majority leader, will have a very effective Secretary of the Senate in this fine person and that she will do her typical nonpartisan, fair and efficient job in this role.

We know Jeri. She has been here a long time. She is one of the institutions, if I might say—for age, of
course—of the Senate. She has always been very fair and very reasonable in her dealings with the Republicans in the Senate. I am sure that you appreciate that. You know that is the way that she will proceed in the future. This is a very important role. If you go back and look at the history of the Senate, Senator Byrd certainly can tell us that this is a position where he had for years. The first Secretary was chosen on April 8, 1789, two days after the Senate achieved its first quorum for business. It is a very important role in the functioning of the Senate—the paperwork, administratively, the computers, the people serving here in the Chamber. There are so many important roles that that position requires careful consideration of, and work and development. I know she will do that.

I urge Jeri Thomson to do as I urged her predecessor, Gary Sisco, in that position, to make sure you do such a job that when you leave the position, the office and the position will be even better than it was when you took it over. I know you will do that. We extend to you our best wishes and our cooperation.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I offer my personal congratulations and all good wishes to Jeri. I think she is going to be a superb Secretary of the Senate. What most people don’t know about Jeri Thomson is that not only is she a talented professional, but she is a very nice person. She and I had knee surgery at approximately the same time, and I really never had a better friend during that period. She sent me books to read, made phone calls, even sent me a special pillow that could be used to help the pain from one knee to another. It was a wonderful gesture.

In the course of discussions about our relative injuries, over the past almost year now, I have come to know her very well. This is truly a distinguished woman because it is very hard to be an excellent professional and also to take the time that is necessary to reach out a hand to make someone feel a little bit better.

Jeri, you are all of the above. Congratulations and godspeed.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mrs. CARNAHAN assumed the chair.)

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I was very pleased to see Jeri Thomson become the new Secretary of the Senate. Knowing my own days as a brand new Senator, the role of Secretary of the Senate was very important, and it is even more important now. I am delighted she is here.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001—MOTION TO PROCEED—Continued

Mr. LEAHY. I understand that the time of the swearing in and the comments may have affected the time as to the o’clock vote. Can the Chair advise me how much time is remaining under controlled time prior to the vote?

The PRESIDING OFFICER. The Senator from Minnesota has 21 1/2 minutes. Mr. WEBB: I say to my colleague, I think colleagues are expecting a vote at 12. I yield the next 15 minutes to the Senator from Vermont if he wants it.

Mr. LEAHY. I probably won’t even use all of that. I thank the Senator from Minnesota for his customary courtesy.

I suggest that we make a few comments, and I will certainly support whatever moves to yield back whatever time we may have so that we can vote at 12. The Senator from Minnesota is absolutely right. Senators are expecting this noon vote.

After today’s vote on the motion to proceed, I am going to send an amendment to the desk for myself, the distinguished Senator from Utah, Mr. HATCH, and the Senator from Iowa, Mr. GRASSLEY, and ask for its immediate consideration. So that Senators will know, this amendment will be the text of S. 420, the Bankruptcy Reform Act of 2001, as passed the Senate on March 15 by a vote of 83-15. I was one of the 83, as were Senators HATCH and GRASSLEY. I voted for the Senate form because it marked a bipartisan effort on the Senate Judiciary Committee and Members of the floor in the committee and then in the Chamber to produce a more fair and balanced bill because of our bipartisan amendment process.

During our consideration of the Bankruptcy Reform Act, Democratic and Republican Senators authored and passed 38 amendments between the Judiciary Committee and the Senate floor. That improved the bill. I will certainly be able to vote for it on the floor. I will be able to vote for that in conference.

We adopted the Leahy-Hatch amendment to protect the personal privacy of consumers whose information is held by firms in bankruptcy. Our amendment permits bankruptcy courts to honor the privacy policies of business debtors and creates a consumer privacy ombudsman to protect personal privacy in bankruptcy proceedings—the first ever in Federal law.

Unfortunately, we had to do this. The reason the Leahy-Hatch amendment is needed is that the Internet will now be put up for sale in bankruptcy without any privacy considerations. Just so people who don’t spend much time on the Internet will understand what I am talking about, many of them go into a Web site and they will have a very clear privacy policy where they say: We will never share your name, disclose your address or your information. They may well mean it. For example, you may have a case. You want your children to be able to go on, but under the clear privacy—they may be children’s books or anything else. They are willing to have your children go there, and you rely on the privacy line that says, “Under no circumstances will we reveal these names.”

But then if the Web site goes into bankruptcy, the bankruptcy court is faced with this kind of a situation. They look at the failed company, and the way they handle computers, they have a couple scuffed-up desks, a building. They do have one thing that may be worth something, one asset, and that is the list of all the people who have gone there—the names of your children and everybody else who may be on there. The bankruptcy court is put in this kind of a Hobson’s choice. They are sworn to have to seek the best return on whatever assets remain for the creditors. Yet the people who created the assets, those who visit the Web site, are promised nobody is ever going to disclose their names. So this will at least ameliorate, or go a long way toward solving, the problems there.

We adopted the Schumer amendment to prevent the discharge of debts from violence against reproductive health service clinics.

During our hearing on bankruptcy reform legislation, Maria Vullo, a top-rated attorney, testified about the need to amend the bankruptcy code to stop wasteful litigation and end abusive bankruptcy filings used to avoid the legal consequences of violence, vandalism, and harassment to deny access to legal health services. If somebody is going to break the law and use violence against health clinics, and somebody then brings a suit against them to recover damages because of their violence, they should not be able to say: I am going to get away with this and go into bankruptcy court. They should not be shielded by bankruptcy.

We adopted the amendment of the distinguished Senator from Wisconsin, Mr. KOHL, to cap homestead exemptions at $125,000, to limit wealthy debtors from abusing State laws to hide million-dollar mansions from their creditors. If somebody knows they are going to declare bankruptcy, they can take whatever cash on hand and in certain States buy a multimillion-dollar
mansion knowing they might be protected. Senator Kohn has been a champion of closing this loophole for the rich.

At our hearing in the committee, Brady Williamson, the former chair of the National Bankruptcy Reform Commission, testified that ending homestead abuse was a key and consensus recommendation from the Bankruptcy Reform Commission. They all joined on that.

Last month, the Florida Supreme Court issued a ruling that underscores the need for a national homestead cap to prevent bankruptcy abuses. The highest court in Florida ruled a debtor can still keep the full value of his home even if the homestead is acquired with the specific intent to hinder, delay, or defraud creditors. That should not be the case.

We adopted several amendments by Senator Feingold to strengthen chapter 12 to help family farmers with the difficulties they face. I hope we can finally make chapter 12 a permanent part of the bankruptcy code. Family farmers and ranchers deserve these protections to help prevent foreclosures and forced auctions.

I know Senator Grassley and Senator Carnahan, the distinguished President, and other Senators on a bipartisan basis strongly support permanent bankruptcy protection for family farmers, and I am proud to join Senator Grassley and Senator Carnahan in that support.

The complex and competing interests involved in achieving fair and balanced reforms of our bankruptcy system demand we work in a bipartisan manner throughout the legislative process.

I look forward to working with Senators and Representatives on both sides of the aisle to further improve this legislation in conference.

Madam President, I see the distinguished Senator from Iowa is here. I ask unanimous consent that at noon, all time, held by whomever, be deemed to have been yielded back, and we will be prepared then to vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. Clinton. Mr. President, I stand here today not in opposition to moving forward with the Bankruptcy Reform Act, but to send a clear message that I continue to have strong reservations about whether this bill is both balanced and reasonable. I have long said that debtors who have the genuine capacity to repay some of their debt should be required to do so, but abuses by creditors need to be stopped.

I grew up with a father who never accepted any debt—never had a credit card in his life. He taught me the importance of always working hard and paying your debts. I believe every American should work hard to spend responsibly and to repay their debts, but I also know that some families are hit by unexpected hardships.

This bill should not make the effect of targeting our most vulnerable consumers—women who are left with little resources as their husbands who were the primary breadwinners leave the family; or families with no health insurance who are struck with financial hardship when one family member becomes critically ill; or another family who suddenly finds that the primary breadwinner is laid off with little employment opportunities available in the region.

These are not the families who need to be further stuck by hardship of bankruptcy reform that is inflexible or overly harsh on debtors.

I voted for the S. 420, the Bankruptcy Reform Act of 2001, because I believed and still do believe that there were some important protections added to the Senate bill, but I will absolutely not vote in favor of the final bankruptcy reform bill if it does not include at least these minimal protections for our most vulnerable consumers.

During the floor debate on S. 420, the Bankruptcy Reform Act of 2001, I worked with my colleagues on both sides of the aisle to add additional protections for women and children. I worked hard to ensure that once bankruptcy is complete, we do more to ensure that single mothers can collect the child support they depend upon. Senator Hatch and I passed an amendment to ensure that the holder of the claim, meaning the parent with custody of the child, most often the mother, is informed by the bankruptcy trustee of his or her right to have the State child support agency collect the nondischargeable child support from the ex-spouse. I believe this change helps inform our clients of their rights to have the State help them in their claims to collect child support.

In addition, I was concerned about competing nondischargeable debt so I worked hard with Senator Boxer to ensure that more credit card debt can be erased so that women who use their credit cards for food, clothing and medical expenses in the 90 days before bankruptcy do not have to litigate each and every one of these expenses for the first $750.

These are the most minimal of changes that I believe need to be in the final bill. I still do not believe that they go far enough. I believe that the final bill should protect child support full stop. I do not believe that child support should have to compete with any credit card debt. But it should certainly not retreat from these changes. The cap on protected expenses should not be lowered to the House version of $250.

I also believe that the bill needs to include Senator Schumer’s amendment to ensure that any debts resulting from any act of violence, intimidation, or threat would be nondischargeable. It was a victory for the Senate to include this important amendment to ensure that those who are responsible for violence against women’s health clinics are held responsible for their actions. I do not believe we should retreat on this point.

Let me be clear. This bill should go far to protect home owners, but it should certainly not retreat from the consumer protections in the bill.

I will vote for cloture on this bill, but I believe that as we move to conference we need to continue to work to ensure that we continue to gain more balance between creditors and debtors.

Mr. Leahy. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. Leahy. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 17, H.R. 333, the Bankruptcy Reform Bill.


The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 333, an act to amend title 11 of the United States Code, and for other purposes, shall be brought to a close? The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FitzGerald (when his name was called). Present.

Mr. Reid. I announce that the Senator from Washington (Ms. Cantwell) is necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Ms. Cantwell) would vote "yea" to close the debate.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 88, nays 10, as follows:
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Mr. LEAHY. Madam President, on behalf of the majority leader, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk reads as follows: (The amendment is printed in today's Record under "Amendments Submitted and Proposed"


Mr. LEAHY. Madam President, on behalf of the majority leader, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk reads as follows: (The amendment is printed in today's Record under "Amendments Submitted and Proposed"

(Continued)

Mr. LEAHY. Madam President, on behalf of the majority leader, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk reads as follows:

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 2217, the bill to which the previous order applied.

The legislative clerk reads as follows:

Amendment No. 989

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate prior to a vote in relation to the Nelson amendment No. 983.

Whose yields time?

The Senator from Florida.

Mr. NELSON of Florida. Madam President, I yield myself 2 minutes. I say to Senator Graham, if he would like some time of the 2 minutes for closing, I will certainly yield to him.

Madam President, yesterday we had the Durbin amendment, and it was not tabled. It was on the issue of oil drilling in national monuments, national treasures.

Ladies and gentlemen of the Senate, the beaches of Florida are national treasures to us because of the importance of the beaches to our economy. If there is an oil spill, a slick comes into one of our beaches, it will shut down a beach, such as Clearwater Beach, for years and years. In an economy with a $50 billion tourism industry, in the Nation's fourth largest State, that is simply not worth the risk to us in Florida.

For the first time, the eastern planning area of the gulf, which heretofore has not been drilled, save for one test drill up here, is being invaded by this offering for lease of 1.5 million acres coming across the line. It is inevitable, in the march eastward, it would go straight toward Tampa Bay.

This is a matter of national treasure to us. You all honored that yesterday in adopting the Durbin amendment, by vote with me when my colleague from Louisiana, Senator BREAUX, myself, and others—a bipartisan group—in opposing this amendment.

We have a problem in this Nation. Our demand for energy is too high and our supply is not great enough. We use 30 trillion cubic feet of natural gas. We only have 25 trillion cubic feet. We think the Gulf of Mexico, in places far from the shores of Florida, has an ample supply of natural gas.

Let us not move in the wrong direction. Our country needs us to respond in a positive way. This is not a new area. It is rich with natural gas. It was a compromise reached by a Democratic administration with environmental organizations and the industry. It is moderate.

If you are for rolling blackouts and high prices, vote with me when I move, on behalf of Senator BREAUX, to table this amendment.

I yield the Senator 30 seconds.

Mr. BREAUX. I thank the Chair.

I bring to the attention of my colleagues, lease sale 181 was proposed by President Bill Clinton. It was this entire tract of area that I show you on this map. Democratic President Bill Clinton proposed it. The Democratic Governor of Florida at the time was Governor Lawton Chiles, our former
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The PRESIDING OFFICER. The amendment is as follows:

(Purpose: To direct the U.S. Fish and Wildlife Service to take certain actions for the recovery of the lost river sucker and shortnose sucker, and to clarify the operations of the Klamath Project in Oregon and California.)

At the appropriate place in the bill, insert: "None of the funds made available under this Act may be used to provide any flow from the Klamath Project other than those set forth in the 1992 biological opinion for Lost River and shortnose suckers and the July 1999 biological opinion on project operations issued by the National Marine Fisheries Service, until the Fish and Wildlife Service takes the following actions identified or discussed in the April 1993 recovery plan for Lost River suckers and shortnose suckers:

(a) establishes at least one stable refugial population with a minimum of 500 adult fish for each unique stock of Lost River and shortnose suckers;

(b) secures refugial sites for upper Klamath Lake suckers;

(c) uses aeration for improving water quality and to expand refugial areas of relatively good water quality within Upper Klamath Lake;

(d) improves larval rearing and refuge habitat in the lower Williamson and Wood Rivers through increased vegetative cover;

(e) extirpates exotic species that are predators of the suckers;

(f) assesses the need for captive propagation and the potential for improving sucker stocks through supplementation, and the Secretary has submitted a report, including recommendations, to the Congress;

(g) implements a plan to monitor relative abundance of all life stages for all sucker populations;

(h) develops a plan to reduce losses of fish due to water diversions;

(i) determines the distribution and abundance of suckers in all waterbodies in the Upper Klamath Basin;

(j) implements the plan for wetland rehabilitation pilot projects;

(k) implements the most effective strategy to provide fish passage upstream of the Sprague River Dam; and

(l) completes an evaluation of the impact of these actions on the recovery of the suckers before determining whether further modifications to project operations are needed and submits such evaluation to the Secretary of the Interior and to the Congress.

Mr. SMITH of Oregon. Mr. President, many Americans are becoming familiar with a part of my State and a part of California known as the Klamath Basin because of the controversy situation that has developed there in a contest between suckerfish and farmers. If I may be permitted, I will put some context to this conflict.

I am the first Senator to be elected from Oregon who comes from its rural parts—eastern Oregon—in 70 years. I represent all of my State, but I have a special passion to represent those rural parts that I have watched be devastated for too long by Federal action. I believe the Endangered Species Act is a noble act with noble purposes, but I believe it is being used by some to very ignoble ends.

My actions today are not to subvert the Endangered Species Act. This is not reform. This is an act asking that its terms be implemented in a way that will relieve genuine human suffering in a way that may prevent the violence that has already been visited upon Federal property in a contest between farmers and the Bureau of Reclamation for the essential ingredient to life in the West, and that is water.

What has happened to the community of Klamath Falls, by conservative estimates, will cost that county $200 million. I thank the Senator from West Virginia, the chairman of the Appropriations Committee, and others, who helped me to get $20 million of relief to these people. Obviously, it is 10 percent of what is needed, even by conservative estimates.

What I propose to do today is to try to go back to a biological opinion that was in place just last April that would have permitted this drought to be managed as were the droughts in 1992 and in 1994, in which the suckerfish survived, as did the agricultural community around it.

When I speak of the agricultural community, I have to also mention the wildlife refuges that get their water from this basin but which are now drying up. So farmers and fowl are left with nothing under the new biological opinion.

I do this because, in 1993, the Fish and Wildlife Service laid out a plan of action for what it could do to save the suckerfish, so that 200,000 acres of land continue to receive water and that fish could survive. But none of these proposed action plans were pursued. For example, it recommended the removal of the Sprague River Dam; it would have made available tremendous spawning areas for the suckerfish. But that wasn’t done. And there were many other actions that could have been
taken to provide aeration, to improve the condition of this lake, so that the suckerfish could survive and the farmers and the town would not be destroyed. But now what we are doing is we are raising this lake 3 feet—it is a very big lake, very shallow, but it is being raised 3 feet—and cutting off all the water to farmers and fowl. It is being done to save the suckerfish, and now, while it is being saved, it is warming up. So the coho salmon that will soon be returning expecting to receive the cool waters of the Klamath will receive the temperature of a swimming pool. So, potentially, even the coho salmon—which is also a listed species—could be adversely affected by this biological opinion.

Well, there are two agencies of the Federal Government that are competing. This is the front cover of Fish and Wildlife with regard to the suckerfish. The other is the biological opinion of the National Marine Fisheries Service and the Commerce Department that affects the coho salmon. Both biological opinions essentially ask for 100 percent of the water which means cutting off 100 percent of the people.

The point I want to make is that this would not be necessary if the Federal Government over the last 8 years would have kept its part of the bargain and done what it could to mitigate the impact to the sucker so that farmers would not be victimized.

What I do is simply reinstate the previous biological opinions that were in effect before this spring until the Federal Government can complete action on numerous recommendations of its 1993 recovery plan. Again, they were not acted upon over the last 8 years. Why? They say budgetary reasons. I want to put some other context to this. This is a current farm family in Klamath Falls. These are the human faces being affected by what is being done. Foreclosure notices are already going out. Let me tell my colleagues about their parents. These are the parents. This is the front cover of Life magazine, January 20, 1947. This is a veteran of the Second World War. These are people who came home, having saved liberty, having defended democracy, having made the United States the power in the world that it is today, the force for good that it is today.

In his wisdom, Franklin Roosevelt, even before the war, began to open up this land so that people would have a way out of the Great Depression, coming home from the war, and a place to go to work.

This is the land, the valley. I do not know whether my colleagues can see it, but this couple is overlooking the Klamath Basin—farms being developed, hay being raised, corn being raised, potatoes being raised that fill our shelves today. Look at the hopes and dreams in the faces of these people.

This is a little girl at an assembly of people at a rally a few weeks ago. Her sign says: ‘Mommy says I can’t eat, but fish can.’

That is what we are driving them to, and it is not right because they are being told they are of lesser value under our law than the shortnosed sucker.

This is a picture of the shortnosed sucker. It is a bottom-feeding fish. It lives in this shallow lake. It has gone through many droughts along with the farmers. It has survived, stressed, I am sure, just as humans are stressed in conditions.

I am not saying this fish has no value. I have never thought the suckerfish is very good looking, but it has a mother, and that mother, I am sure, loves this fish. I know the Native Americans in this area value this fish, and I am not suggesting in any way that we are not interested in saving this fish.

I am saying the purpose of the Endangered Species Act was not to engage in a process of rural cleansing, of throwing off their property people who had been given great promise and hope for the future. They are meeting the mailmen with foreclosure notices because the Federal Government decided it is going to breach its promise.

Let me show you, Mr. President, the deeds of the lands they were given. These are veterans. I doubt you can see it, but this is a deed assigned to a veteran of the Second World War to go to Klamath. The veteran's name goes in this space, and it is signed by Franklin Delano Roosevelt.

My point is that when we proceed to engage in environmental restoration, we must not forget that we have a human concern as well. We can do both. I am absolutely convinced of it, but we cannot do both under this condition.

This Klamath circumstance is different than other endangered species conflicts that always seem to pit the man against the beast. This is different. This is about something that is possible, where we can save the fish and we do not sacrifice the people.

I want to keep Franklin Roosevelt's promise alive today because these reclamation projects were greatly expanded under his leadership and an inland empire was built of rural people, but now those people are being told they are of lesser value than the suckerfish. I do not think Franklin Roosevelt would that do not agree.

Mr. President, I plead for my colleagues to remember the human faces in this picture, to remember the promises made, and to help me help these people. This is not about a fish versus a farmer, unless we go down the road of these current biological opinions which have not been peer reviewed, in which the people there have no confidence. They are biological opinions that began with a determined outcome, and all of the activities that would be pursued—to provide off-river impoundment, take out a dam, provide some aeration—none of those things was done.

The only way I am going to get the Interior Department to understand that it cannot forget its human stewardship, that the Bureau's promises still ought to matter, is to go back to the old opinion and tell them that the new one cannot happen until they keep the promises made in 1993. In the meantime, this fish will survive, but many farmers will not if we do not begin to reverse course.

It is too late for this year's crops. I want you to remember the sign I showed you a few minutes ago. In a dust bowl that existed prior to Franklin Roosevelt's vision, and foreclosure notices are going out. At least now we can offer some hope that we, on our watch, will not permit this to be repeated. We need to give them some more money to make sure that no farm is lost to foreclosure because of Government inaction and then this action. But we have to help. We have to say this will not happen again.

I do not know how to plead this in a personal terms as I can for the help of this body to head off a disaster. This is not fish versus farmers. It does not have to be that. But it is that now under what has happened over the last 8 years.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. In relation to the Smith amendment, I move to table. I ask for the yeas and nays. And I further ask unanimous consent that the vote be held at 1:45. There are a number of people who are unable to come to the floor.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mr. REID. Mr. President, I ask that prior to the 1:45 vote, the Senator from Oregon be granted 2 minutes to explain the amendment to the Members of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.
July 12, 2001

The assistant bill clerk proceeded to call the roll.

MRS. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I thank my friend from Nevada for making a motion to table the Smith amendment, which we will vote on at approximately 1:45. I wanted to thank my friend from Arizona who has an amendment he wants to lay down. He was gracious to allow me to go ahead of him and just not to interrupt the debate.

I hope the motion to table the Smith of Oregon amendment does carry. We all share deep concerns about the current drought in southern Oregon and in northern California. My constituents have also been hard hit by this very dry year. But I think we cannot legislate on an issue that is so far-reaching by bringing an amendment to the floor before we have even looked at the possible remedies.

I joined my colleague from Oregon in seeking $20 million in economic relief for losses facing Klamath Basin farmers, and I certainly pledge to continue working with him to seek more funding and a long-term solution to this very vexing problem of getting enough water for everyone who needs it and everyone who deserves it.

The whole history of my State is, in many ways, built around the water issue. It is something we deal with all the time because we have more ag than any other State. It is one of our biggest businesses in California. We also know our State thrives because of tourism, our environmental ethic is very strong, and we have such a magnificent State we get the tourists.

Of course, we have more people than any other State in the Union—now almost 35 million people. So you have a constant debate, if you will, a constant struggle, if you will, between all the stakeholders. Everyone has something at stake with the water supply: The farmer, urban users, suburban users, and certainly the wildlife which do not have a voice, but we have to be their voice.

I can't join my colleague from Oregon in undermining the Endangered Species Act. The U.S. Fish and Wildlife Service in its own opinion tells us that without this water the endangered fish will go extinct.

Science tells us through the Fish and Wildlife Service that there are two species of fish that will become extinct if we carry out the plan of the Senator from Oregon.

If we are going to take an action that would lead to the extinction of two species of fish, it ought to be done with a little different format and not come as an amendment to the appropriations bill.

I agree that it is very possible that the Fish and Wildlife Service has not fully implemented its 1993 recovery plan for these fish. I call on them to implement that plan. But cutting off water for these fish this year doesn't solve that problem. It will cause the extinction to take place.

I know that the immediate needs of my constituents in the farm areas and those in Oregon will not be helped this year. The reality is that most of the region's farmers didn't plant this year because they knew about this drought. Taking the water from these fish and the needs of these species is not going to help the farmers now. But economic relief will help them. I am certainly committed to that.

We need to answer the dire needs of the farmers of the Klamath Basin. But driving the fish to extinction while providing little real gain to our farmers is certainly the answer.

It is very hard to look constituents in the eye when they have a problem and say: If we help you make a move now that you say will help you even though, in fact, in this case it wouldn't really help you, we can't do it because there is a bigger question; that is, the delicate balance in terms of who needs this water. It is hard to do that. But I think we can't come running to the floor every time to undermine laws that are in place—for real reasons. I happen to believe that we have the Endangered Species Act because we have to protect God's creatures. That is my own feeling. In fact, it is a responsibility that we have as a people to do that. If we don't do it, it is not going to happen. We have to move to protect these species.

Again, there may be a reason to take another look at this matter, but I hope we will move to table. I am certainly committed to having some hearings and making a more economic relief for the farmers that are affected in this Klamath River Basin.

I thank the Chair. I yield the floor. The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, is the parliamentary situation such that there will be a vote at 1:45?

The PRESIDING OFFICER. There is to be a vote at 1:45 and there is 4 minutes of debate set aside prior to that vote.

Mr. REID. Mr. President, if the Senator from Arizona will yield, if the Senator from Arizona needs the extra 4 minutes, we would be happy to work that out.

Mr. MCCAIN. I thank the Senator.

AMENDMENT NO. 904
Mr. MCCAIN. Mr. President, I send an amendment to the desk. The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCain] proposes an amendment numbered 904.
this bill. For example, an increase of $1.3 million is earmarked for an Alaska Native culture training program.

I happen to sit on the Commerce Committee. We were never asked to authorize that.

Another $250,000 for the Alaska Market Access Program; $1.1 million for the Pork $43 million in pork barrel spending—starting today.

For example, what is to stop a Senator from sunny Arizona or New Mexico from demanding Federal dollars for a statue of Apollo, god of the Sun? Or how to we prevent a Senator from California to beseech money for a statue of Bacchus, god of wine?

Or a Senator from Georgia, home to the Georgia Mansion, where the statue was constructed. At the close of the Exposition, the figure was removed to Birmingham and set up in Capital Park to represent the great iron and fuel industries of Alabama. The figure was cast in iron from a model by G. Morelli, a New York sculptor. It was brought to St. Louis in sections in over seven freight cars and mounted on a pedestal of coal and cike. The statue of Vulcan God of Fire and Iron stood 50 feet high and weighed 100,000 pounds. It was the largest iron ever made, and next to “Liberty Enlightening the World,” was the largest statue ever constructed. At the close of the Exposition the figure was removed to Birmingham and set up in Capital Park to remain as a permanent monument. It is a very impressive statue.

Now, in the bill before the Senate today—which, I mentioned, contains over $430 million in spending items that have not been properly reviewed to determine their worthiness for Federal funding—there is another $2 million to add to the $1.5 million last to continue the Pork Barrel spending doled out year after year.

For example, what is to stop a Senator from sunny Arizona or New Mexico from demanding Federal dollars for a statue of Apollo, god of the Sun? Or how to we prevent a Senator from California to beseech money for a statue of Bacchus, god of wine?

Or a Senator from Georgia, home to the great city of Athens, from asking for Federal funds to pay tribute to the Goddess Athena?

Or even a Senator form the home of the Mississippi, West Virginia, from getting Federal funds for Artemis, the ancient Greek goddess of the hunt? Maybe this is the time to stop this. Not one more Federal dollar should be spent on this kind of foolishness.

I ask my colleagues to extinguish the Roman god of fire and strike a victory for taxpayers, the godess of prudence—by throttling down our insatiable appetite for pork barrel spending—starting today.

Finally, Mr. President, there are statues—for a moment of seriousness—all over this Nation that require refurbishing.

The PRESIDING OFFICER. Under the previous order, 4 minutes have been reserved at this time for the Senator from Oregon and the Senator from California.

Mr. MCCAIN. Mr. President, I ask unanimous consent for 1 additional minute.

Mr. MCCAIN. Finally, Mr. President, as I said before, there are statues all over this Nation erected to worthy, wonderful, and patriotic Americans as well as people from other countries that need attention. If we are going to start down this path of millions of dollars to refurbish a statue of Vulcan, I don’t know where it all ends. I yield the floor and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. I say to my friend from Arizona, it appears the two parties in relation to the prior amendment are going to talk for a couple minutes.

Mr. MCCAIN. Fine.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

But, Mr. President, I worry this appropriation may set a dangerous prece-
there should be an exception granted to the Endangered Species Act with respect to this particular problem. Unfortunately, I understand he does not desire to do so.

This is a critical issue and for us to summarily do this would be really inconsistent with the purposes of the Endangered Species Act. That act is an important one, and it is one that has saved many species which have resulted in huge breakthroughs in medicine and in other ways.

We have to be very careful about what we do with respect to endangered species. So I will support the motion to table.

Mr. REID. Mr. President, the amendment would prevent the Fish and Wildlife Service from providing water for fish in the Klamath basin. The water at issue here is water the Service has determined is necessary to prevent the extinction of threatened and endangered species like the suckerfish and coho salmon in Oregon and California.

Only 2 days ago, we approved a supplemental appropriations bill. During that debate we heard many Members argue for additional spending for very important priorities. Fiscal constraints prevented us for meeting many of them. But one of the priorities we did add address in that bill dealt with the very subject of this amendment.

The bill provided $20 million to assist Oregon farmers who have been impacted by the drought and species concerns in the Klamath basin—$20 million. They are not the only farmers who have been impacted by drought (it’s a problem that affects Nevada’s farmers and ranchers this year as well), but to my knowledge they are the only farmers that received special aid in the supplemental.

The State of Nevada faces many of the same problems my colleague has spoken about here this afternoon. I would like to work with him to address those problems without modifying the Endangered Species Act in the manner he proposes.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 899. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 52, nays 48, as follows:  

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Mr. REID. I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Nevada.

AMENDMENT NO. 904

Mr. REID. Mr. President, with permission of the managers of the bill, I ask that the two Senators from Alabama each have 2 minutes to speak in opposition to the McCain amendment and Senator McCaIN have the final 2 minutes to speak in favor of his amendment.

This appears to be the last amendment we are going to have on this bill. The managers have informed me, along with the two leaders, that around 4 o’clock we will have a vote on final passage. It will take that much time to work on the managers amendment to get together the loose pieces.

I ask unanimous consent that we proceed now to the McCain amendment after the two Senators from Alabama speak and the Senator from Arizona speaks, and I also ask unanimous consent that when that vote is completed, the Senator from Oregon be recognized to speak for 5 minutes in relation to the Smith amendment of which we just disposed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama, Mr. SHELBY.

Mr. SHELBY. Mr. President, I rise in opposition to the McCain amendment to the Interior appropriations bill. I am troubled, quite frankly, that I have to defend Federal funding for historic preservation of the Vulcan Monument, which is of great importance to the people of Alabama and the South.

The Vulcan Monument in Birmingham, AL, is a unique and enduring hallmark of the city. It was constructed in 1904 to mark the 100th anniversary of the Louisiana Purchase and stands as a symbol of economic transformation in the South. Much like the Arch, the Golden Gate Bridge, the Statue of Liberty, and the Liberty Bell represent their respective cities and are symbols representing greater achievements for their communities and our Nation, the Vulcan stands as an important historical landmark for Birmingham and represents the rebirth of industrial development in the South.

I want the record to be clear that while Federal funding is important to the restoration of the Vulcan Monument, city and local fundraising efforts are leading the way toward completing the restoration project. While the Federal share for restoration efforts reaches $3.5 million, private citizens throughout the region have contributed over $10 million.

This is an excellent example of a public-private partnership trying to preserve an important historical treasure for the South and our Nation. It happens to be in Birmingham, AL.

I believe this amendment is misguided, and I pray it will be defeated.

Mr. SESSIONS. Mr. President, I know that Senator SHELBY travels throughout Alabama every year in every county, as do I. When we do so, we learn something about the State. As a kid going into Birmingham, I saw the Vulcan statue, the symbol for the steel city of Birmingham. It is a preeminent symbol of Alabama, and there will be no other statue in the State with as much prominence.

With the local citizens raising $10 million, with my support and certainly that of Senator SHELBY, the contribution from the Federal Government will help complete this historical renovation and restoration. It is a good use of the money, in my opinion as a Senator from Alabama. It is a good priority use of money for historic development.

I oppose the McCain amendment.

Mr. MCCAIN. Mr. President, let me quote from an October 23, 2000, issue of U.S. News & World Report entitled “Washington Goes On A Spending Spree”...

...a 56-foot, iron rendition of the Roman god of fire and metalwork. Built as an entry for the 1904 World Fair, it won the grand prize in the Palace of Metallurgy. Stewart Dancy, executive director of the Vulcan Park Foundation, says officials at the organization talked to Alabama Sen. Richard Shelby about helping to fund the renovation. “Why are federal tax dollars being spent on a statue in Birmingham?” asked Dancy. “Because Vulcan is symbolic of American industrial strength. He represents the working man...” (This is the best part.) These are federal dollars that would have gone somewhere.

There are statues all over America that need refurbishment. I hope everybody lines up with statues that need to be refurbished because the store seems to be open.

I know this amendment will not pass, but everybody ought to be on record as to whether they support this kind of pork barrel.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to amendment
No. 904. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. Enzi) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 12, nays 87, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—12

Allard Kentucky
Bayh Indiana
Carnahan Missouri
Ensign Nevada

NAYS—87

Akaka Hawaii
Allen North Carolina
Baucus Montana
Bennet Washington
Biden Delaware
Bingaman New Mexico
Bond Oregon
Boxer California
Breaux Louisiana
Brownback Kansas
Bunning Kentucky
Burns Wyoming
Byrd Virginia
Campbell Haskell
Cantwell Washington
Carper Delaware
Chafee Rhode Island
Cl-cert.
Clayton Georgia
Collins Georgia
Conrad Iowa
Corzine New Jersey
Cochran Mississippi

The amendment (No. 904) was rejected.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon is recognized for a period of 5 minutes.

AMENDMENT NO. 899

Mr. WYDEN. Mr. President, a few minutes ago the Senate voted on an Endangered Species Act amendment with special impact for farmers and rural people in my home State. I voted against the motion to table with great reluctance and wanted to take just a couple minutes to explain my vote this afternoon.

I think it is dangerous to legislate biological opinions about species without the opportunity to thoughtfully review the effects of such a far-reaching amendment. I think it is just as dangerous to force our citizens in rural communities into dire circumstances when a law that has accomplished many good things contains serious administrative flaws that are producing an increasing number of bad things.

It was my intent, if the Endangered Species Act amendment had not been tabled, to offer a second-degree amendment to it. My amendment would have allowed in the Senate to pick up the very generous offer made by Chairman Jeffords to try to get this job done right.

My amendment would have sought to try to address the problems in the Klamath Basin in a comprehensive way, in a fashion that would have helped farmers produce water conservation and improve water quality and, at the same time, would have protected species.

I think it is very clear that the challenge with the Endangered Species Act is to bring folks together. The challenge is to get everybody at the table—all of the stakeholders; farmers, environmental leaders, scientists, and others—to try to come up with ways that keep important protections of the Endangered Species Act and, at the same time, encourage the administrative flexibility so we can have more homegrown solutions.

I am absolutely convinced that the objectives of the Endangered Species Act make a lot of sense. But what you do in the Klamath Basin has to be different than what you do in the Bronx. And what you do in Detroit to protect a species is different than the challenge in Coos Bay, OR.

I look forward very much to picking up on the generous offer of Chairman Jeffords to work with our colleagues, on a bipartisan basis, to find comprehensive solutions to this Endangered Species Act challenge.

As I say, I voted against the motion to table today with great reluctance. I am very anxious to work with our colleagues, on a bipartisan basis, for a more comprehensive solution.

Mr. President, I appreciate the Senate, on a hectic day, giving me a few minutes this afternoon to explain my vote. I yield back and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 975

Mrs. BOXER. Mr. President, I ask unanimous consent the pending amendment be set aside, and further, I ask unanimous consent to send an amendment to the desk, that it be in order, and it also be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mrs. Boxer), for Mr. Byrd, proposes an amendment numbered 975.
July 12, 2001

of 1999 is further amended by striking subsection (m).

(c) APPLICABILITY.—The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAPO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 878

Mr. CRAPO. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senate from Idaho [Mr. CRAPO], for himself and Mr. MURKOWSKI, and Mr. CRAIG, proposes an amendment numbered 878.

Mr. CRAPO. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 3. BACKCOUNTRY LANDING STRIP ACCESS.

(a) In general.—Funds made available by this Act shall not be used to permanently close any aircraft landing strip described in subsection (b) without public notice, consultation with appropriate Federal and State aviation officials, and the consent of the Federal Aviation Administration.

(b) AIRCRAFT LANDING STRIPS.—An aircraft landing strip described in subsection (a) is a landing strip on Federal land that—

(1) is officially recognized by an appropriate Federal or State aviation official; and

(2) is administered by the Secretary of the Interior or the Secretary of Agriculture; and

(3) is commonly known for use for, and is consistently used for, aircraft landing and departure activities.

(c) PERMANENT CLOSURE.—For the purposes of subsection (a), an aircraft landing strip shall be considered to be closed permanently if the intended duration of the closure is more than 180 days in any calendar year.

Mr. CRAPO. Mr. President, first, I thank the chairman of the Appropriations Committee, Senator BYRD, and the ranking member, Senator BURNS, for the hard work they have put into this year’s Interior and related agencies appropriations bill. It is a changing process and they have done an excellent job in balancing the competing interests within the confines of our effort to make sure we maintain a balance.

At this point, I want to explain the amendment I present. I intend to withdraw the amendment when I am finished discussing it for reasons that will become apparent as I discuss it. In the past couple of years, we have seen a disturbing trend in the Department of the Interior and the Department of Agriculture regarding our Forest Service relating to back-country airstrips. The administration has begun to follow a pattern of allowing back-country airstrips to either go into a state of disrepair—be it, by not being able to repair—or to actually close, permanently close some of them, which is a serious problem to those parts of our public lands that need the services that these backcountry airstrips can supply.

Idaho, right now, is home to more than 50 of these landing strips, and our State is known nationwide for its air access to public lands and wilderness and primitive areas. Unfortunately, in the past, many of these airstrips in Idaho, and probably of the country, have been rendered unserviceable through the neglect I talked about earlier, or the decisions to close the airstrips without adequate public notice or any justification being provided.

There is a concern about this because these airstrips provide not only access to the back county for recreational use, but they are critical for maintenance and some of the management purposes of the agencies in managing our public lands and fighting forest fires. For example, or in providing the necessary access by agency personnel to perform their work on public lands, and also as part of rescue missions when they find the need to provide for rescue. It is those who use the backcountry airstrips who are often the ones who provide the valiant efforts to make rescues of people who are in distress in our national public lands.

Senators CRAIG and MURKOWSKI are cosponsors with me on the legislation to address this problem. We require the agencies to work with State and local communities and to engage in a process of public notice and justification.

In fact, it is our hope that, ultimately, we will be able to pass this legislation on a permanent basis. That would require the agencies to obtain the consent of the State personnel who are involved with the management of our airways and aviation concerns.

At this point, we were prepared to offer this amendment to the Interior appropriations bill this year to the Interior appropriations bill, which would have, simply for the period of this appropriations bill, required the agencies to consult with the State and Federal officials before closing any of these airstrips in our back-country areas.

However, working with the administration to try to obviate the need to propose this amendment, I am pleased to say, that I am now able to report to the people in the country that both the Department of the Interior and the Department of Agriculture have agreed—and I will be submitting letters for the RECORD which indicate this agreement—that they will honor the purposes of this amendment and make it the policy of those two agencies to comply with the requirements of this amendment and to continue to work with us on permanent legislation so we can address this issue on a permanent basis.

Mr. MURKOWSKI. I wonder if I can interrupt the Senator from Idaho in an effort to develop a colloquy with the Senator with regard to encouraging various agencies to work with the States on the issue of backcountry airport access.

Mr. CRAPO. I will be glad to yield to the Senator from Alaska.

Mr. MURKOWSKI. It is probably not applicable in areas of high concentration of private land, but out West, we have vast areas of virtually nothing. You only approach it if you get in a small airplane and fly over the western part of the United States or my State of Alaska.

I had a group of Senators in a single-engine airplane a few years ago. We had been in the air 2½ hours cruising along at about 80 knots. Finally, one of them asked: How much more wilderness do I have to see to, indeed, believe there is a lot of wilderness to be seen and beauty to be seen?

Nevertheless, when that engine quits, you have a problem. If you do not have some of these areas available—I know many of our friends from the east coast and populated areas cannot quite appreciate why we need them, but we vitally need them.

I join with my colleague in what I understand is a general commitment from the agencies, the Department of Agriculture and the Department of the Interior to work with States to identify what is in the interest of the States from the standpoint of safety access.

I commend him in that effort and hope when legislation is necessary that our colleagues will understand we need this in the wide open spaces out West. I see my friend from Montana who also agrees with this. I yield the floor.

Mr. CRAPO. Mr. President, I thank my friend and colleague from Alaska for his strong support on this issue. He is, as I indicated, a cosponsor of the legislation we will be pursuing and was supporting us in the effort to put this amendment on this bill again as it was last year.

Just so we can understand correctly, I want to read into the RECORD what the Department of the Interior and the Department of Agriculture committed to so we can begin the process, which I think is a very important first step in moving toward resolution of this issue.

The first letter is from Secretary Gale Norton, the Secretary of the Interior:
DEAR SENATOR CRAPO: The U.S. Department of Agriculture is committed to working with you and other Members of Congress to develop a comprehensive process to ensure that state and local governments and citizens are involved in decisions that are critical to maintaining these backcountry airstrips located on lands managed by the U.S. Department of the Interior.

Our Nation’s backcountry airstrips are important to many activities that take place on our public lands. Airstrips provide remote access for aerial firefighting efforts, they are an essential safety tool for pilots operating in rural and mountainous areas, and they provide a vital link to the outside world for many rural communities. It is important to ensure that legitimate uses of backcountry airstrips are protected. It is also a priority for this Department that any proposals to alter use of federal lands must go through open and public processes that include close consultation with local communities. I commit to work with you, and other Members of the congressional delegations, the State of Idaho, and local communities on any proposals to change the use of backcountry airstrips on lands managed by the U.S. Department of the Interior.

The amendment (No. 878) was withdrawn.

Mr. CRAPO. I thank the Chair.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. GREGG. Mr. President, I rise to respond to the Senator from Arizona who earlier today, in listing programs in this bill, felt it was inappropriate— I believe he used the word “pork” or some other derogatory reference to those programs—cited a $150,000 proposal in this bill to build a barn at the John Hay estate in New Hampshire.

I believe the Senator from Arizona has done a disservice to the people of New Hampshire by citing this item as one of the items on his list. It appears to me the research on that list may be rather weak if he is putting on the list items such as this. I want to give the Senator from Arizona the option.

The John Hay estate is owned by the Fish and Wildlife Service. John Hay was Abraham Lincoln’s secretary. He was Theodore Roosevelt’s and William McKinley’s Secretary of State. He served over 39 years as a public servant of extraordinary importance in our Nation’s history in the latter part of the 19th century and into the beginning of the 20th century, playing a major role in a number of very significant events, especially in the period 1890 to 1905 when he died.

As part of his lifestyle, he was a Renaissance man. He had been, as I mentioned, Secretary to Lincoln and is quite famous for his notes on Lincoln. In Washington, he started something called the Five of Hearts, a very famous historical group that met regularly at his home, which is now the Hay-Adams—Hay-Adams was not actually his home. His home was where the Hay-Adams is. That is the physical location.

That group involved five people of incredible intellectual capacity, and they became known as the Five of Hearts. He was part of that group and his wife was also.

As part of his effort and as part of the culture of that time actually, he wanted to set up a community which would be a respite from the hectic life of policy and government, and he chose the shores of Lake Sunapee in New Hampshire to do that. He came to New Hampshire and purchased a significant amount of land at that time—over a thousand acres—and an old farm and began to try to attract to that part of New Hampshire during the summer people who were world leaders in order to think and relax in what really was a bucolic atmosphere; it still is. It is a fabulous pastoral setting.

It is a lot like what Saint-Gaudens, who was another significant person in that period and tremendous artist in our history, had done in another part of New Hampshire called Cornish. He built a farmhouse; he took the old farmhouse and renovated it. It was situated on 1,000 acres. Of course, with any farmhouse there was a barn, as one would expect in that period and that family has owned that property for years and years. In the late 1980s, his daughter gave the property as part of her estate to the U.S. Government because she thought it was so important it be preserved as part of history because it is a truly unique piece of property.

One of the things he did on that property was bring in some extraordinary plants. In his travels he collected plants of alpine nature and built an alpine yard which is one of the rarest gardens in this country and has been designated so by the national garden groups. He built other gardens around the home. He had Theodore Roosevelt there and planted trees. There is a Theodore Roosevelt tree which grows outside the house.

The house itself was architecturally unique and presents a classic example of a Greek revival farmhouse in the New England tradition that flourished in the late 19th century. But most of those homes have been lost either through fires or being torn down over the years.

The gift of this property to us, the people of America, by his family was an extremely generous act. At that time it was given to us, it involved only 100 acres but over a mile of frontage on the lake. Frontage on the lake is extremely expensive. The house itself was not in good repair, and the barn was not, and the gardens were at risk because the gardener who had been managing them for 50 years was getting a little old and decided to give it up.

So as a result of a community effort with over 600 people involved, called the Friends of John Hay, we restored this home. There has been a fair amount of Federal dollars committed to trying to restore the home over the years. Senator Rudman, my predecessor, got the initial funds, and I have been successful in obtaining funds to restore the home. Why? Because, of course, it is a Federal property and we have responsibility. It would be as if we owned the home, and we may well own the home of Abraham Lincoln of Illinois, for all I know, and are restoring that home. But it is a Federal responsibility for which we have responsibility.

More importantly than that, it is a property that had such a magnetic effect in the region as a truly unique, historical site architecturally and because of the gardens, that the community around the property has risen up and participated, and the support. There are over 600 people who participate now in maintaining the gardens in what is a volunteerism that is rather significant and instructive and now has the gardens back to where they should be, and the home is back to where it should be.

As part of this property, as I mentioned, there was a barn. The barn was
also an architecturally unique building, with unique windows and unique buttresses inside. But more importantly, instead of the proposed snowing over a traditional New England home, it set the nature of the property.

This winter, for those who had the good fortune to go to New Hampshire and ski, we had great snow. We had such great snow, it never stopped snowing all winter long. Throughout our State and Vermont and Maine—Vermont does not get as great snow as we get, but they still get snow—a lot of homes, buildings, schools, in fact, found their roofs caved in. Regrettably, what happened at the Hay estate was, the barn, which was a historical barn, had a snow base on it which it could not maintain, even after 100 years—maybe not 100; maybe 85. Regrettably, the barn collapsed under the weight of the snow.

I guess it is the position of the Senator from Arizona that when a building that is on a historical site, which is the responsibility of the Federal Government to maintain, collapses, we should simply leave it there: Historical building that collapsed? Just leave it there. I guess that is the position of the Senator from Arizona.

What these funds were for—$150,000, which is not a great deal of money when you consider the character and size of the barn—was to restore the barn, put it back together, put it back up, and hopefully put in buttresses which will withstand the next major snow, which, of course, we hope to have again for our skiers.

The fact is, for the Senator from Arizona to come down here and represent it as somehow pork or inappropriate that the Federal Government has a responsibility to maintain a historical site of such significance, which had such huge community involvement when there was a disaster affecting that site which was the result of an act of God—by the way, an excessive snow year is pushing the envelope on how you define what are appropriate expenditures at the Federal level.

I cannot think of anything more appropriate than for the Federal Government to manage the property that has been given to the people of this country in a reasonable way. The reasonable thing to do, of course, is to rebuild the historical barn so the integrity of the property is maintained.

I believe the Senator from Arizona is misguided on this point. I want to put that in the Record. I will be happy to invite the Senator from Arizona on his next trip to New Hampshire, which appears to be reasonably frequent, to stop by at the Hay estate and see the barn, see the estate, see the gardens, maybe meet some people who work there on a regular basis as volunteers, and ask them whether that barn is an important part of that estate and whether the Federal Government has a responsibility to at least rebuild the barn when the people are volunteering literally thousands of hours to maintain the barn free. I look forward to the Senator stopping by at the John Hay estate.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair and wish the Presiding Officer a good afternoon and hopefully a short one.

It was my understanding there was a distinct possibility with the upcoming expiration of the Iran and Libya Sanctions Act, which expires in August, a renewal of the Iran and Libya Sanctions Act might be offered as an amendment to the Interior appropriations bill. If that had been the case, I was prepared to offer a second-degree amendment to the ILSA renewal with regard to Iraq. I think the occupant and other Members are aware of the Smith-Schumer letter which addresses the ILSA issue by extending for 5 years the moratorium on trade with both Iran and Libya.

The important thing to note is the 71 signatures in favor of extending that moratorium. As we know, it takes a 50 vote point of order to waive rule XVI, which is legislation on appropriations. I am not going to violate that.

We have a great inconsistency here. I have been coming to the floor for a long time talking about energy policies. I am referring today, of course, to our continuing dependence on petroleum from Iraq. We import somewhere between 500,000 and 750,000 barrels of oil from Iraq, but we are considering an act driving this dependence on Iraq. I have an amendment at the desk that would do just that.

I will not call up that amendment at this time, but I would like to alert my colleagues of the significance of what is going on with regard to Iraq. I think the occupant and other Members are aware of the Smith-Schumer letter which addresses the ILSA issue by extending for 5 years the moratorium on trade with both Iran and Libya.

We have a great inconsistency here. I have been coming to the floor for a long time talking about energy policies. I am referring today, of course, to our continuing dependence on petroleum from Iraq. We import somewhere between 500,000 and 750,000 barrels of oil from Iraq, but we are considering an act driving this dependence on Iraq. I have an amendment at the desk that would do just that.

Let me share with the Presiding Officer what the curve is relative to the increase in our oil imports from Iraq to the United States. It started in 1997 and has had its ups and downs. In 1998 we had a takeoff, and we are currently importing somewhere in the area of 700,000 barrels a day.

We had an interesting occurrence about 6 weeks ago where Iraq was unhappy with the U.N. in the G5 and made a decision to reduce its production by 2.5 million barrels a day for a month. That took 60 million barrels a day off the market.

Now, there were many in this body who thought OPEC would simply increase their production and offset that. That was not the case. OPEC simply decided to wait 30 days. As a consequence, the 30 days have passed, and Saddam Hussein did not get what he wanted from the United Nations, but he did turn back his production level.

As a consequence, I think it is important to recognize what is happening with regard to Iraq. Many people forget we had a war over there in 1990 and 1991. That war cost us some 148 American lives. We had 400 some wounded. We relieved 500000 prisoner. We were successful. The purpose of the war was very simple, it was to keep Saddam Hussein from invading Kuwait and going on into Saudi Arabia and basically controlling the world's supply of oil. Make no mistake about it; that was a real war.

The consequences of that are rather interesting to reflect on now. If we look at the situation with regard to our friend, Saddam Hussein, we find American families are now going to Saddam Hussein for energy. Iraq is the fastest growing U.S. source of oil imports: Again, 750,000 from Iraq; about 2.3 million from the Persian Gulf countries; the OPEC countries, about 5 million.

I am not going to stop there because I think that is where the issue is kind of left in the minds of many Americans. But let's think about realities. Since the gulf war, we have enforced an actual blockade. Perhaps some of my colleagues could share with me the difference between an aerial blockade and a surface blockade. A surface blockade with the Navy is generally considered an act of war. We have been enforcing this no-fly zone. We call it a no-fly zone, but it is really an aerial blockade. We have flown nearly 250000 individual sorties, flights, over Iraq, enforcing this aerial blockade. We have done it to prevent Saddam Hussein from threatening our allies in the region.

We are spending billions of dollars to keep Saddam Hussein in check. What are we doing with the oil? We take his oil, we fill up our airplanes, and send our pilots to fly over Iraq. They are not flying chaff; they are flying military artillery. Then they return, fill up on Iraqi oil, and do it again.

I find that discomforting, to say the least. I am indignant. It is unacceptable. I could use many adjectives. But Saddam Hussein is heating our homes in the winter, getting our kids ready for school each day, getting our food from the farm to the table, and we pay him pretty well to do that.

Let me refer to what is happening as a consequence of this. I will get back to this chart a little later. We can view it with some reflection because it represents a very significant trend.

Let's talk about what Saddam Hussein does with the money we pay him. He pays his Republican Guards to keep him alive; he supports international terrorist activities—we are aware of that; he funds his military campaign against American interests, American service men and women and our allies; and he is desperately trying to shoot one of our aircraft down.

When that happens, if it happens, God forbid, I don’t know what the reaction is going to be. But I know what
my personal reaction is. This risk has been evident to the American people and the American Congress. We have conducted hearings, but we have not done anything about it. Why not?

The inconsistency, of course, is we are proposing to extend our sanctions on Iran and Libya for another five years. We have not imported a drop of oil from Iran in 20 years. I am not suggesting we should. But we do not even mention Iraq.

In addition to paying his Republican Guards, supporting international terrorists, he builds an arsenal of weapons of mass destruction with biological capability. Who does he threaten? He threatens our ally, Israel. As a matter of fact, he ends virtually every speech with, ‘Death to Israel.

I don’t know how more pointed I could get. May I be missing something in this. Is this good policy? For a number of years the United States has worked closely with the United Nations on the Oil For Food Program. The program allows Iraq to export petroleum in exchange for funds which can be used for food, medicine, and other humanitarian products. But despite more than $15 billion available for those purposes, Iraq has only spent a fraction of that money for the needs of the Iraqi people. Instead, the Iraqi Government spends it on missile capability, defensive and offensive capability, a highly trained military. One has to wonder why, when billions of dollars are available to care for the people of Iraq; many of whom are malnourished, many of whom are sick, many of who have inadequate medical care; why would Saddam Hussein withhold the money available and choose, instead, to blame the United States for the plight of his people? Why is Iraq spending millions on nutrition and prenatal care? Why are they reducing that amount when billions of dollars are available? Why does $200 million of medicine from the U.N. sit undistributed in Iraqi warehouses? Why, given the urgent state of humanitarian conditions in Iraq, does Saddam Hussein insist that his country’s highest priority is the development of sophisticated telecommunication and transportation infrastructure? Why the billions available and his people are starving, is Iraq only buying about $8 million in agricultural products from the United States?

I do not have any quarrel with the Oil For Food Program. It is well intentioned. I do have a problem with the means with which Saddam Hussein has manipulated our growing dependency on Iraqi oil.

Three times since the beginning of the Oil For Food Program, Saddam Hussein has threatened, or actually halted, oil production, as I indicated, disrupting energy markets, sending world prices skyrocketing. Why did he do this? I guess he wants to send a message to the United States. The message might be: I have leverage over you. Every time I look at the chart I look at the increased leverage associated with Saddam Hussein and OPEC and the cartel. We do not have cartels in this country. We cannot. We have anti-trust laws against it. But we are feeding this cartel with our appetite for crude oil.

The harsh reality is, as much as we would like to relieve our dependence on oil with alternative energies—we have alternative sources of energy. We have coal, we have natural gas, we have the hydro, we have nuclear, but you do not move America or the world on that kind of energy. You move America and the world on oil. We do not have a substitute for that. We do not have anything real that you have.<

We are going to become more dependent unless we address the alternative and that is to reduce our dependence here at home by conservation and opening up new sources where we are likely to find a significant volume of oil.

One of the things in my energy bill as a specific goal and target is to reduce the dependence on imports of oil to less than 50 percent by 2010. You can do it in one fell swoop if, indeed, the oil in ANWR is what it purports to be, somewhere between 5.6 billion and 16 billion barrels a day. The question is, Can you do it safely; and the answer is clearly yes.

There is one other thing I would like to mention that has not gone into the ANWR argument to any extent. That is the interests of the residents of the area. That particular issue involved 95,000 acres of land that are in ANWR, up here at the top of the world, in the Northwest. Kaktovik—these Natives have 95,000 acres of land. I have a chart that shows the Native ownership. The Native ownership is basically such that it has no access to the existing pipeline. It has no access from the standpoint of producing, even for the villagers there, the gas that is in the village site for use by the villagers. They are simply precluded.

We use the term “corridor” in Alaska. Corridor means that when you are fishing and the fish are swimming, somebody takes their net and goes in front of you.

That is just what has happened up here with our Native people. The Native people have 95,000 acres of private land. They are precluded from recovering even their own natural gas for development and usage. That is wrong.

As we look at reality, and as we look at our increased dependence on imports, by the votes we have seen here, whether it is on lease sale 181 or some of the issues relative to our national monuments, we had better come to grips with reality. Where are these deposits going to come from if they do not come from areas that are still open?

This is a chart that shows the areas that are closed. The west coast and the east coast are off limits. Take lease sale 181. Three-quarters of that is off limits. The entire overtrust belt is off limits as a consequence of actions by the last administration.

I make this point simply to highlight the reality. Here we are talking about extending moratoriums against Iran and against Libya with no mention of Iraq. We have placed our energy security in the hands of a madman, Saddam Hussein.

The administration has attempted valiantly to reconstruct a sensible multilateral policy towards Iraq. Those attempts, unfortunately, have not been successful. We are still dependent on our foreign policy. We need to end our addiction to Iraqi oil. We need to basically go cold turkey. To that end, in a moment I will introduce legislation which would prohibit oil imports from Iraq, whether or not under the Oil for Food Program, until it is no longer inconsistent with our national security to resume these imports. I hope that this will be an initial step toward a more rational and coherent policy towards Iraq.

As a consequence, I am withdrawing my amendment at the desk. I trust my colleagues have picked up to some extent the points I have brought out.

Mr. President, I ask unanimous consent for 1 minute as if in morning business to introduce my bill. Then I will yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is withdrawn. Without objection, the Senator is recognized.

The remarks of Mr. MURkowski pertaining to the introduction of S. 1170 are located in today’s RECORD under ‘Statements on Introduced Bills and Joint Resolutions.’

Mr. MURkowski. Madam President, I suggest unanimous consent for a quorum.

The PRESIDING OFFICER (Ms. CANTWELL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, I think we are at a stage in the debate where I can say we have completed all of our work.

I compliment the chairman and the ranking member for their extraordinary work in the last couple of days.
in getting us to this point. Let me also thank Senator GRAMM of Texas for his work in the past couple of hours in working with Senator BYRD on a concern of great import to Senator BYRD.

There has been no request for a rollcall vote on final passage. I am now in a position to announce that there will be no more rollcall votes tonight.

There are no rollcall votes scheduled for tomorrow, nor will there be votes on Monday. My hope is that we will be able to move to the energy and water appropriations bill on Monday for debate only, and then we will move into debate on amendments beginning as early as Tuesday. I hope Senators will file their amendments and will be prepared to offer them even though we will not have votes on Monday. I encourage them to do that.

I am hopeful we can get at least two appropriations bills done, if not more, next week.

We have a lot of work to do. But there are no more votes tonight. As promised, I also made a commitment that a number of nominations—if I recall, something on the order of 20 nominations—will be offered shortly. We are about ready to do that. There is at least one that will be the subject of some discussion. But I know of no requests for rollcalls on those nominations. No more rollcall votes tonight.

We will begin work on Monday, hopefully, on energy and water.

I yield the floor.

Mr. BURNS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Madam President, I wish to take this opportunity to offer a few observations as we are closing up this Interior appropriations bill. I must thank the senior Senator from West Virginia for his work as chairman of this committee. His staff has been remarkable. They are easy to work with, and they have accommodated, I think, as many people in this body as they possibly could.

Peter Kiehhaber has done a commendable job in his first year as the clerk for the majority. His willingness to work with my staff has ensured that this bill has reached its bipartisan form. He has been assisted by a number of very capable staff members, including Ginny James, Leif Fonnesbeck, Brooke Livingston, and a detaillee from the U.S. Fish and Wildlife Service, Scott Dalzell.

On my side of the ring, I thank my staff members who work with me on the minority side.

Bruce Evans lent his expertise after spending numerous years as the majority clerk under the very able chairman of the Full Committee on Appropriations of Washington. I have a lot more respect for the former Senator from Washington and the work he did because this is my first year on Interior appropriations. I personally thank Bruce for continuing his service in the Senate and helping me through my first year as chairman and then ranking member on this bill.

I also thank Christine Drager for her assistance on a number of extremely difficult accounts, as well as Ryan Thomas, who moved from my personal office to the Appropriations Committee to lend a helping hand in drafting this legislation.

While I am thanking those who have helped in the formation of this legislation, I want to single out Mark Davis. Mark has joined my office as a congressional fellow from the U.S. Forest Service. I want my colleagues to know that it was Mark's efforts that ensured the necessary number of nominations, and all the requests were considered. He sifted through the request letters, organized your request lists, and tracked your staff down to make sure we had the information necessary to help us meet the desires of each Member and make some very tough decisions. I thank him for his service.

Madam President, this has been somewhat of a difficult process. We were not able to fully meet the desires of every Member who offered an amendment to this bill. However, the chairman and I have attempted to remain fair while avoiding adding legislative riders that would slow the progress of this bill.

It is imperative that this bill be moved through Congress and be sent to the President as soon as possible. It is now mid-July and we have a lot of work ahead of us.

Again, I thank my chairman, Senator BYRD of West Virginia. I could not have asked for a better chairman as I enter the first year working on Interior appropriations. I thank him very much for his patience because he helped me through some of the rough spots. I thank him for that.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I express my heartfelt gratitude to the colleagues, the distinguished Senator from Montana, who is the ranking member on the subcommittee of the Department of the Interior.

I thank him for his very able representation of his people. I thank him for the consideration he has accorded to all other Senators as we have developed this bill, brought it to the floor and managed it together. I thank him for his equanimity, his very friendly and accommodating spirit. I thank him for being CONRAD BURNS. I thank him for the contribution he has made in the development of this bill in working with me as we have attempted to manage the bill and bring it to a conclusion.

I thank our respective staffs on both sides of the aisle for their courtesies to the end and to our colleagues. I thank our colleagues for their cooperation and understanding. I thank the leaders on both sides for the assistance they have given to us. I particularly thank our Democratic whip.

I believe that Members will remember my taking the floor on many occasions to speak on the theme that the dog is man's best friend. Harry Truman said, "If you want a friend in Washington, you better get a dog. Well, I believe that. Members often hear me extol the virtues of the dog. Not only can we say that a dog is man's great friend, but for those of us who have to manage bills on the floor, it has been my experience that the majority whip is the best friend that a manager of a bill can have.

I have seen a goodly number of whips in my time on the Senate floor. The Office of Whip goes back a long way, into the 19th century, as a matter of fact, when it was said in the British Parliament that the whipper-in—the individual who kept the hounds from straying from the field during the fox chase. In those days, whips were sent in the form of circular letters to members of the opposition, members of the King's party to northern England, and sent as far away as Paris, France, to tell members to come in on a certain day and be prepared to vote on a certain matter. That was the whip's job.

The whip's position here has grown into an institution. During the early 1900s, during the first quarter of the 20th century, the offices known as majority whip, majority leader, minority leader, minority whip came into being. They are not constitutional offices, but these are offices that have been developed over the years.

The whip system in the House is much more refined and more highly developed than it is in the Senate, not quite so highly developed as it is in the British Parliament. In our body, we do not have the whip system they have in the House, but we have an extraordinarily good whip in HARRY REID from Nevada.

I was what I consider a good whip here for a good many years. I served with Mike Mansfield when he was majority leader. I was the majority whip, and I sat on the floor all the time. I never left the floor but a few minutes at a time. This whip, HARRY REID, performs that same function. He is on the
floor. He is helping Senators with their needs. He is helping the managers of the bill to arrive at agreements. He is helping the other managers of the bill to reach time agreements on amendments once they have been offered. He does an extraordinarily good job.

I express those compliments concerning HARRY REID. I think he is a better whip than ROBERT BYRD ever was. He has more patience than ROBERT BYRD had. I would say he has more political guomption than ROBERT BYRD probably had. He is a great whip. I salute him.

I have no hesitancy at all in saying if somebody does a better job than I can do, I salute them for it. He does an excellent job. I thank him.

He helped me and Senator STEVENS on the supplemental bill. He has helped Senator BYRD and myself on this bill. I thank him.

Madam President, we will be going to conference next week on this bill, and Senator CONRAD BURNS and I will, again, stand shoulder to shoulder with the other members of our team on both sides of the aisle, and we will be working with the House Members in an effort to bring from the conference a bill the President will sign into law.

I merely wanted to express those few compliments, those few expressions of gratitude, and to say I am very glad that the Senate has reached the point now of finalizing the action on this bill prior to it being sent to conference.

The Senate has now approved the fiscal year 2001 Supplemental appropriations bill and the first fiscal year 2002 appropriations bill, the fiscal year 2002 Interior and related agencies appropriations bill. We have scheduled nine bills for action in the Senate Appropriations Committee of work.

We have a long tradition on the Senate Appropriations Committee of working together on a bipartisan basis to produce fiscally responsible and balanced appropriations bills. Working together with my distinguished colleague and good friend TED STEVENS, we have gotten off to a good start this year.

The fiscal year 2001 supplemental appropriations bill passed the Senate on Tuesday by a vote of 98-1. It totaled $63.5 billion, not one thin dime over the President’s request. It is a balanced bill that approved most of the President’s request for defense and included a number of other priority programs such as funding for Education for the Disadvantaged, the Low Income Home Energy Assistance Program, and the Global AIDS program. It included no emergency funding. All unrequested items were fully offset so that we remain under the statutory cap on spending for fiscal year 2001.

Today, we have approved the fiscal year 2002 Interior appropriations bill by a voice vote. We have exercised discipline. The budget resolution sets very tight limits on overall discretionary spending. And this bill stays within the 302(b) allocation that the Appropriations Committees approved pursuant to the budget resolution.

In both bills we held the line. We stayed within our budgetary boundaries. We took a deep breath and were able to squeeze those narrow walls. But the walls are getting tighter. We have been given a difficult task. Much has been asked of us; a tremendous amount is expected when it comes to providing for the national need.

We are attempting to conduct the people’s business—to pass the thirteen bills that fund government in a timely fashion. The clock is ticking. We hope to go to conference soon so that this bill can be sent to the President before the August recess.

The House and Senate Budget Committee are now projecting that we will be dipping into the Medicare surplus in fiscal year 2002 and that this trend is likely to continue for several years. This is taking place before a single appropriations bill has been sent to the President.

I believe that this change in our budget outlook will result in very tight limits on discretionary spending over the next few years. I don’t like it, it won’t be good for America, but it is a reality. As we consider the fiscal year 2002 bills, it will be very important that we understand the long term consequences of our actions. We should not be taking actions this year that will lock us into long term costs. We have a long tradition on this committee for producing responsible bills, one year at a time.

There will be a strong temptation to approve provisions this year that will mandate costs for specific programs in future years. We simply can not go down that road when we know that we are facing tight spending limits over the next few years.

Madam President, I ask unanimous consent that during the pendency of H.R. 2217, the managers be permitted to offer a managers’ amendment; that once the amendment is reported, it be considered agreed to and the motion to reconsider be laid upon the table; that any amendments laid aside be modified that the motion to reconsider be laid upon the table; that no further amendments be in order; that the bill be advanced to third reading; that the Senate proceed to vote on passage of the bill with no intervening action; that the Senate insist on its amendment, request a conference with the House of Representatives, and the Chair be authorized to appoint conference on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I yield the floor.

Mr. BURNS. Madam President, I again thank Senator BYRD for his leadership on this legislation. We set a record for an Interior Appropriations bill due to the chairman’s leadership. Two days is about as fast as we have done an Interior appropriations bill. That is a great credit to his leadership. I thank the Senator from West Virginia.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I ask unanimous consent that any statements by Senators in connection with the bill be printed in the RECORD as though spoken.

The PRESIDING OFFICER. Without objection, it is so ordered.

A UNANIMOUS CONSEN T AGREEMENT—NOMINATION OF J. STEVEN GRILES

Mr. REID. Madam President, I ask unanimous consent that immediately following the vote on final passage of H.R. 2217, the Senate proceed to executive session to consider the nomination of J. Steven Griles to be Deputy Secretary of the Interior; that the Senate immediately vote on the confirmation of the nomination, with no intervening action; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate’s action; that there then be a period for debate regarding the nomination; and that following that debate, the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Oregon.

Mr. WYDEN. Madam President, reserving the right to object, I ask unanimous consent that the agreement be modified to reflect that the vote occur on the nominee following remarks.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I ask for no more than 2 minutes following the comments of the Senator from Oregon.

Mr. REID. I say under my own consent request, it is likely that the junior Senator from Florida will also want to speak. He has indicated that when we take your voice vote, he wants to be one of those known as having voted no. So I reserve some time for him, too, if he desires to come.

The PRESIDING OFFICER. Does the Senator modify his request?

Mr. REID. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

A UNANIMOUS CONSENT AGREEMENT—NOMINATION OF J. STEVEN GRILES

The PRESIDING OFFICER. The clerk will report the managers’ amendment.

The legislative clerk read as follows:
The Senator from West Virginia [Mr. BYRD], for himself and Mr. BURNS, proposes an amendment numbered 976.

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The amendment (No. 976) was agreed to.

The PRESIDING OFFICER. Under the previous order, all the pending amendments are agreed to.

The amendment (No. 880) was agreed to.

The amendment (No. 975), as modified, as agreed to, as follows:

At the appropriate place, insert the following:

SEC. 11. MODIFICATION TO STEEL LOAN GUARANTEE PROGRAM.

(a) IN GENERAL.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 (Public Law 106-51; 15 U.S.C. 1841 note) is amended as follows:

(1) TERMS AND CONDITIONS.—Subsection (b) is amended by—

(A) in paragraph (1), by striking "2005" and inserting "2015"; and

(B) by amending paragraph (4) to read as follows:

"(4) GUARANTEE LEVEL.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), any loan guarantee provided under this section shall not exceed 95 percent of the amount of principal of the loan.

(B) INCREASED LEVEL ONE.—A loan guarantee may be provided under this section in excess of 95 percent, but not more than 90 percent, of the amount of principal of the loan, if—

(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $100,000,000; and

(ii) the aggregate amount of loans guaranteed at such percentage and outstanding under this section with respect to a single qualified steel company does not exceed $50,000,000.

(C) INCREASED LEVEL TWO.—A loan guarantee may be provided under this section in excess of 95 percent, but not more than 90 percent, of the amount of principal of the loan, if—

(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $100,000,000; and

(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed $50,000,000.

(b) TERMINATION OF GUARANTEE AUTHORITY.—Subsection (k) is amended by striking "2001" and inserting "2003".

(c) APPLICABILITY.—The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act.

Mr. BURNS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

INDIAN HEALTH SERVICES

Mr. DASCHLE. Madam President, I would like to bring to the attention of the Senate the critical shortfall in Indian Health Service funding. The Indian Health Service is unable to provide basic health services to American Indians and Alaska Natives. We are failing to uphold a promise we made many years ago in federal-tribal treaties as well as federal statute.

The Indian Health Service is tasked with providing full health insurance for American Indians and Alaska Natives, but is hindered by the fact that patients are routinely denied care that that most of us take for granted and, in many cases, call essential. The budget for clinical services is so inadequate that Indian patients are subjected to a “life or limb” test. Unless their condition is life-threatening or they risk losing a limb, their treatment is deferred for higher priority cases; by the time they become a priority, there are often no funds left to pay for the treatment.

I attempted to address this crisis by offering an amendment to the fiscal year 2002 budget resolution. The amendment called for a $1.2 billion increase in the clinical services budget of the Indian Health Service. Seven of my colleagues cosponsored this amendment, which passed the Senate, but was not included in the bill that returned from conference.

I again attempted to address this situation in the Interior Appropriations bill, but it appears that some will be unable to do that at this time due to the inadequate budget allocation facing the Interior Appropriations Subcommittee. I would like to engage in a colloquy with the distinguished chairman of the Appropriations Committee on how we might address this situation in conference and advance the goal of living up to our commitment to provide essential health services to American Indians and Alaska Natives.

Mr. BYRD. Madam President, I am happy to address that issue with the majority leader. Can the leader tell me what would be required to offer the basic health services we promised to American Indians and Alaska Natives?

Mr. DASCHLE. Madam President, we have estimates of the funding that would be required to provide basic clinical services to American Indians and Alaska Natives. The President’s fiscal year 2002 budget requests $1.8 billion for Indian Health Service clinical services. With the increase over the fiscal year 2001 appropriation, it will not allow the Indian Health Service to meet the basic level of health needs for American Indians and Alaskan Natives.

For many years now, appropriations for the Indian Health Service have not even kept pace with medical inflation or population growth. We are failing to invest in health care for each Indian Health Service beneficiary is only one-third of what is spent per capita for the general U.S. population. The Department of Health and Human Services and the Indian Health Service produce a tribal needs-based budget that calculates the true cost of meeting the health needs of Native Americans. According to these estimates, a $1.2 billion increase in the fiscal year 2002 budget is required to meet the most basic health care needs.

The impact of serious, chronic under-funding of the Indian Health Service is immense. The disparities in health outcomes between American Indians and Alaska Natives compared to other Americans is just one example. An American Indian baby is 50 percent more likely to die before the age of one than a Caucasian baby. In some counties of my state, the infant mortality rate is 33.6 per 1,000, more than 5 times the Caucasian rate. The same disparities exist for diabetes, tuberculosis, alcoholism, liver disease, and fetal alcohol syndrome.

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Mr. COCHRAN. Madam President, I know that his efforts to increase Indian Health Service funding have been undermined by an inadequate budget allocation for this subcommittee. I certainly appreciate the severe constraints on the Appropriations Committee, particularly in light of the tax cut legislation recently enacted and the budget reestimates that indicate the projected budget surpluses are in doubt.

I hold out hope that, as he and the other conference negotiators stand in the House, they can find some way to provide additional funding for the clinical services budget of the Indian Health Service. As the majority leader, I will work with our colleagues to ensure that the projected budget surpluses are not used to fund domestic priorities.

Mr. BYRD. Madam President, I am concerned about these conditions, and I know that his efforts to increase Indian Health Service funding have been undermined by an inadequate budget allocation for this subcommittee. I certainly appreciate the severe constraints on the Appropriations Committee, particularly in light of the tax cut legislation recently enacted and the budget reestimates that indicate the projected budget surpluses are in doubt.

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be provided with health care services under the Indian Health Services Contract Services Program. It is my understanding that there is a procedure which would allow the Mississippi Band of Choctaw Indians to include the approximately 300 tribal members who reside in Ripley, TN, within their authorization area.

The Ripley community lacks the most basic health services. There are no resources for preventive health education and no access to either Indian Health Services or tribally operated facilities.

The Mississippi Band of Choctaw Indians has demonstrated a commitment to these tribal members by providing updated housing and other infrastructure and services. The tribe is currently constructing a health care facility at the Ripley Community. However, it is concerned that it does not yet have the authorization from Indian Health Services to provide those services.

I am sensitive to the constraints in the Interior Appropriations bill, which did not allow an increase in the Contract Services Program. I am hopeful that we can work with our colleagues from the House of Representatives in the conference to fund additional funds for this program, to increase the likelihood that tribal members, no matter where they live, will be able to have access to the health services they need to stay healthy.

Regardless of the funding situation, I hope that the Indian Health Services officials here in Washington, D.C., will review this situation and work closely with Chief Phillip Martin, the tribal council officials of the Mississippi Band of Choctaw Indians, to expand its Contract Health Services area.

Mr. BYRD. The Senator from Mississippi has my assurance that I will support his effort to assist the tribe in his State. I encourage the Director of Indian Health Services to pay particular attention to the request of the Mississippi Band of Choctaw Indians to serve its tribal members in Ripley, TN.

Atlantic Salmon Conservation

Ms. SNOWE. Madam President, my colleague from Maine and I would like to engage the subcommittee chairman and ranking member if we may.

Ms. SNOWE. I also want to thank my colleagues for their support for Atlantic salmon recovery. As the Senators from Maine, $500,000 for Fish and Wildlife Foundation’s Atlantic salmon grant program. The program, which has leveraged an even greater amount of non-federal money, has been extremely successful in identifying and supporting innovative projects that will help with the recovery effort.

Mr. BYRD. I appreciate the comments of my colleagues from Maine and commend them for the hard work they have done to secure resources to help with the Atlantic salmon recovery efforts in their State.

Ms. COLLINS. In reporting its bill, the subcommittee originally provided $500,000 for the Fish and Wildlife Management Account for the National Fish and Wildlife Foundation’s Atlantic salmon grant program. It is my understanding that, in increasing funding for the program to $1.1 million, the subcommittee continues to meet the administration’s request for funding for Atlantic salmon recovery efforts through the Fish and Wildlife Management Account.

Mr. BURNS. The Senator from Maine is correct. The subcommittee recommended an increase of $7,380,000 for Fish and Wildlife Management above the administration’s request for this account. Of the $7,380,000, $600,000 has been reallocated as part of the manager’s amendment to the U.S. Fish and Wildlife Service’s General Administration Account for the National Fish and Wildlife Foundation’s Atlantic salmon grant program, bringing the total provided by the bill for this program to $1.1 million.

Ms. SNOWE. The money that was provided last year has been utilized to engage a wide range of stakeholders, including local community groups as well as aquaculture, agriculture, and forestry companies in cooperative restoration efforts. They have worked hard to aid the rebaking process. It is a reflection of the strong commitment of everyone in Maine that we have far more projects being proposed than funding to accommodate them all. I can assure you that the money you are providing today will make a significant impact. I thank the subcommittee chairman and the ranking member for their courtesy and continued support.

Ms. COLLINS. I also thank the Senators from West Virginia and Montana, and I look forward to continuing to work with them and the senior Senator from Maine to ensure that resources are available to assist in Atlantic salmon recovery efforts.

Funding for the Urban Parks and Recreation Recovery Fund

Mrs. BOXER. Madam President, I would like to take this opportunity to clarify that it is the intent to seek additional funding for the Urban Park and Recreation Recovery Fund, UPARR, when the Senate Interior Appropriations bill goes to conference.

UPARR plays a vital role in supporting the last remaining green spaces in some of our most congested urban areas. This program takes a relatively small amount of federal funds and leverages them to make a substantial contribution to the development and improvement of our nation’s urban parks, playgrounds, and recreational areas. For many of my constituents, these small pockets of open space are a vital part of their community. They serve as playgrounds for children, meeting places for adults, and areas for fun, recreation, and respite from the daily hustle and bustle of our Nation’s most economically and socially stressed neighborhoods.

I was pleased to see that the House included $30 million for this important program in its fiscal year 2002 Interior appropriations bill. This amount includes a slight increase over this year’s funding levels and is consistent with the commitment made to this program last year in title VIII of the Interior appropriations bill.

I was disappointed, however, that the Senate bill did not match this funding level. I realize that this lower level of funding for UPARR is related to the lower overall level of funding in the Senate bill. When the bill gets to conference with the House, I hope we can accept the House level. Is that the chairman’s intent?

Mr. BYRD. I agree with my distinguished colleague from California that UPARR is a worthy program. If additional funds become available in conference, I shall be glad to consider a higher level of funding for UPARR.

Sewall-Belmont House

Mrs. HUTCHISON. Madam President, I rise today to ask my colleagues Senator Byrd and Senator Burns to work with me in conference on the Interior appropriations bill to ensure that the Interior Department provides funding for an important Capitol Hill landmark, the Sewall-Belmont House.

The Sewall-Belmont House has been a center of political life in Washington for more than 200 years. It was the home of Treasury Secretary Albert Gallatin from 1801 to 1813 and the only site in Washington to offer armed resistance when British troops invaded the city in August 1814. The building later became a beacon of liberty for American women in the 20th century as the headquarters of the historic National Woman’s Party and home of the suffragist leader, Alice Paul.

Congress provided $500,000 last year to begin much needed site preservation work at the Sewall-Belmont House. Funds will be needed this year to continue construction and ensure that this site remains a national landmark.

Recognition of the Sewall-Belmont House as a nationally significant heritage site has dramatically increased as
Mr. HARKIN. I thank the Senator.  

OHIO WATER PROJECTS  

Mr. DEWINE. Madam President, I rise to enter into a colloquy with Appropriations Chairman BYRD and the ranking member of Interior Appropriations, Senator BURNS. I want to briefly discuss with my honorable colleagues an important conservation and recreation project that is of great interest to me and request their favorable consideration of $5 million for this project in the fiscal year 2002 Interior Appropriations bill.  

Madam President, a few miles west of Ohio's State capital of Columbus flow two outstanding waterways: the Big and Little Darby Creeks. These two creeks are recognized as State and National Scenic Rivers for their crystal clear water, their abundance of wildlife, and the fact that many Ohioans as a source of high quality outdoor recreation. The Nature Conservancy has even listed these watersheds as one of the "Last Great Places" in the Western Hemisphere. On more than one occasion, I have had the pleasure of visiting these two creeks. As a matter of fact, Mr. President, I spent a wonderful day canoeing on the Big Darby Creek earlier this week with two of my children.  

Since 1959, the Franklin County Metro Parks have been purchasing land from willing sellers along these two creeks as part of their Battelle-Darby Creek Metro Park. The Park currently offers several recreational opportunities including a Streamside Classroom Education Program, a 1.6 mile walking trail, and several canoe access sites. In addition to welcoming the thousands of visitors the park receives each year, the park's dedicated and highly trained staff are conducting important wetland and prairie restoration programs in the area. At this time, there are several potential purchases that could substantially expand the park and ensure the protection of the creek and increase public access opportunities. I have urged my colleagues on the Interior Appropriations Committee to provide funding for these purchases.  

I have discussed my interest in providing financial support for further expansion of the park with Senators BYRD and BURNS and I appreciate their willingness to enter into this colloquy. I also appreciate their interest in exploring funding opportunities for this project through the fiscal year 2002 Interior Appropriations bill.  

Mr. BYRD. Madam President, I have had the opportunity to discuss this project with Senator DeWine, and I rise today to assure him that I appreciate and understand his interest in this important project and will give it serious consideration during the further consideration of the fiscal year 2002 Interior appropriations bill.  

Mr. BURNS. Madam President, I too have had the opportunity to discuss this project with my friend from Ohio. I share Senator BYRD's interest in examining potential funding opportunities to support the Central Idaho Wolf Recovery Program.  

WOLF RECOVERY PROGRAM  

Mr. CRAIG. Madam President, I rise to commend Mr. BYRD and Mr. BURNS on their leadership and hard work on this bill. The subcommittee has had to make hard decisions about scarce resources and has labored to do so fairly. The votes we have made require to make sure the taxpayer's dollar is spent effectively and efficiently. I have seen first-hand, and appreciate, their dedication to the integrity of this process.  

Would the distinguished gentlemen form West Virginia and Montana engage in a colloquy with me concerning the Central Idaho Wolf Recovery Program for the nonexperimental population of gray wolves?  

Mr. BYRD. I would be pleased to engage in such a colloquy.  

Mr. CRAIG. While I wish gray wolves did not reside in my State, they do, and they are not going away. Thus, I believe the U.S. Fish and Wildlife Service must be proactive and aggressive in addressing issues related to the monitoring of the wolf population and working with the affected States of Idaho, Montana, and Wyoming to delist the population. The wolf population in Central Idaho is growing by leaps and bounds. As a result, permittees are faced with growing livestock-wolf conflicts. In addition, private property rights are infringed as these conflicts occur on private property. Yet the permittees must have a Federal permit to address conflict issues on their own land. Last, as the population grows, management efforts have not increased at the same rate. I feel that these individuals should not be punished because the wolves were re-introduced into central Idaho.  

The subcommittee has worked to secure an additional $200,000 for the Central Idaho Wolf Recovery Program. I fear this additional money should be used to increase monitoring efforts and increase communication with potentially affected permittees, as well as, to focus efforts on defining and meeting criteria for delisting the wolves in central Idaho. I believe these funds should work to provide Idaho with flexibility in managing wolf population to meet the needs of those most affected by the wolves.  

Mr. BYRD. I will work with Mr. Craig to see that these funds are used for monitoring of the central Idaho wolf population.  

Mr. BURNS. As this gentleman from Idaho, these funds should be used to provide flexibility in managing the wolf population of central Idaho.
JUDICIAL TRAINING IN THE PACIFIC ISLANDS

Mr. SMITH of Oregon. Madam President, I would like to discuss with distinguished colleagues, the chairman of the Appropriations Committee, and the ranking member on the Interior Appropriations Subcommittee, the need for judicial training in the Pacific Islands.

I have been working over the past year with the judges of the ninth circuit, the circuit charged with overseeing the judiciary in the Pacific Islands, to help them secure the funds to conduct a needs assessment for the training of judges in the United States territories and Freely Associated States in the Pacific. That assessment has been completed, and has identified the need for more training programs for nonlawyer and legally trained judges.

The judges of the ninth circuit have worked with the National Judicial College to design two separate one-year training programs for judges in the Pacific Islands. One is aimed at nonlawyers and would be conducted in Pohnpei, the capital of the Federated States of Micronesia, in order to be the most cost effective. The second program would be conducted in the United States, and would be geared toward chief justices or presiding judges.

These training programs are necessary to help Pacific Islands facing burgeoning populations and judicial systems that are not fully developed. The need for further training of these judges has long been recognized by the ninth circuit. This program has the full support of the judiciary in American Samoa, Guam, the Commonwealth of the Northern Marianas, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

If we are to expect these areas to be able fully and effectively enforce applicable laws, including traditional laws, those who serve in the local judiciaries are able fully and effectively enforce applicable laws, including traditional laws, which have served the people of the region well for centuries. The need for our government to provide assistance to the people of these territories to help them establish their own systems of justice is both critical and urgent.

I am concerned, however, that by allowing the project to go forward, we may be sacrificing the ability of the federal government to secure the funds needed to help Pacific Islands facing the need for judicial training. This is a concern that I share with the chairman and the ranking member of the Appropriations Committee, and I want to take this opportunity to discuss this issue with them.

Mr. BYRD. I am familiar with this project. As I understand it, the owner of the land is asking for $300 million in Federal and State funds for the 13,000 acres. While, this may be a worthwhile endeavor, I question whether it will be possible to allocate such a large sum. I have not understood the chairman’s concern about the level of funding required to complete this purchase. I share his concerns. I am personally working with all parties involved in the agreement in an effort to substantially reduce the federal share of the purchase price.

I am concerned, however, that, by providing no funding in the fiscal year 2002 Interior appropriations bill, the seller will be forced to seek other buyers. This would be a loss of opportunity of historic proportions. It would be my intention to secure a small amount of funding in the Senate bill to keep the project alive as we move forward in appropriations process with the goal of increasing the project’s appropriation so that a more realistic price be negotiated.

Mr. SCHUMER. As the Senator from California knows, funding for the Fish and Wildlife Land acquisition account has already exhausted its cap and any new funding would have to be offset from within the account.

I am aware of the problem raised by the ranking member. To this end, I am willing to reduce funding for two California land acquisition projects—the San Diego National Wildlife Refuge and the San Joaquin National Wildlife Refuge—by $250,000 each. I want to be very clear—I fully support these projects. In fact, they were included in the bill at my request. I intend to see that they are fully funded by the end of this process. However, due to the procedural necessity of providing an offset, the only way to ensure that all three equally important projects go forward is to make this reduction. Should the interested parties fail to come to an acceptable agreement over the San Francisco baylands, the funding could return to the San Diego and San Joaquin projects.

Mr. FEINSTEIN. I am aware of the problem raised by the ranking member. To this end, I am willing to reduce funding for two California land acquisition projects—the San Diego National Wildlife Refuge and the San Joaquin National Wildlife Refuge—by $250,000 each. I want to be very clear—I fully support these projects. In fact, they were included in the bill at my request. I intend to see that they are fully funded by the end of this process. However, due to the procedural necessity of providing an offset, the only way to ensure that all three equally important projects go forward is to make this reduction. Should the interested parties fail to come to an acceptable agreement over the San Francisco baylands, the funding could return to the San Diego and San Joaquin projects.

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CONGRESSIONAL RECORD—SENATE

July 12, 2001

Mr. SCHUMER. I thank the Senator from West Virginia. I thank the Chair. Mrs. CLINTON. I thank the Chair.

Mr. CLELAND. Madam President, I first thank my distinguished colleagues for their leadership and superb management of this bill. I want to take a moment to express my support for a matter of great importance to the people of my State, specifically obtaining funding for land acquisition in the Chattahoochee National Forest. I understand that the $2,320,000 included in the Appropriations Interior Subcommittee report for that purpose will be used to purchase available tracts of land in, or bordering, the Chattahoochee National Forest in Georgia. I inquire of the distinguished Senator from West Virginia and chairman of the committee, am I correct in understanding that $1,300,000 of that total is intended to purchase property at Mount Yonah near Helen, GA, with the remainder being used to purchase property at Jack’s River near the Cohutta Wilderness and the Etowah River near Dahlonega, GA?

Mr. BYRD. The Senator from Georgia is correct regarding the committee’s intent.

Mr. CLELAND. I thank the Senator for his inclusion of these worthwhile projects in the Interior appropriations bill.

TECHNICAL ASSISTANCE FOR THE NEW RIVER GORGE NATIONAL RIVER PARKWAY

Mr. BYRD. Madam President, I want to take a moment to ask the ranking member for his agreement to continue a program of importance to the State of West Virginia. The New River Gorge National River is a scenic whitewater river that flows through deep canyons and mountains. The Congress has provided $215,000 annually for technical support and maintenance on the New River Gorge National River Parkway. Would the ranking member agree that funding for this purpose be continued within the National Park Service appropriation in fiscal year 2002?

Mr. BURNS. I agree with the distinguished chairman that this funding should be continued in fiscal year 2002.

Mr. LUGAR. Madam President, I appreciate the previous support the subcommittee has granted to the Fine Hardwoods Tree Improvement and regeneration Center at Purdue University. The HTIRC is engaged in research problems and technology transfer related to the regeneration of fine hardwoods. It is a regional center emphasizing not only genetic improvements and silvicultural goals, but addressing wildlife and riparian buffer issues and providing information and outreach to forest landowners.

In establishing the center, I worked with Dr. Robert Lewis of the Forest Service. The project has widespread support and is financially supported not only by the Forest Service and Purdue University, but by the Indiana Department of Natural Resources and by a very wide variety of forest landowner, industry groups and foundations. It is designed to improve the quality of hardwood tree seedlings and to address the annual shortage of hardwood tree seedlings in the midwest.

The Forest Service and the Department of Agriculture view the center as an excellent example of cooperation between government, academia and industry in addressing important issues concerning the regeneration of hardwoods. The proposed new forest biology building and laboratory complex will soon house eighteen Forest Service employees and would provide office space and high tech laboratories for these Forest Service employees rent-free and without any charges for maintenance or services over the lifetime of the facility.

The total cost of the forest complex is $27 million. Purdue has committed $20 million to this effort. The remaining $7 million would be derived from the Forest Service as its share of the cost to house its employees, who would receive office space rent-free and maintenance-free over the lifetime of the facility. Based on a life cycle analysis, the Forest Service has concluded that this degree of cost sharing is fully justified and is in fact extremely favorable for the Forest Service.

I thank the chairman and the ranking member for including a provision in this bill that releases $300,000 in previously appropriated funds for the design and construction of this facility. Construction of the facility is planned to begin during fiscal year 2002 and the Forest Service share of that fiscal year’s funding needs is estimated at $2 million.

Mr. BURNS. I understand the need for the project, and I appreciate the Senator’s leadership and strong desire to bring this into fruition.

Mr. BYRD. Senator BURNS and I will work with the Senator from Indiana to see if we can find sufficient resources through the conference process to support the Forest Service’s share of this worthy effort.

Mr. LUGAR. Madam President, I appreciate the previous support the subcommittee has granted to the Fine Hardwoods Tree Improvement and regeneration Center at Purdue University. The HTIRC is engaged in research problems and technology transfer related to the regeneration of fine hardwoods. It is a regional center emphasizing not only genetic improvements and silvicultural goals, but addressing wildlife and riparian buffer issues and providing information and outreach to forest landowners.

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CANE RIVER NATIONAL HERITAGE AREA

Ms. LANDRIEU. Madam President, I express my sincere appreciation to the distinguished floor manager and chairman of the Appropriations Committee for support of my request to provide funds for the Cane River Creole National Historical Park and Heritage Area. This park, one of America’s most
Mr. BYRD. The Senator from Louisiana is correct. We were pleased to be able to recommend funding for this high priority of the Senator.

Ms. LANDRIEU. With the Senator's forbearance, I want to clarify the purposes for which these funds are allocated. My request to the committee, and I assume the committee's recommendation, will continue funding for the Cane River Heritage Area at last year's rate of $400,000 for salaries, expenses of the trees in our national forests, and the Minnesota Department of Natural Resources, seven adjacent Minnesota Bands of Chippewa, and the Forest Service plans to continue their recovery work there through fuel reduction, reforestation and general rehabilitation. The bill before us contains increased general funding for such management, recovery and rehabilitation, and I would seek my colleague's assurance that it is his understanding that an adequate portion of that funding will allow the Superior and Chippewa National Forests to continue their crucial efforts.

Mr. WELLSTONE. I believe that both the Superior and Chippewa National Forests bore the brunt of a massive, once-in-a-thousand years wind and rain storm that devastated parts of northern Minnesota. The storm damaged over 300,000 acres in seven counties, including as much as 70 percent of the trees in our national forests, and it washed out numerous roads. The damage severely hindered the U.S. Forest Service's ability to responsibly manage both the Chippewa and Superior National Forests.

The "blowdown" of trees created extreme risk of catastrophic fire due to the amount of downed and dead timber. Yet while the storm has changed affected portions of the forests for years to come and has created new risks and experiences for visitors and residents, it has created new risks and opportunities for the forests for years to come and has created new risks and experiences for visitors and residents, it has created new risks and opportunities for the forests.

Mr. BYRD. I appreciate the Senator's attention to this issue. He is correct to point out the commendable work underway in the Minnesota forests. The Senator is aware that the President requested $70,358,000 for land management planning in fiscal year 2002, while this Appropriations Committee has provided $70,718,000, an increase of $360,000. For that reason, I agree, and I believe the subcommittee would agree, that this legislation should provide adequate resources to the Superior and Chippewa National Forests to complete their forest management plans.

Mr. WELLSTONE. Madam President, I rise today on behalf of myself and Senator Bingaman, both Federal Senators, to state our strong support for critical energy efficiency programs within the Department of Energy. My colleagues and I have been working with the chairman and ranking member over the last few days to restore and fully fund these important programs. We believe that the proven efficacy of these programs merit allocation of additional funds.

The Federal Energy Management Program, or FEMP, uses alternative financing vehicles, technical assistance, and outreach campaigns to make our federal agencies more energy efficient. Although this program uses only a small amount of federal funding, its energy reduction strategies save the U.S. government, and thus American taxpayers, hundreds of millions of dollars a year. This program has proven to be a great investment. The Federal government is the largest user of energy in the United States and FEMP has already helped reduce energy consumption and keep returning those benefits year after year. These programs also lessen the environmental impact of the federal government, reduce our government's dependence on foreign oil, and leverage private sector resources.

I also suggest expanding several successful, community-based building technology assistance programs. These programs provide technical assistance, demonstrations, training, and education communities to accelerate the use of innovative and cost-effective energy technologies, strategies, and methods. One particularly successful example is the Energy Smart Schools...
campaign that provides a comprehensive portfolio of energy efficiency technologies, and works directly with national and local organizations that influence school construction and modernization.

Let me share with you how Seattle Public Schools used this program to reap the extensive rewards of energy-saving retrofits. Through a collaborative effort involving Seattle City Light, Seattle Public Utilities, Puget Sound Energy, and the Bonneville Power Administration, dozens of Seattle public schools received lighting retrofits, water conservation measures, upgraded energy management systems, and education on how to use energy more efficiently. Combined, these efforts reduced the school system’s annual energy bills by a third, saving 15.5 million kWh, or the energy needed to light 1,862 homes for a year.

In recent years, the National Park Service has been unable to properly maintain the physical structure of Arlington House to safeguard its artifacts and collections, thereby causing many of the rooms in this historic house to be closed to the public.

The National Park Service has identified the total funding requirements to restore Arlington House. It is my understanding that a minimum of $5.5 million is needed in fiscal 2002 to preserve this facility.

I am aware that the chairman and ranking member were faced with many significant funding demands in this Congress. They have an impossible job to provide the maximum amount of funding available to preserve our nation’s historic resources. I bring to their attention the significant needs of Arlington House and respectfully request that in conference with the House that this matter be given their attention.

Mr. BYRD. I thank the Senator from Virginia, Mr. WARNER, for his interest in the historic Arlington House. I am aware that funding for the restoration needs for the Arlington House was requested in the President’s budget and I can assure the Senator from Virginia that the committee will carefully consider this important project as we continue to assess the maintenance and restoration needs of National Park Service properties.

Mr. BURNS. I concur with Chairman BYRD and can assure the Senator from Virginia that the restoration of the Arlington House will receive our attention during conference with the House of Representatives. We will make every effort to address the needs of this historic home.

The Forest Service and Wild Fires

Mr. STEVENS. Madam President, there is a serious crisis in my home State of Alaska on the Kenai Peninsula, where literally millions of trees have been killed due to insect infestation. This is causing a major fire danger situation. Many homes and communities are at risk. I was very disturbed to learn recently that the Forest Service had initiated a prescribed burn near Seward that got away from them when the wind shifted. While fortunately the fire was contained before it damaged private property, this incident causes me to be concerned about the level of oversight the agency uses when burning in these very high risk areas.

Mr. BYRD. I recall that my friend from Alaska mentioning this during the committee markup of this bill. I assure you now, as I did then, that I am ready to help in any way possible to be sure the Forest Service applies adequate oversight to its hazard reduction activities.

Mr. STEVENS. I appreciate the chairman’s remarks. I just recently met with Chief Dale Bosworth of the Forest Service to express my concern. I asked the chief to promptly provide me with a report that addresses how communities that are at risk can be assured when the agency plans a prescribed burn, that all potential factors are taken into account, and the decision to initiate a prescribed burn has been adequately reviewed. I also asked the chief to assure that local elected officials concerns are accounted for before a burn is ignited and to look at naming a Forest Service official in each region who would be in charge of approving any burn plans. I have also provided an amendment that I understand is in the managers package that addresses the specific situation with the prescribed burn I just mentioned on the Kenai as well as other areas of high fire risk across the country. This amendment provides the Forest Service with the authority to use $15,000,000 of Wildland Fire Management funds on adjacent non-federal lands, using all authorities available to the agency under its State and Private Forestry Appropriation. These funds will be available for reducing fire hazard on adjacent non-federal lands and protecting communities when hazard reduction activities planned on adjacent national forest lands. The Forest Service assures me that portions of these funds will be used to protect communities on the Kenai Peninsula. I expect the Forest Service to strongly consider areas of the Kenai as candidates for the stewardship end results contracting, as specified in Section 347 of public law 105–277, and which the committee has amended to provide for up to 28 additional contracts.

Mr. BYRD. I am pleased to include this amendment in the managers package and feel it will be extremely helpful in protecting communities from the threat of wild fire.

Smithsonian Center for Materials Research and Education

Mr. SARBANES. Would the distinguished chairman yield for the purpose of a colloquy regarding language contained in the bill concerning the Smithsonian Center for Materials Research and Education.

Mr. BYRD. I would be happy to yield to my friend, the senior Senator from Maryland.

Mr. SARBANES. Mr. Chairman, I remain deeply concerned with the Secretary of the Smithsonian’s intention to close a number of the Institution’s scientific and research facilities, including the Smithsonian Center for Materials Research and Education (SCMRE) located in Prince George’s County, MD. I understand the language contained in the bill would preclude any funds to be utilized for the purpose of closing SCMRE and the other relevant facilities without the approval
by the Board of Regents of recommendations made in this regard by the Secretary's proposed Science Commission.

Mr. BYRD. The Senator is correct.

Mr. SARBANES. It is also my understanding that the bill provides sufficient funding to ensure that SCRMRE's programs can continue at last year's level.

Mr. BYRD. The Senator is again correct.

Mr. SARBANES. For nearly 40 years, researchers and scientists at SCRMRE have been leaders in the field of preservation research and analysis. They have contributed greatly to the conservation efforts of museums and institutions throughout the nation and around the world by offering training programs and technical assistance. I would like to quote from an editorial that appeared on May 8 in the New York Times that captures the importance of preserving this facility:

. . . (C)laring for artworks, which can often be done in museum labs, is far different from scientifically studying how to care for them. Over the years, the Materials Research Center has created an extensive store of archaeological data based on its work on collections from around the world. It makes no sense for the Smithsonian—the most remarkable accumulation of objects on earth—to close a national laboratory whose very purpose is to analyze the material basis of its collections.

I thank the chairman for his time and commend him for his leadership and assistance in this matter.

Ms. COLLINS. Madam President, I rise to thank the managers of the fiscal year 2002 Interior appropriations bill for working with me to provide Forest Legacy funding for an important conservation project in the western mountain region of Maine.

In drafting the Interior appropriations bill for fiscal year 2002, the managers have demonstrated, once again, their commitment to promoting conservation. I am particularly pleased that the bill funds Forest Legacy at $65 million—the most that has ever been allocated for this important and growing program—and I am grateful for the support Chairman BYRD and Senator BURNS have given to projects in my State this year and in years past.

Neither the Interior appropriations bill that passed in the house nor the Senate bill voted out of committee included funding for the Tumbledown/Mt. Blue conservation project in the western mountain region of Maine. Because of the importance of this project to my State, I proposed an amendment to the bill to dedicate Forest Legacy fund to the Tumbledown/Mt. Blue initiative. Chairman BYRD and Ranking Member BURNS have graciously agreed to accept a modified version of my amendment, which will earmark $1 million for the project.

The western mountain region of my State is a beautiful area that has long been valued for recreation, natural resources, scenic values and productive forest lands that fuel Maine's forest product industries. These traditional uses, which would be protected in perpetuity by this conservation project, are of tremendous value to the local communities and the region's economy.

Recent changes in land ownership and land use has led to local concern that the character of the Tumbledown/Mt. Blue area will be permanently altered. This has prompted the State, local businesses, and conservation groups to promote a long-term conservation vision for the region that will prevent this forested landscape from being converted as a result of development pressures. Making this conservation vision a reality entails the acquisition of lands around Mt. Blue State Park and along Tumbledown Mountain through fee and easement purchases.

Funding the Tumbledown/Mt. Blue Conservation project will enable the State to protect critical properties adjacent to the park and some of Maine's most scenic areas—including Tumbledown Mountain, Jackson Mountain, Blueberry Mountain, and trailheads leading to these peaks. I would also proudly point out to my colleagues that Mt. Blue State Park is one of Maine's most popular recreation spots and was recently voted by Outdoor magazine as one of the ten best family vacation areas in the country. The area contains rugged summits, alpine ridges, and wetlands, as well as habitat for the federally listed bald eagle and one of Maine's only successful peregrine falcon nesting territories.

I am pleased to say that several landowners in the Mt. Blue region are already now to put their resource lands into a conservation plan that will permanently protect and allow public access to recreation lands, scenic areas, and trailheads leading up Tumbledown, while providing for sustainable harvesting on the more productive and less environmentally sensitive forested areas. This is a locally driven win-win approach to resolving the various concerns that arise out of changes in the region. I applaud the many individuals and groups that have invested time in bringing this project about. It is heartening to know how deeply they care about their community, and I appreciate having this opportunity to determine my support for their efforts.

Last year, because of the generous funding level the Interior Subcommittee was able to provide the Forest Legacy Program, $1.17 million was allocated to the Mt. Blue/Tumbledown Mountain project for the first phase of the project, this year, however, to complete the project another $4 million is needed. I am concerned that unless we make funding progress in fiscal year 2002 with the willing sellers now in place, Maine will lose a once-in-a-lifetime opportunity to protect a truly wonderful resource.

I want to thank very much the Senators from West Virginia and Montana for their willingness to work with me and Senator SNOWE on this critical important project. Mr. SMITH of New Hampshire, I would like to take this opportunity to commend an agreement that was reached with regards to the Landrieu-Smith amendment to the Interior appropriations bill. Simply put, the purpose of the amendment was to fix what is essentially a technical concern with the bill and improve the way that States received their portions of the $100 million. This would be done by utilizing an already-established wildlife conservation fund and its formula parameters instead of creating a new program with a new formula.

I do want to make it clear that I am extremely supportive of this funding that is provided in this Interior appropriations bill for the State Wildlife Grant Fund. I believe that these dollars will be of great benefit to State efforts to protect wildlife populations. I am especially pleased that the bill allows the States to determine the manner in which to utilize these resources.

The Landrieu-Smith amendment would seek to use the Wildlife Conservation and Restoration Program, under the popular Pittman-Robertson Program, that was established in the fiscal year 2001 Commerce-Justice-State appropriation law. The law also provided $50 million under formula apportionment to the States for high priority wildlife conservation, education and recreation projects. That language was included at my request because of my concern for equitable distribution of valuable conservation funds. In fact, I have recently introduced a bill—the American Wildlife Enhancement Act of 2001, S.990—that would extend the authorization of that program through 2006. The Landrieu-Smith amendment would allocate the $100 million set-aside for the State Wildlife Grants Fund to the already established Wildlife Conservation and Restoration Program.

Adoption of our amendment would improve, and make more equitable, the way that these dollars are allocated to the States. Our amendment would allow for the allocation of funds under the formula established last year in the Wildlife Conservation and Restoration Program. Funding in that program is based two-thirds on the population of the State and one-third on the land area. It also guarantees that a single State would receive no less than one percent and no more than five percent of the available funds. This formula was supported by all 50 State fish and wildlife agencies as being the most equitable distribution to address conservation needs throughout the country.
The Interior appropriations bill that was reported by the Appropriations Committee would have changed that formula. This would result in a considerable gain of funds for only 2 States, but a loss for 37 other States. To change the already established formula would compromise the ability of the majority of our states to effectively address their wildlife conservation needs.

I am seeking to change back to what was established last year because I believe that is what is most fair to all States and already has their strong support. Regardless of whether or not our amendment was agreed to, New Hampshire’s funding will not be impacted—to me it is an issue of fairness.

It also makes much more sense to appropriate the $100 million to an already existing account with set allocation parameters that has demonstrated success than to create a new bureaucratic process. The U.S. Fish and Wildlife Service and State fish and wildlife agencies already familiar with the Wildlife Conservation and Restoration Program and could administer the program efficiently. Why impose a new set of criteria for allocation of the fiscal year 02 funds when the previously established criteria works so well?

Through excellent cooperation between the Fish and Wildlife Service and the State fish and wildlife agencies, all 50 States have already qualified to receive their apportionment of the $50 million made available by last year’s Commerce-Justice-State Appropriations law and are in the process of submitting their project agreements. Adopting this amendment would have allowed this process to continue smoothly into the next fiscal year. I am pleased to support what I believe is a fair compromise to this amendment. The Interior appropriations bill that passed the Senate this evening reflects the changes in the formula that our amendment intended to make, without sending the funds through the Wildlife Conservation and Restoration Program. Even though the previously established account is not being used to distribute the funds, I am pleased that the funds will be allocated using a formula that all 50 State fish and wildlife agencies have agreed to as fair and equitable.

Mr. Voinovich. Madam President, I rise in favor of the Landrieu amendment to the Interior appropriations bill regarding the distribution of $100 million in state wildlife grants for priority wildlife conservation, education, and restoration projects. As currently written, the Interior appropriations bill changes the way these grants are allocated to the States. The change would negatively affect the amount of grant money each state would receive.

Last year, Congress established the Wildlife Conservation and Restoration Account as part of the Pittman-Robertson Wildlife Restoration Fund. It was Congress’ intent that funds from the account be distributed to the states based on one-third of the land area of a state and two-thirds population. Congress also said that no state will receive less than one percent or more than five percent of the total funding.

The Landrieu amendment would distribute the funds under the same formula allocation that was enacted last year by directing them through the Wildlife Conservation and Restoration Account.

All 50 State fish and wildlife agencies agree that the formula Congress enacted last year is the most equitable distribution of these funds. If we agree to the formula proposed in the Interior appropriations bill, 37 States will receive less money. Ohio would receive under $100,000 less than under the already established formula. The Ohio Department of Natural Resources supports the Landrieu amendment.

With so many States facing such large reductions in the amount of grant money they would receive, it makes sense to distribute these funds based on the equitable formula that Congress agreed to last year. Support of the Landrieu amendment will ensure that the $100 million appropriated for State fish and wildlife grants is distributed fairly and provides all states with the funds they need for their most critical wildlife and conservation projects.

Mr. Inouye. Madam President, in the managers’ package is contained an amendment which provides for the repeal of section 819 of the Omnibus Indian Advancement Act.

In my view, this is a matter that is more appropriately addressed in the authorizing committee of jurisdiction, the Committee on Indian Affairs. Accordingly, I intend to work with my colleagues to see that this proposed repeal of a section of authorizing legislation is removed from the Interior appropriations bill and addressed in the appropriate forum.

Mr. Cochran. Madam President, this bill is the first appropriations bill for fiscal year 2002 the Senate is considering. I am pleased to be a member of the subcommittee that has the responsibility for writing this bill each year.

I have enjoyed working on the issues and programs that must be addressed each year during our hearings and the development of this legislation.

The Department of the Interior and the U.S. Forest Service have a major presence in my state. The levels of funding for their activities and responsibilities in Mississippi have a significant impact on our interest in protecting our natural resources and historic attractions.

I am glad the Committee’s bill provides an increase in the funding for operation and maintenance of the Vicksburg National Military Park as well as the Corinth Battlefield in northeast Mississippi which was included in a list of the top ten most interesting Civil War battlefields by former Secretary of the Interior Manuel Lujan. It is located near the Shiloh National Military Park and will be the site of a new Civil War Interpretive Center. This building will be constructed with funds that are included in this bill at the request of our state’s delegation in Congress.

Another interesting destination for visitors is the Corinth Battlefield in northeast Mississippi which was included in a list of the top ten most interesting Civil War battlefields by former Secretary of the Interior Manuel Lujan. It is located near the Shiloh National Military Park and will be the site of a new Civil War Interpretive Center. This building will be constructed with funds that are included in this bill at the request of our state’s delegation in Congress.

My colleague, Trent Lott, has taken the lead in making this new addition to our state’s list of federally supported projects a reality. Congressman Roger Wicker has also been a key influence in the appropriations process on this project as well as the Brice’s Crossroads site.
Taken as a whole, the provisions of this Interior Appropriations bill will contribute to the economy of our state and help develop the valuable natural resources, historic attractions and our environment.

I appreciate the cooperation and assistance of the managers of the bill and my staff member, Ginger Wallace, who worked hard to help develop the provisions of the bill that were of specific interest in our State of Mississippi.

Mr. DORGAN. Madam President, I rise to support the Education and Training Center for the Power Generation Industry at Bismarck State College. Although funding for this program is not explicitly mentioned in the Interior Appropriations bill, I would like to see the relationship between Bismarck State College (BSC) and the Department of Energy grow during the next fiscal year as BSC builds on its Partnership to Improve Energy Technology Training and Education. Last year, BSC’s Energy Technology Program received $50,000 in competitive Federal funding to develop a new curriculum based on conventional and advanced power technologies. Given that the Chairman has been kind enough to increase the budget request for fossil fuel research and development, I would hope that the DoE will provide the funds to expand this program next year, especially given the challenges that the power industry will face in the coming years.

I applaud those at Bismarck State College who have been working on this program, and it is my hope that the Committee could provide some funding for this program as we move this bill to conference so that the College could further develop the curriculum plan and provide nationwide online courses in power management.

Mr. KERRY. Madam President, I rise today to discuss an amendment I have offered to section 107 of the Interior Appropriations bill for fiscal year 2002. The amendment is intended to clarify that under that section preleasing activities are prohibited, just as they are in other sections of the bill that restrict oil and gas development in other waters.

Section 107 now reads as follows: “No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President’s moratorium statement of June 12, 1998.” This includes the areas of northern, central, and southern California, the North Atlantic, Washington, Oregon, and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

I want to thank Chairman BYRD and Ranking Member BURNS for working with me to secure the passage of this important amendment.

Mr. SNOWE. Madam President, Senator KERRY of Massachusetts and I have introduced the Kerry-Snowe Georges Bank amendment to the fiscal year 2002 Interior Appropriations bill today to make absolutely certain that the Administration could be prevented from proceeding with preleasing activities in the Georges Bank area.

I am particularly excited about this program as we begin to celebrate the expenditure of funds by the Department of Interior for activities related to offshore leasing in the North Atlantic area but I want to make it clear that preleasing activities would be out of bounds as well.

Currently, both the United States and Canada have moratoria on oil and gas exploration until 2012 for the ecologically sensitive Georges Bank. What the Kerry-Snowe amendment does is include language in the Senate bill to prohibit any pre-leasing activities for the Georges Bank area, such as is included for the Mid- and South Atlantic.

We are adding this language for the North Atlantic as well because of indications over the past few months that the administration could be considering legal and administrative groundwork for accessing Georges Bank.

Report recommendations to the Secretary of Interior by the Subcommittee on Natural Gas on the Continental Shelf included a recommendation that the Mineral Management Service, in consultation with industry and affected States, identify the five top geologic places for natural gas reserves in the moratoria areas, where industry would most likely explore, and where seismic data could be collected. Georges Bank is reported to be one of these prospects.

Our added pre-leasing language for the North Atlantic area makes Section 107 of the bill consistent with Section 110 of the bill that does not allow Interior Department funding to conduct oil and natural gas pre-leasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

As I recently wrote the President, I strongly believe that the Georges Bank should not be lifted on this 185-mile-long bank that stretches from Nova Scotia to Cape Cod—five-sixths of which is owned by the U.S. This broad, shallow fishing ground is one of the world’s most productive and current available natural gas reserves in the U.S. dwarf those which are projected to be available on the Georges Bank.

I want to sincerely thank the Interior Appropriations Subcommittee Chairs BYRD and BURNS for accepting the Kerry-Snowe amendment as part of the Managers amendment.

Mr. DORGAN. Madam President, I rise to support the Trails and Rails Program, a national partnership between Amtrak and the National Park Service. This program provides on-board educational programs to rail travelers. It has played a valuable role in educating Americans about the historic landmark sites in this country.

This is an excellent outreach program that allows the National Park Service to reach non-traditional visitors and introduce them to our national parks, trails and historic sites.

I am particularly excited about this program as we begin to celebrate the
bicentennial of the Lewis and Clark expedition. Last May, the famous footsteps of Lewis and Clark along the trail in North Dakota and Montana came alive as their historic journey was retraced by guests aboard Amtrak's Empire Builder train. This program has been laying the foundation for the National Lewis and Clark Bi-Centennial Commemoration, which will officially begin in 2003. Train passengers have already been able to explore historic areas along the Lewis and Clark trail such as the Union Trading Post National Historic Site in Williston, ND. It is my hope that the National Park Service could continue its partnership so that Amtrak passengers can explore other historic sites in the Lewis and Clark expedition.

All subsequent fiscal year 2002 funding has not yet been identified for this program. I invite my colleagues to join me in supporting this important National Park Service partnership. I trust that some funding will be included for this partnership in the final version of the Interior appropriations bill.

Mr. WELLSTONE. Mr. President, I am pleased to support the provisions in this bill that enhance the Steel Loan Guarantee program. The changes adopted today will provide invaluable assistance to our nation's steel companies as they strive to stay afloat in the face of overwhelming surges of finished and semi-finished steel imports.

As you know, our domestic steel industry finds itself reeling from record import surges. Numerous companies are either in bankruptcy, have filed for bankruptcy, or are on the verge of doing so. On the Iron Range in my home state of Minnesota, for example, citing poor economic conditions, LTV Steel Mining Company halted production at the Hoyt Lakes mine, leaving 1400 workers out of work and affecting another 5500 additional workers as well. These are hard working people who want desperately to work the trades they were trained for and have been doing for generation upon generation.

The changes we are making today in the Steel Loan Guarantee program will make it easier for companies to access much needed capital. In particular, we are increasing the loan coverage for a portion of the loans under this program from 85 percent to 95 percent and extending the duration of financing from 5 to 15 years. These changes represent one component of S. 957, the comprehensive Steel Revitalization Act of 2001 that I, along with Senator BYRD, Senator DURBONNAC and others introduced earlier this year.

I am pleased that we are taking the opportunity today to move a portion of this comprehensive measure. And I will continue to press this passage of the remaining elements of this much-needed legislation.

Mr. FEINGOLD. Madam President, I wish to comment on the Interior appropriations bill which the Senate has passed by voice vote. I am satisfied, that unlike in years past, this bill is relatively free from environmental riders. I commend the chairman (Mr. BYRD) and the ranking member (Mr. STEVENS) for producing a bill that is largely free from riders which many of my constituents view as an undemocratic way to address environmentally issues. I have been pleased by the progress on this bill, and by the manager's efforts to allow important environmental issues the benefit of an up or down vote on the floor.

Though the bill this year has been considered by the Senate with an improved process, I do have some concerns about a few of the bill's provisions. First, I understand that the Senate fiscal year 2002 Interior bill includes language which the Forest Legacy Program of the U.S. Forest Service, a program I strongly support. I further understand that, of the $65 million provided for the Forest Legacy program, $35.26 million has been allocated by the Senate Interior Appropriations Subcommittee in the committee report to fund specific projects. I hope that this allocation leaves approximately $29.8 million available to be distributed by the Forest Service to other priority projects, such as the Tomahawk Northwoods project in Northern Wisconsin. The Tomahawk project was specifically enumerated to receive funds by in the House report on the 2002 Interior appropriations bill, and it is my hope that the Senate's bill leaves flexibility so that this project can indeed be funded by the Forest Service.

I also want to share my concern regarding section 330 of the fiscal year 2002 Interior appropriations bill. Section 330 prohibits the use of special use permit for a cabin located in the Absaroka-Beartooth Wilderness Area in Montana. I hope that the conferees on this legislation will give serious consideration to removing this provision and referring the matters to the Senate Energy Committee for their review. My concern, as a Senator who is concerned about federal wilderness management, is that allowing the cabin to remain, without the benefit of review by the appropriate authorizing committee, could set a precedent that is contrary to the Wilderness Act, Forest Service policy and the Custer National Forest Management Plan. It would be my hope that review by the Energy Committee would clarify whether the Montana State University-Billings indeed has the ability to apply for an extension of the special use permit that had been held by the cabin's previous owner.

Finally, I understand that the managers' report contains language concerning the management of cruise ships in Glacier Bay National Park. Though I understand that this language represents a compromise worked out over the last few hours, I feel that an important policy matter such as this one could be the subject for the authorizing committee. I believe legislative language which seeks to address serious legal issues over the reduction of cruise ship traffic required by Federal courts deserves full and fair consideration through proper hearings and review. I hope that the Senate Interior Appropriations Subcommittee will give serious consideration to removing this provision.

I am pleased to support this year's bill, and I hope to see a bill free from environmental riders emerge from conference.

Mr. REID. Madam President, I have been fortunate to be in this Chamber during the entire time the Interior bill has been debated. I would like to take a few minutes to commend the President Pro Tempore, who is also the chairman of the Interior Subcommittee, for the tremendous leadership he has shown not only on the Interior bill but on the supplemental appropriations bill we passed. It shows his experience and his dedication to the Senate. He has taken the helm of the Appropriations Committee firmly and has confidently steered this bill in the right direction. There have been very difficult decisions to make in crafting this bill.

I also want to take a minute to express my public appreciation to Ranking Member BURNS for the work they have done. If there were ever a bipartisan bill—and I hope it remains that way in the remaining hours of this bill, and I am confident it will—this is it.

These two legislators have worked to come up with an appropriate package that has the best they could do with the tools they had, the limited amount of money they had to satisfy hundreds and hundreds of requests from Members and from different entities making up our Federal Government. It has been a very difficult time. From a personal perspective, I think they have done exemplary work.

About 4 years ago I asked President Clinton to convene a summit in Lake Tahoe. I did that out of desperation. I was at the lake and had, for 15 years, worked to try to do something to improve the quality of a place that has been called by Mark Twain the fairest place in all the Earth. It is a beautiful lake. It is a part of nature that you can only appreciate by being there; it is so absolutely fantastic.

We had a show there, and there is a display now in the rotunda of the Russell Building that has great photographs of Lake Tahoe. I spoke briefly there last night. A man by the name of Dr. Goldman, who is the leading expert on the ecology of that lake, spoke. He said it has been all over the world. He has been to Lake Baikal in Siberia in the Soviet Union. Lake Baikal has 20 percent of all the fresh water in the world, in one lake. It is well over a
mile deep. It is a beautiful lake. I am fortunate; I have been there. But Dr. Goldman said he had been to most all the major lakes in the world. In fact, as far as I know, Lake Tahoe is the most beautiful.

So I asked the President to convene a summit because I had not been able to accomplish what I needed. Out of desperation, I said to the press that I thought the only thing that would work is to convene a summit and have the world understand what a calamity is about to occur.

I confided in the President that I had done this and asked if he would support me in this effort. He said: Yes, I will come to Lake Tahoe. And he did. It was not a photo opportunity. And that would have been more than I could ask, if the President of the United States would come to Lake Tahoe for a photo opportunity, but he did more than that.

We had six Cabinet officers who held townhall meetings in the months prior to the President coming. Over 1,000 people participated in those townhall meetings when the summit was convened, with the President and Vice President there at Lake Tahoe, and the groups concerned about the lake—the environmentalists, the people who had wanted to build homes there, contractors, small businessmen, big businessmen, people who were against gambling, people who were for gambling. They were all there speaking from the same page.

They agreed that something had to be done. So the summit—rather than being a boisterous affair where people were pointing fingers at each other—was a lovefest. As a result of that, we have been able to get a lot of help for Lake Tahoe. Part of that help is in this bill.

This bill, increased by over 100 percent, the amount of money going to Lake Tahoe. Senators Feinstein and Boxer—and now Senator Ensign—we have worked together. We have made progress. But it all started as a result of that summit.

I appreciate very much the attention of Senators Burns and Byrd, recognizing that Lake Tahoe really may be the fairest place in all the Earth.

They have increased funding this year by over 100 percent. This commitment will help make the Federal Government a full partner in the ongoing effort to conserve this exquisite jewel of the American environment. California has done its share. Nevada has done its share by floating bond issues. Now the Federal Government is coming through.

Chairman Byrd and ranking member Burns also helped improve the prospects for county governments throughout the entire West by allocating $220 million for the PILT—Payment in Lieu of Taxes—Programs.

I thank Senators Byrd and Burns for making an effort to breathe life back into the budget of the United States Geological Survey, which was treated very badly by this administration. The Bush administration did everything it could to kill the Geological Survey, this great institution of government. John Wesley Powell was the first leader of the U.S. Geological Survey, a man whose arm was cut off. The nerves were exposed and whenever he would bump it, it would hurt more than a person can imagine. With that bad arm, he led the first group to float the mighty Colorado. He was the father of the Geological Survey. Senators Byrd and Burns have breathed life back into this wonderful institution that is so important to our country.

This agency has had a tremendously positive impact all over the United States. For example, the Presiding Officer traveled with me to Fallon, NV, to find out why we have children dying. Since we were there, one child has died. They have discovered two or three other cases of childhood leukemia. We went there seeking evidence as to why these children are sick and dying.

One of the things being done about this is being done by the U.S. Geological Survey. They are testing water wells in Fallon as I speak so people in Nevada know whether the water they are drinking is safe. The U.S. Geological Survey is our preeminent scientific agency, some say the greatest scientific agency we have in Government.

That is debatable, but they do great work.

I appreciate the leaders of the subcommittee who recognized this by restoring the budget. The public land agencies funded by the Interior appropriations bill are of great importance to the State of Nevada: the Bureau of Land Management, Bureau of Reclamation. They do tremendous things for the counties. I am grateful that Chairman Byrd and ranking member Burns have done their best to fund these agencies.

I am confident we can finish this bill today. I hope we can. The managers have worked during the night, and staff members are still working to come up with a proposal to end this legislation quickly. There may be a few disputed matters to be resolved this afternoon. I wanted to spend a minute recognizing the great work done by the two managers.

The PRESIDING OFFICER: The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 2217), as amended, was passed.

(Oct. 22, 1977), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House of Representatives and the Senate appoints Mr. Byrd, Mr. Leahy, Mr. Hollings, Mr. Reid, Mr. Dorgan, Mrs. Feinstein, Mrs. Murray, Mr. Inouye, Mr. Burns, Mr. Stevens, Mr. Cochran, Mr. Domenici, Mr. Bennett, Mr. Gregg, and Mr. Campbell, conferees on the part of the Senate.
balanced approach to any and all issues.

Again, I was encouraged by these comments. Mr. Griles came to my office. I told him about my concerns about his past record, and given his statements I was hoping he had, in fact, changed, and if he would give me some examples. He really didn't have any at that day. I said: I will ask you about this when you come for your confirmation hearing.

When he came for his confirmation hearing, he was not any more forthcoming. I said after the hearing my door would still be open to him and that I hoped he would give me some examples in areas such as the Endangered Species Act that require so much cooperation, that he would come forward with some specific ideas. He has not. He has not been willing on three separate occasions to show some evidence that he would take a more collaborative, inclusive approach, and that he would be more balanced in his approach to natural resources issues.

My concern is that as of now the record indicates the J. Steven Griles of the past is going to be back in action after the Senate confirms him.

I will talk for a few minutes about how Steven Griles' track record over 20 years. Over 20 years, again and again, he has placed the interests of powerful special interests above the public. This includes the support for environmentally unsound drilling for oil off the coast of California and looking the other way when powerful corporations were fined for breaking the environmental laws.

It is one thing to try to figure out ways to ensure compliance with the environmental laws; however, it is another thing to look through when these powerful interests have actually been fined for violating the law.

I was troubled about those past positions. I told Mr. Griles about that. It is certainly his right to hold those views. I have not made it a habit of opposing candidates with whom I differ on substantive issues. Given those past positions, given his public statements and his private statements to me that, in fact, he was going to change, it is troubling we have not seen any evidence of that.

His record is important. I will give a few examples of that record.

During his service with the Reagan administration, Mr. Griles is reported to have single-mindedly pushed for an oil lease sale off the coast of California, despite objections from his own Fish and Wildlife Service biologists. In 1988, he wrote a memo to the Assistant Secretary advising him to change the tone and conclusions of a Fish and Wildlife Service report citing the specific environmental damage that could be caused by a proposed northern California offshore oil lease. Mr. Griles concluded that memo by stating:

The memorandum is part of the public record and could prove very damaging to this lease sale.

The subsequent final report on the sale, from Fish and Wildlife, did not refer to any potential environmental harm that could result from the lease sale. Within the year, as Americans now know, the Exxon Valdez disaster occurred and, by 1990, the first President Bush declared a moratorium on offshore oil leases, so this lease sale was never completed. But it is certainly troubling to me that Mr. Griles wanted Federal researchers not to report accurate conclusions but to prop up a decision, regardless of the environmental facts.

This, in my view, would have been an ideal issue that Mr. Griles could have raised with me and with colleagues and said: Look, there are some ways that I that I treat these oil sales differently now, having learned from some of the controversy in the past. Yet he was unwilling to say that or anything resembling that.

He has also, as far as the public report, indicated that he has no interest in cracking down on the illegal behavior of polluters and special interests. Of course, that would be a task that he would be expected to perform in his position.

Between 1984 and 1987, the House of Representatives reviewed, for example, the internal workings in the Office of Surface Mining. They found that, under his leadership, this office collected only $6.8 million of an estimated $200 million due in civil penalties for those who broke the environmental laws.

Again, I have tried to single out just the areas of the record that concern me and here are some examples of the Senator who is in favor of breaking the environmental laws. Yet this was an instance where there were no violations and they were not followed up. I think that is troubling and, in fact, in successive years the percentage of collection of the civil penalties that were owed continued to go down.

I am concerned about the past public record, but I would not be here making the statement that I am tonight if Mr. Griles had said: Look, all of us change and here are some approaches that I would take in the days ahead to ensure that we could do the kind of work that Senator Craig—I see my friend Senator Burns here as well—as that the three of us have sought to do.

These natural resources issues are extraordinarily difficult. The American people want what I call the win-win. They want to protect our treasures and at the same time they want to be sensitive to local economic needs. It is a lot easier said than done. But Senator Craig and Senator Burns and I have teamed up to do just that.

I had been hoping that Mr. Griles would offer some specifics, given that he said he had changed, and would indicate he would want to do the kind of collaborative work that Senators have done on some of these particularly contentious issues. Unfortunately, on three separate occasions, in both public and private, Mr. Griles was unwilling to back up his public statements about how he had changed, how he would take a more collaborative approach. So tonight I want to make clear I am opposed to the nomination of J. Steven Griles to be Deputy Secretary of the Department of the Interior. My questions have not been answered. My reservations about the nominee's commitment to finding common ground have not been resolved. I tell my colleagues, I do not think we can get on top of these natural resources issues without a collaborative approach. Mr. Griles has said he is in favor of it but has not offered any evidence that he will actually do it. With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask for a couple of minutes. Let me also ask unanimous consent that Senator Frank Murkowski, who is coming to the floor, be allowed to speak for a period of time prior to the action. I believe Senator Nelson is here to do the same.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I join with my colleague, Chairman Ron Wyden, tonight to visit about Steven Griles and the reality that Steven is about to become a major operative in the Department of the Interior. I stand tonight in full support of the decision of George W. Bush to nominate him to become Deputy Secretary. I do that because I know Steven Griles and I know he will do it when he looks me in the eye and he looks Senator Wyden in the eye and says he will work in the character of the new Secretary, Gale Norton, as it relates to the four Cs that she has so clearly laid out over the time of her confirmation hearings and as, I think, she has clearly demonstrated in the period of time in which she has served our country as our new Secretary of the Interior. That is one of consultation, cooperation, and communication that results in conservation of our natural resources to benefit all of the interests of our country. I believe Steven Griles will do that following the direction of the Secretary of the Interior.

While Ron Wyden and I will disagree a bit, we also understand the critical nature of cooperation, as he has so clearly spelled out, in the collaborative process. The models under which we must make decisions on our public land resources have changed from the days in which Steven Griles served the Reagan administration and in which
Steven Griles will now have the privilege of serving the Bush administration. We have tried to pioneer with the congressional and executive branches. Clearly, the effort Senator Wyden and I launched last year that is now law incorporates within it the idea of bringing all of the principals together to sit down to resolve conflict over resource issues at the local level and ultimately we believe we can aspire to that at the national level.

Therefore, I stand in favor of Steven Griles becoming our new Deputy Secretary at the Department of the Interior and I think he will at the end serve us well and I think the record will demonstrate that.

Let me say in closing, and I say it in all fairness to our majority leader, Tom Daschle, I thank him and I thank Harry Reid. Certainly this Senate has offered to all of us tonight in moving expeditiously some of the nominees that were at the desk or other nominees who were just moved out of committee today, both the Armed Services Committee and the Interior Committee.

It is absolutely critical that the President of the United States be allowed to nominate and have people of his choice to serve him in the administration of our Government at the executive level. Tonight we move a great number of people, probably the largest number we have moved to date at one time. That has been because of a cooperative effort on the part of the majority leader, Tom Daschle, and all of us working together to make that happen.

I hope to achieve our goal that the some 173 who are now before the authorizing committees across the Senate can be brought to hearings, heard, voted on, brought to the floor and I hope many of them could be moved before the August recess.

A lot of these fine people who have been asked to serve our Government are men and women who have families and who need to make decisions over whether to leave their families and their children in the schools where they now are or whether they are going to be allowed to get them in Washington in time to enroll them in school as it would start in late August or early September. Surely this Senate can operate in a reasonable and responsible fashion to do the appropriate hearings, to find out if these men and women are clearly qualified, as the President believes they are, to serve our country at the executive level, bring them from the committee, bring them to the floor, and allow to happen what is happening this evening.

When disagreements arise, as they do—as with Senator Wyden and Mr. Griles—we have voted and spread upon the RECORD as a template from which to judge the people who will serve in the executive branch, and to hold before them as a constant reminder of what they pledged to us in their confirmation hearings before the committee. That is fair and responsible, and it is the job of the Senate to respond in that fashion.

I am extremely pleased that we are able to move expeditiously on a good number tonight to give our President the tools by which to operate the executive branch of Government and to allow him, as the citizens of this country have chosen, to govern our Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, let me congratulate the floor manager for offering the conclusion associated with the Interior appropriations bill. It has been a difficult battle, and it has been really tough with the many issues that have been subject to sub judice XVI which often come up in this process.

I thank the Senator from Montana and his colleagues on the other side. They have done an extraordinary job. My purpose in rising is to recognize an individual whom I stand in favor of today, Steven Griles. The injustice was not on the merits of whether Mr. Griles is qualified or not. It is the manner in which his nomination was delayed.

I think it is appropriate that the RECORD note that the intent to nominate Mr. Griles occurred on March 9. The nomination was received on May 1. Hearings were held May 16. He was reported favorably by the Energy Committee, which I happened to chair at that time, 18 to 4. I repeat—18 to 4 on May 23, 2001.

All of this, of course, occurred before the switch of Senator Jeffords and, as a consequence, the control of the Senate.

Mr. Griles was cleared on the Republican side on May 23. In executive session on May 24, we moved one nomination. On May 24 we moved 19 nominations. On May 25 we moved 33 nominations. On May 26 we moved 8 nominations. In each case, Mr. Griles was cleared on our side and was objected to by the Democrats, which they have every right to do.

But during this period, a unanimous consent agreement was offered to allow for 2 hours of debate, and a vote on which the Democrats indicated, according to the RECORD, that they needed 2 hours, with consideration the week we returned from that recess. That was rejected by the Democrats, as was the modification that then deleted the time certain and only included the time limitation.

At that point, it was clear that we would no longer as Republicans control the floor, and hence the timing on our return.

In executive session on June 14, under Democratic control, we cleared three additional nominations, but the Democrats would not agree to Griles. It wasn't agreed to as an issue of the debate on the merits, it was simply an effort to deprive—that is the only conclusion one can come to for the Department of Interior of his services, and hence to the public of this country.

As of today, Mr. Griles has been pending 51 days. Again, I refer to the fact that he was reported out of the committee 18 to 4. He is going to be voted out tonight on a voice vote. But I think it is appropriate to note the manner in which it was handled.

I am very disappointed. I, as chairman under the former administration, felt the obligation to respond to the development of the precedents and the officials within the various Cabinet departments. Under no circumstances had we had a situation similar to this where a nominee was delayed for such an unreasonable amount of time.

Who suffers? Perhaps this body suffers in self-examination. Again, I am not arguing the merits concerning issues that my friend from Oregon or my friend from Florida may have, but clearly the way this was handled was delay, delay, delay. The public suffered. The Department of the Interior suffered. Up until a short time ago, the Department of the Interior had one confirmed position. That was the Secretary of the Interior.

I think all of us have a responsibility to work together, in spite of our political differences, to serve the country.

I think it is appropriate that the RECORD note the reality associated with this nominee. It is my hope that situation is not repeated again because I think this body bears the responsibility.

I am happy to yield to my friend from Florida.

I wish the Presiding Officer a good evening, and the rest of my colleagues, and in particular the staff. I hope we get out at a reasonable hour.

Mr. NELSON of Florida. Mr. President, let me say in closing, and I say it in fairness to our majority leader, Tom Daschle, and all of us working together to make that happen.

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gas-industry lobbyist reveals his aggres-
sive support for expanded oil drill-
ing in sensitive areas.

Mr. Griles' support for drilling is so
forthcoming that in biographical infor-
mation he supplied the Senate for his
confirmation he emphasizes his record for
helping lease "more Federal offshore
oil and gas acreage during 1984–
1989 than in any prior period of federal
leasing activities."

His position is clear. Unfortunately,
this position presents a serious risk to
Florida's economy and environment.

I thought I would take this oppor-
tunity to clear up for the Senator from
Alaska some of the things he said.

The Senator from Alaska should
know that this Senator from Florida
did not place a hold on the Griles nomi-
nation until June 19. That is just a
matter of some 2½ weeks ago. It
became apparent to me—and it didn't
have anything to do with personalities
or politics—on the substance of the
matter that this was something of such
importance to Florida on whether or not
we were going to have drilling off
the coast of Florida which would
threaten the economy of Florida be-
cause of its beaches. I think Florida
has the longest coastline of any State
in the country. So much of our eco-
nomic lifeblood comes from those pri-
tise beaches.

When I looked at the substance of the
nominee's background I saw that he
had been an advocate for offshore oil
drilling not only over a decade ago in
California but where he stated in his
testimony that he was in favor of drill-
ning for the entire 6 million acres of the
lease sale 181 and what that rep-
resented as a threat to Florida in that
original lease sale coming to within 30
miles of Perdido Key, which is the west-
ernmost beach of the State of Florida.

It became very clear as a matter of
substance to me that it was going to be
something that was perceived to be—
and he was perceived to be—a threat to
the economic lifeblood of the State of
Florida.

Only on June 19 did I write a letter to
the majority leader asking him to
honor my request, which was a hold on
the consideration of the nomination.

Today, Mr. Griles came to see me. I
find him entirely a delightful fellow,
an engaging fellow, and one with whom
I shared exactly this story. I asked him
the question: Since the likelihood was
that the reduced lease sale 181 was in
fact going to be approved—the adminis-
tration apparently had been working it
very hard and had the votes, as the vote
earlier today showed—what was
his intention with regard to the drill-
ing in the rest of the eastern Gulf of
Mexico planning areas?

He said since he had not been con-
formed that he could not speak with
the administration. But he offered that
he thought he could get an answer
from the administration and get back
to me before this vote occurred.

Indeed, it was only a few minutes
that a phone call came in that Sec-
retary Norton was requesting to come
and see me, of which I gladly received
her. It is the first time I had met her
—a very gracious lady. And I asked her
the same question I asked: Sen-
tor, I want you to assure me that in the
5-year plan, which is going to be issued
next week, there will be no additional
lease sales in the 5-year plan. And the
5-year plan that will be issued next
week is operative, effectively, as law,
since a lease cannot be offered for sale
or lease unless it is in the 5-year plan.

That was a little bit of good news. It
was on the basis of that that I addi-
tionally encouraged the majority leader
that I thought he was right. It is his
prerogative as majority leader to lift
the hold.

I shared with Mr. Griles that I was
going to vote against his nomination
because of his history. I was glad that I
was in this Chamber to hear my friend
from Alaska so that he could hear from
his colleague from Florida as to ex-
tactly what my intention on the sub-
stance of the matter has been.

I yield the floor.

The PRESIDING OFFICER. Is there
further debate on this nomination?

The Senator from Montana.

Mr. BURNS. Mr. President, I am glad
we are finally getting to the nomina-
tion of Steve Griles. It has been a long
time. I can remember going through
the hearings on the Energy Committee
and him being reported out of that
committee on the 22d. It has been a
long 40-some-odd days. It has been too
long.

It seems that we are asking our Cabi-
net Secretaries to do their jobs by
themselves. We are having a hard time
getting any help downtown. I just
think that is a wrong thing to do to
any administration.

I remember when President Clinton
first came to town back in 1992, 1993;
whenever we went through the process.
I always took the position that each
President got his Cabinet members
and the people he wanted in his administra-
tion because he had been duly elected
by the people of this country. So he
could move his agenda as he saw fit.
We have been holding up folks going
downtown far too long.

Twenty-eight percent of Montana is
public land. With the BLM and the For-
est Service and, of course, with the BIA
and the Indian lands and Indian coun-
try, this position is very important. Of
course, with Mr. Griles coming from a
point of multiple use, single use does
not work. I think that we can bal-
ance the use of our lands. We have had
a tendency in the last 10 or 15 years to
redesigning and shrinking the wise use
of any resource. That has been the driving force on any of our
resources found on our public lands and
on our private lands.

I have an agricultural background.
This position in the Department of the
Interior requires a man of not only
high integrity and high purpose but
also to have guts enough to make a
decision. We have gone through these
situations where nobody wants to make a
decision.

We had a situation on the Flathead
Lake in just finding its level. We had
too many cooks in the kitchen and
nobody knew who was in charge when
trying to make a decision on what level
we wanted to maintain at Flat-
head Lake in northwestern Montana.

I know there are some of my col-
leagues in this body who have some
real heartburn with Mr. Griles. In fact,
I know there are many colleagues in
this body who have heartburn with the
words "multiple use."

But, needless to say, we who come
from the land and the resources—and espe-
cially from a resource-based economy—
think we understand just how impor-
tant renewable resources are. We real-
ize that in oil and gas, it is sort of fi-
nitive—it may not be any more of it
made. But on renewables, we should be
using conservation practices that con-
sider wise use.

Tough decisions will have to be made
by the Department. We need someone
who is confident in making them and
also basing the decisions on science
and common sense.

So the reason I support Steve Griles
is because he brings outstanding cre-
dentials to the job. He served at many
levels, both inside and outside of Gov-
ernment. I think everybody will find
he will be an able listener, and he will also
show the cooperation in being a good
Deputy Secretary.

The PRESIDING OFFICER. Is there
further debate on the nomination?

Mr. BURNS. Mr. President, I urge
Mr. Murkowski. Yes.

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THANKING THE MANAGERS OF INTERIOR APPROPRIATIONS

Mr. REID. Mr. President, while the Presiding Officer is in the Chamber, I rise to express how much I appreciate his welcome of last 2 days. It has been very difficult.

He and I worked together on Military Construction when I was chairman and he was ranking member. Through each ordeal we experience we become closer, and I have become more appreciative of his legislative abilities.

For both of us to be able to work with one of the legends of the Senate, Senator BYRD, is always a pleasure and a learning experience. I want to make sure that spread on the RECORD is my appreciation for the good work done by the two managers of this bill.

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consider the nominations reported earlier today by the Foreign Relations Committee as follows: Peter R. Chavasse to be Ambassador to the Republic of Sierra Leone; Lori A. Forman to be Assistant Administrator for the United States Agency for International Development; Aubrey Hooks to be Ambassador to the Democratic Republic of the Congo; Donald J. McCall to be Ambassador to the State of Eritrea; Nancy Powell to be Ambassador to the Republic of Ghana; George McDade Staples to be Ambassador to the Republic of Cameroon and to the Republic of Equatorial Guinea; that the nominations be confirmed, and the motions to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

DEPARTMENT OF DEFENSE

Douglas Jay Feith, of Maryland, to be Under Secretary of Defense for Policy. Peter W. Rodman, of the District of Columbia, to be Assistant Secretary of Defense for International Security Affairs; Thomas P. Christie, of Virginia, to be Director of Operational Test and Evaluation, Department of Defense; Diane K. M. McAnulty, of Texas, to be Deputy Under Secretary of Defense for Logistics and Materiel Readiness; Steven John Morello, Sr., of Michigan, to be General Counsel of the Department of the Army.

William A. Navas, Jr., of Virginia, to be an Assistant Secretary of the Navy; Michael Montelongo, of Georgia, to be an Assistant Secretary of the Air Force; Reginald Jude Brown, of Virginia, to be an Assistant Secretary of the Army; John J. Young, Jr., of Virginia, to be an Assistant Secretary of the Navy; Michael W. Wynne, of Florida, to be Deputy Under Secretary of Defense for Acquisition and Technology; Dionel M. Aviles, of Maryland, to be an Assistant Secretary of the Navy.

DEPARTMENT OF ENERGY

Jessie Hill Roberson, of Alabama, to be an Assistant Secretary of Energy (Environmental Management).

DEPARTMENT OF AGRICULTURE

Joseph J. Jen, of California, to be Under Secretary of Agriculture for Research Education, and Economics; James R. Moseley, of Indiana, to be Deputy Secretary of Agriculture.

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nominations reported earlier today by the Energy and Commerce Committee: Patricia Lynn Scarlett to be Assistant Secretary of Interior; William Gerry Myers III to be Solicitor of the Department of the Interior; Bennett William Raley, of Colorado, to be an Assistant Secretary of the Interior.

DEPARTMENT OF ENERGY

Vicky A. Bailey, of Indiana, to be an Assistant Secretary of Energy (International Affairs and Domestic Policy).

DEPARTMENT OF THE INTERIOR

Frances P. Mainella, of Florida, to be Director of the National Park Service.

John W. Keys, III, of Utah, to be Commissioner of Reclamation.

Mr. REID. Mr. President, I ask unanimous consent that the HELP Committee be discharged from consideration of the following nominations: Grover Whitehurst, to be Assistant Secretary of Educational Research and Improvement; Susan B. Neuman, to be the Assistant Secretary for Elementary and Secondary Education; Rebecca Campoverde, to be the Assistant Secretary for Legislation and Congressional Affairs; Robert S. Martin, to be Director of the Institute of Museum and Library Services; that the Senate proceed to their consideration, en bloc; that they be confirmed; that the motions to reconsider be laid on the table; that any statements on any nominations confirmed today appear at the appropriate place in the RECORD; that the President be immediately notified of all the Senate's actions, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

DEPARTMENT OF EDUCATION

Grover J. Whitehurst, of New York, to be Assistant Secretary for Educational Research and Improvement, Department of Education.

Susan R. Neuman, of Michigan, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

Rebecca O. Campoverde, of Virginia, to be Assistant Secretary for Legislation and Congressional Affairs, Department of Education.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Robert S. Martin, of Texas, to be Director of the Institute of Museum and Library Services.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

BEIJING’S BID FOR THE OLYMPICS

Mr. WELLSSTONE. The International Olympic Committee is going to announce tomorrow which country will
host the 2008 summer games. The competition is fierce. Toronto and Paris are leading contenders. Yet it seems likely that Beijing will get the event.

I will speak briefly about this decision because I think there should be some discussion on the Senate floor and the implications. I believe China's authoritarian and oppressive government should not be granted the privilege of hosting the 2008 games. The current government in Beijing does not deserve the international legitimacy and the spotlight that this honor bestows. Its chronic failure to respect human rights violates the fundamental spirit of the Games, and I think it should disqualify Beijing.

Many of my colleagues argue that human rights should never be a consideration in determining our trade relations with other countries. I disagree. I do think a government's record on human rights should not be ignored with respect to choosing the site for the Olympics which confers enormous prestige on the host government and which is intended to celebrate human dignity and achievement.

I have a sense-of-the-Senate amendment because the feeling was it would be inappropriate to do it on an appropriations bill. I do not believe doing it that way gets the support that it deserves. I know there are Senators who argue that to say the Olympics should not be in China is to politicize this question. If we are silent about this and Beijing hosts the Olympics, we are making a political statement. The political statement we are making is their violation of human rights does not matter.

Either way, it is a political statement. I prefer to speak out for human rights. The Olympics are first and foremost about sports and the joy of athletic competition, but human rights and dignity are also central to the Olympic ideal. The Olympic charter makes clear "respect for universal fundamental ethical principles" are central to the Olympic ideal.

Look at the State Department report. China's Government record has worsened as it committed "numerous serious abuses" from raiding home churches, imprisoning Tibetan monks and nuns, locking up Internet entrepreneurs, silencing democracy activists, and cracking down on Falun Gong.

"The Chinese Government continues to hold a number of American scholars on suspicious charges of spying. Dr. Gao Zhan has not been allowed to contact her husband, her 5-year-old child, both American citizens, or her lawyer or the State Department.

This doesn't matter? Moreover, hundreds of people languish in jails and prison camps merely because they dared to practice their Christian or Buddhist or Islamic faith. These are the facts. Respected international human rights organizations have documented hundreds of thousands of cases of arbitrary imprisonment, torture, death at the hands of the Government. That is a fact.

What they have done, the brutal crackdown on the Falun Gong is unbelievable. This is a harmless Buddhist sect. According to international media reports, approximately 50,000 of these practitioners have been arrested and detained, more than 5,000 have been sentenced to labor camps without a trial, and hundreds have received prison sentences after sham trials, show trials. Detainees have often been tortured and scores of practitioners of this faith have died in Government custody. These are facts. This is the empirical evidence. Millions of others have been imprisoned for so-called crimes such as if you are ready, advocating for political pluralism and the ideals of democracy. Hundreds continue to languish in jail under a "counterrevolutionary" law which the Government repealed 3 years ago. Some of these are survivors of the Tiananmen Square massacre.

While China signed the International Covenant on Civil and Political Rights—I remember the Clinton administration has made such a big deal of this—the Chinese Government has not ratified it. Instead, it stepped up its repression of individuals seeking to exercise the very rights the covenant is designed to protect. And we do not speak out about this.

We make the argument, to grant this country the honor of hosting the Olympics, we should not raise questions about this because to raise questions would be to make a political statement about the Olympics. Isn't it also making a political statement about the Olympics to simply legitimize and validate this repression?

Chinese courts have sentenced members of the Chinese Democracy Party, an open opposition party, to terms of 11, 12, and 13 years for "conspiring to subvert state power." This is a fact.

Charges against these political activists—do you know what they are? They included this: They organized a party—wound up in prison. They received funds from abroad promoting independent trade unions—they wound up in prison. They used e-mails to distribute materials abroad—they wound up in prison. And they gave interviews to foreign reporters—they wound up in prison.

Here is where the Olympics is going to go. Without a word from our Government? Without a word from the Senate?

Chinese officials have also ruthlessly suppressed dissent from ethnic minorities. In Xinjiang and Tibet. According to a report by Amnesty International, the Chinese Government has reportedly committed gross violations, including widespread use of torture to extract confessions, lengthy prison sentences, and numerous executions. Are we not going to speak up about a government that tortures its citizens and that executes its citizens for no other reason than they have had the courage to speak up for democracy or to try to practice their religion?

In an apparent attempt to stop the flow of information overseas about this crackdown, Chinese security officials continue to detain a prominent businesswoman, Ms. Rebiya Kadeer, in the Province of Xinjiang. Her husband is a U.S. resident who broadcasts on Radio Free Asia and the Voice of America, championing the cause of people. She was arrested by the Chinese security forces on her way to meet with members of a visiting Congressional staff delegation.

The same Ms. Kadeer, the same Ms. Kadeer has been praised by the Chinese Government for her efforts to promote economic development, including a project to help women own their own businesses. She has also been praised in the Wall Street Journal for her business savvy. She owned a department store in a provincial capital, as well as a profitable trading company. But now she has been put out of business, charged with—here is the charge, Mr. President—"illegally offering state secrets across the border" and sentenced to 8 years of hard labor. Her son and her secretary were also detained and sent to a labor camp.

Given this horrendous record, I do not believe China should be rewarded for this sort of repression. I am not a cold war warrior. I am not trying to resurrect the cold war. My father was born in Odessa, Ukraine. Then, to stay ahead of Czarist Russia, he was a Jewish immigrant. They moved to Kansas in the 1910s, and then Harbin, and lived in Pakeen, lived in China, and he came to the United States of America at age 17, in 1914. I am an internationalist.

I look forward to the day that Beijing will host the Olympic games. The Chinese people are some of the most extraordinary, talented, and resourceful people on the planet. I do not for a moment want to bash or overgeneralize. I dream of a day when I can come to the Senate floor and I can celebrate the idea of China hosting the Olympic games. But not now. Not with the persecution, not with the torture, not with the murder of innocent citizens, not with the political oppression, not with the religious persecution, not with what they have done to the country of Tibet, the people of Tibet.

I believe strongly China's authoritarian, repressive Government should not be granted the privilege of hosting the 2008 games to further damage the international legitimacy and spotlight that this honor bestows. Instead, this Government's chronic failure to respect human rights, I believe, violates
the fundamental spirit of the Olympic games and should disqualify Beijing.

This is perhaps my morning for sitting at windmills because I believe the international committee will probably give China the Olympic Games, but sometimes it is important just to make that statement on the floor of the Senate. I believe others should speak out as well.

VIOLENCE AGAINST WOMEN OFFICE ACT

Mr. DOMENICI. Mr. President, I rise today to announce my cosponsorship of S. 570, the Violence Against Women Office Act introduced by my colleague Senator BIDEN. This bill will further our efforts in combating the problem of domestic violence. Domestic violence is not simply a localized, private issue, it is our problem. The violence against women. The office is responsible for the development of policies, programs, public education initiatives, and management of all grant programs funded under the VAWA.

This bill will institutionalize the office and will help to fulfill the federal government’s responsibility to meet the goals embodied in the Violence Against Women Act, (VAWA).

This office will be located within the Associate Attorney General’s Office. The Violence Against Women Office (VAWO) by statute will provide permanency in our federal efforts to combat domestic violence. This bill will institutionalize the office and will help to fulfill the federal government’s responsibility to meet the goals embodied in the Violence Against Women Act, (VAWA).

This nation-wide problem demands a local response. Federal funding is being effectively used to leverage existing community-based services and local law enforcement officials to help prevent and persecute domestic violence.

Last year I cosponsored the Violence Against Women Act. This year I am supporting full funding of VAWA programs for the Justice Department programs and in the Health and Human Services budget, despite the tight fiscal constraints and competing priorities for those agencies.

Domestic violence is a scourge. We must commit to addressing it. This legislation is one concrete step in the right direction.

THE PUBLIC HEALTH IMPLICATIONS OF GUN VIOLENCE

Mr. LEVIN. Mr. President, before we adjourned for the Fourth of July recess, we spent two weeks on the Senate floor discussing the Patients Bill of Rights. I supported the strong, enforceable bill which the Senate finally approved on June 29th. After years of consideration and a hard legislative battle, the bipartisan vote this bill received reflects the overwhelming support the bill has from the American people. Over the next several months we will continue to discuss the importance of reforming our health care system to make it more affordable and more accessible to the American people. But as we debate the subject, we must not ignore an issue that is often overlooked as a public health problem. I’m talking about gun violence.

Because, Mr. President, accompanying the tremendous human costs of gun violence are enormous public health costs that we cannot afford to ignore.

According to a 1999 report from the Office of Juvenile Justice and Delinquency Prevention, every day in the United States, 93 people die as a result of gunshot wounds and an additional 240 sustain gunshot injuries. The report states that “the fatality rate is roughly equivalent to that associated with HIV infection—a disease that the Centers for Disease Control and Prevention has recognized as an epidemic.” In addition, according to a 1997 study cited by the Violence Policy Center, the cost of gunshot wounds exceeded $126 billion in 1992 alone. That same year, the injury cost per bullet sold in the United States exceeded $25.

So as we in the Senate work to improve health care for all Americans, we should not just as hard to close the loopholes in our gun laws. Only by doing the latter can we reduce the costs to public health that result from gun violence.
July 12, 2001

CONGRESSIONAL RECORD—SENATE

BURMA MILITARY PURCHASES

Mr. MCCONNELL. Mr. President, the illegitimate regime in Rangoon has once again shown its true colors. On this sorrowful anniversary morning in Wash-
ington, I want to draw the attention of my colleagues to gathering storm clouds in Southeast Asia.

According to Jane's Defence Weekly, Burma's State Peace and Development Council, SPDC, has signed a contract to purchase 10 MIG-29 fighter aircraft from the Russian Aircraft-building Corporation. These fighters were built in the early 1990s and are being stored at the Lakhovitsky machine-building plant. The total cost of the 10 MIGs to the SPDC is $130 million, 30 percent of which will be paid up front and the balance settled over the next decade.

This purchase is troubling for several reasons. First, the junta clearly has military plans for these aircraft. Second, the acquisition of these aircraft, which boosts the junta's capabilities well beyond the 22 Chengdu F-7M and Nanchang A-5C currently sitting on Burmese runways. Tensions between the Thais and the junta have already spilled over into exchanges of gunfire and mortars; an escalation to an air war would be destabilizing to the entire region.

China may be the only country to view the sale in a positive light, as it strengthens the military capability of one its staunchest allies in the region.

From drug dealing to the forced use of child soldiers, the Burmese military has distinguished itself as a world's leading violator of human rights and dignity. This purchase serves as evidence that the regime is committed to remaining in power at any and all costs. The international community must now double its efforts to ensure that even greater human rights abuses are not waged against the innocent people of Burma by the military, which is corrupt to the core.

The acquisition of MIG fighters adds 10 more reasons why the United States should view skepticaly the discussions between Rangoon's thugs and thieves and Burma's legitimate leader Daw Aung San Suu Kyi. The fact that with Russia sends a signal that despite all the rhetoric and few prisoner releases, the talks may be hollow. It strengthens the military capability of one of the junta's staunchest allies in the region.

Finally, the sale is an indication that the Russians are willing to sell military hardware to anyone, anywhere. We can add Burma to the growing list, which includes Iran and North Korea, of Russian client countries.

RACISM

Mr. BAUCUS. Mr. President, today I rise to call attention to racism in our society.

There are certain moments when we are reminded that it exists, and that it is a very ugly thing. Recently, the Committee of 100, a group of prominent Chinese-Americans, published a survey that measured attitudes toward Asian-Americans, especially those of Chinese descent. It was the first such comprehensive survey—the group wanted to establish a baseline that can be compared to future studies so that we can determine whether racist attitudes against Chinese-Americans are rising or falling.

The result of this first survey was distressing. Apparently, one-quarter of Americans hold "very negative attitudes" toward Chinese-Americans, and one-third think that Chinese-Americans are more likely to be loyal to China than to the United States. Stop and think about that: a charge of disloyalty is a sensational accusation when it is leveled by one American against another. This survey suggests that 90 million people in this country accuse millions of their fellow Americans of disloyalty.

The same poll also tested attitudes toward Asian-Americans in general, with similar results. Twenty-four percent of Americans would be upset if someone in their family married an Asian-American; 23 percent would be uncomfortable voting for an Asian-American president; and 17 percent would be disappointed if an Asian-American moved into their neighborhood. Prejudice toward Chinese-Americans, and toward Asian-Americans in general, is not unique. Immigrants from all parts of the world have been stereotyped and reviled at some point in our history, and many groups continue to face these attitudes today. I chose to focus on Asian-Americans today only because the survey so surprised and concerned me.

Chinese immigrants began entering the country in large numbers in the 1850's. They were initially welcomed in the tight labor market of the rapidly expanding West. In fact, American industry brought many of the immigrants from China as contract laborers. Some of these immigrants toiled in gold mines and on the transcontinental railroad. Others worked in yesteryear's and fruit farms in California or on sugar plantations in Hawaii. Still others opened grocery stores, laundries, and other businesses.

But as labor became more plentiful and the gold rush petered out, public sentiment toward these Asian-Americans changed. The federal government put an official stamp on this racism by passing the Chinese Exclusion Act, which made it illegal for Chinese people to emigrate to this country. This unprecedented and embarrasing law stayed on the books until 1943.

Another indignity that immigrants faced was the system of "anti-miscegenation" laws against intermarriage. In 1880, California passed a statute forbidding marriage of a white person to a Chinese, Mulatto, or Mongolian. The federal government passed the Cable Act in 1922, revoking the citizenship of any American woman who married an Asian man. It wasn't until 1967 that the Supreme Court struck down these laws.

For many very good reasons, I am sorry to report that my own state of Montana was not immune to anti-immigrant action. Census data show that in 1870, the Chinese accounted for the largest foreign-born population in the state—larger even than the Irish. Chinese workers made a particularly significant contribution to the mining town of Butte, but by the 1880's they faced discrimination and hate attacks. Ads in newspapers appeared with the slogan "Chinese need not apply." Anti-peddling ordinances were enacted against Chinese grocers. In fact, the town's fourth mayor rode to victory on the slogan "The Chinese must go."

There is no single description of early Chinese-American experience. Chinese-Americans were already wealthy and well-educated when they arrived here. Others arrived in penury and followed the American path to education and success. Some Chinese-Americans continue to celebrate their Chinese origin. Others deny, or have forgotten completely, the cultural heritage of their ancestors. Yet all are Americans.

Cruz Reynoso, the first Mexican-American to serve on California's Supreme Court, put it this way:

"Americans are not now, and never have been, one people linguistically or ethnically. America is a political union—not a cultural, linguistic, religious, or racial union. It is acceptance of our constitutional ideals of democracy, equality, and freedom which acts as a unifier for us as Americans."

Political scientist Carl Friedrich made a similar point when he wrote in 1933: "To be an American is an ideal, while to be a Frenchman is a fact." An American is an ideal. The United States embraces the founding political ideals of our Nation.

It is the responsibility of all of us, as the elected representatives of the
American people, to combat racism in our society, to raise awareness of how racism damages our nation and our society, to point to the ideals that bind us together as citizens of this great nation. Thank you.

SUPPORT FOR THE U.S. COAST GUARD

Mr. DEWINE. Mr. President, I rise today to thank the chairman and ranking member of the Appropriations Committee, Senators BYRD and STEVENS, for working with me and so many others in support of the $92 million for the U.S. Coast Guard. This funding was included in the 2001 Emergency Supplemental Appropriations bill we recently passed.

The Coast Guard needs this assistance to meet basic operational expenses and fund unexpected fiscal year 2001 budget requirements. We must support the critical services that the Coast Guard performs across the country. By passing this bill, we have demonstrated strong support for its missions and will help it stay in the business of saving lives.

Known as “the rescue expert,” our Coast Guard responds to 40,000 search and rescue cases each year, saving 3,800 lives. And, though it is the rescue and response missions that get the headlines, the Coast Guard also is very dedicated to preventing emergencies. The Coast Guard inspects all commercial ships—including cargo ships, tankers, and cruise ships.

There are many other ways that the Coast Guard protects our citizens. One major component of Coast Guard operations is drug interdiction. Last year, the Coast Guard seized more than 66 tons of cocaine, with a street value of $4 billion—that’s more than the total operating cost of the entire Coast Guard.

Perhaps one of the Coast Guard’s toughest jobs is the day to day enforcement of U.S. immigration law. Coast Guard men and women are challenged daily to carry out their responsibilities with due regard for the law, human dignity, and above all, the safety of human life. It is a tough job, and each case is unique. But day in and day out, the Coast Guard continues to carry out its duties with professionalism and a never-ending commitment to those it serves.

These are just some of the vital missions the Coast Guard conducts. But the Coast Guard is reaching the point where it is stretched so thin and the condition of its equipment is so poor that I fear it will no longer be able to sustain daily operations.

When compared to 41 other maritime agencies around the world, the ships that make up our Coast Guard fleet of cutters are the 38th oldest. Because the fleet is so old, the Coast Guard has had to spend twice as much money to fix equipment and hull problems. This is a very serious problem, Mr. President. It is a problem that does not result from mismanagement, but rather, it is a problem that has resulted from a continual lack of adequate funding for our Coast Guard.

We need to provide the Coast Guard with the resources necessary so the American people can have the services that they require and deserve. The funding included in the 2001 Emergency Supplemental Appropriations bill certainly will help keep our Coast Guard afloat. And, we must remain committed to ensuring that our Coast Guard has adequate resources not just now, but well into the future.

I look forward to continuing to work with my colleagues on this vital issue.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator Kennedy in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 13, 1998 in San Francisco, California. A gay man, Brian Wilmes, 45, was beaten to death allegedly by another man who yelled anti-gay epithets and then fled with a woman. Edgar Mora, 25, was charged with murder.

I believe that government’s first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become law. I believe that by passing this legislation, we can change hearts and minds as well.

RURAL TRANSPORTATION

Mrs. CARNAHAN. Mr. President, I rise today to acknowledge a group of courageous young men and women from Canton, MO. They are visiting the Nation’s capital this week.

The group’s journey began more than a year ago on a two-lane road in northeast Missouri. Seventeen-year-old Kristin Hendrickson was killed on Highway 61 when her car struck another vehicle head on. A four-lane road with a divider might have saved her life.

Kristin was just a few months away from graduation at Canton R-5 High School. Her unused prom dress hung in her closet, a reminder of how full of life she had been.

Kristin’s friends tried to make sense of what happened, but rather, it is a determined to make something positive out of this terrible loss, they started a grassroots movement: Students of Missouri Assisting Rural & Urban Transportation, or SMART.

Their goal was to “promote and ensure the safety of rural transportation needs in the State of Missouri.”

Many of the students who created SMART graduated a few weeks later, but younger students carried on the work. And those who graduated stayed involved as advisors. The group developed four objectives: First, to educate the public on the need to improve local transportation; Second, to grow into other local districts, and then move statewide; Third, to lobby legislators for funding to improve rural transportation; and Fourth, to contact candidates for statewide office for their position on transportation, and use this information to educate the public.

SMART has already become a powerful advocacy group in Missouri. Just 2 months after the organization was founded, the nonpartisan group made a presentation at a meeting of the Missouri Highway and Transportation Commission. Their members have also addressed the Missouri Governor’s Conference on Transportation. Representatives of the group have met personally with Missouri Governor Bob Holden and members of the Missouri General Assembly to encourage additional funding for rural transportation projects.

But their greatest victory to date came in January when the Missouri Department of Transportation announced that it would upgrade more than 10 miles of highway 61 between Canton and LaGrange to a four-lane road.

Although the victory came too late for Kristin, there is no way to know how many lives it will save in the years to come. It would not have happened without the forceful activism of these young people.

I am extremely proud of these young people. Not only because of what they accomplished, but because of what they still intend to accomplish. They are not yet satisfied, and we have not heard the last of them.

The group continues to organize similar groups throughout Missouri. They have come to Washington this week to encourage Members of Congress to support highway safety and to advocate for additional federal resources for transportation infrastructure.

These committed young people can teach us all a lesson about how to get things done. The example they have set is not just valuable for other young people, but also for adults who have grown cynical about the political process. These young leaders have shown that you can make a difference—through action and determination. And I intend to work with them to increase the Federal Government’s investment in our Nation’s highways.
THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 11, 2001, the Federal debt stood at $5,769,374,137,996.57, five trillion, five hundred ninety-six billion, ninety-six dollars and fifty-seven cents.

Five years ago, July 11, 1996, the Federal debt stood at $3,640,702,137,996.57, three trillion, six hundred forty billion, seven hundred ninety-six dollars and fifty-seven cents.

Ten years ago, July 11, 1991, the Federal debt stood at $3,536,904,000,000,000, three trillion, five hundred thirty-six billion, nine hundred million dollars.

Fifteen years ago, July 11, 1986, the Federal debt stood at $2,068,672,000,000, two trillion, sixty-eight billion, six hundred million dollars.

Twenty years ago, July 11, 1976, the Federal debt stood at $1,052,374,000,000, one trillion, five hundred twenty-three billion, seven hundred forty million dollars.

Thirty years ago, July 11, 1961, the Federal debt stood at $526,204,000,000, five hundred twenty-six billion, two hundred four million dollars.

Forty years ago, July 11, 1951, the Federal debt stood at $109,237,000,000, one hundred nine billion, two hundred thirty-seven million dollars.

Fifty years ago, July 11, 1941, the Federal debt stood at $38,204,000,000, thirty-eight billion, two hundred four million dollars.

Sixty years ago, July 11, 1931, the Federal debt stood at $7,640,000,000, seven billion, six hundred forty million dollars.

Seventy years ago, July 11, 1921, the Federal debt stood at $2,640,000,000, two billion, six hundred forty million dollars.

EIGHTY YEARS AGO, the Federal debt stood at $740,000,000, seven hundred forty million dollars.

NINETY YEARS AGO, the Federal debt stood at $300,000,000, three hundred million dollars.

ONE HUNDRED YEARS AGO, the Federal debt stood at $100,000,000, one hundred million dollars.

HONORING INDEPENDENCE, MISSOURI AS AN ALL-AMERICAN CITY

Mrs. CARNAHAN. Mr. President, I am proud to take this opportunity to honor a very special place in Missouri. On Saturday, June 23rd, Independence, MO, the hometown of Harry S. Truman, was selected as an All-American City. The All-American City Competition is the Nation’s oldest award for civic accomplishment. The winning cities serve as “models of exemplary Grass-roots problem solving.”

A 51-member delegation of business interests, community leaders, and non-profit organizations came together to let Independence shine in the competition. While community partnerships are sprouting up in cities across America, Independence is in a league of its own. Under the leadership of Mayor Ron Stewart, Independence has achieved a real sense of unity and community. So many different entities with widely divergent interests were recognized for their ability to successfully work together when faced with civic challenges.

Independence’s winning presentation, appropriately themed “Together We Can,” highlighted recent citywide improvements such as cleaning up the historic Truman district, a sales tax approved by the community to repair streets and parks, and the William Chrisman High School program which involved youth in public service programs. Furthermore, even Independence’s physical presence at the competition was a united effort. Community groups worked together to raise funds to pay for the trip and prepare the presentation. This truly exceptional community certainly deserves its prestigious recognition as an All-American City.

Congratulations to Mayor Ron Stewart, participation coordinator Larry Kaufman, the delegation, and the residents of Independence. Your passionate work epitomizes the unlimited possibilities of cooperation. Thank you for making me proud to be a Missourian.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages...
from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE
At 2:52 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2216) an Act making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House: Mr. YOUNG of Florida, Mr. ROYbal-Allard of California, Mr. ROGERS of Kentucky, Mr. SKEEN of Georgia, Mr. WOLF of Virginia, Mr. KOLBE of Arizona, Mr. CALLAHAN of California, Mr. WALSH of Massachusetts, Mr. TAYLOR of North Carolina, Mr. HOIBERG of South Dakota, Mr. ISTOOK of Oklahoma, Mr. BONILLA of Texas, Mr. NOLAN of Maryland, Mr. LEE of Missouri, Mr. DICKS of Washington, Mr. RYAN of Ohio, Ms. KAPTUR of Ohio, Mr. VISCLOSKY of Indiana, Mr. ANDERSON of California, Mr. OLVER of Colorado, and Mr. OLVER of Florida.

MEASURES REFERRED
The following bills were read the first and the second time by unanimous consent, and referred as indicated:

H.R. 2330. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes.

The message further announced that pursuant to section 303(a) of Public Law 106-286, the Speaker appoints the following Members of the House of Representatives to the Congressional-Executive Commission on the People's Republic of China: Mr. LEVIN of Michigan, Ms. KAPUTR of Ohio, Ms. PELOSI of California, and Mr. DAVIS of Florida.

EXECUTIVE AND OTHER COMMUNICATIONS
The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2759. A communication from the Assistant Attorney General of the Office of Legislative Affairs, transmitting, pursuant to law, the Annual Report of the Office of the Juvenile Justice and Delinquency Prevention for 2000; to the Committee on the Judiciary.

EC–2760. A communication from the Director of the Office of the Inspector General, Office of the Secretary of Transportation, transmitting, pursuant to law, a report relative to consolidated financial statements with supplementary information for 1999 and 2000; to the Committee on the Judiciary.

EC–2761. A communication from the National Treasurer of the Navy Wives Clubs of America, transmitting, pursuant to law, a report relative to financial statement and audit for Fiscal Year 1999; to the Committee on the Judiciary.

EC–2762. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period beginning October 1, 2000 through March 31, 2001; to the Committee on Governmental Affairs.

EC–2763. A communication from the Acting Inspector General of the General Service Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period for the fiscal year ending September 30, 2001; to the Committee on Governmental Affairs.

EC–2764. A communication from the Secretary of the Department of Housing and Urban Development, transmitting, pursuant to law, the Annual Report on Performance and Accountability for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC–2765. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–2766. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–2767. A communication from the Assistant Director for the Executive and Political Personnel, Department of the Navy, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Navy, received on July 5, 2001; to the Committee on Armed Services.

EC–2768. A communication from the Assistant Director for the Executive and Political Personnel, Department of the Navy, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Navy, received on July 5, 2001; to the Committee on Armed Services.

EC–2769. A communication from the Assistant Director for Economic, Social, and Technical Exports, Department of the Navy, transmitting, pursuant to law, the Annual Materials Plans for Fiscal Years 2001 and 2002; to the Committee on Armed Services.

EC–2770. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled “Navy Discharge Review Board” (RIN0703–AA46) received on July 5, 2001; to the Committee on Armed Services.

EC–2771. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled “Public Access to Particular Installations” (RIN0703–AA63) received on July 5, 2001; to the Committee on Armed Services.

EC–2772. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled “Garnishment of Pay of Naval Military and Civilian Personnel for Collection of Child Support and Alimony” (RIN0703–AA67) received on July 5, 2001; to the Committee on Armed Services.

EC–2773. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled “Assistance to and Support of Dependents; Paternity Claims” (RIN0703–AA62) received on July 5, 2001; to the Committee on Armed Services.

EC–2774. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled “Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public” (RIN0703–AA58) received on July 5, 2001; to the Committee on Armed Services.

EC–2775. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled “Application Guidelines for Archeological Research Permits on Ship and Aircraft Wrecks Under the Jurisdiction of the Department of the Navy” (RIN0703–AA57) received on July 5, 2001; to the Committee on Armed Services.

EC–2776. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled “Garnishment of Pay of Naval Military and Civilian Personnel for Collection of Child Support and Alimony” (RIN0703–AA67) received on July 5, 2001; to the Committee on Armed Services.

EC–2777. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled “Application Guidelines for Archeological Research Permits on Ship and Aircraft Wrecks Under the Jurisdiction of the Department of the Navy” (RIN0703–AA57) received on July 5, 2001; to the Committee on Armed Services.

EC–2778. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled “Garnishment of Pay of Naval Military and Civilian Personnel for Collection of Child Support and Alimony” (RIN0703–AA67) received on July 5, 2001; to the Committee on Armed Services.

EC–2779. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled “Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public” (RIN0703–AA58) received on July 5, 2001; to the Committee on Armed Services.

EC–2780. A communication from the Head of Regulations and Legislation, Office of the Judge Advocate General, Department of the Navy, transmitting, pursuant to law, the report of a rule entitled “Garnishment of Pay of Naval Military and Civilian Personnel for Collection of Child Support and Alimony” (RIN0703–AA67) received on July 5, 2001; to the Committee on Armed Services.

EC–2781. A communication from the Program Analyst of the Office of the Managing
Director, Federal Communications Commission, transmitting, pursuant to law, a report of a rule entitled “Assessment and Collection of Regulatory Fees for Fiscal Year 2001” (Doc. No. 01–76) received on July 2, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2782. A communication from the Attorney for the Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations: Fireworks Display, Hyannis, MA” ((RIN2115–AA97)(2001–0037)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2783. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations: Fireworks Display, Provincetown, MA” ((RIN2115–AA97)(2001–0038)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2784. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations: Milwaukee, WI” ((RIN2115–AA97)(2001–0039)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2785. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations: Kewaunee, WI” ((RIN2115–AA97)(2001–0040)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2790. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations: Lake Erie, Huron, OH” ((RIN2115–AA97)(2001–0041)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2791. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations: Lake Erie, Huron, OH” ((RIN2115–AA97)(2001–0042)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2792. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations: Tall Ships Challenge 2001, Moving Safety Zone, Muskegon Lake, Muskegon, MI” ((RIN2115–AA97)(2001–0043)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2793. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Regatta Regulations; SLR: Maryland Swim for Life, Chester River, Chestertown Maryland” ((RIN2115–AA97)(2001–0044)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2794. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Raising the Threshold of Property Damage for Property Forfeiture for Vessel Involved Recreational Vessels” ((RIN2115–AF97) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2795. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Regatta Regulations; SLR: Patapsco River, Baltimore Maryland” ((RIN2115–AE46)(2001–0015)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2796. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Regatta Regulations; SLR: Northeast Ohio Energy and Transportation Conference” ((RIN2115–AE46)(2001–0016)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2797. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations: Milwaukee, WI” ((RIN2115–AA97)(2001–0029)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2798. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Drawbridge Regulations: Sabine Lake, Texas” ((RIN2115–AE47)(2001–0048)) received on July 3, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2799. A communication from the Attorney/Advisor of the Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Administrator of the National Highway Traffic Safety Administration, received on July 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2800. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: American Champion Aircraft Corporation 7, 8, and 11 Series Airplanes” ((RIN2115–AA64)(2001–0261)) received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

A communication from the Secretary of Transportation, transmitting, pursuant to law, the Annual Report on Transportation Security for Calendar Year 1999; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted on July 12, 2001:

By Mr. DURBIN, from the Committee on Appropriations, without amendment:

S. RES. 117: An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes (Rept. No. 107–37).

By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment and with an amended preamble:

S. RES. 83: A resolution relating to the transfer of Slobodan Milosevic to the International Criminal Tribunal for Yugoslavia, and for other purposes.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with a preamble:

S. RES. 128: A resolution calling on the Government of the People’s Republic of China to immediately and unconditionally release Li Shaomin and all other American scholars of Chinese ancestry being held in detention, calling on the President of the United States to continue working on behalf of Li Shaomin and the other detained scholars for their release, and for other purposes.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment:


By Mr. REID, from the Committee on Appropriations, without amendment:

S. 1171: An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with an amended preamble:

S. CON. RES. 28: A concurrent resolution calling for a United States effort to end repressive laws in Cyprus.
By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment and an amendment to the title and with an amended preamble:

S. CON. RES. 34: A concurrent resolution congratulating the Baltic nations of Estonia, Latvia, and Lithuania on the tenth anniversary of the reestablishment of their full independence.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment:

S. CON. RES. 53: Concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HARKIN for the Committee on Agriculture, Nutrition, and Forestry.

*Nominee: Donald Joseph McConnell.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CHAFEE (for himself, Mr. DODD, Ms. LEAHY, and Mrs. FINKSTEIN):

S. 1168. A bill to amend the Foreign Assistance Act of 1961 to provide for the establishment of a Clean Water for the Americas Partnership within the United States Agency for International Development; to the Committee on Foreign Relations.

By Mr. FINSTEIN:

S. 1168. A bill to amend the Foreign Assistance Act of 1961 to provide for the establishment of a Clean Water for the Americas Partnership within the United States Agency for International Development; to the Committee on Foreign Relations.
S. 1169. A bill to streamline the regulatory process for home health agencies under the Medicare program under title XVIII of the Social Security Act and the Medicaid program under title XIX of such Act, and for other purposes; to the Committee on Finance.

By Mr. MURkowski:

S. 1170. A bill to make the United States' energy policy toward Iraq consistent with the national security policies of the United States; to the Committee on Finance.

By Mr. REID:

S. 1171. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. DURbin:

S. 1172. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. NAY:

S. 1173. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to the employment of any adult food stamp recipient; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. HATCH, and Mr. KENNEDY):

S. 1174. A bill to provide for safe incarceration of juvenile offenders; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 1175. A bill to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VOINOvICH (for himself and Mr. CASSIDY):

S. 1176. A bill to strengthen research conducted by the Environmental Protection Agency, and for other purposes; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself, Ms. Collins, Ms. JEFFords, and Mr. LEAHY):

S. 1177. A bill to amend title XI of the Social Security Act to clarify that the Secretary of Health and Human Services has the authority to treat certain State payments made in an approved demonstration project as medical assistance under the Medicaid program for purposes of a rebate agreement under section 1927 of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. COCHRAN (for himself, Mr. PRest, and Mr. LEAHY):

S. J. Res. 19. A joint resolution providing for the appointment of Anne d'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. COCHRAN (for himself, Mr. PRest, and Mr. LEAHY):

S. J. Res. 20. A joint resolution providing for the appointment of Roger W. Sant as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

S. Res. 129. A resolution electing Jeri Thomson, temporary of the Senate; considered and agreed to.

By Mr. DASCHLe (for himself and Mr. LOTT):

S. Res. 129. A resolution notifying the House of Representatives of the election of a Secretary of the Senate; considered and agreed to.

By Mr. DASCHLe (for himself and Mr. LOTT):

S. Res. 131. A resolution notifying the President of the United States of the election of a Secretary of the Senate; considered and agreed to.

By Mr. CAMPBELL (for himself, Mr. KoHL, Mr. INHoFFe, Mr. COCHRan, Mrs. LINcOLn, Mr. WALKINg, Mr. ENsON, Mr. DORgan, Mr. DeWIne, Mr. AKARA, Ms. LANDerie, Ms. STABEnwORTh, Mr. DOdd, Mr. SMith of Oregon, Mr. Enzi, Mr. LOTT, Mr. HELMS, Mr. SHEL, Mr. DOMEnici, and Mr. MILLER):

S. Res. 132. A resolution recognizing the social policy of child abuse and neglect, and supporting efforts to enhance public awareness of it; to the Committee on the Judiciary.

By Mr. CORZINE:

S. Res. 138. A resolution expressing the sense of the Senate that information pertaining to Nazi war criminals should be brought to light so that future generations can learn from Holocaust, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 131. At the request of Mr. Johnson, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 131, a bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes.

S. 145. At the request of Mr. Thurmond, the names of the Senator from North Carolina (Mr. SESSIONS) and the Senator from Vermont (Mr. JEFFords) were added as cosponsors of S. 145, a bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age, and for other purposes.

S. 233. At the request of Mr. FeINGold, the name of the Senator from Illinois (Mr. DURbin) was added as a cosponsor of S. 233, a bill to place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty.

S. 492. At the request of Mrs. BIDEN, his name was added as a cosponsor of S. 492, a bill to provide for a transition to democracy and to promote economic recovery in Zimbabwe.

S. 521. At the request of Mrs. LINcOLn, the names of the Senator from Georgia (Mr. MILLer) was added as a cosponsor of S. 521, a bill to promote recreation on Federal lakes, to require Federal agencies responsible for managing Federal lakes to pursue strategies for enhancing recreational experiences of the public, and for other purposes.

S. 570. At the request of Mr. WELLstone, the names of the Senator from Washington (Ms. CANTWell) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 543, a bill to provide for equal coverage of mental health benefits with respect to insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 571. At the request of Mr. BIDEN, the name of the Senator from New Mexico (Mr. DOMEnici) was added as a cosponsor of S. 570, a bill to establish a permanent Violence Against Women Office at the Department of Justice.

S. 583. At the request of Mr. THurmonD, the name of the Senator from Alabama (Mr. SessIONS) was added as a cosponsor of S. 571, a bill to provide for the location of the National Museum of the United States Army.

S. 624. At the request of Mr. GriegG, the name of the Senator from Kentucky (Mr. McCONNell) was added as a cosponsor of S. 624, a bill to amend the Fair Labor standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off and biweekly work programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 654. At the request of Mr. Torricelli, the name of the Senator from Michigan (Mr. Levin) was added as a cosponsor of S. 654, a bill to amend the Internal...
Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 656

At the request of Mr. REED, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 672

At the request of Mrs. FEINSTEIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 672, a bill to amend the Immigration and Nationality Act to provide for the continued classification of certain aliens as children for purposes of that Act in cases where the aliens "age-out" while awaiting immigration processing, and for other purposes.

S. 839

At the request of Ms. HUTCHISON, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Jersey (Mr. CORZINE), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 910

At the request of Mr. ROCKEFELLER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 910, a bill to provide certain safeguards with respect to the domestic steel industry.

S. 932

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 932, a bill to amend the Food Security Act of 1985 to establish the conservation security program.

S. 942

At the request of Mr. GRAHAM, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 942, a bill to authorize the supplemental grant for population increases in certain states under the temporary assistance to needy families program for fiscal year 2002.

S. 992

At the request of Mr. NICKLES, the name of the Senator from Maine (Ms. SOWE) was added as a cosponsor of S. 992, a bill to amend the Internal Revenue Code of 1986 to repeal the provision taxing policy holder dividends of mutual life insurance companies and to repeal the policyholders surplus account provisions.

S. 1021

At the request of Mr. BIDEN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1021, a bill to reauthorize the Tropical Forest Conservation Act of 1996 through fiscal year 2004.

S. 1042

At the request of Mr. INOUYE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1042, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 1075

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1075, a bill to extend and modify the Drug-Free Communities Support Program, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

S. 1087

At the request of Mr. CONRAD, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1087, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period of the depreciation of certain leasehold improvements.

S. 1098

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1098, a bill to amend title 38, United States Code, to facilitate the use of educational assistance under the Montgomery GI Bill for education leading to employment in high technology industry, and for other purposes.

S. 1099

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1099, a bill to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 1101

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1101, a bill to amend section 1116 of title 38, United States Code, to modify and extend authorities on the presumption of service-connection for herbicide-related disabilities of Vietnam era veterans, and for other purposes.

S. 1109

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1109, a bill to amend title 38, United States Code, to exclude certain income from annual income determinations for pension purposes, to limit provision of benefits for fugitive and incarcerated veterans, to increase the home loan guaranty amount for construction and purchase of homes, to modify and enhance other authorities relating to veterans' benefits, and for other purposes.

S. 1115

At the request of Mr. KENNEDY, the name of the Senator from New Mexico (Mr. RINGAMAN) and the Senator from Washington (Ms. MURRAY) were added as cosponsors of S. 1115, a bill to amend the Public Health Service Act with respect to making progress toward the elimination of tuberculosis, and for other purposes.

S. 1135

At the request of Mr. GRAHAM, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1135, a bill to amend title XVIII of the Social Security Act to provide comprehensive reform of the medicare program, including the provision of coverage of outpatient prescription drugs under such program.

S. 1167

At the request of Mrs. FEINSTEIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1167, a bill to amend the Immigration and Nationality Act to permit the substitution of an alternative close family member in the case of the death of the person petitioning for an alien's admission to the United States.

S. RES. 121

At the request of Mr. KERRY, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Rhode Island (Mr. REED), the Senator from Hawaii (Mr. AKAKA), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. Res. 121, a resolution expressing the sense of the Senate regarding the policy of the United States at the 53rd Annual Meeting of the International Whaling Commission.

S. RES. 128

At the request of Mr. TORRICELLI, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. Res. 128, a resolution calling on the Government of the People's Republic of China to immediately and unconditionally release Li Shaomin and all other American scholars of Chinese ancestry being held in detention, calling on the President of the United States to continue working on behalf of Li Shaomin and the other detained scholars for their release, and for other purposes.

S. CON. RES. 1

At the request of Mr. FEINGOLD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. Wisconsin and all those who served aboard her.

S. CON. RES. 28

At the request of Mr. BIDEN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 128, supra.
(Mr. DODD) was added as a cosponsor of S. Con. Res. 28, a concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

S. CON. RES. 53

At the request of Mr. HAGEL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a co-sponsor of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

AMENDMENT NO. 907

At the request of Mr. HAGEL, the name of the Senator from Ohio (Mr. VOINOVICH), the Senator from South Dakota (Mr. DASCHLE), the Senator from Arkansas (Mrs. LINCOLN), the Senator from South Carolina (Mr. HOLINGS), and the Senator from South Dakota (Mr. JOHNSON) were added as co-sponsors of amendment No. 907 intended to be proposed to H.R. 2217, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 921

At the request of Ms. LANDRIEU, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 921 intended to be proposed to H.R. 2217, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 922

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 922 intended to be proposed to H.R. 2217, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself, Mr. MURKOWSKI, Ms. COLLINS, and Mr. KERRY):

S. 1169. A bill to streamline the regulatory processes applicable to home health agencies under the Medicare program under title XVIII of the Social Security Act and the Medicaid program under title XIX of such Act, and for other purposes; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Home Health Nurse and Patient Act of 2001. This legislation redirects administrative burdens, requires a focused analysis of crucial claims processing concerns, and provides the opportunity for constructive reforms of current inefficiencies.

I am especially pleased to be joined by a number of my colleagues, including Senator MURKOWSKI and Senator KERRY, who have been leaders in the regulatory reform movement, and Senator COLLINS, who has truly been a champion for preserving access to home health care.

Without Senator COLLINS' leadership on this issue, including the 1999 hearing that she held on the issue of regulatory burdens facing the home health care industry, this legislation would not be where it is today.

Senator COLLINS' legislation to repeal the 15 percent reduction in payments to home health care providers is also of the utmost importance, and is the other piece to the puzzle in terms of preserving access to home health care. It is my hope that the Senate Finance Committee will report out her legislation this year.

Scope of the problem: As many of my colleagues know, home health care provides compassionate, at-home care to seniors and people with disabilities in cities and towns throughout America.

Without it, many patients have no choice but to go to a nursing home, or even an emergency room, to get the care they need. For too many home health patients in my home state of Wisconsin, that day has arrived.

Over the past few years, home health agencies around Wisconsin have closed their doors due to massive changes in Medicare, and seniors and the disabled have been forced to go elsewhere for care.

In Wisconsin, over 40 Medicare home health providers have shut down since the implementation of the Interim Payment System. Still more have shrunken their service areas, stopped accepting Medicare patients, or refused assignment for high cost patients because the payments are simply too low.

Over the past 3 years, nearly 30 of Wisconsin's 72 counties have lost between one and fifteen home health care agencies.

Quite frankly, in many parts of Wisconsin, beneficiaries in certain areas or with certain diagnoses simply don't have access to home health care.

While we have thankfully moved beyond the interim payment system, many home health agencies are facing another cloud in the horizon—an impending nursing shortage and a regulatory system that causes nurses to fill out paperwork instead of caring for patients.

Burdensome and excessive paperwork often causes nurses to leave the home health care profession, and that can mean that patients stay in the hospital longer than necessary.

A 2000 national survey by the Hospital and Healthcare Compensation Service reported a 21-percent turnover rate for home health registered nurses, a 24-percent turnover rate for home health licensed practicing nurses, and a 28-percent turnover for home health aides.

The actual amount of time that a nurse provides medical care during an average "start of care" home health visit is approximately 45 minutes, only 30 percent of the average 2.5 hours of a nurse's time during the admission visit.

According to Dr. Peter Warehouse Cooper, every hour of patient care time requires 48 minutes of paperwork time for hospital-owned home health agencies.

I would like to share with my colleagues this advertisement from Nursing Spectrum magazine.

Let me read this line here in bold print: "No OASIS."

As you can see the main selling point in the advertisement is the fact that the job will not force nurses to collect OASIS data. This is just one simple example of the administrative burden we have imposed on our nurses.

Our legislation takes a common sense approach to developing Medicare home health regulatory policies that are pro-consumer, provider-friendly, and efficient for the Center for Medicare and Medicaid Services, CMS, to administer.

It would also help to ensure that the policies are successful, fair and effective because all parties would collaborate on recommendations to the Secretary of Health and Human Services, HHS, through joint task forces.

This legislation would significantly alleviate the burdens that the Outcomes Assessment and Information Set (OASIS), the claims process for patients who are enrolled in both Medicare and Medicaid, and certain audit and medical review processes have had on home health providers.

More importantly, the changes to the OASIS and the claims review process also would reduce the stress often experienced by home health patients due to the complexity of both regulations.

It would also create a task force to analyze the appropriateness and efficacy of the OASIS patient assessment instrument on Medicare, Medicaid and non-government financed patients.

During the study, the OASIS process would be optional for the non-Medicare and non-Medicaid patients and inapplicable to those patients receiving personal care services only.

Many beneficiaries are also concerned about arbitrary coverage decisions, that leaves beneficiaries in the lurch. That is why this legislation requires the Secretary to form a task force to develop criteria for the handling of Medicare claims related to individuals also eligible for Medicaid coverage where the claim may not be covered under Medicare.

Finally, the Home Health Nurse and Patient Act would create a task force that would engage in a wholesale evaluation of the process used by Medicare to select and review home health services' claims.
By Mr. MURKOWSKI:

S. 1170. A bill to make the United States’ energy policy toward Iraq consistent with the national security policies of the United States; to the Committee on Finance.

Mr. MURKOWSKI. Mr. President, I take the opportunity at this time to introduce S. 1170. It is my intention to introduce the following bill to make the United States energy policy towards Iraq consistent with the national security policies of the United States. I anticipate that several colleagues will be cosponsoring the bill with me. I will enter into that at a later time.

Mr. MURKOWSKI. Mr. President, for some time I have been coming to the floor to speak of a major inconsistency in our foreign and energy policies. I am referring, of course, to our growing dependence on imported petroleum from Iraq.

We import somewhere between 500,000 to 750,000 barrels of oil from Iraq every day. About six billion dollars worth last year. Since the end of the Gulf war, we have also flown some 250,000 sorties to prevent Saddam Hussein from threatening our allies in the region. We spend billions every year to keep him in check.

We fill up our planes with Iraqi oil, send our pilots to fly over and get shot at by Iraqi artillery, and return to fill up on Iraqi oil again.

Saddam heats our homes in winter, gets our kids to school each day, gets our food from farm to dinner table, and we pay him well to do that.

What does he do with the money he gets from oil?

He pays his Republican Guards to keep him safe.

He supports international terrorist activities; he funds his military campaign against American servicemen and women and those of our allies; and he builds an arsenal of weapons of mass destruction to threaten Israel and our allies in the Persian Gulf.

Am I missing something? Is this good policy? For a number of years the United States has worked closely with the United Nations on the “Oil-for-Food” Program.

This program allows Iraq to export petroleum in exchange for funds which can be used for food, medicine and other humanitarian products.

Despite more than $15 billion available for those purposes, Iraq has spent only a fraction of that amount on its people’s needs.

Instead, the Iraqi government spends that money on items of questionable, and often highly suspicious purposes. Why, when billions are available to care for the Iraqi people, who are malnourished, sick, and have inadequate medical care, would Saddam Hussein withhold the money available, and choose instead to blame the United States for the plight of his people?

Why is Iraq reducing the amount it spends on nutrition and pre-natal care, when millions of dollars are available? Why does $200 million of medicine from the UN sit undistributed in Iraqi warehouses?

Why, given the urgent humanitarian conditions in Iraq, does Saddam Hussein insist that the country’s highest priority is the development of sophisticated telecommunications and transportation infrastructure?

Why, if there are billions available, and his people are starving, is Iraq only buying $8 million of food from American farmers each year?

I have no quarrel with the Oil-for-Food program. It is a well-intentioned effort.

I do, however, have a problem with the means in which Saddam Hussein has manipulated our growing dependence on Iraqi oil.

Three times this year since the beginning of the Oil-for-Food program, Saddam Hussein has threatened or actually halted oil production, disrupting energy markets and sending oil prices skyrocketing.

Why do this? Simply to send a message to the United States: “I have leverage over you.”

Every time he has done this, he has had his way. We have proven ourselves addicted to Iraqi oil. Saddam has been proven right: he does have leverage over us.

We have placed our energy security in the hands of a madman.

The Administration has attempted vauntingly to reconstruct a sensible multilateral policy toward Iraq. Those attempts have unfortunately not been successful.

I think that before we can construct a sensible US policy toward Iraq, we need to end the blatant inconsistency between our energy policy and our foreign policy.

We need to end our addiction to Iraqi oil. We need to go “cold turkey.”

To that end I have introduced legislation today which would prohibit imports from Iraq, whether or not under the Oil for Food Program, until it is no longer inconsistent with our national security to recognize progress toward genuine democracy.

I hope that this will be an initial step towards a more rational and coherent policy toward Iraq.

By Mr. LEAHY (for himself, Mr. HATCH, and Mr. KENNEDY):

S. 1174. A bill to provide for safe incarceration of juvenile offenders; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today to introduce with Senator HATCH legislation that addresses the problems caused by housing juveniles who are prosecuted in the criminal justice system in adult correctional facilities. In addition, this legislation reauthorizes the Juvenile Justice and Delinquency Prevention Act, to maintain the core protections afforded to juveniles who are adjudicated delinquent and detained in the juvenile court system.

This two-pronged approach will help ensure that we treat offenders with appropriate severity, but also in a way that assists States in providing safe conditions for their confinement and appropriate access to educational, vocational, and health programs that address the needs of juveniles. Improving conditions for juveniles today will improve the public safety in the future, as juveniles who are not exposed to adult inmates have a lower likelihood of committing future crimes.

The Justice Department reported last fall that of the 50 States and the District of Columbia, 44 house juveniles in adult jails and prisons, and 26 of those do not maintain designated youthful offender housing units. As a nation, we are relying increasingly on adult facilities to house juveniles; for example, according to the Bureau of Justice Statistics’ survey of jails, there was a 35-percent increase in the number of juveniles held in adult jails between 1994 and 1997. I believe that there is a will in the States to improve conditions for these juveniles, but resources are often lacking. The Federal Government can play a useful role by providing funding to States that want to take account of the differences between juveniles and adults.

Although many juvenile offenders serving time in adult prisons have committed extraordinarily serious offenses, others are there because of relatively minor crimes and will be released at a young age. According to the 1999 report of the Office of Juvenile Justice and Delinquency Prevention, 22 percent of juveniles committed to State prisons were there because they had committed property crimes, 11 percent because they committed drug-related crimes, and only 25 percent because they had committed murder, kidnapping, sexual assault or assault. Certainly, many of those juveniles can be convinced not to commit further
crimes. The social and moral cost of not making that attempt is simply incalculable.

There is stunning statistical evidence that something is deeply wrong with our current approach to incarcerating juveniles. According to the Justice Department, the suicide rate for juveniles held in state adult jails is five times the rate in the general youth population and eight times the rate for adolescents in juvenile detention facilities. Juveniles in adult facilities are also more likely to be violently victimized. Sexual assault was five times more likely than in juvenile facilities, beatings by staff nearly twice as likely, and attacks with weapons almost 50 percent more common.

Moreover, many scholars have questioned whether housing juvenile offenders and adult inmates together is a long-term interest in public safety. Multiple studies have shown that youth transferred to the adult system recidivate at higher rates and with more serious offenses than youth who have committed similar offenses but are retained in the juvenile justice system. Some would suggest that we should not be transferring youth to the adult system at all, and I am sympathetic to that view. But that is a decision our States must make, and for now most of our States have taken the contrary position. At the very least, then, we must ensure that juveniles are treated humanely in the criminal justice system to reduce the risks that upon release they will commit additional and more serious crimes. One of the ways we can do that is by helping States improve confinement conditions.

The problem this bill is intended to address cannot be described simply through statistics or academic studies. The compelling stories of young people who have been part of the corrections system should command our attention. For example, United Press International and numerous newspapers have reported the story of 15-year-old Robert, who was held in a Kentucky adult jail for the minor infraction of truancy and petty theft. One night during his time there, Robert wrapped one end of his shirt around his neck and hanged himself. The county has now agreed not to house juveniles and adults together.

The New York Times magazine last year told the story of Jessica, who at 14 was the youngest female in the Florida correctional system and, within her first few weeks in prison, tried to commit suicide. Jessica was then transferred to a rougher Miami prison where she does not receive psychological counseling or mental health care to get her GED. Jessica has found an extensive surrogate prison family whom she turns to for advice. The woman she refers to as “Mommy” is serving a life sentence for murder. Jessica will be released at age 22 with no education beyond the sixth grade, no job skills, and no life experience in the free world after age 13. Now some will point out that Jessica committed a serious criminal offense and two older teenagers robbed her grandparents and she deserves harsh punishment. And I agree that we must deal severely with such crimes. But the fact remains that when Jessica is released from prison she will be 22, with an entire adult life ahead of her. I believe it is critical for the public safety for her and others like her to have options besides a life of crime.

The Miami Herald reported the stories of Joseph Tejera and Rebekah Homerston. Tejera was sentenced as an adult for a burglary offense, and was placed in an adult prison instead of an intensive juvenile program where he would have received 24-hour supervision, had access to educational and other programs, and been surrounded by other juveniles. Instead, at the age of 13, he was placed in a cell besides an adult inmate who constantly tried to beat him up. Despite a sterling disciplinary record, he was involved in five fights because of the aggressiveness of adult inmates. Homerston was the daughter of a father serving life in prison for sex crimes against minors and a mother arrested for theft and drunk driving. At the age of 13, she ran away from home, and lived on the streets of Fort Lauderdale. At 15, she too was prosecuted and sentenced to a two-year term as an adult after vandalizing the city’s recreation center. Upon her release from that prison term, she was arrested at age 16 for shoplifting a shirt, and is now serving three and a half years in an adult facility for that offense. While in prison, she has witnessed numerous suicide attempts.

Housing juveniles with adult inmates creates problems not just for the juveniles involved. Such policies also create difficulties for corrections administrators, whose prisons and jails often lack the physical structure, programs, and trained personnel to manage a mixed juvenile-adult population. John Gorski, the head of the Department of Corrections in my State of Vermont, has advised that corrections officials from around the nation dislike having juveniles in their facilities. These officials often become responsible for delivering those services to which juveniles are entitled, including special education services. As one report on Youth in the Criminal Justice System recently recommended: “Administrative staff and people in policy making positions dealing with youth in the adult system should have education, training, and experience regarding the distinctive characteristics of children and adolescents.” This bill would provide for such education and training to make the jobs of corrections officials around the nation easier. In addition, the presence of juveniles among adult inmates can fuel a prison mentality in young, highly impressionable offenders like Jessica.

Our prisons and jails are too often becoming schools for young lawbreakers.

I would like to explain how this bill addresses confinement conditions for juveniles.

Title I: The first title of this bill creates a new incentive grant program for State and local governments and Indian tribes. These grants can be used for the following purposes related to juveniles under the jurisdiction of an adult criminal court: (a) alter existing correctional facilities, or develop separate facilities, to provide segregated facilities, and retraining, medical, and mental health assessment and treatment, and drug treatment. Grants can also be used to seek alternatives to housing juveniles with adult inmates, including the expansion of juvenile facilities.

It is important to note that States that choose not to house juveniles who are convicted as adults with adult inmates are still eligible for grants under this bill. For example, they could use the money to train staff, or to provide educational or other programs for juveniles, or to improve juvenile facilities.

Applicants for these grants must provide a detailed plan explaining how they will improve conditions for juveniles in their adult correctional system. To be clear: the purpose of this grant program is not to fuel a prison-building boom, or to make it easier for States to prosecute juveniles as adults, but to improve conditions for juveniles.

States will need to take this purpose into account in making their grant proposals. Moreover, to be eligible for a grant, States must have developed guidelines on the appropriate use of force against incarcerated juveniles, and must also have prohibited the use of electroshock devices, chemical restraints, and point restraints. The use of such punishment is inconsistent with our commitments to treating juveniles humanely, and is at variance with the very purpose of this grant program. Every State that can meet the requirements of the grant program will receive funding under this title, and rural representation is guaranteed.

Title II: The second title of the bill authorizes States to use their Violent Offender Incarceration/Transfer in Sentencing (VOLITIS) grant money to improve the treatment of juveniles under the jurisdiction of the adult criminal justice system. It also offers States an
incentive to use a substantial percentage of their VOITIS money for that purpose. States that use 10 percent of their VOITIS money for substance abuse education for people under the jurisdiction of an adult criminal court, or to provide training and supervision of correctional officials and reporting on juvenile conditions will receive a bonus of 5 percent above the amount to which they are otherwise entitled under that program. The money can be used to alter existing facilities to provide separate space for juveniles under the jurisdiction of an adult criminal court, or to provide training and supervision of correctional officials and reporting on juvenile conditions. This title, in conjunction with Title I, allows us to make improving conditions for juveniles a national priority by working through the States. No State will be forced to use their money for this purpose or see their funding reduced if they choose not to. But those States that do make some effort in this regard will be rewarded.

Title III: The third title of this bill reauthorizes the Juvenile Justice and Delinquency Prevention Act. Under the JJDPA, States receiving federal funds must ensure that adequate protections are maintained juveniles. These protections include “sight” and “sound” separation between those in the juvenile detention system and adult offenders. Children cannot be put in adjoining cells with adults, or placed in circumstances that allow them to be subject to threats and verbal abuse from adults in dining halls, recreation areas, and other common spaces. In addition to establishing sight and sound separation, the JJDPA provides three additional core protections: (1) removal of juveniles from adult jails or lockups, with a 24-hour exception for rural areas and other exceptions for travel and weather-related conditions; (2) deinstitutionalization of status offenders; and (3) efforts toward reducing the proportion of detention of minority youth in the juvenile justice system.

I am very pleased that Senator HATCH has agreed with me that we need a straightforward reauthorization of the JJDPA. He and I both worked very hard in the last Congress to reauthorize that law, and our efforts were sidetracked by numerous factors.

Title IV: Finally, the fourth title of this bill contains a number of provisions that I would like to highlight today. First, it authorizes funding for rural States and economically distressed communities that lack the resources to provide secure custody for juvenile offenders. Second, this title calls for a study on the effect of sentencing juvenile drug offenders as adults. Many have raised concerns about the toll taken on some of our communities, especially those in poorer areas, by lengthy drug sentences. There is the position that the proliferation of illegal drugs over the last 20 years has presented a social crisis with particularly serious effects on poor and urban communities. But we need to take a systematic look at whether our approach to that crisis has been effective and fair, and the study in this bill should aid in getting us there. Third, this bill instructs the General Accounting Office to prepare a report on the prevalence and effects of the use of electroshock weapons, 4-point restraints, chemical restraints, restraint chairs, and solitary confinement against juvenile offenders in both the Federal and State corrections systems. I am deeply concerned about the disciplinary methods being used against juvenile offenders in the U.S. and I believe it is important for Congress to receive an accounting of the problem so we can consider whether further legislation in this area is appropriate. Fourth, this title reauthorizes the Family Unity Demonstration Project, which provides funding for projects allowingigneous who are parents to live in structured, community-based centers with their young children. A study by the Bureau of Justice Statistics found that about two-thirds of incarcerated women were parents of children under 18 years old. According to the White House, on any given day, America is home to 1.5 million children of prisoners. And according to Prison Fellowship Industries, more than half of the juveniles in custody in the United States had an immediate family member behind bars. This is a serious problem, and reauthorizing the Family Unity Demonstration Project will help us address it.

I would like to thank numerous people who have worked with me and my staff on this proposal: Ken Schatz of the Vermont Children and Family Council, Marc Schindler and Mark Soler of the Youth Law Center, David Doi of the Coalition for Juvenile Justice, Bill Warda from the Children’s Defense Fund, and John Gorski and John Perry at the Vermont Department of Corrections. Without their help, I would not be able to introduce this bill today.

In conclusion, let me say that Congress must act to ensure that minimum standards are created in as many States as possible to ameliorate the problems resulting from sentencing juveniles as adults. I think this bipartisan bill accomplishes that goal, and I urge the Senate to support it, to allow science to play a more significant role in decision-making in the EPA.

By Mr. VOINOVICH (for himself and Mr. CARPER):

S. 1176. A bill to strengthen research conducted by the Environmental Protection Agency, and for other purposes; to the Committee on Environment and Public Works.

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation with my friend and colleague, Senator CARPER, which will strengthen the use of science at the Environmental Protection Agency. By improving science at the Agency, we will be improving the framework of our regulatory decisions. However, the current conditions be effective, not onerous and inefficient. To make government regulations effective, they must be based on a solid foundation of scientific understanding and data.

Last year, the National Research Council released a report, “Strengthening Science at the U.S. Environmental Protection Agency: Research Management and Peer Review Practices” which outlined current practices at the EPA and made recommendations for improving science within the agency. The bill we are introducing today, the “Environmental Research Enhancement Act,” builds on the NRC report.

When the Environmental Protection Agency was created in 1970 by President Nixon, its mission was set to protect human health and safeguard the environment. In the 1960s, it had become increasingly clear that “we need to know more about the total environment—land, water, and air.” The EPA was part of President Nixon’s re-organizational efforts to effectively ensure the protection, development, and enhancement of the total environment. For the EPA to reach this mission, establishing rules and priorities for clean land, air and water require a fundamental understanding of the science behind the real and potential threats to public health and the environment.

Unfortunately, many institutions, citizens, and groups believe that science has not always played a significant role in the decision-making process at the EPA.

In NRC’s report last year, it was concluded that while there has been fundamental understanding of the science behind the total environment—land, water, and air.” The EPA was part of President Nixon’s re-organizational efforts to effectively ensure the protection, development, and enhancement of the total environment. For the EPA to reach this mission, establishing rules and priorities for clean land, air and water require a fundamental understanding of the science behind the real and potential threats to public health and the environment.

Unfortunately, many institutions, citizens, and groups believe that science has not always played a significant role in the decision-making process at the EPA.

Under our bill, a new position, Deputy Administrator for Science and Technology will be established at the EPA. This individual will oversee the Office of Research and Development; the Environmental Information Agency; the Science Advisory Board; the Science Policy Council; and the scientific and technical activities in the regulatory program at the EPA. This new position is equal in rank to the current Deputy Administrator and would report directly to the Administrator. The new position will be responsible for coordinating scientific research and application between the scientific and regulatory arms of the Agency. This will ensure that sound
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science is the basis for regulatory decisions. The new Deputy’s focus on science could also change how environment decisions are made.

Additionally, the Assistant Administrator for Research and Development, currently the top science job at the EPA, will be appointed for 6 years versus the current 4 years political appointment. Historically, this position is recognized to be one of the EPA’s weakest and most transient administrative positions according to SRC’s report, even though in my view, the position addresses some of the Agency’s more important topics. By lengthening the term of this Assistant Administrator position and removing it from the realm of politics, I believe there will be more continuity in the scientific work of the Agency across administrations and allow the Assistant Administrator to focus on science conducted at the Agency.

In 1997, we learned the problems that can arise when sound science is not used in making regulatory decisions. Following EPA’s ozone and particulate matter regulations there was great uncertainty on the scientific side. When initially releasing the Ozone/PM regulations, the EPA greatly over estimated the impacts for both ozone and PM, and they had to publicly change their figures later on. Additionally, they selectively applied some study results while ignoring others in their calculations. For example, the majority of the health benefits for ozone are based on one PM study by a Dr. Moogarkar, even though the Agency ignored the PM results of that study because it contradicted their position on PM.

The legislation that Senator CARPER and I are introducing will ensure that science no longer takes a “back seat” at the Environmental Protection Agency in terms of policy making. I call on my colleagues to join us in cosponsoring this bill, and I urge speedy consideration of this bill. I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 176

Be it enacted by the Senate and House of Representa- tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Environmental Research Enhancement Act of 2001”.

SEC. 2. ENVIRONMENTAL PROTECTION AGENCY RESEARCH ACTIVITIES.

(a) In GENERAL.—Section 6 of the Environ- mental Research, Development, and Demo- stration Authorization Act of 1978 (42 U.S.C. 4365) is amended by adding at the end the following:

“(c) DEPUTY ADMINISTRATOR FOR SCIENCE AND TECHNOLOGY.—There is established in the Environmental Protection Agency (referred to in this section as the ‘Agency’) the position of Deputy Administrator for Science and Technology:

“(1) APPOINTMENT.—

“(A) IN GENERAL.—The Deputy Adminis- trator for Science and Technology shall be appointed by the President, or by and with the advice and consent of the Senate.

“(B) CONSIDERATION OF RECOMMENDA- TIONS.—In making an appointment under subparagraph (A), the President shall consider recommendations submitted by—

“(i) the National Academy of Sciences;

“(ii) the National Academy of Engineering; and


“(2) RESPONSIBILITIES.—The Deputy Administrator for Science and Technology shall—

“(A) OVERSIGHT.—The Deputy Adminis- trator for Science and Technology shall co- ordinate and oversee—

“(i) the Office of Research and Develop- ment of the Agency (referred to in this sec- tion as the ‘Office’):

“(x) the Office of Environmental Informa- tion of the Agency;

“(y) the Science Advisory Board;

“(z) the Office of Research and Develop- ment of the Agency; and

“(ii) scientific and technical activities in the regulatory program and regional offices of the Agency.

“(B) OTHER RESPONSIBILITIES.—The Deputy Administrator for Science and Technology shall—

“(i) ensure that the most important sci- entific issues facing the Agency are identi- fied and defined, including those issues em- bedded in major policy or regulatory pro- posals;

“(ii) develop and oversee an Agency-wide strategy to acquire and disseminate neces- sary scientific information through intra- mural efforts or through extramural pro- grams involving academia, other govern- ment agencies, and the private sector in the United States and in foreign countries;

“(iii) ensure that the complex scientific outreach and communication needs of the Agency are met, including the needs—

“(A) to reach throughout the Agency for credible science in support of regulatory of- fice, regional office, and Agency-wide policy deliberations; and

“(B) to reach out to the broader United States and international scientific commu- nity for scientific knowledge that is relevant to Agency policy or regulatory issues;

“(iv) coordinate and oversee scientific quality-assurance and peer-review activities throughout the Agency, including activities in support of the regulatory and regional of- fices;

“(v) develop processes to ensure that appro- priate scientific information is used in decisionmaking at all levels in the Agency; and

“(vi) ensure, and certify to the Adminis- trator of the Agency, that the scientific and technical information used in each Agency regulatory decision and policy is—

“(A) valid;

“(B) appropriately characterized in terms of scientific uncertainty and cross-media issues; and

“(C) appropriately applied.

“(C) Assistant Administrator for Research and Development.—

“(i) TERM OF APPOINTMENT.—Notwith- standing any other provision of law, the Assistant Administrator for Research and De- velopment of the Agency shall be appointed for a term of 6 years.

“(ii) APPOINTMENT.—There is established in the Environmental Protection Agency (referred to in this section as the ‘Agency’) the position of Deputy Administrator for Science and Technology:

“(B) OTHER RESPONSIBILITIES.—The Deputy Administrator for Science and Technology shall—

“(i) ensure that the most important sci- entific issues facing the Agency are identi- fied and defined, including those issues em- bedded in major policy or regulatory pro- posals;

“(ii) develop and oversee an Agency-wide strategy to acquire and disseminate neces- sary scientific information through intra- mural efforts or through extramural pro- grams involving academia, other govern-ment agencies, and the private sector in the United States and in foreign countries;

“(iii) ensure that the complex scientific outreach and communication needs of the Agency are met, including the needs—

“(A) to reach throughout the Agency for credible science in support of regulatory of- fice, regional office, and Agency-wide policy deliberations; and

“(B) to reach out to the broader United States and international scientific commu- nity for scientific knowledge that is relevant to Agency policy or regulatory issues;

“(iv) coordinate and oversee scientific quality-assurance and peer-review activities throughout the Agency, including activities in support of the regulatory and regional of- fices;

“(v) develop processes to ensure that appro- priate scientific information is used in decisionmaking at all levels in the Agency; and

“(vi) ensure, and certify to the Adminis- trator of the Agency, that the scientific and technical information used in each Agency regulatory decision and policy is—

“(A) valid;

“(B) appropriately characterized in terms of scientific uncertainty and cross-media issues; and

“(C) appropriately applied.

“(C) Assistant Administrator for Research and Development.—

“(i) TERM OF APPOINTMENT.—Notwith- standing any other provision of law, the Assistant Administrator for Research and De- velopment of the Agency shall be appointed for a term of 6 years.

“(ii) APPOINTMENT.—There is established in the Environmental Protection Agency (referred to in this section as the ‘Agency’) the
Ms. SNOWE. Mr. President, I rise today to introduce a bill along with Senator COLLINS, JEFFORDS, and LEAHY to provide the states of Maine and Vermont continued authority to expand access to discounted prescription drugs under Medicaid.

Maine has instituted an innovative demonstration program called the “Healthy Maine Prescriptions” program that is leading the way in providing affordable prescription drugs for qualifying Maine residents. This was made possible with national program drug insurance benefits are enrolled in those programs.

The sad truth is, many low-income individuals cannot afford to purchase the drugs prescribed by their doctors. The result is that these individuals either split the doses to make them last longer—in violation of doctors’ orders; they cut back on other necessities like food or clothing; or they simply decide not to fill the prescription at all—surely a prescription for disaster.

Not only does the inability to pay for medications have an adverse and potentially dangerous effect on individuals, it is also a detriment to the health care system in general when you consider the number and expense of ailments that could have been prevented with the proper prescription drug.

The reason why we are introducing this legislation is that, unfortunately, last month, a three-judge panel of the U.S. Court of Appeals for the District of Columbia ruled against the Vermont program, finding that Vermont “lacked the authority to offer the same prescription rebates offered under federal Medicaid insurance” because Congress “imposed rebate requirements to reduce the cost of Medicaid.”

The reason why we are introducing this legislation is that, unfortunately, last month, a three-judge panel of the U.S. Court of Appeals for the District of Columbia ruled against the Vermont program, finding that Vermont “lacked the authority to offer the same prescription rebates offered under federal Medicaid insurance” because Congress “imposed rebate requirements to reduce the cost of Medicaid.” More recently, because of that ruling, a complaint has been brought by PHARMA against the Secretary of Health and Human Services to provide injunctive relief against the Vermont program.

This bill sets forth findings that support the need and legitimacy of the Maine and Vermont programs and provides, in statute, specific authority for these prescription drug discounts for states whose waivers were approved before January 31, 2001.

Specifically, the bill amends Section 1115 of the Social Security Act—the portion of the act granting the Secretary of Health and Human Services broad authority to approve demonstration projects that are likely to assist in promoting the objectives of the Medicaid program, and waive compliance with any of the state plan requirements of the Medicaid program.

The fact of the matter is, Medicaid demonstration projects help promote the objectives of the Medicaid program, including obtaining information about options for increasing access to prescription drugs for low-income individuals.

If indeed the States are truly laboratories of democracy—and I believe they are—then these demonstration projects deserve the chance to work, to be examined, and to assist those that they are designed to assist. And there is no question of the need—in Maine, 50,000 people signed up within the first three weeks of the program.

Under the “Healthy Maine Prescriptions Program,” Maine provides prescription drug discounts of up to 25 percent for all adults with incomes of up to 300 percent of the Federal Poverty Level. A second benefit offering discounts of 80 percent of the cost of prescription drugs is available for disabled Medicaid beneficiaries age 62 or older, including those in Maine and Vermont programs.

During this time when virtually everyone agrees that something must be done to increase access to affordable prescription drugs, we ought to be encouraging innovative programs like those in Maine and Vermont. Terminating Medicaid demonstration projects prior to their planned expiration dates may result in significant waste of public funds and may be detrimental to those who have come to rely on such projects.

We ought to be doing all we can to provide relief to low-income Americans, and that includes our selves the opportunity to evaluate what works and what doesn’t. Maine and Vermont are to be commended for their efforts, not punished—they are Medicaid do not have to apply in the instance of these programs.

One of the objectives of the Medicaid program is “to enable each State, as far as practicable under the conditions in such State, to provide medical assistance on behalf of families with dependent children and of aged, blind, or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services.”

As part of carrying out this objective, every state has elected the option of providing prescription drugs as a benefit under the Medicaid program, thereby providing an important means of increasing the access of low-income individuals to drugs prescribed by their doctors.

Furthermore, Section 1115 of the Social Security Act provides the Secretary of Health and Human Services with broad authority to approve demonstration projects that are likely to assist in promoting the objectives of the Medicaid program, and waive compliance with any of the state plan requirements of the Medicaid program.

The fact of the matter is, Medicaid demonstration projects help promote the objectives of the Medicaid program, including obtaining information about options for increasing access to prescription drugs for low-income individuals.

If indeed the States are truly laboratories of democracy—and I believe they are—these demonstration projects deserve the chance to work, to be examined, and to assist those that they are designed to assist. And there is no question of the need—in Maine, 50,000 people signed up within the first three weeks of the program.

Under the “Healthy Maine Prescriptions Program,” Maine provides prescription drug discounts of up to 25 percent for all adults with incomes of up to 300 percent of the Federal Poverty Level. A second benefit offering discounts of 80 percent of the cost of prescription drugs is available for disabled Medicaid beneficiaries age 62 or older, including those in Maine and Vermont programs.

During this time when virtually everyone agrees that something must be done to increase access to affordable prescription drugs, we ought to be encouraging innovative programs like those in Maine and Vermont. Terminating Medicaid demonstration projects prior to their planned expiration dates may result in significant waste of public funds and may be detrimental to those who have come to rely on such projects.

We ought to be doing all we can to provide relief to low-income Americans, and that includes our selves the opportunity to evaluate what works and what doesn’t. Maine and Vermont are to be commended for their efforts, not punished—they are Medicaid do not have to apply in the instance of these programs.
entirely in keeping with the spirit and intent of Medicaid and I hope my colleagues will recognize the value of these important projects.

Ms. COLLINS. Mr. President, I am pleased to join with my colleague from Maine, Senator Snowe, and my colleagues from Vermont, Senators Jeffords and Leahy, in introducing legislation to ensure that States like Maine and Vermont, which have taken the initiative in developing innovative programs to make prescription drugs more affordable for their citizens, can proceed with these efforts.

The last 20 years have witnessed dramatic pharmaceutical breakthroughs that have helped reduce deaths and disability from heart disease, cancer, diabetes, and many other diseases. As a consequence, millions of people around the world are living longer, more fulfilling lives and more productive lives. These new medical miracles, however, often come with hefty price tags, and many people—particularly lower Americans without prescription drug coverage—are simply priced out of the market.

As so often happens, the States have been the laboratories for reform in this area and have come up with some creative ways to address this problem. In January of this year, the Department of Health and Human Services granted Maine a waiver under the Medicaid program through which States can offer drug discounts of up to 25 percent for individuals with incomes up to three times the Federal poverty level. Our new Healthy Maine Prescriptions Program includes both this new discount prescription drug benefit and a separate benefit, financed entirely with State funds, that offers discounts of up to 80 percent for low-income elderly and the disabled. Maine began providing patients under the Healthy Maine Prescription Program on June 1st of this year, and by June 26th the Department of Human Services had enrolled 50,460 individuals into the program. Ultimately, it is estimated that 225,000 Mainers qualify for the program.

Unfortunately, however, this important new program has run into a stumbling block. Last month, in a case brought by the Pharmaceutical Research and Manufacturers of America (PhRMA), a three-judge appeals panel ruled that a similar program developed by Vermont “lacked the authority to offer the same prescription rebates offered under federal Medicaid insurance” because Congress imposed rebate requirements to reduce the cost of Medicaid. The pharmaceutical trade group has subsequently sued the Department of Health and Human Services to block the Maine waiver, and the State of Maine has become a party to that case.

The Maine program is different enough from Vermont’s to provide a different result in court. However, we believe that innovative programs like these, which meet such a clear human need, should be able to proceed without endless legal battles. That is why we are introducing legislation today to give the Department of Health and Human Services clear authority to grant States these kinds of waivers, which will allow them to pursue innovative uses of Medicaid, such as the Healthy Maine Prescription program. Secretary of Health and Human Services Tommy Thompson made creative use of these kinds of Medicaid waivers when he was Governor of Wisconsin. We believe that he should be able to continue to do so in his new role as Secretary without the chilling effect brought by lawsuits like PhRMA’s.

The legislation we are introducing today will allow States like Maine to proceed with the innovative programs they have developed to meet the prescription drug needs of their citizens, and I urge all of my colleagues to join us in cosponsoring the legislation.

SENATE RESOLUTION 129—ELECTING JERI THOMPSON AS SECRETARY OF THE SENATE

Mr. DASCHLE (for himself and Mr. Lott) submitted the following resolution; which was considered and agreed to:

Resolved, That Jeri Thomson be, and she is hereby, elected Secretary of the Senate, effective July 12, 2001.

SENATE RESOLUTION 130—NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A SECRETARY OF THE SENATE

Mr. DASCHLE (for himself and Mr. Lott) submitted the following resolution; which was considered and agreed to:

Resolved, That the House of Representatives be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.

SENATE RESOLUTION 131—NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A SECRETARY OF THE SENATE

Mr. DASCHLE (for himself and Mr. Lott) submitted the following resolution; which was considered and agreed to:

Resolved, That the President of the United States be notified of the election of the Honorable Jeri Thomson as Secretary of the Senate.
volunteers, as well as government—if our efforts are to be successful.

Though I am encouraged by the statistics which show a continuing decline in the number of children who are maltreated, I believe we must do more to make sure that all children live in safe and loving homes.

I urge my colleagues to act quickly on this resolution so we can move closer to erasing the horror of child abuse from our Nation's history.


Mr. CORZINE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 133

Whereas in the 1930s and 1940s, the German National Socialist Party, the Nazi Party, methodically orchestrated acts of genocide resulting in the deaths of 6,000,000 Jews and 5,000,000 Gypsies, Poles, Jehovah’s Witnesses, political dissidents, physically and mentally disabled people, and homosexuals;

Whereas the term Holocaust is used to describe the systematic extermination of Jews and others by the Nazis during the period beginning on March 23, 1933, and ending on May 8, 1945;

Whereas in 1946, the International Military Tribunal at Nuremberg declared the Shutzstaffel or SS, the elite corps of the Nazi Party, to be a criminal organization guilty of persecuting and exterminating Jews; of brutalizing and killing in the concentration camps; of excesses in the administration of the slave labor program; and of mistreatment and murder of prisoners of war;

Whereas criminals include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion, during the Holocaust, under the direction of, or in association with, the Nazi government of Germany;

Whereas not all of these Nazi war criminals were brought to justice as required by the Nuremberg Tribunal;

Whereas in the 1970s, information began to surface that the United States intelligence community harbored Nazi war criminals, including Klaus Barbie, a Nazi war criminal later found responsible for the torture and death of more than 26,000 people, in order to spy on the former Soviet Union and for other purposes;

Whereas in 1998, the 105th Congress passed and President Bill Clinton signed into law the 9/11 Commission Act of 2002, which provided for the declassification of records relating to Nazi war criminals, Nazi persecution, Nazi war crimes, and Nazi.looted assets, including those held by the Central Intelligence Agency;

Whereas the Nazi War Criminal Inter-agency Working Group was convened by Executive Order on January 11, 1999, to (1) locate, identify, inventory, recommend for de-classification, and make available all classified Nazi war criminal records, subject to certain specified restrictions; (2) coordinate with Federal agencies and expedite the release of such classified records to the public; and (3) complete work to the greatest extent possible and report to the Congress one year after passage of this legislation;

Whereas the Interagency Working Group recently declassified and analyzed documents of the Office of Strategic Services (OSS), forerunner of the Central Intelligence Agency, revealing that the United States used Nazi war criminals for intelligence operations against the Soviet Union beginning on January 11, 1942, under the direction of, or in association with, the Nazi government of Germany;

Whereas the declassified documents reveal further that the OSS assisted Nazi war criminals in evading capture and prosecution and, in a few cases, facilitated their immigration and assimilation in the United States; and

Whereas it is unknown to what extent the former Soviet Union and other nations used Nazi war criminals for spy operations: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Nazi War Criminal Interagency Working Group served the public interest by investigating and publicizing the extent to which the United States used criminals for intelligence purposes following the Second World War;

(2) the Administration should work with the intelligence community to expedite the release of information regarding the use of Nazi war criminals as intelligence operatives in the aftermath of the Second World War, especially by the former Soviet Union; and

(3) information pertaining to Nazi war criminals should be brought to light so that future generations can learn from the Holocaust.

A M E N D M E N T S S U B M I T T E D A N D P R O P O S E D

SA 924. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 925. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 926. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 927. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

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SA 929. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 930. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 931. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 932. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

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SA 934. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 935. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 936. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 937. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 938. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 939. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 940. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 941. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 942. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

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SA 944. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 945. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 946. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.

SA 947. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.
SA 948. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.
SA 950. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.
SA 951. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.
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SA 969. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.
SA 970. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.
SA 971. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.
SA 972. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.
SA 973. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, supra; which was referred to the Committee on Health, Education, Labor, and Pensions.
SA 974. Mr. LEAHY (for himself, Mr. HATCH, and Mr. GRASSLEY) proposed an amendment to the bill H.R. 333, to amend title 11, United States Code, and for other purposes.
SA 975. Mrs. BOXER (for Mr. BYRD) proposed an amendment to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.
SA 976. Mr. BYRD (for himself and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill H.R. 2217, supra.

TEXT OF AMENDMENTS

SA 924. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike “cell”. On page 2, line 1, strike “generation”.
to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 3, strike "Health".

SA 934. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 3, strike "Service".

SA 935. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 3, strike "is".

SA 936. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 4, strike "Act".

SA 937. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 4, strike "amended".

SA 938. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 4, strike "section".

SA 939. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 3, strike "1.".

SA 940. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 3, strike "short".

SA 941. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 3, strike "title".

SA 942. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 3, strike "this".

SA 943. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 4, strike "Act".

SA 944. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 4, strike "may".

SA 945. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 4, strike "be".

SA 946. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 4, strike "cited".

SA 947. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 4, strike "as".

SA 948. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 1, strike "section".

SA 949. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 4, strike "the".

SA 950. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 4, strike "Stem".

SA 951. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 4, strike "Research".

SA 952. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 5, strike "Act".

SA 953. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 5, strike "of".

SA 954. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 1, line 5, strike "2001".

SA 955. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:
On page 2, line 1, strike "sec".

SA 956. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide
for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike “2.”

SA 957. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike “human”.

SA 958. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike “embryonic”.

SA 959. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 1, strike “stem”.

SA 960. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike “by”.

SA 961. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike “sec.”.

SA 962. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike “96C.”

SA 963. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike “human”.

SA 964. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

SA 965. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike “embryonic”.

SA 966. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike “embryonic”.

SA 967. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 6, strike “cell”.

SA 968. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike “following”.

SA 969. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike “the”.

SA 970. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike “96B”.

SA 971. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 5, strike “section”.  

SA 972. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike “after”.

SA 973. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 723, to amend the Public Health Service Act to provide for human embryonic stem cell generation and research; which was referred to the Committee on Health, Education, Labor, and Pensions; as follows:

On page 2, line 4, strike “inserting”.

SA 974. Mr. LEAHY (for himself, Mr. HATCH, and Mr. GRASSLEY) proposed an amendment to the bill H.R. 333, to amend title 11, United States Code, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION I. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Bankruptcy Reform Act of 2001”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
TITLe I—NEEDS-BASED BANKRUPTCY
Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Sense of Congress and study.
Sec. 104. Notice of alternatives.
Sec. 105. Debtor financial management training test program.
Sec. 106. Credit counseling.
Sec. 107. Schedules of reasonable and necessary expenses.
TITLe II—ENHANCED CONSUMER PROTECTION
Subtitle A—Penalties for Abusive Creditor Practices
Sec. 201. Promotion of alternative dispute resolution.
Sec. 203. Discouraging abuse of reaffirmation practices.
Sec. 204. Preservation of claims and defenses upon sale of preatory loans.
Sec. 205. GAO study on reaffirmation process.
Subtitle B—Priority Child Support
Sec. 211. Definition of domestic support obligation.
Sec. 212. Priorities for claims for domestic support obligations.
Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 216. Continued liability of property.
Sec. 217. Protection of domestic support claims against transfer of property.
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.
TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

Sec. 1101. Definitions.
Sec. 1102. Disposal of patient records.
Sec. 1103. Administrative expense claim for costs of closing a health care business; on other administrative expenses.
Sec. 1104. Appointment of ombudsman to act as patient advocate.
Sec. 1105. Debtor's possession; duty of trustee to transfer patients.
Sec. 1106. Exclusion from program participation not subject to automatic stay.

TITLE XII—TECHNICAL AMENDMENTS

Sec. 1201. Definitions.
Sec. 1202. Adjustment of dollar amounts.
Sec. 1203. Extension of time.
Sec. 1204. Technical amendments.
Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. 1206. Limitation on compensation of professional persons.
Sec. 1207. Effect of conversion.
Sec. 1208. Allowance of administrative expenses.
Sec. 1209. Exceptions to discharge.
Sec. 1210. Effect of discharge.
Sec. 1211. Protection against discriminatory treatment.
Sec. 1212. Property of the estate.
Sec. 1213. Preferences.
Sec. 1214. Postpetition transactions.
Sec. 1215. Possession of the property of the estate.
Sec. 1216. General provisions.
Sec. 1217. Abandonment of railroad line.
Sec. 1218. General reclamation plan.
Sec. 1219. Bankruptcy cases and proceedings.
Sec. 1220. Knowing disregard of bankruptcy law or rule.
Sec. 1221. Transfers made by nonprofit charitable corporations.
Sec. 1222. Protection of valid purchase money security interests.
Sec. 1223. Bankruptcy judgeships.
Sec. 1224. Compensating trustees.
Sec. 1225. Amendment to section 362 of title 11, United States Code.
Sec. 1226. Judicial education.
Sec. 1227. Reclamation.
Sec. 1228. Providing requested tax documents to the court.
Sec. 1229. Encouraging creditworthiness.
Sec. 1230. Property no longer subject to re- deemment.
Sec. 1231. Trustees.
Sec. 1232. Bankruptcy forms.
Sec. 1233. Expedited appeals of bankruptcy cases to courts of appeals.
Sec. 1234. Exemptions.
Sec. 1235. Involuntary cases.
Sec. 1236. Federal election law fines and penalties as nondischargeable debt.
Sec. 1237. Bankruptcy for insolvent political committees.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

Sec. 1301. Enhanced disclosures under an open end credit plan.
Sec. 1302. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 1303. Disclosures related to "introductory rates":
Sec. 1304. Interest on credit card solicitations.
Sec. 1305. Disclosures related to late payment deadlines and penalties.
Sec. 1306. Provisions on certain actions for failure to incur finance charges.
Sec. 1307. Dual use debit card.
Sec. 1308. Study of bankruptcy impact of credit extended to dependent adults.
Sec. 1309. Clarification of clear and conspicuous.

TITLE XIV—EMERGENCY ENERGY ASSET DISPOSAL AND CONSERVATION MEASURES

Sec. 1401. Short title.
Sec. 1402. Findings and purposes.
Sec. 1403. Increased funding for LIHEAP, weatherization and State energy grants.
Sec. 1404. Federal energy management requirements.
Sec. 1405. Cost savings from replacement facilities.
Sec. 1408. Effective date.

TITLE XV—GENERAL EFFECTIVE DATE; MISCELLANEOUS PROVISIONS

Sec. 1501. Effective date; application of amendments.
Sec. 1502. In general—Section 706(c) of title 11, United States Code, is amended by inserting "or consents to" after "requests".
Sec. 1503. DISCLOSURE
Sec. 1504. Increased funding for LIHEAP, weatherization and State energy grants.
Sec. 1505. Disclosure of additional payments to secured creditors.
Sec. 1506. Effective date; application of amendments.

TITLE XVI—MISCELLANEOUS PROVISIONS

Sec. 1601. Reimbursement of research, development, and maintenance costs.

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(ii) the assessment of an appropriate civil penalty against the counsel for the debtor; and

(iii) the payment of the civil penalty to the trustee, the United States trustee, or the bankruptcy administrator.

(C) In the case of a violation of rule 9011, the court shall order—

(i) the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court may award a debtor all reasonable costs (including reasonable attorneys’ fees) in contesting a motion under rule 9011 of the Federal Rules of Bankruptcy Procedure; or

(B) only the judge, United States trustee, or bankruptcy administrator under this subsection if—

(i) the debtor does not grant the motion; and

(ii) the court finds that—

(I) the position of the party that brought the motion violates paragraph (2) of the Federal Rules of Bankruptcy Procedure; or

(II) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

(B) A small business that has a claim of

(1) less than 25 full-time employees as determined on the date the motion is filed; and

(2) engaged in commercial or business activity; and

(3) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

(A) a parent corporation; and

(B) any other subsidiary corporation of the parent corporation.

(6) Only the judge, United States trustee, or bankruptcy administrator may bring a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor’s spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

(A) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4; or

(B) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of the same number of fewer individuals last reported by the Bureau of the Census.

(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of the same number of fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4.

(b) Definition.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (30) the following:

(10A) ‘current monthly income’—

‘(A) the monthly income from all sources which the debtor, or in a joint case, the debtor and the debtor’s spouse, receive without regard to whether the income is taxable, derived during the 6-month period preceding the date of determination, which shall be the date which is the last day of the calendar month immediately preceding the date of the bankruptcy filing. If the debtor is providing the debtor’s monthly income of the filing and otherwise the date of determination shall be such date on which the debtor’s current monthly income is determined by the court for the purposes of this Act; and

(2) includes any amount paid by any entity other than the debtor (or, in a joint case, the debtor and the debtor’s spouse), on a regular basis to the household expenses of the debtor or the debtor’s dependents (and, in a joint case, the debtor’s spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act and payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes.”

(B)(1) With respect to an individual debtor under this chapter—

(A) the United States trustee or bankruptcy administrator shall determine whether the materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor is presumed to be an abuse under section 707(b); and

(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

(2) The United States trustee or bankruptcy administrator shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee or bankruptcy administrator does not believe that such a motion would be appropriate, if the United States
trustee or bankruptcy administrator determines the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than

(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census; or

(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census.

(3) In any case in which a motion to dismiss or convert, or a statement is required to be filed by this subsection, the United States trustee or bankruptcy administrator may decline to file a motion to dismiss or convert pursuant to section 706(b)(2) if the product of the debtor's current monthly income multiplied by 12 exceeds 100 percent, but does not exceed 150 percent of—

(A)(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census; or

(ii) the product of the debtor's current monthly income, reduced by the amounts determined under section 707(b)(2)(A)(ii) (except for the amount calculated under the other necessary expenses standard issued by the Internal Revenue Service) and clauses (iii) and (iv) of section 707(b)(2)(A), multiplied by 60 is less than the lesser of—

(i) 25 percent of the debtor's nonpriority unsecured claims in the case or $6,000, whichever is greater; or

(ii) $10,000.

(d) NOTICE.—Section 342 of title 11, United States Code, as amended by adding at the end the following:

(d) In an individual case under chapter 7 in which a petition is filed under section 303(a)(1), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has been triggered.

(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee, bankruptcy administrator or trustee.

(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, as amended by this section, is amended by adding at the end the following:

(c) (1) In this subsection—

(A) the term 'crime of violence' has the meaning given that term in section 16 of title 18; and

(B) the term 'drug trafficking crime' has the meaning given that term in section 924(c)(11) of title 21, United States Code.

(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victims dismiss a voluntary case filed by an individual debtor under this chapter if that individual was convicted of—

(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of the case in this chapter is necessary to satisfy a claim for a domestic support obligation.

(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end; and

(2) in paragraph (6), by striking the period and inserting "and the product of the debtor's current gross income for the year in which the filing of the petition was made good.

(h) APPLICABILITY OF MEANS TEST TO CHAPTER 13.—Section 1325(b) of title 11, United States Code, is amended—

(1) in paragraph (1)(A), by inserting "to unsecured creditors" after "to make payments"; and

(2) by striking paragraph (2) and inserting the following:

(2) For purposes of this subsection, the term 'disposable income' means current monthly income and any amount that is not includable in current monthly income under paragraph (2) if the debtor establishes that—

(A) any child support payments, including payments under section 1521 of title 15, United States Code, are made to a child dependent on the debtor; and

(B) the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

(i) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2). If the debtor has current monthly income, when multiplied by 12, greater than—

(A) the current monthly expenses of a family of the same number or fewer individuals last reported by the Bureau of the Census;

(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

(C) the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4.

(1) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1325(a)(11) of title 11, United States Code, as amended by inserting the following new paragraph—

(11) reduce amounts to be paid under the plan with the actual amount expended by the debtor to purchase health insurance for the debtor and any dependent of the debtor (if those dependents do not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

(A) such expenses are reasonable and necessary to satisfy a claim for a domestic support obligation.

(2) except for the amount calculated under the other necessary expenses standard issued by the Internal Revenue Service standards established to set reasonable costs.

(3) by adding at the end the following:

(a) D EVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

(1) the current monthly expenses of a debtor under section 707(b)(2) of title 11, United States Code; and

(2) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).

SEC. 104. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

"(1) before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

(A) a brief description of—

(1) chapters 7, 11, 12, and 13 and the general purposes, benefits, and costs of proceeding under each of those chapters; and

(B) types of services available from credit counseling agencies; and

(2) statements specifying that—

(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both; and

B) all information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General.

SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees shall submit a report to the Committee on the judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

(1) the current monthly expenses of a debtor under section 707(b)(2) of title 11, United States Code; and

(2) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).
for United States Trustees (in this section referred to as the "Director") shall be carried out with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11, United States Code, who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) SELECTION OF DISTRICTS.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

SEC. 106. CREDIT COUNSELING.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

"(i) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(ii) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1)."

(b) C HAPTER 7 D ISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

"(1) in paragraph (9), by striking ''or'' at the end;

"(2) in paragraph (10), by striking the period and inserting "; or"; and

"(3) by adding at the end the following:

"(i) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(ii) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1)."

SEC. 107. DISCHARGE.—Section 1328 of title 11, United States Code, is amended—

"(a) in paragraph (11), by inserting ''(a)'' before ''The debtor shall—"; and

"(b) by adding at the end the following:

"(1) the additional individuals who would otherwise seek credit counseling from that agency by reason of the requirements of paragraph (1) of subsection (a), an individual debtor shall file with the court—

"(i) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(ii) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1)."

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended—

"(a) in paragraph (12)(A) shall not apply to that debtor after the date that is 30 days after the debtor files a petition, except as provided in paragraph (12)(B), and

"(b) the court shall grant a discharge under this section to a debtor on which the court determines that the approved instructional courses are not adequate to service the additional individuals who would be reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from that agency by reason of the requirements of paragraph (1) of subsection (a)."

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SEC. 107. DISCHARGE.—Section 1328 of title 11, United States Code, is amended—

"(a) in paragraph (11), by inserting ''(a)'' before ''The debtor shall—"; and

"(b) by adding at the end the following:

"(1) the additional individuals who would otherwise seek credit counseling from that agency by reason of the requirements of paragraph (1) of subsection (a), an individual debtor shall file with the court—

"(i) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(ii) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1)."

SEC. 107. DISCHARGE.—Section 1328 of title 11, United States Code, is amended—

"(a) in paragraph (11), by inserting ''(a)'' before ''The debtor shall—"; and

"(b) by adding at the end the following:

"(1) the additional individuals who would otherwise seek credit counseling from that agency by reason of the requirements of paragraph (1) of subsection (a), an individual debtor shall file with the court—

"(i) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(ii) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1)."

SEC. 107. DISCHARGE.—Section 1328 of title 11, United States Code, is amended—

"(a) in paragraph (11), by inserting ''(a)'' before ''The debtor shall—"; and

"(b) by adding at the end the following:

"(1) the additional individuals who would otherwise seek credit counseling from that agency by reason of the requirements of paragraph (1) of subsection (a), an individual debtor shall file with the court—

"(i) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(ii) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1)."
debtor's bankruptcy case number to permit reasonable records (which shall include the course of instruction or program) that are consistent with stated objectives personal financial management; and

(2) To be approved by the United States trustee or bankruptcy administrator, a credit counseling agency shall only approve an instructional course concerning personal financial management if—

(a) be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

(i) are not employed by the agency; and

(ii) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

(b) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

(c) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

(d) provide full disclosures to clients, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by the debtor and how such costs will be paid;

(e) provide adequate counseling with respect to client credit problems that includes an analysis of the client's current situation, what brought them to that financial status, and how they can develop a plan to handle the problem without incurring negative amortization of their debts;

(f) provide trained counselors who receive no commissions or bonuses based on the counseling session outcome, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraphs (B) and (C); and

(g) demonstrate adequate experience and background in providing credit counseling; and

(h) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

(2) The United States trustee or bankruptcy administrator shall only approve an instructional course concerning personal financial management if—

(a) has been effective in assisting a substantial number of debtors to understand personal financial management; and

(b) is otherwise likely to increase substantially debtor understanding of personal financial management.

(e) The District Court may, at any time, investigate the qualifications of a credit counseling agency referred to in subsection (a), and require the submission of documents to ensure the integrity and effectiveness of such credit counseling agencies. The District Court may, at any time, remove from the approved list (a credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

(f) The United States trustee or bankruptcy administrator shall notify the clerk that a credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

(g) No credit counseling service may provide to a credit reporting agency information concerning whether an individual debtor has received or sought instruction concerning personal financial management from the credit counseling service.

(2) A credit counseling service that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

(1) an amount equal to the sum of—

(A) the fee charged for counseling services; financial management instructional courses.

(f) Limitation.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

(2) if a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

(i) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.

SEC. 107. SECURE ACT.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.
applicable, then the annual percentage rate is not readily available or not applicable, then—

(ii) if, at the time the petition is filed, the debt is closed end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then—

(I) the annual percentage rate under section 127(b) of the Truth in Lending Act (15 U.S.C. 1638(a)(4)), as disclosed to the debtor in the most recent disclosure statement given the debtor prior to the reaffirmation agreement with respect to the debt, or, if no such disclosure statement was provided the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then—

(ii) the simple interest rate applicable to the amount reaffirmed, or

(III) if the entity making the disclosure statement chooses, by disclosing that a security interest or lien in goods or property is asserted over some or all of the obligations you are reaffirming and listing the items and their original amount, the stated secured interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.

(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

(i) by making the statement: ‘‘Your first payment in the amount of $ is due on

but the future payment amount may be different. Consult your reaffirmation or credit agreement, as applicable, and stating the amount of the first payment and the due date of that payment in the places provided;

(ii) by making the statement: ‘‘Your payment schedule will be’’, and describing the repayment schedule with the number, amount and due dates or period of payments scheduled to repay the obligations reaffirmed by you as shown then known by the disclosing party; or

(iii) by describing the debtor’s repayment obligations with reasonable specificity to the extent then known by the disclosing party.

(I) The following statement: ‘Note: When this disclosure refers to what a creditor ‘‘may’’ do it does not mean the creditor ‘‘must’’ do it. A creditor ‘‘may’’ give the creditor specific permission. The word ‘‘may’’ is used to tell you what might occur if the law permits the creditor to take what action. If you do not have a separate agreement or what the law requires, talk to the attorney who helped you negotiate this agreement. If you don’t have an attorney helping you, the judge will explain the reasons for your reaffirmation when the reaffirmation hearing is held.’’

(4)(j) The following additional statement—

‘‘Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest.’’

(4)(k) The following additional statement—

‘‘If the underlying debt transaction was closed end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then—

(I) The following statement: ‘‘Your credit agreement may obligate you to make additional payments which may come due after the date of this disclosure. Consult your credit agreement.’’

(E) The ‘‘Annual Percentage Rate’’, using that term, which shall be—

(i) the total amount which the debtor agreed to reaffirm, and

(ii) the total of any other fees or cost accrued as of the date of the disclosure statement.

(D) In conjunction with the disclosure of the ‘‘Amount Reaffirmed’, the statements—

(i) ‘‘The amount of debt you have agreed to reaffirm’’;

(ii) ‘‘Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.’’

(C) The ‘‘Amount Reaffirmed’, using that term, which shall be—

(1) in subsection (c), by striking paragraph (3), combining paragraphs (4) through (8), and shall be the only disclosures required in connection with the reaffirmation.

(2) by adding at the end the following:

‘‘Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ shall be disclosed more conspicuously than other terms, data or information provided in connection with the agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with the reaffirmation.

‘‘Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ shall be disclosed more conspicuously than other terms, data or information provided in connection with the agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with the reaffirmation.

‘‘Applicability of section (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with the reaffirmation.

‘‘The Truth in Lending Act (15 U.S.C. 1601 et seq.), otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are not using an open-end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms

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of the agreement in the future under certain conditions.

‘‘Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

‘‘What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A ‘lien’ is often referred to as a security interest, deed of trust, mortgage or security agreement. If you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State’s law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.

‘‘(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the declaratory paragraph required by clause (i) of this subparagraph shall read as follows:

‘‘6. If you were represented by an attorney during the negotiation of the reaffirmation agreement and you do not reaffirm or if you do not reaffirm and the court determines that no undue hardship exists for you, the court, shall approve a reaffirmation agreement. If the presumption is not rebutted, the reaffirmation agreement becomes effective upon filing with the court.

‘‘(4) The form of reaffirmation agreement required under this paragraph shall consist of the following:

‘‘Part B: Reaffirmation Agreement. I agree to reaffirm the obligations arising under the agreement described below.

‘‘Signature:

‘‘Date:

‘‘Borrower:

‘‘Co-borrower, if also reaffirming:

‘‘(m)(2) The declaration shall consist of the following:

‘‘Part C: Certification by Debtor’s Attorney (If Any).

‘‘I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor(s); (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

‘‘Signature of Debtor’s Attorney:

‘‘Date:

‘‘(B) The statement in support of reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

‘‘(m)(1) Until 60 days after a reaffirmation agreement is filed with the court (or such additional period as the court, after notice and hearing and for cause, orders before the expiration of such period), it shall be presumed that the reaffirmation agreement is an undue hardship on the debtor if the debtor’s monthly income less the debtor’s monthly expenses as shown on the debtor’s completed and signed reaffirmation agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The court, upon motion by the debtor if the statement includes an explanation which identifies additional sources of funds to make the payments as agreed upon under the terms of the reaffirmation agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove the agreement. No agreement shall be disapproved without notice and hearing to the creditor and debtor and such hearing shall be concluded before the entry of the debtor’s discharge.

‘‘(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(iv)).

‘‘Law Enforcement.—

‘‘(1) In general. The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) establish procedures for referring any case which may be material fraudulently in bankruptcy schedules that are intentionally false or intentionally misleading.

‘‘(b) United States District Attorneys and the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.

‘‘(a) In general.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) establish procedures for referring any case which may be materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

‘‘(b) United States District Attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.

‘‘(1) United States attorney for each judicial district of the United States; and

‘‘(2) an agent of the Federal Bureau of Investigation (within the meaning of section 3007) for each field office of the Federal Bureau of Investigation.

‘‘(c) Bankruptcy investigations.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3007.

‘‘(d) Bankruptcy Procedures.—The bankruptcy courts shall establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.

‘‘Legal Amendment.—The analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following:
SEC. 204. PRESERVATION OF CLAIMS AND DEFENCES UPON SALE OF PREDA©TY LOANS.
Section 363 of title 11, United States Code, is amended by adding at the end the following:

"(p) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), or any interest in a consumer credit contract as defined by the Federal Trade Commission Preservation of Claims (Trade Regulation, and that interest is purchased through a sale under this section, then that person shall remain subject to all claims and defenses that are related to the consumer credit transaction or contract, to the same extent as that person would be subject to such claims and defenses of the consumer had the sale taken place under title 11.

SEC. 205. GAO STUDY ON REAFFIRMATION PROCESSES.
(a) STUDY.—The General Accounting Office (in this section referred to as the "GAO") shall conduct a study of the reaffirmation process under title 11, United States Code, to determine the overall treatment of consumers within the context of that process, including consideration of—
(1) the policies and activities of creditors with respect to reaffirmation; and
(2) whether consumers are fully, fairly and consistently informed of their rights pursuant to this title.
(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the GAO shall submit a report to the Congress on the results of the study conducted under subsection (a), together with any recommendations for legislation to address any abusive or coercive tactics found within the reaffirmation process.

Subtitle B—Priority Child Support Obligation

SEC. 211. DESIGNATION OF DOMESTIC SUPPORT OBLIGATION.
Section 101 of title 11, United States Code, is amended—
(1) by striking paragraph (12A); and
(2) by inserting after paragraph (14) the following:

"(14A) ‘domestic support obligation’ means a debt that accrues before or after the entry of an order for relief under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

‘(A) owed to or recoverable by—

‘(i) a spouse, former spouse, or child of the debtor or such child’s parent, legal guardian, or responsible relative; or
‘(ii) a governmental unit;

‘(B) in the nature of alimony, maintenance, support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child’s parent, without regard to whether such order explicitly so designates;

‘(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of State law; or

‘(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt;"

SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.
Section 507(a) of title 11, United States Code, is amended—
(1) by striking paragraph (7);
(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;
(3) in paragraph (2), as redesignated, by striking ‘‘First’’ and inserting ‘‘Second’’;
(4) in paragraph (3), as redesignated, by striking ‘‘Second’’ and inserting ‘‘Third’’;
(5) in paragraph (4), as redesignated—
(A) by striking ‘‘Third’’ and inserting ‘‘Fourth’’; and
(B) by striking the semicolon at the end and inserting a period;
(6) in paragraph (5), as redesignated, by striking ‘‘Fourth’’ and inserting ‘‘Fifth’’;
(7) in paragraph (6), as redesignated, by striking ‘‘Fifth’’ and inserting ‘‘Sixth’’;
(8) in paragraph (7), as redesignated, by striking ‘‘Sixth’’ and inserting ‘‘Seventh’’; and
(9) by inserting before paragraph (2), as redesignated, the following:

"(1) First:

‘(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are owed or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such child, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of that person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

‘(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations (disregarding any order of the court that the petition was filed are assigned by a spouse, former spouse, child of the debtor, or such child’s parent, legal guardian, or responsible relative that assigns such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

(2) in section 1222(a)—
(A) in paragraph (1), by striking ‘‘or’’ at the end;
(B) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;
(C) by adding at the end the following:
‘‘(7) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.’’;
(3) in section 1222(b)—
(A) in paragraph (2), by striking ‘‘and’’ at the end;
(B) by striking paragraph (3), by striking the period at the end and inserting ‘‘; and’’; and
(C) by adding at the end the following:
‘‘(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor’s projected disposable income for a 5-year period, beginning on the date that the first payment is due under the plan, will be applied to make payments under the plan.’’;
(4) in section 1223(a)—
(A) by redesignating paragraph (11) as paragraph (12); and
(B) by inserting after paragraph (10) the following:

‘‘(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are non-dischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;’’;
(5) in section 1225(a)—
(A) in paragraph (5), by striking ‘‘and’’ at the end;
(B) in paragraph (6), by striking the period at the end and inserting ‘‘; and’’; and
(C) by adding at the end the following:
‘‘(7) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.’’;
(6) in section 1226(a), in the matter preceding paragraph (1), by inserting ‘‘; or’’; and
(C) by adding at the end the following:

‘‘(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.’’;
(8) in section 1301(c)—
(A) in paragraph (9), by striking ‘‘or’’ at the end;
(B) in paragraph (10), by striking the period at the end and inserting ‘‘; or’’; and
(C) by adding at the end the following:

‘‘(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor’s projected disposable income for a 5-year period, beginning on the date that the first payment is due under the plan
will be applied to make payments under the plan.

(9) in section 1322(b)—
(A) in paragraph (9), by striking ";" and inserting a semicolon;
(B) by deleting paragraph (10) as paragraph (11); and
(C) inserting after paragraph (9) the following:
"(11) or in the order specified in sections 464 and 466(a)(3) or under an analogous State law; or
(10) in section 1323(a) (as amended by this Act), by adding at the end the following:
"(8) the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first becomes payable as of the date on which the petition is filed; and"
(11) in section 1323(a), in the matter preceeding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order or statute to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid", after "completion by the debtor of all payments under the plan".

SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following: 
"(2) under subsection (a)—
(A) of the commencement or continuation of a civil action or proceeding—
(i) for the establishment of paternity;
(ii) for the establishment or modification of an order for domestic support obligations;
(iii) concerning child custody or visitation;
(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or
(v) regarding domestic violence;
(B) the collection of a domestic support obligation from property that is not property of the estate;
(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order;
(D) the withholding, suspension, or revocation of drivers' licenses, professional and occupational licenses, and recreational licenses under State law, as specified in section 464(a)(16) of the Social Security Act (42 U.S.C. 664(a)(16));
(E) the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7));
(F) of tax refunds, as specified in sections 462 and 466(a)(3) of the Social Security Act (42 U.S.C. 662 and 666(a)(3)) or under an analogous State law; or
(G) of any other person by reason of making that person a party to a civil action or proceeding with a request made under subparagraph (B) of paragraph (8) of section 1328(a), in the case of a debtor who is required by a judicial or administrative order or statute to pay a domestic support obligation, provide the applicable notification specified in subsection (c); and

SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBT IN BANKRUPTCY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—
(1) in subsection (a)—
(A) by striking paragraph (5) and inserting the following:
"(5) for a domestic support obligation;";
(B) in paragraph (15), by inserting "to a spouse, former spouse, or child of the debtor and" before "not of the kind";
(ii) by inserting "or" after "court of record"; and
(iii) by striking "unless" and all that follows through the end of the paragraph and inserting a semicolon;
(C) by striking paragraph (18); and
(2) in subsection (c), by striking ".(6), or (15)" each place it appears and inserting "or (6)".

SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—
(1) in subsection (c), by striking paragraph (1) and inserting the following:
"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));"
(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting "of a kind that is specified in section 523(a)(5); or";
(3) in subsection (g)(2), by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows: 
"(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;"

SEC. 218. DISCHARGEABLE INCOME DEFINED.

(a) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting ", or for a domestic support obligation that first becomes payable after the date on which the petition is filed" after "dependent of the debtor".
(b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting ", or for a domestic support obligation that first becomes payable after the date on which the petition is filed" after "dependent of the debtor".

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by this Act, is amended—
(1) in subsection (a)—
(A) in paragraph (8), by striking "and" at the end;
(B) in paragraph (9), by striking the period and inserting ";" and; and
(C) by adding at the end the following:
"(8) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c); and"
(2) by adding at the end the following:
"(b) in any case described in subsection (a)(7), the trustee shall—
(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides for assistance in collecting child support during and after the bankruptcy procedures; and
(ii) include in the notice under this paragraph the address of the holder of the child support enforcement agency and
(iii) include in the notice an explanation of the rights of the holder of the claim to payment of the claim under this chapter; and
"(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides; and
(ii) in the notice described in paragraph (1) insert the name, address, and telephone number of the holder of the claim; and
(iii) at such time as the debtor is granted a discharge under section 727, notify the holder of that claim and the State child support agency of the State in which that holder resides of—
"(I) the granting of the discharge;
(II) the last known address of the debtor;
(III) the last known name and address of the debtor's employer; and
(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—
(aa) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or
(bb) was reaffirmed by the debtor under section 524(b)(2).
(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.
(3) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.
(b) DUTIES OF TRUSTEE UNDER Chapter 13.—Section 1106 of title 11, United States Code, is amended—
(1) in subsection (a)—
(A) in paragraph (6), by striking "and" at the end;
(B) in paragraph (7), by striking the period and inserting ";" and; and
(C) by adding at the end the following:
"(8) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c); and"
(2) by adding at the end the following:
"(c)(1) In any case described in subsection (a)(7), the trustee shall—
(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides for assistance in collecting child support during and after the bankruptcy procedures; and
(ii) include in the notice under this paragraph the address of the holder of the child support enforcement agency and
(iii) include in the notice an explanation of the rights of the holder of the claim to payment of the claim under this chapter; and
"(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides; and
(ii) in the notice described in paragraph (1) insert the name, address, and telephone number of the holder of the claim; and
(iii) at such time as the debtor is granted a discharge under section 1141, notify the holder of the claim and the State child support agency of the State in which that holder resides of—
"(I) the granting of the discharge;
(II) the last known address of the debtor;
(III) the last known name and address of the debtor's employer; and
“(IV) with respect to the debtor’s case, the name of each creditor that holds a claim that—

“(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or

“(bb) was reaffirmed by the debtor under section 524(c).”

“(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.”

“(c) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5), by striking the period and inserting “and”;

(C) by adding at the end following:

“(6) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c).”;

(2) by adding at the end following:

“(c)(1) In any case described in subsection (b)(6), the trustee shall—

“(A) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and

“(B) notify in writing the State child support agency of the State in which the holder of the claim resides of—

“(I) the granting of the discharge;

“(II) the last recent known address of the debtor;

“(III) the last recent known name and address of the debtor’s employer; and

“(IV) with respect to the debtor’s case, the name of each creditor that holds a claim that—

“(aa) is not discharged under paragraph (2), (4), or (14) of section 523(a); or

“(bb) was reaffirmed by the debtor under section 524(c).”

“(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.”

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523 of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

“(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor’s dependents, for—

“(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

“(ii) any obligation to repay funds received as an educational benefit, scholarship, or stipend; or

“(B) any other educational loan that is a qualified education loan, as that term is defined in section 221(e)(1) of the Internal Revenue Code of 1986, incurred by an individual debtor;”

Subtitle C—Other Consumer Protections

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by striking “an attorney or an employee of an attorney” and inserting “the attorney for the debtor or an employee of such attorney under the direct supervision of such attorney”;

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: “If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the preparer shall be required to—

“(A) sign the document for filing; and

“(B) print on the document the name and address of that officer, principal, responsible person or partner.”; and

(B) by striking paragraph (2) and inserting the following:

“(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice to debtors concerning bankruptcy petition preparers, which shall be on an official form issued by the Judicial Conference of the United States.

“(B) The notice under subparagraph (A)—

“(i) shall inform the debtor in simple language what a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

“(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

“(iii) shall—

“(G) be signed by—

“(aa) the debtor; and

“(bb) the bankruptcy petition preparer, under penalty of perjury; and

“(H) be filed with any document for filing.”

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking “(2)” for purposes” and inserting “(2)(A) Subject to subparagraph (B), for purposes”; and

(ii) by adding at the end following:

“(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the preparer.”;

(B) by striking paragraph (3); and

(4) in subsection (d)—

(A) by striking “(d)(1)” and inserting “(d)”;

(B) by striking paragraph (2); and

(C) by striking paragraph (2) and (4); and

(D) by adding at the end following:

“(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

“(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

“(i) to file a petition under this title; or

“(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

“(ii) whether the debtor’s debts will be eliminated or discharged in a case under this title;

“(III) concerning—

“(I) the tax consequences of a case brought under this title; or

“(II) the dischargeability of tax claims; and

“(III) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;
CONGRESSIONAL RECORD—SENATE

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking "(A)'' and inserting "(A)'';

(ii) by striking "(C)'' and inserting "(C)'';

(iii) by striking "(E)'' and inserting "(E)'';

(iv) by striking "(G)'' and inserting "(G)'';

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The court, as part of its contempt power, may enroll a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injury sustained under this paragraph may be assessed upon motion of the court, the trustee, the United States trustee, or the bankruptcy administrator:'':

(ii) by adding at the end the following:

"(1) by adding at the end the following:

"(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), (h), or (i) may be fined not more than $500 for each such failure.''

(2) The court shall triple the amount of any fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer failed to comply with the notification requirements under paragraph (1)."

(B) by redesignating paragraph (3) as paragraph (2); and

(C) by inserting after paragraph (2) the following:

"(3) The debtor, the trustee, the creditor, the United States trustee, or the bankruptcy administrator may file a motion for an order imposing a fine on the bankruptcy petition preparer for each violation of this section.

"(4)(A) Fines imposed under this subsection in judicial districts served by bankruptcy or administrative trustees shall be paid to the United States trustee or the bankruptcy administrator.

"(B) the bankruptcy petition preparer shall pay into the bankruptcy administrator, and the bankruptcy petition preparer shall be fined not more than $500 for each such violation.''

(2) Property listed in this paragraph is property that is specified under subsection (b), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.''

(C) by striking "(b) Notwithstanding" and inserting "(b)(1) Notwithstanding";

(D) by striking "(2)'' and inserting "(2)''; and

(E) by striking "(3)'' and inserting "(3)''; and

(F) by striking "(4)'' and inserting "(4)''.

(3) In paragraph (2), as redesignated—

(i) by striking "Within 10 days after the date of filing a petition, a bankruptcy petition preparer shall file a'' and inserting "A'';

(ii) by inserting "by the bankruptcy petition preparer shall be filed together with the petition, after''; and

(iii) by adding at the end the following: "If rules or guidelines for determining a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirements under paragraph (1)."

(D) by striking paragraph (3), as redesignated, and inserting the following:

"(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

(i) rendered by the preparer during the 12-month period immediately preceding the date of the petition; or

(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1)."

(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

(C) An individual may exempt any funds recovered under this paragraph under section 522(b),""; and

(E) in paragraph (4), as redesignated, by striking "or the United States trustee'' and inserting "the United States trustee, the bankruptcy administrator, or the court, on the initiative of the court.''

(2) Property listed in this paragraph is property that is specified under subsection (b), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.''

(3) The time for filing a claim for a distribution that has not been made by a court or the Internal Revenue Service shall be extended until the claim is filed, and no lien or certificate of nonreceipt shall be filed with respect to such a claim until 180 days after the time for filing a claim for a distribution that has not been made by a court or the Internal Revenue Service has expired.

(4) For purposes of paragraph (3)(C) and subsection (d)(2), the following shall apply:

(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 708B of the Internal Revenue Code of 1986, and the determination is in effect as of the date of the commencement of the case under section 301, subsection (d)(2)(A) of this title shall be presumed to be exempt from the estate.

(B) If the retirement funds are in a retirement fund that has not received a favorable determination under section 708B, those funds are exempt from the estate if the debtor or the court demonstrates that—

(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

(ii)(II) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the court is not materially responsible for that failure.

(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(2) by reason of that direct transfer.

(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 401(c) of the Internal Revenue Code of 1986 or that is described in clause (II) shall not be treated as a distribution for purposes of section 401(c) or subsection (d)(2) for purposes of section 408 or 408A, or 414, 457, or 501(a) of the Internal Revenue Code of 1986.

(ii) A distribution described in this clause shall be treated as an eligible rollover distribution within the meaning of section 401(c) of the Internal Revenue Code of 1986 if the distribution is—

(I) made from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, and

(II) to the extent allowed by law, deposited in such a fund or account not later than
60 days after the distribution of that amount,’; and
(2) in subsection (d)—
(A) in the matter preceding paragraph (1), by striking ‘‘subsection (b)(1)’’ and inserting ‘‘subsection (b)(2)’’; and
(B) by redesignating paragraph (4) as paragraph (5); and
(3) by inserting after paragraph (5) the following:
‘‘(19) under subsection (a), of withholding of income from a debtor’s wages and collection of amounts withheld, under the debtor’s agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986,’’.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—
(1) in paragraph (17), by striking ‘‘or’’ at the end;
(2) in paragraph (18), by striking the period and inserting a semicolon;
(3) by inserting after paragraph (18) the following:
‘‘(19) under subsection (a), of withholding of income from a debtor’s wages and collection of amounts withheld, under the debtor’s agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, an affiliated success, or predecessor of such employer—
‘‘(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or
‘‘(B) in the case of a loan from a thrift savings plan described in subchapter III of chapter 8 of title 5, that satisfies the requirements of such title.’’; and
(4) by adding at the end of the flush material at the end of the subsection, the following: ‘‘Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.’’. (c) EXCEPTIONS TO DISCHARGE.—Section 522(a)(1) of title 11, United States Code, as amended by the Act, is amended by adding at the end the following:
‘‘(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—
‘‘(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or
‘‘(B) a loan from the thrift savings plan described in subchapter III of chapter 8 of title 5, that satisfies the requirements of section 414(g)(9) of such title.’’.
Nothing in paragraph (18) may be construed to provide that any loan made under a governmental plan under section 414(o), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.’’. (d)(2) by redesignating paragraph (5) as paragraph (10); and
(3) by inserting after paragraph (10) the following:
‘‘(19) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition, but—
‘‘(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which such funds were placed in such account; or
‘‘(B) only to the extent that such funds—
‘‘(i) are not pledged or promised to any entity in connection with any extension of credit; and
‘‘(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and
‘‘(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before the date of the filing of the petition, but—
‘‘(A) only if the designated beneficiary of the amounts paid or contributed to such tution program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which such funds were paid or contributed; or
‘‘(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed $5,000;’’; and
(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(a)(1) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition, but—
‘‘(A) only if the designated beneficiary of the amounts paid or contributed to such tution program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which such funds were paid or contributed; or
‘‘(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed $5,000;’’; and
(3) by inserting after paragraph (12) the following:
‘‘(12A) ‘debt relief agency’ means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other compensation with respect to a case or proceeding under this title;’’; and
(4) by adding the following to the end of the section:
‘‘(A) any person that is an officer, director, employee or agent of that person;
‘‘(B) a nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;
‘‘(C) a creditor of the person, to the extent that the creditor is assisting the person to restructure any debt owed by the person to the creditor;
‘‘(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or organization;
‘‘(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.’’.

(e) CONFORMING AMENDMENT.—Section 101(b)(1) of title 11, United States Code, is amended by inserting ‘‘101(3),’’ after ‘‘sections’’. (f) by adding at the end the following:
‘‘(e) in determining whether any of the relationships specified in paragraph (5)(A) or (B) a subsection of a legally adopted child of an individual (and a child who is a member of an individual’s household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child’s principal place of abode the home of the debtor and the member of the household shall be treated as a child of such individual by blood.’’.

(b) DEBTOR’S DUTIES.—Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:
‘‘(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition, but—
‘‘(A) only if the designated beneficiary of the amounts paid or contributed to such tution program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which such funds were placed in such account; or
‘‘(B) only to the extent that such funds—
‘‘(i) are not pledged or promised to any entity in connection with any extension of credit; and
‘‘(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and
‘‘(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before the date of the filing of the petition, but—
‘‘(A) only if the designated beneficiary of the amounts paid or contributed to such tution program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which such funds were paid or contributed; or
‘‘(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed $5,000;’’; and
(4A) ‘bankruptcy assistance’ means any goods or services sold or otherwise provided to an assisted person with the express or im-
SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) Enforcement.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

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526. Debt relief enforcement.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by adding after the section relating to section 527, the following:

526. Debt relief enforcement.
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(b) Provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissible or converted to a case or proceeding under this title;

(A) may bring an action on behalf of its resident or the actual damages of an assisted person arising from such violation, including any liability under paragraph (2); and

(B) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court;

(2) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraphs (A) and (B) of paragraph (3);

(3) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

(A) enjoin the violation of such section;

(B) impose an appropriate civil penalty against such person.

(c) No provision of this section, section 527, or section 528 shall—

(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

(2) be deemed to limit or curtail the authority or ability—

(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of the State;

(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.

(4) The United States District Court for any district in the State for a case or proceeding under this title shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar.

The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person.

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IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.
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If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer. The LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARE WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to benefit you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs as well as a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a “trustee” and by creditors.

If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want to consider whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of relief.

Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only bankruptcy petition preparers, can give you legal advice.

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c. Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition or schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and concise writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—
  
(1) how to value assets at replacement value, determine current monthly income, the current monthly child support obligation, under section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;
  
(2) how to provide under this title pursuant to section 528 and to value exempt property at the time of the bankruptcy filing, the present fair market value of such property if the property is described in section 527, including how to determine what amount is owed and what address for the creditor should be shown; and
  
(3) how to value assets at replacement value as defined in section 506 of this title.
  
(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given to the assisted person.
  
(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by this Act, is amended by adding after the item relating to section 525 the following:
  
527. Discharge of secured claims and judicial lien.
  
SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.
  
(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by this Act, is amended by adding at the end of the section:
  
§ 528. Requirements for debt relief agencies.
  
(a) A debt relief agency shall—
  
(1) provide the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and
  
(2) provide the assisted person with a copy of a written contract with such assisted person that explains clearly and conspicuously—
  
(A) the services such agency will provide to such assisted person; and
  
(B) the fees or charges for such services, and the terms of payment;
  
(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and
  
(4) clearly and conspicuously using the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code, or a substantially similar state law in order to—
  
(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—
  
(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisements;
  
(B) statements such as 'federally supervised repayment plan' or 'federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being performed when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.
  
(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—
  
(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and
  
(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code, or a substantially similar state law in order to—
  
(3) how to complete the list of creditors, whether or not chapter 13 is specifically mentioned in such advertisements;
  
(4) how to value assets at replacement value as defined in section 506 of this title;
  
(5) how to value exempt property at the time of the bankruptcy filing, the present fair market value of such property if the property is described in section 527, including how to determine what amount is owed and what address for the creditor should be shown; and
  
(6) how to value assets at replacement value as defined in section 506 of this title.
  
(7) how to complete the list of creditors, whether or not chapter 13 is specifically mentioned in such advertisements;
  
(8) how to provide under this title pursuant to section 528 and to value exempt property at the time of the bankruptcy filing, the present fair market value of such property if the property is described in section 527, including how to determine what amount is owed and what address for the creditor should be shown; and
  
(9) how to value assets at replacement value as defined in section 506 of this title.
  
(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by this Act, is amended by adding after the item relating to section 527 the following:
  
528. Debtor's bill of rights.
  
SEC. 230. GAO STUDY.
  
(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Inspector General, and the United States Trustee, the results of the study required by subsection (a).
  
(b) GAO REPORT.—Not later than 270 days after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report containing the results of the study required by subsection (a).
  
SEC. 231. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.
  
(a) IN GENERAL.—Section 363(b)(1) of title 11, United States Code, as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, is amended by inserting after the item relating to personal bankruptcy the following:
  
41A. 'personally identifiable information', if provided by the individual to the debtor in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes—
  
(A) means—
  
(i) the individual’s first name (or initials) and last name, whether given at birth or adoption or legally changed; and
  
(ii) the physical address for the individual’s home;
  
(iii) the individual’s e-mail address;
  
(iv) the individual’s home telephone number;
  
(v) the individual’s social security number; or
  
(vi) the individual’s credit card account number; and
  
(B) means, when identified in connection with one or more of the items of information listed in subparagraph (A) on or before the expiration of 30 days after the date of the order for relief; or
  
(v) the individual’s social security number;
  
(B) statements such as 'federally supervised repayment plan' or 'federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being performed when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.
  
(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—
  
(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and
  
(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code, or a substantially similar state law in order to—
  
(3) how to complete the list of creditors, whether or not chapter 13 is specifically mentioned in such advertisements;
  
(4) how to value assets at replacement value as defined in section 506 of this title;
  
(5) how to value exempt property at the time of the bankruptcy filing, the present fair market value of such property if the property is described in section 527, including how to determine what amount is owed and what address for the creditor should be shown; and
  
(6) how to value assets at replacement value as defined in section 506 of this title.
  
(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by this Act, is amended by adding after the item relating to section 527 the following:
  
528. Debtor’s bill of rights.
  
SEC. 232. CONSUMER PRIVACY OMBUDSMAN.
  
(a) IN GENERAL.—
  
(1) APPOINTMENT ON REQUEST.—If the trustee expects to sell or lease personally identifiable information in a manner which requires a presentation of the debtor's personal bankruptcy case, the trustee shall request, and the court shall appoint, an ombudsman to serve as ombudsman during the case not later than—
  
(A) on or before the expiration of 30 days after the date of the order for relief; or
  
(B) 5 days prior to any hearing described in section 363(b)(1)(B) of title 11, United States Code, as amended by this Act.
  
(2) DUTIES OF OMBUDSMAN.—It shall be the duty of the ombudsman to provide the court information to assist the court in its consideration of the facts, circumstances, and conditions of the sale or lease under section 363(b)(1)(B) of title 11, United States Code, as amended by this Act. Such information may include a presentation of the debtor's privacy policy in effect, potential losses or gains of privacy to consumers if the sale or lease is approved, potential costs or benefits to consumers if the sale or lease is not approved, and potential alternatives which mitigate potential privacy losses or potential costs to consumers.
  
(b) APPOINTMENT.—The ombudsman shall receive notice of, and shall have a right to appear and be heard, at any hearing described in section 363(b)(1)(B) of title 11, United States Code, as amended by this Act.
  
(c) CONFIDENTIALITY.—The ombudsman shall maintain any personally identifiable information obtained by the ombudsman under this title as confidential information.
  
(d) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting "the ombudsman appointed under section 382," before "an examiner".
  
SEC. 233. PROHIBITION ON DISCLOSURE OF IDENTITY OF MINOR CHILDREN.
  
(a) PROHIBITION.—Chapter 11, title 11, United States Code, is amended by adding after section 111, as added by this Act, the following:
  
41. Prohibition on disclosure of identity of minor children—
  
"In a case under this title, the debtor may be required to provide information regarding
a minor child involved in matters under this title, as required to be maintained in the public records in the case the name of such minor child. Notwithstanding section 107(a), the debtor may be required to disclose the name of such minor child in a nonpublic record maintained by the court. Such nonpublic record shall be available for inspection by the judge, United States Trustee, the trustee, or an auditor under section 683 of the Bankruptcy Reform Act of 2001. Each such judge, United States Trustee, trustee, or auditor shall maintain the confidentiality of the identity of such minor child in the nonpublic record;

4. (b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"II. Prohibition on disclosure of identity of minor children.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REINFORCEMENT OF THE FRESH START.

Section 362(b) of title 11, United States Code, is amended—

1. (1) by striking "by a court" and inserting "on a party by any court";

2. (2) by striking "section 191(b) or (c)" and inserting subsection (b) or (f)(2) of section 191"

and

3. by adding at the end the following:

"B) such presumption may be rebutted by creditors to be stayed; and

"C) perform the terms of a plan confirmed by the court; or

"D) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if satisfied as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to such creditor; and

"(ii) on request of a party in interest, the court shall Promptly enter an order confirming that no stay is in effect;

"(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to subparagraph (D) for purposes of subparagraph (B), (ii) on request of a party in interest, the court shall order the stay to take effect in the case as to any or all creditors (subject to subparagraph (D) for purposes of subparagraph (B), or if the bankruptcy case was filed in another proceeding that is the successor or equivalent to the intent of section 366(b) of title 11, United States Code, as amended or a similar non-Federal law); and

"(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of such order allowing the stay to take effect; and

"(D)_for purposes of subparagraph (B), a case is presumed not to be in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

"(ii) as to all creditors if—

"(1) the party in interest demonstrates that the filing of the later case was in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumed not to be in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

"(i) as to all creditors if—

"(D) the party in interest demonstrates that the filing of the later case was in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

"(ii) as to all creditors if—

"(D) the party in interest demonstrates that the filing of the later case was in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

"(i) as to all creditors if—

"(D) the party in interest demonstrates that the filing of the later case was in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

"(i) as to all creditors if—

"(D) the party in interest demonstrates that the filing of the later case was in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

"(i) as to all creditors if—

"(D) the party in interest demonstrates that the filing of the later case was in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

"(i) as to all creditors if—

"(D) the party in interest demonstrates that the filing of the later case was in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

"(i) as to all creditors if—

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"(C) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

"(i) as to all creditors if—

"(D) the party in interest demonstrates that the filing of the later case was in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

"(i) as to all creditors if—

"(D) the party in interest demonstrates that the filing of the later case was in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

"(i) as to all creditors if—

"(D) the party in interest demonstrates that the filing of the later case was in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)

"(i) as to all creditors if—

"(D) the party in interest demonstrates that the filing of the later case was in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)
days after the first meeting of creditors under section 341(a) of title 11, United States Code, as amended by this Act—

"(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722 of this title.

If the debtor fails to so act within the 45-day period beginning on the date the stay provided by subsection (a)(2)(B) is in effect under section 362(a) of this title is terminated with respect to the personal property of the estate or of the debtor which is affected by such order, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee brought before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL—

Title 11, United States Code, is amended—

(1) in section 362—

(A) in subsection (c), by striking "(e), and (f)" and inserting "(e), (f), and (h)";

(B) by redesignating subsection (h) as subsection (k); and

(C) by inserting after subsection (g) the following:

"(h) In an individual case under chapter 7, 11, or 13, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securable in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the refusal in the applicable time set by section 521(a)(2) of this title—

"(A) to file timely any statement of intention required under section 521(a)(2) of this title with respect to property after notice and a hearing, in that statement that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title; or

"(B) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms;

"(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a)(2)(B) continues until the expiration of the proceeding on the motion.; and

(2) in section 321—

(A) in subsection (a)(2), as so designated by this Act,

(B) in subsection (a)(2)(B), as so designated by this Act—

"(1) by striking "forty-five days after the filing of a notice of intent under this section" and inserting "30 days after the first date set for the meeting of creditors under section 341(a) of this title"; and

"(2) by striking "forty-five day" and inserting "30-day";

(C) in subsection (a)(2)(C), as so designated by this Act, by inserting ". . . except as provided in section 362(h) of this title" before the semicolon; and

(D) by adding at the end the following:

"(d) If the debtor fails timely to take the action specified in that statement or, in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased or converted without completion of the lease, such lien shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendence, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13—

(a) In GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

"(i) the plan provides that—

"(1) the holder of such claim retain the lien securing such claim until the earlier of—

"(A) the payment of the underlying debt determined under nonbankruptcy law; or

"(B) discharge under section 1328; and

"(2) if the case under this chapter is dismissed or converted under applicable nonbankruptcy law; or

"(B) a cooperative that owns property that is the subject of the claim, the debt was incurred within the 3-year period preceding the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 506 of title 11) acquired in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding; and

"(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.

(b) Rescission of Title 11 Foundation for Secured Credit.—Section 1325(a)(5) of title 11, United States Code, is amended by adding at the end the following:

"(A) means a residential structure, includ

"(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer; and

"(C) a burial plot for the debtor or a dependent of the debtor uses as a residence; or

"(D) the debtor or a dependent of the debtor uses as a residence; or

"(E) a cooperative that owns property that is the subject of the claim, the debt was incurred within the 3-year period preceding the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 506 of title 11) acquired in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding; and

"(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.

(c) Definitions.—Section 101 of title 11, United States Code, as amended by this Act, is amended—

"(1) by inserting after paragraph (27) the following:

"(27A) ‘incidental property’ means, with respect to a debtor’s principal residence—

"(A) property commonly conveyed with a principal residence in the area where the real estate is located;

"(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

"(C) all replacements or additions;.

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS—

Section 522(b)(3)(A) of title 11, United States Code, as so designated by this Act, is amended—

(1) by striking "180 days" and inserting "730 days"; and

(2) by striking ", or for a longer portion of such 180-day period than in any other place" and inserting ", or for a longer portion of such 730-day period than in any other place".

SEC. 308. LIMITATION—

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting sub- section (o), “before” any other provision; and

(2) by adding at the end the following new subsection:

"(o) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that exceeds, in the aggregate, $125,000 in value in—

"(A) real or personal property that the debtor or a dependent of the debtor uses as a residence; or

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(2) the limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that farmer.”.

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES—

(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13—

Section 1381(c)(1) of title 11, United States Code, is amended—

(1) by inserting paragraphs (2) and (3) after paragraph (1), by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "in the converted case, with allowed secured claims" and inserting "only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(B) by striking the period and inserting "; and

(3) by adding at the end the following:

"(C) with respect to cases converted from chapter 13—

"(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding; and

"(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.”.

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(b) Giving Debtors the Ability to Keep Leased Personal Property by Assumption.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(1) if the debtor fails to make a rental payment that first became due under applicable nonbankruptcy law after the date of the filing of the petition for relief, the court shall retain the property and may condition such assumption on cure of any outstanding default on terms set by the contract;

"(B) the court orders that the exception to the automatic stay shall not become effective, or provides for a later date of applicability;"

and

"(3) by adding at the end of the flush material added by paragraph (2), the following:

"( każde) by adding at the end, a debtor or a dependent of the debtor.''.

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 522(a)(2)(C) of title 11, United States Code, is amended to read as follows:

"(A) the debtor files a certification with the court and serves a copy of such certification upon the lessor or on or before that 15th day, that:

"(B) the court orders that the exception to the automatic stay shall not become effective, or provides for a later date of applicability;"

and

"(C) by adding at the end, the following:

"(1) consumer debts owed to a single creditor and aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 90 days before the order for relief under this title, are preserved to be nondischargeable; and

"(2) if the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.''.

SEC. 311. AUTOMATIC STAY.

(a) In General.—Section 362(b) of title 11, United States Code, is amended—

"(1) consumer debts owed to a single creditor and aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 90 days before the order for relief under this title, are preserved to be nondischargeable; and

"(2) if the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.''.

(b) GIVING DEBTORS THE ABILITY TO KEEP Leased PERSONAL PROPERTY BY Assumption.—Section 365 of title 11, United States Code, is amended to read as follows:

"(1) unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

"(A) proposed by the plan to the trustee; and

"(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment including the amount and date of payment; and

"(2) by adding at the end, the following:

"(B) the court orders that the exception to the automatic stay shall not become effective, or provides for a later date of applicability;"

and

"(3) by adding at the end, the following:

"(2) in a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected in the plan under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease;

"(B) in a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected in the plan under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease;

"(C) by adding at the end, the following:

"(1) if the court finds that first becomes due after the unexpired specific term of a rental agreement or lease or under a tenancy under applicable nonbankruptcy law where timely payments are made pursuant to clause (i) if the lessor files with the court a certification that the requirements of this clause have been met and serves a copy of the certification upon the debtor;

"(2) if the debtor has a month to month tenancy or notifies the lessor in writing that the rental payment due post-petition or 10 days prior to the petition was made prior to the filing of the debtor's certificate under subparagraph (A), or that the exception to the automatic stay does not exist or has been remedied to the court's satisfaction, then a stay under subsection (a) shall be effective until the 30-day period preceding the date of filing of the petition, the debtor or another occupant of the leased premises—

"(A) commenced another case under this title; and

"(B) failed to make any rental payment that first became due under applicable nonbankruptcy law after the date of the filing of the petition for relief or that other case;"
of the court, the court shall order the stay under subsection (a) to be lifted forthwith. Where a debtor does not file a certificate under subparagraph (A), the stay under subsection (a) shall be lifted by operation of law and the clerk of the court shall certify a copy of the bankruptcy docket as sufficient evidence that the automatic stay of subsection (a) is lifted.

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking “six” and inserting “eight”; and

(2) in section 1328, by inserting after subsection (e) the following:

“(1) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502, if the debtor has received a discharge—

“(A) in a case filed under chapter 7, 11, or 12 of this title during the three-year period preceding the date of the order for relief under this chapter, or

“(B) in a case filed under chapter 13 of this title during the two-year period preceding the date of such order, except that if the debtor demonstrates extreme hardship requiring that a chapter 13 case be filed, the court may shorten the two-year period.”.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) DEFINITION.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

“(i) A subject to subparagraph (B), for purposes of this section, (1) the term ‘household goods’ means—

“(I) clothing;

“(II) furniture;

“(III) bedding;

“(IV) 1 radio;

“(V) 1 television;

“(VI) 1 VCR;

“(VII) linens;

“(VIII) china;”

“(IX) crockery;

“(X) kitchenware;”

“(XI) educational materials and educational equipment primarily for the use of minor dependent children of the debtor, but only 1 personal computer only if used primarily for education or entertainment of such minor children;”

“(XII) medical equipment and supplies;”

“(XIII) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor; and

“(XIV) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor.

“(B) The term ‘household goods’ does not include—

“(i) works of art (unless by or of the debtor or the dependents of the debtor);

“(ii) electronic equipment (except 1 television, 1 radio, and 1 VCR);

“(iii) items acquired as antiques;

“(iv) jewelry (except wedding rings); and

“(v) a computer (except as otherwise provided for in this section), motor vehicle (including a motorcycle or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.”.

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Oversight and Government Reform of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, and the impact that section 522(f)(4) of title 11, United States Code, has on account of violations of the stay under section 362(a) or failure to comply with section 542 or 543 may be imposed on any action of the creditor unless the action takes place after the commencement of the case effective under this section.”.

DEBTOR’S DUTIES.—Section 321 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (a), as so designated by the directory, by striking paragraph (1) and inserting the following:

“(1) file—

“(A) a list of creditors; and

“(B) unless the court orders otherwise—

“(i) a schedule of assets and liabilities;”

“(ii) a schedule of current income and current expenditures;”

“(iii) a statement of the debtor’s financial affairs and, if applicable, a certificate—

“(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition under section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 322(b); or

“(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

“(IV) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer or creditor in the period 60 days before the filing of the petition;”

“(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

“(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;”:

and

(2) by adding at the end the following:

“(e) At any time, a creditor, in the case of an individual debtor under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case, and the court shall make those documents available to the creditor who requests those documents.

“(A) The debtor shall provide either a tax return or transcript at the election of the creditor, for the latest taxable period prior to filing for which a tax return has been or should have been filed, and no later than 7 days before the date first set for the first meeting of creditors, or the case will be dismissed, unless the debtor demonstrates that the failure to file a return as required is due to circumstances beyond the control of the debtor.

“(B) If a creditor has requested a tax return or transcript referred to in subparagraph (A), the debtor shall provide such tax

in any case filed under chapter 7 or 13 given below by the creditor unless specified notice is given under section (e) with respect to a particular case.

“(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor. If the creditor designates a person or department to be reasonably notified concerning bankruptcy cases and establishes reasonable procedures so that bankruptcy notices are delivered to such person or department, notice shall not be considered to have been brought to the attention of the creditor until received by such person or department.

“(2) No sanction under section 362(k) or any other sanction that a court may impose on account of violations of the stay under section 362(a) or failure to comply with section 542 or 543 may be imposed on any action of the creditor unless the action takes place after the commencement of the case effective under this section.”.

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to tax information that is required to be provided under this section.

"(3)(A) At any time, a creditor in a case under chapter 7 may file with the court notice that the creditor requests the plan filed by the debtor in the case.

"(B) The court shall make such plan available to the creditor who requests such plan—

"(i) at the time filed with the taxing authority, the Federal tax returns or transcript thereof required under applicable law, with respect to the period from the commencement of the case until such time as the case is closed;

"(2) at the time filed with the taxing authority, the Federal tax returns or transcript thereof required under applicable law, that were filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order of relief;

"(3) to any of the Federal tax returns or transcripts thereof, described in paragraph (1) or (2); and

"(4) in a case under chapter 13, a statement submitted to the party in interest, including a driver’s license, passport, or other document that contains a photograph of the debtor; and

"(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.’.

SEC. 315. ADJUDICATION OF A CASE.

Section 302(c) of title 11, United States Code, as amended by this Act, is amended by striking ‘‘the applicable commitment period’’ and inserting ‘‘three-year period’’.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

‘‘(i) if requested by the United States trustee or a trustee serving in the case, the court shall enter an order of dismissal not later than 5 days after such request.

‘‘(ii) if less than 3 years, if the current monthly income of the debtor and the debtors is not less than—

‘‘(A) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number of fewer individuals last reported by the Bureau of the Census;

‘‘(B) in the case of a debtor in a household of 5, 6, or 7 individuals, the highest median family income of the applicable State for a family of the same number of fewer individuals last reported by the Bureau of the Census;

‘‘(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $325 per month for each individual in excess of 4, the plan may not provide for payments over a period that is longer than 5 years.

‘‘(3) in section 1325(b), as amended by this Act, by adding at the end the following:

‘‘(4) For purposes of this subsection, the ‘‘applicable commitment period’’ shall be—

"(i) 3 years; or

"(ii) less than 3 years, if the current monthly income of the debtor and the debtors is not less than—

‘‘(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

‘‘(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number of fewer individuals last reported by the Bureau of the Census, plus $325 per month for each individual in excess of 4, the plan may provide for payments over a period that is longer than 5 years.

‘‘(4) in a case under chapter 13, a statement of income and expenditures described in subsection (a)(4), showing—

‘‘(A) the amount and sources of income of the debtor;

‘‘(B) the identity of any person responsible for the support of any dependent of the debtor; and

‘‘(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

‘‘(2) The tax returns, amendments, and statement of income and expenditures described in subsection (a)(2)(A) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying subject to the requirements of subsection (b).

‘‘(1) Not later than 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required under this section.

‘‘(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

‘‘(3) Not later than 1 year and 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, the Director of the Administrative Office of the United States Courts shall prepare and submit to Congress a report that—

‘‘(A) assesses the effectiveness of the procedures under paragraph (1); and

‘‘(B) if appropriate, includes proposed legislation to—

‘‘(i) further protect the confidentiality of tax information; and

‘‘(ii) provide incentives for the improper use by any person of the tax information required to be provided under this section.

‘‘(A) the amount and sources of income of the debtor and the debtor’s spouse combined, when multiplied by 12, is not less than—

‘‘(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number of fewer individuals last reported by the Bureau of the Census; and

‘‘(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $325 per month for each individual in excess of 4, the plan may not provide for payments over a period that is longer than 5 years.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor’s attorney has made reasonable inquiry to verify that the information contained in such documents is—

‘‘(1) well grounded in fact; and
the debtor shall remain in possession of all
property of the estate includes, in addition to property included in the estate under section
1115, subject to the requirements of subsection (a)(14).

(ii) modification of the plan under 1127 of this title is not practicable.''.

(c) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

"(2) extend or reduce the time period for completion of all payments under the plan; and

"(3) over all claims or causes of action that involve construction of section 307 of title 11, United States Code, or rules relating to disclosure requirements under section 327."

(b) APPLICABILITY.—This section shall only apply to cases filed after the date of enactment of this Act.

SEC. 324. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE

(a) Actions Under Chapter 7 or 13 of Title 11, United States Code.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) For a case commenced—

"(A) under chapter 7 of title 11, $150;

(b) United States Trustees System Fund.—Section 589(a)(1) of title 28, United States Code, is amended—

"(1) by striking paragraph (1) and inserting the following:

"(1)(A) 40.63 percent of the fees collected under section 1930(a)(1) of this title in 2001.
cases commenced under chapter 7 of title 11; and

"(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;"

"(2) in paragraph (2), by striking "one-half" and inserting "three-fourths"; and

"(3) in paragraph (4), by striking "one-half" and inserting "one hundred percent";"

"(c) COLLECTION AND DEPOSIT OF MISCELLA-

NEOUS BANKRUPTCY FEES.—Section 306(b) of the

Judiciary Appropriations Act, 1996 (28 U.S.C. 1513) is amended by striking "pursuant to 28 U.S.C. section 1930(b) and 30.76 percent of the fees hereafter collected under 26 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be de-

posited as offsetting receipts to the fund estab-

lished under 26 U.S.C. section 1931" and inserting "under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under 16 U.S.C. section 3124 of the Endangered Species Act of 1973 and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under that title".

SEC. 325. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the fol-

lowing:

"(c) This section shall not apply with re-

spect to sharing, or agreeing to share, com-

pensation with a bona fide public service at-

torney referral program that operates in ac-

cordance with non-Federal law regulating at-

torney referral services and with rules of pro-

fessional responsibility applicable to at-

torney referral services.

SEC. 326. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by-

ning—

"(1) inserting "(1)" after "(a)"; and

"(2) by adding at the end the following:

"(2) In the case of an individual debtor under chapters 7 and 13, such value with re-

spect to property securing an unex-

pected claim shall be determined based on the re-

placement value of such property as of the date of filing the petition without deduction for

contingencies. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.

SEC. 327. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

"(1) in subsection (b)—

"(A) in paragraph (1)(A), by striking the semicolon at the end; and

"(B) by inserting "or" after "(a)"; and

"(2) by adding at the end the following:

"(2) In the case of an individual debtor under chapters 7 and 13, such value with re-

pect to property securing an unex-

pected claim shall be determined based on the re-

placement value of such property as of the date of filing the petition without deduction for

contingencies. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.

SEC. 328. NONINFRINGEMENT OF DEBTS INCURRED THROUGH VIOLATIONS OF LAW RELATING TO THE PROVISION OF LAWFUL GOODS AND SERVICES.

Section 522(a) of title 11, United States Code, is amended—

"(1) in paragraph (17), by striking "or" at the end;

"(2) in paragraph (18), as added by section 223 of this Act, by striking "and" and inserting "or"; and

"(3) by adding at the end of the flush mate-

rial immediately following paragraph (18), as added by section 223 of this Act, the fol-

lowing: "Nothing in paragraph (19) shall be construed to affect any expressive con-

duct (including peaceful picketing or other peaceful demonstration) protected from legal

prohibition by the first amendment to the Constitution of the United States."; and

"(4) by inserting before the flush material following that paragraph (18), the follow-

ing: "(19) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any court-ordered dam-

ages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

"(A) an action alleging the violation of any Federal, State, or local statutory law, in-

cluding but not limited to violations of sections 247 and 248 of title 18, that results from the
debtor's—

"(I) harassment of, intimidation of, inter-

ference with, obstruction of, injury to, threat to, or violence against, any person—

"(I) that is not a person providing or has

provided lawful goods or services;

"(II) because that person is or has been

obtaining lawful goods or services; or

"(III) to deter that person, any other per-

son, or a class of persons from obtaining or

obtaining lawful goods or services or the pro-

"(II) damage or destruction of property of

a facility providing lawful goods or services; or

"(B) a violation of a court order or injunc-

tion that protects access to a facility that provides lawful goods or services or the pro-

vision of lawful goods or services.".

SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 551(b)(1)(A) of title 11, United States Code, is amended to read as follows:

"(A) the actual, necessary costs and ex-

penses of preserving the estate, including

salaries, wages, or commissions for services

rendered after the commencement of the case, and wages and benefits awarded pursu-

ant to an action brought in a court of law or

the National Labor Relations Board as back

pay attributable to any period of time after

commencement of the case as a result of the
debtor's violation of Federal or State law,

regardless to when the original unlawful act

occurred or to whether any services were

rendered if the court determines that the

award will not substantially increase the

probability of layoff or termination of cur-

rent employees or of nonpayment of domes-

tic support obligations during the case;"

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS


SEC. 401. ADEQUATE PROTECTION FOR INVE-

SORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by this Act, is amended by inserting after paragraph (48) the fol-

lowing:

"(49) "securities self regulatory organiza-

tion" means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securi-

ties Exchange Act of 1934 (15 U.S.C. 78o-3) or a national securities exchange registered with the Securities and Exchange Commiss-

ion under section 6 of the Securities Ex-


(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (24), as added by this Act, the fol-

lowing:

"(25) under subsection (a), of—

"(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such or-

ganization's regulatory power;

"(B) the enforcement of an order or deci-

sion, other than for monetary sanctions, ob-

tained in an action by the securities self reg-

ulatory organization to enforce such organ-

ization's regulatory power; or

"(C) any act taken by the securities self reg-

ulatory organization to delist, delete, or

refuse to permit quotation of any stock that
does not meet applicable regulatory require-

ments.

SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the fol-

lowing:

"(e) Notwithstanding subsections (a) and

(b), the court, on the request of a party in in-

terest after notice and hearing, for cause may order that the United States

trustee not convene a meeting of creditors or equity security holders if the debtor has filed a

plan as to which the debtor solicited ac-

ceptances prior to the commencement of the case.".

SEC. 403. PROTECTION OF REFINANCE OF SECU-

RITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are
SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

“(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

(i) the date that is 120 days after the date of the order for relief; or

(ii) the date of the entry of an order confirming a plan.

(B) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days upon motion of the trustee or lessor for cause.

(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in writing.

(B) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking “subsection (g)” and inserting “subsection (g) (as added by section 129 of the Bankruptcy Reform Act of 2001, or any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity otherwise has demonstrated skill and experience in the bankruptcy field) and

SEC. 405. CREDITOR(S) AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

“(4) On request of a party of interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor who is a small business concern (as described in section 3(a)(1) of the Small Business Act (15 U.S.C. 632(a)(1))), if in comparison to the annual gross revenue of that creditor, is disproportionately large.”

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

“(A) provide access to information for creditors who—

(i) hold claims of the kind represented by that committee; and

(ii) are not appointed to the committee;

(B) solicit and receive comments from the creditors described in subparagraph (A); and

(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).”

SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection designated as subsection (g) (as added by section 193(d) of Public Law 103–394) as subsection (i); and

(2) in subsection (i), as so redesignated, by inserting “and subject to the prior rights of holders of any interests in such goods or the proceeds thereof,” after “consent of a creditor,” and

SEC. 407. AMENDMENTS TO SECTION 330A OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking “(A) In” and inserting “(A); and

(B) by inserting “to an examiner, trustee under chapter 11, or professional person” after “awarded”; and

(2) by adding at the end the following:

“(7) In determining the amount of ‘reasonable’ compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326 of this title.”

SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

“(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.”

SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following—

“(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and was not a conveyance with intent to hinder, delay, or defraud creditors;”

(2) by redesignating paragraph (3) as paragraph (4) and inserting the following:

“(4) A made in the ordinary course of business or financial affairs of the debtor and the transferee; or

“(B) made according to ordinary business terms;”

(3) by adding to the end the following:

“(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.”

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting “as a disinterested person” after “chapter 13.”

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking “(2) On” and inserting “(1) Subject to paragraph (2), on”;

(2) by striking the period at the end of such subsection and inserting the following:

“(2)(A) The 120-day period specified in paragraph (1)(B) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

(B) The 180-day period specified in paragraph (1)(B) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.”

SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking “dwelling” the first place it appears; and

(2) by striking “or” and inserting “and”.

(3) by striking “housing” the first place it appears; and

(4) by striking “but only” and all that follows through “such period” and inserting “or a lot in a homeowners association, for as long as the debtor or the trustee has legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot.”

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following:

“Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity otherwise has demonstrated skill and experience in the bankruptcy field) and

SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

“(14) ‘disinterested person’ means a person that—

(A) is not a creditor, an equity security holder, or an insider;

(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

(C) does not have an interest materially adverse to the interests of creditors generally, or to the interests of creditors or equity security holders generally, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason.”

SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, as amended by this Act, is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

“(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field.”

SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end the following:

“(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

“(B) Upon the filing of a report under subparagraph (A), the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

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SEC. 418. BANKRUPTCY FEES.

(1) in subsection (a), by striking “subsection” and inserting “subsections (b) and (c)”;

(2) by adding at the end the following:

“(ii) a letter of credit;

(iii) a certificate of deposit;

(iv) a surety bond;

(v) a prepayment of utility consumption; or

(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

(3) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

(4) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

(5) On request of a party in interest and after notice and a hearing, the court may modify the amount of an administrative expense priority under paragraph (3).

(6) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

(i) the absence of security before the date of filing of the petition;

(ii) the payment of charges for utility service in a timely manner before the date of filing of the petition; or

(iii) the availability of an administrative expense priority.

(7) Notwithstanding any other provision of law, if a party in interest requests a court to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility before the date of filing of the petition without notice or order of the court.

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) In General.—

(1) DISCLOSURE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States, after consideration of the views of the Director of the Executive Office for United States Trustees, shall prescribe the Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms directing debtors under chapter 11 of title 11, United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest in taking steps in the case in which the debtor’s interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

SEC. 420. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) In General.—

(1) DUTY TO FILE AND SERVE DISCLOSURE STATEMENT.—In a case under chapter 11, a plan administrator of a plan (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of which the debtor is a plan administrator (as defined in section 3 of the Omnibus Budget Reconciliation Act of 1981) of an employee benefit plan, if at the time of filing, the debtor, served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of an employee benefit plan, continue to perform the obligations required of the administrator.

(2) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as so designated by section 106(d) of this Act, is amended—

(d) INFORMATION.—The information referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

SEC. 421. UTILITY SERVICE.

(1) in subsection (a)(1), by inserting before “subsections” and inserting “subsections (b) and (c)”;

(2) by adding at the end the following:

“(ii) a letter of credit;

(iii) a certificate of deposit;

(iv) a surety bond;

(v) a prepayment of utility consumption; or

(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

(3) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

(4) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility may recover or set off against a security deposit provided to the utility before the date of filing of the petition; or

for utility service in a timely manner before the date of filing of the petition;

is adequate, the court may not consider—

(i) the absence of security before the date of filing of the petition;

(ii) the payment of charges for utility service in a timely manner before the date of filing of the petition; or

(iii) the availability of an administrative expense priority.

(7) Notwithstanding any other provision of law, if a party in interest requests a court to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility before the date of filing of the petition without notice or order of the court.

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

(a) In General.—

(1) DISCLOSURE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms directing debtors under chapter 11 of title 11, United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest in taking steps in the case in which the debtor’s interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

SEC. 432. DEFINITIONS.

Sec. 1002(a) of title 11, United States Code, as amended by this Act, is amended by striking paragraph (51C) and inserting the following:

“51C ‘small business case’ means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

51D ‘small business debtor’ means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto that has aggregate noncontingent, liquidated secured and unsecured debt as of the date of the petition or the order for relief in an amount not more than $3,000,000 (excluding debt owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

‘(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $3,000,000 (excluding debt owed to 1 or more affiliates or insiders)’.

(2) in paragraph (9), by striking the period after “(2) by adding at the end the following:

“(ii) a letter of credit;

(iii) a certificate of deposit;

(iv) a surety bond;

(v) a prepayment of utility consumption; or

(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

(3) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

(4) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility may recover or set off against a security deposit provided to the utility before the date of filing of the petition without notice or order of the court.

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

(a) In General.—

(1) DISCLOSURE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(i) the reasonable needs of the courts, the United States trustee, creditors, and other
(2) the small business debtor’s interest that reasonably should be easy and inexpen-

sive to complete; and

(3) the interest of all parties that the re-

quired reports help the small business debtor to understand the small business debtor’s fi-

nancial condition and plan the small busi-

ness debtor’s future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Sub-

paragraph (I) of section 1116 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(11) Duties of trustee or debtor in posses-

sion in small business cases. In a small business case, a trustee or the debtor in possession, in addition to the du-

ties provided in this title and as otherwise required by law, shall—

(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

(A) its most recent balance sheet, state-

ment of operations, cash-flow statement, Federal income tax return; or

(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

(2) attend, through its senior manage-

ment or designee, meetings scheduled by the court or the United States trust-

ee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341, unless the court waives that requirement after not-

ice and hearing, upon a finding of extraor-

dinary and compelling circumstances;

(3) timely file all schedules and state-

ments of financial affairs, unless the court, after notice and a hearing, grants an exten-

sion, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

(4) file all postpetition financial and other required government filings and making the pay-

ments referred to in subparagraph (A)(ii),

what the failures are and how, at what cost, and to what extent the debtor intends to remedy such failures; and

“(C) adopt reasonable approximations of the debtor’s projected cash receipts and cash disbursements over a reasonable period;

“(3) the reasonable needs of the bankruptcy proceedings being diligently prosecuted; and

“(1) only the debtor may file a plan until

“(1) in compliance in all material respects with the requirements imposed by this title and the Federal Rules of Bank-

ruptcy Procedure; and

“(ii) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the pay-

ments referred to in subparagraph (A)(ii),

the item relating to section 307 the fol-

(2) in paragraph (5), by striking “and” at the end of section 308 of title 11, United States Code, as added by subsection (a).

SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small busi-

ness debtors to file periodic financial and other reports containing information, in-

cluding information relating to—

(1) the debtor’s profitability;

(2) the debtor’s cash receipts and disburse-

ments; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administra-

tive claims when due.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are pre-

scribed under section 209 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 437. PLAN CONFIRMATION DEADLINES.

Section 1116 of title 11, United States Code, is amended by striking subsection (e) and in-

serting the following:

“(e) In a small business case—

(1) only the debtor may file a plan until after 180 days after the date of the order for relief; and

(2) an extended confirmation deadline, which shall not extend the time for confirmation beyond 45 days after the date of the order for relief; and

“(B) the extension is granted; and

“(C) the order extending time is signed be-

fore the existing deadline has expired.”

SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1010 of title 11, United States Code, is amended by adding at the end the follow-

ing:

“(e)(1) In a small business case, the plan shall be confirmed not later than 45 days after the date that a plan is filed with the court as provided in section 1112(e).

“(2) The 45-day period referred to in para-

graph (1) may be extended only if—

“(A) the debtor, after notice and hearing, demonstrates that it is more likely than not that the court will confirm a plan in a reasonable period of time;

“(B) a new deadline is imposed at the time at which the extension is granted; and

“(C) the order extending time is signed be-

fore the existing deadline has expired.”

SEC. 439. DUTIES OF THE UNITED STATES TRUS-

TEE.

Section 506(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking “and” at the end of subparagraph (G); and

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

“(H) in small business cases (as defined in section 101 of title 11), performing the addi-

tional duties specified in title 11 pertaining to such cases; and”;

“(2) in paragraph (5), by striking “and” at the end of section 506(c)(2), maintain insurance customary and appropriate to the industry;”;

(2) the small business debtor’s interest that reasonably should be easy and inexpen-

sive to complete; and

(3) the interest of all parties that the re-

quired reports help the small business debtor to understand the small business debtor’s fi-

nancial condition and plan the small busi-

ness debtor’s future.

SEC. 434. UNIFORM NATIONAL REPORTING RE-

quirements.

(a) REPORTING REQUIRED.—In con-

formity with chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

“§ 308. Declarant requirements

(a) For purposes of this section, the term ‘profitability’ means, with respect to a debt-

or, the amount of money that the debtor has earned or lost during current and recent fis-

cal periods.

(b) A small business debtor shall file peri-

odic financial and other reports containing information including—

“(1) the debtor’s profitability;

“(2) reasonable approximations of the debtor’s projected cash receipts and cash dis-

bursements over a reasonable period;

“(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

“(4)(A) whether the debtor is—

“(i) in compliance in all material respects with the requirements imposed by this title and the Federal Rules of Bank-

ruptcy Procedure; and

“(ii) timely filing tax returns and other re-

quired government filings and paying taxes and other administrative claims when due;

“(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the pay-

ments referred to in subparagraph (A)(ii),

what the failures are and how, at what cost, and to what extent the debtor intends to remedy such failures; and

“(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient pro-

ceedures under chapter 11 of this title.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the fol-

lowing:

“308. Declarant reporting requirements.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are pre-

scribed under section 209 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).
under section 1112 of title 11, the United States Code, is amended—
(1) in paragraph preceding paragraph (1), by striking ‘‘may’’; and
(2) by striking paragraph (1) and inserting the following:
‘‘(1) there is reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, as amended, or in cases in which these sections do not apply, within a reasonable period of time; and
‘‘(B) the grounds include an act or omission of the debtor—
‘‘(i) for which there exists a reasonable justification for the act or omission; and
‘‘(ii) that, with a reasonable period of time fixed by the court.
‘‘(3) The court shall commence the hearing on any motion under this subsection no later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.
‘‘(4) For purposes of this subsection, the term ‘cause’ includes—
‘‘(A) substantial or continuing loss to or diminution of the estate;
‘‘(B) gross mismanagement of the estate;
‘‘(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;
‘‘(D) unauthorized use of cash collateral harmful to 1 or more creditors;
‘‘(E) failure to comply with an order of the court;
‘‘(F) repeated failure timely to satisfy any filing or reporting requirement established by this title or any rule applicable to a case under this chapter;
‘‘(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure;
‘‘(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee or the bankruptcy administrator;
‘‘(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;
‘‘(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;
‘‘(K) failure to pay any fees or charges required under section 1112; or
‘‘(L) revocation of an order of confirmation under section 1144;
‘‘(M) inability to effectuate substantial consummation of a confirmed plan;
‘‘(N) material default by the debtor with respect to a confirmed plan;
‘‘(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and
‘‘(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.
‘‘(5) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.
(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:
‘‘(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(2), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss the case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.
‘‘(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes that—
(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, as amended, or in cases

SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.
Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—
(1) conduct a study to determine—
(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and
(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable and
(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 444. PAYMENT OF INTEREST.
Section 362(d)(3) of title 11, United States Code, is amended—
(1) by inserting ‘‘or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later’’ after ‘‘90-day period’’; and
(2) by striking paragraph (b) and inserting the following:
‘‘(b) the debtor has commenced monthly payments that—
‘‘(i) may, in the debtor’s sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and
‘‘(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor’s interest in the real estate in which these sections do not apply, within a reasonable period of time.’’

SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.
Section 502(b)(6) of title 11, United States Code, is amended—
(1) in paragraph (5), by striking ‘‘and’’ at the end; and
(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and
(3) by adding at the end the following:
‘‘(7) with respect to a nonresident real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or penalty provisions, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatever except for sums actually received or to be received from a nondebtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6)’’.

TITLE V—MUNICIPAL BANKRUPTCY PROCEEDINGS
SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.
(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d)(1) of title 11, United States Code, is amended by inserting ‘‘notwithstanding section 301(b)’’ before the period at the end.
(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—
(1) by inserting "(a)" before "A voluntary"; and
(2) by striking the last sentence and inserting the following:
"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.

SEC. 602. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.
Section 901(a) of title 11, United States Code, is amended—
(1) by inserting "555, 556, after "553,"; and
(2) by inserting "559, 560, 561, 562" after "557."

TITLE VI—BANKRUPTCY DATA
SEC. 603. IMPROVED BANKRUPTCY STATISTICS.
(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"§ 159. Bankruptcy statistics.
"(a) The clerk of each district shall collect statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be on a standardized form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the "Director").
"(b) The Director shall—
"(1) compile the statistics referred to in subsection (a);
"(2) make the statistics available to the public; and
"(3) not later than October 31, 2002, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.
"(c) The compilation required under subsection (b) shall—
"(1) be itemized, by chapter, with respect to title 11;
"(2) be presented in the aggregate and for each district; and
"(3) include information concerning—
"(A) the total assets and total liabilities of the debtors described in subsection (a), and in each chapter 7, 11, or 13 case, and the amount of any difference between the total assets and the total liabilities as reported in the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;
"(B) the average period of time between the filing of the petition and the closing of the case;
"(C) the aggregate amount of debt dischargeable in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;
"(D) the average period of time between the filing of the petition and the closing of the case;
"(E) for the reporting period—
"(i) the number of cases in which a reaffirmation was filed; and
"(ii) the total number of reaffirmations filed;
"(F) with respect to cases filed under chapter 13 of title 11 during the last reporting period—
"(i) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and
"(ii) the number of final orders determining the value of property securing a claim in an amount less than the amount of the claim; and
"(G) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases reaffirmed after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and
"(H) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;
"(I) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and
"(J) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel or damages awarded under such rule.
"(b) The considerations to be established for the compilation and data collection under this section shall be that the data is collected in such a manner that it maximizes the value of data provided to the public and is as cost-effective as possible.
"(c) REQUIRED INFORMATION.—The information required to be collected under subsection (b) shall—
"(1) be recorded in a computer database by the Judicial Conference of the United States;
"(2) be made available to the public and—
"(A) be published periodically, as determined by the Judicial Conference of the United States;
"(B) be made available to the public and—
"(i) be published periodically, as determined by the Judicial Conference of the United States;
"(ii) be available to the public and—
"(I) the reasonable needs of the public for information on bankruptcy and consumer debt administration;
"(II) of those cases in which a reaffirmation was filed, the number of cases in which the reaffirmation was approved by the court;
"(III) of those cases in which a reaffirmation was filed, the number of cases in which the reaffirmation was filed and was entered into the database more than 30 days after the entry of the confirmation order; and
"(IV) of those cases in which a reaffirmation was filed, the number of cases in which the reaffirmation was approved by the court;
"(V) with respect to cases filed under chapter 13 of title 11 during the last reporting period—
"(i) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and
"(ii) the number of final orders determining the value of property securing a claim in an amount less than the amount of the claim; and
"(VI) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases reaffirmed after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and
"(VII) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;
"(VIII) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and
"(IX) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel or damages awarded under such rule.
"(d) FINAL REPORTS.—Final reports required under this section shall be—
"(1) the reasonable needs of the public for information on bankruptcy and consumer debt administration;
"(2) include the information required by subsection (b); and
"(3) be available to the public.

SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.
(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"§ 589b. Bankruptcy data.
"(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue uniform forms for (and from time to time thereafter to appropriately modify and approve—
"(1) the final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and
"(2) the periodic reports in possession of the Attorney General, as the case may be, in cases under chapter 11 of title 11.
"(b) REPORTS.—Each report referred to in subsection (a) shall be prepared (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.
"(c) REQUIRED INFORMATION.—The information required to be included in the reports referred to in subsection (a) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—
"(1) the reasonable needs of the public for information on bankruptcy and consumer debt administration;
"(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and
"(3) appropriate privacy concerns and safeguards.
"(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—
"(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;
"(2) length of time the case has been pending;
"(3) number of full-time employees as of the date of the order of relief and at the end of each reporting period since the case was filed;
"(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order of relief;
"(5) professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order of relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and
"(6) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.
"(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"589b. Bankruptcy data.".

SEC. 603. AUDIT PROCEDURES.
(a) IN GENERAL.—
(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 101 and 110 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

CONGRESSIONAL RECORD—SENATE
July 12, 2001
CONGRESSIONAL RECORD—SENATE

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

SEC. 705. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

SEC. 706. RATE OF INTEREST ON TAX CLAIMS.

(a) General.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§ 507. Rate of Interest on Tax Claims.

(a) In the case of taxes paid under a contract, a claim for interest on taxes shall be treated as a single claim."

SEC. 707. DETERMINATION OF TAX LIABILITY.

(b) After the payment of interest on a tax claim or on an administrative expense tax claim, or on the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed."
SEC. 715. TAXPAYERS WITHIN THE UNITED STATES WHO ARE NOT DOMESTIC CORPORATIONS.

SEC. 716. PRIORITY PROPERTY TAXES INCURRED.

SEC. 717. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 718. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 719. PRIORITY PROPERTY TAXES INCURRED.

SEC. 720. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 721. PRIORITY PROPERTY TAXES INCURRED.

SEC. 722. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 723. PRIORITY PROPERTY TAXES INCURRED.

SEC. 724. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 725. PRIORITY PROPERTY TAXES INCURRED.

SEC. 726. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 727. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 728. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 729. PRIORITY PROPERTY TAXES INCURRED.

SEC. 730. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 731. PRIORITY PROPERTY TAXES INCURRED.

SEC. 732. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 733. PRIORITY PROPERTY TAXES INCURRED.

SEC. 734. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 735. PRIORITY PROPERTY TAXES INCURRED.

SEC. 736. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 737. PRIORITY PROPERTY TAXES INCURRED.

SEC. 738. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 739. PRIORITY PROPERTY TAXES INCURRED.

SEC. 740. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 741. PRIORITY PROPERTY TAXES INCURRED.

SEC. 742. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 743. PRIORITY PROPERTY TAXES INCURRED.

SEC. 744. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 745. PRIORITY PROPERTY TAXES INCURRED.

SEC. 746. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 747. PRIORITY PROPERTY TAXES INCURRED.

SEC. 748. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 749. PRIORITY PROPERTY TAXES INCURRED.

SEC. 750. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 751. PRIORITY PROPERTY TAXES INCURRED.

SEC. 752. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 753. PRIORITY PROPERTY TAXES INCURRED.

SEC. 754. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 755. PRIORITY PROPERTY TAXES INCURRED.

SEC. 756. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 757. PRIORITY PROPERTY TAXES INCURRED.

SEC. 758. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 759. PRIORITY PROPERTY TAXES INCURRED.

SEC. 760. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 761. PRIORITY PROPERTY TAXES INCURRED.

SEC. 762. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 763. PRIORITY PROPERTY TAXES INCURRED.

SEC. 764. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 765. PRIORITY PROPERTY TAXES INCURRED.

SEC. 766. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 767. PRIORITY PROPERTY TAXES INCURRED.

SEC. 768. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 769. PRIORITY PROPERTY TAXES INCURRED.

SEC. 770. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 771. PRIORITY PROPERTY TAXES INCURRED.

SEC. 772. NO DISCHARGE OF FRAUDULENT TAXES.

SEC. 773. PRIORITY PROPERTY TAXES INCURRED.
section 1308 shall be timely if the claim is for a tax with respect to a return filed under chapter 13, a claim of a governmental unit on or before the date that is 60 days before the order for relief under this title, and the income, gain, loss, deductions, and credits of an estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate, the estate shall be liable for any tax imposed on such corporation or partnership, and not for any tax imposed on partners or members.

(“c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income, the taxable period of a partner in a case under this title shall be subject to tax in accordance with subsection (d).

(d) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

(g) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method is consistent with applicable nonbankruptcy tax law.

(h) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

4. The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method is consistent with applicable nonbankruptcy tax law.

5. (f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

6. (g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

7. (h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other pay-
attribute from one taxable period to a subse-
quent taxable period of the debtor under the In-

(2) After such a case is closed or dis-
misse, the debtor shall succeed to any tax
attribute to which the estate succeeded
under section 1222(b)(1) on the filing date of
the case, whichever is in the best interests of
creditors.

TITLE VIII—ANCILLARY AND OTHER
CROSS-BORDER CASES
SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO
TITLE 11, UNITED STATES CODE
(a) In General—Title 11, United States Code, is amended by inserting after chapter
13 the following:

"CHAPTER 15—ANCILLARY AND OTHER
CROSS-BORDER CASES"

"Sec.
1501. Purpose and scope of application.
1502. Definitions.
1504. Commencement of ancillary case.
1505. Authorization to act in a foreign country.
1506. Public policy exception.
1507. Additional assistance.
1508. Interpretation.
1511. Commencement of case under section 301 or 303.
1512. Participation of a foreign representative in a case under this title.
1513. Access of foreign creditors to a case under this title.
1514. Notice to foreign creditors concerning a case under this title.
1516. Presumption concerning recognition.
1517. Order granting recognition.
1518. Subsequent information.
1519. Relief that may be granted upon filing petition for recognition.
1520. Effects of recognition of a foreign main proceeding.
1521. Relief that may be granted upon recognition.
1522. Protection of creditors and other interested persons.
1523. Actions to avoid acts detrimental to creditors.
1524. Intervention by a foreign representative.
1525. Cooperation and direct communication between the court and foreign
courts or foreign representatives.
1526. Cooperation and direct communication between the trustee and foreign
courts or foreign representatives.
1527. Forms of cooperation.
1528. Commencement of a case under this title after recognition of a for-
"minal proceeding.
1529. Coordination of a case under this title and a foreign proceeding.
1530. Coordination of more than 1 foreign proceeding.
1531. Presumption of insolvency based on recognition of a foreign main proceeding.
1532. Rule of payment in concurrent pro-
ceedings.
"(a) The purpose of this chapter is to incor-
porate the Model Law on Cross-Border In-

solvency so as to provide effective mecha-
nisms for dealing with cross-border insolvency with the objectives of—

"(1) cooperation between—
"(A) United States courts, United States
trustees, trustees, examiners, debtors, and
debtors in possession;
"(B) the courts and other competent au-
thorities of foreign countries involved in

"(2) greater legal certainty for trade and investment;
"(3) fair and efficient administration of cross-border insolvencies that protects the
interests of all creditors, and other inter-
ested entities, including the debtor;
"(4) protection and maximization of the
tax attribute to a taxable period of the debt-
or; and
"(B) the same or a similar tax attribute
may be carried back by the estate to such
a taxable period of the debtor under the In-

"(2) Notwithstanding any other provi-
dion of this section and section 505, the time and manner of fil-
ing tax returns and the items of income, gain, loss, deduction, and credit of any tax-
payer shall be determined under applicable nonbankruptcy law.

"(2) In general—For Federal tax purposes, the provi-
sions of this section are subject to the Internal
Revenue Code of 1986 and other applicable
Federal nonbankruptcy law.

"(b) Cooperation with Foreign Authorities
(1) Section 728 of title 11, United States
Code, is repealed.
(2) Section 1165 of title 11, United States
Code, is amended—
(A) by striking subsections (a) and (b); and
(B) by redesignating subsections (c) and (d)
as subsections (a) and (b), respectively.
(3) Section 1221 of title 11, United States
Code, is amended—
(A) by striking subsections (a) and (b); and
(B) by redesignating subsections (c) and (d)
as subsections (a) and (b), respectively.

SEC. 720. DISMISSED FOR FAILURE TO TIMELY
FILE TAX RETURNS.
Section 521 of title 11, United States Code, as amended by this Act, is amended by add-
ing at the end the following:
"(k)(1) Notwithstanding any other provi-
dion of this section, if the debtor fails to file a tax return that becomes due after the com-
 mencement of the case or to properly obtain an extension of the due date for filing such
return, the taxing authority may request that the court convert or dismiss the case.

"(2) If the debtor does not file the required return or obtain the extension referred to in
paragraph (1) within 90 days after a request is filed by the taxing authority under that
paragraph, the court shall convert or dismiss the case, whichever is in the best interests of
creditors.
"§ 1503. International obligations of the United States

"(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

"(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, when combined with the principles of comity, will reasonably assure—

"(1) just treatment of all holders of claims against or interests in the debtor's property;

"(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

"(3) prevention of preferential or fraudulent dispositions of property of the debtor;

"(4) distribution of proceeds of the debtor's property substantially in accordance with the order of priority prescribed by this title; and

"(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

"§ 1507. Additional assistance

"(a) Upon recognition, a foreign representative may commence—

"(1) an involuntary case under section 303; or

"(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

"(b) The action commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

"§ 1512. Participation of a foreign representative in a case under this title

"(a) Whenever in a case under this title no foreign proceeding is pending, the court shall consider its international origin, and shall also give such other form of notification as may be more appropriate. No letter or other formality is required.

"(b) If the court grants recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

"(c) Whether or not the court grants recognition under this chapter, a foreign representative is subject to applicable bankruptcy law.

"§ 1514. Notification to foreign creditors concerning a case under this title

"(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

"(b) In the absence of notice to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

"(c) When a notice of commencement of a case is to be given to foreign creditors, the notification shall—

"(1) indicate the time period for filing proofs of claim and specify the place for their filing;

"(2) indicate whether secured creditors need to file their proofs of claim; and

"(3) contain any other information required to be included in such a notification to creditors under this title and the orders of the court.

"(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"§ 1515. Application for recognition

"(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

"(b) A petition for recognition shall be accompanied by—

"(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

"(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

"(3) the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

"(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

"(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English if the foreign court may require a translation into English of additional documents.

"§ 1516. Presumptions concerning recognition

"(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding (as defined in section 101) and that the person or
body is a foreign representative (as defined in section 1519), the court is entitled to so presume.

(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

§ 1517. Order granting recognition

(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

(1) the foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502; and

(2) the foreign representative applying for recognition is a person or body as defined in section 1510; and

(3) the petition meets the requirements of section 1519.

(b) The foreign proceeding shall be recognized—

(1) as a foreign main proceeding if it is taking place in the country where the debtor has that part of its business or assets; and

(2) as a foreign nonmain proceeding if the debtor has an establishment within the foreign country where the proceeding is pending.

(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

(d) The provisions of this subchapter do not prejudice the termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition.

The case under this chapter may be closed in the manner prescribed under section 350.

§ 1518. Subsequent information

"From the time of the filing of the petition for recognition, information relating to a foreign representative shall file with the court promptly a notice of change of status concerning—

(1) substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

§ 1519. Relief that may be granted upon filing petition for recognition

(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor—

(1) stay the commencement or continuation of any action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent that they have not been stayed under section 1520(a); and

(2) entering execution against the debtor's assets.

(b) The court may grant relief—

(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent that they have not been stayed under section 1520(a); and

(2) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent that such relief would interfere with the administration of a foreign main proceeding.

(c) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

(d) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

(e) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

§ 1520. Effects of recognition of a foreign main proceeding

(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

(1) sections 361 and 362 apply with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States; and

(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate.

(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title on behalf of the debtor's business and may exercise the rights and powers of a trustee in such case to the extent permitted by law, or to file claims or take other proper actions in such a case.

§ 1521. Relief that may be granted upon recognition

(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

(1) staying the commencement or continuation of an individual action or proceeding concerning the assets, rights, obligations or liabilities of the debtor; and

(2) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, rights, obligations or liabilities; and

(b) Unless extended under section 1520(a), the relief granted under this section terminates when the petition for recognition is granted.

(c) It is a ground for denial of relief under this chapter that such relief would interfere with the administration of a foreign main proceeding.

(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

§ 1522. Protection of creditors and other interested persons

"The court may grant relief under section 1519 or 1521, or modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

(b) The court may subject relief granted under section 1519 or 1521, or the operation of any provision of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualifications requirements imposed on a trustee by section 323.

§ 1523. Actions to avoid acts detrimental to creditors

(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 547, 548, 550, and 726(a).

(b) When the foreign proceeding is a foreign nonmain proceeding, the court may be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

§ 1524. Intervention by a foreign representative

(a) Upon recognition of a foreign proceeding, the foreign representative may intervene in

within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

(b) Extending relief granted under section 1519 or 1521;

(c) Granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 547, 548, 550, and 726(a).

(d) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative or an entity, trust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

(e) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

(f) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

(g) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

(h) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraphs (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

§ 1525. Effects of recognition of a foreign main proceeding

(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

(1) sections 361 and 362 apply with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States; and

(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate.

(b) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualifications requirements imposed on a trustee by section 323.

§ 1526. Actions to avoid acts detrimental to creditors

(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 547, 548, 550, and 726(a).

(b) When the foreign proceeding is a foreign nonmain proceeding, the court may be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

§ 1527. Intervention by a foreign representative

(a) Upon recognition of a foreign proceeding, the foreign representative may intervene in...
any proceedings in a State or Federal court in the United States in which the debtor is a party.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

§ 1527. Forms of cooperation

"Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

(1) appointment of a person or body, including an examiner, to act at the direction of the court;

(2) communication of information by any means considered appropriate by the court;

(3) coordination of the administration and supervision of the debtor’s assets and affairs;

(4) approval or implementation of agreements concerning the coordination of proceedings; and

(5) coordination of concurrent proceedings regarding the same debtor.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

§ 1528. Commencement of a case under this title—recognition of a foreign main proceeding

After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1330(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

§ 1529. Coordination of a case under this title and a foreign proceeding

If a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

(1) the court in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

(A) any relief granted under section 1519 or 1521 shall be modified or terminated if inconsistent with the relief granted in the case in the United States; and

(B) any relief that has been recognized under sections 1525, 1526, and 1527 shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

(2) If a case under the United States Code commenced after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension reenacted in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

(4) In achieving cooperation and coordination between the court in the United States and the court, the court may grant any of the relief authorized under section 305.

§ 1530. Coordination of more than 1 foreign proceeding

In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

(1) Any relief granted under section 1519 or 1521 to a representative of a foreign main proceeding must be consistent with the foreign main proceeding.

(2) If a foreign main proceeding is recognized under section 1501, the court shall grant, modify, or terminate relief for the purpose of coordinating the proceeding under section 1520(a) shall be modified or terminated if inconsistent with the foreign main proceeding.

(3) If, after recognition of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and modified or terminated if inconsistent with the foreign main proceeding.

(4) If, after recognition of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and modified or terminated if inconsistent with the foreign main proceeding.

§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

In the absence of evidence to the contrary, recognition of a foreign main proceeding for the purpose of coordinating a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

§ 1532. Rule of payment in concurrent proceedings

"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding, under a law relating to insolvency may not receive a payment for the same claim in a case under another chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.”

§ 1533. Other Sections of Title 11

(a) Section 109(b)(3) of title 11, United States Code, is amended by inserting after the word "HS" the following: 1101. Venue of cases ancillary to foreign proceedings

A case under chapter 15 of title 11 may be commenced in the district court for the district—

(1) in which the debtor has its principal place of business or principal assets in the United States;

(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court;

(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.

(b) Other Sections of Title 11

(1) Section 307(b)(3) of title 11, United States Code, is amended to read as follows: 1501. Ancillary and Other Cross-Border Cases

SEC. 307. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.
“(3)(A) a foreign insurance company, engaged in such business in the United States; or
“(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union that is a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101) in the United States.

(2) Section 303(k) of title 11, United States Code, is repealed.

(3)(A) Section 304 of title 11, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 3 of title 11, United States Code, is amended by striking the item relating to section 304.

(C) Section 306 of title 11, United States Code, is amended by striking “, 304,” each place it appears.

(4) Section 305(a)(2) of title 11, United States Code, is amended to read as follows:

“(2)(A) a petition under section 1515 of this title for recognition of a foreign proceeding has become effective;

“(B) the purposes of chapter 15 of this title are to reorganize, liquidate, or dissolve a person, and the foreign proceeding is one where recognition of the proceeding is necessary to carry out these purposes; or

“(C) there is a need to stay an action or process pending in a United States court that relates to the foreign proceeding.

(5) Section 508 of title 11, United States Code, is amended—

(A) by striking subsection (a); and

(B) in subsection (b), by striking “(b)”,

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF FAILED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by inserting “resolution, or order” after “any similar agreement that the Corporation determines by regulation.”

(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

“(ii) SECURITIES CONTRACT.—The term ‘securities contract’—

“(I) means an agreement, including related agreements or transactions referred to in clauses (ii), (III), (IV), (V), (VI), (VII), (VIII), or (IX); and

“(II) includes—

“(III) any agreement that provides for an agreement or transaction referred to in clause (I), (II), (III), (IV), (V), (VI), (VII), (VIII), or (IX), and is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, default option, option, repurchase agreement, unallocated transaction, or any other similar agreement;

“(IV) any combination of agreements or transactions referred to in subclauses (I) and (II); and

“(V) any agreement referred to in any such subclause.”.

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

“(iii) COMMODITY CONTRACT.—The term ‘commodity contract’—

“(I) means an agreement, including related agreements or transactions referred to in clause (I), (II), (III), (IV), (V), (VI), (VII), (VIII), (IX), or (X); and

“(II) includes—

“(iii) any agreement or transaction referred to in clause (I), (II), (III), (IV), (V), (VI), (VII), (VIII), (IX), or (X), and is entered into, including, a repurchase transaction, reverse repurchase transaction, commodity options, consignment, lease, swap, hedge transaction, default option, option, repurchase agreement, unallocated transaction, or any other similar agreement;

“(IV) any combination of agreements or transactions referred to in subclauses (I) and (II); and

“(V) any agreement referred to in any such subclause.”.

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

“(iv) FORWARD CONTRACT.—The term ‘forward contract’ means—

“(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, security, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, commodity options, consignment, lease, swap, hedge transaction, default option, option, repurchase agreement, unallocated transaction, or any other similar agreement;

“(II) any combination of agreements or transactions referred to in subclauses (I) and (III); and

“(III) any option to enter into any agreement or transaction referred to in subclause (I); or

“(IV) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), or (V) including any guarantee or reimbursement obligation related to any agreement or transaction referred to in any such subclause.”.

(e) DEFINITION OF REPURCHASE AGREEMENT.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

“(v) REPURCHASE AGREEMENT.—The term ‘repurchase agreement’ (which definition also applies to a reverse repurchase agreement)—

“(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers’ acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by an eligible dealer, a commodity option, a commodity contract, a commodity option contract, or a commodity contract on a commodity for future delivery on, or subject to the rules of, a contract market or board of trade; or

“(II) includes—

“(i) any agreement other than a commodity contract, a commodity option, a commodity contract on a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is entered into, including, a repurchase transaction, reverse repurchase transaction, commodity options, consignment, lease, swap, hedge transaction, default option, option, repurchase agreement, unallocated transaction, or any other similar agreement;

“(ii) any combination of agreements or transactions referred to in clause (I); and

“(iii) any agreement referred to in any such subclause.”.

(f) DEFINITION OF GUARANTEE AGREEMENT.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

“(vi) GUARANTEE AGREEMENT.—The term ‘guarantee agreement’ means—

“(I) means an agreement, including related terms, which, in its terms, gives rise to a guarantee obligation related to any agreement or transaction referred to in any such agreement or transaction by an eligible dealer, a commodity option, a commodity contract, a commodity option contract, or a commodity contract on a commodity for future delivery on, or subject to the rules of, a contract market or board of trade; or

“(II) includes—

“(i) any agreement other than a commodity contract, a commodity option, a commodity contract on a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is entered into, including, a repurchase transaction, reverse repurchase transaction, commodity options, consignment, lease, swap, hedge transaction, default option, option, repurchase agreement, unallocated transaction, or any other similar agreement;
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‘‘(II) does not include any repurchase obligation under a participation in a commercial
mortgage loan unless the Corporation determines by regulation, resolution, or order to
include any such participation within the
meaning of such term;
‘‘(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);
‘‘(IV) means any option to enter into any
agreement or transaction referred to in subclause (I) or (III);
‘‘(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such
master agreement, without regard to whether the master agreement provides for an
agreement or transaction that is not a repurchase agreement under this clause, except
that the master agreement shall be considered to be a repurchase agreement under this
subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I),
(III), or (IV); and
‘‘(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V) including any guarantee or reimbursement obligation in connection with any agreement
or transaction referred to in any such subclause.
For purposes of this clause, the term ‘qualified foreign government security’ means a
security that is a direct obligation of, or
that is fully guaranteed by, the central government of a member of the Organization for
Economic Cooperation and Development (as
determined by regulation or order adopted
by the appropriate Federal banking authority).’’.
(f) DEFINITION OF SWAP AGREEMENT.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is
amended to read as follows:
‘‘(vi) SWAP AGREEMENT.—The term ‘swap
agreement’ means—
‘‘(I) any agreement, including the terms
and conditions incorporated by reference in
any such agreement, which is an interest
rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate
collar, cross-currency rate swap, and basis
swap; a spot, same day-tomorrow, tomorrownext, forward, or other foreign exchange or
precious metals agreement; a currency swap,
option, future, or forward agreement; an equity index or equity swap, option, future, or
forward agreement; a debt index or debt
swap, option, future, or forward agreement; a
total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather
swap, weather derivative, or weather option;
‘‘(II) any agreement or transaction that is
similar to any other agreement or transaction referred to in this clause and that is
of a type that has been, is presently, or in
the future becomes, the subject of recurrent
dealings in the swap markets (including
terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more
rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic

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or financial indices or measures of economic
or financial risk or value;
‘‘(III) any combination of agreements or
transactions referred to in this clause;
‘‘(IV) any option to enter into any agreement or transaction referred to in this
clause;
‘‘(V) a master agreement that provides for
an agreement or transaction referred to in
subclause (I), (II), (III), or (IV), together with
all supplements to any such master agreement, without regard to whether the master
agreement contains an agreement or transaction that is not a swap agreement under
this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to
each agreement or transaction under the
master agreement that is referred to in subclause (I), (II), (III), or (IV); and
‘‘(VI) any security agreement or arrangement or other credit enhancement related to
any agreements or transactions referred to
in subclause (I), (II), (III), (IV), or (V) including any guarantee or reimbursement obligation in connection with any agreement or
transaction referred to in any such subclause.
Such term is applicable for purposes of this
title only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any
swap agreement under any other statute,
regulation, or rule, including the Securities
Act of 1933, the Securities Exchange Act of
1934, the Public Utility Holding Company
Act of 1935, the Trust Indenture Act of 1939,
the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities
Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-LeachBliley Act, and the Legal Certainty for Bank
Products Act of 2000.’’.
(g) DEFINITION OF TRANSFER.—Section
11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is
amended to read as follows:
‘‘(viii) TRANSFER.—The term ‘transfer’
means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property
or with an interest in property, including retention of title as a security interest and
foreclosure of the depository institution’s
equity of redemption.’’.
(h) TREATMENT OF QUALIFIED FINANCIAL
CONTRACTS.—Section 11(e)(8) of the Federal
Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is
amended—
(1) in subparagraph (A)—
(A) by striking ‘‘paragraph (10)’’ and inserting ‘‘paragraphs (9) and (10)’’;
(B) in clause (i), by striking ‘‘to cause the
termination or liquidation’’ and inserting
‘‘such person has to cause the termination,
liquidation, or acceleration’’; and
(C) by striking clause (ii) and inserting the
following:
‘‘(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified
financial contracts described in clause (i);’’;
and
(2) in subparagraph (E), by striking clause
(ii) and inserting the following:
‘‘(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified
financial contracts described in clause (i);’’.
(i) AVOIDANCE OF TRANSFERS.—Section
11(e)(8)(C)(i) of the Federal Deposit Insurance
Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by
inserting ‘‘section 5242 of the Revised Statutes of the United States (12 U.S.C. 91) or

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any other Federal or State law relating to
the avoidance of preferential or fraudulent
transfers,’’ before ‘‘the Corporation’’.
SEC. 902. AUTHORITY OF THE CORPORATION
WITH RESPECT TO FAILED AND
FAILING INSTITUTIONS.

(a) IN GENERAL.—Section 11(e)(8) of the
Federal Deposit Insurance Act (12 U.S.C.
1821(e)(8)) is amended—
(1) in subparagraph (E), by striking ‘‘other
than paragraph (12) of this subsection, subsection (d)(9)’’ and inserting ‘‘other than subsections (d)(9) and (e)(10)’’; and
(2) by adding at the end the following new
subparagraphs:
‘‘(F) CLARIFICATION.—No provision of law
shall be construed as limiting the right or
power of the Corporation, or authorizing any
court or agency to limit or delay, in any
manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and
(10) of this subsection or to disaffirm or repudiate any such contract in accordance with
subsection (e)(1) of this section.
‘‘(G) WALKAWAY CLAUSES NOT EFFECTIVE.—
‘‘(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of
1991, no walkaway clause shall be enforceable
in a qualified financial contract of an insured depository institution in default.
‘‘(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term
‘walkaway clause’ means a provision in a
qualified financial contract that, after calculation of a value of a party’s position or an
amount due to or from 1 of the parties in accordance with its terms upon termination,
liquidation, or acceleration of the qualified
financial contract, either does not create a
payment obligation of a party or extinguishes a payment obligation of a party in
whole or in part solely because of such party’s status as a nondefaulting party.’’.
(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal
Deposit
Insurance
Act
(12
U.S.C.
1821(e)(12)(A)) is amended by inserting ‘‘or
the exercise of rights or powers by’’ after
‘‘the appointment of’’.
SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL
CONTRACTS.
(a) TRANSFERS OF QUALIFIED FINANCIAL
CONTRACTS TO FINANCIAL INSTITUTIONS.—Sec-

tion 11(e)(9) of the Federal Deposit Insurance
Act (12 U.S.C. 1821(e)(9)) is amended to read
as follows:
‘‘(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—
‘‘(A) IN GENERAL.—In making any transfer
of assets or liabilities of a depository institution in default which includes any qualified
financial contract, the conservator or receiver for such depository institution shall
either—
‘‘(i) transfer to one financial institution,
other than a financial institution for which
a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of
a bankruptcy or insolvency proceeding—
‘‘(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;
‘‘(II) all claims of such person or any affiliate of such person against such depository
institution under any such contract (other
than any claim which, under the terms of
any such contract, is subordinated to the
claims of general unsecured creditors of such
institution);

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Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended—

(a) Definitions.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.—

(1) A bridge bank.

(2) A depository institution organized by the Corporation, for which a conservator is appointed either—

(i) immediately upon the organization of the institution; or

(ii) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.

(b) Notice to Qualified Financial Contract Counterparties.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking “the conservator” and all that follows through the period and inserting the following: “the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receiver, or the business day following such transfer in the case of a conservatorship.”

(c) Treatment of Foreign Bank, Foreign Financial Institution, or Branch of a Foreign Bank or Financial Institution.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

(D) Definitions.—For purposes of this paragraph, a ‘financial institution’ means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation, to be a financial institution, and the term ‘clearing organization’ has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

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subsection (A) (with respect to such person or any affiliate of such person); and

(3) by including at the end of section 11(e) the following new paragraph:

(ii) the depository institution in default; or

(B) disaffirm or repudiate none of the qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for such institution shall either—

(A) disaffirm or repudiate all qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person); and

(2) by inserting after paragraph (10) the following new paragraph:

(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which the institution to which the conservator or receiver for such institution is a party, the conservator or receiver for such institution shall either—

(A) disaffirm or repudiate all qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person); and

(1) A party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

(1) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver pursuant to paragraph (9)(A), or

(2) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A), or

(3) by including at the end of section 11(e) the following new paragraph:

(ii) the depository institution in default; or

(1) A party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or sections 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed)

(iii) Notice.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution (or the insolvency or financial condition of such depository institution) if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

(c) Treatment of Master Agreement as One Agreement.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any amendment, modification, or supplemental agreement to such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract, and such agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.


(a) Definitions.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4821(e)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon “; or”, is exempt from such future clearing organization, Securities and Exchange Commission;” and

(b) by inserting in subparagraph (B) a period “;” that has been granted an exemption under section 5 of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)”;

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(b) by inserting after subparagraph (A) the following new subparagraph:

(1) by redesigning paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which the institution to which the conservator or receiver for such institution is a party, the conservator or receiver for such institution shall either—

(A) disaffirm or repudiate all qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person); and

(3) by including at the end of section 11(e) the following new paragraph:

(ii) the depository institution in default; or

(B) disaffirm or repudiate none of the qualified financial contracts referred to in
("(1) means a contract or agreement between two or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation values and other values relating to such obligations or entitlements) among the parties to the agreement; and"; and
(5) by adding at the end the following new paragraph:
"(b) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and includes a transfer of a payment or delivery to liquidate an uninsured obligation.''

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—
(1) by striking subsection (a) and inserting the following:
"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 5(b)(2) of the Federal Deposit Insurance Act or any other order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and
(2) by adding at the end the following new subsection:
"(c) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 5(b)(2) of the Securities Investor Protection Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION CONTRACTS.—Section 407A of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—
(1) by striking subsection (a) and inserting the following:
"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 5(b)(2) of the Federal Deposit Insurance Act or any other order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and
(2) by adding at the end the following new subsection:
"(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act shall be determined in the same manner and subject to the same provisions that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.''

(d) DEFINITION.—(1) In general.—The Comptroller of the Currency and the Board of Governors of the Federal Reserve System in each case shall ensure that their regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.
(2) Definitions.—For purposes of this section, the terms ‘Federal branch’, ‘Federal agency’, and ‘foreign bank’ have the same meanings as in section 11(e) of the International Banking Act of 1978.''

SEC. 907. BANKRUPTCY CODE AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SWAP AGREEMENT, ABSENTEE CONSENT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—
(1) in section 101—
(A) in paragraph (25)—
(i) by striking ‘means a contract’ and inserting ‘means—’;
(ii) by striking ‘, or any combination thereof or option thereon;’ and inserting ‘, or any other similar agreement;’; and
(iii) by adding at the end the following:
‘‘(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);’’;
(B) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);
(C) any master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or
(D) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D) including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with subsection (b);’’;
(2) in section 552—
(A) in paragraph (46), by striking ‘on any day during the period beginning 90 days before the date of’ and inserting ‘at any time before the date of’;
(B) by amending paragraph (47) to read as follows:
‘‘(47) ‘repurchase agreement’ (which definition also applies to a reverse repurchase agreement)—’’;
"(A) means—"
``(i) an agreement, including related terms, which provides for the transfer or one or more certificates of deposit, mortgage-related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities of a mortgage loan, eligible bankers’ acceptances, securities, mortgage loans, or interests, with a simultaneity agreement by such transferee to transfer to the transferee thereof certificates of deposit, eligible bankers’ acceptances, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on the occurrence of an event or occurrence, including terms and conditions incorporated by reference therein; and

(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);"
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section (a) pursuant to paragraph (6), (7), or (17) for each individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.''

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"1555. Contractual right to liquidate, terminate, or accelerate a securities contract";

and

(2) in the first sentence, by striking "liq-

uization" and inserting "liquidation, termi-

nation, or acceleration";

(h) TERMINATION OR ACCELERATION OF COM-

MODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"1556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract";

(2) in the first sentence, by striking "liq-

uization" and inserting "liquidation, termi-

nation, or acceleration"; and

(3) in the second sentence, by striking "As used and all that follows through "right,''

and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Com-

modities Exchange Act) or a securities clear-

ing organization (as defined in the Federal Deposit Insurance Corporation Improvement

"(C) any security agreement or arrange-

ment, or any security agreement or transaction referred to in this paragraph including any guarantee or reimbursement obligation by or to a com-

modity broker or financial participant in connection with any such agreement or transaction, measured in accordance with section 561(a); or

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CON-

TRACTS.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

"(22) 'financial institution' means—

"(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent for a customer or after a transaction with a securities contract, as defined in section 741, such customer; or

"(B) in connection with a securities con-

tract, a commodity, as defined in section 741, a commodity merchant registered under the Investment Company Act of 1940;'';

(2) by inserting after paragraph (22) the follow-

ing:

"(22A) 'financial participant' means—

"(A) an entity that, at the time it enters into a securities contract, commodity contract, commodity agreement, repurchase agreement, or forward contract, or at the time of the filing of the petition, has one or more agreements or transactions described in paragraphs (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in natural or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggre-

gated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an af-

filiate) on any day during the previous 15-

month period and inserting '; and''; and

(3) by striking paragraph (25) and inserting the following:

"(25) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity, as defined in section 761 or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade.''

(c) DEFINITION OF MASTER NETTING AGREE-

MENT AND MASTER NETTING AGREEMENT PAR-

TICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (24) the following new paragraph:

"(38A) 'master netting agreement'—

"(A) means an agreement providing for the exercise of rights, including rights of net-

tlement, acceleration, termination, or liquidation, in one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reim-

bursement obligation related to 1 or more of the foregoing; and

"(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5), is deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a); and

"(38B) 'master netting agreement partici-

pant' means an entity that, at any time be-

fore the commencement of the case, is a party to an outstanding master netting agreement with the debtor;'';

(d) SWAP AGREEMENTS, SECURITIES CON-

TRACTS, COMMODITY CONTRACTS, FORWARD CON-

TRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by this Act, is amended—

(A) in paragraph (6), by inserting "pledge to and under the control of, or under liquidation, termination, or acceleration''.

"(B) in paragraph (7), by inserting "pledge to and under the control of, or under liquidation, termination, or acceleration''.

"(C) by striking paragraph (17) and inserting the following:

"(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connec-

tion with one or more swap agreements that consti-

tutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant under or in connection with any swap agree-

ment or against cash, securities, or other property held by, pledged to and under the control of, or due from such swap participant or financial participant to margin, guar-

antee, secure, or settle any swap agree-

ment;''; and

"(D) by inserting after paragraph (26), as added by this Act, the following new para-

graph:

"(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connec-

tion with one or more master netting agree-

ments or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agree-

ment subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any con-

tract or agreement subject to such agree-

ments or against cash, securities, or other property held by, pledged to and under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any con-

tract or agreement subject to such agree-

ments or against cash, securities, or other property held by, pledged to and under the control of, or due from such master netting agreement participant to margin, guar-

antee, secure, or settle any swap agree-

ment;''; and

"(E) a master netting agreement partici-

pant that receives a transfer in connection with any master netting agreement or any individual contract covered thereby for value to the extent of such transfer, except that, with respect to a transfer under any in-

dividual contract covered thereby, to the ex-

tent that such master netting agreement participant otherwise did not take (or is oth-

erwise not deemed to have taken) such trans-

fer for value,''.

(2) in subparagraph (D), by striking the pe-

riod and inserting ': and'';

(3) by adding at the end the following new subpara-

graph:

"(F) a master netting agreement partici-

pant otherwise did not take (or is oth-

erwise not deemed to have taken) such trans-

fer for value.''

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"1555. Contractual right to liquidate, termi-

nate, or accelerate a securities contract";

and

(2) in the first sentence, by striking "liq-

uization" and inserting "liquidation, termi-

nation, or acceleration";

(h) TERMINATION OR ACCELERATION OF COM-

MODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"1556. Contractual right to liquidate, termi-

nate, or accelerate a commodities contract or forward contract";

(2) in the first sentence, by striking "liq-

uization" and inserting "liquidation, termi-

nation, or acceleration"; and

(3) in the second sentence, by striking "As used and all that follows through "right,''

and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Com-

modities Exchange Act) or a securities clear-

ing organization (as defined in the Federal Deposit Insurance Corporation Improvement
Act of 1991, a national securities exchange, a national commodities exchange, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivative transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right, (1) liquidation, termination, or acceleration''; and

(2) by inserting in subsection (a)(2)(B)(ii) of section 556, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

Section 560. Contractual right to liquidate, terminate, or accelerate a swap agreement;

(2) by amending the section heading to read as follows:

"§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement;"

(2) in the first sentence, by striking "liq- uidation'' and inserting ''liquidation, termi- nation, or acceleration'' and

(3) in the third sentence, by striking "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivative transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right, (1) liquidation, termination, or acceleration''; and

(2) by amending the section heading to read as follows:

"§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement;"

(2) in the first sentence, by striking "termi- nation of a swap agreement'' and inserting "liquidation, termination, or acceleration of one or more swap agreements'';

(3) by striking "in connection with any swap agreement'' and inserting "in connection with the termination, liquidation, or ac- contentment of one or more swap agreements'';

(4) in the second sentence, by striking "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivative transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right, (1) liquidation, termination, or offset under a master netting agreement and across contracts; proceedings under chapter 15

(a) IN GENERAL.—Subject to subsection (b), the exercise of any contractual right, be- cause of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termi- nation, liquidation, or acceleration of one or more)—

(1) securities contracts, as defined in section 761;

(2) commodity contracts, as defined in section 761(4); (3) forward contracts;

(4) repurchase agreements;

(5) swap agreements; or

(6) master netting agreements, shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

(2) IN GENERAL.—A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise a contractual right described in subsection (a) or (b) of section 365(e) of this title.

(b) EXCEPTION.—Notwithstanding any other provision of this title, the exercise of a right of a forward contract merchant, a derivative contract merchant, a commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.

Section 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants;

Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, a derivative contract merchant, a commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.

Act of 1991, a national securities exchange, a national commodities exchange, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivative transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right, (1) liquidation, termination, or acceleration''; and

(2) by amending the section heading to read as follows:

"§ 561. Contractual right to liquidate, terminate, or accelerate a swap agreement; proceedings under chapter 15

(a) IN GENERAL.—Subject to subsection (b), the exercise of any contractual right, be-

cause of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termi- nation, liquidation, or acceleration of one or more)—

(1) securities contracts, as defined in section 761;

(2) commodity contracts, as defined in section 761(4); (3) forward contracts;

(4) repurchase agreements;

(5) swap agreements; or

(6) master netting agreements, shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

(2) IN GENERAL.—A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise a contractual right described in subsection (a) or (b) of section 365(e) of this title.

(b) EXCEPTION.—Notwithstanding any other provision of this title, the exercise of a right of a forward contract merchant, a derivative contract merchant, a commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.

‘‘Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, a derivative contract merchant, a commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.’’;

(n) SETOFF.—Section 553 of title 11, United States Code, is amended by inserting after section 752 the following:

"§ 757. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants;

Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, a derivative contract merchant, a commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.’’;
2362(b)(6), 362(b)(2), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561"

(2) in subsection (a)(3)(C), by inserting before the period the following: “(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)”.

(3) in subsection (b)(1), by striking “362(b)(14)” and inserting “362(b)(17),”.

(4) in section 548(d)(2)(A), by inserting “financial participant,” after “financial institution,”.

(5) in section 548(d)(2)(C), by inserting “or financial participant” after “repo participant”.

(6) in section 548(d)(2)(D), by inserting “or financial participant” after “swap participant”.

(7) in section 555—

(A) by inserting “financial participant,” after “financial institution,”; and

(B) by striking the second sentence and inserting the following: “As used in this section, the term ‘commercial right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Futures Trading Commission Act of 1974), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by any other transfer obligations arising under or in connection with one or more of such contracts or agreements, securities lent under a securities lending agreement, or a securities lending agreement participant, or swap participant, or master netting agreement participant.”.

(8) in section 556, by inserting “financial participant,” after “commodity broker”;

(9) in section 559, by inserting “or financial participant” after “repo participant” each place that term appears; and

(10) in section 560, by inserting “or financial participant” after “swap participant”.

(11) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

“766. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”;

and

(B) by inserting after the item relating to section 767 the following:

“767. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, swap participants, repo participants, and master netting agreement participants.”.

SEC. 907A. SECURITIES BROKER-COMMODITY BROKER LIQUIDATION.

The Securities and Exchange Commission and the Commodity Futures Trading Commission may consult with each other with respect to, under what circumstances, and the extent to which security futures products will be treated as commodity contracts or securities in a liquidation of a person that is both a securities broker and a commodity broker, and with respect to the treatment in such a liquidation of accounts in which both commodity contracts and securities are carried.

SEC. 908. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

“(II) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may by regulation require more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including master netting agreements) such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to 12 U.S.C. 1831n);”.

SEC. 909. SECURITIES CONTINGENT LIEN.

Section 3(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

“(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11a(2), including an agreement to provide collateral in lieu of a surety bond;

(B) bankruptcy estate funds pursuant to section 365(b)(2) of title 11, United States Code;

(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

(D) one or more qualified financial contracts, as defined in section 11a(2)(B), shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.”.

SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by this Act, the following:

“§ 562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.

If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract, stockbroker, financial institution, or a securities clearing agency, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

“(1) the date of such rejection; or

“(2) the date of such liquidation, termination, or acceleration.”;

and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561, as added by this Act, the following:

“562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.”.

(b) CLAIMS ARISING FROM REJECTION.—Section 562(g) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(q)”; and

(2) by adding at the end the following:

“A claim for damages calculated in accordance with section 562 of this title shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if an application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.”.

SEC. 911. SIPC STAY.

Section 5(b)(2)(C) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

“(C) EXCEPTION FROM STAY.—(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

(ii) Notwithstanding clause (1) such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

(3) As used in this paragraph, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, right set forth in a bylaw of a clearing organization or contract market or in a resolution of
the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.

SEC. 912. ASSET-BACKED SECURITIZATIONS. Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting after paragraph (7), as added by this Act, the following:

"(8) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of such case, to an eligible entity in connection with an asset-backed securitization, except to the extent such asset (or proceeds or value thereof) may be reacquired, redeemed, or repurchased by such entity after the date of commencement of such case.

(2) by adding at the end the following new subsection:

"(f) For purposes of this section—
"(1) the term ‘asset-backed securitization’ means a securitization, except to the extent such asset (or proceeds or value thereof) may be reacquired, redeemed, or repurchased by such entity after the date of commencement of such case.

"(2) the term ‘eligible asset’ means—

(A) financial assets (including interests therein and proceeds thereof), either fixed or revolving, whether or not the same are in existence as of the date of the transfer, including residential and commercial mortgage loans, consumer receivables, trade receivables, accounts receivable, governmental units, including pension obligations relating to taxes, receipts, fines, tickets, and other sources of revenue, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any residual interest in property subject to receivables included in such financial assets plus any rights or other assets described in subparagraph (A); and

(B) cash and

(C) securities, including without limitation, all securities issued by governmental units, including member limited liability company, or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto;

(d) the term ‘issuer’ means a trust, corporation, partnership, governmental unit, limited liability company, or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto; and

(e) the term ‘transferred’ means the debtor, or, under a written agreement, represented and transferable assets owned, held in trust, contributed, or otherwise conveyed with the intention of removing them from the estate of the debtor pursuant to subsection (b)(8) (whether or not reference is made to this title or any section hereof), irrespective and without limitation of—

(A) whether the debtor directly or indirectly held an interest in the issuer or in any securities issued by the issuer;

(‘B) whether the debtor had an obligation to reacquire or to service or supervise the servicing of all or any portion of such eligible assets; or

(C) the characterization of such sale, contribution, or other conveyance for tax, accounting, regulatory reporting, or other purposes;"

SEC. 913. EFFECTIVE DATE; APPLICATION OF AMENDMENTS. (a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply to transfers of eligible assets made under any amendment to section 541(18) of title 11, United States Code, or any section added by this title, on or after the date of enactment of this Act, but shall not apply with respect to transfers made under any act made applicable by section 541(18) of title 11, United States Code.

SEC. 914. SAVINGS CLAUSE. The meaning of terms used in this title are applicable for purposes of this title only, and shall not be construed or applied so as to affect or challenge the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 1996, the Securities Act of 1933, the Securities Exchange Act of 1934, and the Commodity Exchange Act.
title 46) who is engaged in recreational fish-

ing; 

“(B) ‘commercial fishing vessel’ means a vessel used by a fisherman to carry out a commercial fishing operation;”;

(2) by inserting after paragraph (19) the fol-

lowing:

“(19A) ‘familial fisherman’ means—

(A) an individual or individual and spouse owned in a commercial fishing operation (including aquaculture for purposes of chapter 12)—

(i) whose aggregate debts do not exceed $1,500,000, as long as all less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal resi-

dence of such individual or such individual and spouse, unless such debt arises out of a com-

mercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

(ii) who receive from such commercial fishing operation more than 50 percent of such individual’s or such individual’s and spouse’s income for the taxable year in which the case concerning such individual or such in-

dividual and spouse was filed; or

(B) a corporation or partnership—

(i) in which more than 50 percent of the outstanding stock or equity is held by—

(1) a family that conducts the commercial fishing oper-

ation; and

(ii)(I) more than 80 percent of the value of the assets consists of assets related to the commercial fishing operation;

(I) Rule of construction—

(ii)(A) aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner main-

tains as a principal residence, unless such debt arises out of a commercial fishing operation) on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such part-

nership; and

(ii)(B) if any corporation issues stock, such stock is not publicly traded;”; and

(3) by inserting after paragraph (19A) the fol-

lowing:

“(19B) ‘familial fisherman with regular annual income’ means a familial fisherman whose annual income is sufficiently stable and regular to enable such familial fisherman to make payments under a plan under chapter 12 of this title.”;

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting—“‘familial fisherman’ after ‘family

farmer’.”;

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting “OR FISHERMAN” after “FAMILY FARM-

ER”;

(2) in section 1201, by adding at the end the following:

“(e)(1) Notwithstanding any other provi-

sion of law, for purposes of this subsection, a guarantor of a claim of a creditor under this section who is named in the same manner as a creditor with respect to the operation of a stay under this section;”;

(2) in section 1203, by inserting “or com-

mercial fishing operation” after “farm”;

(3) in section 1206, by striking “if the prop-

erty is not equipment” and insert-

ing “if the property is farmland, farm equipment, or property of a commercial fish-

ing operation (excluding a commercial fishing vessel)”; and

(5) by adding at the end the following:

§1232. Additional provisions relating to fam-

ily fishermen

“(a)(1) Notwithstanding any other provi-

sion of law, excepted had provided in subsection (c), with respect to any commercial fishing vessel of a familial fisherman, the debts of that familial fisherman shall be treated in the following new item:

“(2)(A) For purposes of this chapter, a claim for a lien described in subsection (b) for a commercial fishing vessel of a familial fisherman that could, but for this sub-

section, be subject to a lien under otherwise applicable maritime law, shall be treated as an unsecured claim.

(B) Subparagraph (A) applies to a claim for a lien resulting from a debt of a familial fisherman incurred on or after the date of enactment of this chapter.

“(D) A lien described in this subsection is—

(1) a maritime lien under subchapter III of chapter 313 of title 46 without regard to whether that lien is recorded under section 3143 of title 46; or

(2) a lien under applicable State law (or the law of a political subdivision thereof).

(c) Subsection (a) shall not apply to—

(1) a claim made by a member of a crew or a seaman including a claim made for—

(A) wages, maintenance, or cure; or

(B) personal injury; or

(2) a preferred ship mortgage that has been perfected under subchapter II of chapter 313 of title 46.

“(d) For purposes of this chapter, a mort-

gage described in subsection (c)(2) shall be treated as a secured claim.”;

(d) CLERICAL AMENDMENTS.—

(1) TABLE OF SECTIONS.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

“12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income

1201.

(2) TABLE OF SECTIONS.—The table of sec-

tions for chapter 12 of title 11, United States Code, is amended by adding at the end the following:

“1232. Additional provisions relating to fam-

ily fishermen.”;

(e) Applicability.—

Nothing in this section shall change, af-

fect, or impact the Conservation and Manage-


TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Sec-

tion 101 of title 11, United States Code, is amended—

(1) by redesignating paragraph (27A), as added by this Act, as paragraph (27B); and

(2) by inserting after paragraph (27B) the fol-

lowing:

“(27A) ‘health care business’—

(A) means any public or private entity (without regard to whether that entity is or-

ganized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

(i) the diagnosis or treatment of injury, deformity, or disease; and

(ii) surgical, drug treatment, psychiatric, or obstetric care; and

(B) includes—

(i) any—

(I) general or specialized hospital;

(II) ambulatory surgical center, emergency, or surgical treatment facility;

(III) hospice;

(IV) home health agency; and

(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

(ii) any long-term care facility, including any—

(I) skilled nursing facility;

(II) intermediate care facility;

(III) assisted living facility;

(IV) home for the aged;

(V) domiciliary care facility; and

(VI) health care institution that is re-

lated to a facility referred to in subclause (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activi-

ties of daily living and incidentals to activi-

ties of daily living;

(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after para-

graph (40) the following:

“(40A) ‘patient’ means any person who ob-

tains or receives services from a health care business;

(40B) ‘patient records’ means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;”

Rule of Construction.—The amend-

ments made by subsection (a) of this section shall not affect the interpretation of section 100(b) of title 11, United States Code.

SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

“§351. Disposal of patient records

“(A) If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

“(1) The trustee shall—

(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each pa-

tient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the last known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

“(B) if providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from

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that agency to deposit the patient records with the trustee. The court shall reject that no Federal agency is required to accept patient records under this paragraph.

(3) If, following the 365-day period described in paragraph (2) and after providing the notice required by paragraph (1), patient records are not claimed by a patient or an insurance provider, or request is not granted by a local or State agency to deposit such records with that agency, the trustee shall destroy those records by—

(a) if the records are written, shredding or burning the records;

(b) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 330 the following:

"331. Disposal of patient records.".

SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR CONCLUDING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 1103 of chapter 7, 9, or 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as that term is defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

(A) in disposing of patient records in accordance with section 331; or

(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business;"

(9) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, exclusive of lessor or related to a failure to operate or penalty provisions, for the period of 2 years following the later of the rejection date or date of actual turnover of the premises, without reduction or setoff of the rejection date or date of actual turnover of the premises, without reduction or setoff.

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) IN GENERAL.—

(1) APPOINTMENT OF OMBUDSMAN.—Subchapter II of chapter 3 of title 11, United States Code, is amended by inserting after section 331 the following:

"332. Appointment of ombudsman

"(a) IN GENERAL.—

"(1) AUTHORITY TO APPOINT.—Not later than 30 days after a case is commenced by a case that is a long-term care health care business under chapter 7, 9, or 11, the court shall order the appointment of an ombudsman to monitor the quality of patient care in a long-term care facility, unless the court determines that the ombudsman is not necessary for the protection of patients under the specific facts of the case.

(2) QUALIFICATIONS.—If the court orders the appointment of an ombudsman, the United States trustee shall appoint 1 disinterested person, other than the United States trustee, to serve as an ombudsman. If the health care business is a long-term care facility, the trustee may appoint a person who is already serving as a State Long-Term Care Ombudsman appointed under title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.). In the event that the trustee does not appoint an ombudsman to monitor the quality of patient care in a long-term care facility, the court shall appoint 1 disinterested person who serves as the State Long-Term Care Ombudsman of the name and address of the individual who is appointed.

(b) DUTIES.—An ombudsman appointed under subsection (a) shall—

(1) monitor the quality of patient care, to the extent necessary under the circumstances, including interviewing patients and physicians;

(2) not later than 60 days after the date of appointment, and not less frequently than every 3 months, submit to the court, at a hearing or in writing, regarding the quality of patient care at the health care business; and

(3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, notify the court of the ombudsman's determination.

"(c) CONFIDENTIALITY.—An ombudsman shall maintain any information obtained by the ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. The ombudsman may not review confidential patient records, unless the court provides prior approval, with restrictions on the ombudsman to protect the confidentiality of patient records. If the individual appointed as ombudsman is a person who is also serving as a State Long-Term Care Ombudsman appointed under title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.), that person shall have access to patient records, consistent with authority spelled out in the Older Americans Act and State laws governing the State Long-Term Care Ombudsman program.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 331 the following:

"332. Appointment of ombudsman.

(b) COMPENSATION OF OMBUDSMAN.—Section 330A(b)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting "an ombudsman appointed under section 331, or" before "a professional person;"

and

(2) in subparagraph (A), by inserting "ombudsman," before "professional person;"

SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—

(1) In section 104 of title 11, United States Code, as added by this Act, is amended by adding at the end the following:

"(ii) use all reasonable and best efforts to transfer the health care business that is in the process of being closed to an appropriate health care business that—

(A) is in the vicinity of the health care business that the debtor is in the process of being closed; and

(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

(C) maintains a reasonable quality of care."

(b) CONFORMING AMENDMENT.—Section 1105(a)(1) of title 11, United States Code, is amended by striking "sections 704(2), 704(5), 704(7), 704(8), and 704(9)" and inserting "paragraphs (2), (5), (7), (8), (9), and (11) of section 704(a)".

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as added by this Act, the following:

"(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a-7(b)(1)) pursuant to title XI of such Act (42 U.S.C. 1395 et seq.) or title XVIII of such Act (42 U.S.C. 1395 et seq.)."

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by this Act, is amended—

(1) by striking "In this title—" and inserting "In this title, the following definitions shall apply;"

(2) in each paragraph, by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A) and (38), by striking "; and" and inserting "; and at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer or a debtor" after "debtor" the first place it appears; and

(B) by striking "thereto having aggregate" and all that follows through the end of the paragraph;

(6) by striking paragraph (54) and inserting the following:

"(54) The term ‘transfer’ means—

(A) the creation of a lien;

(B) the retention of title as a security interest;

(C) the foreclosure of a debtor’s equity of redemption; or

(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

(i) property; or

(ii) an interest in property; and

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (38) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 101 of title 11, United States Code, as amended by section 338 of this Act, is amended by inserting "522(f)(3)," after "522(d)," each place it appears.

SEC. 1203. EXTENSION OF TIME.

Section 108(b)(2) of title 11, United States Code, as amended by striking "920, 1201, or" and inserting all that follows through "or," and inserting "922, 1201, or.

SEC. 1204. TECHNICAL AMENDMENTS.

Titlle 11, United States Code, is amended—

(1) in section 109(b)(2), by striking "sub-section (c) or (d) of;" and

(2) by inserting by striking "product" each place it appears and inserting "products".

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SEC. 1205. PENALTY FOR PERSONS WHO NEGLECT OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(c)(4) of title 11, United States Code, as so designated by this Act, is amended by striking “attorney’s” and inserting “attorneys’”.

SEC. 1206. LIMITATION ON COMPENSATION OF PERSONS DISCHARGED.

Section 328(a) of title 11, United States Code, is amended by inserting “on a fixed or percentage fee basis,” after “hourly basis,”.

SEC. 1207. AMENDMENT OF SECTION 1330.

Section 348(f)(2) of title 11, United States Code, is amended by inserting “of the estate” after “property” the first place it appears.

SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting “subsection (A), (B), (C), (D), or (E) of” before “paragraph (3)”.

SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by this Act, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103-394 (108 Stat. 4135), so as to insert such paragraph after paragraph (14); and

(2) in subsection (a)(9), by striking “motor vehicle” and inserting “motor vehicle, vessel, or aircraft”; and

(3) in subsection (e), by striking “a insured” and inserting “an insured”.

SEC. 1210. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by inserting “subparagraph (A) before “paragraph (c)’’.

SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, as amended by this Act, is amended—

(1) in paragraph (1), by striking “student before “grant” the second place it appears; and

(2) in paragraph (2), by striking “the program operated under part B, D, or E of” and inserting “any program operated under”.

SEC. 1212. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting “363” or before “342”.

SEC. 1213. PREFERENCES.

(a) In General.—Section 547 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (b), by striking “subsection (c) and (I)” and inserting “subsection (c) and (I)”;

(2) by adding at the end the following:

“(I) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.”;

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1214. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting “an interest in” after “transfer of” each place it appears;

(2) by striking “such property” and inserting “such property”; and

(3) by striking “the interest” and inserting “such interest”.

SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking “1009.”.

SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by this Act, is amended by inserting “1123(d),” after “1123(b),”.

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking “section 11347” and inserting “section 11347(a)”.

SEC. 1218. CONTENTS OF PLAN.

Section 1123(c)(1) of title 11, United States Code, is amended by striking “section 11347” and inserting “section 11326(a)”.

SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking “made under this subsection” and inserting “made under subsection (c)”;

(2) by striking “this subsection” and inserting “subsection (c) and this subsection”.

SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, as amended by this Act, is amended—

(1) in the first undesignated paragraph—

(A) by inserting “(1) the term” before “bankruptcy”;

(B) by striking the period at the end and inserting “;”;

(C) by inserting “(2) in the second undesignated paragraph—

(A) by inserting “(2) the” term before “document”;

(B) by striking “this subsection” and inserting “title 11.”

SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 361(d) of title 11, United States Code, is amended by striking “only” and all that follows that substituted property.

(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

(2) to the extent not inconsistent with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 549(c)(3)(B) of title 11, United States Code, is amended by striking “title 11”.

SEC. 1223. BANKRUPTCY JUDGESHIPS.

(a) TITLES.—This section may be cited as the “Bankruptcy Judgeship Act of 2001.”

(b) TEMPORARY JUDGESHIPS.—(1) APPOINTMENTS.—The following judgeships shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the eastern district of California.

(B) Four additional bankruptcy judgeships for the central district of California.

(C) One additional bankruptcy judgeship for the district of Delaware.

(D) Three additional bankruptcy judgeships for the southern district of Florida.

(E) One additional bankruptcy judgeship for the southern district of Georgia.

(F) One additional bankruptcy judgeship for the district of Maryland.

(G) One additional bankruptcy judgeship for the eastern district of Michigan.

(H) One additional bankruptcy judgeship for the southern district of Mississippi.

(I) One additional bankruptcy judgeship for the district of New Jersey.

(J) One additional bankruptcy judgeship for the eastern district of New York.

(K) One additional bankruptcy judgeship for the northern district of New York.

(L) One additional bankruptcy judgeship for the southern district of New York.

(M) One additional bankruptcy judgeship for the eastern district of North Carolina.

(N) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(O) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(P) One additional bankruptcy judgeship for the district of Puerto Rico.

(Q) One additional bankruptcy judgeship for the western district of Tennessee.

(R) One additional bankruptcy judgeship for the eastern district of Virginia.

(S) One additional bankruptcy judgeship for the district of South Carolina.

(T) One additional bankruptcy judgeship for the district of Nevada, and one for the district of Delaware.

(2) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) shall not be filled if the vacancy results from the death, retirement, resignation, or removal of a bankruptcy judge; and
(b) occurs 5 years or more after the appointment or reappointment of a bankruptcy judge appointed under paragraph (1).

(c) EXTENSIONS.

(1) IN GENERAL.—The temporary bankruptcy judgeships for districts positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge occurs in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurs—

(A) 11 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 13 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 11 years or more after August 29, 1994, with respect to the district of Puerto Rico; and

(D) 11 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to temporary judgeships created pursuant to this subsection.

(d) TECHNICAL AMENDMENTS.—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following:— "Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the United States court of appeals for the circuit in which such district is located:"; and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking "2" and inserting "3"; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . .".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 1224. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "and"

(B) in paragraph (2), by striking the period at the end and inserting "; and"

(C) by adding at the end the following:

"(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

"(A) by prorating such amount over the remaining duration of the plan; and

"(B) by monthly payments not to exceed the greater of—

"(i) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan."; and

(2) by adding at the end the following:

"(d) Notwithstanding any other provision of this Act or subsection (b), (3) is payable and may be collected by the trustee under that paragraph, even if such amount has been paid in a prior proceeding under this title; and

"(2) such compensation is payable in a case under this chapter only to the extent permitted by paragraph (3);"

SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(C) 11 years or more after October 28, 1993,

SEC. 1226. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test and reaffirmations under section 1303 of title 11, United States Code, as amended by this Act.

SEC. 1227. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c)(8), as added by this Act, is amended to read as follows:

"(c)(1) Except as provided in subsection (d) of this section and subsection (e) of section 507, and subject to the prior rights of holders of security interests in such goods or the proceeds thereof, the rights and powers of the trustee under sections 541(a), 545, 546, and 547 and other sections of this title relevant to the sale of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received and sold goods while insolvent, not later than 45 days prior to the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

"(A) not later than 45 days after the date of receipt of such goods by the debtor; or

"(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

"(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 506(b)(7)."

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by this Act, is amended by inserting after paragraph (2)(B) the following:

"(2) the effects of such practices on consumers are capable of repaying the resulting debt; and

"(C) in a manner that encourages consumers to accumulate additional debt, and

"(2) may issue regulations that would require additional disclosures to consumers; and

"(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1229. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall conduct a study of—

"(1) consumer credit industry practices of soliciting and extending credit—

"(A) indiscriminately; and

"(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

"(C) in a manner that encourages consumers to accumulate additional debt, and

"(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

"(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

"(2) may issue regulations that would require additional disclosures to consumers; and

"(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 510(b) of title 11, United States Code, is amended by inserting after paragraph (8), as added by this Act, the following:

"(9) subject to subchapter III of chapter 5, and in a manner which may encourage creditors to redeem at a stipulated price; and

"(B) consumer credit industry practices of soliciting and extending credit by the credit industry; and

"(2) may issue regulations that would require additional disclosures to consumers; and

"(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1231. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

"(1) by inserting "(1)" after "(d);" and

"(2) by adding at the end the following:

"(2) A trustee whose appointment under subsection (a) or under subsection (b) is terminated who has exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 109(b) of this title; or"

"(C) may obtain judicial review of the final agency decision by commencing an action in the
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SEC. 1232. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

“(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

“(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the United States district court in the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.”.

SEC. 1233. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) by striking “district court,” “court of appeals,” and “district clerk,” as used in subsections (c) and (d), respectively.

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

“(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the United States district court in the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.”

SEC. 1234. EXEMPTIONS.

Section 522(g)(2) of title 11, United States Code, is amended by striking “subsection (i)(2)” and inserting “subsection (i)(1)(B)”.

SEC. 1235. INOVLUNTARY CASES.

Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting “as to liability or amount” after “bona fide dispute”;

(B) striking “if such claims” and inserting “if such undisputed claims”; and

(2) in subsection (b)(1), by inserting before the semicolon the following:

“...to liability or amount...”.

SEC. 1236. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14)(A) the following:

“(14B) incurred to pay fines or penalties imposed under Federal election law.”

SEC. 1237. NOTWITHSTANDING INCONSTANCY OF LEGISLATIVE COMMITTEES.

Section 105 of title 11, United States Code, is amended by adding at the end the following:

“(c) A political committee subject to the jurisdiction of the Federal Election Commission shall be subject to any Federal election law that applies to such committee regardless of whether such committee is in existence at the time Federal election laws were enacted in the cases in which such committee is involuntarily appointed under sub-paragraph (A) in lieu of the disclosure required under sub-paragraph (B). “(E) The Board shall, by rule, periodically recalculate an estimated interest rate and repayment period under subparagraphs (A), (B), and (C).
The toll-free telephone number disclosed under subparagraph (A), (B), or (G), as applicable, by a creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer’s outstanding balance is not subject to the requirements of subparagraph (A) or (B).

Section 127(b)(11) of the Truth in Lending Act (15 U.S.C. 1679n(11)) is amended—

(A) by striking "CONSULTATION OF TAX ADVISER. — A statement that the" and inserting the following: "TAX DEDUCTIBILITY. — A statement that--"

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and"

"(B) the consumer should consult a tax advisor for further information regarding the deductibility of interest and charges.";

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 13242 (the Truth in Lending Act (15 U.S.C. 1632(b)(13)) is amended—

(A) by striking "If any" and inserting the following: "If a consumer pays only the required minimum periodic payment features of—"

"(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates; and"

"(C) consumers make only the required minimum payment under open end credit plans; and"

"(D) consumers are aware that making only required minimum payments is a cause to increase the cost and repayment period of an open end credit obligation; and"

"(E) the availability of low minimum payment features does not change the financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1677a(a)(13)) is amended—

"(a) by striking "If any" and inserting the following: "If a consumer pays only the required minimum periodic payment features of—"

"(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates; and"

"(C) consumers make only the required minimum payment under open end credit plans; and"

"(D) consumers are aware that making only required minimum payments is a cause to increase the cost and repayment period of an open end credit obligation; and"

"(E) the availability of low minimum payment features does not change the financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

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"(a) by striking "If any" and inserting the following: "If a consumer pays only the required minimum periodic payment features of—"

"(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates; and"

"(C) consumers make only the required minimum payment under open end credit plans; and"

"(D) consumers are aware that making only required minimum payments is a cause to increase the cost and repayment period of an open end credit obligation; and"

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(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

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(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1677a(a)(13)) is amended—

"(a) by striking "If any" and inserting the following: "If a consumer pays only the required minimum periodic payment features of—"

"(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates; and"

"(C) consumers make only the required minimum payment under open end credit plans; and"

"(D) consumers are aware that making only required minimum payments is a cause to increase the cost and repayment period of an open end credit obligation; and"

"(E) the availability of low minimum payment features does not change the financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.
"(B) the consumer should consult a tax advisor for further information regarding the deductibility of interest and charges;"; and

"(B) in subsection (b), by adding at the end the following:

"(3) in the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

"(e) each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously disclose in a prominent manner or with such application or solicitation—

"(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

"(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

"(I) will vary in accordance with an index, the rate that will apply after the temporary period, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(D) DEFINITIONS.—In this paragraph—

"(1) the terms 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section.

"(A) 12 months after the date of enactment of this Act; or

"(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1363. DISCLOSURES RELATED TO 'INTRODUCTORY RATES'.

(a) Introductory Rate Disclosures.—Section 127(c)(6) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promissory notes and other documents in such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

"(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

"(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

"(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(B) EXCEPTION.—Clauses (i) and (ii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

"(C) CONDITIONS FOR INTRODUCTORY RATES.—(1) the consumer should consult a tax advisor for further information regarding the deductibility of interest and charges;"; and

"(D) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.

(b) REGULATORY IMPLEMENTATION.—

"(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of sections 127(c)(6) of the Truth in Lending Act, as added by this section.

"(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—

"(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

"(B) FORM OF DISCLOSURE.—The disclosures required by subsection (a) shall be—

"(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

"(ii) in a tabulated format to reflect the current policies, terms, and fee amounts applicable to the credit card account.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

"(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access to a computer, including a computer server, including a service or system that provides access to the Internet and such systems operated or serviced by libraries or educational institutions.

(b) REGULATORY IMPLEMENTATION.—

"(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(B) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

"(A) 12 months after the date of enactment of this Act; or

"(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1364. DISCLOSURES RELATED TO CREDIT CARD SO-CALLED 'INTEREST CHARGES'.

(a) INTERNET-BASED APPLICATIONS AND SO-CALLED 'INTEREST CHARGES'.—Section 127(c) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

"(A) 12 months after the date of enactment of this Act; or

"(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1386. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A
creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity for 3 or more consecutive months.

(b) REGULATORY IMPLEMENTATION.—
(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.
(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—
(A) 12 months after the date of enactment of this Act; or
(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of creditors for losses arising out of the improper use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board to carry out that Act, are necessary to provide adequate unauthorized use liability protections for consumers;
(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—
(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693), as in effect at the time of the report, and the regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;
(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and
(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—
(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of bankruptcy cases filed under title 11, United States Code.
(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—
(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and
(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Office of the Comptroller of the Currency, shall promulgate regulations to provide guidance regarding the meaning of the term "clear and conspicuous", as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (i) and (ii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under this section may include—
(1) clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

TITLE XIV—EMERGENCY ENERGY ASSISTANCE AND CONSERVATION MEASURES

SEC. 1401. SHORT TITLE.

This title may be cited as the ‘‘Energy Emergency Response Act of 2001’’.

SEC. 1402. FINDINGS AND PURPOSES.

(a) FINDINGS.—The findings are—
(1) high energy costs are causing hardship for families;
(2) restructured energy markets have increased the need for a higher and more consistent level of funding for low-income energy assistance programs;
(3) conservation programs implemented by the States and the Federal Government weatherization program reduce costs and need for additional energy supplies;
(4) energy conservation is a cornerstone of national energy security policy; and
(5) the Federal Government is the largest consumer of energy in the economy of the United States; and
(b) PURPOSES.—The purposes of this title are to provide assistance to individuals most affected by high energy prices and to promote and accelerate energy conservation investments in private and Federal facilities.

SEC. 1403. INCREASED FUNDING FOR LIHEAP.

(a) LIHEAP.—(1) Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8262(b)) is amended by striking the first sentence and inserting the following:

‘‘There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A, $3,400,000,000 for each of fiscal years 2001 through 2003.’’. (2) Section 2604(b)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8264(b)(2)) is amended by adding at the end the following:

‘‘(A) $1 billion for fiscal year 2001; $1.75 billion for each of fiscal years 2002 through 2005; $2 billion for each of fiscal years 2006 through 2010; $2.75 billion for each of fiscal years 2011 through 2015; and $3 billion for each of fiscal years 2016 through 2020.’’. (b) WEATHERIZATION AND STATE ENERGY GRANTS.

(1) LIHEAP.—Section 2609 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8269) is amended by striking the second sentence and inserting the following:

‘‘There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A, $3,390,000,000 for each of fiscal years 1999 through 2003, $3,400,000,000 for each of fiscal years 2004 through 2006, $3,410,000,000 for each of fiscal years 2007 through 2010, $3,420,000,000 for each of fiscal years 2011 through 2013, $3,430,000,000 for each of fiscal years 2014 through 2016, and $3,440,000,000 for each of fiscal years 2017 through 2020’’. (c) PRIORITY RESPONSE REVIEWS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

‘‘(e) PRIORITY RESPONSE REVIEWS.—Each agency shall—
(1) not later than October 1, 2001, undertake a comprehensive review of all practicable measures for—
(A) increasing energy and water conservation; and
(B) utilizing renewable energy sources;
and
(2) not later than 180 days after completing the review, implement measures to achieve not less than 10 percent of the potential efficiency and renewable savings identified in the review.’’. SEC. 1405. CREDIT TO REPLACE REPLACEMENT ITEMS.

Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following:

‘‘(A) In case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced.

‘‘(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in subparagraph (A).’’. SEC. 1406. REPEAL OF ENERGY SAVINGS PERFORMANCE CONTRACT DEFINITIONS.

Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

SEC. 1407. ENERGY SAVINGS PERFORMANCE CONTRACT DEFINITIONS.

(a) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)(2)) is amended to read as follows—

‘‘(2) The term ‘energy savings’ means a reduction in the cost of energy, water, or wastewater treatment from a base cost established through a methodology set forth in the contract, used by either—

(A) an existing federally owned building or buildings or other federally owned facilities as a result of—

(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

(ii) more efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than an existing federally owned building or buildings or other federally owned facilities; or

(iii) more efficient use of water at an existing federally owned building or buildings, in an interior or exterior plumbing system, or

(B) a replacement facility under section 801(a)(3).’’. (b) ENERGY SAVINGS CONTRACT.—Section 803(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)(3)) is amended to read as follows:—
TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect not later than January 15, 2002, upon the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—Except as otherwise provided in this Act, the amendments made by this Act shall not apply with respect to contracts commenced under title II, United States Code, before the effective date of this Act.

TITILE XVI—MISCELLANEOUS PROVISIONS

SEC. 1601. REIMBURSEMENT OF RESEARCH, DEVELOPTMENT, AND MAINTENANCE COSTS.

(a) IN GENERAL.—Not later August 1, 2001, the Federal Crop Insurance Corporation shall promulgate final regulations to carry out section 551(d) of the Federal Crop Insurance Act (7 U.S.C. 2287c(d)); or

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Corporation shall use the authority provided under section 804 of title 5, United States Code.

(c) EFFECTIVE DATE.—The final regulations promulgated under section (a) shall take effect on the date of the final publication of the regulations.

SA 976. Mrs. BOXER (for Mr. BYRD) proposed an amendment to the bill H.R. 2217, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. 2. MODIFICATION TO STEEL LOAN GUARANTEE PROGRAM.

(a) IN GENERAL.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 (Public Law 105-300) is amended as follows:

(1) REQUIREMENTS FOR LOAN GUARANTEES.—

(A) in paragraph (1), by striking “2005” and inserting “2015”;

(B) by amending paragraph (4) to read as follows:

(4) GUARANTEE LEVEL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any loan guarantee provided under this section shall not exceed 85 percent of the amount of principal of the loan.

(B) INCREASED LEVEL.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan if—

(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $500,000,000; and

(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to loan guarantees provided under this section shall be consistent with customary practices in the commercial banking industry. Minor or inadvertent reporting violations shall not cause termination of any guarantee provided under this section.”;

(2) TERMS AND CONDITIONS.—Subsection (b) is amended—

(A) in paragraph (1), by striking “2005” and inserting “2015”; and

(B) by amending paragraph (4) to read as follows:

(4) GUARANTEE LEVEL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any loan guarantee provided under this section shall not exceed 85 percent of the amount of principal of the loan.

(B) INCREASED LEVEL.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan if—

(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $500,000,000; and

(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to loan guarantees provided under this section shall be consistent with customary practices in the commercial banking industry. Minor or inadvertent reporting violations shall not cause termination of any guarantee provided under this section.”;

(3) REPORTS TO CONGRESS.—Subsection (i) is amended by striking “of fiscal years 1999 and 2000, and annually thereafter,” and inserting “fiscal year”;

(4) TERMINATION OF GUARANTEE AUTHORITY.—Subsection (b) is amended by striking “2005” and inserting “2003”;

(5) REPORTING, RECORDING, AND FORECLOSURE PROCEDURES.—Subsection (i) is amended by adding at the end the following:

“Notwithstanding any other provisions of law, Federal agencies may foreclosure, and record, any interest in property in which Federal funds have been invested or in which the United States has an interest, under the same conditions as a private bank or investment company or a water conservation measure that improves the efficiency of water use, is life saving, or is engaged in recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not affecting the power generating operations at a federally owned hydroelectric dam.”;

(6) DEFINITION OF STEEL COMPANIES.—Subsection (c)(3)(B) is amended to read as follows:

(B) is engaged in—

(i) the production or manufacture of a product identified by the American Iron and Steel Institute as basic steel; mill products, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod;

(ii) the production or manufacture of coke used in the production of steel; or

(iii) the mining of iron ore and.”;

(7) APPLICABILITY.—The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of enactment of this Act.
the amount available for apportion under this program for each fiscal year or more than 5 percent of such amount."

On page 132, line 8, immediately following the word "expended," insert "of which $700,000 is to be used to implement management strategies in the Rio Puerco watershed, New Mexico, and"

Under United States Fish and Wildlife Service—Resource Management, on page 148, starting in line 5, strike "$845,714,000, to remain available until September 30, 2003," except as otherwise provided herein, of which $100,000 is for the University of Idaho for developing research mechanisms in support of salmon and trout recovery in the Columbia and Snake River basins and their tributaries, and"

On page 134, line 2, immediately following the ":" strike the word "Provided," and insert the following: "Provided, That not less than $125,000,000 of the funds available for hazardous fuels reduction under this heading shall be for alleviating immediate emergency threats to urban wildland interface areas as defined by the Secretary of the Interior: Provided further, That the Forest Service shall expend not less than $1,500,000 for funds provided under this heading for hazardous fuels reduction activities for alleviating immediate emergency threats to urban wildland interface areas as defined by the Secretary of Agriculture:"

On page 197, line 19 immediately following the "":" insert the following: "Provided further, That in addition to funds provided for State Fire Assistance programs, and subject to all authorities available to the Forest Service under the State and Private Forestry Appropriation, up to $15,000,000 may be used on adjacent non-federal lands for the purpose of protecting communities where hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: Provided further, That the Forest Service shall execute an analysis of the impact of restrictions on mechanical fuel treatments and forest access in the upcoming Chugach National Forest Land and Resource Management Plan, on the implementation of the National Fire Plan: Provided further, That no funds shall be reserved for use on non-federal lands in accordance with authorities available to the Forest Service under the State and Private Forestry Appropriation: Provided further, That of the amounts provided under this heading $2,638,000 is for the Ecological Restoration Institute, of which $338,000 is for ongoing activities on Mt. Trumpet:

On page 225, line 15, insert before the word "with" the following: "Provided further, That $3,000,000 shall be made available for the Sisseton Sioux Tribe Health Services clinic in Sisseton, South Dakota, and $9,157,000 shall be made available for the small ambulatory facilities program."

On page 143, line 7, after "herein," insert "of which $140,000 shall be made available for the preparation of, and not later than July 30, 2002, the Secretary of the Interior is to report on, a feasibility study and situational appraisal of the Hackensack Meadowsland, New Jersey, to identify management objectives and address strategies for preservation efforts, and"

On page 153, line 22, delete "$65,886,000," and insert "$66,387,000, of which $300,000 in emergency training funds are for the Erie Canal Way National Heritage Corridor:"

On page 153, line 22, insert the following before the period: "of which $101,000 in statutory funding is for the Brown Foundation for Educational Equity:"

On page 153, line 22, insert the following before the period: "for acquisition of 1,750 acres for the Red River National Wildlife Refuge, and of which $1,500,000 shall be for emergencies and hardships, and of which $1,500,000 shall be for inholdings."

On page 194, between lines 9 and 10, insert the following:

SEC. 1... SENSE OF CONGRESS CONCERNING COASTAL IMPACT ASSISTANCE.

(a) FINDINGS.—Congress finds that:

(1) the United States continues to be reliant on fossil fuels (including crude oil and natural gas) as a source of most of the energy consumed in this country;

(2) this reliance is likely to continue for the foreseeable future;

(3) about 65 percent of the energy needs of the United States are supplied by oil and natural gas;

(4) the United States is becoming increasingly reliant on clean-burning natural gas to fuel electricity generation and air conditioning, agricultural needs, and essential chemical processes;

(5) a large portion of the remaining crude oil and natural gas resources of this country are on Federal land located in the western United States, in Alaska, and off the coastline of the United States; and

(6) the Gulf of Mexico has proven to be a significant source of oil and natural gas and is predicted to remain a significant source in the immediate future.

(b) SENSE OF CONGRESS.—It is the sense of Congress that coastal States and counties oppose the development of Federal crude oil and natural gas resources within or near the coastline, which opposition results in congressional, state, and other initiatives to prevent the development of those resources;

(8) actions that prevent the development of certain Federal crude oil and natural gas resources do not lessen the energy needs of the United States or of those States and counties that object to exploration and development of fossil fuels;

(9) actions that prevent the development of certain Federal crude oil and natural gas resources focus development pressure on the remaining areas of Federal crude oil and natural gas resources, such as onshore and offshore Alaska, certain onshore areas in the western United States, and the central Gulf of Mexico off the coastlines of Alabama, Alaska, Louisiana, Mississippi, and Texas;

(10) the development of Federal crude oil and natural gas resources is accompanied by adverse effects on the infrastructure, services, public services, and the environment of States, counties, and local communities that host the development of those Federal resources;

(11) States, counties, and local communities do not have the power to tax adequately the development of Federal crude oil and natural gas resources located onshore, provides, outside the budget and appropriations processes of the Federal Government, payments to States in which Federal crude oil and natural gas resources are located in the context of the direct revenues received from the Federal Government for those resources; and

(13) there is no permanent provision in the Outer Continental Shelf Lands Act (30 U.S.C. 1331 et seq.) that prevents the competition for fossil fuels; and

(15) the Mineral Leasing Act (30 U.S.C. 181 et seq.), which governs the development of Federal crude oil and natural gas resources located offshore, provides, outside the budget and appropriations processes of the Federal Government, payments to States in which Federal crude oil and natural gas resources are located in the context of the direct revenues received from the Federal Government for those resources; and

(13) there is no permanent provision in the Outer Continental Shelf Lands Act (30 U.S.C. 1331 et seq.), which governs the development of Federal crude oil and natural gas resources located offshore, that authorizes the sharing of a portion of the annual revenues generated from Federal offshore crude oil and natural gas resources with adjacent coastal States that:

(A) serve as the platform for that development; and

(B) suffer adverse effects on the environment and infrastructure of the State.

(c) BELIEF.—It is hereby the sense of Congress that Congress should provide a significant portion of the Federal offshore mineral rents to coastal States that permit the development of mineral resources offshore of the coastline, including the States of Alabama, Alaska, Louisiana, Mississippi, and Texas; and

On page 144, line 15, strike "analyses" and insert "analyses: Provided further, That the Service shall conduct at least two competitively awarded grant programs for State, local, or other organizations in research areas including, but not limited to, further Atlantic salmon conservation and restoration efforts, at least $550,000 of which
shall be awarded to projects that will also assist industries in Maine affected by the listing of Atlantic salmon under the Endangered Species Act.”

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LIEBERMAN. Mr. President, I announce that the Committee on Governmental Affairs will meet on Tuesday, July 17, 2001, at 2:30 p.m. for a hearing to examine “Expanding Flexible Personnel Systems Governmentwide.”

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, the Subcommittee on National Parks of the Committee on Energy and Natural Resources has previously announced a hearing on Tuesday, July 17, 2001, on several national park and memorial measures pending before the subcommittee.

I would like to announce for the information of the Senate and the public that in addition to considering the measures previously announced, the subcommittee will receive testimony on H.R. 1668, to authorize the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his legacy.

The hearing will begin at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202) 224-9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, July 12, 2001, at 9:30 a.m., in open session to receive testimony on Ballistic Missile Defense Programs and Policies in Review of the Defense Authorization request for fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 12, 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 12, 2001, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 12, 2001 at 4:00 p.m. to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on July 12, 2001, at 10:00 a.m. in room 485 Russell Senate Building to conduct a Hearing to receive testimony on the goals and priorities of the member tribes of the Montana Wyoming Tribal Leaders Council for the 107th session of the Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, July 12, 2001 at 10:00 a.m. in SD226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 12, 2001, at 2:00 P.M., in open session to receive testimony on Cooperative Threat Reduction, Chemical Weapons demilitarization, defense threat reduction agency, Nonproliferation Research and Engineering, and Related Programs, in review of the defense authorization request for fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. WELLSTONE. I ask unanimous consent that an intern, Archie Ingersoll, be allowed to be on the floor during the deliberations today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent a fellow in Senator Bingaman’s office, Geri Rivers, be given floor privileges during consideration of H.R. 2217, the Interior appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO FILE FIRST-DEGREE AMENDMENTS TO THE BANKRUPTCY REFORM BILL

Mr. REID. Mr. President, I ask unanimous consent that Senators have until 3 p.m. Monday, July 16, to file first-degree amendments to the substitute amendment to the Bankruptcy Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 2311

Mr. REID. Mr. President, I ask unanimous consent that H.R. 2311 be discharged from the Appropriations Committee and the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 2311

Mr. REID. Mr. President, I ask unanimous consent that on Monday, July 16, at 2 p.m., the Senate proceed to the consideration of H.R. 2311, the energy and water appropriations bill; that on Monday, there be debate only on the bill, except that it be in order for the chairman and ranking member to offer the text of the committee-reported bill, S. 171, as an amendment; that no other amendments be in order during Monday’s session.

The PRESIDING OFFICER. Without objection, it is so ordered.
ORDERS FOR MONDAY, JULY 16, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. Monday, July 16. I further ask unanimous consent that on Monday, immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the junior leaders be reserved for their use later in the day, and the Senate begin consideration of the energy and water appropriations bill for debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, the Senate will not be in session tomorrow. On Monday, the Senate will convene at 2 p.m. and begin consideration of the energy and water appropriations act for debate only during Monday’s session. There will be no roll call votes on Monday.

We have a lot of activity expected on the energy and water appropriations bill. We hope that Members will be thinking about whatever amendments they want to offer because it is the intent of the leaders and the two managers of the bill, Senators Domenici and myself, that we will ask sometime Monday for a finite list of amendments to be filed, so people should be thinking about amendments.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, I ask unanimous consent that the senior Senator from West Virginia be recognized to speak as in morning business, and that following his statement the Senate stand in adjournment under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Reid). Without objection, it is so ordered.

EMERGENCY STEEL LOAN GUARANTEE PROGRAM

Mr. BYRD. Mr. President, roughly 2 years ago, we passed legislation to create the Emergency Steel Loan Guarantee Program, Public Law 106–106. The President signed the legislation on August 17, 1999. At that time, we were alarmed by a growing crisis in the steel industry. Therefore, Congress found that the U.S. steel industry had been severely damaged by imports of more than 40 million tons of steel imports in 1998. In addition, we found that the surge had resulted in the loss of more than 10,000 steelworker jobs in 1999 and was the proximate cause of bankruptcy for three steel companies; that the imports had damaged the financial viability of the American steel industry and had affected the willingness of private lenders to make loans to the industry; that all of these developments were having serious negative effects on communities across the country; and that a strong steel industry is necessary to the adequate defense preparedness of the United States in order to have sufficient steel available to build and repair ships, tanks, planes, and armaments necessary for the national defense.

In response to this growing crisis, I offered an amendment during an appropriations conference to create a loan guarantee fund for domestic steel companies that have experienced layoffs, production losses, or financial losses since the beginning of the steel import crisis. The program was intended to provide guarantees of up to 85 percent of the principal amount of loans to qualified domestic steel companies for whom credit is not otherwise available at reasonable rates, provided there is reasonable assurance of repayment. The legislation provided budget authority of $140 million to support $1 billion in guaranteed loans.

Since we took that action, the import crisis has deepened. During the last 6 months, the number of steelworkers who have lost their jobs as a result of the crisis has increased to 29,500. The number of companies filing for bankruptcy has reached 18. Current import levels remain well above pre-crisis levels. Moreover, prices for finished steel products have fallen below the levels that prevailed during the depths of the 1980s crisis.

The U.S. industry has been driven into this state of crisis by foreign producers who are generally less efficient and less productive, and who in many cases could not compete in the U.S. market or even survive without Government support. Since 1980, steel producers outside of North America have received well over $100 billion in direct Government subsidies. This does not include the costs incurred by communist governments in the former Soviet Union, Eastern Europe, and China in establishing steel industries that would not have existed without government involvement. Enormous market distortions abroad have led to the creation of a steel market that is the largest in the world—a quarter of a century of massive foreign over-capacity—estimated 275 million tons of excess crude steel capacity, or more than twice the annual steel consumption of the United States. The U.S. steel industry, on the other hand, restructured itself in the 1980s and 1990s and emerged as the most productive in the world in terms of man-hours expended per ton of steel produced.

Unfortunately, the emergency steel loan guarantee program has not been able to fulfill its mission. By February 28, 2000, the governing board of the program had received 13 loan guarantee applications. Of that number, three were rejected for failure to comply with statutory or regulatory requirements and three others were rejected because the board did not find that there was a reasonable assurance of repayment. The board approved the other seven applications, totaling $550,525,500 and issued offers of guarantee to the applicant lenders during Fiscal Year 2000. Nevertheless, no guaranteed loans were closed and funded during Fiscal Year 2000, and only one guaranteed steel loan—$110 million to Geneva Steel Company of Vineyard, UT—has closed this year.

So, it is time to consider whether we can make changes to the program that will increase its effectiveness without imposing significant additional costs on the Federal Government. I have offered an amendment that has three key features:

No. 1, for $100 million worth of guarantee authority, the amendment increases the federal guarantee from 85 percent of principal to as much as 95 percent of principal, provided that no steel company gets more than $50 million of these more favorable guarantees. Similarly, for another $100 million worth of guarantee authority, the amendment increases the federal guarantee from 85 percent to as much as 90 percent, with a $5 million limit for any single company.

No. 2, loans approved after the effective date of the amendment could be structured so that repayment is not completed until 2015—extended from 2005 under current laws.

No. 3, the Emergency Steel Loan Guarantee Board would have guarantee authority until December 31, 2003—extended from December 31, 2001, under current laws.

The current balance of budget authority is $127.2 million for $890 million of unused guarantee authority. The Office of Management and Budget has estimated that the existing $127.2 million budget authority balance will be adequate to support the more generous terms and conditions contained in my amendment. The amendment, therefore, does not need to provide any additional budget authority.

If we do not take every action we can to support this vital industry, I am afraid the wave of bankruptcies will continue. By the end of the year, we may not have much of a steel industry to speak of. What will we then say to
those who question our defense preparedness? What will we say to the steelworkers of America, to their families, and to the communities and consuming industries that depend upon a vital American steel industry? What will we say to the industries that are next on the hit lists of foreign predators? Let us stand up for steel in its time of need, as the industry has stood up for us in times of war and times of peace. Let us not allow imports to eviscerate this efficient and productive industry, an industry that has provided quality jobs to generations of hard-working Americans.

I would like to thank several Senators who helped in crafting this amendment. Senators GRAMM of Texas and NICKLES of Oklahoma, as well as Senators VOINOVICH of Ohio and SPECTER of Pennsylvania, all of whom demonstrated creativity and flexibility—as well as good humor—in coming to agreement. I also wish to thank our distinguished majority whip for his responsibility—as well as good humor—in coming to agreement. I also wish to thank the nominees’ commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order of the Senate the Senate will return to legislative session.

ADJOURNMENT UNTIL 2 P.M. MONDAY, JULY 16, 2001

The PRESIDENT pro tempore. Under the previous order, the Senate stands adjourned until the hour of 2 o’clock p.m. on Monday next, July 16, this year of our Lord, 2001.

Thereupon, the Senate, at 8:30 p.m., adjourned until Monday, July 16, 2001, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate July 12, 2001:

DEPARTMENT OF AGRICULTURE

ERIC M. BOST, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE SHIRLEY ROSSHON WATKINS, RESIGN.

NOMINATIONS

Executive nominations received by the Senate July 12, 2001:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Ronald Rosenfeld, of Maryland, to be President, Government National Mortgage Association.

DEPARTMENT OF TRANSPORTATION

Jennifer L. Dorn, of Nebraska, to be Federal Transit Administrator.

The above nominations were approved subject to the nominees’ commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

CONGRESSIONAL RECORD—SENATE 13249
13250

CONGRESSIONAL RECORD—SENATE
KENNETH L. VANZANDT, 0000
VIEVES G. VILLASENOR, 0000
WILLIAM J. WADLEY, 0000
TIMOTHY W. WALDRON, 0000

To be major
BYUNG H * AHN, 0000 CH
GEOFFREY L * ALLEYNE, 0000 CH
DAVID E * COOPER, 0000 CH
ADOLPH G * DUBOSE JR., 0000 CH
DOUGLAS W * DUERKSEN, 0000 CH
JONATHAN J * ETTERBEEK, 0000 CH
FREDRICK W * GARCIA, 0000 CH
SCOTT A * HAMMOND, 0000 CH
JUDITH A * HAMRICK, 0000 CH
KENNETH J * HANCOCK, 0000 CH
BILLY N * HAWKINS JR., 0000 CH
ROBERT J * HEARN, 0000 CH
WALTER G * HOSKINS, 0000 CH
NORMAN W * JONES, 0000 CH
SCOTT F * JONES, 0000 CH
JOHN L * KALLERSON, 0000 CH
KLON K * KITCHEN JR., 0000 CH
ROBERT P * LASLEY, 0000 CH
KEVIN M * LEIDERITZ, 0000 CH
WILLIAM G * LEWIS, 0000 CH
TIMOTHY S * MALLARD, 0000 CH
PEDRO R * MARTINEZ, 0000 CH
MARK A * MITERA, 0000 CH
LEO * MORA JR., 0000 CH
ABDUL R * MUHAMMAD, 0000 CH
BRENT A * NELSON, 0000 CH
ROBERT E * PHILLIPS, 0000 CH
ALLEN L * PUNDT, 0000 CH
KENNETH S * RASICO, 0000 CH
JOEL L * RUSSELL, 0000 CH
JERZY * RZASOWSKI, 0000 CH
CLYDE E * SCOTT, 0000 CH
WILLIAM E * SHEFFIELD, 0000 CH
DAVID G * SNYDER, 0000 CH
MICHAEL R * THOMPSON, 0000 CH
GREGORY O * TYREE, 0000 CH
GREGORY B * WALKER, 0000 CH
TERRENCE M * WALSH, 0000 CH
ROBERT E * WICHMAN, 0000 CH
LONNIE P * WILLIAMS, 0000 CH
ROBERT H * WILLIAMS, 0000 CH
DAVID L * WINKLE, 0000 CH
MICHAEL D * WOOD, 0000 CH
ELIZABETH S * YOUNGBERG, 0000 CH

IN THE NAVY
THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT
TO THE GRADE INDICATED IN THE UNITED STATES NAVY
UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

IN THE MARINE CORPS
THE FOLLOWING NAMED OFFICERS FOR ORIGINAL REGULAR APPOINTMENT AS PERMANENT LIMITED DUTY OFFICERS TO THE GRADE INDICATED IN UNITED STATES
MARINE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531
AND 5589:

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To be captain
DONALD L. ALBERT, 0000
SAMSON P. AVENETTI, 0000
FRANCIS P. BABEU, 0000
CARL BAILEY JR., 0000
PETER M. BARACK JR., 0000
WILLIAM H. BARLOW, 0000
DWIGHT D. BELIN, 0000
JAYSON A. BRAYALL, 0000
MATTHEW J. CAFFREY, 0000
DAVID T. CLARK, 0000
GUY E. COOLEY, 0000
STEVEN R. DANIELSON, 0000
LEONARD R. DOMITROVITS, 0000
TIMOTHY L. COLLINS, 0000
STEVEN M. DOTSON, 0000
FRANK A. FARROW, 0000
ISRAEL GARCIA, 0000
ANDREW E. GEPP, 0000
GREGORY M. GOODRICH, 0000
KEVIN T. GRAESSLE, 0000
CHARLES A. GRAYBEAL, 0000
JOHN K. GRAYVOLD, 0000
PRISCILLA A. GUNN, 0000
JAY F. HALEY, 0000
JONN R. HARRIS, 0000
KURT J. HASTINGS, 0000
RAYMOND J. HORN, 0000
CEDRIC M. INGRAM, 0000
MARK A. IVY, 0000
SCOTT A. JOHNSON, 0000
DEAN L. JONES, 0000
RODNEY E. JORDAN, 0000
DEAN R. KECK, 0000
STEVEN J. LENGUIST, 0000
MICHEAL A. LUJAN, 0000
WINDRED W. LUSTER, 0000
MARIA L. MARTINEZ, 0000
RALPH D. MCNEAL JR., 0000
EDWARD M. MUDD, 0000
CARL D. NEAL, 0000
KEVIN A. OGRADY, 0000
MICHAEL R. OLDHAM JR., 0000
BARRY ONEAL, 0000
LAYNE T. PAGE, 0000
PATRICK B. RABBITT, 0000
JAY A. ROGERS, 0000
WILLIAM E. ROSCHE, 0000
ROBERT W. SAJEWSKI, 0000
VICTOR J. SCHLOTTERER JR., 0000
LOWELL W. SCHWEICKART JR., 0000
TIMOTHY D. SECHREST, 0000
CALVIN W. SMITH, 0000
STEVEN E. SPROUT, 0000
KENNETH N. STEINKE, 0000
MICHAEL A. SYMES, 0000
PETER M. TAVARES, 0000
WILLIAM R. TIFFANY, 0000

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LEIGH P ACKART, 0000
WILLIAM D AGERTON, 0000
BRIAN A ALEXANDER, 0000
RAOUL ALLEN, 0000
ROBERT P ALLEN, 0000
WILLIAM J ALLISON, 0000
DEAN L AMSDEN, 0000
EROL S APAYDIN, 0000
ROBERT L ARBEENE, 0000
WILLIAM E BAILEY II, 0000
THOMAS A BALCOM, 0000
ROBERT E BALLENGER, 0000
MARIA E BALOLONG, 0000
JAMES B BALZ, 0000
DARIUS BANAJI, 0000
STEVEN L BANKS, 0000
DALE P BARRETTE, 0000
JOHN A BARTELS, 0000
TIMOTHY G BATTRELL, 0000
JAN R BEAUJON III, 0000
BRUCE A BECKER, 0000
GREGORY P BELANGER, 0000
KARENA M BELIN, 0000
JUDITH D BELLAS, 0000
STUART W BELT, 0000
BRADLEY A BERGAN, 0000
SCOTT A BERNOTAS, 0000
ROBERT J BESTERCY, 0000
LOUIS M BIENVENU, 0000
CHARLES D BISSELL, 0000
KENT A BLADE, 0000
NANCY D BLUNT, 0000
MICHAEL B BOHN, 0000
JULIA E BOND, 0000
ROBERT A BOUFFARD, 0000
PATRICK H BOWERS, 0000
LESTER S BOWLING, 0000
PATRICK K BOYLE, 0000
MICHAEL R BRANTLEY, 0000
BRUCE R BRETH, 0000
ELIZABETH A BREZA, 0000
JANE M BRILL, 0000
NANCY M BROWN, 0000
RONDALL BROWN, 0000
STEVEN W BRUCH, 0000
ROBERT L BRUNSON JR., 0000
CRAIG L BURTON, 0000
MARK P BUSINGER, 0000
EDWARD S BYE, 0000
RAFAEL A CABRERA, 0000
ALICE A CAGNINA, 0000
ELLEN B CALLAHAN, 0000
BRENT J CALLEGARI, 0000
RICHARD P CAMPBELL, 0000
ROBERT CAMPBELL, 0000
MATTHEW A CARLBERG, 0000
DENNIS L CARLSON, 0000
TED F CARRELL, 0000
DEBRA P CARTER, 0000
JOHN J CARTY, 0000
KATHLEEN M CASEY, 0000
KIM M CAULK, 0000
STEVEN G CHALLEEN, 0000
LINDA C C CHAN, 0000
GAIL D CHAPMAN, 0000
DAVID M CLABORN, 0000
BRENDA A CLARK, 0000
DWAYNE C CLARK, 0000
MICHAEL E CLARK, 0000
LLOYD S CLEMENTS, 0000
EDA P CLEMONS, 0000
JEANNETTE M CLEMONS, 0000
KENNETH A COLE, 0000
GILDA M COLLAZO, 0000
GRISELL F COLLAZO, 0000
BOBBI L COLLINS, 0000
TIMOTHY W COLYER, 0000
THOMAS L COPENHAVER, 0000
JOHN CORONADO, 0000
JOSEPH COSENTINO JR., 0000
CHRISTOPHER J COSTIGAN, 0000
PIERRE C COULOMBE, 0000
JOHN F COUTURE, 0000
WILLIAM D CRAIG, 0000
DWIN C CROW, 0000
DAVID F CRUZ, 0000
KEVIN J DAMANDA, 0000
DAVID J DAMSTRA, 0000
ADRIAN M DANCHENKO, 0000
THOMAS P DAVIS, 0000
MARK R DEIBERT, 0000
RICHARD A DELACRUZ, 0000
EUGENE M DELARA, 0000
ROBERT D DELIS, 0000
JANET A DELOREYLYTLE, 0000
ERIC J DENFELD, 0000
GREGORY L DENISON, 0000
GERALD D DENTON, 0000
PAUL M DESIMONE, 0000
GEORGE DEVRIES, 0000
STEVEN E DICHIARA, 0000

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Frm 00122

Fmt 0686

Sfmt 9801

July 12, 2001

PATRICIA DIGGS, 0000
ROBERT W DILL, 0000
MICHAEL J DOLAN, 0000
MICHAEL E DORY, 0000
BARRY J DOWELL, 0000
BRIAN T DRAPP, 0000
LAWRENCE J DUANE, 0000
RODNEY E DUGGINS, 0000
JAMES R DUNNE, 0000
WILLIAM E DUNNING, 0000
DENNIS L DUREN, 0000
CATALINO DUREZA, 0000
EDDY L ECHOLS, 0000
KENNETH L EISENBERG, 0000
CHIDIEBERE EKENNAKALU, 0000
CHARLES L ELLIS, 0000
IRVING A ELSON, 0000
JUDITH E EPSTEIN, 0000
BENJAMIN D ERNST, 0000
JAMES M ERSKINE, 0000
CONSTANCE J EVANS, 0000
JOHN S EVERED, 0000
PHILIP A FAHRINGER, 0000
RICK A FAIR, 0000
DEANNA L FALLS, 0000
GERALD W FELDER, 0000
MARSHA G FINK, 0000
ALLAN M FINLEY, 0000
MARK A FONTANA, 0000
MATTHEW P FORD, 0000
NOREEN H FORD, 0000
DAVID N FOWLER, 0000
JAMES P FOWLER, 0000
RICHARD P FRANCO, 0000
LORI S FRANK, 0000
JOHN V FRANKLIN, 0000
DANIEL A FREILICH, 0000
TONIANNE FRENCH, 0000
CRAIG A FULTON, 0000
SCHLEURIOUS L GAITER, 0000
COLLEEN K GALLAGHER, 0000
SUSAN J GALLOWAY, 0000
ROBERT A GANTT, 0000
GREGORY A GARCIA, 0000
JAIME A GARCIA, 0000
THOMAS G GAYLORD, 0000
BRENDON L GELFORD, 0000
LAURIE GENTENE, 0000
BETH W GERING, 0000
DAVE E GIBSON, 0000
STEPHEN M GILL, 0000
MARTHA K GIRZ, 0000
ERIC L GLASER, 0000
BRENDAN K GLENNON, 0000
GARY S GLUCK, 0000
BARRY J GOEHLER, 0000
ELISE T GORDON, 0000
BRIAN J GRADY, 0000
BRADLEY S GRAHAM, 0000
ROBERT A GRASSO JR., 0000
MARY L GREBENC, 0000
KRISTIN L GREEN, 0000
BRUCE E GREENLAND, 0000
JEFFREY K GRIMES, 0000
RICKY D GROSS, 0000
PAUL W HAGEN, 0000
GREGORY A HAJZAK, 0000
BRADEN R HALE, 0000
REGINA HALL, 0000
ALAN F HAMAMURA, 0000
JERRY W HAMLIN, 0000
JOHN G HANNINK, 0000
ERIC T HANSEN, 0000
AMIR E HARARI, 0000
SCOTT L HAWKINS, 0000
STEVEN L HAYCOCK, 0000
WILLIAM R HAYES, 0000
ROBERT D HECK, 0000
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STEVEN B HEMMRICH, 0000
DAVID K HENDERSON, 0000
WILLIAM J HESS III, 0000
SCOTT K HIGGINS, 0000
FREDERICK A HILDER JR., 0000
DEBORAH A HINKLEY, 0000
SCOTT HINTON, 0000
MELINDA J HOFF, 0000
LORI J HOFFMANN, 0000
PAIGE K HOFFMANN, 0000
GARY L HOOK, 0000
TAMARA J HOOVER, 0000
JOHN H HORNBROOK III, 0000
BETH A HOWELL, 0000
ROBERT E HOWELL, 0000
JOAN E HOWLEY, 0000
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RODERICK R HUBBARD, 0000
WILLIAM B HUEY, 0000
JOHN D HUGHES, 0000
CHARLOTTE E HUNTER, 0000
MARK T HUNZEKER, 0000
RANDALL N HYER, 0000
MICHAEL A ILLOVSKY, 0000
LISA INOUYE, 0000
BETH R JAKLIC, 0000
CHRISTOPHER J JANKOSKY, 0000
EDUARDO JARAMILLO, 0000
ANDREW S JOHNSON, 0000
MICHAEL H JOHNSON, 0000
CYNTHIA R JOYNER, 0000
CHRISTOPHER D JUNG, 0000

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DOMESTIC POLICY.

SECRETARY OF ENERGY (INTERNATIONAL AFFAIRS AND

EDITOR OF THE DEPARTMENT OF THE INTERIOR.

ASSISTANT SECRETARY OF THE NAVY.

ASSISTANT SECRETARY OF DEFENSE.

MANAGEMENT).

ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL

SECRETARY OF THE INTERIOR.

ASSISTANT SECRETARY OF DEFENSE.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate July 12, 2001.

IN METHODS.

EXECUTIVE CHIEF, JOSEPH E. GREGORY, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

EXECUTIVE CHIEF, PETER J. GOERING, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

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EXECUTIVE CHIEF, JOSEPH E. GREGORY, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.
JOHN W. KEYS, III, of Utah, to be Commissioner of Reclamation.

DEPARTMENT OF AGRICULTURE

JOSEPH J. JEN, of California, to be Under Secretary of Agriculture for Research, Education, and Economics.

JAMES R. MOSELEY, of Indiana, to be Deputy Secretary of Agriculture.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ANGELA ANTONELLI, of Virginia, to be Chief Financial Officer, Department of Housing and Urban Development.

FEDERAL DEPOSIT INSURANCE CORPORATION

DONALD E. POWELL, of Texas, to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation for a term of five years.

DONALD E. POWELL, of Texas, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of six years.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

RONALD ROSENFIELD, of Maryland, to be President, Government National Mortgage Association.

DEPARTMENT OF TRANSPORTATION

JENNIFER L. DORN, of Nebraska, to be Federal Transit Administrator.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

LOHI A. FORMAN, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

DEPARTMENT OF STATE

AUBREY HOOKS, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of the Congo.

DONALD J. MCCONNELL, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Eritrea.

PETER R. CHAVEAS, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

NANCY J. POWELL, of Iowa, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

GEORGE MCDARD STAPLES, of Kentucky, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

The above nominations were approved subject to the nominees’ commitment to respond to requests to appear and testify before any duly constituted Committee of the Senate.

DEPARTMENT OF EDUCATION

GROVER J. WHITEHURST, of New York, to be Assistant Secretary for Educational Research and Improvement, Department of Education.

SUSAN B. NEUMAN, of Michigan, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

REBECCA O. CAMPOVIRIDE, of Virginia, to be Assistant Secretary for Legislation and Congressional Affairs, Department of Education.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ROBERT S. MARTIN, of Texas, to be Director of the Institute of Museum and Library Services.
RECOGNIZING SAM SPECTOR AND THE OSS–101 ASSOCIATION

HON. BOB BARR
OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. BARR of Georgia. Mr. Speaker, the OSS–101 Association Inc. represents the men of World War II Detachment 101 of the Office of Strategic Services (predecessor to today’s CIA), who served in guerrilla warfare behind the Japanese lines in Burma. Mr. Sam Spector, of Rome, Georgia, is President of this association. He and the other fighting men of “Merrill’s Marauders” have remained extremely grateful to the Kachin people of Burma, for the crucial help provided by them during the war.

By 1942 the Japanese were well experienced in jungle fighting. Burma was one of the world’s most hostile environments. It was also the home of a very special group of people—the Kachins. They lived in the northern-most state of Burma, and they cherished their freedom as we do. Though the Japanese occupied most of Burma in 1942, they were unable to secure the Kachin State. The Kachins took a stand, and became what was known as Detachment 101 of the U.S. Office of Strategic Services, also known as the American-Kachin Rangers. This was the first United States unit to form an intelligence screen and employ a large guerrilla army deep in enemy territory. General Dwight D. Eisenhower commended Detachment 101 of its exemplary performance.

After the war, members of Detachment 101 distinguished themselves in all services and in private life. An association was formed to join ex-101ers, fraternally, as well as to maintain ties with the Kachins, in Burma (now Myanmar). This friendship has been maintained in spite of the distances and years.

In 1995, 18 Americans, including 12 American veterans of 101, decided to spend their 50th Anniversary in Burma with their Kachin friends. There was a celebration of the American-Kachin Rangers. Among those attending were 3800 Kachins and more than 250 WW II Kachin veterans. Since that time, the Association has printed and distributed thousands of translated grade school readers, a book on Kachin history, and a first aid book; and is active in teaching agriculture.

During March 2001 the group visited the air strip captured by Merrill’s Marauders to place a wreath. At that time they noted the Japanese had erected a memorial to their dead, and the group decided it would like to place a memorial to the Americans (Merrill’s Marauders, Mars Task Force, the 19th Air Force, and Detachment 101 USA Kachin Rangers). There are no memorials to our veterans in Southeast Asia, although there are many in Europe, and one in the Philippines that honors those Americans and Filipinos who died.

I urge all my colleagues, and Americans everywhere to join me in saluting these brave Americans and Kachin heroes, for their sacrifices that were so vital in our victory in the Asian theatre in World War II. I especially salute Rome, Georgia’s Sam Spector, who is a leader in this effort.

TRIBUTE TO REAR ADMIRAL GWILYM H. JENKINS, JR.

HON. IKE SKELTON
OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. SKELTON. Mr. Speaker, let me take this opportunity to inform my colleagues on the upcoming retirement of Rear Admiral Gwilym H. Jenkins, Jr., Deputy for Acquisition and Business Management for the Assistant Secretary of the Navy. In the very near future, Admiral Jenkins will retire after over 30 years in the U.S. Navy. He has distinguished himself, the Navy, and our nation with dedicated service.

Admiral Jenkins began his service in the military in 1966, when he enlisted in the Naval Reserve. Throughout his career, Admiral Jenkins has continued his formal education. He received a bachelor’s degree in Electrical Engineering from Pennsylvania State University. He received masters degrees from the Naval Post Graduate School and is a graduate of the University of Southern California Program for Executives.

Admiral Jenkins has held many command assignments and honorably served the American people throughout the world. Admiral Jenkins has served on the U.S.S. Savannah, U.S.S. Raleigh, and U.S.S. Puget Sound. He has also served as Supply Officer and Comptroller, Ship Repair Facility, Subic Bay, Republic of the Philippines; Procuring Contracting Officer for the A06E TRAM and Business and Financial Manager of the CH–46 and CH–53 Marine helicopters, Naval Air Systems Command, Washington, D.C.

As Director of Contracts at Navy Supply Center, Jacksonville, Florida, and while working at the Aviation Supply Office, Philadelphia, Pennsylvania, he championed the use of electronic bulletin boards in contracting. Admiral Jenkins also served as Executive Director for Procurement at the Defense Logistics Agency, Fort Belvoir, Virginia, where he was responsible for the implementation of the electric commerce mall on the World Wide Web, significantly reducing unnecessary Department of Defense logistics infrastructure.

Through his work in Navy acquisition, Admiral Jenkins has consistently reached out to communities and to small business owners throughout the United States and has helped bridge the gap between military and civilian America. Admiral Jenkins, through his unique and amiable style, has worked to make this intimidating process easier for Americans to understand. I am especially grateful to Admiral Jenkins for traveling to Warrensburg, Missouri, to take part in my annual Federal Procurement Conference held each year at Central Missouri State University. I know the residents of Missouri’s Fourth Congressional District join me in
slanding their appreciation for Admiral Jenkins's contribution to Missouri's small businesses.

Mr. Speaker, Admiral Jenkins has had an impressive career in the military and has established great relationships among the civilian community. I know that the Members of the House will join me in paying tribute to this fine sailor as he enjoys his retirement with his wife, Nell, and their four daughters Ellen, Caitlan, Andrea, and Kagan.

TRIBUTE TO AMANDA PARKER OF QUINCY, MI—LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I rise to salute Amanda Parker, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future. As a winner of the LeGrand Smith Congressional scholarship, Amanda is honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Amanda Parker is an exceptional student at Quincy High School and possesses an impressive high school record. Amanda has received numerous awards for her academic achievement and her success as a young athlete. She is active in student government, as well as volunteering her time to various community service projects, such as helping to collect donations for a food drive to provide area families with a traditional Thanksgiving Day dinner.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Amanda Parker. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

HONORING THE ACHIEVEMENTS OF MASTER POLICE OFFICER JOSH BROWN

HON. TOM DAVIS
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. TOM DAVIS of Virginia. Mr. Speaker: I rise today to honor a gentleman who has devoted a great deal of his time and energy to Fairfax County, Virginia. Master Police Officer Josh Brown will retire Friday, July 13, 2001 after 23 years of service with the Mason District Station of the Fairfax County Police Department. He also gave 17 years to the Crime Prevention and Crime Prevention Through Environmental Design (CPTED).

With his prominent role as an officer of the law, MPO Brown has been able to bring many topics to the attention of his community. He has given many lectures on the importance of school security, as well as a variety of other safety lectures, including: lighting, commercial security, risk assessments, violence in the workplace, and community crime prevention. He has spoken at state, national, and international conferences on community crime prevention, lighting, and Crime Prevention Through Environmental Design (CPTED).

MPO Brown specializes in risk assessments of schools, businesses and communities. The Virginia Department of Criminal Justice Services and the International Society of Crime Prevention practitioners have certified him as a Crime Prevention Specialist. He has also been awarded the Meritorious Service Award by the Fairfax County Police and was named Officer of the Year by Police and Citizens Together, a division of the Metropolitan Washington Council of Governments.

His knowledge of crime and its prevention has enabled him to write brochures on commercial robbery prevention, substance abuse, and trail safety. He has also produced literature on rape and assault prevention, as well as Neighborhood Watch training guides. His dedication to keeping his community as safe as possible is extremely admirable, and I am proud of his achievements.

MPO Brown has many interests outside the department. He is married with three children, who take up much of his space time. In years past he has given much time to being a Scoutmaster, coach, and fundraiser for children's school groups.

Mr. Speaker, in closing, I am glad to pay tribute to MPO Josh Brown who has given so many years to the police department as well as being a devoted father and member of the community. I hope my colleagues join me in saluting such a remarkable individual.

PERSONAL EXPLANATION

HON. BOB RILEY
OF ALABAMA
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollover No. 216, on agreeing to the amendment. Had I been present I would have voted “no.” Mr. Speaker, I was unavoidably detained for rollover No. 217, on agreeing to the amendment. Had I been present I would have voted “yea.” Mr. Speaker, I was unavoidably detained for rollover No. 218, on agreeing to the amendment. Had I been present I would have voted “no.”

INTRODUCING THE TROPICAL CYCLONE INLAND FORECASTING IMPROVEMENT AND WARNING SYSTEM DEVELOPMENT ACT

HON. BOB ETHERIDGE
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. ETHERIDGE. Mr. Speaker, I rise today to introduce legislation to improve the forecasting of inland flooding associated with tropical storms and to develop an inland flood warning system to alert residents of dangerous flooding.

The people of North Carolina are all too familiar with the death and devastation that can come from the heavy rains that hurricanes and tropical storms often bring to our state. In 1999, Hurricane Floyd killed forty-eight people and caused nearly $3 billion worth of property damage, primarily through flooding in inland communities. Recently, Tropical Storm Allison cut a path across the nation, killing more than 50 people.

If Floyd and Allison taught us anything, it was that we have been more successful preparing coastal communities for these types of storms than in preparing inland communities. Too many folks think of hurricanes or tropical storms as something that affects only the coast and beach cottages. These storms hit us where we live.

Floyd and Allison demonstrated all too clearly that the greatest threat posed by these storms are the torrential rains that do the most damage hundreds of miles inland. A new study by Ed Rappaport of the Tropical Prediction Center shows that since 1970, freshwater flooding caused 59 percent of storm deaths in the United States, whereas only one percent lost their lives in coastal storms.

Inland residents need a warning system that raises the awareness of the destructiveness of these storms so they can protect their families and their property. Currently, technology exists to help track and prepare coastal communities for the wind, rain, and storm surge damage associated with tropical cyclones. But, now we must move forward with efforts to improve inland flood forecasting and warnings. This bill will provide the funds and the road map to get us there. Ultimately, we can save lives.

This legislation builds on work being done by National Weather Service (NWS) emergency management officials, meteorologists and others to reduce the risks of injury due to inland flooding. The bill authorizes $5.75 million over five years for the National Weather Service to improve its ability to forecast inland flooding associated with tropical storms and hurricanes and to develop and deploy an inland flood warning index or system—such as one similar to the Saffir-Simpson scale for wind speed familiar to coastal residents.

Joe Albaugh, Director of the Federal Emergency Management Administration, recently expressed a too prevalent view about storm damage when he said, “I don’t think that we can fault the forecasters. No one can predict 36 inches of rain.” We must do better than that. It’s time to develop the tools so forecasters can warn the
TRIBUTE TO ASHLEY TUREK OF ADRIAN, MI—LeGrand Smith Scholarship Winner

HON. NICK SMITH
Of Michigan
In the House of Representatives
Thursday, July 12, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Ashley Turek, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Ashley is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Ashley is an exceptional student at Adrian High School and possesses an impressive high school record. Ashley is President of her Senior Class and has served as Captain of her Tennis and Track teams. She has received numerous awards for her excellence in academics as well as her involvement in tennis, gymnastics, and track. Outside of school, Ashley is an active volunteer in various community organizations such as the Lenawee County Youth Council.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Ashley Turek. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

HONORING PATRICIA HALSEY LAVERDURE

HON. BARBARA LEE
Of California
In the House of Representatives
Thursday, July 12, 2001

Ms. LEE. Mr. Speaker, I rise today to honor and salute Patricia Halsey Laverdure for her faithfulness service to the United States Military.

Colonel Laverdure has dedicated her life to providing legal counsel to military members and their families. When she joined the U.S. Marine Corps, she was interested in criminal law, and became a very successful judge advocate. However, Colonel Laverdure was drawn to family law because she knows the burdens that military families face, such as long periods of separation, spousal abuse and low pay. She saw the need for family services so she began to practice family law. Colonel Laverdure established the first spousal abuse programs for the U.S. Marine Corps Family Service Centers.

Colonel Laverdure later became the Chief of the Legal Assistance Branch of the Maintenance and Logistics Command Pacific for the U.S. Coast Guard in Alameda, California. At a time when the military was downsizing, Colonel Laverdure was overwhelmed with huge caseloads. Despite the large amounts of casework, she enlisted the aid of military attorneys from the Navy Reserve and, together with other Coast Guard Attorneys, completed their cases and increased the number of clientele.

Colonel Laverdure has won numerous awards such as the Meritorious Achievement Award, the ABA Legal Distinguished Award and the Coast Guard Meritorious Award. It is only natural that Congress should recognize Colonel Laverdure for her patriotism, her service to the United States military service and her human compassion for her others.

I proudly join Colonel Laverdure’s family and friends to pay tribute to Colonel Patricia Halsey Laverdure.

TRIBUTE TO ANGELA PITTS OF LITCHFIELD, MI—LeGrand Smith Scholarship Winner

HON. NICK SMITH
Of Michigan
In the House of Representatives
Thursday, July 12, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Angela Pitts, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation’s future.

As a winner of the LeGrand Smith Congressional Scholarship, Angela is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Angela Pitts is an exceptional student at Litchfield High School and possesses an impressive high school record. Angela has received numerous awards for her academic achievement and her success as a young athlete. She is active in student government, as well as the high school and jazz bands. Angela volunteers her time to various organizations, such as her community’s youth group, and coaches young children in basketball.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Angela Pitts for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success.

EXTENSIONS OF REMARKS

To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPERCH OF
HON. THOMAS G. TANCREDO
Of Colorado
In the House of Representatives
Wednesday, July 11, 2001

The House in Committee of the Whole on the State of the Union had under consideration the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes:

Mr. TANCREDO. Mr. Chairman, I rise in opposition to H.R. 2330, the Agriculture Appropriations Act, a bill considered on the floor today which makes appropriations for the Department of Agriculture and related agencies. But more specifically, I rise in strong opposition to the increase provided in the bill for the Food and Drug Administration (FDA) and would like to call the House’s attention to a problem that one of my constituents has been having with the agency and one that I believe deserves careful consideration by the oversight committees in this chamber.

Recently, the FDA gave final approval of my constituent’s Pre-Market Application for both total and partial joint implants after an exhaustive and blatantly biased two year review, but not before costing his company over $8 million in legal fees, lost wages and profits.

In April 1999, I received a phone call and letter from TMJ Implants, a company located in Golden, Colorado, in my district, which had been having problems with the review of its Premarket Approval Application of the TMJ Total and Fossa-Eminence Prosthesis. Up until last year, the company was the premier market supplier of temporomandibular joint prostheses.

Over the last two years, I have taken an active interest and an active role in monitoring the progress of TMJ Implants’ application, which was finally approved in February. On numerous occasions, I met with Dr. Bob Christensen, President of TMJ Implants, to find out information about the approval of the Partial and Total Joint, and personally talked to FDA Commissioner Jane Henney and to members of the Agency about the status of the company’s applications. I was also, and continue to be, in contact with the House Committee on Oversight, which has sole jurisdiction over the FDA and issues relating to abuse and the internal operations of the agency.

Specifically, I closely followed this case since my office’s first contact with Dr. Christensen and TMJ Implants in early May 1999, after a meeting of the FDA’s Dental Products Panel of the Medical Devices Advisory Committee was held to review the company’s PMA and recommended approval of
the PMA by a 9–0 vote. From this point onward, the FDA engaged in an obvious pattern of delay and deception and even went as far as to remove TMJ Implants’ Fossa-Eminence Prosthesis from the market, which had been available for almost 40 years. This had done nothing more than to cause harm to patients and cost the company millions of dollars.

This was done at the same time that the application for TMJ Concepts, a competitor of TMJ Implants, sailed through the process. Several allegations have come to light over the last two years detailing the fact that several Agency employees have worked under the direction of TMJ Concepts’ associates. The agency went so far as to reconvene a new Medical Devices Advisory Committee last year, with a clear majority of its members lacking the required expertise, which denied the company’s application.

It was not until Mr. Bernard Statland, the new Director, Office of Device Evaluation (ODE) was brought in that the logjam was broken the PMA was quickly approved.

As the above demonstrates, several concerns remain about the process that has taken place over the last two years. It is no secret that everyone involved in this case believes that there have been significant questions raised about the process—the sluggish pace of the review of the engineering data for both the total and partial joint and, more importantly, the constant “moving of the goal posts” during the review of both PMAs.

Over the last two years, my office has received numerous letters from physicians all across the country—from the Mayo Clinic to the University of Maryland—each describing the benefit of the partial joint and the fact that the partial and total joint results in immediate and dramatic decrease in pain, an increase in range of motion and increased function.

While I am, of course, pleased that the application has been approved by the FDA after much delay, the circumstances of the last two years cast doubt on the integrity of the Agency and, it is for this reason that I bring it to the House’s attention.

Dr. Christensen is a true professional and a pioneer in his field and holder of the first patents. His implants are widely accepted as effective and safe throughout the dental and surgery community—indeed, several of my constituents have literally had their lives changed by the procedure. I am convinced that the work of TMJ is and always has been based on solid, scientific principles and the removal of the implants from the market had been erroneous, contrary to the Agency’s earlier findings and the statutory standard that should be applied. This was devastating to thousands in the general public and devastating to the financial status of the company.

Later this year, the House of Representatives will consider legislation reauthorizing the Food and Drug Administration and I would like to urge the House Commerce Committee to hold hearings on the TMJ Implant case and to conduct a thorough investigation into the FDA’s review of the Premarket Approval Application of TMJ Implants’ Fossa-Eminence Prosthesis. I would like to take this opportunity to submit into the record two articles from FDAWebview which shed light on the TMJ Implant case.
Mr. Speaker, the development of specialty hospitals is of great concern because they deprive full-scale hospitals of their most profitable business, leaving those existing hospitals much worse off financially. The investors in these joint ventures and specialty hospitals skim the profits of full-scale hospitals, leaving them to struggle financially. Then the hospitals must look to Medicare and to their local communities to help them financially—and all because these joint ventures are skimming high profits for their investors, including physicians.

Mr. Speaker, these situations not only harm hospitals, they violate the spirit of Medicare self-referral laws. Lawyers have found a loophole in the self-referral laws, and physicians are taking advantage of it.

Today, Rep. KLECZKA and I are joining together to introduce the Hospital Investment Act of 2001 to close the loophole. Our bill would continue to permit physician ownership in these joint ventures and specialty hospitals only if the ownership or investment interest is purchased on terms that are generally available to the public at the time. This amendment would not prohibit physicians from purchasing shares to stock, but it would make sure that such stock purchases are not the result of a sweetheart deal available only to physicians, but set up in a way to skirt the law. My amendment would make it harder for hospitals and physicians to skim profits from hospitals leaving the hospitals worse off financially.

Mr. Speaker, it is time to close this loophole in the Medicare self-referral laws, and I urge my colleagues to support it.

TRIBUTE TO 2001 LeGRAND SMITH SCHOLARSHIP FINALISTS

HON. NICK SMITH OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is a sincere pleasure to recognize the finalists of the 2001 LeGrand Smith Scholarship Program. This special honor is an appropriate tribute to the academic accomplishment, demonstration of leadership, responsibility, and commitment to social involvement displayed by these remarkable young adults. We all have reason to celebrate their success, for it is in their promising and capable hands that our future rests:

Nicole Albain of Deerfield, Michigan
Laura Batho of Adrian, Michigan
Zoe Bills of Jackson, Michigan
Jonathan Chapman of East Leroy, Michigan
Bethany Decker of Adrian, Michigan
Elizabeth Flack of Jackson, Michigan

SPEECH BY AHMET ERTEGUN

HON. ROBERT WEXLER OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. WEXLER. Mr. Speaker, I would like to place in the CONGRESSIONAL RECORD the following speech by Ahmet Ertegun, Chief Executive Officer of Atlantic Records, on May 18, 2001, after receiving the Prestigious Federation of Turkish American Associations (FTAA) Cultural Lifetime Achievement award during the FTAA’s Turkish Cultural Week.

As co-founder of the House Caucus on U.S.-Turkish Relations and Turkish-Americans, I believe there is no individual more deserving of the FTAA Cultural Achievement Award than Ahmet Ertegun who is a leading voice in the Turkish-American community and an extraordinary humanitarian.

It would be an understatement to say that Mr. Ertegun is the epitome of the American dream. As a successful businessman and self-starter, he co-founded one of the most successful international recording studios, Atlantic Records. Mr. Ertegun has also been deeply involved in many worthwhile philanthropic activities. Thousands of individuals in the United States and throughout the world have benefited from his commitment and involvement in charities and civic organizations.

The Turkish-American community should be extremely proud to have Mr. Ertegun as a leading spokesman to promote Turkish culture and history in the United States. He, along with the Federation of Turkish American Associations, are the heart and soul of a dynamic Turkish-American community. Finally, I want to thank Mr. Ertegun and the FTAA for their commitment to strengthening the relationship between the United States and Turkey. Mr. Ertegun and the FTAA, I believe that the friendship and strategic partnership between America and Turkey are essential to both countries and will grow even more important throughout the 21st century.

Again, I join the Federation of Turkish American Associations and the Turkish-American community in celebrating Mr. Ertegun’s extraordinary achievements and congratulate him on receiving the FTAA Cultural Lifetime Achievement award.

Thank you.

Your excellencies, ladies and gentlemen:

It is a great honor for me to be recognized by the Federation of Turkish American Associations.

I deem it a great honor to have been introduced by my dear friend, Arif Mardin.

Arif, as our musical director, has made the key monumental record hits that have been the highlights of Atlantic’s history: “Respect” by Aretha Franklin, the Saturday Night Fever album by Bee Gees and “Wind Beneath My Wings” by Bette Midler just to name a few.

I was recently invited to a white-tie gala banquet in Nashville to get a music citation. This was a period when I was using crutches to walk.

As they called my name and I started to walk up to the podium to receive the award, this southern lady turned to me and said: “You must be mighty proud. This is the first time we’ve given this award to a foreigner.”

But to be serious, it is wonderful to see such a large group of Turkish Americans. Each and every one of you is an important part of what has become the beginnings of a group which could have some political influence in the near future, both here in America and also in Turkey, through our family and friends.

It is most important that we, as Turkish Americans, champion the causes of freedom and also in Turkey, through our family and friends.

As you all must know, Turkey is now going through a terrible time because of economic mismanagement. We are all aware of the rumors and accusations in the Turkish press of chaos and corruption, in both the public and the private sector.

But what has been the savior of Turkey has been the selfless and honest dedication of so many of its citizens, and the ever-present vigil of the Turkish Army, to protect the legacy of Mustafa Kemal Ataturk. They have been our saviors through the many difficulties since the formation of the Republic in 1923.

With the coming of the current crisis and the devaluation of the Turkish lira, President Bulent Ecevit sent for a top economist, both here and also in Europe.

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Concepts of well-being for countries, for peoples, and for individuals are changing in time. In such a world, to argue for rules that never change would be to deny the reality found in scientific knowledge and rational judgement.

It is my fervent hope that all of you support Mr. Kemal Dervis' mission and support President Ecevit in this critical moment. It is an important moment in Turkish history which will disengage the economic system from the political, which will bring about transparency and accountability in government, and help Turkey reach its destiny as an important member of the modern democratic world.

May the army and the Turkish people persevere in their pursuit of Ataturk's dream.

IN HONOR OF MR. DONALD FREJSKY
HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 12, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor Mr. Donald R. Frejosky. During the more than 60 years that Mr. Frejosky resided in Garfield Heights, he was an exemplar of altruism, kindness, and service—not only to his own dear family, but also to the larger family of Garfield Heights as well.

Mr. Frejosky was a proud and loving husband, father, grandfather, and brother. Not only did Mr. Frejosky embody the principle of selflessness to his own family, but his example also sets a beautiful precedent for us all to achieve. Mr. Frejosky served his Cleveland community in numerous ways: he was employed as a service and parts manager for White Motor, Richfield Truck, and G&M Towing Co., and as a musical instrument repair artist for more than 35 years, at the diligent service of the Cleveland area.

Not only did Mr. Frejosky bestow upon us his service, skills, and selfless ways, but he also served as a Councilman to Ward 5 in Garfield Heights, and until his last days was serving on the Civil Service Board of the city. Mr. Frejosky worked tirelessly, even up until his last breath, to improve the quality of life for others. It is because of his beneficence, integrity, and diligence that Mr. Frejosky can never be effaced from Garfield Heights' memory, and it is also why we are honoring him today.

Garfield Heights' loss of Mr. Frejosky is not only a loss of a husband, father, and brother, but is also a loss of one of its shining examples of sincerity and service. Today, we honor Mr. Frejosky's past, and honor his indelible imprint on our present and future.

PERSONAL EXPLANATION
HON. JOHNNY ISAKSON
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 12, 2001

Mr. ISAKSON. Mr. Speaker, I was absent for rollcall votes 148 and 149. Had I been present, I would have voted "yea" on both.

EXTENSIONS OF REMARKS
INTRODUCTION OF THE THE LAW ENFORCEMENT OFFICERS’ TRAINING ACT
HON. HOWARD P. “BUCK” MCKEON
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 12, 2001

Mr. MCKEON. Mr. Speaker, today I am introducing the Law Enforcement Officers’ Training Act, a bill to establish a program within the Department of Labor to provide grants for training of law enforcement officers.

Nearly every major study of police and law enforcement agencies conducted over the last forty years, from the Kerner Commission report in 1968 through the recent scandals in Los Angeles, has identified individual training as an essential element of police reform.

My proposal takes advantage of the Department of Labor’s expertise in designing, implementing and administering effective programs to improve skills and to promote professional development of our workforce. While the Justice Department makes grants available to governmental entities for projects to fight crime and improve public safety, there has been a failure to focus on individual professional development as a factor in improving the delivery of law enforcement and public safety services.

My bill directs the Labor Department to focus on training and development in six specific areas: community policing, development of policing skills in a multi-cultural environment, officer survival and defense, the application of technology in law enforcement, supervision and mid-level management skills and techniques, and identification and management of officer fatigue and sleep deprivation.

These grants could be awarded to training institutions, educational institutions, and classrooms of law enforcement officers. Funds could be used for seminars, classes, workshops, conferences or other training sessions in accordance with guidelines developed by the Department of Labor.

The Law Enforcement Officers’ Training Act will result in better relationships between police officers and the public, improved public safety, more efficient delivery of protective services, and enhanced sensitivity to our multi-cultural environment.

In developing this legislation I have had the opportunity to work with the leadership of the Immigration and Nationalization Act, AFL-CIO. I sincerely appreciate their efforts on this proposal and the support of my colleagues to join me in sponsoring this legislation which will improve the security of all of our constituents.

EDUCATION FIGHTS UNDERAGE DRINKING
HON. ILEANA ROS-LEHTINEN
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 12, 2001

Ms. ROS-LEHTINEN. Underage drinking and all kinds of distracted driving are in our headlines once again with various legal solutions being discussed both here and in our state capitols. One organization know as The Century Council, a national non-for-profit organization, funded by America’s leading distillers, has dedicated itself to fighting drunk driving and underage drinking. What remains clear is that education is a vital component of our efforts to thwart impaired driving and underage alcohol consumption.

Parents, teachers, caregivers, and the community as a whole must initiate a dialogue with young people—as early as elementary or middle school—so that positive values are formed. Teens will realize the potential consequences that result from reckless alcohol consumption and, should young people choose to drink when they are adults, they will do so responsibly and in moderation.

Our former colleague, Susan Molinari, has become Chairman of the Council, working closely with Ralph Blackman, its President and CEO. Robert Carle, former chair of the House of Representatives is its Government Affairs Director and Steven Naciero, an attorney for the Bacardi companies, has worked with the Council since its inception. They all would be happy to have your help and support.

With education we stand a real chance of diminishing some of the persistent national problems caused by underage drinking.

IN HONOR OF THE CASE WESTERN UNIVERSITY UPWARD BOUND PROGRAM
HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 12, 2001

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the 35th anniversary of the Case Western Reserve University Upward Bound Program, which has been graciously serving the East Cleveland and Cleveland Public High School Districts from 1966–2001.

Throughout its 35 years, The Upward Bound pre-college program has worked assiduously to prepare and realize the full potential of low-income and first-generation college-bound high school students towards post-secondary studies geared towards professional health careers. The Upward Bound Program serves the low-income population, a sector which is all too often ignored. The Program nurtures and makes manifest the talents and capabilities of Cleveland’s underprivileged youth. The year-round program imbues in our youth the skills to prepare them for successful professional health careers by readying them with a well-rounded curriculum in the humanities and sciences during their summer recesses. In addition to this, Upward Bound offers a Saturday Enrichment Program, weekly tutorials, and discussion sessions, which are all geared towards encouraging the amazing personal and spiritual qualities of our youth.

The Upward Bound Program has set an unsurpassed precedent in providing much needed medical and individual care for our grossly underestimated low-income youth. For the past 35 years, the Program has carried the torch for unveiling and realizing the vast potential and gifts of today's low-income youth.
TRIBUTE TO ARCADIA UNIVERSITY

HON. JOSEPH M. HOEFFEL
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. HOEFFEL. Mr. Speaker, I rise today to recognize and congratulate Arcadia University on officially changing its name. Formerly known as Beaver College, Arcadia University is located in Glenside, Pennsylvania and for almost 150 years has provided students with a first-rate education.

Founded in 1853, Arcadia University originally began as the Beaver Female Seminary in Beaver County, Pennsylvania located north-west of Pittsburgh. It was one of the first institutions to offer a curriculum for women only. The school became co-educational in 1872, and in 1907 adopted the name of Beaver College. The college had outgrown its campus space and in 1923 moved its campus to Jenkinstown, Pennsylvania. This new location provided a larger campus, as well as development opportunities. Owing to the success of the school more land was needed, and a second campus was opened in nearby Glenside.

Today, Arcadia University has an enrollment of more than 2,800 students and boasts a student to faculty ratio of 12 to 1. 88% of the faculty hold doctoral or terminal degrees. There are over 30 undergraduate degrees offered and 11 masters degree programs. The university also operates a continuing education program with evening and weekend classes. The study abroad program is nationally recognized and offers students the opportunity to study in a foreign land. U.S. News and World Report has ranked Arcadia in the top twenty regional universities in the North. The school attained university status in 2000 after completing requirements to attain the new name.

Arcadia University has been a premier institution in Pennsylvania for many years. Our community is very fortunate to have such an outstanding educational presence in our area. I am honored to celebrate this special day with Arcadia University.

TRIBUTE TO WILLIAM E. LEONARD, OF CALIFORNIA

HON. JOE BACA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. BACA. Mr. Speaker, I rise to honor William E. Leonard, of the Inland Empire of California, on the occasion of the dedication of the William E. Leonard Interchange (the Interchange of the 210 and I-15). Mr. Leonard was instrumental in the design and funding of this freeway (extension of the Foothill Freeway). William has a long history of involvement in California transportation issues. He served as a member of the California State Highway Commission from 1973 to 1977 and on the

EXTENSIONS OF REMARKS

HON. HILA L. SOLIS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2390) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes.

Ms. SOLIS. Mr. Chairman, I rise in support of the Olver/Gilchrest amendment to strike the provision prohibiting funds from being spent to implement the Kyoto treaty on global warming.

The Bush Administration’s stance on the Kyoto treaty has called the United States' credibility into jeopardy. Because of this Administration’s denial of the Kyoto treaty, the U.S. has become the laughing stock of the world and—more importantly—we have seriously put into question our leadership role on global warming and environmental issues.

This amendment would allow for the U.S. to stay involved in negotiations and send a strong message to the world that—although the President has given up on this important agreement—this nation and its other leaders have not.

I encourage my colleagues to support his amendment and commend Mr. Oliver and Mr. Gilchrest for their important amendment, which will help to ensure the United States’ environmental leadership position.

THE PILOT RANGE WILDERNESS ACT

HON. JAMES V. HANSEN
OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. HANSEN. Mr. Speaker, I am pleased today to introduce the Pilot Range Wilderness Act which designates lands within the Pilot Peak range as wilderness.

My home state of Utah is blessed with some of the most beautiful scenery this country has to offer. While we often disagree on the best way to preserve these lands for future generations, sometimes those disagreements are used by outside groups to infer that there is only one way to protect these lands and that is wilderness designation. I have often disagreed with those that take this position, and on occasion with great fervor. I believe all of us agree that preservation is, indeed, a noble goal.

Wilderness designation taken to the extreme would severely harm the local economies and
restrict the ability of land managers and local governments to best manage these lands. However, there are certain areas where we must ensure is the best way to assure the preservation of the land's natural beauty and the unique historical and geological nature of these lands. One of those areas in Utah is the Pilot Range in the west desert of Box Elder County. With that in mind, I am proud to introduce a bill which would classify certain areas in the Pilot Range as wilderness.

Mr. Speaker, when one hears the great conservationists of our day speak of the natural treasures of this nation, one could very well be hearing a description of the Pilot Range. The top of the range provides a majestic view of the sun rising over the Rocky Mountains and Great Salt Lake in the East as well as the spectacular view of sunsets across the flats of Nevada. Elk and deer roam the valleys and canyons of the range, and threatened cutthroat trout makes its home in the Bettridge Creek, the largest in the range.

This is land rugged enough to test the mettle of any hearty adventurer. These mountains served as a guide to the Donner Party as they crossed over some of the Great Basin. Its streams and springs provided refreshment and a place of refuge for weary travelers. When standing on these peaks, as I have done many times, one can sense the solitude that very few places in this country can match. As wilderness, this land will continue to offer those willing to challenge its rugged terrain a breathtaking view of nature's glory, as well as multiple recreational opportunities, such as hiking, camping and horseback riding.

Given the fact that these lands are adjacent to the Utah Test and Training Range, we have gone to great lengths to ensure that wilderness designation and the role and mission of the UTRR remains compatible. We have worked to ensure that valid existing rights and the traditional and historical use of these lands is protected while removing any remaining obstacles to wilderness designation.

I was proud to introduce the Utah Wilderness Act in 1984. In my 21 years in Congress, I have had the opportunity to designate and protect more wilderness across the country than almost any other member of Congress. I believe strongly in wilderness designation when it is compatible, when the lands fit the criteria according to the definitions of the 1964 Act and wilderness the highest and best use of the public lands. The bill I am introducing when it is compatible, when the lands fit the criteria according to the definitions of the 1964 Act and wilderness the highest and best use of the public lands. The bill I am introducing today reflects my belief that wilderness designation is the best way to protect the Pilot Range as wilderness.

EXTENSIONS OF Remarks

Boy Scout Troop 201 has a long and distinguished history of molding young men in Olmsted Falls into productive individuals in our society. The troop chartered in 1926 and consisted of 12 scouts that met regularly and attended summer camps together. Over the years the troop grew and flourished, gaining respect both in the International Scouting Association and the local Cleveland community. As years turned into decades, Troop 201 began graduating Eagle Scouts, scouting's highest honor. Less than 2 percent of all Scouters attain this highest honor. Not only are scouts required to fulfill a minimum leadership requirement to attain the coveted Eagle Scout, but every young man must plan, develop, and implement an extensive community service project. Over the years Troop 201 has dedicated a great deal of time and energy to serving in the community, and scouters have selflessly given of their time and effort. The rank of Eagle is an achievement that requires years of dedication to self-improvement, hard work, and the community. Since 1926, Troops 201 has seen over 70 Eagle Scouts.

Olmsted Falls Troop 201 has always stood tall for the causes of righteousness and equity in our society. The original purpose of the Boy Scouts of America, chartered by Congress in 1916, is to provide an educational program for boys and young adults, to build character, to train in the responsibilities of participating citizenship, and to develop personal fitness. The International Scouting Association strives to instill values to develop leadership in young men, and teach them the benefits of a strong character. Scouts are taught to follow and uphold the 12 pillars of the Scout Law in their daily life and treat all people with respect and dignity. At the start of every meeting, scouts hold high their right hand and recite the scout oath, a pledge to remain physically strong, mentally awake, and morally straight. These three guiding principles instill strong values in young leaders and teach them of respect, dignity, and equality for all.

Mr. Speaker, please join me in honoring and celebrating Boy Scout Troop 201 on their 75th Anniversary. This special Diamond Anniversary marks a milestone in this troop's distinguished career and celebrates the countless young men affected by this organization. Troop 201 has continually strived to develop young leaders in the Olmsted Falls community, and has earned the respect and admiration of the entire Olmsted Falls community.

HONORING JESSICA L. WRIGHT UPON PROMOTION TO GENERAL

HON. GEORGE W. GEKAS OF PENNSYLVANIA IN THE HOUSE OF REPRESENTATIVES Thursday, July 12, 2001

Mr. GEKAS. Mr. Speaker, a wise person once said, "All glory comes from daring to begin." This is certainly true of the person I rise today to honor. Jessica Wright is a constituent from my home state of Pennsylvania, but more recently achieved the rank of Brigadier General. This is an honor and a first. For you see, the newly appointed general is the first woman to achieve this rank in the Pennsylvania National Guard. This achievement is the result of twenty-six years of dedication and duty.

General Wright has been a part of many military sorts. This Thursday during the 28th Infantry Division stationed at Fort Indiantown Gap in Lebanon County, Pennsylvania.

Mr. Speaker and Members of the House, General Wright has served her country with distinction. I ask that you join me in honoring this fine soldier for her service to the United States and the Commonwealth of Pennsylvania.

EFFORTS TO ASSIST THE HOMELESS AND HUNGRY

HON. TOM LANTOS OF CALIFORNIA IN THE HOUSE OF REPRESENTATIVES Thursday, July 12, 2001

Mr. LANTOS. Mr. Speaker, on June 1st, at the annual awards ceremony of the St. Albans School, 17 year old James Fisher was recognized and honored for his innovative project to feed the homeless of Washington, D.C. I am pleased to share his story, with the hopes that his example might inspire other teenagers throughout the nation.

Homelessness is one of America's most complicated and important social issues. In an effort to combat this complex problem, Congress continues to appropriate funds each year to the Stewart B. McKinney Homeless Act which provides funds to the Department of Housing and Urban Development to administer programs which assist homeless children and adults. In addition, there are also countless acts of compassion each day among private citizens in their communities to help stem hopelessness and hunger among our homeless population. James Fisher's is but one story among thousands in which Americans across the nation are working to help the homeless.

After noticing that the breakfast period at a neighborhood McDonald's was the slowest period of the day for sales one morning, James Fisher approached the owner, Mrs. Neva Van Valkenburg, with an idea. Mr. Fisher proposed arranging for students at St. Albans School and its sister school, the National Cathedral School, to have breakfast at the McDonald's every day for one week. In return for this increased business, Mr. Fisher asked for 15% of each morning's sales, in the form of a food credit, to be set aside for low-income and homeless children. This credit would then be used to purchase meals provided by Martha's Table in the District of Columbia. Mrs. Van Valkenburg agreed with James' idea and the program became a stellar success. James Fisher's arrangement with Mrs. Van Valkenburg provided for 250 additional meals.
for the homeless children who are fed at Martha's Table. Mr. Speaker, I commend James, Van Wanzeele and the students who participate at the program to help homeless children in their community.

Mr. Speaker, I would also like to recognize the many organizations and individuals in my own Congressional district who assist the homeless and the hungry. These services range from mental and physical health programs, help desks, meals and shelter, job training programs, health care, transitional housing and residential rehabilitation. These organizations are fighting the battle against homelessness and hunger everyday. Some of the organizations I would like to recognize for their work include the Daly City Community Services Center, the North Peninsula Dining Center in Daly City, the Grace Covenant Church in South San Francisco, the South San Francisco Food Pantry in South San Francisco, the Transgender Community Center of New York City, the North Peninsula Neighborhood High Services Center in South San Francisco, the St. Vincent de Paul Society Cafe, the St. Vincent Homeless Help Desk in South San Francisco, the San Mateo Pacifica Resource Center, CALL -Primrose Center in Burlingame, the Samaritan Family Kitchen in San Mateo, and many, many others.

All of these groups help to provide necessary services for the homeless of San Francisco and San Mateo Counties and I would like to pay tribute to the individuals who work and volunteer their time to help the homeless and the hungry in my community. Mr. Speaker, James Fisher's experience and the efforts of many other organizations, including those on the Peninsula and in the City of San Francisco, should serve as an example to all of us on how each one of us can help our communities work to alleviate hunger and homelessness.

IN HONOR OF THE REOPENING OF THE LESBIAN, GAY, BISEXUAL AND TRANSGENDER COMMUNITY CENTER OF NEW YORK

HON. CAROLYN B. MALONEY OF NEW YORK IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mrs. MALONEY of New York. Mr. Speaker, today the Lesbian, Gay, Bisexual and Transgender Community Center of New York will reopen after a two-year renovation. The Center is housed in a historic former high school in Greenwich Village. The Food and Maritime Trades High School was built in 1844 and became the spiritual home of the Gay and Lesbian community of New York in 1983.

Since its founding, the Center has served as a meeting place for those committed to improving the lives and assuring the rights of those who suffer because of their actual or perceived sexual orientation. The Center is an inclusive organization that recently changed its name to demonstrate a commitment to serving the Bisexual and Transgender community.

Newcomers to New York have always joined together in fraternal and social groups. Just as some organizations help immigrants adjust to life in the City, so too, the Center helps newcomers from the gay community as they adjust to a new life in New York. Quarterly orientations and regular support groups for young people are some of the Center's most important programs.

The Center is the “heart” of the Gay, Lesbian, Bisexual, and Transgender community in New York City. Each week, more than 5,000 people visit the center to take advantage of the numerous services and programs it offers. It has also become a social center for many people in the community. The monthly schedule at the Center includes more than 100 political and social groups. The AA program alone provides counseling and support for several hundred people in recovery. The Center Library is a valuable resource for both the gay and straight community.

The Center’s real contributions can be seen in the lives of those who have been transformed by the Center. The HIV positive patient who is strengthened through the AIDS support group, the counseled teen who is empowered to stand up to taunts, and the participant in a 12-step program who can face the future with friends from the Center, have all improved their quality of life through Center programs.

I am honored to pay tribute to the many people who work so hard at the Lesbian, Gay, Bisexual, and Transgender Community Center of New York. The reopening of the Center is indeed a cause for celebration.

CITIZENSHIP IMPORTANT

HON. DOUG BERENSTEIN OF NEBRASKA IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. BERENSTEIN. Mr. Speaker, this Member wishes to commend to his colleagues the July 4, 2001, editorial from the Omaha World-Herald. The editorial is particularly timely in light of exactly 225 years after America’s forefathers declared independence from England. At that time, no one could have envisioned how the ideals expressed in the Declaration of Independence would continue to attract immigrants from around the world.

Mr. Speaker, immigrants who legally traverse the U.S. immigration system should be highly lauded. Indeed, they have made incredible sacrifices to attain freedom and the chance to pursue their dreams. Therefore, it is incumbent upon this body to continue to support legal immigration and the efforts of immigrants to become U.S. citizens for only through citizenship can immigrants, who contribute so much to other aspects of American society, fully participate in our unique political process.

[From the Omaha World-Herald, July 4, 2001]

AMERICANS ALL

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights that among these are Life, Liberty, and the Pursuit of Happiness.—Declaration of Independence

As Midlanders celebrate the 225th anniversary of America’s decision to end its status as a collection of colonies, it is instructive and heartening to note that this region is in a real sense a showcase for the degree to which the Declaration remains a living document.

Nebraska and Iowa in particular are increasingly a focus not just of immigration but of immigrants who take the important and self-affirming step of becoming U.S. citizens. Those who are becoming themselves in the old, yet ever young, quest for life, liberty and the pursuit of happiness, which were often not available in their native lands.

The numbers are not yet huge, but the math involved is impressive. Naturalization is mostly of people who have lived in America, but also from Lithuania and Asia and points all over—have grown impressively in the last decade. Many come for jobs, often in this region’s meatpacking plants.

But it is noteworthy that increasingly they are coming here, rather than to more traditional venues like California, Texas and the East Coast. Many believe that economic prospects are brighter in this part of the country, and for the most part they find easy acceptance. Last year, 4,245 people became U.S. citizens in Iowa alone. That is more than triple the number that with the figure of 997 as recently as 1992—almost a fourfold increase. (This Friday, at least 230 new citizens will be sworn at Lexington, Neb.)

He has endeavored to prevent the Population of these States; for that Purpose obliterating the Laws for naturalization of Foreigners; refusing to pass others to encourage their Migrations hither. . . .

It is worth remembering that one of the complaints the authors of the Declaration fielded against England’s King George III was that his policies sharply restricted immigration. George correctly saw burgeoning population as a threat to his hold on the colonies. And while he could do nothing about population growth in America due to the natural margin of births over deaths, he could and did try to strangle further influx.

Today, although immigration and naturalization still present some roadblocks, the picture is much brighter. Among those who want to plant their futures here, for the most part they are better off than they were in their native lands. They then have more of a stake, more of a say. And, to their credit, the process requires work. It’s not like signing up for a supermarket discount card or acquiring a driver’s license.

The procedure usually takes about a year. There’s a standard $250 processing fee, and along the way there’s an FBI background check, an interview and a civics test. So it’s not easy, but at least it’s achievable and the process is regularized and fair. Completing it is, and ought to be, a source of pride.

Nor have we been wanting in Attentions to our British Brethren. . . . We have reminded them of the Circumstances of our Emigration and Settlement here.

As has been often noted, this is a nation of immigrants. In the Midlands, that immigration has to a great degree meant Germans and Irish, and in lesser numbers Poles, English, Scandinavians, Czechs and the descendants of freed slaves. Today, Latinos and, to a lesser degrees, those of Asian origin are changing the face of society here—figuratively and literally.

It is, we believe, incumbent on those who got here first to extend a welcome to those who are making their own trip and taking up citizenship as the 20th century fades into the 21st. For the most part, this is happening seamlessly. For the most part, this is happening because the fruits of assimilation are being assimilated and recognized for their strengths. To be candid, Iowa and Nebraska
would have difficulty sustaining population growth without them. The process feeds on itself. Newcomers who become citizens (or legal residents) are in turn entitled to serve as sponsors for relatives' applications. And so it goes. The faces change somewhat. The goals and dreams do not.

Nearly everyone who comes here and becomes a part of the American matrix is seeking essentially the same things the Founders were talking about 225 years ago. Americans are all in this together. They draw strength for new blood, new ideas. That's the indispensible past, and it is the inevitable future.

IN MEMORY OF STANLEY KRAMER

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 12, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor the memory of an exceptional film maker, Stanley Kramer.

During his lifetime, Stanley Kramer produced dozens of films. They included such classics as Guess Who’s Coming to Dinner, Judgment at Nuremberg and Inherit the Wind.

Stanley Earl Kramer was born and raised in New York City’s Hell’s Kitchen neighborhood, where he later attended New York University. Before he left for the military service in World War II, he established himself in the movie industry as a researcher, editor and writer. His first film, So This Is New York, was released in 1948.

Working in the 1950s and 60s, Kramer stood for things in which he believed and intertwined them into his works. For example, he highlighted issues such as race in Guess Who’s Coming to Dinner and The Defiant Ones, Nazi war crimes in Judgment at Nuremberg, fundamentalism vs. modern science in Inherit the Wind and nuclear holocaust in On the Beach. He also depicted his courageous demeanor in his films, not even realizing it, by creating characters who fought against fear while others stayed behind.

Even though Kramer was known as a “message director”, his friends and beloved ones knew him as much more. Steven Spielberg once said that Kramer was one of the greatest film makers due to the impact he made on the ethical world, and not solely based on the art and passion he conveyed on screen.

Eighty of his films were nominated for Oscars, 16 of them which won and six were nominated for Best Picture. Three of his finest films made the American Film Institute’s list of 100 Best Movies of All Time. Kramer himself was nominated as Best Director three times, and in 1962, he was presented the prestigious Irving B. Thalberg Memorial Award for Outstanding Work. He also received the Producers Guild of America’s David O. Selznick Life Achievement Award.

My fellow colleagues, please join me in honoring the memory of Stanley Kramer for all of his achievements in the movie industry. His love and dedication in portraying significant films has touched the hearts of all.

EXTENSIONS OF REMARKS

DISTRIBUTED POWER HYBRID ENERGY ACT

HON. MARK UDALL
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 12, 2001

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing the Distributed Power Hybrid Energy Act. This bill would direct the Secretary of Energy to develop and implement a strategy for research, development, demonstration, and commercial application of distributed power hybrid energy systems.

Distributed power is modular electric generation or storage located close to the point of use, well suited for the use of renewable energy technologies such as wind turbines and photovoltaics, and also of clean, efficient, fossil-fuel technologies such as gas turbines and fuel cells.

Distributed power avoids the need for and cost of additional transmission lines and pipelines, reduces associated delivery losses, and increases energy efficiency. In addition, distributed power can provide insurance against energy disruptions and expand the available energy service choices for consumers.

By their very nature, renewable resources are distributed. Our ability to cost-effectively take advantage of our renewable, indigenous resources can be greatly advanced through systems that minimize the intermittency of these resources. Distributed power hybrid systems can help accomplish this.

“Hybridizing” distributed power systems—combining two renewable sources or a renewable and a fossil source—enables us to offset the weaknesses of one technology with the strengths of another. For example, in a hybrid system, the intermittency of wind power can be offset by the reliability and affordability of power generated by a microturbine.

My bill would direct the Secretary of Energy to develop a distributed power hybrid systems strategy identifying the Distributed Power Hybrid Systems that can help accomplish this.

IN RECOGNITION OF DR. JESUS CARREON

HON. GRACE F. NAPOLITANO
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 12, 2001

Mrs. NAPOLITANO. Mr. Speaker, I rise today to recognize Dr. Jesus Carreon for his unfailing leadership and his dedication to the Southern California community. Dr. Jesus “Jess” Carreon, current President of Rio Hondo College, will be leaving the district to assume a new position as President of Portland Community College in Portland, Oregon.

Dr. Carreon has been an active contributor to the Southern California community over quite some time. After spending his childhood in the San Diego area, he pursued his Bachelor’s Degree from the University of San Diego. He later earned his Master’s of Science Degree from the University of California, Irvine, and his Doctorate in Education from the University of Southern California.

After completing his own education, Dr. Carreon immediately became a teacher. Since then, he has been involved in the educational process at nearly every level. He served as Assistant Dean of Instruction at Laney College in Oakland and as Assistant Dean of Vocational Education at San Bernardino Valley College. Dr. Carreon later served as Vice President of Instruction at El Centro Community College and, most recently, as President of Ventura College.

Jess has made immense strides during his tenure as President of Rio Hondo Community College. In addition to greatly improving the school’s image, Dr. Carreon has worked tirelessly to increase Rio Hondo’s involvement in the community. Under his leadership, members of the school’s management team were awarded seats on Chambers of Commerce in each of Rio Hondo’s sending districts. In addition, Dr. Carreon pioneered the creation of the school’s first satellite campuses in the towns of El Monte and Santa Fe Springs.

Still, Dr. Carreon’s involvement reaches far beyond the classroom. When not teaching, he serves on local community boards and acts as an advocate for economic development. He sits on the Board of Directors for both the American Association of Community Colleges and the Presbyterian Intercommunity Hospital. Dr. Carreon is an active member of Whittier and San Gabriel economic councils and, in 1999, was named President of the National Community College Hispanic Council.

Dr. Carreon’s expansive knowledge and considerable expertise have made him a popular speaker at the regional, state and national levels. He lectures frequently on a host of topics, including economic development, workforce preparation, and leadership.

Dr. Carreon has devoted his life to improving education throughout Southern California and the 34th Congressional District. He is a model citizen, active throughout the community. I want to personally congratulate Jess for all his contributions and wish him success in his new position.

IN STRONG SUPPORT OF THE FISCAL YEAR 2002 AGRICULTURE APPROPRIATIONS LEGISLATION

HON. KEN BENTSEN
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 12, 2001

Mr. BENTSEN. Mr. Speaker, I rise to express my strong support for the Fiscal Year
September 30, 2002, and for other purposes.

The House in Committee of the Whole

Mr. UDALL of Colorado, Mr. Chairman, I rise in support of the Gilchrest/Olver amendment. The amendment would strike the language that was inserted in the bill to ensure that the Kyoto Protocol is not implemented prior to its ratification in the Senate.

This language has been added over the past several years ago to numerous appropriations bills. As I understand it, the reason that some were concerned that President Clinton was moving too fast to address global warming.

In conclusion, I urge my colleagues to support this legislation which provides necessary funding for agriculture and nutrition research programs.

Mr. HALL of Ohio. Mr. Speaker, I rise to commend Ben Affleck, who came to town yesterday to host a fund-raiser on behalf of the A-T Children's Project. A-T (Ataxia-Telangiectasia) is a genetic disease that attacks children. How Ben became involved is noteworthy.

Ben met Joe Kindregan, then 10, three years ago while Ben was filming a segment of his hit film, Forces of Nature, at Dulles Airport. Joe had just started using his power wheelchair and was given the opportunity to meet Ben on the set during filming. Ben and Joe immediately hit it off and their friendship has grown since then. Ben and Joe meet occasionally and keep in touch by e-mail. Recently, Ben invited Joe and his family to the premiere of his new movie Pearl Harbor, at Honolulu. Over the last few years, Ben has been able to witness first-hand the toll A-T has taken on Joe, and Joe's increasing dependence on his family, just to get through the day. Ben's devotion to Joe—and the Kindregan family's work with the A-T Children's Project and families—has made a tremendous difference in their lives and has given them additional hope that, with the help of people like Ben, a cure is possible.

Ben is a gifted young actor, popular, and hailing from right across the board. He's was a child star in his hit film, Forces of Nature, at Dulles Airport. Joe had just started using his power wheelchair and was given the opportunity to meet Ben on the set during filming. Ben and Joe immediately hit it off and their friendship has grown since then. Ben and Joe meet occasionally and keep in touch by e-mail. Recently, Ben invited Joe and his family to the premiere of his new movie Pearl Harbor, at Honolulu. Over the last few years, Ben has been able to witness first-hand the toll A-T has taken on Joe, and Joe's increasing dependence on his family, just to get through the day. Ben's devotion to Joe—and the Kindregan family's work with the A-T Children's Project and families—has made a tremendous difference in their lives and has given them additional hope that, with the help of people like Ben, a cure is possible.

Ben has taken the time to learn about the disease and the various research projects that are focusing on finding a cure. He appeared before the Senate yesterday as a companionate and informed witness to talk about this dreadful disease, and the remarkable progress this small foundation has made in so short a period of time in its search for a cure. He requested that Congress provide increased funding to NIH for A-T research. He also joined many Members of Congress and friends last night to do push-ups and shoot hoops at an event to raise money and awareness about A-T.

I believe that Ben Affleck is an exceptional person. In his work with A-T, he has demonstrated a deep compassion and interest in his fellow man, which is particularly notable when coming from someone in the midst of achieving enormous fame and fortune. Ben has been a true hero to the A-T kids, and I extend my personal thanks to him.

Mr. KUCINICH of Ohio. Mr. Speaker, I rise today to recognize Mr. Carroll O'Connor, a truly remarkable man, who has influenced the lives of many people throughout his acting career, most notably known for his character of Archie Bunker in "All in the Family." Mr. O'Connor was very enthusiastic about "All in the Family" which began in 1971 and lasted eight seasons. Mr. O'Connor portrayed a cranky, ignorant, and even caustic man whose wholesomeness and honesty won over the sympathy of audiences. He stated about the show, "Right from the start I knew I had the idea of this show. It was frank and refreshing, a lot more true to life than anything on the air. Everybody was talking about creating shows that were relevant, but nobody wanted to touch the real thing."

As the television show grew, Mr. O'Connor's popularity soared to unbelievable heights. He was not just the character that he was famous for, but he was a lovable man who truly cared for all. The show's other cast members spoke of the cast as a family. After the death of his son he spent a significant amount of his time working against drug abuse. Mr. O'Connor was dedicated to the cause and traveled the country promoting laws in the state legislatures that would allow victims of drug abuse to sue drug dealers for monetary damages.

Let us honor the memory of Carroll O'Connor for his remarkable contributions to the people through his life of service, most notably playing the role of "Archie Bunker."
It's important to note that the Inspector General of the EPA, the Department of Energy, and the Department of State all agreed that the Clinton Administration was not trying to prematurely implement the Kyoto Protocol.

But that's all beside the point now.

We have a new President who has made it clear that he intends to do nothing about global warming, except study it. He has pronounced the Kyoto Protocol fundamentally flawed and "dead," and he has reversed his campaign promise to regulate carbon dioxide.

As it stands, this bill seems to say we still need to restrain any federal efforts to address global warming. But if there is ever a time NOT to send cautionary messages about acting too fast to address global warming, it's now. The danger we face today is in fact far too slowly.

Last year, efforts on the floor to amend the Kyoto language were successful. I urge my colleagues to send the same good message that we sent last year—this anti-Kyoto language wasn't necessary in past years, and it's not necessary now. There is now a scientific consensus that global warming is real, and it is time for Congress to confront it.

IN RECOGNITION OF MR. HOWARD L. HOGAN

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mrs. NAPOLITANO. Mr. Speaker, I rise today to pay tribute to an extraordinary man, Mr. Howard L. Hogan, who is retiring after 36 years of dedicated service to the El Rancho Unified School District.

A native of California's 34th Congressional District, Mr. Hogan was born and raised in the town of Whittier. After graduating from Whittier High School in 1958, Howard attended California State University at Long Beach, where he received his Bachelor of the Arts Degree in 1962.

Upon completing his undergraduate education, Mr. Hogan immediately began his teaching career. He taught one year with the Santa Ana School District before serving his country in the United States Army. After his service, Howard rejoined the workforce as a teacher with the El Rancho Unified School District in 1965.

Since that day, over 36 years ago, Mr. Hogan has involved himself in all levels of the educational process. He has been a teacher of the industrial arts, a high school dean, a high school counselor, and an assistant principal. In 1986, he became Principal of the El Rancho Adult School, a position he has held ever since. In the last 15 years, he has brought significant change to the District, working constantly to elicit excellence from students.

Throughout the years, Howard has been a fervent advocate of adult study, emphasizing the importance of life-long education. As Principal of the El Rancho Adult School, he supported and directed the creation of a new site for the program. This school, designed to serve the needs of Southern California's adult community, is something that Mr. Hogan and the entire neighborhood take great pride in. After 36 years of unwavering service, Howard's retirement is greatly deserved. He plans to devote his retirement to personal business matters, volunteer activities, and, most importantly, his wife, Jo Anne.

Howard Hogan is an ideal citizen who has shown enthusiasm and commitment to the students of El Rancho Unified School District. In his 36 years as a teacher, he has made limited contributions to both faculty and students alike. I know my colleagues will join me in congratulating Howard for all his accomplishments and wishing him the best of luck in his retirement.

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Ms. SOLIS. Mr. Speaker, I rise today to recognize Ysabel "Mac" Arredondo Ortiz, who proudly served his country in Korea. Although he was listed as Missing In Action on Dec. 2, 1950, his family never gave up hope that he would return home. In January of 1954 his Concha, received notice that Corporal Ysabel A. Ortiz had been awarded the Purple Heart Award posthumously for making the supreme sacrifice for his country.

Cpl. Ysabel was born and raised in the 31st Congressional District city of El Monte, California. He was a third generation El Montean. His grandfather, Longino Ortiz, came to America in 1915 to look for a better life for his family and escape the troubles of the Mexican Revolution. He arrived in El Monte and sent for the rest of the family from Leon, Guanajuato, Mexico.

Cpl. Ysabel A. Ortiz, or Mac as his friends and family knew him, attended school in El Monte at a time when Mexican-American children were segregated from white school children. Mac attended school up to grade 5 at Lexington School and then Columbia school from grade 6 through 8. He attended El Monte High School and then enlisted in the U.S. Army at age 18.

Mac's service to his country has not gone unrecognized. His name appears on a bronze plaque honoring our nation's war dead at the El Monte Historical Museum. Mac's photo also hangs in the La Historia Society Museum/ Museo de Los Barrios Veterans Exhibit, which is also in El Monte. To this day, Cpl. Ysabel "Mac" A. Ortiz's Purple Heart is proudly displayed by his sister Chata.

Mac Ortiz was survived by his mother, Concha Ortiz (now deceased); his father, Ysabel M. Ortiz, Sr. of West Covina, CA; his brothers Harold Ortiz (now deceased) and Jose Lucio Ortiz, of Oklahoma; his sisters Esmeralda "Chata" Ortiz Ureno of Covina and Jennie Sanchez of Whittier; his step-brothers Manuel Ortiz of El Monte and Rudy Ortiz of Bakersfield; and his step-sisters Rose Soto of West Covina and Ana Sanchez of Arcadia.

Mac Ortiz's loving memory lives in the hearts of Chata and the entire Ortiz family. I ask my colleagues to join me in recognizing Mac Ortiz's contributions to our great nation.

THE KIDNAPPING OF THREE ISRAELI SOLDIERS

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KIRK. Mr. Speaker, on October 7th of last year Hezbollah terrorists crossed the Israel-Lebanon border and perpetrated the cowardly kidnapping of three Israeli soldiers. In the last nine months Hezbollah has repeatedly refused to provide any information on the fate of these young men, leaving their families and friends in a state of torturous limbo.

Last week it was revealed that the United Nations is in possession of a video tape that was made of the scene of this crime the day it occurred. The Israeli government investigators believe that this tape may contain material evidence that will help them identify the terrorists who committed this act.

U.N. peacekeepers should be expected to keep the peace. This includes assisting in the apprehension of those who violate international borders to commit war crimes.

I have introduced a House Resolution that calls for the United Nations to immediately provide Israeli investigators with an unedited copy of the crime scene video tape and any other material evidence that would help bring these terrorists to justice and to end this nightmare for the families of Adi Avitan, Binyamin Avraham, and Omar Souad.

I urge my colleagues to join me to show our strong support for the rule of law, for the sovereignty of our ally Israel, and for these men held in captivity by terrorists.

RECOGNIZING MR. PAUL MARKLOFF

HON. JAMES C. GREENWOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. GREENWOOD. Mr. Speaker, I rise today to recognize Mr. Paul Markloff, whose honesty and character have made him a hero to an elderly woman in the wake of Hurricane Allison. Mr. Markloff is a nineteen-year employee of Nationwide Insurance and a resident of Sellersville, Pennsylvania. On June 19 he was assigned to the case of a woman whose apartment had been flooded and then burned when the water caused a natural gas explosion in the building. She had no family to help her recover from the damage. Her apartment was devastated by the fire and she told Mr. Markloff that she had lost everything. She mentioned that she had $8,000 in cash inside her apartment. When Mr. Markloff and a maintenance worker went in and searched the charred furniture, they found a total of $420,000 cash in a dresser. Despite the fact that the woman had not mentioned this much money—she said, in fact, that she didn't even know she had that much—Mr. Markloff gathered the money together and drove her immediately to her bank. He made sure that all the money—
cash was carefully deposited in a special account and then took her to dinner and found her a room to rent for the night.

Mr. Markloff’s actions in assisting this woman in a time of crisis would have been commendable even had they not also included such an impressive display of honesty. Had he only helped her find housing, he would have earned our praise. By returning her savings, about which she herself was unaware, he has shown himself to be a man of high moral and ethical standards. It is always inspiring to know that there are people like Mr. Markloff, who are generous enough to do the right thing without thought of personal gain. Mr. Markloff told a local newspaper that he didn’t expect any reward for his actions because he was “just doing his Job.” Perhaps he was not rewarded monetarily, but he certainly deserves our recognition and thanks. His actions remind us how much good is in all of us and I am honored to pay tribute to him today.

IN HONOR OF ST. JOHN WEST SHORE HOSPITAL

HON. DENNIS J. KUCINICH
OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor St. John West Shore Hospital in commemoration of its 20th anniversary. Since its establishment in 1981, the hospital has been faithfully serving the needs of western Cuyahoga and eastern Lorain county residents.

Since its induction as a fledgling medical facility on March 1, 1981, St. John West Shore Hospital has subsequently expanded and broadened its services, making it a bastion of service and charity for the Westlake community. The hospital’s initial years were filled with uncertainty, but its current success renders the institution an emblem of triumph and progress for us all to admire. The Westlake community welcomed and supported the hospital since its induction as a medical facility, forging the reciprocal relationship that has been so integral to the hospital’s survival and growth. A testament to this mutual support and rapport was the monumental opening of Medical Buildings 2 and 3.

In 1989, the Sisters of Charity of St. Augustine became the sole sponsors of the hospital, setting the framework for the hospital’s establishment as an institution dedicated to the well-being of the community. However, the hospital does not qualify it services to solely the physical needs of the Westlake residents, but also nurtures their spiritual needs as witnessed by its induction of the annual Festival of the Arts in 1992. In line with its commitment to serving the public, the facility pays arduous attention to the needs of each individual. To expedite the fulfillment of each patient’s particular and unique needs, the hospital became part of a not-for-profit juncture in 1999, under the auspices of University Hospitals Health System and the Sisters of Charity of St. Augustine Health System. This joint effort further compounded the hospitals’ steadfast dedication and mission as a health care advocate at the service of its people.

I laud St. John West Shore Hospital on its 20th anniversary in sincere awe and reverence for its magnanimous and unrelenting efforts in the service of the residents of Westlake.

HONORING ROBERT F. PAULTHORPE

HON. DALE E. KILDEE
OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. KILDEE. Mr. Speaker, it is a great honor to rise before you today to recognize the accomplishments of Chief Navy Journalist Robert F. Paulthorpe, who will be retiring September 28, after 20 years of loyal service to our country.

Born in Swartz Creek, Michigan in 1963, Robert Paulthorpe graduated from Swartz Creek High School, where he served as editor of the student newspaper, after founding a community newspaper at the age of 15. He joined the United States Navy in August 1981, and after graduation from basic training, reported to Naval Technical Training Center in Meridian, MS, where he graduated in the top 10 percent of his class, qualifying him for accelerated advancement to Petty Officer-Third Class. After a stint on the USS Saratoga, Chief Paulthorpe attended the Defense Information School at Fort Benjamin Harrison, and returned to the Saratoga as Petty Officer—Second Class. During this time, Chief Paulthorpe coordinated international media response to the American bombing of Libya after the Achille Lauro ocean liner hijacking.

Chief Paulthorpe went on to serve as Public Affairs Officer and Department Head for the Navy second largest recruiting district in Chicago. His success there resulted in two nominations as Sailor of the Year and three selections as Support Person of the Quarter. While in Chicago, Chief Paulthorpe reenrolled in the Defense Information School, where he became Commanding Officer of his class, and he was advanced to Journalist-First Class.

After completing a tour on the USS Forrestal, Chief Paulthorpe next assignment was as Assistant Public Affairs Officer and Assistant Department Head of the Navy’s Blue Angels. He oversaw the public affairs mission requirements for over 120 air shows and many other special projects during the team’s 50th Anniversary. He was nominated as Blue Angel of the Year, and selected as Blue Angel of the Quarter for his efforts.

In October 1996, Chief Paulthorpe reported to his current post, Strategic Communications Wing One as Assistant Public Affairs Officer and Administrative Department Leading Chief Petty Officer. In May 1999, he coordinated national media response in the wake of one of Oklahoma’s most powerful and destructive tornadoes.

Chief Paulthorpe has been recognized many times for his service. He has received three Navy Commendation Medals, three Navy Achievement Medals, and four Good Conduct Medals, among many other awards. In addition, he has always strived to be an important figure in his community. He has been an active member of the Boy Scouts, the Sea Cadet Corps, was editor of Chicago’s American Red Cross newspaper, was adviser and newspaper editor for the Oklahoma State Chapter to Prevent Child Abuse.

Mr. Speaker, as the father of two sons who have served in our nation’s military, I know very well that it takes a special person to serve our country in the service of the military. The City of Fayetteville is indeed privileged to honor Mr. Paulthorpe’s dedication and commitment to justice, and I ask my colleagues to please join me in congratulating him on his retirement.

TRIBUTE TO THE CITY OF FAYETTEVILLE

HON. MIKE McINTYRE
OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. McIntyre. Mr. Speaker, it is with great pleasure that I rise today to congratulate the City of Fayetteville on its recent selection as an All-America City for 2001. This is quite an honor, and indeed one that is well-deserved.

In particular, I would like to pay special tribute to those individuals who served on the Fayetteville All-America City Award Committee for their tremendous efforts to bring due recognition to this fine city located in the Seventh Congressional District of North Carolina.

Under this committee’s exemplary leadership, Fayetteville has been recognized as a model for all cities across the nation to emulate. By encouraging community-wide involvement to help address and solve local issues, the residents of Fayetteville have shown that they truly have what it takes to be All-America citizens.

They are to be commended for their efforts to implement three innovative programs known as Operation Inasmuch, MetroVisions, and Study Circles. By fostering an atmosphere of commitment, cooperation, and community, these programs have served to make Fayetteville an even better place to call home.

The City of Fayetteville is also privileged to have such dedicated citizens working tirelessly to promote all that this community has to offer. With hard work and dedication, the residents of Fayetteville have what it takes to make a real difference. I am confident that whatever challenges Fayetteville may face—now or in the future—the citizens of this fine city will overcome them and go forward with inspiration, imagination, and innovation.

My fellow colleagues, please join me in saluting Fayetteville for this distinguished honor of being named an All-America City for 2001.

TRIBUTE TO HEINZ PRECHTER

HON. SANDER M. LEVIN
 OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. LEVIN. Mr. Speaker, I rise to pay tribute to a remarkable citizen of Michigan, of our nation, indeed of the world, Heinz Prechter.

Like so many, many others, I was deeply saddened and shocked at his death on July 6.
1 did not know Heinz Prechter well enough to know about his inner self. I did not know that he had been fighting the illness of depression for many years. I did know him well enough to have seen firsthand his immense vitality, his grit, his supreme intelligence and his unique curiosity.

It was only a few weeks ago that he dropped by the office in D.C. for a chat. He was very tanned, I thought perhaps from playing golf with one or more of the endless luminaries with whom his life was intertwined. But our discussion was very down to earth, which was the hallmark of Heinz Prechter.

The day before he had been elected the new Chairman of the U.S. Automotive Parts Advisory Committee. He had agreed to take this post, even though he knew that he had already crowded his schedule with a wide variety of other endeavors such as the Global Automotive Institute, work on the board of the Henry Ford Museum and Greenfield Village, various projects in the Downriver communities, all in addition, of course, to his day to day business dealings. With enthusiasm he discussed how he intended to pick up the pace on efforts to win for American businesses and workers more equal access to the markets of other nations. On this subject, as was true for so many others in his life, there was no barrier because he was an active Republican talking with a Democratic member of Congress. For him, life was a web of different pursuits with changing alliances. He felt that he had the best chance to get things moving again, using his impeccable credentials in the automotive world and his relationships within the political party to which he was dedicated.

When he was leaving, we put our arms around each other's shoulders; the last thought in my mind at the time was that I would never see again that ball of fire, that bundle of energy.

His life is an example for all—his dedication to human endeavors and relationships.

May his death serve not only for us to remember him well, as he so richly deserves, but also to tackle with the kind of energy he possessed the illness, depression, that cost him his life and cost us an invaluable citizen and friend. My condolences reach out to the entire Prechter family.

EXTENSIONS OF REMARKS

HONORING DR. OLIVE JACK FOR HER EXTRAORDINARY SERVICE TO THE NAPA COMMUNITY

HON. MIKE THOMPSON
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 2001

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Dr. Olive Jack's tremendous commitment to the health and well being of the citizens of the Napa community.

Dr. Jack has served admirably in many health care roles and has been a tremendous success in every one.

We can all look to Dr. Jack as a true role model for serving the public selflessly and tirelessly. Currently, Dr. Jack is serving on the Napa County Commission on Aging, the Napa-Solano Area Agency on Aging, and is membership chair of the Napa Association of Retarded Citizens Board. She is also a member of the Board and Executive Committee of ALDEA, an agency that operates residential treatment programs for disturbed teenagers.

Dr. Jack began her long career in public service in the Napa area when she started as the School Physician for Napa County Superintendent of Schools and as a consultant to Napa County Health Department, in charge of Child Health Conferences. Following her success working with the school district, Dr. Jack served five years as Director of Health Services for the County of Napa.

Previous to her career in public service, Dr. Jack served her internship and residency at the Children's Hospital in San Francisco. Following this, she practiced pediatric medicine privately in Napa as a Licentiate of the American Board of Pediatrics.

The California Medical Association, the Napa County Medical Society, and the Northern California chapter of Academy of Pediatrics are all privileged to have Dr. Jack a professional member. She holds a Bachelor of Science degree from University of Nebraska, Lincoln, a Master of Public Health from University of California, Berkeley, and has her M.D. from Temple University School of Medicine.

Mr. Speaker, it is a pleasure to honor Dr. Olive Jack on the occasion of the Napa-Solano Area Agency on Aging's tribute to her outstanding career of public service. Please join me in recognizing Dr. Jack's unparalleled work towards improving the health care of the citizens of Napa.
The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. Miller of Florida).

DESIGNATION OF THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore laid before the House the following communication from the Speaker:
WASHINGTON, DC.
I hereby appoint the Honorable Dan Miller to act as Speaker pro tempore on this day.
J. Dennis Hastert,
Speaker of the House of Representatives.

PRAYER
The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Praise the Lord, as servants of the Lord, let us praise the name of the Lord together.
From the rising of the Sun in the east to its setting in the west may praise of the Lord be heard from coast to coast. Our God, who is above all the nations of the Earth does not overlook the most lowly or the most unfortunate in this world.
The Lord’s greatness does not distance the Lord from His people. Our God is to be found always in their midst.
None is like the Lord in love and concern. That is why the Lord is the model and the guide of the Members of this House and all public servants everywhere.
The Lord lifts up the weak to confront the proud-hearted and raises the poor to equal status with the powerful.
The Lord is mindful always that parents are the most powerful on Earth over their children, yet all are one in His sight.
For all the great deeds of mercy, let us praise the name of the Lord now and forever. Amen.

THE JOURNAL
The SPEAKER pro tempore. The Chair has examined the Journal of the House for the day.

PLEDGE OF ALLEGIANCE
The SPEAKER pro tempore led the Pledge of Allegiance as follows:
I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE
A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:
H.R. 2217. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.
The message also announced that the Senate insists upon its amendment to the bill (H.R. 2217) “An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes” requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Byrd, Mr. Leahy, Mr. Hollings, Mr. Reid, Mr. Dorgan, Mrs. Feinstein, Mrs. Murray, Mr. Inouye, Mr. Burns, Mr. Stevens, Mr. Cochran, Mr. Domenici, Mr. Bennett, Mr. Gregg, and Mr. Campbell to be the conferees on the part of the Senate.

ANNOUNCEMENT OF OFFICIAL OBJECTORS FOR THE PRIVATE CALENDAR FOR THE 107TH CONGRESS
The SPEAKER pro tempore. On behalf of the majority and minority leadership, the Chair announces that the official objectors for the Private Calendar for the 107th Congress are as follows:
For the majority:
Mr. Coble, North Carolina;
Mr. Barr, Georgia;
Mr. Chabot, Ohio.
For the minority:
Mr. Boucher, Virginia;
Ms. DeLauro, Connecticut.

RECESS
The SPEAKER pro tempore. Pursuant to clause 12, rule I, the House will stand in recess subject to the call of the Chair.
Accordingly (at 2 o’clock and 5 minutes p.m.) the House stood in recess subject to the call of the Chair.

□ 1906

AFTER RECESS
The recess having expired, the House was called to order by the Speaker pro tempore (Mr. Goss) at 7 o’clock and 6 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2500, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002
Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107-141) on the resolution (H. Res. 192) providing for consideration of the bill (H.R. 2500) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, which was referred to the House Calendar and ordered to be printed.

ADJOURNMENT
Mr. LINDER, Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 7 o’clock and 7 minutes p.m.), under its previous order, the House adjourned until tomorrow, July 17, 2001, at 9 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.
Under clause 8 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:
2894. A letter from the Deputy Secretary of Defense, Department of Defense, transmitting the Department’s Assessment of Fiscal Year 1998 Sexual Harassment Complaints and Sexual Misconduct; to the Committee on Armed Services.
2895. A letter from the Chief, Division of General and International Law, Department of Transportation, transmitting the Department’s final rule—Service Obligation Reporting Requirements for United States Merchant Marine Academy and State Maritime School Graduates [Docket No. MARAD-2000-xxxx] received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.
2896. A communication from the President of the United States, transmitting a report on United States military personnel and United States civilians retained as contractors in Colombia in support of Plan Colombia; to the Committee on Armed Services.
2897. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the annual report of the Office of Juvenile Justice and Delinquency Prevention for Fiscal Year 2000, pursuant to 42 U.S.C. 5617; to the Committee on Education and the Workforce.
2898. A letter from the Principal Deputy Associate Administrator, Environmental

This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
Protection Agency, transmitting the Agen-
cy’s final rule—Approval and Promul-
gation of Implementation Plans; Texas; Houston/ Galveston Volatile Organic Compound Rea-

2901. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen-
cy’s final rule—Approval and Promul-
gation of Implementation Plans; Texas; Houston/ Galveston Volatile Organic Compound Rea-

2902. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen-
cy’s final rule—Approval and Promul-
gation of Implementation Plans; Texas; Houston/ Galveston Volatile Organic Compound Rea-

2903. A letter from the Clerk, United States Court of Appeals, transmitting an opinion of the court; to the Committee on Energy and Commerce.

2904. A communication from the President of the United States, transmitting notification that the national emergency declared with respect to the Taliban in Afghanistan that was declared in Executive Order 13129 of July 4, 1999, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 107–99); to the Committee on International Relations and ordered to be printed.

2905. A communication from the President of the United States, transmitting a 6-month periodic report on the national emergency with respect to the Taliban in Afghanistan that was declared in Executive Order 13129 of July 4, 1999, pursuant to 50 U.S.C. 1708(c); (H. Doc. No. 107–100); to the Committee on International Relations and ordered to be printed.

2906. A communication from the President of the United States, transmitting a 6-month periodic report on the national emergency with respect to Libya that was declared in Executive Order 12543 of January 7, 1986, pursuant to 50 U.S.C. 1641(c); (H. Doc. No. 107–101); to the Committee on International Relations and ordered to be printed.

2907. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitt-
ing the Department of the Navy’s pro-
posed lease of defense articles to Turkey (Transmittal No. 07–01), pursuant to 22 U.S.C. 2795(a); to the Committee on International Relations and ordered to be printed.

2908. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army’s Proposed Letter(s) of Offer and Acceptance (LOA) to Singapore for defense articles and services (Transmittal No. 01–21), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2909. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army’s Proposed Letter(s) of Offer and Acceptance (LOA) to Turkey for defense articles and services (Transmittal No. 01–13), pursuant to 22 U.S.C. 2776(b); to the Commit-
tee on International Relations.

2910. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Technical Assistance Agreement with France [Transmittal No. DTC 071–01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.


2914. A letter from the Auditor, District of Columbia, transmitting a report entitled, “Comparative Analysis of Actual Cash Col-
lections to Revenue Estimates for the 2nd Quarter of Fiscal Year 2001”; to the Com-
mittee on Government Reform.

2915. A letter from the Director, National Personnel Policy, Department of the Inte-
rior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2916. A letter from the Clerk, United States Court of Appeals, transmitting an opinion of the court; to the Committee on Resources.

2917. A letter from the Director, National Legislative Commission, The American Le-

gion, transmitting a copy of the Legion’s fi-
nancial statements as of December 31, 2000, pursuant to 36 U.S.C. 1101(d) and 1102; to the Committee on the Judiciary.

2918. A letter from the Secretary, Depart-
ment of Transportation, transmitting the Department’s annual report entitled, “Re-
port to Congress on Transportation Security” for Calendar Year 1999, pursuant to Public Law 105–164, section 162(a) (104 Stat. 3068); to the Committee on Transportation and Infrastructure.

2919. A letter from the Program Analyst, FAA, Department of Transportation, trans-
mitting the Department’s final rule—Air-

2920. A letter from the Program Analyst, FAA, Department of Transportation, trans-
mitting the Department’s final rule—Air-

2921. A letter from the Program Analyst, FAA, Department of Transportation, trans-
mitting the Department’s final rule—Air-

2922. A letter from the Program Analyst, FAA, Department of Transportation, trans-
mitting the Department’s final rule—Air-

2923. A communication from the President of the United States, transmitting an up-
dated report concerning a waiver of Jackson-Vanik Amendment for the Republic of Belarus, pur-


tant to 19 U.S.C. 2432(c) and (d); (H. Doc. No. 107–97); to the Committee on Ways and Means and ordered to be printed.

2924. A communication from the President of the United States, transmitting an up-
dated report concerning the emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Feder-
ation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan, pursuant to 19 U.S.C. 2432(b); (H. Doc. No. 107–96); to the Committee on Ways and Means and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on July 12, 2001 the following report was filed on July 11, 2001]

Mr. WOLF: Committee on Appropriations. H.R. 2500. A bill making appropriations for the Departments of Commerce, Justice, and the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–139). Referred to the Committee of the Whole House on the State of the Union.

[Submitted July 16, 2001]

Mr. THOMAS: Committee on Ways and Means. H.R. 594. A bill to extend the authorities of the Iran and Libya Sanctions Act of 1996 until 2006; with amendments (Rept. 107–107 Pt. 2). Referred to the Com-
mittee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on Ways and Means. H.R. 7. A bill to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness of government program delivery to individuals and families in need, and to enhance the ability of low-income Ameri-
cans to gain financial security by building assets; with an amendment (Rept. 107–107 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.
CONGRESSIONAL RECORD—HOUSE

Mr. HANSEN: Committee on Resources. H.R. 617. A bill to express the policy of the United States regarding the United States’ relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the reorganization by the United States of the Native Hawaiian government, and for other purposes; with an amendment (Rept. 107–140). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDEE: Committee on Rules. House Resolution 192. Resolution providing for considering the bill (H.R. 2500) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes (Rept. 107–141). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the Committees on Financial Services and Government Reform discharged from further consideration H.R. 2504 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. SKELETON (for himself, Mr. BRADY of Pennsylvania, Mr. McINTYRE, Mr. UNDERWOOD, Mr. LANGEVIN, Mr. ANDREWS, Mr. TAYLOR of Mississippi, Mr. ORTIZ, Mr. SULLIVAN, Mrs. TAUSCHER, Mr. SMITH of Washington, Mr. ABERCROMBIE, and Mr. MALONEY of Connecticut): H.R. 2494. A bill to provide an additional 2.3 percent increase in the rates of military basic pay for members of the uniformed services above the pay increase proposed by the Department of Defense so as to ensure at least a minimum pay increase of 1.3 percent for each member; to the Committee of Armed Services.

By Mr. YOUNG of Alaska (for himself, Mr. OBREJESTAR, Mr. LaTOURETTE, and Mr. COSTELLO): H.R. 2501. A bill to reauthorize the Appalachian Regional Development Act of 1965; to the Committee on Transportation and Infrastructure.

By Mr. HORN (for himself, Mr. WATKINS, Mr. PETTERSON of Pennsylvania, Mr. WATTS of Oklahoma, Mr. DOUGLAS of California, Mr. INSLEE, Mr. DICKS, Mr. MCINNIS, and Mr. ENGLISH):

H.R. 2502. A bill to amend the Internal Revenue Code of 1986 to exempt from any limitation on business interest expense, in complying with Environmental Protection Agency sulfur regulations; to the Committee on Ways and Means.

H.R. 2503. A bill to provide for nuclear disarmament and economic conversion in accordance with District of Columbia Initiative Memorandum 37 of 1962; to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROHRABACHER (for himself, Mr. HORN of California, Mr. MILLER of California, Mr. ORTIZ, and Mr. CONRAD)

H.R. 2504. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for investment in companies involved in space-based activities; to the Committee on Ways and Means.

By Mr. WELDON of Florida (for himself, Mr. McINTYRE, Mr. KINNELL, and Mr. KUCINICH):

H.R. 2505. A bill to amend title 18, United States Code, to prohibit human cloning; to the Committee on the Judiciary.

By Mr. AKIN (for himself, Mr. BLAGOJEVICH, Mr. DIAZ-BALART, Mr. GONZALEZ, Mr. KUCINICH, Mrs. LOWERY, Mrs. BARTLOW, Mr. NADLER, Ms. ROS-LEHTINEN, and Ms. ROYBAL-ALLARD):

H. Con. Res. 185. Concurrent resolution expressing deep regret for the refusal of the United States to provide political asylum to the Jewish refugees aboard the S.S. ST. LOUIS in May and June of 1939; to the Committee on the Judiciary.

By Ms. KAPTUR:

H. Con. Res. 186. Concurrent resolution expressing the sense of Congress regarding the establishment of a Parents Week to recognize and support parents who actively participate in the lives of their children in space-related activities; to the Committee on Ways and Means.

By Mr. STUPAK (for himself, Mr. WELDON of Pennsylvania, Mr. HOFFMAN-114, of Texas, Mr. CAPPS, Mrs. Mccarthy of New York, Mr. HOLDEN, Mr. DOYLE, Mr. STRICKLAND, Mr. ETHERIDGE, Mr. McNULTY, Mr. WELDON of Florida, Mr. THOMAS of Texas, Mr. KING, Mr. WAMP, Mr. WYNN, Mr. LARGENT, Mr. MALONEY of Connecticut, Mr. CAPUANO, Mr. FROST, Ms. KAPTUR, Mr. PASCHELL, Mr. LUSSERT, Mr. GREENWOOD, Mr. DELAHUNT, Mr. SMITH of Washington, Mr. CROWLEY, Mr. FARRE of California, Mr. McINTYRE, Mr. HOYER, Mr. RAMSTAD, Mr. QUINN, Mrs. NAPOLEITANO, Mr. BRADY of Pennsylvania, Mr. ANDREWS, Mrs. TASCHER, Ms. HECK, Mr. BROWN of Ohio, Mr. SUNUNU, Mr. KANJORSKI, Mr. DRUTSCH, Mr. BARRETT, Mr. BALDACCI, Mr. PETRU, Mr. FILNER, Mr. BOBILITZ, Ms. ESCH, Mr. HORN, Mr. OWENS, Mr. BONIOK, Mr. OXLEY, Mr. COSTELLO, Ms. SOLIS, Mr. GONZALEZ, Mr. LANTOS, Mr. TERRY, Mr. RODRIGUEZ, Mr. CARSON of Indiana, and Ms. ROYAL-ALLARD):

H. Res. 191. A resolution requesting that the President focus appropriate attention on the issues of neighborhood crime prevention, community policing, and reduction of school crime by delivering speeches, convening meetings, and directing his Administration to make neighborhood an important priority, and for other purposes; to the Committee on the Judiciary.

By Mr. WYNN (for himself, Ms. JACKSON of Texas, Mrs. SULLIVAN of Georgia, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TOWNS, Mr. CAPUANO, Mr. CLAY, Ms. WATERS, Mr. THOMPSON of Mississippi, Mr. MEeks of New York, Mr. MckINNEY, Mr. FILNER, and Mr. KUCINICH):

H. Res. 194. A resolution concerning the establishment of a permanent United Nations security force; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

148. The SPEAKER presented a memorial of the General Assembly of the State of Vermont, relative to Joint Senate Resolution No. 157 memorializing the United States Congress to increase federal special education funding immediately to 40 percent, the level to which Congress previously committed the federal government; to the Committee on Education and the Workforce.

149. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Resolution No. 158 memorializing the United States Congress and the President to institute and enforce legislation and diplomatic action toward the eradication of child slavery internationally; to the Committee on International Relations.

150. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 116 memorializing the United States Congress to enact the Detroit River International Wildlife Refuge Establishment Act; to the Committee on Resources.

151. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Resolution No. 149 memorializing the United States Congress to direct the United States Congress to support, with funding, the expeditious implementation of the proposed Bayou Lafourche restoration project from the Mississippi River to the Committee on Resources.

152. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Resolution No. 114 memorializing the United States Congress to express its desire to the National Marine Fisheries Service that the pending charter boat moratorium in the Gulf of Mexico not be implemented; to the Committee on Resources.

153. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 198 memorializing the United States Congress to direct the United States Congress to consider the removal of trade, financial, and travel restrictions relating to Cuba; jointly to the Committee on International Relations and Ways and Means.

154. Also, a memorial of the Legislature of the State of Texas, relative to Senate Concurrent Resolution No. 54 memorializing the United States Congress and the President, in light of the proposed change in federal policy that will further open the border areas to Mexican truck traffic, to support the unique planning, capacity, and infrastructure needs of Texas’ border ports of entry.
ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. SHOWS, Mr. LATHAM, and Mr. CAMP.
H.R. 17: Ms. NORTON.
H.R. 510: Mrs. CAPPS and Mr. HONDA.
H.R. 612: Mr. ROGERS of Kentucky.
H.R. 663: Mr. EVANS.
H.R. 1163: Mr. SOUDER and Mr. PENCE.
H.R. 1164: Mr. HONDA.
H.R. 1292: Mr. NADLER, Mr. OXLEY, Mr. BLAGOJEVICH, and Mr. PALLONE.
H.R. 1246: Ms. CARSON of Indiana, Mr. FULMER, Mr. GONZALEZ, Mr. MEeks of New York, Ms. MCKINNEY, Mr. SERRANO, Ms. VELAZQUEZ, Mr. BALDACCI, Ms. JACKSON-LEE of Texas, Mr. MCGOVERN, Mr. FROST, and Mr. ORTIZ.
H.R. 1294: Mr. BRADY of Texas, Mr. GUITERREZ, and Mr. SIMMONS.
H.R. 1425: Mr. ARKROMMIE, Mr. ACEVEDO-VILA, Mr. BALDACCI, Mr. BRADY of Pennsylvania, Mrs. CLAYTON, Mr. DAVIS of Illinois, Mr. FARR of California, Mr. FORD, Mr. HOVSEY, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. MCKINNEY, Mrs. MINK of Hawaii, Mrs. MORELLA, Mr. OSE, Mr. PAYNE, Mr. KEYS, Mr. RUSH, and Mr. TOWNS.
H.R. 1434: Mr. KINNELL.
H.R. 1460: Mr. BACA, Mr. WAMP, Mr. STENHOLM, Mr. WELDON of Florida, and Mr. BURTON of Indiana.
H.R. 1498: Mr. DELAUBO.
H.R. 1517: Mr. BLAGOJEVICH, Mr. SMITH of New Jersey, Mr. BONIOR, Mr. RILEY, Mr. CRAMER, Ms. RIVERS, Mr. LEVIN, and Mr. HILLIARD.
H.R. 1602: Mr. PENCE.
H.R. 1745: Mr. MORAON OF Virginia.
H.R. 1804: Mr. KILDEE.
H.R. 1801: Mr. ETHEIDGE and Mr. PUCKETTING.
H.R. 1896: Mr. MCGOVERN.
H.R. 1911: Mr. SESSIONS.
H.R. 1927: Mr. MCKINNEY.
H.R. 1975: Mr. NETHERCUTT.
H.R. 1983: Mrs. WILSON and Mr. RIEBERG.
H.R. 1990: Mr. FILMER, Mr. MALONEY of Connecticut, Mrs. MINK of Hawaii, Mr. BLAGOJEVICH, Mr. CONYERS, and Ms. WOOLSEY.
H.R. 2009: Mr. McDERMOTT and Mr. BLUMENAUER.
H.R. 2108: Mrs. CHRISTENSEN.
H.R. 2149: Mr. LEACH.
H.R. 2175: Mr. CUNNINGHAM, Mr. STENHOLM, and Mr. RAHALL of Georgia.
H.R. 2219: Mr. MEeks of New York and Mr. HINCHENY.
H.R. 2221: Mr. LANTOS.
H.R. 2310: Mr. VINCLOSKEY, Mr. MCGOVERN, Ms. MCKINNEY, Mr. KUCINICH, Mr. PASTOR, Ms. KAPTUR, Mr. PRICE of North Carolina, Ms. NORTON, and Ms. SOLIS.
H.R. 2343: Mr. WILSON.
H.R. 2358: Mr. OSE.
H.R. 2365: Mr. JOHNSON of Illinois.
H.R. 2367: Mr. BRUCHRA, Ms. ROYBAL-ALARD, Mr. JERMAN, Mr. MATHUI, Mr. SCHIFF, Mr. GALLEHOULY, Mr. THOMAS, Mr. FARR of California, Mr. CALVERT, Mrs. NAPOLITANO, Mrs. EMERSON, Mr. DOOLEY of California, and Mr. RACCA.
H.R. 2392: Ms. WOOLSEY.
H.R. 2413: Mr. PASTOR.
H.R. 2442: Mr. FROST.
H.R. 2473: Mr. BURTON.
H.R. 2491: Mr. NATHAN.
H.R. 2518: Mr. BOSWELL.
H.R. 2523: Mr. ROGERS of Kentucky.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 7

OFFERED BY: Mr. KAPNRENNER

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

TITLE I—CHARITABLE GIVING INCENTIVES PACKAGE

Sec. 1. Short title; table of contents.

Sec. 108. Adjustment to basis of S corporation stock for certain charitable purposes.

Sec. 102. Tax-free distributions from individual retirement accounts for charitable purposes.

Sec. 101. Deduction for portion of charitable contributions to be allowed to individuals who do not itemize deductions.

Sec. 104. Charitable deduction for contributions to be allowed to individuals who do not itemize deductions.

Sec. 102. Tax-free distributions from individual retirement accounts for charitable purposes.

Sec. 103. Increase in cap on corporate charitable contributions.

Sec. 104. Charitable deduction for contributions of food inventory.

Sec. 105. Reform of excise tax on net investment income of private foundations.

Sec. 106. Excise tax on unrelated business taxable income of charitable remainder trusts.

Sec. 107. Expansion of charitable contribution allowed for scientific property used for research and for computer technology and equipment used for educational purposes.

Sec. 108. Adjustment to basis of S corporation stock for certain charitable contributions.

TITLE II—EXPANSION OF CHARITABLE CHOICE

Sec. 201. Provision of assistance under government programs by religious and community organizations.

TITLE III—INDIVIDUAL DEVELOPMENT ACCOUNTS

Sec. 303. Elimination of limitation on deposits for an individual.

Sec. 302. Increase in limitation on net worth.

Sec. 301. Additional qualified entities eligible to conduct projects under the Assets for Independence Act.

Sec. 304. Extension of program.

Sec. 305. Extension of program.

Sec. 306. Conforming amendments.

Sec. 307. Applicability.

TITLE IV—CHARITABLE DONATIONS LIABILITY REFORM FOR IN-KIND CORPORATE CONTRIBUTIONS

Sec. 401. Charitable donations liability reform for in-kind corporate contributions.

H. Con. Res. 162: Mr. HOEFFEL.

H. Con. Res. 178: Mr. HOEFFEL.

H. Con. Res. 17: Mr. DAVIS of California.

H. Con. Res. 152: Mr. KILDEE and Mr. ENGLISH.

H. Con. Res. 162: Mrs. RIVERS and Mr. HINCHENY.

H. Con. Res. 178: Mr. HOEFFEL.

CONGRESSIONAL RECORD—HOUSE

July 16, 2001

TITLE I—CHARITABLE GIVING INCENTIVES PACKAGE

SEC. 101. DEDUCTION FOR PORTION OF CHARITABLE CONTRIBUTIONS TO BE ALLOWED TO INDIVIDUALS WHO DO NOT ITEMIZE DEDUCTIONS.

(a) In General.—Section 170 of the Internal Revenue Code of 1986 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

(b) Deduction for Individuals Not Itemizing Deductions.

(1) In General.—In the case of an individual who does not itemize his deductions for the taxable year, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the lesser of—

(A) the amount allowable under subsection (a) for the taxable year for cash contributions, or

(B) the applicable amount.

(2) Applicable Amount.—For purposes of paragraph (1), the applicable amount shall be determined as follows:

For taxable years beginning in:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>$25</td>
</tr>
<tr>
<td>2005</td>
<td>$50</td>
</tr>
<tr>
<td>2006</td>
<td>$75</td>
</tr>
<tr>
<td>2010 and thereafter</td>
<td>$100</td>
</tr>
</tbody>
</table>

In the case of a joint return, the applicable amount is twice the applicable amount determined under the preceding table.

(b) Direct Charitable Deduction.

(1) In General.—Subsection (b) of section 63 of such Code is amended by striking ‘‘and’’ at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ‘‘and’’, and by adding at the end thereof the following new paragraph:

(3) the direct charitable deduction.

(2) Definition.—Section 63 of such Code is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

(3) Direct Charitable Deduction.—For purposes of this section, the term ‘‘direct charitable deduction’’ includes in gross income by reason of a qualified charitable distribution.

(3) Conforming Amendments.

Subsection (d) of section 63 of such Code is amended by striking ‘‘and’’ at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ‘‘and’’, and by adding at the end thereof the following new paragraph:

(3) the direct charitable deduction.

(3) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 102. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR CHARITABLE PURPOSES.

(a) In General.—Section (d) of section 408 of the Internal Revenue Code of 1986 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

(6) Distributions for charitable purposes.

(1) General.—No amount shall be includible in gross income by reason of a qualified charitable distribution.

(2) Qualified Charitable Distribution.—For purposes of this paragraph, the term ‘‘qualified charitable distribution’’ means any distribution from an individual retirement account—
If the person required to file such return knowingly fails to file such return, such person shall be personally liable for the penalty imposed pursuant to this subparagraph.

(3) CONFIDENTIALITY OF NONCHARITABLE BENEFICIARIES.—Such section 6104 of such Code (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: "In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c)."

(c) EFFECTIVE DATES.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2001.

SEC. 103. INCREASE IN CAP ON CORPORATE CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Paragraph (2) of section 170(b) of the Internal Revenue Code of 1986 (relating to contributions made by corporations) is amended by striking "10 percent" and inserting "the applicable percentage".

(b) APPLICABLE PERCENTAGE.—

(1) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (2), the applicable percentage shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>15%</td>
</tr>
<tr>
<td>2009</td>
<td>14%</td>
</tr>
<tr>
<td>2008</td>
<td>13%</td>
</tr>
<tr>
<td>2007</td>
<td>12%</td>
</tr>
<tr>
<td>2006</td>
<td>11%</td>
</tr>
<tr>
<td>2005</td>
<td>10%</td>
</tr>
</tbody>
</table>

(c) CONFORMING AMENDMENTS.—

(1) Sections 512(b)(10) and 659(b)(2)(A) of such Code are each amended by striking "10 percent" each place it occurs and inserting "the applicable percentage".

(2) Sections 545(b)(2) and 556(b)(2) of such Code are each amended by striking "10 percent limitation" and inserting "applicable percentage limitation".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 104. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—

(1) AMOUNTS.—Section 170(b) of the Internal Revenue Code of 1986 (relating to special rule for certain contributions of inventory and other property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—

(i) GENERAL RULE.—In the case of a charitable contribution of food, this paragraph shall be applied—

(I) without regard to whether the contribution is made by a C corporation, and

(II) only for food that is apparently wholesome food.

(ii) DETERMINATION OF FAIR MARKET VALUE.—In the case of a qualified contribution of apparently wholesome food to which this paragraph applies, the fair market value of such food shall be determined by taking into account the price

...
at which the same or similar food items are sold by the same taxpayer at the time of the contribution (or, if not sold at such time, in the recent past).

(iii) APPARENTLY WHOLESALE FOOD.—For purposes of this subparagraph, the term ‘apparently wholesale food’ shall mean the meaning given to such term by section 221(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this subparagraph.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 105. REFORM OF EXCISE TAX ON NET INVESTMENT INCOME OF PRIVATE FOUNDATIONS.

(a) In General.—Subsection (a) of section 4940 of the Internal Revenue Code of 1986 (relating to excise tax based on investment income) is amended by striking ‘2 percent’ and inserting ‘1 percent’.

(b) REPEAL OF REDUCTION IN TAX WHERE PRIVATE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.—Section 4940 of such Code is amended by striking subsection (e).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 106. EXCISE TAX ON UNRELATED BUSINESS TAXABLE INCOME OF CHARITABLE REMAINS بناء وثائق.
“(ii) except as provided in subparagraph (A) and clause (i), does not include activities carried out under Federal programs providing assistance to children eligible to attend elementary schools or secondary schools, as defined in section 1410 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

“(d) Organizational Character and Autonomy.—

“(1) IN GENERAL.—A religious organization that provides assistance under a program described in subsection (c)(4) shall have the right to retain its autonomy from Federal, State, and local governments, including such organizations as the right to remain separate, in development, practice, and expression of its religious beliefs.

“(2) Additional Safeguards.—Neither the Federal government, the State government, or the local government with Federal funds, shall require a religious organization, in order to be eligible to provide assistance under a program described in subsection (c)(4), to—

“(A) alter its form of internal governance or provisions in its charter documents; or

“(B) remove religious art, icons, scripture, or other symbols of its religious character from its facilities, if alteration or removal would diminish the exercise of an organization’s autonomy recognized in section 702 or in this section shall have no effect.

“Nothing in this section alters the duty of a religious organization to comply with the nondiscrimination provisions of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1) regarding employment practices not to be affected by its participation in, or receipt of funds from, programs described in subsection (c)(4), and any provision in such programs that is inconsistent with or would diminish the exercise of an organization’s autonomy recognized in section 702 or in this section shall have no effect. Nothing in this section alters the duty of a religious organization to comply with the nondiscrimination provisions of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1) regarding employment practices not to be affected by its participation in, or receipt of funds from, programs described in subsection (c)(4), and any provision in such programs that is inconsistent with or would diminish the exercise of an organization’s autonomy recognized in section 702 or in this section shall have no effect.

“(e) Employment Practices.—A religious organization’s exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1) regarding employment practices not to be affected by its participation in, or receipt of funds from, programs described in subsection (c)(4), and any provision in such programs that is inconsistent with or would diminish the exercise of an organization’s autonomy recognized in section 702 or in this section shall have no effect. Nothing in this section alters the duty of a religious organization to comply with the nondiscrimination provisions of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1) regarding employment practices not to be affected by its participation in, or receipt of funds from, programs described in subsection (c)(4), and any provision in such programs that is inconsistent with or would diminish the exercise of an organization’s autonomy recognized in section 702 or in this section shall have no effect.

“(f) EFFECT ON OTHER LAWS.—Nothing in this section alters the duty of a religious organization providing assistance under a program described in subsection (c)(4) to comply with the nondiscrimination provisions in subsection (c)(3) of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (prohibiting discrimination against otherwise qualified disabled individuals), and the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) (prohibiting discrimination on the basis of age).

“(g) Rights of Beneficiaries of Assistance.—

“(1) IN GENERAL.—If an individual described in subsection (c)(4) has an objection to the religious character of the organization from which the individual receives, or would receive, assistance funded under any program described in subsection (c)(4), the appropriate Federal, State, or local governmental entity shall provide such individual (if otherwise eligible for such assistance) with a reasonable period of time after the date of such objection, assistance that—

“(1) is an alternative that is accessible to the individual and unobjectionable to the individual; and

“(2) has a value that is not less than the value of the assistance that the individual would have received from such organization.

“(2) EXCEPTION.—If the Federal, State, or local governmental entity shall guarantee that notice is provided to the individuals described in paragraph (3) of the rights of such individuals under this section.

“(3) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who receives or applies for assistance under a program described in subsection (c)(4).

“(h) Nondiscrimination Against Beneficiaries.—

“(1) Grants and Cooperative Agreements.—A religious organization providing assistance through a grant or cooperative agreement under a program described in subsection (c)(4) shall not discriminate in carrying out the program against an individual described in subsection (g)(3) on the basis of religion, a religious belief, or a refusal to hold a religious belief.

“(2) Indirect Forms of Assistance.—A religious organization providing assistance through a voucher, certificate, or other form of indirect assistance under a program described in subsection (c)(4) shall not deny an individual described in subsection (g)(3) admission into such program on the basis of religion, a religious belief, or a refusal to hold a religious belief.

“(i) Accountability.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a religious organization providing assistance under any program described in subsection (c)(4) shall be subject to the same regulations as other nongovernmental organizations that receive grants or other arrangements, in procedures to ensure that—

“(A) grants and cooperative agreements.—A religious organization providing assistance under a program described in subsection (c)(4) shall not discriminate in carrying out the program against an individual described in subsection (g)(3) on the basis of religion, a religious belief, or a refusal to hold a religious belief.

“(B) indirect forms of assistance.—A religious organization providing assistance through a voucher, certificate, or other form of indirect assistance under a program described in subsection (c)(4) shall not discriminate in carrying out the program against an individual described in subsection (g)(3) on the basis of religion, a religious belief, or a refusal to hold a religious belief.

“(2) EFFECT ON STATE AND LOCAL FUNDS.—If a State or local government contributes State or local funds to carry out a program described in subsection (c)(4), the State or local government may segregate the State or local funds from the Federal funds provided to carry out the program or may combine the State or local funds with the Federal funds. If the State or local government commingles the State or local funds, the provisions of this section apply to the Federal funds in the same manner, and to the same extent, as the provisions apply to the Federal funds.

“(j) Treatment of Intermediate Grantors.—If a nongovernmental organization (referred to in this subsection as an ‘intermediate grantor’), acting under a grant or other arrangement with the Federal Government, or a State or local government with Federal funds, is given the authority under the agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (c)(4), the intermediate grantor shall have the same duties under this section as the government entity providing funds to the intermediate grantor, if it is a religious organization, shall retain all other rights of a religious organization under this section.

“(k) Compliance.—A party alleging that the rights of the party under this section have been violated by a State or local government may bring a civil action for injunctive relief pursuant to section 1979 against the State or local government agency that has allegedly committed such violation. A party alleging that the rights of the party under this section have been violated by a State or local government agency that has allegedly committed such violation.

“(l) Training and Technical Assistance for Small Nongovernmental Organizations.—

“(1) IN GENERAL.—From amounts made available to carry out the purposes of the Office of Justice Programs (including any component of such amounts, including the Office of Community Oriented Policing Services), funds are authorized to provide training and technical assistance, directly or through another governmental entity, to organizations relating to potential application and participation in programs identified in subsection
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for Independence Act (42 U.S.C. 604 note) is amended by striking “demonstration” each place it appears:

(1) Section 403.
(2) Section 404(2).
(3) Section 405.
(4) Section 405(b).
(5) Section 405(c).
(6) Section 405(d).
(7) Section 405(e).
(8) Section 405(g).
(9) Section 406(a).
(10) Section 406(b).
(11) Section 406(c)(1)(A).
(12) Section 407(c)(1)(A).
(13) Section 407(c)(1)(B).
(14) Section 407(c)(1)(C).
(15) Section 407(c)(1)(D).
(16) Section 407(d).
(17) Section 408(a).
(18) Section 408(b).
(19) Section 409.
(20) Section 410(e).
(21) Section 411.
(22) Section 412(a).
(23) Section 412(b).
(24) Section 412(c).
(25) Section 413(a).
(26) Section 413(b).
(27) Section 414(a).
(b) APPLICATION.—This paragraph shall apply—

(1) to fines; and
(2) if the fines were

(1) Section 406(a).
(2) Section 409.
(3) Section 411.
(b) AMENDMENTS TO SECTION HEADINGS.—The headings of sections 406 and 411 of the Assets for Independence Act (42 U.S.C. 604 note) are amended by striking “DEMONSTRATION”: 

(1) Section 405(a).
(2) Section 405(b).
(3) Section 405(c).
(4) Section 405(d).
(5) Section 405(e).
(6) Section 405(g).
(7) Section 406(a).
(8) Section 406(b).
(9) Section 406(c).
(10) Section 406(d).
(11) Section 406(e).
(12) Section 407(a).
(13) Section 407(b).
(14) Section 407(c).
(15) Section 407(d).
(16) Section 407(e).
(17) Section 407(f).
(18) Section 407(g).
(19) Section 407(h).
(20) Section 407(i).
(21) Section 407(j).
(22) Section 407(k).
(23) Section 407(l).
(24) Section 407(m).
(25) Section 407(n).
(26) Section 407(o).
(27) Section 407(p).

(8) INTENTIONAL MISCONDUCT.—The term “intentional misconduct” means conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(9) STATE.—The term “State” means each of the several States, the District of Columbia, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory under the possession of the United States, or any political subdivision of any such State, territory, or possession.

(10) LIABILITY.—(1) LIABILITY OF BUSINESS ENTITIES THAT DONATE EQUIPMENT TO NONPROFIT ORGANIZATIONS.—(A) IN GENERAL.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury or death that results from the use of equipment donated by a business entity to a nonprofit organization.

(2) LIABILITY OF BUSINESS ENTITIES PROVIDING USE OF FACILITIES TO NONPROFIT ORGANIZATIONS.—(A) IN GENERAL.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury or death occurring at a facility of the business entity in connection with a use of such facility by a nonprofit organization, if—

(i) the use occurs outside of the scope of business of the business entity;

(ii) such injury or death occurs during a period that such facility is used by the nonprofit organization; and

(iii) the business entity authorized the use of such facility by the nonprofit organization.

(B) APPLICATION.—This paragraph shall apply with respect to civil liability under Federal and State law.

(3) LIABILITY OF BUSINESS ENTITIES PROVIDING USE OF A MOTOR VEHICLE OR AIRCRAFT.—(A) IN GENERAL.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury or death occurring as a result of the operation of an aircraft, motor vehicle, or other transportation equipment loaned to a nonprofit organization for use outside of the scope of business of the business entity, if—

(i) such injury or death occurs during a period that such motor vehicle or aircraft is used by a nonprofit organization; and

(ii) the business entity authorized the use by the nonprofit organization of motor vehicle or aircraft that resulted in the injury or death.
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H.R. 2500
OFFERED BY: Mr. HINCHFY
AMENDMENT NO. 1: Page 63, after line 9, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Scc. 801. None of the funds appropriated in this Act under the heading "OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE—SALARIES AND EXPENSES" may be used to initiate a proceeding in the World Trade Organization (WTO) challenging any law or policy of a developing country that promotes access to HIV/AIDS pharmaceuticals or medical technologies to the population of the country.

H.R. 2500
OFFERED BY: Ms. WATERS
AMENDMENT NO. 10: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Scc. 801. None of the funds appropriated in this Act under the heading "OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE—SALARIES AND EXPENSES" may be used to initiate a proceeding in the World Trade Organization (WTO) challenging any law or policy of a developing country that promotes access to HIV/AIDS pharmaceuticals or medical technologies to the population of the country.

H.R. 2500
OFFERED BY: Ms. WATERS
AMENDMENT NO. 11: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Scc. 801. None of the funds appropriated in this Act under the heading "OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE—SALARIES AND EXPENSES" may be used to initiate a proceeding in the World Trade Organization (WTO) challenging any law or policy of a developing country that promotes access to HIV/AIDS pharmaceuticals or medical technologies to the population of the country.

H.R. 2500
OFFERED BY: Ms. WATERS
AMENDMENT NO. 12: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Scc. 801. None of the funds appropriated in this Act under the heading "OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE—SALARIES AND EXPENSES" may be used to initiate a proceeding in the World Trade Organization (WTO) challenging any law or policy of a developing country that promotes access to HIV/AIDS pharmaceuticals or medical technologies to the population of the country.

H.R. 2500
OFFERED BY: Ms. WATERS
AMENDMENT NO. 13: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Scc. 801. None of the funds appropriated in this Act under the heading "OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE—SALARIES AND EXPENSES" may be used to initiate a proceeding in the World Trade Organization (WTO) challenging any law or policy of a developing country that promotes access to HIV/AIDS pharmaceuticals or medical technologies to the population of the country.

H.R. 2500
OFFERED BY: Ms. WATERS
AMENDMENT NO. 14: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Scc. 801. None of the funds appropriated in this Act under the heading "OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE—SALARIES AND EXPENSES" may be used to initiate a proceeding in the World Trade Organization (WTO) challenging any law or policy of a developing country that promotes access to HIV/AIDS pharmaceuticals or medical technologies to the population of the country.

H.R. 2500
OFFERED BY: Ms. WATERS
AMENDMENT NO. 15: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Scc. 801. None of the funds appropriated in this Act under the heading "OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE—SALARIES AND EXPENSES" may be used to initiate a proceeding in the World Trade Organization (WTO) challenging any law or policy of a developing country that promotes access to HIV/AIDS pharmaceuticals or medical technologies to the population of the country.

H.R. 2500
OFFERED BY: Ms. WATERS
AMENDMENT NO. 16: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Scc. 801. None of the funds appropriated in this Act under the heading "OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE—SALARIES AND EXPENSES" may be used to initiate a proceeding in the World Trade Organization (WTO) challenging any law or policy of a developing country that promotes access to HIV/AIDS pharmaceuticals or medical technologies to the population of the country.

H.R. 2500
OFFERED BY: Ms. WATERS
AMENDMENT NO. 17: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

Scc. 801. None of the funds appropriated in this Act under the heading "OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE—SALARIES AND EXPENSES" may be used to initiate a proceeding in the World Trade Organization (WTO) challenging any law or policy of a developing country that promotes access to HIV/AIDS pharmaceuticals or medical technologies to the population of the country.
the Agreement on Trade-Related Aspects of Intellectual Property Rights (as described in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15))).
The Senate met at 2 p.m. and was called to order by the Presiding Officer, the Honorable Jon Kyl, a Senator from the State of Arizona.

Pledge of Allegiance

The Honorable Jon Kyl, a Senator from the State of Arizona, led the Pledge of Allegiance.

Prayer

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, thank You for this moment of prayer in which we can affirm our call to seek unity in the midst of differences in the parties and politics. So often we focus on what separates us rather than the bond of unity that binds us together. We are one in our calling to serve You and our Nation and in the belief that You are the ultimate and only sovereign. You are the magnetic and majestic Lord of all who draws us out of pride and self-serving attitudes to work together for You. We find each other as we join our hearts in gratitude for the privilege of leading our Nation. Keep us so close to You and so open to one another that this will be a week of great progress. Help us to work expeditiously and with excellence for Your glory and our Nation's good. Through our Lord and Saviour. Amen.

Appointment of Acting President pro tempore

The Presiding Officer, Mr. Byrd, announced that the Senate had appointed the Senator from Iowa to serve as Acting President pro tempore.

Reservation of Leader Time

The Acting President pro tempore decided to reserve time for Leader comments. Under the previous order, the leadership time is reserved.

Energy and Water Development Appropriations Act, 2002

Mr. Reid, as has been announced by the Chair, the Senate will begin consideration of the energy and water appropriations bill. Today will be for debate only. There will be no rollcall votes today. The next vote is expected tomorrow at approximately 12 noon on cloture on the substitute amendment to the Bankruptcy Reform Act. I am going to remind everyone that there is a 3 p.m. filing deadline for first-degree amendments to the bankruptcy reform substitute amendment.

We hope to complete action on the energy and water appropriations bill, the transportation appropriations bill, and the legislation branch appropriations bill before the end of this week.

I will say to all those listening, it is going to be extremely difficult to do that, but we can do it. There are only a few issues on the energy and water appropriations bill. We hope to resolve those so it does not take a lot of time. And then, of course, the appropriations bill dealing with transportation has in the last few years gone quite rapidly, and we hope it will again this year.

We are not in a position at this time, Senator Domenici and I, to offer a unanimous consent agreement as to when the amendments to the energy and water appropriations bill should be filed, but we are going to work on that. Senator Domenici is indisposed for the next hour and a half or so. But we expect him to be here at 3:30 today, at which time we will begin opening statements on the energy and water appropriations bill.

MORNING BUSINESS

Mr. Reid. I see my friend from Iowa here. Does he wish to speak on the bill or as if in morning business?

Mr. Grassley. Morning business.

Mr. Reid. Mr. Grassley. Mr. President, I want to visit with my colleagues and our constituents about the issues of the tax relief bill that was recently passed by the Congress of the United States and signed by the President on June 7 and will be the reason that tax rebate checks will go out, distributing $65 billion of overtaxation to the American people—back to the American people so they can spend it, so it will do more economic good than if it is politically distributed here in Washington, DC.

That bill not only has the $65 billion of tax refunds that will start going out next week and be out by September 30, but it already has reductions for other rates. The tax rebates come from the new 10-percent rate that is going into effect retroactive to January 1. It is my understanding there will be about 90 million Americans who will be getting rebates of up to $300 if they are single, $500 if they are a single parent, and also then up to $600 if they are married.

Also, remember that this is not a one-shot rate reduction, or tax rebate; that these rebates, even though they will never be received in a check again, will continue on into the future as permanent reductions in taxation for people in the 10-percent bracket. And also remember that everybody who pays taxes would pay some of that 10-percent bracket so that it does affect all taxpayers. But checks are going out for those up to the amount of $12,000 of taxable income.

I think this tax bill is going to make real changes in the lives of folks across our country. The changes I am going to discuss today result in the greatest tax relief provided in a generation—tax relief, I might add, powerfully brought about in a bipartisan consensus.

Some might ask, Why talk about something we have already done? The
answer is that the legislation is quite comprehensive and to do it just we really need to take a thorough and methodical look at this legislation. It just from the standpoint of the rebate checks that are going out, which are getting all the attention, but all the other aspects of the bill as well.

It is true there have been a lot of press reports on this legislation. Again, most of those have been related to the rebate checks going out starting next week. None of these reports, however, I believe, in the press has really tied the specific benefits of the bill back to its bipartisan purpose.

Also, the press reports have tended to analyze the bill in terms of its impact on certain types of taxpayers. At the same time, many press reports have focused exclusively on the budget angle of the bill. And this, basically a flat, people nervous, tearing out their hair because there is going to be less money coming into the Federal Treasury as a result of our letting the people keep their tax overpayment.

There are reports that tend to be very pessimistic often echo the sentiments of the harshest congressional critics of the legislation. These reports, like the congressional critics of this bill—and probably for the most part those who voted against it—tend to ignore the benefits of the bill. Tax relief legislation is just not more money in the taxpayers’ pockets in some selfish way that you let the taxpayers keep more of their money. There is great economic good that comes from the distribution of goods and services in this economy based upon an individual making that decision as opposed to a political leader in Washington, DC, making that decision through the Federal budget.

Now, of course, all of this criticism is fair play in the arena of politics. However, in recent weeks it seems to me these arguments have not been answered with the same vigor by the strong bipartisan majority of us who supported the legislation. So today I take the floor to set the record straight. Tax relief is absolutely necessary. Tax relief legislation is an important vehicle in response to our current and long-term economic problems. I talked about the short-term stimulus, but there are long-term problems. I talked about the short-term stimulus but there are long-term economic benefits from this bill that are going to enhance the economy.

Third, there is sufficient surplus outside Social Security and Medicare that is still available to accomplish a tax cut that addresses certain inequities in the Tax Code, such as the marriage penalty.

I will start with reason No. 1, that the tax cut corrected overtaxation. Before the tax cut, the Federal Government was collecting too much tax. The Federal Government was on a path to accumulate over $3.1 trillion in excess tax collections over the next 10 years. Federal tax receipts were at their highest level in our Nation’s history.

The bulk of these excess collections came from the individual income-tax payer. Individual income tax collections were near an all-time high, even higher than some levels imposed by World War II.

The chart I have in the Chamber demonstrates this better than I can, how, since 1960, we have seen very high income taxation. In this particular case, we are seeing taxes, as a whole, collected by the Federal Government, not just the income taxes but everything at the highest level by the year 2000 at 20.6 percent of gross national product.

This chart shows total tax receipts as a percentage of gross domestic product over 40 years. Tax receipts have naturally fluctuated frequently since 1960, but most shocking they spike up since the Tax Code, such as the marriage penalty.

The January 2001 Congressional Budget Office report to Congress shows that in 1992, total tax receipts were around 17 percent of gross domestic product. As I said, by the year 2000, they were at 20.6 percent. The significance of this percentage can only be appreciated in the historical comparisons to which I have already referred. But I want to be more specific.

In 1944, at the height of World War II, taxes, as a percentage of gross domestic product, were 23.9 percent. But higher than the figure today. By 1945, those taxes had dropped to 20.4 percent of GDP, which is actually lower than the collection level today.

It is unbelievable that in a time of unprecedented peace and prosperity, which defines the last decade, the Federal Government would rake in taxes at a wartime level. The sorriest part of this whole story is that this huge increase in taxes has been borne almost exclusively by the American people who pay the individual Federal income tax.

I have another chart which shows tax collection levels for payroll taxes, corporate taxes, and all other taxes over the past decade. It shows they have been relatively stable. Corporate taxes, during the past 10 years, have increased from 1.6 percent of GDP to 2.1 percent of GDP. Estate taxes have remained relatively stable over that period of time.

Even during World War II collections from individuals were 9.4 percent. So you see it was a full percentage point below what they are today in peace-time. As you can see, the source of current and future surpluses is from a big runup in individual income tax collections, and not in runups in any other form of taxes and levies that the Federal Government makes on the taxpayers of this country or the businesses of this country.

Part of this is because the 1993 Clinton tax increase overshot its mark. These excess collections are attributable to that enactment, in August 1993, of the largest tax increase in the history of the world.

Since personal income has grown an average of 5.6 percent. Federal income tax collections, however, have grown an average of 9.1 percent a year, outstripping the rate of personal income growth by 64 percent.

The Joint Committee on Taxation, at the request of the Joint Economic Committee of the Congress, estimated that just repealing the revenue-raising provisions of President Clinton’s 1993 biggest-in-the-world tax hike would yield tax relief of more than $1 trillion over 10 years.

We ought to take a closer look at that 1993 world’s biggest tax increase. The 39.6-percent top bracket reflected a
10-percent surcharge on the basic 36-percent rate. The itemized deductions you can subtract from your taxable income, income known as the Pease Rule, and the phaseout of personal exemptions, which we refer to as PEP, the personal exemption phaseout, were temporary bipartisan deficit reduction provisions that were made permanent under the 1993 tax hike.

So remember, you had a top marginal tax rate of 36. That was meant to be permanent. But you had a temporary 10 percent put on top of that, bringing that to 36.9 percent. Yet for higher brackets they wanted to camouflage it. We had a phaseout of exemptions so that higher income people did not get the full advantage of the personal exemption, as an example, which ought to tell you that in a time of budget surplus don't create a surplus now; anybody who was intellectually honest about putting a 10-percent surtax on the basic 36-percent rate just to get rid of the annual budget deficit ought to take that 10-percent rate off. But, no, it was never done by those who proposed it and those who did it. We did it through the gradual reduction of the rates that were in the bill signed by the President June 7.

The chairman of the Finance Committee at the time of the 1993 Clinton tax increase actually called the thing what I have already referred to as—‘a world record tax hike.’ Obviously, with income tax collections as high as they have ever been in the history of the country, we know that to be a fact.

The rationale for the tax increases was deficit reduction. It is reasonable to think that if deficit reduction was a reason for raising taxes to record levels, then in the era of surpluses we are in right now, any body who was intellectually honest about putting a 10-percent surtax on the basic 36-percent rate just to get rid of the annual budget deficit ought to take that 10-percent rate off. But, no, it was never done by those who proposed it and those who did it. We did it through the gradual reduction of the rates that were in the bill signed by the President June 7.

For the record, everyone on the other side of the aisle who opposed the bipartisan tax relief package had already voted for over $1.25 trillion of tax relief. Some of those people who voted that way are the very same ones who are saying we cut taxes too much. I hope you remember that on the debate on the tax bill, everyone on the other side, including every Member of the Democratic leadership, including the Democratic leadership, including the Finance Committee, the Senator from North Dakota, voted for $1.25 trillion in tax relief. Yet they are now saying we shouldn’t have this tax cut.

For instance, we had a vote on what was called the Carnahan-Daschle Democratic substitute. That amendment, if it had passed, would have represented tax cuts of that $1.25 billion I cited.

I raise this point for two reasons: One, to make the record clear on the votes on the tax cut bill; and two, to make an even more fundamental point. That fundamental point is, despite all the rhetoric, there was widespread support for significant across-the-board relief even among the most critical of the final tax package.

Let me repeat reason No. 1 for this tax cut before I go on to reason No. 2. The American people are overtaxed. The American people have paid a tax increase since the Clinton administration, it started to slow. Compared to the average 4-percent growth rate since 1998, the economy grew only a little over 1 percent.

Several factors have contributed to the economic slowdown. For the two previous years, we had a tighter monetary policy by the Federal Reserve. We had Chairman Greenspan throw out of the window his very comprehensive program of liquidity from 1988 until 1995, and then he started worrying about inflation. Worrying about inflation so much, he tightened up money so that we didn’t have enough liquidity. When he gets back on the kick of worrying about liquidity, not worrying about inflation, the monetary policy will turn it around. But a tighter monetary policy has brought about this slowdown. We have also had the rising energy rates, a decline in the stock market, and we have had rising tax burdens.

The economic slowdown has real impact on working Americans, as evidenced by this second chart we have here, as you have seen the unemployment rate go up. It shows that the unemployment rate had fallen steadily, but since the slowdown began last year, the unemployment rate has risen. It is now at 4½ percent, the same level it was in October 1998.

Although there is still considerable upward pressure on the economy, a number of factors seem to point in the right direction, and one is there is some reversal of the Federal Reserve on its monetary policy. We have had energy prices stabilize. For instance, a week ago last weekend, I bought gas in Cedar Falls, IA, at $1.19 a gallon.

Given the continued pessimism on Wall Street, however, the economy remains vulnerable to potential shocks. So we should continue to monitor signs of potential troubles. We are prepared to take additional steps should they become necessary. Republicans and Democrats have a responsibility to address this problem.
There is some speculation by some on my side of the aisle that those on the other side are hoping the recession comes about for political reasons. I disagree with that speculation. I believe everyone here wants to get the economy on a steady path. Everyone knows that the worst thing you can do in an economic downturn is to raise taxes. On the other hand, a tax cut is a stimulus to economic activity. So if your goal were to further slow down the economy, one sure way to do it would be to raise taxes. On the other hand, if you see a slow down coming, a tax cut would be a wise response to get the economy growing again.

In other words, if we had not cut taxes, not had these rebate checks going out, we would be nervously trying to cut taxes to stimulate the economy. A tax cut stimulates economic growth in two ways. First is to the extent the tax cut currently provides more money for consumers to spend, it creates more demands for goods and services. Secondly, and most importantly, the tax cut stimulates the economy through changes in expectations for workers, investors, and businesses. In other words, a lower tax bite means that workers, investors, and businesses can expect to retain more of the income generated by their activities. That expectation will change what workers and investors and businesses do right now. That does more economic good than if we have a political decision to distribute the goods and services.

Chairman Alan Greenspan and others have alluded to a new form of “bracelet creep” brought about by high tax rates. In a sense, through this new form of bracelet creep, the Federal Government was getting a windfall from workers, investors, and businesses.

With the lower marginal tax rates, some of the damaging bracelet creep has been eliminated over the long term. That change should free up more income to flow through the marketplace and stimulate the economy.

So it was pretty clear some action needed to be taken to stimulate the economy. Action was taken and now, hopefully, for the folks back home, the economy will start to grow significantly.

Now if I can go to the third and last reason why the tax bill needed to be passed—the issue of fairness. We heard during the debate, and even recently, a hue and cry from some on the other side of the aisle that not all taxpayers should receive a rate reduction. They said the bipartisan tax relief bill that was signed by the President disproportionately benefits upper income taxpayers and does not provide enough relief at the lower income scale. We have news for that group of people. None of those allegations is true, and the charts that I have will show that. But we first need to understand the current distribution of tax liability anybody has in America. We already have a highly progressive income tax system. According to the Congressional Budget Office, the top 20 percent of income taxpayers pay over 75 percent of all the income taxes coming into the Federal Government. By contrast, households in the bottom three-fifths of the income distribution pay 7 percent of all individual taxes.

Sometimes I get the feeling around here that when it comes to progressivity, the only way is to go down to satisfy anybody here is if the richest man in America is supporting the Federal Government totally. But for those who are worried about this tax bill not being progressive enough, it not only preserves an already progressive system; it actually makes it more progressive. Those who don’t like progressive income tax systems don’t like to hear me say that. But for those who say our tax bill has made it less progressive, I hope it causes them to keep their mouths shut.

So to all who are critical of the bipartisan tax relief package as a tax cut for the rich, I invite them to pay special attention to data prepared by a neutral source, the Joint Committee on Taxation. These professionals work for both sides of the aisle, Republicans and Democrats, and for both the House and the Senate. As the Joint Committee on Taxation says, the marginal tax rate reductions in our bill, as signed by the President, combined with the increase in the child credit, and its added refundability, the marriage penalty, the education provisions, and the individual retirement accounts and pension provisions—all these aspects of this bill provide the greatest reduction in tax burden for the lower income taxpayer.

I ask unanimous consent that the tables prepared by the Joint Committee on Taxation be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

**CONGRESSIONAL RECORD—SENATE**

**July 16, 2001**

**DISTRIBUTION EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1836**

*(Prepared by the staff of the Conference Agreement for H.R. 1836, May 26, 2001)*

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<th>Change in Federal taxes</th>
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**CALENDAR YEAR 2002**

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**CALENDAR YEAR 2003**

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Mr. GRASSLEY. Mr. President, I will go to a couple of the charts I referred to prepared by Joint Tax. Look at the leverage of reduction in tax burden shown on this chart. You can see that the lowest income brackets receive the highest reduction.

Now, for the year 2006—and I say for the year 2006 because that is when the individual tax provisions or rates are implemented—taxpayers with over $100,000 of income receive a tax cut of between 5 and 6 percent. Taxpayers earning between $10,000 and $50,000 get a tax cut of between 6.5 percent and 13.6 percent, with those at the lower income levels getting the biggest percentage of reduction. Even those with incomes below $10,000, who, by and large, don’t pay income and payroll taxes, receive a tax cut under the bipartisan tax relief package.

Under the tax relief, 6 million Americans will be taken off the income tax rolls. Those are lower bracket people. Just tell 6 million people who are never going to be paying income tax in the future that they aren’t getting a benefit from this greater than higher income people who are going to be paying income taxes the rest of their lives. A four-person family earning $35,000 a year will no longer have any income tax burden.

As the Joint Tax data also shows, a large reduction of the tax burden is targeted toward taxpayers between the $30,000 and $75,000 income brackets. These taxpayers will enjoy significant effective tax relief.

I also said that the bipartisan tax relief actually makes our tax system more progressive. The Joint Tax Committee again provides the proof. As the Joint Tax tables demonstrate, under the bipartisan tax relief package, the overall burden goes down for taxpayers earning below $100,000. For taxpayers making $100,000 or more, however, their share of the Federal tax burden will actually increase under the bipartisan tax relief legislation.

For example, for taxpayers earning between $100,000 and $200,000 a year, their share of the burden will increase by three-tenths of a percent. This is not the case for taxpayers earning between $10,000 and $50,000. Their share of the overall burden will decrease by three-tenths of a percentage point.

So the bipartisan tax relief legislation not only retains the progressivity of the tax system, but that progressivity is enhanced.

Now, it is clear that distribution tables aren’t the only way to define tax fairness. There were other categories of tax relief that carried bipartisan priority in terms of fairness. First, on a bipartisan basis, there is concern about the added burden for couples who decide to marry. This important social objective was impaired by the marriage penalty. The bipartisan tax relief legislation provided marriage tax relief.

Second, on a bipartisan basis, there was concern about the Tax Code’s failure to recognize the cost of raising children. The bipartisan tax relief legislation provides tax relief for millions of families with children, including those who pay no income tax at all. In addition, the dependent care tax credit was enhanced for families with children in day care.

Third, on a bipartisan basis, there was concern about helping families with the rising cost of education. As a response, the bipartisan tax relief legislation includes a package of educational tax relief measures.

Fourth, on a bipartisan basis, there was concern about declining savings
rates and the need for more secure retirement plan benefits for more workers to help baby boomers who are saving less. As a response, the bipartisan tax relief legislation included significant enhancements to individual retirement accounts and retirement plans. This package was then perhaps the greatest improvement in our individual IRA's and retirement plans in a generation.

Finally, there was a bipartisan concern about the confiscatory impact of the death tax, especially for family farmers and small businesses. As a response, the bipartisan tax relief legislation includes death tax relief, including repeal.

Today I have talked about the three most important reasons from my perspective why we were able to pass the largest bipartisan tax relief measure in a generation.

The first reason is to correct the policy of overtaxation that stemmed from the heavy tax hikes of 1993.

The second is to respond with an economic stimulus against the current economic slowdown.

The third is there are sufficient budgetary resources to address tax fairness problems.

It is important to realize that the major tax legislation just enacted rests on a very sound foundation. It should not be dismissed, it should not be obfuscated, and it should not otherwise be distorted by budgetary demagoguery. Let us not forget that revenue is not an abstract notion. Revenue reflects the sum total payments to Washington by hard-working men and women. It is not abstract when paid and should not be treated as an entitlement by those of us fortunate enough to be blessed here to make policy decisions to represent the folks back home.

We have a very good tax bill. Our challenge is to make sure that those in Congress who want to spend more money and do not like giving the people back their money—we are intent upon keeping this reduction of revenue coming into the Federal Treasury, not because we are concerned about the taxpayers, but because if those taxpayers spend that money, it is going to do more economic good and turn over the economy, create more jobs and more wealth than if I spend it as a Member of the Senate. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for approximately 20 minutes in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONTROLLING THE PROLIFERATION OF SMALL ARMS AND LIGHT WEAPONS

Mrs. FEINSTEIN. Mr. President. I rise today to speak about the proliferation of small arms around the world and, specifically, the remarks made by John Bolton, the Under Secretary of State for Arms Control and International Security Affairs before the United Nations this past July 9 at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

I begin by saying what I sincerely believe: I think it is right and necessary to limit the illicit sale of small arms and light weapons on a worldwide basis. In order to do that, however, one also has to address transparency and legal transfers of small arms and light weapons because so much of the illicit proliferation problem has its roots in legal sales. I was therefore very surprised that Under Secretary Bolton said the United States may well be opposed to being considered by the conference that are aimed at curtailing the international proliferation of small arms and light weapons.

Before I address Mr. Bolton’s speech, and the question it raises about the direction of the administration’s policy in this area, I would like to briefly sketch out the scope and scale of this problem:

The worldwide proliferation of small arms—this includes shoulder-mounted missiles, assault weapons, grenade launchers, and high-powered sniper rifles—is a staggering problem today. Right now there are an estimated 500 million illicit small arms and light weapons in circulation around the globe.

In the past decade alone, an estimated 4 million people have been killed in civil war and bloody fighting, many of these by small arms.

As a matter of fact, 9 out of 10 of these deaths are attributed to small arms and light weapons. According to the International Committee of the Red Cross, more than 50 percent of the 4 million people killed—that is 2 million people—are believed to be civilians. The sheer volume of available weaponry has been a major factor in the devastation witnessed in recent conflicts in Angola, Cambodia, Liberia, Mozambique, Rwanda, Sierra Leone, Somalia, Sri Lanka, and Afghanistan, as well as the sort of violence endemic to narcotics trafficking in Colombia and Mexico. These conflicts undermine the regional stability, and they endanger the spread of democracy and free markets around the world.

The United Nations and the Red Cross estimate that more than 10 million small arms and light weapons, ranging from pistols to AK-47’s to hand grenades to shoulder-launched missiles, are today in circulation in Afghanistan where the terrorist organization of Osama bin Laden is based.

The United Nations estimates that over 650,000 weapons disappeared from government depots in Albania in the 3 years following the breakup of Yugoslavia, with a possible effectiveness of the “state Militia.” Because a sawed-off shotgun was not a weapon that would be used by a “state Militia,” like the
National Guard, the Second Amendment was in no way applicable to that case, said the Government.

If a sawed-off shotgun is not protected by the Second Amendment, why does the Administration seem to be taking the position that the Second Amendment protects the international trafficking of shoulder-launched missiles?

If an American citizen cannot freely transport a sawed-off shotgun across state lines, why can’t we work to stop the international transportation of grenade launchers and high powered, military sniper rifles?

This second amendment argument simply makes no sense, and has no place in this debate.

Second, Mr. Bolton’s opening statement attacked language that calls on governments to “seriously consider” curtailing “unrestricted sales and ownership” of arms specifically designed for military purposes.

So Mr. Bolton essentially objected to even considering merely curtailing the “unrestricted sales and ownership” of military weapons.

In point of fact the United States already curtails the sale and ownership of many of these guns.

The National Firearms Act, for instance, places severe restrictions on the manufacture and possession of machine guns, sawed-off shotguns, grenades, bombs, rockets, missiles, and mines.

We also passed the 1994 assault weapons ban, which stopped the production of semi-automatic, military-style assault weapons.

These firearms have no sporting purpose, and our laws recognize that fact.

Yet these guns contribute enormously to terrorist threats, drug cartel violence, and civil strife throughout the world.

Congress has already recognized that curtailing the use of military-style weapons is reasonable, appropriate, and even life-saving. To now object to a clause that would call upon other governments around the world to do the same is nonsensical at best, and undermines U.S. security interests—and the lives of U.S. military personnel—at worst.

Next, Mr. Bolton stated that the United States would “not support measures that would constrain legal trade and legal manufacturing of small arms and light weapons.” That may be legitimate read on its face. People can understand that.

Although it is my belief that the United States is not the biggest contributor to the problem of the global proliferation of small arms and light weapons—the United Nations has found that almost 300 companies in 50 countries now manufacture small arms and related equipment—in 1999 the U.S. licensed for export more than $470 million in light military weapons.

With the average price of $100-$300 per weapon, this represents a huge volume of weapons.

The Administration is in the position of addressing the issue of the international proliferation of small arms and light weapons one cannot simply address the illicit side of the equation without also looking at the interactions between the legal trade and the illegal trade.

In fact, there is good evidence of an increased incidence of U.S. manufactured weapons—legally manufactured and legally traded or transferred—flowing into the international black market.

In April, 1998, for example, The New York Times reported that the United States had to rescind pending licenses for sale of U.S. firearms to the United Kingdom based on the European Union’s grave concern over the retransfer of guns between EU members without review or oversight.

In 1999 the State Department stopped issuing licenses from the U.S. to dealers in Venezuela because of concern that the guns—legally exported and sold—were in fact ending up in the hands of narco-traffickers and guerrillas in Colombia.

In 2000 and to date in 2001, the ATF has processed more than 19,000 trace requests from foreign countries for firearms used in crimes: 8,000 of these guns were sold legally in the United States. So they are sold legally and they get into the black market and they become part of a crime.

In 1994, Mexico reported 3,376 illegally acquired U.S.-origin firearms. Many of these weapons were originally sold legally to legitimate buyers but then transferred illegally, to many Mexican drug cartels. Between 1989 and 1993, the State Department approved 108 licenses for the export of $34 million in small arms to Mexico, but it performed only three follow-up inspections to ensure that the weapons were delivered to and stayed in the hands of the intended users.

According to the South African Institute for Security Studies, an estimated 30,000 stolen firearms—again, firearms originally manufactured and traded, sold or transferred in a legal manner—enter the illegal marketplace annually in South Africa.

Given this undeniable connection between legal sales and illicit trade, the approach suggested by Mr. Bolton to the Conference—that it should only address one part of the equation while ignoring the other, appears to me to be untenable.

I would also suggest that certain measures which may be seen by some as constraints on legal manufacture and trade—such as international agreements for the marking and tracing of small arms and light weapons, or seeing that there are international regulations governing the activities of arms brokers—are in fact wise policy.

Mr. Bolton also stated:

Neither will we, at this time, commit to begin negotiations and reach agreements on legally binding international treaties on the feasibility and necessity of which may be in question and in need of review over time.

Yet, as Mr. Bolton himself points out in his statement, the United States has passed some of the best laws and regulations on the books regarding the sale and transfers of light weapons.

In my view it is clearly in the U.S. interest to see that those standards are replicated by the world community.

Mr. Bolton’s statement is fulsome in its praise of U.S. brokering regulations. Why do we not want to see others rise to the same standards?

Mr. Bolton’s statement cites U.S. regulations governing the transfer of military articles of U.S. origin and U.S. exports of small arms and light weapons.

Instead of going it alone—with limited success even when it comes to some of our closest allies, like the United Kingdom, as the example I cited above indicates—shouldn’t we be working to see that the rest of the international community adopts similar standards?

In approaching the United Nations Conference, the U.S. government should negotiate and support making the trafficking of small arms and light weapons, which is killing millions upon millions of innocent civilians, without increasing the transparency of the legal market because so many of these weapons go from the legal market into the black market—the illicit market.

I yield the floor.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Arizona.

Mr. KYL. Mr. President, I ask consent to speak in morning business for 5 minutes, and following my remarks, the Senator from Washington speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I first thank the Senator from Washington State for her kindness letting me speak next. I hope to make an appointment in my office. I will cut my remarks short and give a summary and put the remainder...
in the RECORD, I appreciate her generosity and that of the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Arizona.

CONFIRMATION OF NOMINEES

Mr. Kyl. We started this session of Congress, I think, on a fairly high note of bipartisanship. While there have been some recent events that may have detracted from that, I think most of us would like to proceed with as much bipartisanship as possible. Part of this, of course, concerns relationships between the Congress and the President.

Since the majority in the Senate and the President are of different parties, that may be a little more difficult, but I have a suggestion today which I hope will enable us to move in that direction.

The President has a number of nominees, executive branch nominees, and there are a few legislative branch nominees that require our actions, and then there are some judicial nominees. I hope in a real spirit of bipartisanship we can get those nominees cleared, that the President can confirm the President’s nominations and the personnel that he needs in the executive branch to get his work done, and that we can confirm the judges the courts need. These are people who need to be put into place so our country can move forward for all of the American people.

Up until last week, unfortunately, the Senate had been acting at a relatively slow pace. I might also add the change from the majority to the minority, and vice versa, undoubtedly complicated this, but we were not making very good progress.

Last week, I note that 54 nominees were identified by the Senate. In fact, 36 were confirmed just last Thursday. So we are finally beginning to make some progress. I urge my colleagues to continue this progress because, by my count, there are 93 executive branch nominees pending as of today. Only 26 have had hearings. But as we know, it does not take too much for the committee work to follow shortly after a hearing so the nominees can actually come to the Senate for full debate and confirmation by the full Senate.

As of today, according to the administration’s figures, approximately 347 nominees have come to the Senate, and only 187 have been confirmed. So we still have a fair amount of work to do. In terms of judicial nominees, my understanding is that there are 29 nominations pending, 3 of which have had hearings. Of those, 20 are circuit court nominees, 9 are district court nominees. The bottom line with regard to the change from today, no circuit or district court judges have been confirmed this year. We are, of course, now past the midway point of this year.

We are going to have to get going. Again, I do not want to point any fingers at the spirit of bipartisanship which I am involving here today. I am hoping Republicans and Democrats in the Senate and the administration can work very closely together.

What I would like to do, and I will do at the end of this week, is submit for the RECORD the names of the nominees who are pending. I was going to read the names of the people who are currently pending, but I do not need to do that. I will submit those for the RECORD. But I would note some of these have been pending going back to the month of April. Clearly the Senate can act on those nominees who have been before us for a long period of time, and we should expedite those who have come before us, even fairly recently. It should be on the floor that the time we conclude our work in July and return to our States for the August recess, that all of the nominees who have come to the Senate, except maybe in the last couple of days before that period of time have been cleared; that is to say, they will have had their hearings, come out of committee, and been acted upon by the full Senate. Very few of them are controversial, as I go down the list.

I do note in a couple of cases nominees are being held up by Senators—actually in four or five cases. A couple of those are being held up by Republicans, and a few more are being held up by Democrats. I am going to urge my Republican colleagues to cooperate so the concerns they have expressed can be dealt with and the nominees may move forward. I hope my Democratic colleagues will do the same on their side of the aisle. I think it is important that we act as a Senate may, and not a technical hold on a nomination, we all appreciate all that means is that they have requested to be notified if the majority leader is going to call that nominee up for a full Senate consideration so that Senator will have an opportunity to object. Obvi-

ously, we do not want to put Members in that position, but I do think it is important for the full Senate to be able to work its will on these nominees. That is why I am going to ask both Republican and Democratic colleagues to cooperate so we can proceed.

Finally, last week I worked with the distinguished majority leader and the assistant majority leader in ensuring we could both bring the appropriations bills that we have to deal with to the Senate floor and to get these nominees done at the same time. There is nothing to prevent us from bringing an appropriation bill to the floor today. Then, toward the end of the day, for those nominees that do not require debate and rollcall vote, having them considered in the wrap-up.

I will continue to do that because it is my expectation that we will not have to use the cumbersome parliamentary procedure that we all have available to us to hold up business of the Senate in order to get these nominees done since they are the top priority; that we can actually do both at the same time.

That is my request of the majority leader and of the assistant majority leader—to continue to work in that spirit moving forward both with the appropriations bills and with the nominees. I will have more to say about this later.

I ask unanimous consent that the names of the nominees that are currently pending be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUSH ADMINISTRATION NOMINEES PENDING

SENATE ACTION

AGRICULTURE

Thomas C. Dorr, Undersecretary for Rural Development.

Michael J. Garcia, Assistant Secretary for Export Enforcement.

Hilda Gay Legg, Administrator, Rural Utilities Services.

Mark Edward Rey, Undersecretary for Natural Resources and Environment.

COMMERCE

Samuel W. Bodman, Deputy Secretary of Commerce.

David Sampson, Assistant Secretary for Economic Development.


William Henry Lash III, Assistant Secretary for Market Access and Compliance.

DEFENSE


Stephen A. Cambone, Principal Deputy Undersecretary for Policy.

Susan Morrissey Livinston, Undersecretary of the Navy.

Alberto Jose Mora, General Counsel, Navy.

Michael Parker, Assistant Secretary for Civil Works, Army.

John Stembly, Assistant Secretary for Command, Control, Communications & Intelligence.

Ronald M. Sega, Director, Defense Research and Engineering.

Joseph E. Schmitz, Inspector General.

Michael L. Dominguez, Assistant Secretary (Air Force) for Manpower, Reserve Affairs.

Neilson P. Gibbs, Assistant Secretary (Air Force) for Installations & Environment.

H.T. Johnson, Assistant Secretary (Navy) for Installations & Environment.

Nelson P. Fiori, Assistant Secretary (Army) for Installations & Environment.

EDUCATION

Carol D’Amico, Assistant Secretary for Vocational and Adult Education.

Brian Jones, General Counsel.

Laurie Rich, Assistant Secretary for Intergovernmental and Intergency Affairs.

Robert Paetermack, Assistant Secretary for Special Education and Rehabilitative Services.

Joanne M. Wilson, Commissioner, Rehabilitation Services Administration.
Ms. CANTWELL. Mr. President, I rise today to address an issue of extraordinary importance to the State of Washington, the Pacific Northwest, and the entire west coast. That is the role of the Federal Energy Regulatory Commission in regulating our Nation's energy markets and righting the wrongs that have been visited upon ratepayers in the West by runaway energy prices over the last year.

We are now 22 days into an expedited review process by the Federal Energy Regulatory Commission, designed to determine refunds for the unjust and unreasonable rates paid by Western consumers.

At the urging of my colleagues from the Northwest, Senators MURRAY, WYDEN, SMITH, and myself, FERC finally recognized the realities of the energy markets in the West when they allowed Pacific Northwest utilities to participate in these proceedings and the expedited review process. But my
main concern is that in the haste of putting the California debacle behind it, FERC will again overlook the Northwest and consumers who have been impacted by as much as 50-percent rate increases.

I am afraid my suspicions were born out last week when the administrative law judge charged with overseeing this refund matter issued his recommendations to FERC, again paying little attention to the Northwest problem. It is now up to FERC to determine what to do with the judge’s recommendation.

I believe the Commission should not—and cannot—in the interest of fairness ignore the Northwest in its refund calculation. While many of my colleagues are well aware of the toll this crisis has taken on California, we—and FERC—cannot disregard the impact that it has had on Northwest citizens, businesses, and communities of Washington State.

Equitable treatment in this refund proceeding requires that the Commission recognize a certain fundamental truth: That Northwest consumers have been harmed, and they have been harmed by unjust and unreasonable prices that have prevailed in all energy markets throughout the West—inside and outside California, and in spot, forward, and long-term power markets.

There are differences between how California and Northwest utilities manage their obligations to serve consumers. Thus, FERC should not come up with a one-size-fits-all solution for a refund methodology. The basic litmus test should be this: Did power rates meet the commonsense test of reasonableness? If the answer is no, then FERC should not allow recovery of any profits and already forcing a handful of layoffs. In the words of the company’s president, any further rate increase will mean that the refund would have to close its doors.

This crisis has a very human face. The LIHEAP caseload in the State of Washington is expected to grow 50 percent this year. I have heard from many senior citizens who can’t afford to light their homes at night and will be making hard choices later this fall and winter about heating their homes and buying food. I have visited children who are worried that their parents, in some of those industries I mentioned, will lose their jobs. And those children are concerned they will then lose their homes when their mothers and fathers do not have the work to pay their bills.

Our schools have also had to cut corners. The Central Valley School District near Spokane, for example, has had to divert about $200,000, that would otherwise be used to purchase textbooks, to pay its energy bills.

What is more startling is the gravity of these impacts, and the number of Washington residents suffering from this crisis, is going to continue to grow. I say that because the Bonneville Power Administration, which provides Washington with 70 percent of its power, will be forced to raise its rates another 46 percent this October.

It is clear that FERC has an obligation to do more. I believe FERC—consider the judge’s recommendation to help these people I have just mentioned, and to help the State of Washington overcome the economic impacts caused by the California market and by a serious drought. FERC must not only stabilize our market and ensure fair rates in the future, but also must address past wrongs and the harm that has impacted consumers.

FERC took its first serious step in its June 19 price mitigation order. Given the economic conditions in my State, I believe this was an overdue. But it was a positive first step.

The effectiveness of FERC’s price mitigation plan will remain of vital concern to all of us from the West. We
need to remain mindful of what the effects of this California-focused mechanism on supply in the Northwest, as our region approaches peak winter heating season approaches.

But let me address specifically the issue of refunds and where we are today in the process. Of particular concern to me is the fact that, as part of the June 19 order, FERC established a 15-day settlement conference for participants in California energy markets, and others in the West, to reach agreement on potential refunds for overcharges and settlement of California's unpaid accounts.

As has been the case throughout this crisis, the order was initially silent on the issue of relief for the Pacific Northwest. It was only after the intervention of a bipartisan group of Northwest Senators—figure the Northwest its order clarifying that Northwest parties would also participate in those discussions.

But the 15-day settlement window has now closed and no agreement has been reached yet on how consumers in either Washington State or California. As I have mentioned, the administrative law judge made his recommendation last week on how to proceed. He was mostly silent on the issue of relief for the Pacific Northwest. It should also be noted that, to the extent the recommendations did comment on our concerns, it was not factually correct. While the recommendations said Pacific Northwest parties "did not have data on what they were owed, nor an amount of refunds due them," it is a matter of public record that a group of Northwest utilities—net purchasers in the West's dysfunctional power markets—submitted a claim for $580 million, as well as documentation and a proposed methodology for calculating those refunds.

That notwithstanding, this is a silence the Commission itself cannot, in the interest of fairness, sustain. FERC must seek an equitable solution for the Northwest. In order to do that I believe it is critical that FERC recognize some fundamental differences between the Northwest and California energy markets—and that fundamental fairness requires that refunds go to customers in California.

First, FERC needs to recognize that most Northwest participants in the California markets are load-serving utilities. These load-serving utilities are responsible for a very small percentage of the power sold into the California market—certainly no more than 4 percent—and they are clearly not the parties that broke the market. Further, many in the Northwest, especially the Bonneville Power Administration, have been partners in helping solve the California problem by keeping the lights on during emergencies, at costs to the Northwest that cannot necessarily be quantified—particularly when one takes into account the Northwest’s endangered species and salmon issues, and the delicate balance we generate power, it is quite a delicate balance.

Unlike power marketers or merchant generators, Northwest utilities operate under a statutory obligation to meet all their customers' electricity needs. Further, our region's power supply is essentially based on hydropower. A full 78 percent of Washington state's generation comes from hydropower. As has been made painfully clear by this year's drought—which has amounted to the second worst year of drought on record in the history of our State—the vagaries of hydroelectric production require that our utilities make other wholesale power purchases to meet load. In keeping with reasonable utility planning practices, these companies buy a portfolio of products of varying duration.

This points to a second, fundamental difference between the Northwest and California markets: Whereas California's utilities were forced, under the State's restructuring law, to make all of their purchases in a centralized hour-ahead or day-ahead market, we have no such centralized market in the Northwest. While we do have very short-term bilateral markets, our utilities have traditionally only used these to balance the difference between forecasted and actual loads, streamflows, weather conditions, and other similar factors.

Unlike the California ISO market, the Northwest utilities rely heavily on "forward" or long-term contracts that last for periods varying from a month ahead to a quarter or two or even longer. But these contracts have been closely affected by the skyrocketing spot market prices in California. It is thus absolutely crucial, for the purpose of its refund proceeding, that FERC recognize that power prices throughout the West—and not just in spot markets, but in these forward contracts as well—are unjust and unreasonable. Washington State's prices have moved in lockstep with the spot market prices.

In its June 19 order, the Commission itself commented on this, stating that there is a "critical interdependence among prices in the ISO's organized spot markets, the prices in the bilateral spot markets in California and the rest of the West, and the prices in forward markets." So the Commission itself has recognized the relationship between these prices. Indeed, when one compares forward contract prices in the Northwest with spot market rates both within the region and in California, for the last year, they show a correlation of more than 80 percent on a monthly average basis; that is, forward prices in the Northwest have moved in tandem with California's prices, which the Commission has deemed unjust and unreasonable. It is these forward prices that have largely driven the rate increases in the Northwest.

It is clear, then, that any FERC refund order that seeks to treat all Western participants fairly, as the Power Act says it must, must recognize the relationship between spot markets and forward markets.

Simply put, any refund policy must not disadvantage the utilities in the Northwest because of the contractual mechanism they have used to acquire power.

Let me just touch on the case of BPA because I mentioned it earlier. Throughout this crisis, BPA has responded to the California ISO's urgent calls for power supply when the State was teetering on the edge of rolling blackouts. In fact, on three separate occasions, the Department of Energy issued emergency orders directing Bonneville to sell power into the State of California. It should also be noted, however, that California entities have yet to repay BPA for about $100 million of these transactions.

As one of these entities has entered into bankruptcy, it remains questionable how the Northwest will ever receive this $100 million repayment. Meanwhile, BPA has at times drawn down its reservoirs, arguably compromising the reliability of Northwest power system to aid California. So while BPA has sold into the California spot market, it has actually been a net purchaser during the crisis, when one takes into account several forward contracts. And when faced with the volatile energy prices throughout the West, Bonneville earlier this year made the difficult decision to pay consumers to curtail their loads rather than to venture into the market.

I mentioned various of those efforts earlier in my remarks about the aluminum industry. Bonneville and the Northwest customers it serves have been victims of the power crisis touched off by this experimentation in partial deregulation, which has created this dysfunctional market.

In conclusion, it is important that the Commission act fairly and that my State's utilities not be penalized for sales into California when they have been forced to purchase power at a similar unjust and unreasonable rate.

It is very important that the Commission work toward a solution that gives the Northwest refunds, just as it is very important that FERC must work towards a comprehensive settlement that addresses the claims of both California and the Northwest. In order to reach an equitable solution, it must acknowledge the fundamental differences in the two markets. I believe a fair outcome requires FERC to take a few simple steps.

First, FERC must recognize an inescapable commonsense conclusion: that
all Western power markets have been dysfunctional for quite some time. The Commission’s duty under the Federal Power Act is to ensure just and reasonable rates in all markets at all times. I urge the Commission to act in accordance with section 309 of the Power Act in doing this.

Second, power prices have been unjust regardless of the type of market which the Northwest operates in. The fact is, we in the Northwest have a different market than California, and FERC simply cannot use the same formula when calculating refunds for our consumers. It must take into account both forward and long-term contracts. Those utilities that can, using this methodology, demonstrate a legitimate complaint should receive refunds.

Third, FERC must not leave the Northwest behind. NorthWestern utilities must be allowed to plead their case during the upcoming evidentiary hearing.

Finally, repayments of amounts due to the Northwest for sales into California must be an integral part of any refund calculation.

I call on the FERC Commissioners to incorporate these principles into a refund policy for the Northwest. It is indisputable that the Northwest has been harmed. Now it is up to FERC to take the action to mitigate those damages and to repay the consumers in Washington State.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

THE GREAT COMPROMISE

Mr. BYRD. Mr. President, 214 years ago today, on July 16, 1787, the members of the Constitutional Convention agreed to one of the great compromises of our history. The power of the individual states like Virginia, the State of Pennsylvania, the State of Massachusetts, and the State of New York were apportioned by population, an arrangement that would favor larger states like Virginia, the State of Pennsylvania, the State of Massachusetts.

On June 15, William Patterson had countered the “New Jersey” plan, which was really a series of amendments designed to strengthen rather than replace the Articles of Confederation. Its supporters, representing the smaller States, worried that the Virginia Plan went too far in creating a central government and that it would diminish the power of the individual States. However, the Delegates rejected the New Jersey Plan and committed themselves to the creation of a new form of government.

The smaller States had lost the first battle, but they had enough votes to keep the Convention from succeeding. Unless something was done, the new government would firmly protect their rights, the rights of the smaller States. They demanded the same equality of the States that had existed under the Articles of Confederation. On July 1, the Convention split 5 to 5 on the issue. The Georgia Delegates were split and did not vote. This tie represented a deadlock between the conflicting demands of the larger and smaller States.

When the Convention recessed to celebrate the Fourth of July, the Delegates appointed a special Committee to solve the dispute. Elbridge Gerry of Massachusetts chaired the Committee which devised a compromise that apportioned the House by population and gave the smaller states a voice in the Senate. Inasmuch as the idea for the special Committee had been proposed by Roger Sherman, a Connecticut Delegate, the “Great Compromise” is also known as the “Connecticut Compromise.” In promoting the plan, William Samuel Johnson of Connecticut explained that under this arrangement the two Houses of Congress would be “halves of a unique whole.”

The Great Compromise is one of the more momentous events in our country’s history. Most people are probably unaware of it or have forgotten their high school days during which they should have learned about it. But for the Great Compromise, the course of our country’s history might have been forever altered.

Fortunately for us, the men who attended the Philadelphia Convention were some of the ablest and brightest leaders of the time, in fact, of any time. What a gathering that was. Never before, in the history of our country, had we gathered like this one in Philadelphia, 214 years ago today.

What a gathering that was! Never before had there been such an abundance of wisdom and learning, grace and dignity—not since the Roman Senate had gathered and been observed by Cicero, the Ambassador of Pyrrhus, King of Epirus, who visited the Roman Senate at the height of its dignity in the Senate. Cicero, the philosopher, was charged by Pyrrhus to present a peace proposal to the Roman Senate. Cicero had brought with him bribes for Roman Senators. He had brought with him rich robes for the wives of Senators. But he had found no takers—none. Cicero was impressed. The sight of this great city, the city of Rome of the seven hills, its austere manner, and its patriotic zeal, struck Cicero with admiration. When he had heard the deliberations of the Roman Senate and he had observed its men, he reported to Pyrrhus that here was no mere gathering of venal politicians, here was no haphazard council of mediocre minds, but, in dignity and statesmanship, veritably “an assembly of kings.”

We might be prone to overlook the tremendous physical and mental effort expended in drafting the Constitution. In reading this short document—here it is, the Constitution of the United States—do we find as much passion and gusto, they had set about devising a plan that would create a new nation.

In our own time, in these sometimes disturbingly partisan days, many of us are prone to overlook the tremendous physical and mental effort expended in drafting the Constitution. In reading this short document—here it is, the Constitution of the United States—I hold it in my hand. When reading this short document with its precise and careful phrases, it is easy to forget the toil, the sweat, the prayers, the concerns, the frustrations, the shouting, and the argumentation and the thinking and the pleading and the speeches that went into its creation during that hot Philadelphia summer.

Progress was so slow that upon one occasion, we will remember that Benjamin Franklin, the oldest man in the gathering, stood to his feet and added, “if we spend this day in reading this short document with its precise and careful phrases, it is easy to forget the toil, the sweat, the prayers, the concerns, the frustrations, the shouting, and the argumentation and the thinking and the pleading and the speeches that went into its creation during that hot Philadelphia summer.”

Sir, I have lived a long time, and the longer I live the more convincing proof I see that God still governs the affairs of men. And if a sparrow cannot fall to the ground without our Father’s notice, is it possible that we can build an empire without our Father’s aid?

The greatest sticking point, and the most threatening that was encountered in framing the Constitution, according to Madison, was the question of whether States should be represented in Congress equally or on the basis of population. The question was far from academic. The small States feared that they would be swamped in a more centralized union: “The Constitution must be acceptable to the small States, as well as to the large States. The large States of Virginia, Massachusetts, and Pennsylvania were looked upon as Virginia alone, with fear and distress. The small States feared that a Congress based on population would be dominated by the large States. Virginia would have 16 times as
many votes as would Delaware. And this fact led New Jersey’s Delegates to declare that they would not be safe to allow the States to the least diminution of their sovereignty, counting three-fifths of the inhabitants only and in the other branch according to the whole number, counting the slaves as if free.

When Ellsworth’s motion for allowing each State an equal vote in the second branch was brought to a vote, it was lost by a tie. This deadlock gave rise to tense debate. Can you imagine the tension in that Chamber? We have seen tensions in this Chamber during the great debate of the Civil Rights Act of 1964—tension—the North and the South pitted against each other, and the great tensions during the Panama Canal debate.

The result was the adoption of a proposal that a special committee consisting of one member from each State should be appointed to devise and report some compromise. Three days later, on July 5, the committee presented two recommendations “on the condition that both shall be generally adopted.”

The first recommendation, in effect, provided that in the first branch the legislature each State would have one Representative for every 40,000 inhabitants, counting three-fifths of the slaves; and that all bills for raising or appropriating money should originate in the lower branch and not be altered or amended by the second branch; and that no money should be drawn from the public treasury but in pursuance of appropriations to be originated in the first branch. According to the second recommendation, each State was to have an equal vote in the second branch.

This compromise proposal was under debate for 10 days. And you know...
The Great Compromise, it is hard to see how the Federal Convention could have proceeded; since the beginning it had been cause for battle. The effort to resolve it, Luther Martin had written later, "nearly terminated in a duel." The rules of the Convention would have let them reconsider the subject, but it was hopeless. The large states knew that they were beaten, and, after July 17, they let the question die. From then on, matters moved more easily, the little states were more ready to meet the big states and were willing to yield on many questions. They felt safe, and they were no longer threatened by Virginia, Pennsylvania, Massachusetts, to them, the towering bullies. Caleb Strong told his colleagues in Boston that the federal Convention had been "nigh breaking up," but for the compromise. Luther Martin declared in Annapolis that even Dr. Franklin had only conceded to equality in the Senate when he found that all other terms would be accepted.

Catherine Drinker Bowen, in her book, "Miracle at Philadelphia," states that Madison "in his old age sat down a clear testimony in letters to his friends. The threatened contest in the federal Convention, he said, had not turned, as most men supposed, on the degree of power to be granted to the central government but rather on 'the rule by which the states should be represented and vote in the government.' They questioned 'the most threatening obstacle that was encountered in framing the Constitution.'" Those were Madison's words.

Mr. President, we should thank Providence for this miraculous document. Let me hold it again in my hand. There it is, the Constitution of the United States. We should thank Providence because Providence had to smile upon this gathering of illustrious men. Never had such a gathering of men, a gathering of minds, been placed anywhere in the world. We should thank Providence for this document.

One thing is clear: Without the Great Compromise, the Senate of the United States would not exist, for this body was conceived on that day 214 years ago. In Philadelphia, when the Framers agreed to compromise, they meant by it that each State—small, like West Virginia, which did not exist then but very surely exists now—would have an equal number of votes, each State would have equal representation.

The Senate is the forum that was born on that day. But for the Great Compromise, this beloved institution—the Senate—to which so many of us have dedicated our lives and our hopes and our reputations, our strength and our talents and our visions—might never have seen the light of day, let alone played an often pivotal and dramatic role in our national history over the course of more than two centuries.

The Chamber in which we sit today owes its existence to that remarkable instance of compromise and conciliation. For but for that Compromise, no Senator could wear the great title of Senator.

It recalls to my mind Majorian, who, in the Vandal empire, made himself emperor of the west, said he was "A prince who still glories in the name of 'Senator.'" None of us would be here today—the pages who are here, the Presiding Officer, the officers of the Senate—none of us would be here today. Thank God for the United States Senate. Thank God for the Great Compromise that was reached by the Framers on that day so long ago in Philadelphia.

The Romans spoke of the SPQR—Senatus Populusque Romanus: The Senate and the Roman people. Let us today, looking back on that great victory of our Framers 214 years ago, think in those Roman terms about our own Republic—Senatus Populusque Americanus.

Mr. REID. Before the Senator from West Virginia leaves the floor, I would like to say to him I watched most everything from my office and came to watch the finish.

I remind the Senator, when you were the Democratic leader, you allowed this young freshman Senator to go to the 200th anniversary of the Great Compromise in Philadelphia. We took a train over there. I had just come from New Mexico. It was in 1987, as I recall. It was a wonderful experience to do the reenactment. You brought back many memories.

I say to my friend, the distinguished Senator from West Virginia, presently second in many people in America are thinking about the Founding Fathers. The reason they are doing that is because of the great work David McCullough has written about John Adams, the forgotten President. It is on the best seller list. It is a straight history book, very well written. I still have about 70 or 80 pages to go. But as I said, he is a man to whom we have not, until now, paid much attention. He was the first Vice President, the person who became our second President. He was involved from the very beginning with the very difficult decisions made by this country. He spent 7 years of his life in Europe. He had never traveled at all. He traveled to Europe, trying to work out things during the Revolutionary War. It is a wonderful story.

Truth is stranger than fiction. As the Senator from West Virginia has so well portrayed here today, every day we should be thankful, in whatever private time we have, to think about how fortunate we are to be able to be part of this Government and especially to be part of this Senate, which was the Great Compromise.

I extend my appreciation to my friend for reminding us of how fortunate we are to be able to be part of this Senate and to represent the people from the various States we represent. To think, as a result of this Great Compromise, we have developed a country that is certainly imperfect but based on this document—which, by the way, is signed by Robert C. Byrd—even though imperfect, is the finest set of standards, the finest country in the history of the world to rule the affairs of men and women.

Again I express my deep appreciation to the Senator from West Virginia for tearing at my heart a little bit, recognizing what a real patriot is. The Senator from West Virginia exemplifies that.

Mr. BYRD. Mr. President, I thank my friend for his observations.

He might well have sat in that gallery of men who debated, who disagree, who compromised, who agreed, and who wrote that document. He cherishes it. He carries it in his pocket.

Yes, I very well remember that occasion when we went to Philadelphia. Our friend Senator Domenici, who is the Senator from New Mexico, was there that same day.

Mr. DOMENICI. Yes, sir.

Mr. BYRD. Yes, I remember that day. I am glad we three were blessed, among others, in our being able to attend that celebration in the City of Brotherly Love, on that august occasion.

The Senator’s reference to David McCullough reminds me of what a great part women have played in the creation of this country. Senator Byrd has mentioned John Adams. John Adams’ best friend, his most trusted women was his wife, Abigail. Walt Whitman said:

"Victory has a thousand fathers; but, based on this tiny little document—which, by the way, is signed by Robert C. Byrd—even though imperfect, is the finest set of standards, the finest country in the history of the world to rule the affairs of men and women.

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his “Thoughts On Government.” He distributed these writings to the Framers at the convention in those critical days. The Framers, I think were wise in reading the words by Adams and I think their work, their work product, reflected the thoughts of John Adams.

One of the great books I have read in my lifetime was “The Path Between The Seas” by David McCullough, about the Panama Canal. David McCullough was kind enough to send me a copy of the book. The Senator who delivered it to me also autographed it. That Senator was Ted Kennedy. So I prize that book. But I thank the distinguished Senator from Nevada.

Mr. REID. Will the Senator yield.

I am glad you mentioned Abigail Adams for the wonderful letters the two of them wrote before he was going to become President of the United States—he thought. He wasn’t quite sure, you will find, as you get through the book. He wound up winning that election by three votes over Thomas Jefferson.

The letters from the very beginning, from Abigail to John, are wonderful. I mean, you could put those letters together—I am sure we have only seen a few of them that David McCullough selected. But they were love letters. These two people were madly in love with each other from the time they started writing, when he went away to do his government stuff, clear across the ocean. They would wait months, sometimes, to get answers to letters they had written. But I was terribly struck by the letter she wrote to John Adams when he learned he was going to be President of the United States. In this letter she expressed her love for this man that she couldn’t bear to be away from, and that they would be together soon.

So you are absolutely right. John Adams could not have made it but for Abigail.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. DOMENICI. Will the Senator yield?

Mr. BYRD. Yes, I am happy to yield. Mr. DOMENICI. I was present indeed at your invitation for that wonderful event. The reason I rise, I express to you what a great institution the Senate is, but the reason I say it to you is that over time you have, more than anyone else here, continually reminded people such as me what a great institution the Senate is. And you know, if you are not steeped in history, like I wasn’t, or if you really didn’t spend a lot of time other than in normal schooling on the constitutional framework, then you don’t know about the heroism of others. You might not know that the Senate is over there in Washington. But, essentially, when the Senator from West Virginia and the Senator from New Mexico, about 6 or 7 weeks ago got up on the floor and debated—I think the Senator from West Virginia wanted 3 hours and got 3 hours. I don’t know whether the Budget Act of the United States, a statute, in this instance, changed the basic Jeffersonian rules of the Senate or not, which the Senate voted with this Senator saying it did—50–49 is my recollection—I recall how passionate you were about reminding everyone what the rules of the Senate meant to the rights of the American people, to have their issues debated as long as the Senator, under the rules, could get them debated.

Who would have thought that was an important thing, until you figure out what they really had in mind for the Senate.

We are a very different institution than the House. Sometimes we get into arguments and deride each other—the House does this, the Senate does that, the upper and the lower, whatever the people say. But the truth is we are tied inextricably to the notion of there being sovereign States that make up America.

As a Senator, you find a way to tie that into the Senate and what we do; to the fact that the States have a tremendous amount of authority and autonomy in the United States. That is the way it is and should be. You represent your State and I represent mine. In a very real sense, we are permitted to do that because of what our Founding Fathers sacrificed to put the Senate into this basic governance approach.

Remind us, once again, of our origins and how important the Senate is, how much it was debated, of the great concern there was, and then to bring it current, as you do frequently, reminding us what we are and who we are. I think it requires that somebody from way off in New Mexico congratulate you for how you do that.

What you had to say about the Senate, not just today but over these years, will be for however long we exist and clearly will never be forgotten as part of our fabric.

I am very pleased to be here as that fabric is woven by the distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, a long time ago, I was a boy in the coal fields of southern West Virginia. My coal miner dad bought a fiddle for me. There was a lad in that coal mining community named Emanuel Machinci. I remember that little boy and his family. In those coal camps were Hungarian families, Czechoslovakians, Germans, Scotch, Italians, and Greeks. This little boy, Emanuel Machinci, also had a fiddle. We took lessons together at the high school.

So I have often listened to and looked at my friend here—this man of Roman stock. My, what a heritage he has. I don’t know where his forbears may have originated—whether it was in the Apennines Mountains, or along the shore of the Tyrrenian Sea, or the Adriatic or the Po Valleys, or on the boot of Italy. But there were stalwart people in that Roman Senate. I often speak to Senator DOMENICI about the Roman Senate; what a great Senate.

Again, I refer to Majorian, the Emperor of the West in 457 A.D. As he was being made Emperor, he said he was “a prince who still glories in the name of ‘Senator.’”

I thank the Senator for his reminiscing time. I also thank the Senator from Nevada. I have been blessed by serving with both of these Senators.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002—Continued

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, what is the matter now pending before the Senate?

The PRESIDING OFFICER. H.R. 2311. AMENDMENT NO. 980

Mr. REID. Mr. President, I ask unanimous consent that the substitute amendment be agreed to, the bill, as amended, be considered original text for the purpose of further amendment, and that no points of order be waived for the purpose of further amendment, the amendment be agreed to, the bill, as amended, be given its final passage, and that no points of order be waived for the purpose of final passage.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will report. The legislative clerk read as follows: The Senator from Nevada [Mr. REID] for Mr. BYRD and Mr. STEVENS, proposes an amendment numbered 980.

(The text of the amendment is printed in today’s Record under “Amendments Submitted.”) The PRESIDING OFFICER. Under the previous order, the amendment is agreed to. The amendment (No. 980) was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, this afternoon we begin consideration for the Fiscal Year 2002 Energy and Water Development Appropriations Act. The legislation we take up today was reported unanimously from the full Committee on Appropriations last Thursday.

Before I begin my description of the contents of this bill, I want to share one strongly felt opinion with my colleagues. It is my opinion, I believe—I have a real suspicion that Senator
Mr. President, it rained. This isn’t something I am proud of, but it is something that is a fact. It rained. It rained in a very small area. It rained very hard. But all of that water dumped down this canyon, and people looked up and they saw a wall of water 100 feet high coming at them. It washed cars away. It killed seven people. We never found the cars and mobile homes that washed away.

In southern Nevada, again Nelson’s Landing—but in Las Vegas we have had floods that have been just as devastating. We have not lost at one time seven lives but we have lost lives. Caesar’s Palace, this great resort—I can remember rains that washed away everything in the parking lot. It was just washed away as if they were toothpicks.

The Tropicana-Flamingo Wash in Nevada is the fastest growing community in the Nation. We have been able to save lives and a large amount of properties by virtue of the fact that we control projects ongoing there as we speak. It has cost a lot of money, but we have saved a lot of lives; and that is for what the Federal Government has an obligation, to assist local governments. There has been local money put in it, too.

The Everglades: I have seen the Everglades. I really do not understand them. I understand aridity. I understand when it rains, it never rains in Las Vegas. It rains 4 inches a year in Las Vegas—4 inches a year. You can get that much rain in other parts of the country in an hour, certainly in a day. But we get 4 inches a year in Las Vegas. Yet when it rains, it can be devastating because we have what we call cloudbursts.

Now we have 1.6 million people in that valley. When that rain comes, it is very difficult. I can remember as a lieutenant governor, we were told by the Park Service that we were going to have to close a little facility on the Colorado River, Nelson’s Landing. It has been there well over 100 years. We were going to have to close it. The Governor assigned me to look at that and the complaints were getting. We prevailed on the Park Service not to close it. They said we were going to have a 100-year flood. I went and talked to people and they said they had never known that much rain coming down that canyon: The Federal Government, they don’t know what they are talking about.

Mr. President, it rained. This isn’t something I am proud of, but it is something that is a fact. It rained. It rained in a very small area. It rained very hard. But all of that water dumped down this canyon, and people looked up and they saw a wall of water 100 feet high coming at them. It washed cars away. It killed seven people. We never found the cars and mobile homes that washed away.

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The Everglades: I have seen the Everglades. I really do not understand them because I understand the desert. I understand aridity. I understand when it does not rain. I am acquainted out of my little home in Searchlight I have creosote bushes that are not very tall that are 100 years old. They do not grow very much. So I do not really understand the Everglades. I am fascinated by them. But it is water intensive. It is as water intensive as the desert is not water intensive.

We have worked hard with the Senators from Florida on a project-by-project basis to take care of that. It is now a huge priority not only of the Senate, as it has been in the past, but of the administration. I think part of that could be that Jeb Bush is Governor. It does not matter. It is an important project that the Federal Government should be involved in—and we are. There is a lot of money in this bill for the Everglades.

Not far from where we stand is the Chesapeake Bay. Books have been written about the Chesapeake Bay. It is a wonder of nature. But because of the growth that is occurring in this area, the Chesapeake Bay has been threatened. The health of that great body of water has been threatened. It affects Maryland and Virginia very much. The bay is threatened as a natural resource.

Senators Mikulski, Sarbanes, Warner, and Allen have aggressively sought money to restore that waterway to what it used to be so oysters can be harvested there and not make people sick. The oyster industry in Maryland and Virginia is huge, but it has not been as huge recently because of the condition of that bay. The restoration of the beds at relatively low cost, we believe, will ultimately generate hundreds of millions of dollars in economic benefit and jobs. This is a water project.

The Port of Los Angeles: We move from the Chesapeake Bay 3,000 miles to the Port of Los Angeles. The administration had made a decision to stretch this out. The problem we have found with these promises is that even though it sounds OK, you stretch it out and it winds up costing much more money. You are better off doing less projects and doing them well. Congress has funded this project very aggressively and has saved the Federal Government 25 percent of the total project cost and has accelerated the economic benefits to California.

So these are just four examples of water projects. But there are many others. We have worked together with our members, our Senators, and, of course, many requests from people in the House, to do what we could with these projects.

Even with the additional funding the committee has added, we are still hundreds of millions of dollars shy of current year levels. We are also shy of the House mark. The other body was able to artificially raise their numbers for the Foreign Bureau by moving defense dollars in these nondefense accounts. We cannot do that. Under Senate rules, we cannot do that. In my opinion, not only the budget resolution but common sense does not allow us and should not allow us to move these funds back and forth.

But I will say to everyone who is listening, in the past, the water numbers have always gotten better for everyone as we have moved along the process; that is, we hope we can do a better job there. We get to conference. There is no guarantee of that, but we will work on that.

Our bill provides about $25 billion in budget authority and approximately
$24.7 billion in outlays. When you work with Senator DOMENICI, you always have to make sure the outlays are smaller than the budget authority. This bill exceeds the President's total request by $2.6 billion.

Let's talk about a few of the areas. The Army Corps of Engineers: The Senate bill provides $1.3 billion, which is $605 million above the President's request but $236 million below the current year level. Due to the funding constraints, this bill contains no new construction starts and no new environmental infrastructure projects.

The intent in drafting the bill was to continue to focus on ongoing construction and operations and maintenance projects at appropriate levels. The committee is eager to avoid stretching out schedules and costs on projects that are under development. Any new construction starts will have to be considered in conference. We will do what we can at that time.

A lot of people are very concerned about things they want to do. I have a lot of familiarity with the Bureau of Reclamation because they have had such a big presence in the State of Nevada. The very first project in the history of the Bureau of Reclamation was called the New Lands Project in 1902. It took place in Nevada. It is still there. The Senate's bill provides $884 million, which is $64 million above the President's request and $67 million above the current year level.

This funding for the Bureau is higher than it has been for many years. It is higher because of CALFED. This is a big project in California. It is a reclamation project. The State of California has spent billions of dollars on it already. The House put nothing in the bill for Senator DOMENICI and I put $40 million in this bill for the CALFED and CALFED-related projects. The subcommittee has funded CALFED-related projects using existing authorities under other accounts. Senators FEINSTEIN and BOXER have both been very tireless advocates for the Bay-Delta Program. Senator DOMENICI and I are both delighted to provide substantial funding.

The Department of Energy: We in Nevada have great familiarity with the Department of Energy. Nevada has been the place for 50 years where almost 1,000 nuclear devices have been set off in the desert—most of them underground but not all of them. I know about the Department of Energy. This bill contains over $20 billion for the Department of Energy. This is $2.1 billion over the level of the President's request and $1.9 billion over last year's level. Most of this additional funding is being used to provide adequate funding for the National Nuclear Security Administration, to enhance funding levels for these important research and development issues.

Consistent with the budget resolution, this bill provides $6.1 billion to the National Nuclear Security Administration for stockpile stewardship activities. This funding is $705 million over the President's request and $1.05 billion over the current year level. I am only going to speak a little while about the National Nuclear Security Administration, known as NNSA. I defer to Senator DOMENICI on this subject. Senator DOMENICI was the primary congressional architect of the creation of the National Nuclear Security Administration. He did it tirelessly to get it authorized and has been dogged in his pursuit of funding to make sure that this important organization gets the resources it needs to succeed. To his credit, he convinced his colleagues on the Budget Committee that the safeguarding and rehabilitation of the Nation's nuclear weapons was a critical issue that has been underaddressed and underfunded in recent years. Senators BYRD and STEVENS followed up with appropriation resources designed to support the levels in the budget resolution.

This morning I spoke to the interns for Senators LINCOLN and HUTCHINSON of Arkansas. I don't know how many interns there are. There are a lot of young men and women. One of the young people asked me: What do you think is the most important problem facing the world? I thought for a minute. I said: Nuclear weapons. I really do believe that with the deteriorating condition of the former Soviet Union, Russia's nuclear stockpile, and the responsibilities we have, that is a very important issue. I can't think of anything more important for my grandchildren than to make sure they live in a safe world.

One of these weapons that we control and certainly one that the Soviet Union controls could accidentally go off. It would be devastating. It would make Chernobyl look like nothing. Chernobyl was just a nuclear reactor gone bad. We are talking about a nuclear weapon gone bad. I believe that is the No. 1 problem facing the world. We have a number of different ways of addressing it. We have to spend more money and there are efforts being made for a nuclear shield for this country. But what we are talking about in this bill is doing what we can to make our nuclear stockpile safe and reliable. Our bill spends some money, maybe not enough, to work on the Russian Union, but we have to at least see if we can help the problem.

I have to admit, I was a skeptic when Senator DOMENICI and others approached me about the creation of this autonomous organization several years ago. I thought it was a partisan ploy to maybe embarrass the administration. But as it turned out, it is working very well. I have come to believe Senator DOMENICI was right.

One of the people who has done a good job of convincing me of that is the person running that agency. We as a country, as a world, are so fortunate that a retired general would take charge of this operation. He believes in it. He is a very competent, dedicated, patriotic American. With him heading this office, we should all go to sleep at night resting well that everything possible is being done to make sure we do have a safe and reliable nuclear stockpile. I am going to do everything I can to give him the resources he needs to do his job. He has a job that is very difficult.

I am also, of course, holding him accountable for getting the job done. I have been a long-time critic of cost overruns and management incompetence within the weapons complex. I know General Gordon will take these enhanced resources and use them to get some fresh blood and fresh thinking going on within the Department of Energy.

I am not going to go into more detail. I know Senator DOMENICI will speak about this, since this is his so-called baby. It has grown up and is about to become a teenager. It is something to which the Senator can speak with more authority than I.

Finally, I am very pleased to report that the committee has made great strides in restoring and enhancing the devastating cuts made in the Environmental Management Program at DOE. This Senate bill provides $7.23 billion, $900 million above the President's request and $650 million above the current level. The biggest beneficiaries of these additional, cut-up dollars are the Hanford, Washington site, hundreds of millions of dollars; Savannah River site, almost $200 million, that is in South Carolina; Idaho, over $150 million; Ohio and Kentucky, tens of millions of dollars.

As with water programs, I realize there are never enough resources we can spend to clean up the legacy of the cold war and other activities, but we have done our best.

These are some of the highlights, from my perspective, of this bill. It is a bill I have learned to like. It is a bill I have grown to understand. I have grown to acknowledge the importance it has to our country. I hope my colleagues will realize the hard work we have worked on this legislation.

Senator DOMENICI and I would like to have a cutoff time for the filing of
amendments. We tried tomorrow at 11 and 12, and we have received objections to that. We are here. If somebody wants to offer amendments, they can certainly do that. They have to have offsets or figure out some way to fund them because we are down to the nubs. We have no more money. If people don’t like the way we have worked the bill, it is their privilege to come forward with amendments.

I do think it would be in everyone’s interest to have a finite list of amendments filed at an appropriate time. If anyone has any suggestions when that should be, Senator DOMENICI and I are open for discussion.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me first acknowledge the wonderful cooperative operation that existed here in New Mexico. I was chairman and this Senator as ranking member. I believe under the circumstances and considering the variety of things this subcommittee has to fund, we have done a pretty good job. I could offer for more understanding than I have received from the distinguished Senator, the chairman of this subcommittee.

I believe our staff has worked together, and I hope I have been equally considerate and concerned about issues of importance to the good Senator from Nevada.

As a result of this effort, we are together in trying to get this bill passed and get it off to conference and getting these issues resolved as soon as possible.

Let me say to my good friend, he was talking about a flood that occurred in the State of Nevada in one of those dry rivers where for most of the year no water is in it. But then you have a little cloudburst up in the mountains and these dry rivers turn into flooded, huge water resources plowing down the hills right into housing. In our State we call these dry rivers a Spanish name, “arroyos.”

In my home city of Albuquerque, I was pleased to serve 4 years as the city councilman, sort of chairman of the commission, which made me the closest thing to a mayor as you could have. I remember one Sunday afternoon in the year 1968, I was very wet, I had just been on this council as chairman for awhile. It started raining Sunday afternoon. I called up one of my good friends on the city council who knew more about the details of the streets and everything else than anybody in the city.

I called him up and said, “Harry, this rain is coming down in the wrong places; something is going to happen.” He said, “Where are you?” He picked me up and we rode around. Rain kept coming down harder and harder, and these dry rivers started to show a little trickle. Four hours later, we were riding the streets of Albuquerque and big manhole covers over the tunnels that carried water underground to avoid floods were standing or dancing on those manholes up 4 or 5 feet and stood them up while the place got flooded. We saw more and more of them. I told my friend, “This is a real problem.” He said, “No, things will be all right.” Finally 2 hours later, we got a call from the police chief. He said that in one whole piece of our city, maybe as many as 10,000 homes were under water. They had water in the kitchens, close to the tops of the stoves. It was a gigantic flow of water that came down these dry arroyos.

I remember coming here with a group of Albuquerqueans. I was city councilman then. We appeared before the Public Works Committee, which had to authorize the bill on which it went on to get appropriated. We came up to ask if the Federal Government would expand a program that was about to run out so we could build these rivers so they would be safe. Now if one flies over Albuquerque, as you approach the airport you see two giant cement waterways that are around the edges of the town—huge. They catch the water in these dry rivers up by the mountain and run them down these no longer dry rivers, but they are cement-lined ditches. Water comes down, and now you can be riding around and your commissioner friend Harry can say, “It is raining hard, Mr. Chairman,” and you can say, “It might hurt something else, but it won’t flood anymore.”

That is the kind of thing we pay for in this bill for hundreds of places across America. We hope we get them before they flood, but sometimes we don’t. Sometimes we pay for them after they flood. But to make sure we are not building white elephants, we require a very substantial match. The community has to come up with money. That is the way we finally decide it must be important, because they are not just asking us to have a construction project, they are going to pay for part of it.

My good friend, the chairman, outlined water issues. Clearly, there is no end to the requests in our country for water. We have the rule: the bills must go on to get appropriated. We came up to ask if the Federal Government would expand a program that was about to run out so we could build these rivers so they would be safe. Now if one flies over Albuquerque, as you approach the airport you see two giant cement waterways that are around the edges of the town—huge. They catch the water in these dry rivers up by the mountain and run them down these no longer dry rivers, but they are cement-lined ditches. Water comes down, and now you can be riding around and your commissioner friend Harry can say, “It is raining hard, Mr. Chairman,” and you can say, “It might hurt something else, but it won’t flood anymore.”

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Overall, the proposed fiscal year 2002 energy and water bill is a very fair and balanced bill that makes important improvements in our national security, our energy security, our economic prosperity, and in the health of our environment. This bill is an important step in implementing the President’s National Energy Policy.

The Senate bill in total provides $25 billion in budget authority and approximately $24.7 billion in outlays. The bill exceeds the President’s request by $2.6 billion, and exceeds the House bill by $1.4 billion. Without going into detail about all of the many great things in this bill, I would like to focus my remarks on two broad areas: (1) What this bill does for our energy security, and (2) What this bill does for our national security.

For our nation’s energy security, this bill represents a major step in fulfilling the President’s commitment to a balanced and diversified energy policy—particularly in the area of expanding the supply of clean energy from renewable sources and nuclear power.

First, that the policy focuses on supply and ignores conservation and efficiency. And second, that the policy fails to address the possible threat of global warming.

The policy is so clear on the first point that those who argue simply haven’t read it. There are more policy recommendations impacting conservation and efficiency than supply. Over $6 billion in proposed tax reductions are targeted at conservation and efficiency.

Furthermore, the whole policy is based on substantial gains from improvements in conservation and efficiency. If we maintained the current ratio between energy demand and the growth of domestic production, we would need 77 percent more energy in 2020 than we are producing today—77 percent more. The National Energy Policy recommends conservation and efficiency measures that would reduce the required increase by over half—resulting in us only needing to produce 29 percent more energy by 2020. That is a substantial but necessary commitment to conversation and efficiency.

Let me turn to that second myth, that the policy doesn’t address the possible threat of global warming. Once again, those who have read the policy shouldn’t make that statement. The policy has strong support for clean energy sources.

Renewable sources are encouraged in many ways, including tax credits for wind, biomass, solar, and the purchase of clean fuel vehicles. The policy supports a major research program in clean-coal technologies, advocates increased funding for renewable energy R&D and recognizes nuclear energy for its very positive environmental benefits.

It is in these last two areas, renewable energy and nuclear energy, that
the energy and water bill takes a major step in implementing the President’s national energy policy.

The energy programs are funded in this bill at $435 million. That’s $60 million and 16 percent above the current year level. There’s no question that renewable sources can and should play a larger role in our energy supply, and this budget will accelerate progress towards that vision.

Within that renewable budget, several programs are slated for major increases. Just to give a few examples:

Research on hydrogen-based technologies is up almost 30 percent over last year. That research may lead to decreased use of petroleum products in transportation, certainly a critical goal.

Research on high temperature superconductivity is boosted by almost 20 percent. That's a technology that may enable dramatic reduction of losses we now experience in electric transmission lines and motors.

Geothermal research is 20 percent above the current year level. Wind systems are up more than 10 percent.

Nuclear energy received significant increases as well in this bill. I strongly agree with the President’s National Energy Policy in its recommendation supporting the expansion of nuclear energy in the United States. Nuclear plants offer emission-free power sources, help maintain diversity of fuel supply, enhance energy security, meet growing electricity demand, and protect consumers against volatility in the electricity and natural gas markets.

This bill pushes nuclear power forward with a number of important initiatives: The bill includes $19 million for university research reactor support—an increase of $7 million over current year—to make sure our country has the educational resources necessary for an economy that continues to rely substantially on nuclear power.

The bill includes $9 million—an increase of $4 million over current year—to expand a program to improve the reliability and productivity of our 103 existing nuclear power plants.

The bill continues the highly successful Nuclear Energy Research Initiative (NERI) at $38 million—$3 million more than current year.

The bill provides $14 million—an increase of $7 million—to continue work begun last year on advanced reactor development, including research on generation IV reactors—reactors that will be passively safe, produce less waste, and reduce any proliferation concerns.

The bill provides $10 million for the Nuclear Regulatory Commission to prepare to license new nuclear power plants.

The bill continues an R&D program we started two years ago on ways to reduce the quantity and toxicity of spent nuclear fuel—called “transmutation”. This technology, currently highlighted in the President’s National Energy Policy, will be continued at $70 million in 2002.

Let me emphasize that I used the phrase “spent fuel” rather than “waste” because what we’re really doing is figuring out what materials coming out of our reactors. Right now our national policy calls for disposing of those materials as waste in a future repository. But we need to remember that these materials still contain 95 percent of their initial energy content.

I’ve been concerned for years that it is highly debatable for us to decide that future generations will have no need for this rich energy source. With improved management strategies, possibly involving reprocessing and transmutation, we can recycle that material for possible later use, recover far more of the energy, and dramatically reduce the toxicity and volume of the materials that are finally declared to be waste.

As a final thought on energy security, Mr. President, I want to share with my Senate colleagues a vision, which is encompassed in this bill and which I’ve shared with President Bush. We need to reach beyond the debate over Kyoto with a blueprint that provides the tools to combat global warming.

I’m convinced that we can have growth and prosperity in America without global warming.

And I’m equally convinced that we can help provide those same benefits for the world.

I propose that we provide worldwide leadership to eliminate the threat of global warming by a commitment to prosperity and growth through clean energy.

And I further propose that we accomplish this goal through partnerships with our friends and allies, especially those in developing countries.

I’ve specifically urged the President to lead this new initiative, to accelerate our own research and build international partnerships for joint development of all the clean sources of energy—renewables, clean fossil fuels, nuclear energy, and hydrogen-based fuels. Then as we transition to improved technologies in the future, our partner nations will also be building up their energy infrastructure with the latest and cleanest technologies.

Last year’s energy and water development bill called for improvements in the federal government’s role in international development, demonstration, and deployment of advanced clean energy technologies.

With this new bill and the President’s policy, our nation is developing a suite of energy supplies that will provide us with clean, reliable, economic energy far into the future. But I continue to believe that we should be looking beyond our own borders.
We will need to spend an additional $300–$500 million a year for the next 17 years over currently planned levels to refurbish the nuclear complex to perform its basic mission. These expenditures will be required even if the nuclear stockpile is dramatically smaller.

If we do not take action on these infrastructure problems immediately, we will not be able to meet the Department of Defense schedules for refurbishing three main weapons systems representing over 50 percent of our stockpile. We will not have the scientific facilities required to certify weapons. Our technicians and scientists will continue to work in unsafe facilities—increasing health risks and the number of safety related shutdowns.

Although the work must begin immediately, the budget request included no funds to begin such an initiative. Therefore, the bill before the Senate includes $300 million to begin a major facilities improvement program in fiscal year 2002 at facilities in South Carolina, Tennessee, Missouri, Texas, New Mexico, Nevada, and California.

The second major improvement on the administration’s budget request is that the bill provides additional funding to rebuild current weapons. The average age of weapons in the stockpile is now approaching 18 years—most were designed for a life of no more than 20 years. Many weapons components degrade substantially over time and have to be replaced. The Joint Department of Defense/NNSA Nuclear Weapons Council has recognized the fact that most of our weapons will have to be rebuilt, but funds were not requested to do so.

Therefore, the bill includes an additional $290 million in fiscal year 2002 to get the weapons complex back on track to rebuild current weapons on the schedule required by the Department of Defense.

The third major improvement on the President’s request is that this bill fully funds pit production on the required schedule. Technicians and scientists who have all had to learn together. I have a genuine parochial reason, because two of the three laboratories—Los Alamos and Sandia Laboratory—represent over 50 percent of our stockpile.

We will need to spend an additional $110 million to get the program back on track.

The fourth major improvement is that the bill achieves unmet national security threat to the United States today is the danger that weapons of mass destruction or weapon-usable material in Russia could be stolen and sold to terrorists or hostile nations and used against American troops abroad or citizens at home.

The report also concluded that . . .

Current nonproliferation programs of the DOE have achieved impressive results thus far, but their limited mandate and funding fall short of what is required to address adequately the threat.

I am pleased that this bill adds over $100 million to the important nonproliferation work the NNSA carries out in Russia and other countries of the former Soviet Union. These programs to control the material and expertise necessary to make weapons of mass destruction problems identified as “the most urgent unmet national security threat to the United States today.”

Once again, Senator RIEH, I want to commend you for a balanced approach. I do not agree with every aspect of the bill, but I cannot argue with the fair manner in which you have put it together. I strongly support the bill, and urge all Members of the Senate to do likewise.

Let me proceed as quickly as I can to summarize this bill. First, I am very pleased to join with Chairman RIEH in considering this fiscal year 2002 Energy and Water bill. I note that in the chair is a new Senator. I would think that he might wonder what in the world is an appropriation bill called Energy and Water. Well, my good friend, the new Senator from New Jersey, will never sit down and rationally decide what is in this bill. You have put it together in a way that I believe will be a win-win situation for the administration, for the Congress, and for the American people.

The administration’s budget request was closed down in 1989. Plutonium pits are the “triggers” for nuclear weapons, that occasionally must be reprocessed. The original program was started in order to produce pits for nuclear weapons, but the program was shut down because two of the three laboratories frequently called the nuclear laboratories—not exactly the right name—were in my State. There is Los Alamos. Everybody knows that is where we did our first nuclear weaponry work—test the weapon on the mountains. But there is a city there now. In Albuquerque is Sandia Labs, an engineering laboratory, which is part of this. The third one is in the State of California. The three of them do much in addition to the work on nuclear. There are great researchers who are on the cutting edge of much of the science of the future in terms of energy needs and the like. So that is in this bill.

And then, obviously, since it is an energy bill, it has an awful lot in it about the energy research and development that is occurring in the Department of Energy. First, let me quickly say that part of this is the implementation of energy policy.

We are still waiting around to debate and pass judgment on whether we are going to have some tax incentives that the President asked for in terms of developing new and different kinds of energy called “renewables,” or whether or not we are going to decide to open up more of the public domain to the development of gas and oil; in this bill, we get along with getting some of these things paid for and done, which everybody knows we should be doing. But it is most interesting—and this is an opportunity to speak for a moment about the President’s energy policy in one regard. There is a lot said about: what about conservation, and what about saving our energy? I am reminded that in preparation for this activity, in marking up this bill, I chose to read the President’s policy in its entirety. I want to cite one piece, because there is a lot said about there not being enough conservation in this policy, not enough things that push us to conserve and save. Well, I have come to the following conclusion, and if I am wrong, anybody that would like to read the policy and discuss it, I would be glad to do so.
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As this energy policy tells us what we need in the future, up to the year 2020, it is that we could have to produce 77 percent more to meet our needs over this next 20 years—just for reasonable needs. But would you believe that a huge portion of that possible need is projected to come from conservation and saving energy, such that, of the 77 percent, only 20 percent is from new production? So if you do the arithmetic and subtract them, it is pretty obvious that there is a very large amount that is expected by way of either legislation or conduct in our country to save and conserve energy, along with increasing production of various types of energy.

Let me talk about one. I am very pleased that both Senator Reid and I and our staffs worked very hard on what's called renewable energy programs. Because of the Senator's dedication and us working together on this, we are funding the renewable energy programs at $335 million in this bill. That is 16 percent higher than this year. There is no question that renewable resources can and should play a larger role in our energy supply, and we push that or accelerate that in this bill. Within this renewable budget, several programs are slated for major increases, and I am going to tick some of them off.

Hydrogen-based technology is up 30 percent over last year. Some people think this whole area of hydrogen-originated energy sources is one of our real solutions to clean and healthy production of energy without having any adverse impact on global warming. The research may lead to a decrease in the use of petroleum products in transportation.

We also have superconductivity and geothermal, both have 20 percent increases. All of these can have an incremental positive impact on helping us meet our energy needs without having a major impact on global warming in the future.

Incidentally, the President has suggested we should move ahead with nuclear energy in the future. And for our industrial friends in the world and, yes, indeed, for those countries which do not yet have much of an economy, we should not start on that path unless we have the arithmetic and subtract them, it is pretty obvious that there is a very large amount that is expected by way of either legislation or conduct in our country to save and conserve energy, along with increasing production of various types of energy.

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We can produce clean energy for the future. With renewables, nuclear, and other forms of energy joining together, we can say to the world: You can grow and prosper. The poor countries will have an equal opportunity to do that, and we will not have to reduce growth, we will not have to put on caps, we will just have to use our ingenuity and science better.

There are a number of things we did to let America take a good, solid look at what the next generation of nuclear powerplants or even the next one after that might look like and how it will help.

I want to share with my friend, Senator Reid, and those who are paying attention to what we are doing today, a portion of my comments today which I choose to call "Reaching Beyond Kyoto." I, frankly, believe the President of the United States has a rare opportunity to lead the world beyond Kyoto.

I say to my fellow Senators, I have talked to the President about this very issue. I have suggested it is a rare opportunity for him to lead the world in reaching beyond Kyoto, and I will talk about that for a minute.

This is a vision, and part of it is in this bill because this is what we do in this bill. It says that we need to reach beyond the debate over Kyoto with a blueprint that provides tools to combat global warming. Further, we should ask the world to join as our partners and move ahead.

I am convinced we can have growth and prosperity in America without the threat of global warming. I am convinced we can help provide some benefits for the world. I propose we provide worldwide leadership to eliminate the threat of global warming by a commitment to prosperity and growth through clean energy, and I further propose we accomplish this goal through partnerships with our friends and allies, especially those in developing countries.

I have specifically urged the President to lead this new initiative to accelerate our research and build international partnerships for joint development of all clean sources of energy—renewables, clean fossil fuels which our distinguished chairman of the Appropriations Committee, Senator Byrd, alludes to frequently as it relates to coal—nuclear energy, and hydrogen-based fuels.

As we transition to improved technologies in the future, our partner nations will also be building up their energy infrastructure with the latest and cleanest technologies. And, yes, there is no question, then, that we can send a message that the poor countries in the world can grow and prosper. As a matter of fact, they, too, can participate in this abundance of growth and prosperity for their people without adverse effects on global warming.

Last year's energy and water development bill called for improvements in the Federal Government's role in international development, demonstration, and advanced clean energy technologies.

With this new bill which is before the Senate, and the President's policy, our Nation is developing a suite of energy supplies that will provide us with clean, reliable, economic energy for the future.

I continue to believe we should be looking beyond our own borders. I submit that we should be seizing every opportunity to help the developing nations around the world achieve much higher standards of living. It simply cannot do that without reliable electrical supplies. I believe we can help them with this global approach of partnerships around the world to develop this technology and produce the next generation of nuclear powerplants. But we should not start on that path unless we set the goals for achievement of what they will look like, what they will do, and what they will not do.

It is the same with clean coal technology: Set the goals and then let's achieve them in this world so we can all grow and prosper. We all know we have an abundance of energy supplies in our country. We have natural gas. And it will make a huge contribution for our country. But every nation needs diverse energy supplies, not a singular reliance on a single source.

Leadership has been shown by Senator Byrd with clean coal technologies that match this vision very well. Some nations have immense coal resources. Through this vision, they can benefit by Senator Byrd's efforts to advance clean coal technologies. Through this bill, we can fund renewables and ask our President to join worldwide with efforts to push renewables even more and to greater ends. And it is the same with all of those energies that have no effect, no impact on global warming.

I can say, it may very well be, within a very short period of time, a nuclear powerplant will be developed. It will be a small little plant instead of a thousand megawatts. It might be 50 or 100 megawatts. It will be a module. It will be self-contained. It will have no chance of having a meltdown. Just by the physical facts about its evolution and development it cannot, it will not. We might not have to touch it for 25 or 30 years.

Those are things we can work on as a criteria for development and growth and then set our great scientists in the private and public sector, with others in the world, to achieve this goal. What a great opportunity in the midst of a world that is frightened about whether
we can grow, whether poor people can get rich, where the poor countries have to remain undeveloped because they cannot grow. As I said, we will say we can all grow and prosper. We have not stopped growing and prospering, but we can do it without affecting global warming if we just say let’s take a lead, let’s do this, let’s ask our greatest companies, our best laboratories, our greatest scientists, led by America, let’s put some money in each year in a consortium-type arrangement to get this done.

If I sound like I am excited about something, obviously for some of you I have not even yet reached anything like an excited pitch, but in any event, I am because I believe it is a rare opportunity to take the genius of science—and I might say, I have a bias and prejudice but I think it was wrong. I think we have nuclear power for a reason. I don’t think we have developed nuclear power to throw it away. I believe we can develop another generation of nuclear power plants that can help this entire world prosper and put global warming behind us.

Then we can ask, what is next? What have to be next are growth and opportunities, and not just for us. We say to the world, let’s be free. But, we don’t want people to think we are for them being free and poor. We are for them being free and affluent, to grow and have what we have. It cannot be done without better sources of clean energy.

I believe this bill has things in it which, if put together by the President in a partnership arrangement, I think we could see real daylight and perhaps might be able to set some goals.

My last comments will be very brief and have to do with national security. As I said, I think what a peculiar bill, energy and water. Who would guess that sandwiched between those two words, energy and water, are the U.S. national security interests in nuclear weapons.

We have a national policy, voted on this Senate floor on an amendment by the distinguished Senator Hatfield from Oregon, we don’t test our nuclear weapons underground nor do we test them at all. We don’t do that anymore. That used to be the easy way. I say that because it is not. It is not easy. That is the way we used to determine reliability and safety. We don’t do that anymore. We don’t test underground. We have something to take its place. We have a whole body of science and computerization that we put together.

It is now in the Department of Energy, and it has reached major nuclear laboratories. We fund a program called science-based stockpile stewardship. Stockpile is the nuclear weapons stockpile. We fund a part of the Department of Energy that is called the NNSA. My good friend, Senator Reid, alluded to it when he spoke of creating this new institution within the Department. The current leader is four-star General Gordon. He’s doing a great job of pulling together and making sure we know the nuclear weapons aspects of the Department of Energy, reporting only to the Secretary. In a very real way he’s making sure we do a better job with what we spend on this stockpile. None-the-less, we have to spend money on it. The biggest difference between our budget and the President’s budget is what to do with replenishing some of the physical facilities that are now old and broken down that are part of this NNSA.

This bill says, let’s get started in multi-year repair and replenishing of some of the facilities that are nearly 50 years old in which we ask the world’s greatest scientists to work to help. And it also says we have to keep the President’s very difficult job. It will take many years to replenish these physical facilities, these laboratories.

In addition, there are specific items such as major improvements in the plant associated with the production of Uranium. You simply must soon have the capability to produce plutonium pits for weapons, a capability we lost when Rocky Flats was closed in 1989. We had to put extra money in this bill, in order to keep that program on the calendar on which it is expected to be. We have to put those funds in because we know they are needed. Add it all up and we have a very well rounded bill covering mundane things as well as the complex and difficult.

In closing, let me say that as part of this Department of Energy, we have developed some great research laboratories and not just those created and involved in nuclear work. There are many others that work on various aspects of research in America, most in the fields of energy, but not all, where some of the very best scientists in the world and some of the very best basic science research activities take place.

In summary, we think we have a bill that takes care of, as well as possible, water resource needs of our country. It takes care of the basic energy needs we can promote through the Energy Department in moving ahead with another generation of nuclear reactors. And it can do this on renewables. Through this bill and another dealing with cleaning up our coal so we can use it cleanly, we can have a prosperous future without having a negative impact on global warming and the future of our country and the world’s people. We think we have done that fairly well.

We have spent more than the President asked. We hope we will be able to explain to the White House and OMB why it has been done. We still have time after the bill is debated to do that. In the meantime, as the amendments come forward, perhaps the White House will have some suggestions. I hope they don’t ask us to change our vision. I think the vision in this bill is to move ahead with new sources of energy that will be good for America and we are going to do it in a way that everyone will grow and prosper, so the poor can get rich in the world.

I yield the floor.

Mr. REID. We are on the energy and water bill. I know the Senator from Arizona wishes to speak.

Mr. KYL. I want to take 30 seconds to compliment the Senator from New Mexico, and then I will ask unanimous consent to speak for more than 5 minutes in morning business.

Mr. REID. My friend from Oregon also wishes to speak for 20 minutes in morning business. I ask that the Senator from Arizona be recognized to speak for up to 10 minutes in morning business, and that the Senator from Oregon be recognized for up to 20 minutes.

Mr. DOMENICI. Reserving the right to object, Mr. President, what are you thinking in terms of the bill?

Mr. REID. I will visit with you now. Mr. DOMENICI? I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I will not take the full 10 minutes.

I take 30 seconds to simply say. Senator DOMENICI each year has a significant responsibility, as well as the other Members of the subcommittee on which he sits, to put together a bill for energy and water. As he pointed out, a great deal of the jurisdiction of that subcommittee deals with our nuclear weapons program. Senator DOMENICI does not simply put together what he has been told is a good idea. He has taken a career to learn from these laboratories—a couple of which he represents—with the best scientists, what is best in nuclear science research laboratories, and what needs to be done. It is not a luxury, it is necessary, and there is no big political payoff. Very few people have the knowledge he does. He relies on people such as his staff, Clay Sell and Dr. Peter Lyons, a nuclear physicist from Los Alamos Laboratory, to assist him in developing the kind of plans that the Senate then needs to act upon, particularly with the comments about the development of nuclear energy that will be said. Mr. President, we need to promote for this country.

I think he is absolutely right on the mark. I plan to join him in his efforts to promote that in the coming months.

Mr. DOMENICI. Will the Senator yield?

Mr. KYL. I am happy to yield.

Mr. DOMENICI. I should have mentioned in my remarks, one of the Senators who has helped me in the many months that we engaged in trying to make the Department of Energy more focused with reference to our nuclear weapons programs was the distinguished Senator from Arizona. I thank him for that help. We are not over that
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hurdle yet. Indeed, General Gordon and that semiautonomous agency have not been totally formulated. They are not grown up yet and are still walking along, maybe comparing it to high school and the eighth grade. They still have to get the diploma. This bill should enhance it or give them some of the tools they claim they need.

In the meantime, I thank the Senator for observations and comments regarding a world beyond Kyoto. Clearly, if we do this right, we can have an abundance of energy and there need be no atmospheric pollution; we can do it another way. Clearly, we can get it done.

I thank the Senator for his observation.

Mr. KYL. Will the Senator yield?

Mr. REID. Will the Senator yield?

Mr. KYL. I yield.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Nevada.

Mr. REID. The Senator from Arizona missed my brief statement today about how I had become a late believer in the work that he and Senator DOMENICI had done. That was the Nuclear Security Administration. As you may recall, last year I fought that initially. As I said to Senator DOMENICI, I thought it was being done, initially, for reasons other than what it turned out to be. I commend the Senator from Arizona—I have already done that. I commend the Senator DOMENICI—for the great work being done by General Gordon and the people working with him. It certainly has been a step in the right direction.

With the deep concern I have with the nuclear arsenal, I think there is nothing we could be more devoted to than making sure General Gordon has enough money and general resources to do what he has to do which is so important.

ECONOMIC GROWTH

Mr. LOTT. Madam President, we have seen for the past year a reduction in the growth rate of our economy. The world is experiencing a global economic slowdown. The tax cut signed into law in June contained compromises to make the tax cuts in the lowest bracket retroactive to January 1. We are also going to begin to see the tax reduction cheats in the American people's hands by the end of this month. Perhaps there has never been a better-timed tax cut. The dollars we are returning to the taxpayers and the rate cuts that will allow them to keep a little more of their own hard earned salaries will provide some stimulus to keep the economy from falling further behind.

I reject the advice of those who say that now is the time for the government to try and take more money out of the American workers' pay envelopes. Nothing could be worse for a weakening economy. In fact, I believe that now is the time to find more ways to encourage economic growth. The tax cut provides some immediate stimulus and in the long-term some growth in the economy. But we need to look at ways to kick-start the supply side of the economy. One possibility is to cut the capital gains tax rates. I will be pursuing this effort in the coming weeks and months. Nothing is more important than to get our economy moving again at full speed.

My friend Jack Kemp authored a most interesting and compelling article a couple of weeks ago in the Wall Street Journal. Thirty years ago when I came to Congress I first met Jack. He was then and continues to be a person who is not afraid to challenge the common norms of economic thought. In the 70's Jack led the charge for tax rate cuts to get the economy moving. We have too easily forgotten the hopelessness that many Americans felt in the late 1970's facing stagflation with no idea of how to turn the flagging U.S. economy around. Now we face a problem of a global slowdown. Jack suggests an answer. Many will try and dismiss his proposal. This is a debate that needs to continue.

We need to get the American economy running at full speed. The tax bill was the first step. Getting the economy back to full growth will be my primary focus.

I ask unanimous consent that the article by Mr. Kemp be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, June 28, 2001]

OUR ECONOMY NEEDS A GOLDEN ANCHOR

(By Jack Kemp)

How many more dashed hopes and false recoveries must we experience before politicians and monarchical authorities accept the fact that our inability to manage fiat currencies is causing the global economic slowdown? They have too easily settled for interest-rate reductions to kick in, yet more than six months after the Fed began lowering rates the economy continues to weaken. Waiting for the recently enacted tax cuts to provide "stimulus" will prove futile as well. The economy does not suffer a lack of consumer demand, and more money in people's pockets will not revive the supply side of the economy.

UNPRECEDEDENTED EXPERIMENT

Ronald Reagan once said he knew of no great nation in history that went off the gold standard and remained great. Since Aug. 15, 1971, when the U.S. ceased to redeem dollars held by foreign governments for gold, we have put that thesis to the test. For the first time in human history, not a single major currency in the world was linked to a commodity. Economist Milton Friedman called the situation "unprecedented" and said it was not an "optimal alternative." "The world," he said, "needs a long-term anchor of some kind."

In the short term, at least, he was vindicated. The monetary system of floating flat currencies with the stroke of a pen, President Nixon touched off a world-wide inflation that lasted through the '70s and early '80s.

Yet America recovered to preside over the demise of world communism, and overcame the rising inflation and unemployment of "stagflation" to enjoy an unparalleled 18-year economic expansion. Today, the U.S. is at the pinnacle of its power and enjoying its greatest prosperity ever.

Were Messrs. Reagan and Friedman wrong? I don't think so. If the U.S. has so far come out on top in this experiment, it is only because other countries' economies have suffered even more from floating currencies.

Once the U.S. government ceased redeeming gold at $35 an ounce, its price quadrupled on world markets to $480 to reflect the dollar's diminished value. By breaking the gold link, the Nixon economic team forced the unwanted liquidity pouring out of the Fed—which had thus far built up in the Eurodollar market and the portfolios of foreign central banks—to remain inside the U.S. economy where it would manifest itself in price inflation. Robert Mundell was the first to predict, in January 1972, that the U.S. could soon be a dramatic rise in the price of oil, with general inflation to follow.

Where the rest of the economics profession believed the Arab oil embargoes for quadrupling the oil price in 1973, Mr. Mundell and those supply-siders who followed his intellectual lead knew that gold's quadrupling had led the way. To the supply-siders through "bracket creep," capital formation stopped in its tracks, and it soon took two workers to produce the same income that one had before oil price hikes. The stagflation that had its roots in leaving the gold standard was compounded when Congress and three different presidents tried to fix it with wage and price controls and high marginal tax rates.

But discretionary monetary policy is Janus-faced, and instead of too much liquidity in the world economy we now have too little. Deflation began in 1996 when the Fed tightened monetary policy to combat some inflation it had created attempting to offset the economic drag of the Clinton tax hikes. A rising dollar then caused the dollar pegs of emerging economies to snap, set off the Asian, Brazilian and Russian economic meltdowns, and caused the other commodities to collapse. Oil producers took a two-year holiday from drilling, which in turn created an oil shortage and drove energy prices sky high.

Now, the energy-price hikes are working their way through the economy and are mis-construed by the Fed as inflation. Once again, central bank errors in the discretionary management of floating fiat currencies have put the entire world economy at risk.

The Fed has cut interest rates 275 basis points since the start of the year, but the price of gold is still down to about $272 from $385 in 1986, having fallen $5 yesterday alone on the Fed's announcement that it was lowering the fed funds rate another 25 basis points. Commodity prices are near their lowest levels in 15 years, and the foreign-exchange market value of the dollar has risen against all major currencies since the Fed began its interest rate-easing cycle.

Without a gold standard, the Fed has no method of determining how much liquidity markets demand, and all it does by targeting interest rates is guess how much liquidity to inject or withdraw to counteract mistakes it made earlier. The Fed has set itself the task of mimicking the mistakes of the Bank of Japan made when it lowered interest rates to zero,
all the while prolonging and deepening Japan’s memory of the war.

This is no way to manage a currency. It’s obvious that we have accumulated a long series of small deflationary errors by the Fed that are dragging down the U.S. economy and helping depress world commerce. It’s time to restore a golden anchor to the dollar before our luck runs out and we suffer a real economic calamity.

The Fed may yet get lucky with its rate cuts, although the Bank of Japan never did. The only certain way to end this deflation is to have the Fed targeting interest rates and begin targeting gold directly—not by “fixing” the price of gold by administrative fiat as some people mistakenly characterize it, but rather by calibrating the level of liquidity in the economy, over which the Fed has exclusive and precise control, to keep the market price of gold stable within a narrow band closer to $225 than $275.

There is nothing mysterious about how gold could be used as a reference point or how a new monetary standard for a new millennium would simply mean the Fed would stop guessing how much liquidity is good for the economy and allow the market to make that decision for it. With the dollar in terms of gold linked with American citizens free to buy and sell gold at will, the Fed would forget about raising or lowering interest rates and simply add liquidity (buy bonds) when the price of gold tries to fall and subtract liquidity (sell bonds) when it tries to rise. Markets would determine interest rates.

The paper dollar would once again be as good as gold—no more, no less. There would be no need for the U.S. government to maintain a gold reserve or to redeem gold or dollars on demand since people would be free to do so on their own in the marketplace. As long as the Fed calibrated its infusions and withdrawals of liquidity by the market price of gold, the world would be free of monetary inflations and deflations caused by the whims and errors of central bank governors, as was the case for more than 200 years when the private Bank of England managed the pound sterling in exactly that way.

NOTHING SIMPLER

The good news is that this could all be done easily, if President Bush and Treasury Secretary Paul O’Neill could work out an accord with Alan Greenspan. That accomplished, I believe Britain would soon follow to make the pound as good and avoid having to adopt a sinking euro.

There is nothing simpler than a gold standard, as Alexander Hamilton pointed out when he persuaded the first Congress to adopt one. Just as President Nixon took us off with an executive order, President Bush can put us back on with the stroke of a pen. It would be politically popular, as ordinary people benefit most. At Camp David in 1971, as President Nixon signed the papers, he is reported to have said: “I don’t know who’s doing this. William Jennings Bryan ran against gold three times and he lost three times.”

NAZI WAR CRIMINALS

RESOLUTION

Mr. CORZINE. Madam President, last week I introduced a resolution that addresses the United States’ use of Nazi war criminals after World War II. The resolution acknowledges the role of the United States in harboring Nazi fugitives, commends the Nazi War Criminal Interagency Working Group for serving the public interest by disseminating the names of the Nazis, working with countries and calls on other governments to release information pertaining to the assistance these governments provided to Nazis in the postwar period.

On July 14, 1994, the Reichstag declared the Nazi Party the only legitimate political party in Germany. In one fell swoop, political dissent in Germany was quashed and a tragic series of events was set into motion—a series of events that led to the genocide of six million Jews and five million Gypsies, Poles, Jehovah’s Witnesses, political dissidents, physically and mentally disabled people, and homosexuals. After World War II, the international community attempted to come to terms with what had happened, was a horrific episode in world history.

In October 1945, a tribunal was convened in Nuremberg, Germany, to exact justice against the most nefarious Nazi War Criminals, people who knowingly and methodically orchestrated the murder of countless innocent people. Some infamous Nazi war criminals were tried and convicted elsewhere, including the infamous Adolph Eichmann, who was found guilty by an Israeli court. Still, many of the perpetrators—war criminals who hedged the call of the Nazi juggernaut—escaped justice. Some of those who evaded capture did so with the help of various world governments, including the United States.

It is natural to ask why the United States would help known Nazi war criminals avoid punishment. The United States had just spent four years fighting the Nazis at the cost of thousands of young, courageous American soldiers. We had just liberated the Nazi death camps, witnessing firsthand the carnage and degradation exacted by the Nazis on Jews and others. Despite it all, the United States felt compelled to hide the very Nazis they had defeated and grant them refuge in the United States and abroad.

The sad fact is that although we had just finished fighting a war of enormous proportions, we were entering another war—a cold war that would last for some 50 years. In fighting this war, the United States enlisted Nazi fugitives to spy on the Soviet Union.

The extent to which the United States used Nazi war criminals for intelligence purposes in the postwar years is still being studied. In January 1999, the President charged the Nazi War Criminal Records Interagency Working Group with the difficult task of locating, identifying, cataloguing, and recommending for declassification thousands of former Nazi officials’ documents pertaining to the United States’ association with Nazi war criminals. In addition to an interim report completed October 1999, in late April 2001, the IWG announced the release of CIA name files referring to specific Nazi War Criminals. While there is still work to be done, one thing is clear from these documents: the United States knowingly utilized Nazi war criminals for intelligence purposes and, in some cases, helped them escape justice.

The American people deserve a full accounting of the decisions that led to the acceptance of Nazi war criminals as employees of the United States government. It also is important that the United States work with other countries to expedite the release of information regarding the use of Nazi war criminals as intelligence operatives. We need to learn more about the Holocaust and its aftermath. The international community must learn the lessons of history, so that never again will we face this type of evil.

SMITHSONIAN BOARD OF REGENTS

Mr. COCHRAN. Madam President, last week I introduced two resolutions appointing citizen regents of the Board of Regents of the Smithsonian Institution. It is an honor to serve on the Board of Regents as one of the three United States Senators privileged to select Regents. I am joined by Senators Frist and Leahy as cosponsors of both resolutions.

At its May 7, 2001 meeting, the Board of Regents voted to nominate Ms. Anne d’Harnoncourt for a second term and Mr. Roger W. Sant to fill the vacancy caused by the resignation of the Honorable Howard H. Baker, Jr.

For the information of the Senate, I ask unanimous consent that the curriculum vitae of Ms. d’Harnoncourt and Mr. Sant be printed in the RECORD, following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CURRICULUM VITAE OF ANNE D’HARONCOURT

(MRS. JOSEPH J. RISHEL)

Born September 7, 1943, Washington, DC.

Present Position: The George D. Widener Director and Chief Executive Officer Philadelphia Museum of Art


Honors: Elected to Phi Beta Kappa in 1964; Captain Jonathan Fay Prize, Radcliffe College, 1965; Chevalier dans l’Ordre des Arts et

Biographical Summary

Curator of Twentieth-Century Art. For a decade between 1972 and 1982, Miss d’Harnoncourt served as Curator of 20th Century Art at the Philadelphia Museum of Art. A specialist in Marcel Duchamp, she co-organized a major retrospective exhibition in 1973-74, which originated in Philadelphia and traveled to The Museum of Modern Art, New York, and The Art Institute of Chicago. Other exhibitions organized or co-organized by Miss d’Harnoncourt include Futurism and the International Avant-Garde (1980), Violet Oakley (1979), Eight Artists (1978) and John Cage: Score & Prints (1982). During her tenure as curator, she reinstalled the permanent galleries in the wing of the Museum devoted to 20th-century art, creating rooms specifically dedicated to the work of Duchamp and the sculpture of Brancusi. During her curatorship the Museum made an independent commitment to developing a substantial contemporary collection, acquiring works by Ellsworth Kelly, Dan Flavin, Brice Marden, Agnes Martin, Claes Oldenburg, Katherine Anne Porter, Dorothy Rockburne, James Rosenquist, and Frank Stella, among others.

Director: Projects undertaken by the Museum during Ms. d’Harnoncourt’s directorship to date include a sequence of major exhibitions originated by Museum curators, such as: Sir Edwin Landseer (1982), The Pennsylvania Impressionists: A Celebration (1983), Their Arts (1983), Masters of 17th-Century Dutch Genre Painting (1984), Federal Philadelphians (1967), Anselm Kiefer (1988), Workers: Social Realist Art (1978-79), and The Art of the Ring (1978). Between 1992 and 1995, in a massive building project undertaken to reinstall all of the Museum’s European collections, over 90 galleries were reinstalled and relit, while thousands of works of art were examined, conserved and placed in fresh contexts. During her tenure as director, appointments to the professional staff include senior curators of Prints, Drawings and Photographs and European Decorative Arts, curators of Indian Art, Prints and Twentieth-Century Art, as well as a Senior Curator of Education, a new Library, Conservation, and curatorial assistants in the fields of decorative arts, furniture, painting and works on paper. Most recently, following her assumption of additional responsibilities in 1997 upon the retirement of Robert Montgomery Scott as President of the Museum, Miss d’Harnoncourt and the newly appointed Chief Operating Officer, the institution threw itself into an ambitious process with a view to celebrating the Museum’s 125th anniversary in the year 2001 with a number of new initiatives.

In the year 2000, the Museum acquired a landmark building across the street and embarked upon a comprehensive masterplan for its utilization as part of the institution’s necessary transition to meet the Museum’s 25-year requirements for new or renovated space. Twenty galleries for modern and contemporary art were renovated and reopened in the fall of 2000. A capital campaign with a goal of $200 million was formally launched in December 2000, and $100 million was raised by March of 2001. Institutional Boards (Current): Regent of the Smithsonian Institution, Washington, D.C.; Visiting Committee, J. Paul Getty Museum, Malibu, CA; Academic Trustee for the Philadelphia Museum of Art; Chair of the School of Advanced Study, Institute for Advanced Study, Princeton, NJ; Board of Directors, The Henry Luce Foundation, Inc., New York, NY; Board of Trustees, Fairmount Park Association, Philadelphia, PA; Board of Overseers, Graduate School of Fine Arts, University of Pennsylvania, Philadelphia, PA; Board of Trustees, Philadelphia Museum of Art; Board of Directors, The Miller Foundation, Philadelphia, PA; Board of Trustees, The George O’Keeffe Foundation, Abiquiu, NM.


Exhibitions Organized:


Publications:


Biographical Sketch of Roger W. Sant

Mr. Sant is Chairman of the Board of the AES Corporation, which he co-founded in 1961. AES is a leading global power company comprising拍卖行 and retail supply businesses in 27 countries. The company’s generating assets include interests in one hundred and sixty-six facilities totaling over 58 gigawatts of capacity. AES’s electricity distribution network has over 920,000 km of conductor and associated rights of way and sells over 126,000 gigawatt hours per year to over 17 million end-use customers. In addition, through its various retail electricity supply businesses, the company sells electricity to over 154,000 end-use customers. AES is dedicated to providing electricity worldwide in a socially responsible way.

Mr. Sant chairs the Board of The Summit Foundation, and is a Board Member of Marriot International, WWF-International, Resources for the Future, The Energy Foundation, and The National Symphony. He re-elected last year as Chairman of the World Wildlife Fund-US after six years in that position and currently serves on the National Council.

Mr. Sant has provided AES, Mr. Sant was Director of the Mellon Institute’s Energy Productivity Center. During this period he became widely known as the author of "The Least Cost Decision," which was shown that the cost of conserving energy is usually much less than producing fuel.
Mr. Sant earlier served as a political appointed to the Ford administration and was a key participant in the initiating early initiatives to fashion an energy policy in the US. Before entering government service, he was active in the management founding of several businesses, and taught corporate finance at the Stanford University Graduate School of Business. He received a B.S. from Brigham Young University and an MBA with Distinction from the Harvard Graduate School of Business Administration.

He is a co-author “Creating Abundance—America’s Least-Cost Energy Strategy” by McGraw Hill and numerous articles and publications on energy conservation.

BIRTHDAY TRIBUTE TO PRESIDENT GERALD R. FORD

Mr. LUGAR. Madam President, former Congressman, Vice President and President Gerald R. Ford turned 88 on July 14. A birthday tribute to our 38th President was written by White House correspondent Trude B. Feldman for the Times Syndicate. In it, it includes reflections by former Presidents Richard Nixon and Ronald Reagan, given to Ms. Feldman for Gerald Ford’s 80th birthday, I ask unanimous consent that the article be printed in the RECORD.

President Ford was a healing force at a time of much greater political upheaval than we have today. The lessons to us today are that: disagreements should not become divisive; and political revenge is a vicious cycle without winners.

Most important, as President Ford reiterates in this interview, is that “truth is the glue that holds government together—not only our government, but civilization itself.”

He tells Ms. Feldman, who has also written numerous articles on Mr. Ford and his family for McCaill’s Magazine, that his main ambition was to become Speaker of the House of Representatives because the legislative process interested me and it was the kind of challenge I enjoyed . . .”

Gerald Ford concluded this interview—which I recommend to my colleagues and our staff—with his beliefs that during his 29 months as President, he steered the U.S. out of a period of turmoil, making it possible to move from despair to a renewed national unity of purpose and progress. “I also reestablished a working relationship between the White House and Congress, one that had been ruptured,” he notes.

“All that made an important difference. I consider that to be my greatest accomplishment as President.”

There being no objection, the material was ordered to be printed in the RECORD, as follows:

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GERALD R. FORD AT 88: A BIRTHDAY TRIBUTE

(Trude B. Feldman)

On July 14, Gerald R. Ford will celebrate his 88th birthday. Having fully recovered from a stroke last August, the former presi-

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Sen. Kennedy said President Ford had “survived with the heat of controversy and persevered in his beliefs about what was in our country’s best interest. History has proved him right.”

“A time of national turmoil, our nation was fortunate that he was prepared to take over the helm of the storm-tossed ship of state. He recognized that the nation had to get on with its business and could not, if there was a continuing effort to prosecute former President Nixon. So President Ford made a tough decision and pardoned him.”

“Many of those who watched his action. But time has a way of clarifying things, and now we see that President Ford was right.”

General Alexander M. Haig Jr., Mr. Nixon’s White House Chief of Staff, concurs. “The passage of time has once again favored the truth and Gerald Ford has rightfully emerged as one of our nation’s most courageous leaders,” he told me in an interview, adding:

“Despite the risks, President Ford performed a singular and courageous act. Almost 30 years have passed since “Watergate” and the scurrilous accusation that then Vice President Ford had made or conspired in the secret dealings of Nixon—through me—which traded the presidency of the U.S. for the pardon of Richard Nixon.

Gen. Haig, also one of Ronald Reagan’s Secretaries of State, went on to say that the source of this accusation came from individuals who claimed to be acting in the best interests of President Ford, but, that, actually, it was well recognized at the time that the politics surrounding “Watergate” would lead to either the impeachment or the resignation of President Nixon.

“Those who fed the rumors of a deal were actually damaging the reputation, if not the judgment, of our nation’s first non-elected president,” General Haig recalls. “Having personally informed Vice President Ford of President Nixon’s intention to resign, I knew then, and now, that rumors of a deal were wrong-headed or worse. If believed, they would have undermined the credibility of what I have since referred to as a Cincin-

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CINNATINNIA" ACT OF MORAL COURAGE BY PRESIDENT FORD

“Years later, the Nixon pardon must rank with the most courageous acts of a sitting president. President Ford, almost alone, notwithstanding the advice of some of his most intimate advisors, recognized that the nation could not risk further prolongation of the ‘Watergate’ controversy and that the very effectiveness of his presidency was at stake.”

Jack Anderson, long-time columnist for United Features and Washington Editor of Parade Magazine, remembers Gerald Ford from his days in Congress. “He never pumped up with self-importance,” Mr. An-

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Derson says. “Even after he became Presi-

dent, I was able to telephone him, leave a message, and he would return my calls, with-

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out a secretary.”

Jack Anderson adds: “Even though I was number one on Richard Nixon’s ‘enemies list’ I agreed with President Ford’s pardon of Mr. Nixon because I had learned that he was then in poor psychological condition. . . . It took great political courage to grant the pardon—against public will. So President Ford did what was best for Mr. Nixon and our country rather than what was best for him-

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self. . . .”

Cong. Henry A. Waxman, (D-Calif.—29th district), ranking Democrat on the Govern-

mental Reform and Oversight Committee
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Cong. Vernon J. Ehlers (R. Mich.), who introduced legislation to award the medals, said there was a token of appreciation from Congress for the former First Couple’s years of sacrifice and contributions . . . . "They are living examples of truly great Americans."

Another speaker was President Clinton, who, after lauding Gerald Ford for his achievements, turned to him and revealed: "When you made your healing decision, you made the Democrats and Liberals angry one day, and you made the Conservatives angry the next day. . . . You made the political politician trying to get elected to Congress. It was easy for us to criticize you because we were caught up in the moment. You didn’t get caught up in the moment. . . . you were right . . . you were right about the controversial decisions you made to keep the country together and I thank you for that."

Donna H. Rumfola, U.S. Ambassador to NATO (1973) and one of Mr. Ford’s White House Chiefs of Staff and Defense Secretary (1975–1977), who is now again Secretary of Defense, Precisely, told Mr. Ford “helped to replenish the reserve of trust for our country and I’m delighted that the enormous contributions he made are being recognized.”

After a taste of the presidency, Mr. Ford still does not hide his disappointment at losing the 1976 election to Jimmy Carter. "As you well know, I tried to win, I tried very hard to win that election. That would have given me a chance to expand individual freedom from mass government, mass industry, mass labor organization.”

Despite that election, former Presidents Ford and Carter are close friends and co-sponsors of various conferences on world affairs at the Carter Center in Atlanta. And, on the occasion of Gerald Ford’s 88th birthday, Jimmy Carter today reflects: "The recent Profile In Courage Award and the Presidential Medal of Freedom are long overdue recognition of Gerald Ford’s importance to our nation. He was a strong leader during a time of great challenge, and his just and noble decisions have cost him the election. In the years since then, he and I have worked together on a number of issues. Each time we do so, I am reminded anew of how fortunate it has been led by a man of such principled convictions. Not only do we share the special bonds of the presidency, but I am also proud to claim Gerald Ford as my friend.”

Eight years ago, for my feature on Gerald Ford’s 80th birthday, another former president, Ronald Reagan, who narrowly lost the 1976 presidential nomination to him, told me: "First, I can tell Jerry that turning 80 doesn’t hurt at all. Kidding aside, Jerry is an independent thinker and down to earth. He is not impressed with his own importance. That humility has stood him in good stead. "He climbed to the top of his profession without wavering from his principles. When respect for government officials had begun to wane, he was, and still is, held in high regard.”

For that same birthday tribute, former President Reagan told me he had met Representative Ford in 1949 when he was sworn in to Congress. “I then was a representative from California, and for all these years I have admired Mr. Nixon. I said: ‘In an illustrious career, he became an eminent statesman, and as my vice president, he was an asset.’ "Because I understood members of Congress, he was able to encourage them, to appeal to their best qualities and to unite them for the common good. He was admired for his attention to his regional individual’s rights. And so this milestone gives me the chance to express my gratitude to Jerry Ford for all the good he has done for our nation.”

When Gerald Ford became president, he was faced with an overwhelmingly Democratic Congress. He recalls that he “struggled repeatedly” over such issues as government spending, presidential war powers and oversight of the intelligence community. He also advocated reducing the size and role of government through cuts in taxes and spending, paperwork reduction and government deregulation.

In foreign affairs, he recalls, his administration emphasized stronger relationships with American allies, encouraged detente with the Soviet Union, and made progress in negotiating with the Soviets on nuclear weapons. "With French President Valéry Giscard d’Estaing, he initiated annual international economic summits of the major developed economic nations. In the face of bit- terness, he signed the Helsinki Final Act, for the first time giving the issue of human rights a real “bite” inside the Soviet bloc, which eventually led directly to Eastern Europe’s shedding of shackles of communism. His administration initiated the second Sinai disengagement agreement, further separating Israeli and Egyptian forces and reducing tensions in the Middle East. It also directed the final withdrawal of Americans and refugees from Indo-China at the end of the Vietnam War."

President Ford recalls that the saddest day of his presidency was April 30, 1975, “when we had to pull our troops out of Saigon and withdraw from South Vietnam, which soon surrendered to the Communist Vietnemese.”

Asked whether foreign affairs is more pressing today than during his White House tenure, he says, “I don’t think it is any more important than when we were faced daily with the nuclear challenge from another superpower—the Soviet Union. Those were tense days.”

We have problems today in Europe, in the Mideast and elsewhere. But they are no more serious than the Cold War days—with all the challenges that then existed.”

He pointed out that Richard Nixon’s skillful maneuvering in the Mideast will go down in the annals of great diplomacy. “In foreign policy,” he says, “Richard Nixon is unequalled by any other American president in this century.”

How was the presidency evolved since Gerald Ford left the White House 24½ years ago? “The office changes with each president,” he says. “Each occupant defines the role and his responsibilities. In my case, I tried to make a difference in my leadership.”

He went on to say that he learned about leadership and making decisions while serving as an officer in the US Navy during World War II. “I think,” he adds, “I was a better vice president and president because of that military service.”

He notes that there is a “majesty” to the presidency that inhibits even close friends of that military service.”

He noted that there is a “majesty” to the presidency that inhibits even close friends of state from giving him frank advice. “I am always told what is actually on their minds—especially in the Oval Office.”

“You can ask for blunt truth, but the government is not a place for blunt truth,” he says. “To keep perspective, any president needs to hear straight talk. And he should, at times, come down from the pedestal the office provides.”

He concludes that truth is the glue that holds government together—not only our government, but civilization itself.”
From his experiences, he cautions future presidential abuse of power and the dangers of over-reliance on staff.

At the outset of President Bill Clinton's first term, there was criticism of his staff and operation of the White House. Mr. Ford then expressed sympathy for a president undergoing periods of anxiety and disarray, even turmoil.

He notes that he, too, had problems with staff mismanagement. Today, he is still concerned about the image of the presidency, and still concerned that a solution has not been found to the overwhelming White House employees who are not instructed, from the outset, that they work for the president and for the people—and not the other way around.

He maintains that staff assistants are not elected by the people, and that the president himself needs to determine how much trust to invest in his aides. “Otherwise,” he emphasizes, “the ramifications and the consequences of their arrogance and abuse of power is tremendous and sometimes dangerous.”

Mr. Ford concurs with one of President Lyndon B. Johnson’s press secretaries, George Raymond, who wrote in his book, “The Twilight of the Presidency”: “Presidents should not hire any assistants under 40 years old who had not suffered any major disappointments in life. When young amateurs find themselves in the West Wing or East Wing of the White House, they begin to think they are little tin gods.”

In his autobiography, “A Time to Heal,” Mr. Ford wrote: “Reedy had left the White House staff several years before, but he was predicting the climate that had led to ‘Watergate’ and its disturbing aftermath.

Born in 1913 in Omaha, Nebraska, to Dorothy Gardner and Leslie Lynch King Jr., Gerald Ford was christened Leslie L. King Jr. His parents divorced when he was two years old. He moved with his mother to Grand Rapids, Mich., where she married Gerald Rudolph Ford, who later adopted the child. He gave him his name, Gerald Rudolph Ford Jr.

If he were able to relive his 88 years, what would he do differently?” he says. “I’ve been lucky, both in my personal life and professionally. Along the way I tried to improve myself by learning something new in almost every waking moment. I’ve witnessed more than my share of miracles . . . I’ve witnessed the defeat of Nazi tyranny and the destruction of hateful wails that once divided free men from those enslaved.

. . . It has been a grand adventure and I have been blessed every step by a loving wife and supportive family.”

He says he will never forget one of the family’s worst days in the White House . . . six weeks after they moved in, “Betty received a diagnosis of breast cancer,” he recalls. “But her courage in going public with her condition . . . and her candor about her mastectomy increased awareness of the need for early detection, saving countless women’s lives.”

Six years later (1980), former President and Mrs. Ford dedicated “The Betty Ford Diagnostics and Comprehensive Breast Center” at the University of Michigan in Ann Arbor, Michigan. The center’s former director, Dr. Katherine Alley, a renowned breast cancer surgeon, said: “As one of his first women of note to go public with her cancer diagnosis and treatment, Betty Ford helped women to face the disease more openly and with less fear.”

At the outset of his presidency in 1976, Gerald Ford was confident that history will record that he “healed America at a very difficult time.” He believes that his presidential leadership for 29 months had steered the U.S., out of that period of turmoil, making it possible to move from despair to a renewed national unity of purpose and progress.

I also re-established a working relationship between the White House and Congress, one that had been ruptured,” he concludes. “That made an important difference. I consider that to be my greatest accomplishment as president, and I hope historians will record that as my legacy.”

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator Kennedy in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to raise a terrible crime that occurred November 3, 1991 in Houston, TX. Phillip W. Smith was shot to death outside a gay bar in Montrose. Johnny Bryant Darrington III, 20, was charged with murder and aggravated robbery. He told police he hated homosexuals.

I believe that government’s first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 which now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Madam President, at the close of business Friday, July 13, 2001, the Federal debt stood at $5,705,050,480,267.56, five trillion, seven hundred five billion, fifty million, four hundred eighty thousand, two hundred sixty-seven dollars and fifty-six cents.

One year ago, July 13, 2000, the Federal debt stood at $5,666,740,000,000, five trillion, six hundred sixty-six billion, seven hundred forty million.

Twenty-five years ago, July 13, 1976, the Federal debt stood at $617,642,000,000, six hundred seventeen billion, six hundred forty-two million, which reflects a debt increase of more than $5 trillion, $5,067,480,480,267.56, five trillion, four hundred eighty million, four hundred eighty thousand, two hundred sixty-seven dollars and fifty-six cents during the past 25 years.

ADDITIONAL STATEMENTS

TRIBUTE TO JAMES A. TURNER

Mr. SHELBY. Madam President, I rise today to pay tribute to a dear friend, James A. Turner of Tuscaloosa, Alabama. Jim Turner was a man of great courage, intelligence and character. We were friends for more than 40 years. I believe America has lost a great patriot with the recent death of James A. Turner.

Born in 1925, Jim grew up on a farm just outside of Tuscaloosa, Alabama. As World War II began, Jim left high school to serve his country. He enlisted in the Marine Corps and served with honor. Indeed, he earned and received the Purple Heart in 1945 on Iwo Jima when a machine gun blinded him during combat.

Jim returned to Alabama and in spite of his blindness earned his undergraduate degree in 1949. He received his juris doctorate from the University of Alabama in 1952. Jim always credited his wife and classmate, Louise, for his success in school. Louise read Jim’s textbooks to him so he could keep up with his studies.

Following graduation, Louise joined Jim at their law firm, Turner and Turner. Today, their son, Don, and their grandson, Brian, also work at Turner and Turner. The family law firm has spanned five decades and continues to thrive in Tuscaloosa.

Together, Jim and Louise raised three wonderful sons, Don, Rick and Glenn, who have brought them great joy in life. Their grandchildren, Brian, Lindsay and Brittany; and great-granddaughter Farris, are sources of considerable pride.

Jim was active in his community. He was an active member of the Tuscaloosa Bar Association and also served as President of the Tuscaloosa Bar Association. His family worshiped at United Methodist Church in Alberta.

We have in recent years heard reference to “the Greatest Generation.” Many of us have friends and relatives who have served our country and earned the right to wear that mantle. However, I know of few men who lived every day of their lives with the valor, courage, and love of country with which Jim Turner lived his entire life.

Our country has lost a good man and great lawyer, a devoted husband and father, a proud Marine and a loyal American. Words cannot express the respect I have for Jim Turner, nor can they express the sorrow my family and our community feels since this loss.

TRIBUTE TO MORTIMER CAPLIN

Mr. WARNER. Madam President, I rise today to honor a man whose lifetime record of achievement and service is the embodiment of the best of America. My friend, Mortimer Caplin, has
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for 6½ decades honorably served his Nation, his community, and our beloved University of Virginia, to be an exemplary record of accomplishment of the highest order. I ask unanimous consent that the following remarks made by Robert E. Scott, Dean of the University of Virginia Law School, be printed in the RECORD. These remarks are part of a speech Dean Scott made during the presentation to Mr. Caplin of The Thomas Jefferson Foundation Medal in Law, the University of Virginia’s highest honor.

REMARKS OF DEAN ROBERT E. SCOTT UPON THE PRESENTATION OF THE THOMAS JEFFERSON FOUNDATION MEDAL IN LAW TO MORTIMER M. CAPLIN, APRIL 12, 2001

Mr. President, Mr. Rector, and Distinguished Guests: Today is the 16th, and last time I will stand in this glorious space and introduce a recipient of the Jefferson Medal in Law. The occasion has been given me as much joy and pleasure as the duty I discharge today. It is my honor to present Mortimer M. Caplin, the 2001 recipient of Jefferson Foundation Medal in Law. Mortimer Caplin represents the very best of the University’s aspirations for its own. Some people gain distinction by happening upon an opportunity to be of service at the right time and then rising to the occasion. Mortimer Caplin’s reputation rests on a lifetime of achievement. Throughout the nearly seven decades that he has been associated with the University, he has exemplified a singular constancy of excellence. At every step of the way he has shown how talent, courage, persistence and a commitment to service can combine to inspire and transform us. These are exactly the qualities that Mr. Jefferson exemplified in his own life and wanted his University to embody.

Mortimer Caplin was born in New York in 1916. He came to Charlottesville in 1933, graduating from the University in 1937 and the Law School in 1940. As an undergraduate, he not only earned the highest academic honors but excelled in student government regard as the most estimable athletic endeavor its students could undertake, intercollegiate boxing. At the Law School, he displayed by being in the right place at the right time and then rising to the occasion. Mortimer Caplin’s reputation rests on a lifetime of achievement. Throughout the nearly seven decades that he has been associated with the University, he has exemplified a singular constancy of excellence. At every step of the way he has shown how talent, courage, persistence and a commitment to service can combine to inspire and transform us. These are exactly the qualities that Mr. Jefferson exemplified in his own life and wanted his University to embody.

Mort Caplin returned from the war to New York, but not many years later he requested a transfer out of the stateside intelligence work he had barely begun his career as a New York lawyer when World War II broke out. In anticipation of the conflict, he already had enlisted in the Navy and took up his commission shortly after Pearl Harbor. Eager for active duty, he requested a transfer to the U.S. Navy upon his graduation and was assigned as a fishing boat in Charleston. Perhaps equally important was the leadership role Mortimer Caplin played at the University and in the Charlottesville community. In 1950 Mort led the Law faculty in its unanimous decision to admit Gregory Swanson to the Law School, the first African-American he did. By dint of his example and leadership, the Law School recently concluded the most successful campaign in the history of American legal education. Mort Caplin’s commitment to the Law School’s commitment to a broad public vision, as reflected in our decision to dedicate our Public Service Center in his honor.

Having traveled to Washington, Mort chose to stay. He recognized the need for a first-rate law firm specializing in tax practice and, with Douglas Drysdale, another Virginia alumnus, founded Caplin & Drysdale. Shortly after establishing his law firm, Mort returned to the Law School. For more than twenty years he taught advanced courses emphasizing the interplay of tax law and practice. For many students he supplied the inspiration with which he led that critically important if sometimes unpopular agency for three years, at a time of significant changes in the United States economy and the tax system. At the end of his term, the Treasury Department granted him the Alexander Hamilton award, the highest possible honor that institution can bestow.

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This simply opened a new phase in his astonishing career of service to the Nation to this University and to the profession. Still to come was a five-year term on the University’s Board of Visitors and exemplary service as the dean of the Law School’s Faculty Senate. Yet another hallmark of Mort Caplin’s career was his exemplification of the image as a high calling, one dedicated to advancing the public interest while serving one’s clients. He sought to lead his students to a life in law that would ennoble and dignify the people of the very best of the University’s aspirations for its own. Some people gain distinction by happening upon an opportunity to be of service at the right time and then rising to the occasion. Mortimer Caplin’s reputation rests on a lifetime of achievement. Throughout the nearly seven decades that he has been associated with the University, he has exemplified a singular constancy of excellence. At every step of the way he has shown how talent, courage, persistence and a commitment to service can combine to inspire and transform us. These are exactly the qualities that Mr. Jefferson exemplified in his own life and wanted his University to embody.

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EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:


EC–2003. A communication from the Acting Secretary of Health and Human Services to the Committee on Health, Education, Labor, and Pensions.
nomination for the position of Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Chief Financial Officer, EX–IV, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2808. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Assistant Secretary for Congressional and Intergovernmental Affairs, EX–IV, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2809. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy in the position of Wage Hour Administrator, EX–V, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2810. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Assistant Secretary for Women’s Bureau, SL–8, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2811. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy in the position of Director of the Women’s Bureau, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2812. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy in the position of Director of the Employment and Training Administration, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2813. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Assistant Secretary for Administration and Management, Department of Labor, Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Assistant Secretary, Occupational Safety and Health Administration, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2814. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Assistant Secretary, Employment Standards Administration, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2815. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Assistant Secretary for Policy, Department of Labor, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2816. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Solicitor of Labor, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2817. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Assistant Secretary, Occupational Safety and Health Administration, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2818. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Associate Solicitor for Legislation and Legal Counsel, Department of Labor, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2819. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Solicitor of Labor, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2820. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Deputy Secretary of Labor, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2821. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Secretary for Mine Safety and Health, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2822. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Associate Solicitor for Legislation and Legal Counsel, Department of Labor, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2823. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination for the position of Solicitor of Labor, received on June 29, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2824. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Secretary for Welfare Benefits Administration, received on June 27, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2825. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Secretary of Labor, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2826. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary of the Occupational Safety and Health Administration, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2827. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Secretary of Labor, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2828. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the designation of acting officer for the position of Assistant Secretary for Public Affairs, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2829. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the designation of acting officer for the position of Solicitor of Labor, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2830. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Assistant Secretary for Congressionals and Intergovernmental Affairs, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2831. A communication from the Acting Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Assistant Secretary for Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2832. A communication from the Director of Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Requirements for Testing Human Blood Donors for Evidence of Infection Due to Communicable Disease Agents” (Doc. No. 09N–0581) received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2833. A communication from the Director of Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “General Requirements for Blood, Blood Components, and Blood Derivatives; Donor Guidance” (Doc. No. 09N–1488) received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2834. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Tobacco Control Activities in the United States, 1994–1999” (Doc. No. 09N–1489) received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2835. A communication from the White House Liaison, Department of Education,
transmitting, pursuant to law, the report of a vacancy in the position of Secretary of Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2838. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Chief Financial Officer, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2839. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Intergovernmental and Interagency Affairs, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2840. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Civil Rights, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2841. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Management, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2842. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Elementary and Secondary Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2843. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of General Counsel, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2844. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Commissioner of Rehabilitationative Services Administration, Office of Special Education and Rehabilitative Services, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2845. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Secretary of Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2846. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Officer of Postsecondary Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2847. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Educational Research and Improvement, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2848. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Commissioner of Education Statistics, Office of Educational Research and Improvement, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2849. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Vocational and Adult Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2850. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Management, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2851. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Elementary and Secondary Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2852. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Postsecondary Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2853. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Secondary Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2854. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Intergovernmental and Interagency Affairs, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2855. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Legislation and Congressional Affairs, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2856. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Elementary and Secondary Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2857. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Management, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2858. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Educational Research and Improvement, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2859. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Postsecondary Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2860. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Vocational and Adult Education, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2861. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, Office of Management, received on June 28, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2862. A communication from the Acting Director of the United States Office of Personnel Management, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Director, received on June 28, 2001; to the Committee on Governmental Affairs.

EC–2863. A communication from the Chair- man of the Board of Directors of the Corporation for Public Broadcasting, transmitting, pursuant to law, the report of a vacancy in the position of Director, received on June 28, 2001; to the Committee on Governmental Affairs.

EC–2864. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabed, transmitting, pursuant to law, the report of additions to the procurement list, received on June 28, 2001; to the Committee on Governmental Affairs.

EC–2865. A communication from the Acting Commissioner of Social Security, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Director, received on June 28, 2001; to the Committee on Governmental Affairs.

EC–2866. A communication from the Chair- man of the United States Merit Systems Protection Board, transmitting, pursuant to law, the Annual Report for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC–2867. A communication from the Prin- cipal Deputy Associate Administrator of the Environmental Protection Agency, transmitt- ing, pursuant to law, an update related to the "National Emission Standards for Hazardous Air Pollu- lants from Natural Gas Transmission and Storage Facilities" (FRL 5987–9) received on June 21, 2001; to the Committee on Environment- ment and Public Works.

EC–2868. A communication from the Prin- cipal Deputy Associate Administrator of the Environmental Protection Agency, transmitt- ing, pursuant to law, an update related to the "National Emission Standards for Hazardous Air Pollu- lants from Natural Gas Transmission and Storage Facilities" (FRL 5987–9) received on June 21, 2001; to the Committee on Environment- ment and Public Works.
Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Request for Reproposals: For the Operation of the Intergrated Atmospheric Deposition Network (IADN)” received on July 13, 2001, to the Committee on Environment and Public Works.

EC–2388. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Protection of Stratospheric Ozone: Process for Exempting Quarantine and Preshipment Applications of Methyl Bromide” (FRL7014–5) received on July 13, 2001, to the Committee on Environment and Public Works.

EC–2901. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Fertilizer Amendments to the Fertilizer Act” (FRL7037–42) received on July 13, 2001, to the Committee on Environment and Public Works.

EC–2936. A communication from the Acting Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “National Emission Standards for Hazardous Air Pollutants for Metal Refining Operations” (FRL7025–9) received on July 13, 2001, to the Committee on Environment and Public Works.

The following reports of committees were submitted on July 13, 2001:

By Mrs. MURRAY, from the Committee on Appropriations, without amendment:
S. 1178: An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; placed on the calendar.

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated, on July 15, 2001:

By Mrs. MURRAY:
S. 1179. An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; placed on the calendar.

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated, today:

By Mr. JOHNSON (for himself and Mr. CRAIO):
S. 1179. A bill to amend the Richard B. Russell National School Lunch Act to ensure an adequate level of commodity purchases under the school lunch program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. EDWARDS:
S. 1180. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating the International Civil Rights Center and Museum in the State of North Carolina as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LUGAR (for himself and Mr. BAYH):
S. 1181. A bill to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the “Elwood Haynes ‘Bud’ Hillis Post Office Building”; to the Committee on Governmental Affairs.

By Mr. HOLLINGS:
S. 1182. A bill to direct the Secretary of the Army to lease land at the Richard B. Russell Dam and Lake Project, South Carolina, to the South Carolina Department of Commerce, and for other purposes; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):
S. 1183. A bill to authorize the modification of a pump station intake structure and discharge line in Southfield, Maine, a flood control project at full Federal expense; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

Under the authority of the order of the Senate of January 3, 2001, the following reports of committees were submitted on July 13, 2001:

By Mrs. MURRAY, from the Committee on Appropriations, without amendment:
S. 1178: An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes (Rept. No. 107–38).

By Mr. REID, from the Committee on Appropriations:
Report to accompany S. 1178. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes (Rept. No. 107–39).

By Mr. BYRD, from the Committee on Appropriations:

The following reports of committees were submitted on July 16, 2001:

By Mr. RIDEN, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:
S. 180: A bill to facilitate famine relief efforts and a comprehensive solution to the war in Sudan.
S. 694: A bill to provide for a transition to democracy and to promote economic recovery in Zimbabwe.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated, on July 15, 2001:

By Mrs. MURRAY:
S. 1178. An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; placed on the calendar.

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated, today:

By Mr. JOHNSON (for himself and Mr. CRAIO):
S. 1179. A bill to amend the Richard B. Russell National School Lunch Act to ensure an adequate level of commodity purchases under the school lunch program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. EDWARDS:
S. 1180. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating the International Civil Rights Center and Museum in the State of North Carolina as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LUGAR (for himself and Mr. BAYH):
S. 1181. A bill to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the “Elwood Haynes ‘Bud’ Hillis Post Office Building”; to the Committee on Governmental Affairs.

By Mr. HOLLINGS:
S. 1182. A bill to direct the Secretary of the Army to lease land at the Richard B. Russell Dam and Lake Project, South Carolina, to the South Carolina Department of Commerce, and for other purposes; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):
S. 1183. A bill to authorize the modification of a pump station intake structure and discharge line in Southfield, Maine, a flood control project at full Federal expense; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROCKEFELLER (for himself and Mr. BYRD):
S. Res. 134. A resolution authorizing that the Senate office of Senator John D. Rockefeller IV be used to collect donations of clothing from July 13, 2001, until July 20, 2001, from concerned Members of Congress and staff to assist the West Virginia families suffering from the recent disaster of flooding and storms; considered and agreed to.

ADDITIONAL COSPONSORS

At the request of Mr. BOND, the name of the Senator from Utah (Mr. BENTNETT) was added as a cosponsor of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

At the request of Mr. BROWNBACK, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 124, a bill to exempt agreements relating to voluntary guidelines governing telecast material, movies, video games, Internet content, and music lyrics from the applicability of the antitrust laws, and for other purposes.

At the request of Mr. MCCAIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

At the request of Mr. FRIST, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Kentucky (Mr. BUNNING), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 180, a bill to facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

At the request of Mrs. LINCOLN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 258, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of annual screening pap smear and screening pelvic exams.

At the request of Mr. MURKOWSKI, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 388, a bill to protect the energy and security of the United States and decrease America’s dependency on foreign oil sources to 50% by the year 2011 by enhancing the use of renewable energy resources conserving energy resources, improving energy efficiencies, and increasing domestic energy supplies; improve environmental quality by reducing emissions of air pollutants and greenhouse gases; mitigate the effect of increases in energy prices on the American consumer, including the poor and the elderly; and for other purposes.

At the request of Mr. MURKOWSKI, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Mississippi (Mr. COCHRAN), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 388, a bill to protect the energy and security of the United States and decrease America’s dependency on foreign oil sources to 50% by the year 2011 by enhancing the use of renewable energy resources conserving energy resources, improving
energy efficiencies, and increasing domestic energy supplies; improve environmental quality by reducing emissions of air pollutants and greenhouse gases; mitigate the effect of increases in energy prices on the American consumer, including the poor and the elderly; and for other purposes.

At the request of Mr. BINGAMAN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 454, a bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes.

At the request of Mr. DOMENICI, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 472, a bill to ensure that nuclear energy continues to contribute to the supply of electricity in the United States.

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

At the request of Mr. WELLSTONE, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

At the request of Mr. DOMENICI, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 543, supra.

At the request of Mr. DASCHLE, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 550, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

At the request of Mr. THOMPSON, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Tennessee (Mr. Frist) were added as cosponsors of S. 661, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

At the request of Mr. Baucus, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to provide special rules for the charitable deduction for conservation contributions of land by eligible farmers and ranchers, and for other purposes.

At the request of Mr. HAGEL, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petitions and labor certification filings.

At the request of Mr. AKAKA, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 781, a bill to amend section 3702 of title 38, United States Code, to extend the authority for housing loans for members of the Select Reserve.

At the request of Mr. BAUCUS, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 808, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

At the request of Mr. BROWNBACK, the names of the Senators from Rhode Island (Mr. CHafee), the Senator from Minnesota (Mr. WELLSTONE), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 829, a bill to establish the National Museum of African American History and Culture within the Smithsonian Institution.

At the request of Mr. DAYTON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

At the request of Mr. GRASSLEY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

At the request of Mr. CLELAND, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 871, a bill to amend chapter 83 of title 5, United States Code, to provide for the computation of annuities for air traffic controllers in a similar manner as the computation of annuities for law enforcement officers and firefighters.

At the request of Ms. SNOWE, the names of the Senators from South Carolina (Mr. HOLLINGS) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of all oral anticancer drugs.
of 1958 should be fully enforced so as to prevent needless suffering of animals.

S. CON. RES. 59
At the request of Mr. HAGEL, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Iowa (Mr. GRASSLEY), and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. Con. Res. 53, a concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

S. CON. RES. 59
At the request of Mr. HUTCHINSON, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. Con. Res. 59, a concurrent resolution expressing the sense of Congress that there should be established a National Community Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Mr. LUGAR (for himself and Mr. BAYH):
S. 1181. A bill to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the “Elwood Haynes ‘Bud’ Hillis Post Office Building”; to the Committee on Governmental Affairs.
Mr. LUGAR. Madam President, I would like to take this opportunity to pay tribute to a distinguished Hoosier and tireless public servant, former Congressman Bud Hillis.
My colleague, Mr. BAYH, and I are introducing legislation to honor Congressman Hillis by naming the Post Office in Kokomo, Indiana the Elwood Haynes “Bud” Hillis Post Office.
Congressman Hillis honorably served the people of Indiana’s 5th District in the House of Representatives from 1971 to 1986. Congressman Hillis was a fair and reasonable voice on national security, trade, and veterans’ issues. A graduate of Indiana’s Culver Military Academy, he enlisted in the Army at the age of 18 and fought in the World War II European Theater as an infantryman for 27 months. After leaving active duty as a first lieutenant, Bud Hillis attended Indiana University and the Indiana University School of Law. He went on to practice law in Howard County, Indiana, where he served as Chairman of the county bar association.
Before being elected to Congress in 1970, Congressman Hillis served two terms in the Indiana House of Representatives.
The late 1970s and early 1980’s were difficult times for many in Indiana’s 5th District. A downturn in the auto industry during the recession brought unemployment in some of the district’s more highly industrialized communities to over 15 percent. He founded the Congressional Auto Task Force and he helped to round up votes in 1979 to pass legislation that I had sponsored here in the Senate to guarantee loans to the struggling Chrysler Corporation, an employer of more than 60,000 Hoosiers at the time. In 1983, he worked to protect the American industry from Japanese imports by extending a voluntary restraint agreement. He was a strong force on the Congressional Steel Caucus and served as Vice President of the executive committee.
As a member of the Armed Services Committee, Congressman Hillis was a dependable ally of the Reagan military build-up that helped to bring an end to the Cold War. He supported American service men by backing enlistment bonuses for military personnel and was a proponent of reinstating draft registration, which had ended with the Vietnam War. Further, he was instrumental in development and deployment of the M-1 tank and the preservation of Grissom Air Force Reserve Base in Peru, Indiana.
Congressman Hillis also took a personal interest with the veterans of our Nation. As a member of the Veterans’ Affairs Committee, he was a leader in improving health care for veterans and was instrumental in the construction of the community-based outpatient clinic in Crown Point, IN.
Congressman Bud Hillis has a distinguished record of service to his country and to the people of Indiana. The dedication of the post office in Kokomo, Indiana, a city that continues to be involved deeply with the American auto industry that Congressman Hillis supported so strongly, would be a fitting tribute for such an honorable statesman.
I ask unanimous consent that the text of the bill be printed in the RECORD.
There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1181
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. DESIGNATION OF ELWOOD HAYNES “BUD” HILLIS POST OFFICE BUILDING.
(a) IN GENERAL.—The facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, shall be known and designated as the “Elwood Haynes ‘Bud’ Hillis Post Office Building”.
(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Elwood Haynes “Bud” Hillis Post Office Building.

By Mr. HOLLINGS:
S. 1182. A bill to direct the Secretary of the Army to lease land at the Richard B. Russell Dam and Lake Project, South Carolina, to the South Carolina Department of Commerce, and for other purposes; to the Committee on Environment and Public Works.

Mr. HOLLINGS. Madam President, I rise today to introduce legislation that will provide economic stimulation to one of the poorest counties in South Carolina. The legislation will allow the South Carolina Department of Commerce, SCDOC, to proceed with a project that began almost a decade ago. Well, actually the project began long before that, way back when the Army Corps of Engineers built Lake Richard B. Russell in 1984.
Lake Russell is a 20,000-acre fresh-water lake on the South Carolina-Georgia border and was very controversial when originally proposed by the Army Corps of Engineers. Enhancement of economic development in the region was the primary purpose. I believe the legislation will bring economic development to the area.

Today, there is not a single room for rent by the public within sight of, or within reasonable walking distance of, the lake. There is only one gas pump on the entire lake and that is at a State park.
Following the completion of Lake Russell in 1984, the Department of Commerce and Abbeville County began a plan for the development of a lakefront golf and vacation resort. The Department contracted with a development company in 1997 to develop the project, but in 1998, due to financial difficulties, construction was suspended and the developer defaulted on its Development Agreement with SCDOC. As a result of this default, the Commerce Department terminated the Development Agreement and the property was returned to the State.
In January 1999, in an attempt to complete this project, SCDOC solicited proposals from various qualified developers. After consideration of several proposals, a developer was selected that had a history of successful developments throughout the State of South Carolina. However, in order for the project to be successful, changes to the current lease have to be made. These changes are selling point of the property to the developer.

When drafting this legislation, I wanted to address several points that may cause concern. First, I wanted to make sure the public had an opportunity to be involved throughout the process. Second, I wanted to make sure any additional land that was included in the project would be mitigated by providing lands with similar ecological values and habitat. And third, I wanted to make sure that this project would be economically viable. I believe the legislation does this.

Like I said, the legislation is simple and will bring economic development
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to a county that has longed for it. By completing this project, Abbeville County will be able to take advantage of the economic stimulation created by vacationers and tourism from the surrounding major cities, which include Atlanta, Macon, Columbia, Greenville, and Augusta. This economic development was promised when the lake was built in 1984 and I believe we should honor our commitment.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 134—AUTHORIZING THAT THE SENATE OFFICE OF SENATOR JOHN D. ROCKEFELLER IV BE USED TO COLLECT DONATIONS OF CLOTHING FROM JULY 13, 2001, UNTIL JULY 20, 2001, FROM CONCERNED MEMBERS OF CONGRESS AND STAFF TO ASSIST THE WEST VIRGINIA FAMILIES SUFFERING FROM THE RECENT DISASTER OF FLOODING AND STORMS

Mr. ROCKEFELLER (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. Res. 134

Whereas southern West Virginia has been devastated by recent flash flooding;

Whereas 2 West Virginians tragically lost their lives in the recent flooding;

Whereas thousands of West Virginians have been left homeless, and many more have severe damage to their homes and personal property, and many do not have safe drinking water or electric power because of the flooding; and

Whereas on July 5, 2001, President Bush amended the Federal Disaster Declaration to cover 18 West Virginia counties, including Boone, Cabell, Calhoun, Clay, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Preston, Putnam, Raleigh, Roane, Summers, Wayne, and Wyoming; now therefore, be it

Resolved, That the Senate office of Senator John D. Rockefeller IV is authorized to collect donations of clothing from July 13, 2001, until July 20, 2001, from concerned Members and staff to assist the West Virginia families suffering from the recent disaster of flooding and storms.

AMENDMENTS SUBMITTED AND PROPOSED

SA 977. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 974 submitted by Mr. LEAHY and intended to be proposed to the bill (H.R. 333) to amend title 11, United States Code, and for other purposes; which was ordered to lie on the table.

SA 978. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 333, supra; which was ordered to lie on the table.

SA 979. Mr. FEINGOLD submitted an amendment intended to be proposed by amendment SA 974 submitted by Mr. LEAHY and intended to be proposed to the bill (H.R. 333) to amend title 11, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

TEXT OF AMENDMENTS

SA 977. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 974 submitted by Mr. LEAHY and intended to be proposed to the bill (H.R. 333) to amend title 11, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

TEXT OF AMENDMENTS

SA 977. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 974 submitted by Mr. LEAHY and intended to be proposed to the bill (H.R. 333) to amend title 11, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

SA 978. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 333, supra; which was ordered to lie on the table; as follows:

SA 979. Mr. FEINGOLD submitted an amendment intended to be proposed by amendment SA 974 submitted by Mr. LEAHY and intended to be proposed to the bill (H.R. 333) to amend title 11, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

PROVIDED, That using $200,000 of the funds provided herein, the Secretary, acting through the Chief of Engineers, is directed to conduct, at full Federal expense,
technical studies of individual ditch systems identified in the state of Hawaii, and to assist the State in diversification by helping to define the cost of repairing and maintaining selected ditch systems: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $1,300,000 of the funds appropriated herein to continue construction of the navigation project at Kaumalapau Harbor, Hawaii: Provided further, That with $800,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to use $4,000,000 of the funds appropriated herein to continue construction of the navigation project at Bowman Island, Pennsylvania: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 to undertake the construction of seepage control features at the Waterbury Dam, Vermont: Provided further, That $2,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 to undertake the construction of seepage control features at the Brunswick County Beaches, North Carolina-Ocean Island Beach portion in accordance with the General Reevaluation Report approved by the Chief of Engineers on May 13, 1999: Provided further, That $2,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 to undertake the construction of seepage control features at the St. John’s River, Florida: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $4,000,000 of the funds provided herein for Dam safety and Seepage/ Stability Correction Program to continue construction of seepage control features at Waterbury Dam, Vermont: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $4,000,000 of the funds provided herein for construction of the following elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River, respectively: Provided further, That $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to use $1,100,000 of the funds appropriated herein to continue construction of the following elements of the project at Kaumalapau Harbor, Hawaii: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $41,100,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to use $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the Dickenson County, Virginia, element of the project; Provided further, That $700,000 to continue the Dickenson County, Kentucky, element of the project; Provided further, That $600,000 to continue the Dickenson County, West Virginia, element of the project; Provided further, That $800,000 for the Dickenson County, Kentucky, element of the project; Provided further, That $600,000 for the Dickenson County, West Virginia, element of the project; Provided further, That $3,500,000 for the Martin County, Kentucky, element of the project; Provided further, That $590,000 for the Floyd County, Kentucky, element of the project; Provided further, That $650,000 for the Harlan County element of the project; Provided further, That $800,000 for additional studies along tributaries of the Cumberland River in Bell County, Kentucky; Provided further, That $18,600,000 to continue work on the Grundy, Virginia, element of the project; Provided further, That $650,000 to complete the Buchanan County, Virginia, Detailed Project Report; Provided further, That $700,000 to complete the Dickenson County, Detailed Project Report; Provided further, That $1,500,000 for the Upper Mingo County, West Virginia, element of the project; Provided further, That $600,000 for the Upper Mingo County, West Virginia, element of the project; Provided further, That $600,000 for the Grundy County, West Virginia, element of the project; Provided further, That $3,200,000 for the McDowell County element of the project; Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the Dickenson County Detailed Project Report as generally defined in Plan 4 of the Huntington District Engineering Report Supplement to the Section 202 General Plan for Flood Damage Reduction dated April 1997, including all Russell Fork tributary streams within the county and other functions at the Office of the Chief Engineers Support Center, $183,000,000, to remain available until expended: Provided, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief Engineers or the executive direction and management activities of the division offices.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles:

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

Sec. 101. Agreements proposed for execution by the Assistant Secretary of the Army for Civil Works or the United States Corps of Engineers after the date of enactment of this Act pursuant to section 4 of the Rivers and Harbor Act of 1915, Public Law 64–291; section 11 of the River and Harbor Act of 1925, Public Law 68–585; the Civil Functions Appropriations Act, 1936, Public Law 75–208; section 215 of the Flood Control Act of 1948, as amended (16 U.S.C. 643–483); sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended (Public Law 99–662); section 206 of the Water Resources Development Act of 1992, as amended, Public Law 102–580; section 211 of the Water Resources Development Act of 1996, Public Law 104–303, and any other specific project authority, shall be limited to credits and reimbursements per project not to exceed $10,000,000 in each fiscal year, and total credits and reimbursements for all applicable projects not to exceed $50,000,000 in each fiscal year.

Sec. 102. ST. GEORGES BRIDGE, DELAWARE. None of the funds made available in this Act may be used to carry out any activity relating to closing or removal of the St. Georges Bridge across the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, the Secretary of the Army, acting through the Chief of Engineers, is directed to reimburse the State of Delaware for funds promised to the SH1 Bridge from station 58 +0 to station 293 +00 between May 12, 1997 and September 30, 2002. Reimbursement costs shall not exceed $2,000,000. For expenses necessary to carry out any activity relating to preparation of an environmental impact statement concerning the closure or removal, $100,000. The Secretary may not expend funds to accelerate the schedule to finalize the Record of Decision for the revision of the Missouri River Master Water Control Manual and any associated changes to the Missouri River Annual Operating Plan.

TITILE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, $94,918,000, to remain available until expended, of which $10,749,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account of the Central Utah Project Completion Act and shall be available to carry out activities authorized under that Act.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,310,000, to remain available until expended:

BUREAU OF RECLAMATION

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:
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WATER AND RELATED RESOURCES
(INCLUDING TRANSFER OF FUNDS)
For management, development, and restoration of water and related resources and for related activities, including the operation, maintenance and rehabilitation of reclamation and other facilities, participation in related federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments and others, $15,824,000, to remain available until expended, of which $14,669,000 shall be available for transfer to the Upper Colorado River Basin Fund and $1,155,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which $8,000,000 shall be for on-reservation water development, feasibility studies, and related administrative costs under Public Law 106–163, of which not more than 25 percent of the amount provided for drought emergency assistance may be used for financial assistance for the preparation of cooperative drought contingency plans, under title H Public Law 102–265; and of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps established by Section 19 of the Comprehensive Environmental Response, Compensation, and Liability Act (43 U.S.C. 370a), to be carried out by the Bureau of Reclamation for site reclamation, to remain available until expended, as authorized by the Small Reclamation Act of 1981 (Public Law 97–425), as amended.

For the principal amount of direct loans not exceeding $26,000,000.

For carrying out the programs, projects, plans, and activities authorized and provisions of the Central Valley Project Improvement Act, $55,039,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102–575, to remain available until expended.

For such costs, including the cost of modifying or converting to meet any requirements of the Reclamation Reform Act of 1994, as amended (101 Stat. 13314), that are not otherwise made available by this or any other Act or by direct payment and units of local government or any other real property or facility or for plant or facility acquisition, construction, or expansion, and the purchase or lease of not exceeding 17 passenger motor vehicles for replacement only, $736,139,000, to remain available until expended.

POLLICY AND ADMINISTRATION
For necessary expenses of policy, administration, and related functions in the office of the Commissioner of reclamation and its offices in the five regions of the Bureau of Reclamation, to remain available until expended, $52,969,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377:

Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION
Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed four passenger motor vehicles for replacement only.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR
SEC. 201. None of the funds appropriated or otherwise made available by this Act or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the water purchase requirements of section 202 of Public Law 106–111, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, of which $25,000,000 shall be derived from the Nuclear Enrichment Decontamination and Decommissioning Fund, all of which shall remain available until expended.

URANIUM FACILITIES MAINTENANCE AND REMEDIATION
(INCLUDING TRANSFER OF FUNDS)
For necessary expenses to maintain, decontaminate, decommission, and otherwise remediate uranium processing facilities, $308,725,000, of which $287,941,000 shall be derived from the Uranium Enrichment Decontamination and Decommissioning Fund, all of which shall remain available until expended.

SCIENCE
For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility for or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed 25 passenger motor vehicles for replacement only, $3,268,816,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL
For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $296,000,000, to remain available until expended and to be derived from the Nuclear Waste Fund: Provided, That $2,500,000 shall be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended: Provided further, That $6,000,000 shall be provided to affected units of local governments, as defined in Public Law 97–425, to conduct appropriate activities pursuant to the Act: Provided further, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: Provided further, That the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: Provided further, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada shall provide certification to the Department of Energy that all funds expended from
such payments have been expended for activities prohibited by Public Law 97–425 and this Act. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities. Provided further, That none of the funds appropriated may be:
1. used directly or indirectly to influence legislative action on any matter pending before Congress; or for lobbying activity as provided in 18 U.S.C. 1913; or
2. used for litigation expenses; or (3) used to support multi-State efforts or other coalitions for national security and nonproliferation activities inconsistent with the restrictions contained in this Act: Provided further, That all proceeds and recoveries by the Secretary in carrying out activities authorized by the Nuclear Waste Policy Act of 1982 in Public Law 97–245, as amended, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration, carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses not to exceed $50,000, $328,948,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): Provided, That such increases in cost of work are offset by increases in the same or greater amount, to remain available until expended: Provided further, That moneys received by the Department for miscellaneous revenues estimated to total $337,810,000 in fiscal year 2002 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 291 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation from the General Fund estimated at not more than $71,138,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,000,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility for plant or facility construction, acquisition, or expansion, and $880,500,000, to remain available until expended: Provided, That $7,000 may be used for official reception and representation expenses for national security and nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), and the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion: Provided further, That $35,000,000, to remain available until expended: Provided further, That the Bonneville Power Administration of the Department of Energy, in carrying out the purposes of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, to remain available until expended.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of 30 passenger motor vehicles, of which 27 shall be for replacement only, $5,389,668,000, to remain available until expended.

DEFENSE FACILITIES CLOSURE PROJECTS

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and capital equipment and other necessary expenses, $1,080,538,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental management activities authorized by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), $151,377,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense activities, Defense Nuclear Nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition of any real property or any facility for or plant or facility acquisition, construction, or expansion, $250,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 98–454, are approved for official reception and representation expenses in an amount not to exceed $1,500. For the purposes of appropriations funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration up to $2,000,000,000 in borrowing authority is authorized to be appropriated, subject to subsequent annual appropriations, to remain outstanding at any given time: Provided, That no portion of such borrowing authority shall not exceed $10 in fiscal year 2002 and that the Bonneville Power Administration obligation in any fiscal year under existing amounts and facilities shall not exceed $40,000,000 of its permanent borrowing in fiscal year 2002.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction of power facilities, for the purposes of 31 U.S.C. 3302, up to $8,000,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $4,891,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property for facility construction or expansion, $250,000,000, to remain available until expended.
Reclamation Fund: Provided, That of the amounts herein appropriated, $6,053,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account pursuant to section 423 of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That up to $156,625,000 (as collected) from fees and other collections estimated at not more than $0. That of the amounts herein appropriated, $56,053,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That up to $156,625,000 (as collected) from fees and other collections estimated at not more than $0. That of the amounts herein appropriated, $56,053,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That up to $156,625,000 (as collected) from fees and other collections estimated at not more than $0.

SEC. 301. None of the funds appropriated by this Act may be used to carry out the provisions of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That the Secretary may use any amount allocated to a covered nuclear weapons production plant for activities and demonstration activities with respect to the development, test, and evaluation capabilities necessary for operations and readiness of the Nevada Test Site.

SEC. 302. None of the funds appropriated by this Act may be used to carry out the provisions of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That the Secretary may use any amount allocated to a covered nuclear weapons production plant for activities and demonstration activities with respect to the development, test, and evaluation capabilities necessary for operations and readiness of the Nevada Test Site.

SEC. 303. None of the funds appropriated by this Act may be used to carry out the provisions of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That the Secretary may use any amount allocated to a covered nuclear weapons production plant for activities and demonstration activities with respect to the development, test, and evaluation capabilities necessary for operations and readiness of the Nevada Test Site.

SEC. 304. None of the funds appropriated by this Act may be used to carry out the provisions of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That the Secretary may use any amount allocated to a covered nuclear weapons production plant for activities and demonstration activities with respect to the development, test, and evaluation capabilities necessary for operations and readiness of the Nevada Test Site.

SEC. 305. None of the funds appropriated by this Act may be used to carry out the provisions of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That the Secretary may use any amount allocated to a covered nuclear weapons production plant for activities and demonstration activities with respect to the development, test, and evaluation capabilities necessary for operations and readiness of the Nevada Test Site.

SEC. 306. None of the funds appropriated by this Act may be used to carry out the provisions of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That the Secretary may use any amount allocated to a covered nuclear weapons production plant for activities and demonstration activities with respect to the development, test, and evaluation capabilities necessary for operations and readiness of the Nevada Test Site.

SEC. 307. None of the funds appropriated by this Act may be used to carry out the provisions of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That the Secretary may use any amount allocated to a covered nuclear weapons production plant for activities and demonstration activities with respect to the development, test, and evaluation capabilities necessary for operations and readiness of the Nevada Test Site.

SEC. 308. None of the funds appropriated by this Act may be used to carry out the provisions of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That the Secretary may use any amount allocated to a covered nuclear weapons production plant for activities and demonstration activities with respect to the development, test, and evaluation capabilities necessary for operations and readiness of the Nevada Test Site.

SEC. 309. None of the funds appropriated by this Act may be used to carry out the provisions of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That the Secretary may use any amount allocated to a covered nuclear weapons production plant for activities and demonstration activities with respect to the development, test, and evaluation capabilities necessary for operations and readiness of the Nevada Test Site.
license fee revenues, notwithstanding 42 U.S.C. 2000a-11b. Further, that the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation estimated at not more than $50,832,000. Provided further, That, notwithstanding any other provision of law, no funds made available under this Act or any other Act may be expended by the Commission to implement or enforce 10 C.F.R. Part 35, as adopted by the Commission on October 23, 2000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $5,500,000, to remain available until expended: Provided, That revenues from licensing fees, inspection services, and other services and collections estimated at $5,432,000 in fiscal year 2002 shall be retained and be available until expended, for necessary salaries and expenses in this account notwithstanding 31 U.S.C. 3302: Provided further, That, the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation estimated at not more than $68,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $3,500,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TITLE V

GENERAL PROVISIONS

Sec. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in section 1913 of title 18, United States Code.

Sec. 502. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—Recreational Pursuits has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of 48 Code of Federal Regulations.

This Act may be cited as the “Energy and Water Development Appropriations Act, 2002”.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee has scheduled a hearing to consider the nomination of Dan R. Brouillette to be an Assistant Secretary of Energy (Congressional and Intergovernmental Affairs).

The hearing will take place on Wednesday, July 18, at 9 a.m. in room 366 of the Dirksen Senate Office Building.

Those wishing to submit written statements on the nominations should address them to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510. For further information, please contact Sam Fowler at 202–224–7571.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Committee of the Whole on Commerce, Science, and Transportation be authorized to meet on “Holes in the Net: Security Risks and the Consumer,” on Monday, July 16, 2001, at 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Roger Cockrell and James Crum, Appropriations Committee staff, be granted privileges of the floor for the duration of the consideration of the bill now before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR

AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

On July 12, 2001, the Senate amended and passed H.R. 2217, as follows:

RESOLVED, That the bill from the House of Representatives (H.R. 2217) entitled “An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes,” do pass with the following amendments:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITEL I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LAND AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other rights, entrance, management, and administration of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–47 (16 U.S.C. 3150a), $775,962,000, to be derived from the Nuclear Waste Fund, and to remain available until expended, of which $700,000 is for riparian management projects in the Rio Puerco watershed, New Mexico, and of which $1,000,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, defined in section 250(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act; of which $4,000,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96–47 (16 U.S.C. 3150)); and of which not to exceed $1,000,000 shall be derived from the special receipt account established by the Land and Water Conservation Act of 1965 (16 U.S.C. 460–6a(ii)); and of which $3,000,000 shall be available in fiscal year 2002 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation, to such Foundation for cost-shared projects supporting conservation of Bureau lands and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred; in addition, $32,298,000 for Mining Law Administration program operations, including the cost of administering the mining claim program; to remain available, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $775,962,000, and $2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication privileges.

Provided, That appropriations herein made shall not be available for the destruction of healthy, unadapted, wild horses and burros in the care of the Bureau: Provided further, That of the amount provided, $28,000,000 is for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided further, That balances in the Federal Infrastructure Improvement account shall be transferred to and merged with this appropriation, and shall remain available until expended.

WILDERNESS FIRE MANAGEMENT

For necessary expenses for fire preparedness, suppression operations, fire science and research, emergency rehabilitation, hazardous fuels reduction, and rural fire assistance by the Department of the Interior, $589,421,000, to remain available until expended:

Provided, That not to exceed $19,774,000 shall be for the renovation or construction of fire facilities: Provided, That not less than $111,255,000 of the funds available for hazardous fuels reduction, and for the renovation or construction of fire facilities shall be for alleviating immediate emergency threats to urban wildland interface areas as defined by the Secretary of the Interior: Provided further, That such funds are available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: Provided further, That such funds are available for repayment of advances to other appropriation accounts from which funds were previously appropriated to the “Fire Protection” and “Emergency Department of the Interior
Firefighting Fund" may be transferred and merged with other funds. Provided fur- ther, That persons hired pursuant to 42 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this ap-
propriation, and paid therefor. That notwithstanding 42 U.S.C. 1469 et seq., sums received from the Oregon and California Grant Lands, or by the Oregon and California Grant Lands, or by the Oregon and California Grant Lands, or by the Oregon and California Grant Lands, may be expended without further appropriation: Provided further, That such sums recovered from or paid by any party are limited to monetary pay-
ments and may include stocks, bonds or other personal or real property, which may be re-
tained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

CONSTRUCTION

For construction of buildings, recreation fa-
cilities, roads, trails, and appurtenant facilities, $12,976,000, to remain available until expended.

PAYROLL TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–
6907), $220,000,000, of which not to exceed $80,000,000 shall be available for personal or real property, and of which $50,000,000 is for the con-
servation activities defined in section 250(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Pro-
vided, That no payment shall be made to other-
wise eligible units of local government if the computed amount of the payment is less than $100.

LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, 217, and 221 of Public Law 94–579, in-
cluding administrative expenses and acquisition of lands or waters, or interests therein, $45,686,000, to be derived from the Land and Water Conservation Fund, to be available until expended, and to be for the conservation activities defined in section 250(c)(4)(E)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, pro-
tection, and development of resources and for con-
servation, operation, and maintenance of ac-
cess roads, reforestation, and other improve-
ments on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California Grant Lands, to remain available until expended: Provided, That 25 percent of the aggregate of all receipts during the cur-
rent fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

FOREST ECOSYSTEMS HEALTH AND RECOVERY FUND (REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the amounts authorized to be ex-
pended under section 307(c) of the Taylor Grazing Act, any moneys that have been allocated or are available for the action of a re-
source developer, purchaser, permittee, or any other person, without regard to whether such moneys and the amounts collected from such action are allocated or made available for the action of a re-
source developer, purchaser, permittee, or any other person, without regard to whether such moneys are in excess of amounts needed to repair damage to the exact land for which such funds were collected may be used to repair other dam-
aged public lands.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be ex-
pended, not to exceed $50,000,000 shall be appro-
priated such amounts as may be contributed under section 337 of the Forest and Rangelands Conservation Act of 1910 (16 U.S.C. 557), and such amounts as may be derived from the sale of lands or interests, or from the disposal of mineral leases and other revenues, or from the sale of moneys that are in excess of amounts needed to repair damage to the exact land for which such funds were collected or are available for the action of a resource developer, purchaser, permittee, or any other person, without regard to whether such moneys are in excess of amounts needed to repair damage to the exact land for which such funds were collected may be used to repair other damaged public lands.

Appropriations for the Bureau of Land Man-
agement shall be available for purchase, erec-
tion, and dismantlement of temporary struc-
tures, and alteration and maintenance of nec-
essary buildings and appurtenant facilities to which the States have title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning viola-
tions of laws administered by the Bureau; mis-
cellaneous and emergency expenses of enforce-
ment activities authorized or approved by the Secretary and to be accounted for solely on her certificate, not to exceed $10,000: Provided, That notwithstanding 41 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership agreements authorized by law, pay for any printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in whole or in part, and determines the cooperator is capable of meeting accepted quality standards: Provided further, That section 28(a) of title 30, United States Code, is amended in subsection (a) by adding the following: (1) In section 28(a), by striking the first sen-
tence and inserting, "The holder of each
unpatented mining claim, mill, or tunnel site, located or owned by the United States, whether located before, on or after the enactment of this Act, shall pay to the Secretary of the Interior, on or before September 1 of each year through 2006, a claim and maintenance fee of $100 per claim or site; and

(2) In section 28g, by striking “and before September 30, 2007” and inserting in lieu thereof “and before September 30, 1996.”

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, for scientific and economic studies, surveys, investigations, management, inspection and control of wildlife, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, maintenance of the field laboratory of long horned cattle on the Wichita Mountains Wildlife Refuge, general administration, and for the performance of other authorized functions related to such resources by direct expenditures, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities, $845,814,000 to remain available until September 30, 2007, including $8,000,000 for acquisitions of lands in the Hackensack Meadows, New Jersey, to identify management objectives and design strategies for preservation efforts, and of which $31,000,000 is for conservation activities defined in section 259(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, of which $1,500,000 shall be for inholdings.

LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $186,401,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 259(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, of which $500,000 shall be available for acquisition of lands in the California-Nevada and California-San Luis Obispo Blueground and Wildlife Resources, and of which $1,500,000 shall be used for the acquisition of lands in the Colorado River National Wildlife Refuge, and of which $2,000,000 shall be for high priority projects which shall be for emergencies and hardships, and of which not more than $500,000 shall be used for acquisition of 1.75 acres for the Red River National Wildlife Refuge, and of which $3,000,000 shall be for the acquisition of lands in the Cahaba River National Wildlife Refuge, and of which $1,500,000 shall be for emergencies and hardships, and of which $1,500,000 shall be for inholdings.

LANDOWNER INCENTIVE PROGRAM

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $50,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That the amount provided herein is for a Landowner Incentive Program established by the Secretary that provides matching, competitive, and cooperative agreements with public and private agencies, and landowners, grants, and loans for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, in prioritized areas as described in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That the Secretary, after deducting administrative expenses, apportion the amount provided herein in the following manner: (A) To the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than one-half of 1 percent of the amount provided to the District of Columbia or to the Commonwealth of Puerto Rico; (B) To the Territories of American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-quarter of 1 percent of the amount provided to the Territories of American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands; and (C) To the Secretary to establish a Private Stewardship Grants Program to provide grants and other assistance to individuals and groups engaged in conservation efforts to benefit federal, state, local, or other private organizations in Maine to fund on-the-ground projects to further Atlantic salmon conservation and restoration efforts, at least $500,000 of which shall assist in the management of lands covered in this paragraph for any fiscal year or more than 5 percent of such amount: Provided further, That

STEWARDSHIP GRANTS

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $10,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and to be for conservation spending category activities pursuant to section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That the Secretary shall apportion the remaining amount in the following manner: (A) One-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and (B) Two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States; and that the Secretary shall, in distributing the allocations hereunder, consider the following factors: (i) The Secretary shall determine the amount allocated to such State, based on the fiscal year or more than 5 percent of such amount: Provided further, That

COOPERATIVE ENDANGERED SPECIES

For expenses necessary to carry out section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended, $91,000,000, to be derived from the Cooperative Endangered Species Conservation Fund, to remain available until expended, and to be for the conservation activities defined in section 259(c)(4)(E)(iv) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $14,414,000, to remain available until expended: Provided, That the amounts available for expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, as amended, to the District of Columbia, Puerto Rico, Guam, and the Commonwealth of the Northern Mariana Islands, $13,334,000, to remain available until expended: Provided, That funds made available under this Act, Public Law 106–291, provided under the Endangered Species Act of 1982 (16 U.S.C. 1531), $4,000,000, to remain available until expended: Provided, That funds made available under this Act, Public Law 106–291, and Public Law 106–554, and any other Federal appropriations acts for rhinoceros, tiger, Asian elephant, and great ape conservation programs are exempt from any sanctions imposed against any country under section 103(b) of the Arms Export Control Act (22 U.S.C. 279aa–1).
the Federal share of planning grants shall not exceed 75 percent of the total costs of such projects and the Federal share of implementation grants shall not exceed 50 percent of the total costs of such projects: Provided further, That the non-Federal share of such projects may not exceed 74 passenger motor vehicles, of which 69 are for replacement only (including 32 for police-type use); repair or damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed $1 for each option; facilities determined to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management and investigation of fish and wildlife resources: Provided, That notwithstanding standing 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines that the services are consistent with acceptable quality standards: Provided further, That the Service may accept donated aircraft as replacements for existing aircraft: Provided further, That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in accordance with the reprogramming procedures contained in Senate Report 105–56.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permits on a reimbursable basis), and for the general administration of the National Park Service, $1,474,338,000, of which $10,881,000 for research, planning and interagency coordination in support of land acquisition for Everglades restoration shall remain available until expended, and $72,640,000, to remain available until September 30, 2003, for maintenance repair or rehabilita- tion projects for constructed assets, operation of the National Park facilities, services, maintenance management systems, and comprehensive facility condition assessments; and of which $2,000,000 is for the Youth Conservation Corps, defined in section 250(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, for high priority projects: Provided, that at least 30 percent of the amount which may be made available to support United States Park Police are those funds approved for emergency law and order incidents pursuant to established plans. The funds needed to maintain and repair United States Park Police administrative facilities, and those funds necessary to reimburse the United States Park Police account for the unobligated over-time and travel costs associated with special events for an amount not to exceed $10,000 per event subject to the review and concurrence of the Washington headquarters office.

UNITED STATES PARK POLICE

For expenses necessary to carry out the programs of the United States Park Police, $86,100,000.

CONTRIBUTION FOR ANNUITY BENEFITS

For reimbursement (not herefore made), pursuant to provisions of Public Law 85–157, to the District of Columbia on a monthly basis for pension and retirement and Disability Act (Act), to the extent provided, of the amounts paid by active Park Police members covered under the Act, such amounts as hereafter may be necessary: Provided, That hereafter the appropriations made for FY 1997 shall be available for this purpose.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided, of the amount provided $390,000 in heritage partnership funds for the Erie Canalway National Heritage Corridor, of which $101,000 is statutory or contractual aid for the Brown-Woman's National Monument, and of which $250,000 is for a cultural program grant to the Underground Railroad Coalition of Delaware.

URBAN PARK AND RECREATION FUND

For expenses necessary to carry out the provisions of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2591 et seq.), $20,000,000, to remain available until expended and to be for the conservation activities defined in section 250(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act (Public Law 104–333), $74,000,000, to be derived from the Historic Preservation Fund, to remain available until September 30, 2003, and to be for the conservation activities defined in section 250(c)(4)(E)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act: Provided, That of the amount provided $30,000,000 shall be for Save America’s Treasures for priority preservation projects, including preservation of intellectual and cultural artifacts, preservation of historic properties, and buildings to house cultural and historic resources and to provide educational opportunities: Provided further, That any individual Save America’s Treasures grant shall be matched by non-Federal funds: Provided further, That individual projects shall only be eligible for one grant, and all projects to be funded shall be approved by the House and Senate Committees on Appropriations, and shall be conditioned on the receipt of non-Federal funds: Provided further, That Save America’s Treasures funds allocated for Federal projects shall be available by transfer to appropriate accounts of individual agencies, after approval of such projects by the Secretary of the Interior: Provided further, That none of the funds provided for administrative expenses, and staffing for the program shall be available from the existing staffing levels in the National Park Service.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, $338,585,000, to remain available until expended, of which $60,000,000 is for construction activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

LAND AND WATER CONSERVATION FUND (RESCISSION)

The contract authority provided for fiscal years 2001 and 2002 by 16 U.S.C. 460l–6 (f) to provide credit to the Land and Water Conservation Fund, to remain available until expended and to be for the conservation activities defined in section 250(c)(4)(E)(iii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, $287,036,000, to be derived from the Land and Water Conservation Fund, to remain available until expended and to be for the conservation activities defined in section 250(c)(4)(E)(iii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act, of which $164,000,000 is for the State assistance program including $4,000,000 to administer the State assistance program, and the remaining $160,000,000 shall be for grants, not covering more than 50 percent of the total cost of any acquisition to be made with such funds, to States and local communities for purposes of acquiring interests in lands to preserve and protect Civil War battlefield sites included in the July 1993 Report on the Nation’s Civil War Battlefields prepared by the Civil War Sites Advisory Commission: Provided, That lands or interests in land acquired with Civil War battlefield grants shall be subject to the requirements of paragraph 6(f)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(f)(2)): Provided further, That of the amounts provided under this heading, $15,000,000 may be for Federal grants to the State of Florida for the acquisition of lands or waters, or interests therein, within the Everglades watershed (consisting of lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area) under the terms and conditions deemed necessary by the Secretary to improve and restore the hydrological function of the Everglades watershed; and $16,000,000 may be for projects authorized by the Everglades National Park Protection and Expansion Act: Provided further, That funds provided under this heading for acquisition of lands or waters, or interests therein, within the Everglades watershed are contingent upon new matching non-Federal funds by the State and shall be
subject to an agreement that the lands to be acquired be used in perpetuity for the conservation of the Everglades. Provided further, That none of the funds provided for the State Assistance program may be used to establish a contiguous fund.

Administrative Provisions

Appropriations for the National Park Service shall be available for the purchase of not to exceed 315 passenger motor vehicles, of which 48 are for replacement only, including not to exceed 237 for police-type use, 11 buses, and 8 ambulances: Provided, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1933: Provided further, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of plans and a cost-benefit analysis of the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of programs designed to improve workplace and employee safety, and to encourage preventive worker compensation benefits pursuant to chapter 81 of title 5, United States Code, to return to appropriate positions for which they are medically able.

United States Geological Survey

Surveys, Investigations, and Research

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research, and for the furnishing of topographic, hydrologic, biological, and mineral and water resources of the United States, its territories and possessions, and other areas as authorized by law, for enforcement of applicable laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only, $151,933,000, of which $84,021,000, shall be available until expended, for activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 630a.

Minerals Management Service

Royalty and Offshore Minerals Management

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcement of applicable laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only, $151,933,000, of which $84,021,000, shall be available until expended, from additions to receipts applicable to this appropriation and to remain available until expended.

Coal royalties and fees paid by operators of strip mining operations under the Surface Mining Control and Reclamation Act of 1977, as amended, including the purchase of not to exceed 11 buses and eight passenger motor vehicles for replacement only, $203,171,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: Provided further, That none of the funds in this Act may be spent by the Minerals Management Service for any required non-Federal share of the cost of projects funded under the Abandoned Mine Reclamation Fund.

Abandoned Mine Reclamation Fund

For necessary expenses to carry out title V of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not to exceed 315 passenger motor vehicles, of which 256 shall be for replacement only, including not to exceed 237 for police-type use, 11 buses, and 8 ambulances: Provided, That none of the funds provided for the State Assistance program may be used to establish a contiguous fund.

Administering the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the following activities: and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 96g(1)) and related purposes as authorized by law and to publish and disseminate data; $201,447,000, of which $76,318,000 shall be available only for cooperation with States or municipalities for water resources investigations and of which $8,000,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries; and of which $8,000,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries; and of which $8,000,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries; and of which $8,000,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries; and of which $8,000,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries; and of which $8,000,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries.

For expenses necessary for the United States Geological Survey shall be available for the purchase of not to exceed 315 passenger motor vehicles, of which 48 are for replacement only, $23,226,000 shall be available for one-half the cost of topographic mapping or water resources data for the United States Geological Survey, including the purchase of not to exceed 8 passenger motor vehicles for replacement only, $23,226,000 shall be available for replacement only, reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and related products or services for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Compensatory Fishing and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of compen- sation agreements and other intergovernmental agreements, and for making a full and comprehensive report on the development of plans and a cost-benefit analysis of the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of programs designed to improve workplace and employee safety, and to encourage preventive worker compensation benefits pursuant to chapter 81 of title 5, United States Code, to return to appropriate positions for which they are medically able.

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emergency projects: Provided further, That pur-}
by the Federal Government for the purpose of ensuring that projects related to treatment or abatement of acid mine drainage from abandoned mines: Provided further, That such projects must be consistent with the purposes and purposes and enforcement functions of the Surface Mining Control and Reclamation Act: Provided further, That the State of Maryland may set aside the greater of $1,000,000 or 10 percent of the total of the grants made available to the State under title IV of the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1231 et seq.), if the amount set aside is deposited in an acid mine drainage abatement and treatment fund established under a State law, pursuant to which law the amount (together with all interest earned on the amount) is expended by the State to undertake acid mine drainage abatement and treatment projects, except that before any amounts greater than 10 percent of its title IV grant are expended in such an acid mine drainage abatement and treatment fund, the State of Maryland must first complete all Surface Mining Control and Reclamation Act priority one projects.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the November 13, 1987 (30 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001–2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, $1,804,322,000, to remain available until September 30, 2003 except as otherwise provided herein, of which not to exceed $89,864,000 shall be for welfare assistance payments and notwithstanding any other provision of law, including but not limited to the Indian Health Care Improvement Act of 1990 as amended, not to exceed $130,209,000 shall be available for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts, grants, grants, compacts, or cooperative agreements with the Bureau under such Act; and of which not to exceed $343,427,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2002, and shall remain available until September 30, 2003; and of which not to exceed $58,540,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program: Provided, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed $43,065,000 within and available amounts made available from the Indian Guaranteed Loan Program account (including the Indian loan guarantee and insurance fund, and the Administrative provisions for the Operation of Indian programs fund) shall be available to the State for the purpose of ensuring that projects related to the operation and improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program.
For necessary expenses for management of the Department of the Interior, $67,541,000, of which not to exceed $3,500 may be for official reception and representation expenses, and of which up to $1,000,000 shall be made available for reimbursing public agencies for cost-sharing payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines.

Office of the Solicitor

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $44,074,000.

Office of Inspector General

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $34,302,000, of which $3,122,000 standing any other provision of law, the statute of limitations shall not commence to run on any such claim, including any claim in litigation pending on the date of the enactment of this Act, concerning civil rights, civil liberties, or other programs funded with trust funds of the United States or to which a tribal or individual Indian has been charged with an accounting of such funds from which the beneficiary can determine whether such funds have been used properly. Provided further, That notwithstanding any other provision of law, the Secretary shall not be required to provide a quarterly statement of performance for any Indian trust account that has not had activity for at least 18 months and has a balance of $1.00 or less: Provided further, That the Secretary shall issue an annual account statement and maintain a record of any such accounts and shall permit the balance in each such account to be withdrawn upon the express written request of the account holder.

Indian Land Consolidation

For consolidation of fractional interests in Indian lands and expenses associated with redeeming and redeeding escheated interests in allotted lands, and for necessary expenses to carry out the Indian Revestment Act of 1981, as amended, direct expenditure or cooperative agreement, $10,980,000, to remain available until expended and which may be transferred to the Bureau of Indian Affairs and Departmental Management.

Natural Resource Damage Assessment and Restoration

For necessary expenses for management of the Department of the Interior, $67,541,000, of which not to exceed $3,500 may be for official reception and representation expenses, and of which up to $1,000,000 shall be made available for reimbursing public agencies for cost-sharing payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines.

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Natural Resource Damage Assessment and Restoration

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shall be made available under this authority until the funds are expended by the Department of the Interior for ‘wildland fire operations’ shall be exhausted within thirty days: Provided further, that all funds used pursuant to this section are hereby designated by the Secretary to be made available for periods not in excess of 12 months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for periods not in excess of 12 months beginning at any time during the fiscal year.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore oil and natural gas preleasing, leasing and related activities, on lands within the Northern Atlantic, Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities, on lands within the North Alaskan Basin planning area.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities in the eastern Gulf of Mexico planning area for any lands located on the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

SEC. 112. Appropriations made in this title shall be available for services rendered may be credited to the appropriations at the time such reimbursements are received.

SEC. 113. A grazing permit or lease that expires (or is transferred) during fiscal year 2002 shall be renewed under section 402 of the Federal Land Policy and Management Act of 1976, as amended (16 U.S.C. 410aaa–50). The terms and conditions of the permit or lease shall continue in effect under the new permit or lease until such time as the Secretary determines that funds appropriated pursuant to this act are expended by the Department of the Interior for services rendered.

SEC. 114. Notwithstanding any other provision of law, the Secretary may retain and use any such remaining funds to reimburse, on a pro rata basis, accounts from which funds were transferred and used to reimburse, on a pro rata basis, other appropriation from which funds were transferred and used to reimburse, on a pro rata basis, other appropriation.

SEC. 116. Funds appropriated for the Bureau of Indian Affairs for purposes of meeting the requirements for fiscal year 2002 shall be allocated among the schools proportionate to the unmet need of the schools as determined by the Secretary under paragraph (2). The Secretary shall ensure that an eligible Indian tribe currently on the Department’s priority list for construction of tribal schools shall receive the highest priority for a grant under this section.

SEC. 117. (a) The Secretary of the Interior shall take such action as may be necessary to ensure that funds made available pursuant to section 111(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which such be requested as promptly as possible. Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which funds were transferred and used to reimburse, on a pro rata basis, other appropriation.

SEC. 118. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 94–134, as amended by Public Law 104–208, the Secretary may accept and retain land and other forms of reimbursement: Provided, That the Secretary may retain and use any such reimbursement until expended and without further limitation: Provided further, That all funds made available pursuant to section 111(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which such be requested as promptly as possible. Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which funds were transferred and used to reimburse, on a pro rata basis, other appropriation.

improvements and equipment associated with
Secretary determines to be appropriate.

(a) the costs of construction under the grant;
(b) that the Indian tribe shall be required to
contribute towards the cost of the construction
tribal share equal to 50 percent of the costs; and
(c) any other term or condition that the Sec-
retary determines to be appropriate.

(4) ELIGIBILITY.—Grants awarded under the
demonstration program shall only be for con-
struction on replacement tribally controlled
schools.

(c) Effect of Grant.—A grant received
under this section shall be in addition to any
other funds received by an Indian tribe under any
other Federal law. The receipt of a grant under this section shall not affect the eli-
gitability of an Indian tribe receiving funding, or the amount of funding received by the Indian tribe.

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section 124. The Secretary of the Interior may
approve the construction of a monument.

(a) The Secretary of the Interior may
use grants for the purchase of cultural, historical, and cultural, or vehicular
magnets on the Sheldon and Nat-
ional Wildlife Refuges for the purpose of cap-
turning and transporting horses and burros.

(b) The Secretary of the Interior shall (1)
transfer not to exceed 25 percent of that State's
formula allocation under the heading "National Park Service, Land Acquisition and State As-
sistance" to increase the State's allocation
under the heading "United States Fish and
Wildlife Service, State Wildlife Grants" or (2)
transfer not to exceed 25 percent of the State's
formula allocation under the heading "United States Fish and Wildlife Service, State Wildlife Grants" to increase the State's formula alloca-
tion under the heading "National Park Service, Land Acquisition and State Assistance".

(b) The National Park Service shall conduct
an Environmental Impact Statement on vessel entries into such park taking into account possible impacts
on whale populations: Provided, That none of
such park taking into account possible impacts
on resources off the coastline of the United States, in Alaska, and off the coastline of the
United States;

(6) this reliance is likely to continue for the foreseeable future;

(7) that object to exploration and development for
resources, such as onshore and offshore Alaska,

(8) actions that prevent the development of cer-
tain onshore areas in the western United States, in Alaska, and off the coastline of the
United States;

(9) actions to prevent the development of cer-
tain Federal crude oil and natural gas resources
focus development pressure on the remaining areas of Federal crude oil and natural gas re-
sources, such as onshore areas in the western United
States, in Alaska, and off the coastline of the
United States, and the central Gulf of Mexico off the
coasts of Alabama, Alaska, Louisiana, Mississippi,
and Texas;

(10) the development of Federal crude oil and
natural gas resources is accompanied by adverse
effects on the infrastructure services, public
services, and the economies of State, local

counties, and local communities that host the develop-
ment of those Federal resources;

(11) States, counties, and local communities do not have the power to tax adequately the develop-
ment of Federal crude oil and natural gas
resources, particularly when those development...
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activities occur off the coastline of States that
serve as platforms for that development, such as
Alabama, Alaska, Louisiana, Mississippi, and
Texas;
(12) the Mineral Leasing Act (30 U.S.C. 181 et
seq.), which governs the development of Federal
crude oil and natural gas resources located onshore, provides, outside the budget and appropriations processes of the Federal Government,
payments to States in which Federal crude oil
and natural gas resources are located in the
amount of 50 percent of the direct revenues received from the Federal Government for those
resources; and
(13) there is no permanent provision in the
Outer Continental Shelf Lands Act (43 U.S.C.
1331 et seq.), which governs the development of
Federal crude oil and natural gas resources located offshore, that authorizes the sharing of a
portion of the annual revenues generated from
Federal offshore crude oil and natural gas resources with adjacent coastal States that—
(A) serve as the platform for that development; and
(B) suffer adverse effects on the environment
and infrastructure of the States.
(b) SENSE OF CONGRESS.—It is the sense of
Congress that Congress should provide a significant portion of the Federal offshore mineral revenues to coastal States that permit the development of Federal mineral resources off the coastline, including the States of Alabama, Alaska,
Louisiana, Mississippi, and Texas.
TITLE II—RELATED AGENCIES
DEPARTMENT OF AGRICULTURE
FOREST SERVICE
FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, $242,822,000,
to remain available until expended.
STATE AND PRIVATE FORESTRY

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July 16, 2001

CONGRESSIONAL RECORD—SENATE

For necessary expenses of cooperating with
and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management, cooperative forestry, and education and land conservation activities and conducting an international
program as authorized, $287,331,000, to remain
available until expended, as authorized by law,
of which $101,000,000 is for Forest Legacy and
Urban and Community Forestry, defined in section 250(c)(4)(E)(ix) of the Balanced Budget and
Emergency Deficit Control Act of 1985, as
amended, for the purposes of such Act, of which
$1,000,000 shall be available for the Tumbledown/Mount Blue conservation project, Maine,
and of which $4,000,000 shall be for the purchase of a conservation easement on the Connecticut Lakes Tract, located in northern New
Hampshire and owned by International Paper
Co., and of which $500,000 shall be for the purchase of a conservation easement on the Range
Creek Headwaters tract in Utah: Provided, That
none of the funds provided under this heading
for the acquisition of lands or interests in lands
shall be available until the House Committee on
Appropriations and the Senate Committee on
Appropriations provide to the Secretary, in writing, a list of specific acquisitions to be undertaken with such funds: Provided further, That
notwithstanding any other provision of law, of
the funds provided under this heading,
$5,000,000 shall be made available to Kake Tribal
Corporation as an advanced direct lump sum
payment to implement the Kake Tribal Corporation Land Transfer Act (Public Law 106–283).
NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service,
not otherwise provided for, for management,
protection, improvement, and utilization of the
National Forest System, $1,324,491,000, to remain
available until expended, which shall include 50
percent of all moneys received during prior fis-

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cal years as fees collected under the Land and
Water Conservation Fund Act of 1965, as
amended, in accordance with section 4 of the
Act (16 U.S.C. 460l–6a(i)): Provided, That unobligated balances available at the start of fiscal
year 2002 shall be displayed by extended budget
line item in the fiscal year 2003 budget justification: Provided further, That of the amount
available for vegetation and watershed management, the Secretary may authorize the expenditure or transfer of such sums as necessary to the
Department of the Interior, Bureau of Land
Management for removal, preparation, and
adoption of excess wild horses and burros from
National Forest System lands: Provided further,
That of the funds provided under this heading
for Forest Products, $5,000,000 shall be allocated
to the Alaska Region, in addition to its normal
allocation for the purposes of preparing additional timber for sale, to establish a 3-year timber supply and such funds may be transferred to
other appropriations accounts as necessary to
maximize accomplishment: Provided further,
That of the funds provided for Wildlife and Fish
Habitat Management, $600,000 shall be provided
to the State of Alaska for wildlife monitoring activities.
WILDLAND FIRE MANAGEMENT

For necessary expenses for forest fire
presuppression activities on National Forest
System lands, for emergency fire suppression on
or adjacent to such lands or other lands under
fire protection agreement, and for emergency rehabilitation of burned-over National Forest System lands and water, $1,115,594,000, to remain
available until expended: Provided, That such
funds including unobligated balances under this
head, are available for repayment of advances
from other appropriations accounts previously
transferred for such purposes: Provided further,
That not less than 50 percent of any unobligated balances remaining (exclusive of amounts
for hazardous fuels reduction) at the end of fiscal year 2001 shall be transferred, as repayment
for past advances that have not been repaid, to
the fund established pursuant to section 3 of
Public Law 71–319 (16 U.S.C. 576 et seq.): Provided further, That notwithstanding any other
provision of law, $4,000,000 of funds appropriated under this appropriation shall be used
for Fire Science Research in support of the Joint
Fire Science Program: Provided further, That
all authorities for the use of funds, including
the use of contracts, grants, and cooperative
agreements, available to execute the Forest and
Rangeland Research appropriation, are also
available in the utilization of these funds for
Fire Science Research: Provided further, That
funds provided shall be available for emergency
rehabilitation and restoration, hazard reduction
activities in the urban-wildland interface, support to federal emergency response, and wildfire
suppression activities of the Forest Service: Provided further, That the Forest Service shall expend not less than $125,000,000 of funds provided under this heading for hazardous fuels reduction activities for alleviating immediate
emergency threats to urban wildland interface
areas as defined by the Secretary of Agriculture:
Provided further, That amounts under this
heading may be transferred as specified in the
report accompanying this Act to the ‘‘State and
Private Forestry’’, ‘‘National Forest System’’,
‘‘Forest and Rangeland Research’’, and ‘‘Capital Improvement and Maintenance’’ accounts
to fund state fire assistance, volunteer fire assistance, and forest health management, vegetation and watershed management, heritage site
rehabilitation, wildlife and fish habitat management, trails and facilities maintenance and restoration: Provided further, That transfers of
any amounts in excess of those specified shall
require approval of the House and Senate Committees on Appropriations in compliance with

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reprogramming procedures contained in House
Report No. 105–163: Provided further, That the
costs of implementing any cooperative agreement between the Federal government and any
non-Federal entity may be shared, as mutually
agreed on by the affected parties: Provided further, That in entering into such grants or cooperative agreements, the Secretary may consider
the enhancement of local and small business employment opportunities for rural communities,
and that in entering into procurement contracts
under this section on a best value basis, the Secretary may take into account the ability of an
entity to enhance local and small business employment opportunities in rural communities,
and that the Secretary may award procurement
contracts, grants, or cooperative agreements
under this section to entities that include local
non-profit entities, Youth Conservation Corps or
related partnerships with State, local or nonprofit youth groups, or small or disadvantaged
businesses: Provided further, That in addition
to funds provided for State Fire Assistance programs, and subject to all authorities available to
the Forest Service under the State and Private
Forestry Appropriation, up to $15,000,000 may be
used on adjacent non-Federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest
lands that have the potential to place such communities at risk: Provided further, That the Forest Service shall analyze the impact of restrictions on mechanical fuel treatments and forest
access in the upcoming Chugach National Forest Land and Resource Management Plan, on
the level of prescribed burning on the Chugach
National Forest, and on the implementation of
the National Fire Plan: Provided further, That
this analysis shall be completed before the release of the Chugach Forest Plan and shall be
included in the plan: Provided further, That included in funding for hazardous fuel reduction
is $5,000,000 for implementing the Community
Forest Restoration Act, Public Law 106–393, title
VI, and any portion of such funds shall be
available for use on non-Federal lands in accordance with authorities available to the Forest Service under the State and Private Forestry
Appropriation: Provided further, That of the
amounts provided under this heading $2,838,000
is for the Ecological Restoration Institute, of
which $338,000 is for ongoing activities on Mt.
Trumbull: Provided further, That:
(1) In expending the funds provided with respect to this Act for hazardous fuels reduction,
the Secretary of the Interior and the Secretary
of Agriculture may conduct fuel reduction treatments on Federal lands using all contracting
and hiring authorities available to the Secretaries applicable to hazardous fuel reduction activities under the wildland fire management accounts. Notwithstanding Federal government
procurement and contracting laws, the Secretaries may conduct fuel reduction treatments on
Federal lands using grants and cooperative
agreements. Notwithstanding Federal government procurement and contracting laws, in
order to provide employment and training opportunities to people in rural communities, the
Secretaries may award contracts, including contracts for monitoring activities, to—
(A) local private, nonprofit, or cooperative entities;
(B) Youth Conservation Corps crews or related partnerships, with State, local and nonprofit youth groups;
(C) small or micro-businesses; or
(D) other entities that will hire or train a significant percentage of local people to complete
such contracts. The authorities described above
relating to contracts, grants, and cooperative
agreements are available until all funds provided in this title for hazardous fuels reduction
activities in the urban wildland interface are
obligated.

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CONGRESSIONAL RECORD—SENATE

13327

(2)(A) The Secretary of Agriculture may transfer or realign funds to the United States Fund and Wildlife Service of the Department of the Interior, or the National Marine Fisheries Service of the Department of Commerce, for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference as required by section 7 of such Act in connection with wildlife management activities in fiscal years 2001 and 2002.

(B) Only those funds appropriated for fiscal years 2001 and 2002 to Forest Service (USDA) for wildfire suppression are available for transfer to the Secretary of Agriculture for such transfer or reimbursement.

(C) The amount of the transfer or reimbursement shall be as mutually agreed by the Secretary of Agriculture and the Secretary of the Interior or Secretary of Commerce, as applicable, or their designees. The amount shall in no case exceed the actual costs of consultation and conferencing in connection with wildland fire management activities affecting National Forest System.

For an additional amount to cover necessary expenses for emergency rehabilitation, wildfire suppression and other fire operations of the Forest Service, to remain available until expended, of which $100,000,000 is for emergency rehabilitation and wildfire suppression, and $65,000,000 is for other fire operations: Provided, Notwithstanding any other law, the amount available in this paragraph is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

Lands Acquisition

For the acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Tuleyabe National Forest, Nevada; and the Angeles, San Bernardino, San Gorgonio, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

Range Reimbursement Fund

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

Gifts, Donations and Bequests for Forest and Rangeland Research

For expenses authorized by 16 U.S.C. 164(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

Management of National Forest Lands for Grazing Purposes

For necessary expenses of the Forest Service to manage federal lands in Alaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96-487), $5,488,000, to remain available until expended.

Administrative Provisions, Forest Service

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) the retirement of not to exceed 132 passenger motor vehicles of which eight will be used primarily for law enforcement purposes and of which 130 shall be for replacement and acquisition of 25 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed seven for replacement only, and acquisition of sufficient aircraft from excess sources to maintain the operable fleet at 195 aircraft for use in Forest Service wildland fire programs and other Forest Service operations; (2) provisions of sections 10 and 102 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

No funds appropriated to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report No. 105-163.

No funds appropriated to the Forest Service may be available to conduct a program of not less than $2,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps, as defined in section 250(c)(2)(A)(viii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

No funds made available under this Act shall be obligated or expended to establish, to move or to operate an office for National Forest System administration of the Forest Service, Department of Agriculture without the consent of the House and Senate Committees on Appropriations.

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management application for forest firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to a declaration of a national emergency by the President.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available under the Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations.

None of the funds made available to the Forest Service under this Act shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Funds available to the Forest Service shall be available to conduct a program of not less than $2,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps, as defined in section 250(c)(2)(A)(viii) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for the purposes of such Act.

Funds available to the Forest Service, $2,500,000 is available to the Chief of the Forest Service for official reception and representation expenses.

Gifts, donations and bequests for forest and rangeland research.
That such gifts may be accepted notwithstanding the activities and services at the Grey Towers property for the benefit of, or in connection with, the National Forest Foundation or other non-Federal recipients for any such public or private agencies, organizations, or individuals, to provide for the development, administration, maintenance, or restoration of land, facilities, or Forest Service programs on National Forest land on the date of the enactment of this Act on Federal funds to carry out the purposes of Public Law 101–593. Provided further, That such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Pursuant to section 2(b)(2) of Public Law 98–244, up to $2,650,000 of the funds available to the Forest Service shall be available for matching funds to the National Fish and Wildlife Foundation for the purpose of planning or implementing the Columbia River Gorge National Scenic Area, and may be advanced in a lump sum as Federal financial assistance, without regard to when expenses are incurred, for projects on or benefiting National Forest land in the State of Washington, and may be advanced in a lump sum as Federal financial assistance, without regard to when expenses are incurred, for projects on or benefiting National Forest land on the Tongass National Forest, provided that the Foundation shall not enter into grants, contracts, and cooperative efforts for a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Funds appropriated to the Forest Service shall be available for matching funds to the National Fish and Wildlife Foundation, provided that the Foundation shall not enter into grants, contracts, and cooperative efforts for a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Notwithstanding any other provision of law, 80 percent of the funds appropriated to the Forest Service in the “National Forest System” and “Capital Improvement and Maintenance” accounts and planned to be allocated to activities under the “Jobs in the Woods” program for projects on Federal Forest land in the State of Washington may be granted directly to the Columbia River Gorge National Scenic Area, and may be advanced in a lump sum as Federal financial assistance, without regard to when expenses are incurred, for projects on or benefiting National Forest land in the State of Washington.

Funds appropriated to the Forest Service shall be available for grants to keep within 10 percent of the funds available to the Forest Service for projects on Federal Forest land in the State of Washington.

Future budget justifications for both the Forest Service and the Department of Agriculture should clearly display the sums previously transferred and the requested funding transfers.

The Forest Service shall fund indirect expenses, that is expenses not directly related to specific programs or to the accomplishment of specific work on-the-ground, from any funds available to the Forest Service: Provided, That the Foundation shall not enter into grants, contracts, and cooperative efforts for a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Funds appropriated to the Forest Service shall be available for matching funds to the National Fish and Wildlife Foundation, provided that the Foundation shall not enter into grants, contracts, and cooperative efforts for a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service not to exceed $500,000 may be used to reimburse the Office of the General Counsel, the Forest Service, the Forest Fire Management, and any other agency, division, fund, or account for travel and related expenses incurred as a result of OGC assistance or participation requested by the Forest Service at meetings, training sessions, management reviews, land purchase negotiations, and related non-litigation related matters. Future budget justifications for both the Forest Service and the Department of Agriculture should clearly display the sums previously transferred and the requested funding transfers.

The Forest Service shall fund indirect expenses, that is expenses not directly related to specific programs or to the accomplishment of specific work on-the-ground, from any funds available to the Forest Service: Provided, That the Foundation shall not enter into grants, contracts, and cooperative efforts for a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Funds appropriated to the Forest Service shall be available for matching funds to the National Fish and Wildlife Foundation, provided that the Foundation shall not enter into grants, contracts, and cooperative efforts for a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds.

Notwithstanding any other provision of law, 80 percent of the funds appropriated to the Forest Service in the “National Forest System” and “Capital Improvement and Maintenance” accounts and planned to be allocated to activities under the “Jobs in the Woods” program for projects on Federal Forest land in the State of Washington may be granted directly to the Columbia River Gorge National Scenic Area, and may be advanced in a lump sum as Federal financial assistance, without regard to when expenses are incurred, for projects on or benefiting National Forest land on the Tongass National Forest.
CONGRESSIONAL RECORD—SENATE


ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $470,805,000, to remain available until expended.

Strategic Petroleum Reserve

For necessary expenses for Strategic Petroleum Reserve facility development and operation, costs, and payments to cost-sharing contractors, $251,000,000 shall be for use in energy conservation grant programs as defined in section 3008(b) of Public Law 98-569 (15 U.S.C. 437t): Provided, That funds provided pursuant to sections 3008(b) and 3009 of Public Law 99-59, such sums shall be allocable to the eligible programs as follows: $213,000,000 for weatherization assistance grants and $198,000,000 for State energy conservation grants.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, up to $1,996,000, to remain available until expended.

Strategic Petroleum Reserve

For necessary expenses for Strategic Petroleum Reserve facility development and operation, costs, and payments to cost-sharing contractors pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $168,000,000, to remain available until expended, of which $94,000,000 shall be available for the operation of a Northeast Home Heating Oil Reserve.

Energy Information Administration

For necessary expenses in carrying out the activities of the Energy Information Administration, up to $75,499,000, to remain available until expended.

Administrative Provisions, Department of Energy

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration or security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private or foreign: Provided, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products or in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used, as needed, to carry out activities typically eligible for reimbursement by the General Services Administration, as needed, to carry out activities typically eligible for reimbursement by the General Services Administration.

Indian Health Service

Indian Health Services

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $2,388,814,000, together with such sums as may be available from a technical assistance fund for the fiscal year 2002 pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: Provided, That funds made available to tribes and tribal organizations through contracts, agreements, or grants authorized by the Indian Self-Determination and Education Assistance Act shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: Provided further, That $15,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: Provided further, That $430,378,000 for contract medical care shall remain available for obligation until September 30, 2003: Provided further, That of the funds provided for medical care, up to $22,000,000 shall be used to carry out projects authorized under section 108 of the Indian Health Care Improvement Act: Provided further, That funds provided in this Act for Indian Health Care Improvement Act projects may be used to implement or finance authorized price support and loan guarantee programs for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (excluding of planning, design, or construction of new facilities): Provided further, That funding contained herein, and in any earlier appropriations Acts for Indian Health Improvement Act and other health care facility projects authorized under the Indian Health Care Improvement Act, as amended: Provided further, That priority, by rank order, shall be given to Indian Health Service priority list upon completion: Provided further, That the Federal Government shall not be liable for any property damages or other construction claims that may arise from YKHC undertaking this project: Provided further, That joint venture funds unallocated after March 1, 2002, shall be made available for joint venture projects on a competitive basis giving priority to tribes that currently have no existing Federally-owned health care facility, have planning documents approved by the Secretary of Health and Human Services, and can demonstrate the financial capability necessary to provide an appropriate facility: Provided further, That joint venture projects on a competitive basis giving priority to tribes that currently have no existing Federally-owned health care facility, have planning documents meeting Indian Health Service requirements, and can demonstrate the financial capability needed to provide an appropriate facility: Provided further, That joint venture projects shall be prioritized: Provided further, That the Indian Health Service shall receive additional staffing, operation and maintenance funds for these facilities in future budget requests: Provided further, That the Indian Health Service shall receive additional staffing, operation and maintenance funds for these facilities in future budget requests: Provided further, That not to exceed $500,000,000 shall be used for the Indian Health Care Improvement Act and for the Indian Health Service, to purchase TRANSAM equipment from the Yukon-Kuskokwim Health Corporation (YKHC) to continue a priority project for the acquisition of land, planning, design and construction, for 79 staff quarters at Bethel, Alaska, pursuant to the negotiated project agreement between the YKHC and the Indian Health Service.
Fund, available until expended, to be used by the Indian Health Service for demolition of Federal Government buildings: Provided further, that not more than $4,490,000, shall be made available for the Sisseton Wahpeton Sioux Tribe Indian Health Services clinic in Sisseton, South Dakota, and $9,167,000 shall be made available for the small ambulatory facilities program.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations made to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under Title 5 U.S.C., for construction or alterations of any real or personal property acquired as a part of the contract: Provided further, That no relocatee will be provided with federal government any rights or title to any real or personal property acquired pursuant to 25 U.S.C. 640d–10.

In accordance with the provisions of the Indian Health Care Improvement Act, the repatriation of skeletal remains, not including those from the Smithsonian Institution, shall be credited to the account of the facility from which it was removed.

None of the funds in this or any other Act may be used for the construction, alteration, or renovation of existing facilities; payments for telephone service in private residences in the field, any other law or regulation, funds transferred to the Indian Health Service to fund small ambulatory facility Self-Determination and Education Assistance contracts authorized under title I of the Indian Self-Determination and Education Assistance Act of 1975, as amended, may be used rather than small ambulatory construction or after completion of the project the Federal Government have any rights or title to any real or personal property acquired as a part of the contract: Provided further, That $2,333,000 shall be available for the Indian Health Service for demolition of federal real estate: Provided further, That no relocatee will be provided with federal government any rights or title to any real or personal property acquired pursuant to 25 U.S.C. 640d–10; up to five replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees, $401,192,000, of which none shall be used for environmental systems, program, research equipment, information management, and Latino programming shall remain available until expended, and including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: Provided further, That the Smithsonian Institution may expend Federal appropriations designated in this Act for lease or rent payments for long term and swing space, as rent payable to the Smithsonian Institution, and such rent payments may be deposited into the general fund of the Smithsonian Institution and the extent that federally supported activities are housed in the 900 H Street, N.W. building in the District of Columbia: Provided further, That the Smithsonian Institution may not be construed as debt service, a Federal guarantee of, a transfer of risk to, or an obligation of, the Federal Government: Provided further, That no appropriated funds may be used to service debt which is incurred to finance the costs of acquiring the 900 H Street building or of planning, designing, and constructing improvements to such buildings.

REPAIR, RESTORATION AND ALTERATION OF FACILITIES

None of the funds in this or any other Act may be used for the construction, alteration, or renovation of existing facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $67,900,000, to remain available until expended, of which $10,000,000 is provided for maintenance, repair, renovation, and alteration of facilities at the National Zoological Park: Provided, That contracts awarded for environmental systems, protection systems, and repair or restoration of facilities at the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $25,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

None of the funds in this or any other Act may be used to initiate the design for any proposed expansion of current space or new facility without consultation with the House and Senate Appropriations Committees.

None of the funds in this or any other Act may be used for the construction, alteration, or renovation of existing facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $67,900,000, to remain available until expended, of which $10,000,000 is provided for maintenance, repair, renovation, and alteration of facilities at the National Zoological Park: Provided, That contracts awarded for environmental systems, protection systems, and repair or restoration of facilities at the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $25,000,000, to remain available until expended.
the procedures contained in House Report No. 105-163.

NATIONAL GALLERY OF ART
SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incurred therefor, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications and services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance of necessary facilities of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made through competitive advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $86,967,000, of which not more than $109,000,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, $14,220,000, to remain available until expended:

Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $15,000,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For necessary expenses in carrying out the purposes of the Woodrow Wilson International Center for Scholars, $26,899,000, to remain available until expended.

NATIONAL FOUNDATION OF ARTS AND THE HUMANITIES

SALARIES AND EXPENSES

For necessary expenses for carrying out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $98,234,000, shall be available to the National Endowment for the Humanities for the support of the several functions of the Humanities Act of 1965, as amended, $98,234,000, shall be available to the National Endowment for the Humanities for the purposes of the Humanities Act of 1965, as amended, $109,822,000, to remain available until expended, of which $11,222,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

SALARIES AND EXPENSES

For carrying out subtitle C of the Museum and Library Services Act of 1996, as amended, $26,899,000, to remain available until expended.

CHALLENGE AMERICA ARTS FUND

SALARIES AND EXPENSES

For necessary expenses as authorized by Public Law 89–290, as amended, $17,000,000 for support for arts education and public outreach activities to be administered by the National Endowment for the Arts, to remain available until expended.

ADMINISTRATIVE EXPENSES

None of the funds appropriated to the National Endowment for the Arts and the Humanities may be used to process any request or application or to publish the applications or any other material that in any way tends to promote public discussion or controversy. The records of the Endowment shall be available for public inspection, except where otherwise provided by law or Executive order.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the performance of duties, $7,253,000: Provided, That all appropriated members of the Commission will be compensated at a rate not to exceed the daily equivalent of the annual rate of pay for positions at level V of the Executive Schedule for positions in which such member is engaged in the actual performance of duties.

UNITED STATES HOLOCARST MEMORIAL MUSEUM

SALARIES AND EXPENSES

For expenses of the Holocaust Memorial Museum as authorized by Public Law 104–292 (36 U.S.C. 2301–2310), $36,028,000, of which $1,900,000 for the museum’s repair and rehabilitation program and $1,264,000 for the museum’s exhibitions program shall remain available until expended.

PRESIDIO TRUST

SALARIS AND EXPENSES

For expenses necessary to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, $23,125,000 shall be available to the Presidio Trust, to remain available until expended.

PUBLIC LAW 104–20

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through a procurement contract, pursuant to 5 U.S.C. 5901, shall be limited to those contracts where such expenditures are publicly record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by non-competitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest for which legislative approval is required to order that such land is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall be available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act for any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless advance notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 307. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (Sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2001.

SEC. 308. None of the funds made available by the Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Island Caverns Nature Center.

SEC. 309. None of the funds made available in this Act may be used: (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when such pedestrian use is consistent with generally accepted safety standards.
SEC. 310. (a) LIMITATION OF FUNDS.—None of the funds for any other program or purpose necessary to the Bureau of Land Management shall be obligated or expended to support or carry out any provision of law which would authorize an appropriation for the Forest Service of any sum in any fiscal year or which would create a separate fund of any sum for any fiscal year; or which would create a separate fund of any sum for any fiscal year.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that—

(1) a patent application was filed with the Secretary of the Interior on or before September 30, 1994; and

(2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for mining claims and sections 2323, 2320, 2331, and 2333 of the Revised Statutes (30 U.S.C. 33, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) REPORT.—On September 30, 2002, the Secretary of the Interior shall...
is surplus to the needs of domestic processors in Alaska, other deciduous timber available for domestic processors in the contiguous 48 United States at prevailing domestic prices. Should Region 10 sell, in fiscal year 2002, less than the annual average portion of the deciduous allowable sale quantity called for in the current Tongass Land Management Plan, the percentage shall be calculated by Region 10 on a rolling basis as each sale is sold (for purposes of this amendment, a “rolling basis” shall mean that the determination of how much western red cedar is eligible for sale to various markets shall be made at the time each sale is awarded). Western red cedar shall be sold to the needs of domestic processors in Alaska when the timber sale holder has presented to the Forest Service documentation of the inability to sell western red cedar logs from a given sale to domestic Alaska processors at price equal to or greater than the log selling value stated in the contract. All additional western red cedar volume not sold to Alaska or domestic United States domestic processors may be exported to foreign markets at the election of the timber sale holder. All Alaska yelloe cedar may be sold at prevailing export prices.

SEC. 324. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to section 2, clause 2(a) of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

SEC. 325. The Forest Service, in consultation with the Department of Labor, shall review Forest Service campground concessions policy to determine if modifications can be made to Forest Service regulations for campgrounds so that such concessions fall within the regulatory exemption of 29 CFR 4.122(b). The Forest Service shall offer in fiscal year 2002 such concession prospects under the regulatory exemption, except that, any prospectus that does not meet the requirements of the regulatory exemption shall be offered as a service contract in accordance with the regulations of 31 U.S.C. 354–358.

SEC. 326. A project undertaken by the Forest Service under the Recreation Fee Demonstration Program as authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1996, as amended, shall not result in—

(1) general sale of the holder of an authorization to provide commercial recreation services on Federal lands. Prior to initiating any project, the Secretary shall consult with potentially affected Federal and State agencies to determine what impacts the project may have on the holders. Any modifications to the authorization shall be made within the terms and conditions of the authorization and approved by the affected agencies.

(2) the return of a commercial recreation service to the Secretary for operation when such services have been provided in the past by a private sector provider, except when—

(A) the private sector provider fails to bid on such opportunities;

(B) the private sector provider terminates its relationship with the agency;

(C) the agency does not provide a permit for non-compliance with the terms and conditions of the authorization.

In such cases, the agency may use the Recreation Fee Demonstration Program to provide for operations until a subsequent operator can be found through the offering of a new prospectus. The authority to enter into stencheship and end result contracts provided to the Forest Service in accordance with section 247 of title 11 of section 101(e) of division A of Public Law 105–277 is hereby expanded to authorize the Forest Service to enter into an additional 28 contracts subject to the same terms and conditions as provided in that section: Provided, That of the additional contracts authorized by this section at least 9 shall be allocated to Region 1 and at least 3 to Region 6.

SEC. 328. Any regulations or policies promulgated on developments of Agriculture or the Interior regarding recovery of costs for processing authorizations to occupy and use Federal lands under their control shall adhere to and incorporate the following principles arising from Office of Management and Budget Circular, A–25: no charge should be made for a service when the identification of the specific identifiable service is obscure, and the service can be considered primarily as benefiting broadly the general public.

SEC. 329. Notwithstanding any other provision of law, for fiscal year 2002, the Secretary of Agriculture is authorized to limit competition for fire and fuel treatment and watershed restoration contracts in the Giant Sequoia National Monument and the Sequoia National Forest. Preference for employment shall be given to dislocated and displaced workers in Tulare, Kern and Fresno Counties, California, for work associated with the establishment of the Giant Sequoia National Monument.

SEC. 330. The Secretary of Agriculture, acting through the Chief of the Forest Service shall:

(1) extend through the end of fiscal year 2002 the special use permit for the Salt Charlie Cabin in the Absaroka Beartooth Wilderness Area, Montana, held by Montana State University—Billings for a period of 30 years; and

(2) solicits public comments at the end of the 50 year period to determine whether another extension should be granted.

SEC. 331. Section 325 of the Department of the Interior and Related Agencies Appropriations Act, 1999, as included in Public Law 105–277, Division A, section 101(e), is amended by striking “2001” and inserting “2002”.

SEC. 332. Section 551(c) of the Land Between the Lakes Protection Act of 1998 (16 U.S.C. 6001–601) is amended by striking “2002” and inserting “2003”.

SEC. 333. LOCAL EXEMPTIONS FROM FOREST SERVICE DEMONSTRATION PROGRAM FEES. Section 6006 of Title 31, United States Code, is amended—

(1) by inserting “(a) IN GENERAL.—” before “Necessary”;

(2) by adding at the end the following:

“(A) LOCAL EXEMPTIONS FROM DEMONSTRATION PROGRAM FEES.—

“(1) IN GENERAL.—Each unit of general local government that lies in whole or in part within the United States National Forest and persons residing within the boundaries of that unit shall be exempt during that fiscal year from any requirement to pay a fee (as defined in paragraph (4) or (5) or (6) of section 6006) on a permit or passport issued by the Secretary of Agriculture for access to the Forest.

“(2) ADMINISTRATION.—The Secretary of Agriculture shall establish a method of identifying persons who are exempt from paying user fees under paragraph (1). This method may include use of valid form of identification including a driver’s license.”

SEC. 334. MODIFICATION TO STEEL LOAN GUARANTEE PROGRAM. (a) IN GENERAL.—Section 101 of the Emergency Steel Loan Guarantee Act of 1999 (Public Law 106–51; 15 U.S.C. 1841 note) is amended as follows:

(1) TERMS AND CONDITIONS.—Subsection (h) is amended—

(A) in paragraph (1), by striking “2005” and inserting “2015”; and

(B) by amending paragraph (4) to read as follows:

“(4) GUARANTEE LEVEL.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), any loan guarantee provided under this section shall not exceed 85 percent of the amount of principal of the loan.

“(B) INCREASED LEVEL ONE.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 90 percent, of the amount of principal of the loan, if—

(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $100,000,000; and

(ii) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $100,000,000; and

“(C) INCREASED LEVEL TWO.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan, if—

(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed $50,000,000.

“(2) LOCAL EXEMPTIONS FROM DEMONSTRATION PROGRAM.—Subsection (k) is amended by striking “2001” and inserting “2003”.

“(3) APPLICABILITY. The amendments made by this section shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act.

This Act may be cited as the “Department of the Interior and Related Agencies Appropriations Act, 2002”.}

AUTHORIZING SENATE OFFICE OF SENATOR JOHN D. ROCKEFELLER IV BE USED TO COLLECT DONATIONS OF CLOTHING

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 134, submitted earlier today by Senators ROCKEFELLER and BYRD.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk reads as follows:

A resolution (S. Res. 134) authorizing that the Senate office of Senator John D. Rockefeller IV be used to collect donations of clothing.

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 134, submitted earlier today by Senators ROCKEFELLER and BYRD.
West Virginia was ravaged last week by its worst flooding in years. Homes were destroyed, businesses and infrastructure were down and, most tragically, lives were lost. The outpouring of support thus far has been truly heartwarming; however, much is still needed in order to rebuild our communities. That is why I am asking my colleagues, our staffs, and our friends to support this resolution and to participate in a clothing drive that will give aid to the victims of this tragedy. I am proud to be joined by our distinguished senior Senator, Robert C. Byrd, in our effort to help West Virginians. Our drive can only be successful if the resolution before us is passed, and if we each give what we can.

Immediately following the floods, I visited some of the areas hardest hit. Although I had a clothing and assistance before, I was still taken aback by dissolved roads, collapsed homes, and splintered bridges. Fortunately, the clean-up process is already underway as federal disaster relief pours in. Organizations such as the American Red Cross and the Salvation Army have provided for residents’ most immediate needs, while agencies such as the Federal Emergency Management Agency, FEMA, begin processing damage claims. Governor Wise and state agencies are working hard to reach out to communities struggling to cope with the aftermath of the flooding. Working together, federal, state, and local officials can begin the crucial work to rebuild our communities.

Yet, much remains to be done. Today, Sharon and I will visit more of the state. With us, we will take the prayers and well-wishes we have been given. We will also present generous donations such as Pepsi Cola Company. While I am in the state, my staff will organize a clothing drive to replace some of the items lost in the floods. Clothing of all kinds is needed as residents rebuild their homes and their lives. Many have lost everything and, as they return to work and school, will need the basic items we all take for granted. Moreover, as the winter months approach and the season brings rugged weather, victims will also find themselves in need of cold-weather clothing and shoes. Once the clothing is collected on Capitol Hill, United Airlines will transport all of the donations to West Virginia and the National Guard will help distribute the clothing to families in need. These are just two examples of the generosity displayed by companies and by individuals who wish to help. Each of them has my deep gratitude.

Of course, in the rush to move on and rebuild, we cannot forget about those lost. I am so sorry for the loss of Bonnie Shumate and Bradley Jenkins, and my heart goes out to their families and friends. Though rebuilding will serve as a challenge for the average West Virginian, grieving will, of course, prove far more difficult for the Shumates and the Jenkins. It has been said that there is light at the end of every tunnel. Considering the awesome amount of support provided to date for the flood victims in West Virginia, I would have to agree. Let us continue this support by committing to and participating in a clothing drive for the people affected by the flood. On behalf of the Mountain State, thank you.

Mr. REID. Madam President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements and supporting documents be printed in the Record.

The PRESIDING OFFICER. Without objection, the resolution (S. Res. 134) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 134) was agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, JULY 17, 2001

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9 a.m. tomorrow, July 17.

I further ask consent that on Tuesday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Bankruptcy Reform Act; further, that the Senate recess from 12:30 to 2:15 for the weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Madam President, therefore, on Tuesday the Senate will convene at 9 a.m. and resume consideration of the Bankruptcy Reform Act under a previous order. There will be 3 hours of debate on cloture on the Bankruptcy Reform Act, which will cause us to vote around 12 noon. We expect to return to the Energy and Water Appropriations Act on Tuesday, with rollover votes expected into the evening.

In the morning I am going to renew my request that there be a time certain for filing amendments. The reason this is so important is we are not going to be on this bill tomorrow. That will give staff time to work on the amendments that people think are important.

Some certainly are important. So I am going to renew that request tomorrow morning, and I hope Senators on both sides of the aisle will allow us to go forward.

NOMINATIONS

Mr. KYL. Madam President, let me say I appreciate what the Senator from Nevada said about the reforms that Senators Domenici, Murkowski, and I effectuated with respect to the Department of Energy. It was a time of some confusion, and reasonable people could differ about what we did there. But I think it is working out. I appreciate that the Senator from Nevada is now very much in support of that. Earlier I when spoke, I did not use the name of the Senator from Nevada because I did thank the Democratic leadership for moving nominations with such alacrity last week. I think there were 54 nominations and I think I mentioned that I hoped we could continue with that progress during the next couple of weeks. I wanted the Senator from Nevada to know I paid him a compliment today as well.

Mr. REID. I say to my colleague, if he will yield, I watched his statement from my office, and I appreciate that very much. I say to my friend from Arizona, it is important we move these nominations. There are a few that cause problems, but very few. And you will know about those. The rest of them we need to move forward to have better government.

I think it is very unfair that the system has become so complicated, so burdensome, that we are having trouble getting good people to take these jobs. It is amazing to me the quality of the people who served in the Clinton administration and those who are now willing to serve the Bush administration with all they have to go through.

I look forward to working with my friend from Arizona to move as many of these as quickly as we can. As I told my friend on Friday, we had one person with a little problem and we just went around that, took care of everybody else. Even those we have problems with, they deserve their day in court, so to speak. So I appreciate the comments of the Senator from Arizona. I appreciate his cooperation in allowing us to have this bill on the floor.

Mr. KYL. I thank the Senator from Nevada.

Madam President, will the Chair advise me when I have gone 5 minutes. I do not want to impinge anymore on the time of the Senator from Oregon.

UNITED STATES-CHINA RELATIONS

Mr. KYL. Madam President, I wanted to speak briefly about the decision
made last Friday to hold the next Olympics in Beijing, the 2008 games. Our Government was not involved in that, but we proffered a government kind of decision. But I am hopeful the fact that the United States did not, as a nation, weigh in on that decision—I am hopeful that did not send a signal to the leaders in Beijing that the U.S. Government either supports what that Chinese Government leadership does or does not object to many of the things which are done by that Government that violate human rights and in other ways suggest the country of China is not yet willing to join the family of nations.

I wanted to note a few of the activities of this recent Chinese Government that suggest to me the United States needs to take a very firm position with respect to some of what I consider to be unacceptable behavior. On July 14, I am hopeful this decision that the Olympics go to China not be mistaken for U.S. support for what China has done.

As illustrated in recent press reports, China’s bid for that honor has been the subject of much international attention. For example, the European Union Parliament recently passed a resolution declaring that China’s bid is “inappropriate” and that it is “unsuitable” for the Games due to its “disastrous record on human rights.”

The American government, however, chose to remain neutral on China’s bid—a decision that I hope will not convey to China’s leaders a signal that the United States is willing to blindly tolerate that country’s continuing failure to abide by internationally-recognized norms of behavior. Consider just a few events of recent months:

The collision of our reconnaissance plane with a Chinese fighter jet—the result of a Chinese pilot’s aggressive flying.

China’s detention and interrogation of American citizens and permanent residents without clear evidence of wrongdoing or illegal activity—including Gao Zhan, Wu Jianmin, Li Shaomin, and Tan Guangguang. Li Shaomin was convicted of espionage on July 14 and reportedly will be expelled from China in the near future.

China’s systematic torture and murder of hundreds of members of the Falun Gong—including the recent deaths of approximately fourteen peaceful adherents in a Chinese labor camp.

China’s hardening of its crackdown on this group—including a new legal directive issued by Chinese judicial authorities on June 10 authorizing courts to prosecute Falun Gong practitioners for intentional wounding or murder, or for organizing, encouraging or helping other followers commit suicide or intentional abortions. Additionally, it states that followers can be prosecuted if they produce or distribute anti-government materials.

China’s execution of at least 1,781 persons during the past three months—more than the total number of executions worldwide over the past three years.

A former Chinese doctor’s testimony on June 27 to the House International Relations Committee that his job required him “to remove skin and corneas from the corpses of over one hundred executed prisoners, and, on a couple of occasions, victims of intentionally botched executions.”

The Chinese military’s ongoing large-scale military exercises in the South China Sea aimed at preparing that country for an invasion of Taiwan. China’s detention and interrogation of hundreds of arms and explosives, the latest of which reportedly occurred in December.

China’s continuing assistance and provision of military technology to rogue regimes, including the Chinese firm that helped Iraq outfit its air defenses with fiber-optic equipment.

China’s continuing purchases from Russia of conventional weapons, including plans to purchase two additional Sovremenny destroyers armed with Sunburn anti-ship cruise missiles.

There is no doubt that dealing with China will continue to be a challenge. Whatever we do, we have to make sure that we don’t send signals to China that we approve of these kinds of actions. Not standing in the way of their getting the Olympic games I hope will not send that kind of a signal.

And there is no alternative. It is the world’s most populous nation (and biggest potential market); it has the world’s largest armed forces; and it is a permanent member of the U.N. Security Council. Its economic and military strength has grown a great deal in recent years, and is projected to continue to grow significantly in the coming decades.

There are many areas of potential disagreement with other nations, such as trade policy and human rights violations. But the one source of potentially catastrophic consequences is China’s determination to expand its sphere of influence. Taiwan must be reunited with the mainland, and that conflict with the United States is inevitable as long as we stand in the way of that objective. We cannot ignore this very real and potentially dangerous situation. How we deal with it will dictate the course of history.

The United States must develop a more comprehensive and realistic policy toward China, one which promotes its growth while not ignoring unpleasant exigencies.

In March, two days prior to the collision over the South China Sea, I spoke on the Senate floor about the challenge of dealing with China’s growing military strength. I discussed in detail China’s threatening rhetoric aimed at the United States for allowing and warned of that country’s rapid military modernization and buildup. And most importantly, I asked the question: what if China’s leaders mean what they say? To assume they do not, particularly in light of the prevalence of highly threatening public statements and military writings could mean leaving ourselves deliberately vulnerable to potential Chinese aggression, (and important to deal with Chinese aggression against others). China, unfortunately, has not been a very cooperative member of the international community. Several years ago, at a New Atlantic Initiative conference in Prague, I discussed America’s role in that community and our vision for a world in which the United States could work side-by-side with other democracies, stating:

If I had to sum up in one sentence the U.S. national interest in this century, I would say that it is promoting the security, well-being, and expansion of the community of nations that respect the democratic rights of their peoples.

China cannot become a member of this trusted family until there is a serious change in the attitude of its leadership. Indeed, China’s leaders systematically violate the most fundamental rights of the Chinese people. Moreover, they increasingly lack respect for the democratic rights of individuals visiting China, including U.S. citizens. The Chinese government seeks to maintain absolute control over all domestic political matters. It remains resistant to what it considers interference in its internal affairs, threatening the use of force, if necessary, to achieve its objectives, including reunification with Taiwan. And China actively pursues policies that risk destabilizing the South China Sea.

In the long-term, our goal must be to live in peace and prosperity with the Chinese people; however, to do so requires that we reconcile the different aspirations of our governments. It is clear that many of the Chinese government’s goals conflict with American values, and it is important that we do not compromise these values in dealing with the communist regime. We should, instead, encourage China to adopt less aggressive and less threatening attitude through firm and principled interactions with that country’s leaders.

Indeed, the formal establishment of the People’s Republic of China in 1949, the United States has purposely remained ambiguous about the degree to which we recognize the governments in Beijing and Taipei. Our “One-China” policy hailing back to the Shanghai Communique of 1972 has served U.S. strategic and economic interests, allowing the United States to peacefully retain ties with China and Taiwan.
On one subject, however, there should be no ambiguity—U.S. policy in the event China should choose to attack Taiwan. That is, we should not be pleased that President Bush made very clear to China that the United States will actively resist any such aggression. Yet even those measures ostensibly intended to eliminate any doubt of our commitment to Taiwan have not been so concrete. While we presented Taiwan with an arms package that will help that island build its defensive forces, the United States cannot ensure that Taiwan will ever receive the diesel submarines that were included since we do not build them and it remains unclear as to whether another country would be willing to provide a design for them.

Additionally, President Bush chose not to repeat Aegis destroyers in this arms package, though he reserves the right to sell them in the future should China continue or increase its belligerent behavior toward Taiwan. In light of China’s military exercises in the South China Sea, perhaps now is the time to seriously consider this option.

We must be very clear in our own minds about our strategic intentions and just as clear in signaling these intentions to China. The object is to avoid a situation in which China’s leaders miscalculate and are tempted to use force against Taiwan in the mistaken belief that they won’t meet resistance from the United States.

History is replete with examples of ambiguity fostering aggression. Perceptions of American ambivalence contributed to North Korea’s invasion of South Korea and Iraq’s invasion of Kuwait, for example.

We have also observed instances whereby a commitment occurred because of the resoluteness of our stance. Our unambiguous commitment to contain Soviet expansion and defend our Western European allies during the Cold War enabled Western Europe to escape the grip of communism. And it led to one of the greatest accomplishments in history: the West’s victory without war over the Soviet Empire.

There is an old saying that, “There is nothing wrong with making mistakes. Just don’t respond with encore.” Let us not repeat the mistake—falling short of the resoluteness of our stance. Our unambiguous commitment to contain Soviet expansion and defend our Western European allies during the Cold War enabled Western Europe to escape the grip of communism. And it led to one of the greatest accomplishments in history: the West’s victory without war over the Soviet Empire.

Unfortunately, the United States has often too often sent a signal to Beijing that its irresponsible behavior will be tolerated by failing to enforce U.S. laws requiring sanctions, or doing so in ways deliberately calculated to undermine the intent of the sanctions. For example, China has continued to transfer missiles and production technology to Pakistan in violation of the Missile Technology Control Regime, despite promising to adhere to that agreement.

While reconciling our two very different views about the relationship of a nation’s people to its government requires a short-term compromise, the United States cannot remain true to its fundamental belief in the natural rights of man without promoting respect for human rights, the rule of law, and the embrace of democracy by all governments, including the government of China.

There are five specific aspects of China’s behavior that require a straightforward, firm response from United States: China’s proliferation of ballistic missiles and weapons of mass destruction; its threats and corresponding military buildup opposite Taiwan; its threatening rhetoric and missile buildup aimed at the United States; its human rights abuses; and its insistence on refusing to play by economic rules.

China is perhaps the world’s worst proliferator of the technology used to develop and produce ballistic missiles and weapons of mass destruction. Beijing has transferred technology to Iran, North Korea, Syria, Libya, and Pakistan. It has also sold nuclear technology to Iran and Pakistan. It has aided Iran’s chemical weapons program and sold that nation advanced cruise missiles. And it has sold Iraq fiber-optic cables, and assisted with their installation between anti-aircraft batteries, radar stations, and command centers.

Chinese assistance has been vital to the missile and weapons of mass destruction programs in these countries. And because of this assistance, the American people and our forces and friends abroad now face a much greater threat.

The United States needs to impose sanctions on Chinese organizations and government entities for their proliferation activities, as required by U.S. laws. Sanctions need not be the first or only tool used in the fight against proliferation. Nor, however, should this tool grow rusty from disuse. As the Washington Post noted in an editorial on July 14, 2000, “China’s continuing assistance to Pakistan’s weapons program in the face of so many U.S. efforts to talk Beijing out of it shows the limits of a nonconfrontational approach.” We must back our frequent expressions of concern with actions if our words are to be perceived as credible.

The United States has already too often sent a signal to Beijing that its irresponsible behavior will be tolerated by failing to enforce U.S. laws requiring sanctions, or doing so in ways deliberately calculated to undermine the intent of the sanctions. For example, China has continued to transfer missiles and production technology to Pakistan in violation of the Missile Technology Control Regime, despite promising to adhere to that agreement.

U.S. law requires sanctions to be imposed on nations that transfer technology regulated by the MTCR. In 1993, the Clinton Administration imposed sanctions on China’s Ministry of Defense and eleven Chinese defense and aerospace entities for violations of Category 2 of the MTCR—despite the fact that the M-11 transfers were Category 1 violations—thereby imposing the mildest form of sanctions possible. Then, in 1994, the United States for the first time imposed “ground-to-ground missiles” covered by the MTCR, the Clinton Administration waived the sanctions.

After the waiver, despite a steady stream of press reports, Congressional testimony, and unclassified reports by the intelligence community that described China’s continued missile assistance to China, the Clinton Administration did not impose sanctions as required by law. Assistant Secretary of State for Nonproliferation Robert Einhorn said in Senate testimony in 1997 that sanctions had not been imposed on China for the sale of M-11s to Pakistan because the administration’s “... level of confidence [was] not sufficient to take a decision that [had] very far-reaching consequences.” The Clinton Administration appeared to have purposely set a standard of evidence so high that it was unattainable.

Madam President, China has promised six times during the past two decades not to transfer missiles and missile technology—in 1988, 1989, 1991, 1992, 1994 and 2000—and six times has broken its promises without any consequences. It is no wonder that China does not take seriously its obligations.

I recently joined several of my colleagues in sending a letter to President Bush expressing concern about Beijing’s continuing proliferation activities. The letter states:

The PRC’s most recent missile non-proliferation promise was made on November 21, 2000. China promised not to assist, in any way, any country in the development of ballistic missiles that can be used to deliver nuclear weapons, and to abide by the MTCR. The PRC further pledged to issue export regulations covering dual-use technology in conformity with both the MTCR and its November pledge.

In return for China’s November 2000 pledge, the previous administration “swept the decks clean,” sanctioning numerous Chinese entities for their activities and subsequently waiving those sanctions. And again it appears as though China may be continuing to transfer missile equipment and technology. We do not need more empty promises from China—we need action. It is the Administration’s signal to China by imposing sanctions required by U.S. non-proliferation statutes and making them stick that the United States will
no longer tolerate that country’s irresponsible proliferation activities.

In order to prevent proliferation, we should also resist efforts to weaken controls on the export of dual-use technologies, which China can use to further modernize its military, as well as transfer to other countries. In particular, I am concerned that the Export Administration Act of 2001 would reduce the ability of the U.S. government to maintain effective export controls on such items.

An Asian Wall Street Journal op-ed published on March 19 by two researchers at the Washington Project on Nuclear Arms Control described how the Chinese firm that helped Iraq outfit its air defenses with fiber-optic equipment has purchased a significant amount of technology from U.S. firms and is seeking to import more. For example, the op-ed indicated that one such firm has applied for an export license to teach this Chinese company how to build high-speed switching and routing equipment. This allows low-cost communications to be shuttled quickly across multiple transmission lines. The U.S. government should have the ability to deny exports of dual-use technology to a company such as the Chinese firm in this case.

The second of five areas of concern is China’s belligerent behavior toward Taiwan. China is intent on gaining control over that island—by force if necessary—and is taking the necessary military preparations that would enable it to do so. According to an article published in the Washington Post on April 27, Wu Xinbo, a professor at Fudan University’s Center for American Studies in Shanghai, stated:

At this stage, it is very difficult to argue that there’s still a high prospect for a peaceful solution of the Taiwan issue . . . From a Chinese perspective there has to be a solution by force in one way, peacefully or with the use of force. Given [the] change in U.S. policy . . . you have to give more weight to the second option."

The “change” to which he was referring was the U.S. commitment to come to Taiwan’s defense articulated by President Bush.

China’s threats have been backed by rapid efforts to modernize its military. The immediate focus of the modernization is to build a military force capable of subduing Taiwan swiftly enough to prevent American intervention. According to the Department of Defense’s Annual Report on the Military Power of the People’s Republic of China, released in June 2000, “A cross-strait conflict between China and Taiwan involving the United States has emerged as the dominant scenario guiding the Chinese Army’s force planning, military training, and war preparation.”

To solidify its ability to launch an attack against Taiwan, China is increasing its force of short-range ballistic missiles opposite the island. According to an article in the Wall Street Journal on April 23, U.S. defense officials estimate that China currently has 300 such missiles aimed at the island, and is increasing this number at a rate of 50 per year.

China is also in the process of modernizing its air force and navy. The Defense Department’s June 2000 report predicted that after 2005, “. . . if projected trends continue, the balance of air power across the Taiwan Strait could begin to shift in China’s favor.” The same report warned, “China’s submarine fleet could constitute a substantial force capable of controlling sea lanes and mining approaches around Taiwan, as well as a growing threat to submarines in the East and South China Seas.”

In response to the growing threat and Taiwan’s increasing vulnerability to an attack, President Jiang proposed the sale to Taiwan of some much-needed defensive military equipment. As noted, however, the sales are limited in practical effect and, in any event, must be accompanied by proper training and coordination between the military in order to be useful in conflict.

In addition to the Chinese military’s investment in hardware, Beijing has increasingly focused on advanced training methods, demonstrating joint-service war-fighting tactics and increasing the sophistication of its military exercises that are steadily altering the balance of power across the Taiwan Strait. Over the past several years, these exercises have shifted from an intimidation tactic to a more serious effort intended to prepare China for an invasion of Taiwan.

Beijing’s amphibious exercises at Dongsha Island in the Taiwan Strait have illustrated this increasing level of sophistication in war-fighting tactics and equipment. According to a state-owned newspaper, Hong Kong Ming Pao, reported on June 1 that China’s Central Military Commission proposed that these exercises be held near Taiwan “in order to warn the United States and the Taiwan authorities not to play with fire over the Taiwan issue.” Furthermore, according to the same article, “the main aim of this exercise will be to attack and occupy Tai- wan’s offshore islands and to counter-attack U.S. military intervention.”

In an op-ed titled “An amphibious force,” Hong Kong Wen Wei Po on June 4 stated that the purpose of the exercise “not only includes capture of [the islands around Taiwan], but also how to tenaciously defend these islands and turn them into wedges for driving into the heart of the enemy.”

According to an article in the New York Times on July 11, the official Chinese defense publication, International Outlook Magazine, described in detail these “war games.” The games reportedly occurred in three stages. The first, information warfare, was intended to paralyze enemy communications and command systems electronically. The second involved a joint navy, infantry, and air force landing on Dongsha Island. And the third, according to the Chinese publication, simulated a “counterattack against an enemy fleet attempting to intervene in the war.” It was also reported that this final stage incorporated Russian- bought SU–27 fighter aircraft. Thus far, military experts state that China has had difficulty incorporating these aircraft into its arsenal, and its ability to do so indicates a significant improvement in its ability to integrate military operations.

Taiwan’s war-fighting skills are not nearly as advanced. For over twenty years, the United States has cut Tai- wan off from the intellectual capital that should accompany the hardware we sell, thus reducing the readiness of that island’s forces. Our defense officials and military personnel need to be able work with their Taiwanese counterparts to ensure that they know how to use the equipment and they will be prepared in case of operation of U.S. forces. Increased interaction would better prepare Taiwan’s military to defend itself in the event of a Chinese attack, reduce the possibility that the United States would need to become involved in such a conflict, and inevitably save lives.

This leads directly to the third area of concern—China’s actions that directly threaten America. China’s harsh rhetoric aimed at the United States is accompanied by Beijing’s build-up of long-range missiles targeted at our cities, acquisition of anti-ship cruise missiles to counter U.S. carrier battle groups, and development of cyberwarfare and anti-satellite capabilities. China also illustrates the importance of aggressive intelligence operations against the United States.

In February 2000, the People’s Liberation Army Daily, a state-owned newspaper, warned the United States against intervening in a conflict in the Taiwan Strait, stating:

On the Taiwan issue, it is very likely that the United States will walk to the point where it injures others while ruining itself . . . China is neither Iraq or Yugoslavia . . . it is a country that has certain abilities of launching a strategic counterattack and the capacity of launching a long-distance strike. Probably it is not a wise move to be at war with a country such as China, a point which U.S. policymakers know fairly well also.”

China is, in fact, continuing to increase its capacity to launch a long-distance strike against the United States. The Defense Department’s report, Proliferation: Threat and Response, states:

China currently has over 100 nuclear warheads. . . . While the ultimate extent of China’s strategic modernization is unknown, it is clear that the number, reliability, survivability, and accuracy of Chinese strategic missiles capable of hitting the United States will increase during the next two decades. China currently has about 20 CBS–4 ICBMs with a range of over 13,000 kilometers, which
China's military has also taken steps to improve its capability to counter U.S. carrier battle groups, in response to its encounter with the U.S. Navy in 1996. It has acquired two Sovremenny destroyers from Russia armed with Sunburn anti-ship cruise missiles, and according to an article in the Washington Times on May 4, plans to purchase two more. These weapons were designed to attack U.S. carriers and Aegis ships during the Cold War and are a significant improvement to the Chinese Navy's capabilities in this area.

In addition to its buildup of conventional and nuclear weapons, China's military is also placing an emphasis on information warfare, including computer network attacks and anti-satellite operations. In September 2000, the U.S. Navy identified China, among several others, as having an acknowledged policy of preparing for cyberwarfare and as rapidly developing its capabilities. In fact, an article in the People's Liberation Army Daily in 1999 stated that the Chinese military planned to elevate information warfare to a separate service on par with its army, navy and air force.

Also of great concern is the Chinese military's development of a broad range of counterspace measures, including an anti-satellite (ASAT) capability. According to China's Strategic Modernization: Implications for the United States, written by Mark Stokes, "Chinese strategists and engineers perceive U.S. reliance on communications, reconnaissance, and navigation satellites as a potential Achilles' heel." The Defense Department's June 2000 report warned that China may already possess the capability to damage optical sensors on satellites and further, that it may have acquired high-energy laser equipment and technical assistance that could be used in the development of ground-based ASAT weapons.

An article in Jane's Missiles and Rockets on May 1 confirmed the Defense Department's warning, stating that China's state-run press reports indicate that country is, in fact, developing an ASAT capability. It is currently in the ground-testing phase and will start flight testing in 2002.

In light of China's threatening rhetoric and its efforts to acquire the capabilities that could allow it to carry out those threats, we must begin to implement a broad range of measures that will safeguard our national security.

First, we need to develop and deploy a missile defense system to protect ourselves and our allies from an accidental or deliberate missile launch and to eliminate the possibility of blackmail by hostile powers. As President Bush recently stated in a speech to the National Defense University, "We must seek security based on more than the grim premise that we can destroy those who seek to destroy us.

We need a framework that allows us to build missile defenses to counter the different threats of today's world. To do so, we must move beyond the constraints of the 30 year old ABM Treaty. This treaty does not recognize the present, or point us in the future. It endorses the past. No treaty that prevents us from developing the Chinese technology to defend ourselves, our friends and our allies is in our interests or in the interests of world peace.

Second, the United States needs to develop better anti-ship cruise missile defenses. Systems to counter the cruise missile threat have lagged behind the level of that threat, despite the fact that, according to the U.S. Navy, over 75 nations possess more than 90 different types of anti-ship cruise missiles.

We must also prepare for China's potential use of information warfare. It is important that we find ways to protect our computer networks from hacking, to eliminate future lapses in security, as most recently occurred at Sandia National Laboratory in Mexico. According to an article in the Washington Times on March 16, this attack has been partially attributed to hackers with links to the Chinese government.

The United States should also develop defenses against China's ASAT weapons. As the Commission to Assess United States National Security, Space Management and Organization recently concluded:

"...the present extent of U.S. dependence on space, the rapid pace at which this dependence is increasing and the vulnerabilities it creates, all demand that U.S. national security space interests be recognized as a top national priority.

With this goal in mind, Secretary Rumsfeld recently announced a reorganization of our Nation's space programs. Moreover, President Bush, recognizing U.S. reliance on our network of satellites for civilian and military uses, has stressed the need for "great effort and new spending" to protect our satellites from attack.

One of our capabilities to defend against China's increasing military capabilities is largely dependent on our knowledge of their development. We must do a better job of ascertaining Chinese government plans and intentions (and proliferation activities) and improve our counterintelligence vis-a-vis China.

The fourth area of concern is the Chinese government's deplorable human rights record, that, according to the State Department's Country Reports on Human Rights Practices, has continued to deteriorate over the past year. The report states:

"...the Chinese Government continued to commit widespread and well-documented human rights abuses in violation of internationally accepted norms. These abuses stemmed from the authorities' extremely limited tolerance of public dissent aimed at the Government, fear of unrest, and the limited scope or inadequate implementation of laws protecting basic freedoms... Abuses included instances of extrajudicial killings, the use of torture, forced confessions, arbitrary arrest and detention, the mistreatment of prisoners, lengthy incommunicado detention, and denial of due process.

According to an Amnesty International report on June 7, China has executed at least 1,781 persons during the past 3 months—more than the total number of executions worldwide over the past 3 years. The report indicates that 2,960 people have been sentenced to death in China during this brief period.

What is the significance to the United States of such abuses? First, they are not only directed at Chinese citizens; they are also directed at Americans. Second, if China is to become a reliable member of the international community, it must begin to adhere to accepted norms of behavior. In this regard, China's leaders seem to be oblivious to the understanding that all people deserve certain basic freedoms and that violation of such fundamental rights is an appropriate concern of the United States and the world at large. For example, when questioned by the Washington Post about China's detention of several American citizens, Chinese President Jiang Zemin stated, "...the United States is the most developed country in the world in terms of its economy and it high-tech; its military is also very strong. You have lots of things to occupy yourself with... why do you frequently take special interest in cases such as this?"

Jiang Zemin's perplexity speaks volumes. Until the Chinese leadership understands why Americans and most of the rest of the world make such "a big deal" over denial of the rule of law, it will be hard to reach a reconciliation of our mutual aspirations. For example, the Chinese government's continued detention of two American citizens and two U.S. permanent residents—Gao Zhisheng, Wu Jianmin, Zhan Guangguang—has been unacceptable, and should be much more the focus of official U.S. government attention. One of these individuals, Li Shaomin was convicted of espionage on July 16 and is expected to be deported from China. With regard to the others, China has failed to present evidence of wrongdoing or illegal activity, or indicate when their cases might begin to move forward.
President Bush addressed China's detention of Americans in a phone conversation with Chinese President Jiang Zemin, July 16, 2001. The Chinese leader made it clear that they should be "treated fairly and returned promptly." These words need to be reinforced with actions. While the State Department issued a travel advisory urging Americans to leave China, the White House has consistently called on China to respect human rights. As I mentioned earlier, I am concerned that our government's neutrality on the sensitive issue of human rights could send a signal of U.S. tolerance of China's inappropriate behavior. With the Secretary of State visiting China to hear the Chinese position, if this fall, there is an opportunity to reinforce our opposition to the repressive behavior of China's leaders. While some hope otherwise, it seems unlikely that the International Olympic Committee's choice of Beijing will bring about positive change in the communist regime. In fact, I fear that the decision could serve to strengthen the standing of China's communist leaders in the world, as the 1936 Games glorified and emboldened Nazi Germany.

The only hope for a positive result of China hosting the games is a concerted effort by our government, Europeans (and others) and human rights groups using the occasion to push China's leaders. The multitude of media covering the games can also help. During the 1980's President Reagan was a champion for human rights, standing up for freedom, democracy, and free enterprise. But his passion and the spooky of American values and universally-recognized rights, and more importantly, backed his words with action. In his 1982 "Evil Empire" speech before the British House of Commons, President Reagan stated:

"While we must be cautious about forcing the pace of change, we must not hesitate to declare our ultimate objectives and to take concrete actions to move toward them. We must be resolute in our conviction that freedom is not the sole prerogative of a lucky few but the inalienable and universal right of all human beings."

This is the course we must chart in the coming years. China must understand that a friendly, productive relationship with the United States can only be based upon mutually shared values. Beijing's human rights abuses are anathema to the American people, and relations will not reach their full potential as long as the communist government continues to violate the most fundamental rights of worship, peaceful assembly, and open discourse. A failure to reconcile this most basic attitude will result in continued strained relations.

One hope of concern is that, in addition to its violation of other international norms, China has a history of failing to play by accepted economic rules, placing an extensive set of requirements on companies that wish to do business in China and imposing an array of trade barriers on imports that compete directly with products made by domestic Chinese firms. Such barriers make it difficult for U.S. companies to penetrate China's market. The result is a burgeoning U.S. trade deficit between us, reaching $85 billion in 2000.

On June 1, President Bush submitted to Congress a determination extending normal trade relations status to China for another year, allowing that country's WTO (World Trade Organization) negotiations to continue. Not until these negotiations are completed and China has acceded to the WTO will the permanent normal trade status approved by the 106th Congress take effect.

In June, China took a significant step toward WTO accession by completing its bilateral WTO agreement with the United States. That country must now complete bilateral negotiations with Mexico and resolve several outstanding issues related to its multilateral agreement before its accession package proceeds to the WTO's Working Party, and then to the WTO's General Council, for approval.

As a member of the WTO, China will be required to play by the same rules as all other members. China's membership in this organization has the potential to improve our trading relationship, benefiting many American businesses and consumers, as long as China holds to its agreement.

Finally, we expect that China's accession to the WTO will be immediately followed by Taiwan's accession to this organization. Last September, I received a letter from President Clinton that responded to a letter I sent him in July 2000 (along with 30 other Senators), that sought assurances that his Administration remained committed to Taiwan's entry to the WTO under terms acceptable to Taiwan. In the letter the former President stated that, "My Administration remains firmly committed to the goal of WTO General Council approval of the accession packages for China and Taiwan at the same session." The letter went on to say that "China has made clear on many occasions, and at high levels, that it will not oppose Taiwan's accession to the WTO." However, the President acknowledged that, "China did submit proposed language to their working party stating that Taiwan is a separate customs territory of China."

But went on to say that it had "advised the Chinese that such language is inappropriate and irrelevant to the work of the working party and that we will not accept it."

Furthermore, in a September 2000 letter to Senators Lott and Daschle, President Clinton stated:

...I am confident we have a common understanding that both China and Taiwan will be invited to access for the language agreed to in 1992, namely as the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (referred to as "Chinese Taipei"). The United States will not accept any other outcome.

We must continue to make clear to China that it would be unacceptable to the United States for China to fail to live up to its commitments not to block Taiwan's entry to the WTO as a separate customs territory, Chinese Taipei, not a customs territory of China.

Mr. President, let me briefly recap the concerns I have raised today regarding China's proliferation of ballistic missiles and weapons of mass destruction, its threats and military buildup opposite Taiwan and the protection of human rights abuses, and its history of failing to play by accepted economic rules.

I believe our policy toward China should be one of strength and firmness, with friendly intentions, but never compromising U.S. principles. In the long-term, our goal must be to live in peace and prosperity with the Chinese people; however, to do so requires that China's leaders begin to alter their behavior. As Robert Kagan and William Kristol wrote on April 16 in the Weekly Standard, with regard to China's handling of the collision of our reconnaissance plane and China's fighter jet, "China hands both inside and outside the government will argue that this crisis needs to be put behind us so that the U.S.-China relationship can return to normal. It is past time for everyone to wake up to the fact that the Chinese behavior we have seen is normal. To accept this as the new norm is to embrace a communist regime that mistreats its people and threatens the security of Americans and our allies would be a dereliction of our duty as a world leader. We have no higher obligation than the protection of Americans, and the support of our friends and allies, including Taiwan, which stands to lose the freedoms it has worked so hard to sustain in face of resistance from China's communist regime."

During his "Sinews of Peace" address in 1946, Winston Churchill stated:

"Our difficulties and dangers will not be removed by closing our eyes to them. They will not be removed by mere waiting to see what happens; nor will they be removed by a policy of appeasement. As it has so often been said, those who ignore history are condemned to repeat it. In the face of obvious belligerency and determination, we must face the fact that China does not accept a different set of rules by China's leadership, the United States must not repeat the mistakes of the past. We cannot stand idle or look away in the face of
of the Chinese behavior and rhetoric I have discussed.

There is no doubt that China will play a larger role on the world stage in the coming years. Our goal must be to ensure that China’s leaders do not assume that this heightened stature grants them the right to attack Taiwan or be a force for belligerency and instability in the world.

Dealing with China will be a challenge, but America does not fear challenge. Our greatest hope for change remains, as it has always been, to stand firmly as a force for peace and progress, and to champion no less for the people of other countries what we guarantee for our own citizens. I am confident that, if we make clear our friendly intentions to China and follow through with actions that reinforce our words, our actions will send that message.

Taiwan will continue to flourish, and China can be welcomed as a peaceful and productive member to the community of nations.

I express the hope that by holding those games in Beijing, the media, human rights organizations, and others will work to hold the Chinese leadership accountable for what goes on in that nation.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, before he leaves the floor, I want to express my thanks to the Senator from Arizona. Because of his thoughtfulness, I am able to speak now. I want him to know I very much appreciate that.

PRESCRIPTION DRUGS

Mr. WYDEN. Madam President, tomorrow I intend to introduce bipartisan prescription drug legislation with the senior Republican on the Senate Finance Committee’s Subcommittee on Health, Ms. OLYMPIA SNOWE of Maine. For more than 3 years, Senator SNOWE and I have teamed up in an effort to address this prescription drug issue, of which the Presiding Officer is acutely aware. It is one of the most vexing and contentious of all issues. We have been trying to address it in a bipartisan fashion. Perhaps no issue in the last political campaign generated more controversy than prescription drugs. It divided us on both sides, and more bitterness rather than thoughtful discussion than the question of prescription drugs for seniors.

The reason Senator SNOWE and I are moving now with the introduction of our bipartisan legislation is that we are hopeful that when the Senate Finance Committee takes up the prescription drug legislation issue at this month, the legislation we have put together can serve as a template, a beginning, for a bipartisan effort to address this issue.

Our legislation marries what I think are the core principles that Democratic Members of this body have advocated with certain key principles that Republicans have felt very strongly about as well. I want to discuss briefly tonight how our legislation does that.

The legislation that I drafted with Senator SNOWE, for example, has a defined benefit, which is absolutely key for the Nation’s senior citizens. The alternative is what is known as a defined contribution—a sort of a voucher which you hand an older person, or a family with sort of a wish and a hope that maybe they will get meaningful benefits.

What Senator SNOWE and I have done—which has been extraordinarily important to Senator DASCHLE, and correctly so, in my view—is to make sure that under our legislation every senior would get these defined benefits.

Second, our legislation ensures that the duty, our legislative the Medicare Program. It is a part of the Medicare Program because, as the Presiding Officer of the Senate knows, the alternative is to in effect begin the privatization of Medicare and the prescription drug benefit. It is essential that this program be an integral part of Medicare. That is something that Senator SNOWE and I have felt very strongly about.

The third part of the legislation ensures that older people will have bargaining power to help make prescription drugs in this country more affordable. Older people today are in effect hit by a double whammy. Prescription drugs are not covered by the Medicare Program, of course, and they haven’t been since the program began in 1965.

When an older person isn’t able to afford prescription drugs and has no private coverage, when they go to a pharmacy—in effect that senior citizen is also subsidizing the person who gets their prescription through a group plan. An individual who is fortunate enough to have bargaining power because they have insurance coverage, in effect is subsidized by the older person who has no coverage at all.

Our legislation ensures that older people would have an opportunity to have real bargaining power. This is key for the millions of older people who spend well over a third of their income on prescription drugs.

Finally, our legislation is voluntary. We want to make sure that the message goes out far and wide that any older person who is comfortable with their prescription drug coverage today can just keep it and in no way would be required or coerced to alter the prescription drug coverage with which they are comfortable. If they have a retirement package, or in some way get this assistance, our legislation would not in any way alter what they are receiving currently.

Having had the privilege of working with the Presiding Officer on health care legislation over the years, I am pleased that I have a chance tonight to describe our bipartisan bill with you in the Chair. I think we all understand that there is no one who has studied the health care system today—not a Democrat or a Republican—if they were redesigning Medicare, who wouldn’t include a prescription drug benefit.

A physician in Washington County in my home State of Oregon wrote me not long ago saying that he put a senior citizen in the hospital for 6 weeks because that person couldn’t afford their medicine on an outpatient basis. Medicare Part A, of course—the hospital portion of the Medicare Program—covers prescription drugs. If the older person goes into the hospital, Medicare Part A will write out that check, no questions asked. Medicare Part B, of course, has no outpatient prescription drug benefit.

What happened in Washington County, in my home State of Oregon, recently is that the Medicare Program probably paid out $50,000 or $60,000 for the costs associated with hospitalizing a patient to get prescription drug coverage rather than making this benefit available on an outpatient basis the way I and Senator SNOWE and the Presiding Officer have sought to do for so many years.

Very often, when I am out around the country, people come up to me. They say: RON, can this country afford prescription drug coverage? We are going to have this demographic tsunami. Are we going to be able to afford to cover all of these older people? I think what we have learned here is that very clearly this country can’t afford not to cover prescription drugs.

We can’t afford to allow the repetition of what happened in Washington County. We are talking about this country where so many older people could have, with modest prescription drug assistance, prevented much more serious illnesses. And I could cite one drug after another tonight.

Strokes are a very important health concern for older people. The cost of caring for a person who has had a stroke can be $125,000 or $150,000. But we have many drugs available that help prevent strokes that cost $800 or $1,000 a year.

So the hour is late, and I am not going to go through one example after another. But I would say, what Senator SNOWE and I are trying to do is break the gridlock on this issue. I have been at it for more than 3 years now with Senator SNOWE. We got a majority of the Senate, in the last Congress, to vote for funding a prescription drug program that, frankly, is much broader than what we are talking about now. Senator SNOWE and I were able to get 50 Members of the Senate to vote for a tobacco tax to cover a prescription drug program.

We are not talking about that at all here. In the budget resolution we have
$300 billion to start a prescription drug program. I believe a properly designed prescription drug program would cause future Congresses to make available additional funds to meet this pressing need. The challenge today is to look at some of the sensible ideas that Senator DASCHLE, the majority leader, has advocated, such as a defined benefit, ensuring that the program is inside Medicare, providing bargaining power for older people, and marrying the sensible ideas Senator DASCHLE has talked about with some of the Republican ideas that promote choice and competition.

As I have said to my colleagues on other occasions, we have a precedent for doing that. One of the accomplishments of which I am proudest is to have been the sponsor, when I was in the House of Representatives, of the Medigap legislation which really drained the swamp of so many questionable private insurers selling senior citizens policies that really were not worth the paper on which they were written.

I remember back in the days when I was Co-director of the Oregon Gray Panthers, we would visit seniors and they would have a shoe box full of these policies. They would have seven or eight private policies. They, in effect, were wasting money on junk that could have been used to meet their heating bills or their other health needs. We drained that swamp, and we did it through a Medigap law, by ensuring that seniors had meaningful choices and strong consumer protections.

So we have an example of how you can create choice and alternatives and promote competition, and do it in the context of the Medicare Program. You do not have to go out and privatize this program that has been a lifeline for millions of older people in order to create choice and competition. You can do it within the Medicare Program, which is what I am seeking to do with the senior Senator from Maine, the ranking Republican on the Finance Subcommittee on Health Care, Ms. OLIMPIA SNOWE.

Our hope is that when the Senate Finance Committee gets together this month, on a bipartisan basis, they will look at our legislation, along with the other very good bills that have been introduced. The senior Senator from Florida, Mr. GRAHAM, for example, has talked at length with me about this issue and has a fine bill. I think there are a variety of ways the Senate Finance Committee, under the leadership of Senator BAUCUS, can take these bills and bring the Finance Committee Democrats and Republicans together and break this gridlock on a vital issue.

I know of few issues that are more important at this point to American families than prescription drugs. I think we all understand that with a well crafted prescription drug program, this country can take a significant step forward towards meaningful Medicare reform.

I say to the Presiding Officer, the hour is late, and you have been gracious to allow me, along with the Democratic leader, this extra time. I intend to keep coming back to this Chamber again and again and again throughout this Congress to, in effect, proselytize—I use that word deliberately—with my colleague from Maine, Senator SNOWE, for a bipartisan effort on this issue. It has dragged on too long. There has been too much partisan bickering and squabbling surrounding this issue.

I would like to see just a tiny fraction of the millions of dollars that were spent on attack ads during the last political campaign on this issue spent on trying to bring Democrats and Republicans—Members of Congress across the political spectrum—together on this issue. That is what older people deserve.

Every month that this issue drags on is a month where older people—who are walking an economic tightrope, having to balance their fuel needs against their medical needs—have to worry about how they are going to pay for their essentials. The Presiding Officer understands that very well. I look forward to working with her and all of our colleagues on a bipartisan basis.

With that, Madam President, I yield the floor.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9 a.m. tomorrow.

Thereupon, the Senate, at 5:45 p.m., adjourned until Tuesday, July 17, 2001, at 9 a.m.
Mr. SMITH of Michigan. Mr. Speaker, it is a sincere pleasure to recognize the finalists of the 2001 LeGrand Smith Scholarship Program. This special honor is an appropriate tribute to the academic accomplishment, demonstration of leadership and responsibility, and commitment to social involvement displayed by these remarkable young adults. We all have reason to celebrate their success, for it is in their promising and capable hands that our future rests:

Jonathan Andert of Battle Creek, Michigan.
Jared Bignell of Reading, Michigan.
Rachel Carpenter of Eaton Rapids, Michigan.
Leslie DeBacker of Pittsford, Michigan.
Jeremy Fielder of Blissfield, Michigan.
Andrew Grasley of Deerfield, Michigan.
Nicole Hepner of Hillsdale, Michigan.
Lindsay Karthen of Lansing, Michigan.
Gabriel Lopez-Betanzos of Lansing, Michigan.
Alison McMullin of Battle Creek, Michigan.
Timothy Miller of Quincy, Michigan.
Julie Porter of Addison, Michigan.
Josh Richardson of Brooklyn, Michigan.
Meghan Silfuentes of Charlotte, Michigan.
Anna Watkins of Coldwater, Michigan.

The finalists of the LeGrand Smith Congressional Scholarship Program are being honored for showing that same generosity of spirit, depth of intelligence, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan. They are young men and women of character, ambition, and initiative, who have already learned well the value of hard work, discipline, and commitment.

These exceptional students have consistently displayed their dedication, intelligence, and concern throughout their high school experience. They are people who stand out among their peers due to their many achievements and the disciplined manner in which they meet challenges. While they have already accomplished a great deal, these young people possess unlimited potential, for they have learned the keys to success in any endeavor. I am proud to join with their many admirers in extending our highest praise and congratulations to the finalists of the 2001 LeGrand Smith Congressional Scholarship Program.
TRIBUTE TO TRACY EGNATUK OF ALBION, MI. LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Monday, July 16, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Tracy Egnatuk, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Tracy is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan. Tracy is an exceptional student at Albion High School and possesses an impressive high school record. Tracy has received numerous awards for her excellence in academics, as well as her involvement in swimming and track. Outside of school, Tracy is a tutor for the HOSTS Program and a church volunteer.

EXTENSIONS OF REMARKS

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Tracy Egnatuk for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

PAYING TRIBUTE TO SENATOR HUGH GILLIS, SR.

HON. SAXBY CHAMBLISS
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Monday, July 16, 2001

Mr. CHAMBLISS. Mr. Speaker, I rise today to pay tribute to Senator Hugh Marion Gillis, Sr. for his dedicated service to his country and to the state of Georgia. This year Senator Gillis has attained a distinction achieved by no other member of the Georgia House or the Senate — only one other state legislator in the nation by completing 50 years of service in the Georgia General Assembly.

Senator Gillis comes from a proud family tradition of public service. Without opposition he won the Senate seat that his father left and was then elected President Pro Tem, a seat his father too held. Senator Gillis served 12 years as a member of the House of Representatives from 1941-44, and again from 1949-56, and he first served in the Senate from the 16th District in 1957-58 and returned as the Senator from the 20th in 1963, where he has served with dedication and diligence for 38 consecutive years.

Gillis was born in Soperton where he graduated from Soperton High School and then went on to study at Georgia Military College and earn a B.S. degree in agriculture from the University of Georgia.

It has been said that “Nearly all men can stand adversity, but if you want to test a man’s character, give him power.” Senator Gillis has stood up to the challenge of leadership and power with wisdom and humility to be one of the most respected politicians of Georgia.

He has served in the General Assembly longer than any other Senator currently in office. Senator Gillis is by all accounts the nation’s longest-serving legislator. His combined Senate and House terms exceed 50 years. In his years of service, Senator Gillis has served as the Chairman of the Senate Natural Resources Committee and a member of the influential Appropriations Committee. Other committees Senator Gillis has served on are the Reapportionment Committee and the Finance and Public Utilities Committee as well as the Economic Development, Tourism and Cultural Affairs Committee. He has also served for six years as the Senate President Pro-Tempore, the highest-ranking Senate official next to the Lieutenant Governor.

Senator Gillis has served on numerous boards and commissions, including the Georgia Forestry Association, Future Farmers of America.

Senator Gillis is also a deacon at Soperton First Baptist Church and a member of the Lion’s Club. He has served as chairman of the Treutlen County Hospital Authority for 22 years.

Senator Gillis, a widower is the father of two sons, Hugh Jr. and Donald; and a daughter, Jean Marie. By profession, he is a farmer and timber grower.

Mr. Speaker, I am pleased to call to the attention of the House of Representatives the many accomplishments that have followed in the path of Senator Gillis’ career. I am privileged to know such a dedicated and upstanding citizen and to call him my good friend. I thank him for his efforts to improve the lives of so many others across Georgia.

TRIBUTE TO MAJOR GENERAL ROBERT L. Nabors

HON. FRANK PALLONE, JR.
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Monday, July 16, 2001

Mr. PALLONE. Mr. Speaker, I rise today in honor of Major General Robert L. Nabors, as he relinquishes his command of CEOM and Fort Monmouth in New Jersey.

Major General Nabors 35 years of military accomplishments will be honored at the retirement and change of command ceremony on Friday July 20, 2001. This decorated officer has been a valuable member of the armed forces. He has helped spearhead the development of advanced command, control, communications and electronic warfare technologies essential for transforming the Army. His military awards include the Defense Superior Service Medal, Legion of Merit with four Oak Leaf Clusters, the Bronze Star medal and many more.

Major General Nabors grew up in Lackawanna, N.Y. He received a Bachelor of Science in systems Engineering from the University of Arizona and is a graduate of the University of Georgia. He currently serves as a Professor of Military Science in the Civil Engineering system at the University of Arizona.

Mr. Speaker, I am pleased to call to the attention of the House of Representatives the many accomplishments that have followed in the path of Senator Gillis’ career. I am privileged to know such a dedicated and upstanding citizen and to call him my good friend. I thank him for his efforts to improve the lives of so many others across Georgia.

TRIBUTE TO CALIFORNIA’S SENIOR SUPREME COURT JUSTICE, THE LATE STANLEY MOSK

HON. ROBERT T. MATSUI
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Monday, July 16, 2001

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to California’s Senior Supreme Court Justice, the late Stanley Mosk.
For the past 37 years, Mosk served as the court's independent voice and moral compass. His trailblazing decisions brought sweeping changes to California law long before such decisions were addressed at the national level. A vigorous advocate of individual liberties, Mosk lead state courts across the country to use their own constitutions to establish individual rights beyond those required under the federal constitution. In 1976, Mosk wrote the opinion that bars the use of improperly obtained confessions arguing that such confessions could not be used to challenge the truthfulness of a defendant who later testifies. While the U.S. Supreme Court allowed for such use, Mosk invoked the state Constitution and did not approve the practice. His always careful, thoughtful and considerate opinions, totaling 1,688 over the span of his career, were widely regarded and highly acclaimed.

A native of San Antonio, Mosk's career as a giant in the court began by serving 15 years at the Missouri Supreme Court. While the Missouri Supreme Court has only one Democrat, was known for his shrewd political acumen and often criticized by his adversaries for his focused attention of the states shifting political climate. Nevertheless, Mosk remained dedicated to his role as a public servant and vigilant in his undertaking of civil and criminal law.

As a winner of the LeGrand Smith Congressional Scholarship. The award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Congressional Scholarship, Travis is being honored for demonstrating that same generation of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Travis Ebel is an exceptional student at Lakeview High School and possesses an impressive high school record. Travis's involvement in both the Lakeview High School and the Battle Creek Math and Science Center curriculum is truly outstanding. He participates in high school athletics, as well as being a member of the Board of Directors for the Battle Creek Art Center. Travis is also an active volunteer in Calhoun County, dedicating more than 800 hours to community service.

Therefore, I am proud to join with my many admirers in extending my highest praise and congratulations to Travis Ebel for his selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to his success.

To this remarkable young man, I extend my most heartfelt good wishes for all his future endeavors.

TRIBUTE TO SHERIFF CULEN TALTON
IN HONOR OF WILLIAM J. GIRGASH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, July 16, 2001
Mr. KUCINICH. Mr. Speaker, I rise today to honor the memory of William J. Girgash, a loving father and grandfather, who served his community in various ways throughout his lifetime. He was dearly loved, not only by his family but also by the many who knew and respected him. Girgash was a dedicated public servant who gave tirelessly to his community, leaving a legacy of commitment and dedication.

Mr. Speaker, Sheriff Cullen Talton has devoted his life to better serving his community. He spends tireless energy towards bettering his community and for that Sheriff Cullen Talton deserves our recognition and gratitude today.

Mr. Speaker, Sheriff Cullen Talton has been the only National Guard Paying Tribute to Sheriff Cullen Talton: A native of Battle Creek, Michigan, Sheriff Talton has served in various capacities, including 29 years as Sheriff of Houston County, Georgia. His dedication and service to the community have been recognized through numerous awards and honors, such as being named Georgia's Sheriff of the Year and receiving the Warner Robins/Houston County Chamber of Commerce Good Government Service Award. Sheriff Talton is a member of the State of Georgia Department of Corrections and is Chairman of the Board of Security Bank in Houston County.

Mr. Speaker, Sheriff Cullen Talton has served heroically, with his ever-present smile and tireless dedication. He has been a true advocate for his community, always looking for ways to improve the lives of those around him. His legacy will live on, as Sheriff Talton has left a lasting impact on the lives of countless individuals.
family, but by countless members of the Cleveland Community.

Mr. Girgash retired in 1987 as Board President of the Broadway School of Music and the Arts in 1996 and 1997 after many years as a board member. He also served as editor and chief writer for the school’s “Ensemble” quarterly newsletter. Those who knew him could always find him attending one of the many music recitals of the students, whom he cared about most dearly.

Mr. Girgash retired as Vice President of APCOA and served our country in the Navy during the Second World War. Friends, I’m sure that you will agree that there are few honors greater than service to our country and the education of children.

My colleagues, please join me today in celebrating the life of this remarkable man. He was a gentleman of honorable intentions and thankless acts of service to the community.

CELEBRATING THE RETIREMENT OF LIEUTENANT GENERAL HENRY T. GLISSON

HON. JAMES P. MORAN
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Monday, July 16, 2001

Mr. MORAN of Virginia. Mr. Speaker, I rise today to honor a distinguished constituent of mine, Lieutenant General Henry T. Glisson, who will be retiring from the United States Army on August 31, 2001, after 35 years of outstanding service in the Armed Forces. In addition to his retirement, Lieutenant General Glisson will also step down as Director of the Defense Logistics Agency in July.

Lieutenant General Glisson was commissioned a Second Lieutenant, Quartermaster Corps, through the Reserve Officer Training Corps program at North Georgia College, where he also earned his Bachelor of Science Degree in Psychology. He received his Master’s Degree in Education from Pepperdine University in California. His military educational background includes the Quartermaster Officer Basic and Advanced Courses, the Command and General Staff College, and the Army War College.

Lieutenant General Glisson was selected as a Regular Army Officer in 1967, and detailed to the Infantry for 18 months, where his early years included assignments as a Platoon Leader for the 548th Quartermaster Company, and Aide-de-Camp for the Commanding General, U.S. Army, Japan. He was an advisor in the U.S. Military Assistance Command in Vietnam, and S4 (Logistics) and Commander, Headquarters Company, 2nd Battalion, 5th Infantry. He was also the Commander, Company C, 425th Support Battalion and Commander, 25th Supply and Transport Battalion. In addition, he served as the Executive Officer/S3, 25th Supply and Transport Battalion and the Assistant Chief of Staff, G4 (Supply), 25th Infantry Division, Hawaii.

From 1974 to 1977, Lieutenant General Glisson was the Officer-in-Charge of the Cadet Mess, United States Military Academy, West Point, New York. From 1978 to 1982, he served as the S3, Division Support Command; Executive Officer, 701st Maintenance Battalion, and Commander, Material Management Center, 1st Infantry Division, Fort Riley, Kansas. His next assignment was Commander, 87th Maintenance Battalion, 7th Support Group, United States Army, Europe. He served as Chief, Quartermaster Branch, United States Army Military Personnel Command in Alexandria, Virginia, from 1985 to 1987.

He was assigned to the Pentagon from 1987 to 1989 where he served first as Chief, Readiness Team, and then Chief, Troop Support Division, Office of the Deputy Chief of Staff for Logistics, Washington, District of Columbia. In 1989 he became Commander, Division Support Command, 4th Infantry Division, Fort Carson, Colorado. He returned to the Pentagon in 1991, serving as the Executive Officer and Special Assistant to the Deputy Chief of Staff for Logistics; and then as Deputy Director, Directorate Plans and Operations, Office of the Deputy Chief of Staff for Logistics. In 1993, Lieutenant General Glisson was promoted to Brigadier General and has served in four consecutive command assignments: Commander, Defense Personnel Support Center, Defense Logistics Agency; Commander, U.S. Army Soldier Systems Command, U.S. Army Materiel Command; and 44th Quartermaster General/Commandant, U.S. Army Quartermaster Center and School, U.S. Army Training and Doctrine Command, where he served until assuming his current position as the 13th Director of the Defense Logistic Agency.

His decorations include the Defense Distinguished Service Medal, the Defense Superior Service Medal, the Legion of Merit with 5 Oak Leaf Clusters, the Bronze Star with “V” Device, the Bronze Star, the Purple Heart, the Meritorious Service Medal with 4 Oak Leaf Clusters, the Army Commendation Medal, the Air Medal, the Combat Infantryman Badge, the Parachutist Badge, the Parachute Rigger Badge and the Army Staff Identification Badge. On behalf of my congressional colleagues, it is my honor to thank Lieutenant General Henry T. Glisson for his 5 years of service to his country and wish him the best in his future endeavors.

TRIBUTE TO MINDY ENGELHART OF DIMONDALE, MI. LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Monday, July 16, 2001

Mr. SMITH of Michigan. Mr. Speaker, I am proud to salute Mindy Englehart, winner of the 2001 LeGrand Smith Congressional Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation’s future.

As a winner of the LeGrand Smith Congressional Scholarship, Mindy is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Mindy is an exceptional student at Eaton Rapids High School and possesses an impressive high school record. Mindy has received numerous awards for her excellence in academics, as well as her involvement in 4-H, tennis and golf. Outside of school, Mindy is an active volunteer at Hayes Green Beach Hospital and the Red Cross.

Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Mindy Englehart for her selection as a winner of a LeGrand Smith Congressional Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

TRIBUTE TO HARRY LEE COE III

HON. JIM DAVIS
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Monday, July 16, 2001

Mr. DAVIS of Florida. Mr. Speaker, today I would like to pay tribute to Harry Lee Coe III, a loving father, gifted athlete, dedicated judge and life-long public servant of the citizens of Florida. Harry passed away one year ago.

Harry was first known in Hillsborough County as a pitcher for the Tampa Tarpons, but he soon built a distinguished law career, serving as a civil lawyer, then as a juvenile court attorney and finally as a criminal court judge. Harry presided over his court for 20 years—always devoted to serving our community to the best of his ability.

On the bench, Harry was known not only for his unique wit and passion, but also for his unwavering integrity and commitment to justice. Some say Harry expected too much of those who came before his bench, but he always demanded the most of himself and worked tirelessly to do his best. While Harry became known as “Hanging Harry” for his stringent sentences and his deep conviction to protecting our community from dangerous criminals, he was equally passionate about giving our children the love and support they deserve to prevent the need for such rehabilitation.

Much can be said of Harry’s dedication to his job, but volumes can be written of his persona outside the court. In all of Harry’s years as an elected official he was never branded as a typical politician, for his kind and gentle demeanor with people could never be mistaken for anything other than sincerity. You could always depend on Harry to listen to what you had to say, just as much as you knew that his words were from the heart. I know Harry will be remembered for all these things.
SMALL BUSINESS RECEIVERS COMPLIANCE WITH THE HIGHWAY DIESEL FUEL SULFUR CONTROL REQUIREMENTS

HON. STEPHEN HORN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Monday, July 16, 2001

Mr. HORN. Mr. Speaker, at the beginning of this year, on January 18, 2001, the Environmental Protection Agency (EPA) implemented heavy-duty engine and vehicle standards and highway diesel fuel sulfur control requirements. I strongly supported the final rule by the EPA as a necessary tool to reduce pollution. Under this new regulation, oil refiners must meet rigorous new standards to reduce the sulfur content of highway diesel fuel from its current level of 500 parts per million to 15 parts per million by June 2006. This diesel rule goes a long way in reducing the amount of pollution in our air.

Small business refiners produce a full slate of petroleum products including everything from gasoline, diesel, and jet fuel to asphalt, lubes, and specialty petroleum products. Today, among the 124 refiners operating in the United States, approximately 25 percent are small, independent refiners. These small business refiners contribute to the nation’s energy supply by manufacturing specific products like grade 80-aviation fuel, JP-4 jet fuel, and off-road diesel fuel.

In order for oil refiners to comply with the new rule, the EPA estimated capital costs at an average of $14 million per refinery. This is a relatively small cost for major multinational oil companies, but for smaller refiners, this is a very high capital cost that is virtually impossible to undertake without substantial assistance. Small business refiners presented information in support of this position to EPA during the rulemaking process. In fact, EPA agreed that small business refiners would likely experience a significant and disproportionate financial hardship in reaching the objectives of the diesel fuel sulfur rule.

There is currently no provision that helps small business refiners meet the objectives of the rule. That is why I am introducing a tax incentive proposal that would provide the specific, targeted assistance that small refineries need to achieve better air quality and provide complete compliance with EPA’s rule.

A qualified small business refiner—defined as refiners with fewer than 1,500 employees and less than a total capacity of 155,000 barrels per day—will be eligible to receive federal assistance of up to 35 percent of the costs necessary, through tax credits, to comply with the Highway Diesel Fuel Sulfur Control Requirements of the EPA.

Without such a provision, many small business refiners will be unable to comply with the EPA rule and could be forced out of the market. Individually, each small refiner represents about four percent of the nation’s diesel fuel and in some regions, provide over half of the diesel fuel. Small business refiners also fill a critical national security function. For example, in 1998 and 1999, small business refiners provided almost 20 percent of the jet fuel used by U.S. military bases. Small business refiners’ pricing competitiveness also assures the larger, integrated companies to lower prices for the consuming public. Without that competitive pressure, consumers will certainly pay higher prices for the same products.

Over the past decade, approximately 25 U.S. refineries have shut down. Without assistance in complying with the EPA rule, we may lose another 25 percent of U.S. refineries.

This legislation is critical—not because small business refiners do not want to comply with the EPA rule due to differences in environmental policy—but because it will help keep small business refiners as an integral part of the industry and on their way to cleaner production and full compliance with all environmental regulations.

Mr. Speaker, I rise today to honor one of Idaho’s great citizens. Ed Freeman, 73, of Boise, who will be awarded the Medal of Honor today by the President for his acts of valor during the Vietnam War. The Medal of Honor is the highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States.

On November 14th, 1965, Captain Freeman risked his life more than once to deliver ammunition and supplies to 450 men who had been surrounded by more than 2,000 North Vietnamese. In addition, each time he delivered supplies, he carried out wounded U.S. military personnel to safety.

On November 14th, 1965, Captain Freeman voluntarily flew his Army Helicopter on 14 missions to the La Dang battle zone in less than 14 hours. For each trip, he risked his life to save and supply his fellow countrymen.

Without the courage of Captain Freeman and his crew, the 450 men in the La Dang Valley would have been quickly overrun by the North Vietnamese. By the end of the day Captain Freeman had saved an estimated 30 soldiers.

Mr. Speaker I am pleased to salute Captain Freeman today for his act of bravery in 1965 and I congratulate him for receiving the highest military honor anyone can receive, the Medal of Honor.

NUCLEAR DISARMAMENT AND ECONOMIC CONVERSION ACT OF 2001

HON. ELEANOR HOLMES NORTON
OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES
Monday, July 16, 2001

Ms. NORTON. Mr. Speaker, I have introduced the Nuclear Disarmament and Economic Conversion Act every year since 1993, and I will continue to introduce this bill until the threat posed by the world’s nuclear arsenals is eliminated. The world was brought to my attention by constituents who have been vigilant to the continuing need to focus on nuclear proliferation. Moreover, today missile defense is being pressed by the Bush Administration, which has refused to acknowledge urgent domestic needs from health care to affordable housing.

The United States, as the sole remaining superpower and the leading nuclear power in the world, has an obligation to move first and take bold steps to encourage other nuclear powers to eliminate their arsenals and to prevent the proliferation of these weapons. That is why I have chosen today, the 56th anniversary of the first test of a nuclear explosive in Alamogordo, New Mexico, to reintroduce the Nuclear Disarmament and Economic Conversion Act of 2001. The bill would require the United States to disable and dismantle its nuclear weapons and to refrain from replacing them with weapons of mass destruction once foreign countries possessing nuclear weapons enact and execute similar requirements.

My bill has an important complementary provision that the resources used to sustain our nuclear weapons program be used to address human and infrastructure needs such as housing, health care, education, agriculture, and the environment. By eliminating our nuclear weapons arsenal, the United States can realize an additional “peace dividend” from which critical domestic initiatives can be funded, including new programs proposed in the Administration’s FY 2002 budget.

Many courageous leaders in the United States and around the world have spoken out about the obsolescence of nuclear weapons and the need for their elimination. These leaders include retired Air Force General Lee Butler and more than 60 other retired generals and admirals from 17 nations, who, on December 5, 1996, issued a statement that “the continuing existence of nuclear weapons in the armories of nuclear powers, and the ever-present threat of acquisition of these weapons by others, constitute a peril to global peace and security and to the safety and survival of the people we are dedicated to protect” and that the “creation of a nuclear-weapons-free world [is] necessary [and] possible.”

The United States and the world community must redouble their efforts to obtain commitments from the nations that possess nuclear technology to refrain from actual deployment of nuclear weapons, as well as to help contain other countries that aspire to become nuclear powers, such as Iran, Iraq, and North Korea.
from moving forward with their programs. The United States will be far more credible and persuasive if its leaders are willing to take the initiative in dismantling our own nuclear weapons program and helping arms industries to convert plants and employees to providing products and services that enhance the wealth and quality of life of citizens. I ask my colleagues to cosponsor the Nuclear Disarmament and Economic Conversion Act of 2001 and the committees with jurisdiction over the bill to mark it up quickly so that it can be considered and passed.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur. As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 17, 2001 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

JULY 18

9 a.m.

Energy and Natural Resources

To hold hearings on the nomination of Dan R. Brouillette, of Louisiana, to be Assistant Secretary of Energy for Congressional and Intergovernmental Affairs.

SD–366

9:30 a.m.

Governmental Affairs

To hold hearings on S. 1098, to amend the Energy Policy Act of 1992 to develop the United States Climate Change Response Strategy with the goal of stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, while minimizing adverse short-term and long-term economic and social impacts, aligning the Strategy with United States energy policy, and promoting a sound national environmental policy, to establish a research and development program that focuses on bold technological breakthroughs that make significant progress toward the goal of stabilization of greenhouse gas concentrations, and to establish the National Office of Climate Change Response within the Executive Office of the President.

SD–342

10 a.m.

Foreign Relations

To hold hearings to examine the Putin administration policies toward the non-Russian regions of the Russian Federation.

SD–419

11 a.m.

Commerce, Science, and Transportation

To hold hearings to examine safety of cross border trucking and bus operations and the adequacy of resources for compliance and enforcement purposes, focusing on the impact on United States communities, businesses, employees, and the environment as well as the application of U.S. laws to the operations.

SR–253

Armed Services

Personnel Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on active and reserve military and civilian personnel programs.

SR–222

Indian Affairs

To hold oversight hearings on tribal good governance practices and economic development.

SR–485

Energy and Natural Resources

To hold hearings on proposals related to energy and scientific research, development, technology deployment, education, and training, including Sections 107, 114, 115, 607, Title II, and Subtitle B of Title IV of S. 388, the National Energy Security Act of 2001; Title VIII, XI, and Division E of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 111, 121, 122, 123, 125, 127, 204, 205, Title IV and Title V of S. 472, the Nuclear Energy Electricity Supply Assurance Act of 2001; S. 90, the Department of Energy Nanoscope Science and Engineering Research Act; S. 193, the Department of Energy Advanced Scientific Computing Act; S. 242, the Department of Energy University Nuclear Science and Engineering Act; S. 299, the National Laboratories Partnership Improvement Act of 2001; S. 636, a bill to direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the Sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas; S. 568, the Energy Sciences Act of 2001; and S. 1166, to establish the Next Generation Lighting Initiative at the Department of Energy.

SD–366

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine stem cell research issues.

SD–124

Health, Education, Labor, and Pensions

Employment, Safety and Training Subcommittee

To hold hearings to examine the protection of workers from ergonomic hazards.

SD–430

EEXTENSIONS OF REMARKS

Commerce, Science, and Transportation

To hold hearings to examine safety of cross border trucking and bus operations and the adequacy of resources for compliance and enforcement purposes, focusing on the impact on United States communities, businesses, employees, and the environment as well as the application of U.S. laws to the operations.

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SR–222

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To hold hearings on proposals related to energy and scientific research, development, technology deployment, education, and training, including Sections 107, 114, 115, 607, Title II, and Subtitle B of Title IV of S. 388, the National Energy Security Act of 2001; Title VIII, XI, and Division E of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 111, 121, 122, 123, 125, 127, 204, 205, Title IV and Title V of S. 472, the Nuclear Energy Electricity Supply Assurance Act of 2001; S. 90, the Department of Energy Nanoscope Science and Engineering Research Act; S. 193, the Department of Energy Advanced Scientific Computing Act; S. 242, the Department of Energy University Nuclear Science and Engineering Act; S. 299, the National Laboratories Partnership Improvement Act of 2001; S. 636, a bill to direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the Sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas; S. 568, the Energy Sciences Act of 2001; and S. 1166, to establish the Next Generation Lighting Initiative at the Department of Energy.

SD–366

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Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine stem cell research issues.

SD–124

Foreign Relations

To hold hearings to examine the Putin administration policies toward the non-Russian regions of the Russian Federation.

SD–419

Judiciary

To hold hearings to examine reforming the Federal Bureau of Investigation management reform issues.

SD–226

Health, Education, Labor, and Pensions

Employment, Safety and Training Subcommittee

To hold hearings to examine the protection of workers from ergonomic hazards.

SD–430

Aging

To resume hearings to examine long term care issues, focusing on costs and demands including state initiatives to shift Medicaid services away from institutional care and toward community based services.

SD–628

Banking, Housing, and Urban Affairs

To hold hearings to markup proposed legislation authorizing funds for the U.S. Export-Import Bank, proposed legislation authorizing funds for the Iran and Libya Sanctions Act; the nomination of Mark B. McClellan, of California, to be a Member of the Council of Economic Advisers; and the nomination of Sheila C. Bair, of Kansas, to be an Assistant Secretary of the Treasury for Financial Institutions.

SD–538

Budget

To hold hearings to examine defense spending and budget outlook.

SD–608

Governmental Affairs

Investigations Subcommittee

To hold hearings to examine past and current U.S. efforts to convince offshore tax havens to cooperate with U.S. efforts to stop tax evasion, the role of the Organization of Economic Cooperation and Development tax haven project in light of U.S. objectives, and the current status of U.S. support for the project, in particular for the core element requiring information exchange.

SD–628

Intelligence

To hold closed hearings on intelligence matters.

SH–219

JULY 19

9 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

Business meeting to markup proposed legislation making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002.

S–128, Capitol

9:30 a.m.

Energy and Natural Resources

To hold hearings on proposals related to removing barriers to distributed generation, renewable energy and other advanced technologies in electricity generation and transmission, including Sections 301 and Title VI of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 110, 111, 112, 710, and 711 of S. 388, the National Energy Security Act of 2001; S. 933, the Combined Heat and Power Advance Act of 2001; and S. 636, to establish the Next Generation Lighting Initiative at the Department of Energy.

SD–366

Armed Services

To resume hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and
the Future Years Defense Program, focusing on ballistic missile defense policies and programs.

Finance
To hold hearings to examine trade adjustment assistance issues.

SD–215

Small Business and Entrepreneurship
To hold hearings on the nomination of Hector V. Barreto, Jr., of California, to be Administrator of the Small Business Administration; and to hold a business meeting to mark up pending calendar business.

SR–428A

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to elicit suggestions for the revision of the next federal farm bill.

SR–328A

Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Harvey Pitt, of North Carolina, to be a Member of the Securities and Exchange Commission.

SD–538

Judiciary
Business meeting to consider the nomination of Ralph F. Boyd, Jr., of Massachusetts, to be Assistant Attorney General, Civil Rights Division, and the nomination of Robert D. McCallum, Jr., of Georgia, to be Assistant Attorney General, Civil Division, both of the Department of Justice; S. 497, to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions; S. 778, to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings; S. 754, to enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs; S. Res. 16, designating August 16, 2001, as “National Airborne Day”; and S. Con. Res. 16, expressing the sense of Congress that the George Washington letter to Touro Synagogue in Newport, Rhode Island, which is on display at the B’nai B’rith Klutznick National Jewish Museum in Washington, D.C., is one of the most significant early statements buttressing the nascent American constitutional guarantee of religious freedom.

SD–226

1 p.m.
Veterans’ Affairs
To hold hearings to examine S. 739, to amend title 38, United States Code, to improve programs for homeless veterans; and other pending health care related legislation.

SR–418

EXTENSIONS OF REMARKS

2 p.m.
Appropriations
Business meeting to markup proposed legislation making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and proposed legislation making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002.

S–128, Capitol

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 976, to provide authorization and funding for the enhancement of ecosystems, water supply, and water quality of the State of California.

SD–366

Armed Services
Airland Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on Army modernization and transformation.

SR–222

Foreign Relations
To hold hearings on the nomination of Stuart A. Bernstein, of the District of Columbia, to be Ambassador to Denmark; the nomination of Michael E. Guest, of South Carolina, to be Ambassador to Romania; the nomination of Charles A. Heimbold, Jr., of Connecticut, to be Ambassador to Sweden; the nomination of Thomas J. Miller, of Virginia, to be Ambassador to Greece; the nomination of Larry C. Napper, of Texas, to be Ambassador to the Republic of Kazakhstan; the nomination of Jim Nicholson, of Colorado, to be Ambassador to the Holy See; and the nomination of Mercer Reynolds, of Ohio, to be Ambassador to Switzerland, and to serve concurrently and without additional compensation as Ambassador to the Principality of Liechtenstein.

SD–419

JULY 20

9:30 a.m.
Finance
To continue hearings to examine trade adjustment assistance issues.

SD–215

JULY 23

2 p.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine the role of the Federal Emergency Management Agency in managing a bioterrorist attack and the impact of public health concerns on bioterrorism preparedness.

SD–342

9:30 a.m.
Energy and Natural Resources
To hold hearings on proposals related to global climate change and measures to mitigate greenhouse gas emissions, including S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; S. 388, the National Energy Security Act of 2001; and S. 820, the Forest Resources for the Environment and the Economy Act.

SD–106

10 a.m.
Indian Affairs
To hold hearings on S. 266, regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon.

SR–485

Governmental Affairs
To hold hearings to examine S. 159, to elevate the Environmental Protection Agency to a cabinet level department, to redesignate the Environmental Protection Agency as the Department of Environmental Protection Affairs.

SD–342

2:30 p.m.
Veterans’ Affairs
To hold hearings to examine prescription drug issues in the Department of Veterans Affairs.

SR–418

JULY 25

9:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.

SD–366

Governmental Affairs
To hold hearings to examine current entertainment ratings, focusing on evaluation and improvement.

SD–342

10 a.m.
Indian Affairs
To hold oversight hearings on the implementation of the Indian Gaming Regulatory Act.

SH–216

JULY 31

10 a.m.
Indian Affairs
To hold hearings on the implementation of the Indian Health Care Improvement Act.

SR–485

AUGUST 2

10 a.m.
Indian Affairs
To hold hearings on S. 212, to amend the Indian Health Care Improvement Act to revise and extend such Act.

SR–485

SEPTEMBER 19

2 p.m.
Judiciary
To hold hearings on S. 702, for the relief of Gao Zhan.

SD–226